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SENATE FILE 2354
BY COMMITTEE ON WAYS AND MEANS

Report 2 (p. 870)
(SUCCESSOR TO SF 2297)

SSB 2354

Passed Senate, Date 3/31/92 (p. 1125) Passed House, Date 4/15/92 *(P. 1426)*
Vote: Ayes 48 Nays 0 Vote: Ayes 97 Nays 1
Approved April 28, 1992

A BILL FOR

1 An Act relating to the regulation of insurance, requiring certain
2 reports to the commissioner, establishing and continuing
3 certain requirements for insurance companies doing business in
4 Iowa and for agents, amending provisions relating to guaranty
5 funds, self-insurers, and charitable organizations, increasing
6 allowable credit life insurance amounts, amending provisions
7 relating to the regulation of health maintenance
8 organizations, increasing certain fees, and establishing
9 penalties.

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

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1 Section 1. Section 79.17, Code Supplement 1991, is amended
2 by adding the following new subsection:

3 NEW SUBSECTION. 3. Any annuity purchased with moneys
4 deducted pursuant to this section is deemed to be an
5 individual annuity for purposes of chapter 508C, and not an
6 unallocated annuity.

7 Sec. 2. NEW SECTION. 506.12 PRINCIPAL EXECUTIVE OFFICE.

8 An insurance company incorporated under the laws of this
9 state for the purpose of engaging in the business of insurance
10 shall maintain a principal executive office in this state
11 unless otherwise allowed by the commissioner of insurance.
12 The location of the principal executive office in this state
13 of an insurance company incorporated under chapter 490 shall
14 be identified in the insurance company's articles of
15 incorporation.

16 Sec. 3. Section 507B.4, Code 1991, is amended by adding
17 the following new subsection:

18 NEW SUBSECTION. 10A. Failing to designate on an insurance
19 policy application the licensee who has solicited and written
20 the policy.

21 Sec. 4. Section 508.9, Code 1991, is amended to read as
22 follows:

23 508.9 MUTUAL COMPANIES -- CONDITIONS.

24 Level premium and natural premium life insurance companies
25 organized under the laws of this state upon the mutual plan
26 shall, before issuing policies, have actual applications on at
27 least two hundred and fifty lives for an average amount of one
28 thousand dollars each. A list of the applications giving the
29 name, age, residence, amount of insurance, and annual premium
30 of each applicant shall be filed with the commissioner of
31 insurance, and a deposit made with the commissioner of an
32 amount equal to three-fifths of the whole annual premium on
33 the applications, in cash or the securities required by
34 section 508.5. In addition, a deposit of cash or securities
35 of the character provided by law for the investment of funds

1 for life insurance companies in the sum of five million
2 dollars shall be made with the commissioner, which shall
3 constitute a guaranty security fund for the protection of
4 policyholders. The contribution to the guaranty security fund
5 shall not give to contributors to the fund or to other persons
6 any voting or other power in the management of the affairs of
7 the company. The guaranty security fund may be repaid to the
8 contributors to the guaranty security fund with interest at
9 six percent from the date of contribution, at any time, in
10 whole or in part, if the repayment does not reduce the surplus
11 of the company below the amount of two five million dollars
12 and then only if consent in writing for the repayment is
13 obtained from the commissioner of insurance. Upon compliance
14 with this section, the commissioner shall issue to the mutual
15 company the certificate prescribed in this chapter.

16 Sec. 5. Section 508.29, Code 1991, is amended by adding
17 the following new unnumbered paragraph:

18 NEW UNNUMBERED PARAGRAPH. A company insuring risks
19 authorized by this section shall invest or hold in cash, funds
20 equal to seventy-five percent of the aggregate reserves and
21 policy and contract claims for such risks. Investments
22 required by this paragraph shall only be made in securities
23 enumerated in section 511.8, and are subject to the same
24 limitations as provided for the investment of legal reserve,
25 and are subject to section 511.8, subsections 16, 17, and 21.

26 Sec. 6. Section 508C.3, subsection 3, paragraph a, Code
27 1991, is amended by striking the paragraph and inserting in
28 lieu thereof the following:

29 a. Any portion of a policy or contract to the extent that
30 the rate of interest on which it is based, averaged over the
31 period of four years prior to the date on which the
32 association becomes obligated with respect to the policy or
33 contract, exceeds a rate of interest determined by subtracting
34 two percentage points from Moody's corporate bond yield
35 average for the same four-year period or over such lesser

1 period if the policy or contract was issued less than four
2 years before the association became obligated; and on or after
3 the date on which the association becomes obligated with
4 respect to the policy or contract, exceeds the rate of
5 interest determined by subtracting three percentage points
6 from Moody's corporate bond yield average as most recently
7 available.

8 Sec. 7. Section 508C.3, subsection 3, paragraph h, Code
9 1991, is amended to read as follows:

10 h. An annuity contract issued to a government lottery or
11 ~~to-a-liability-insurer-in-connection-with-a-structured~~
12 ~~settlement.~~

13 Sec. 8. Section 508C.8, subsection 3, paragraph d, Code
14 Supplement 1991, is amended to read as follows:

15 d. The association may offer modifications to the owners
16 of policies or contracts or classes of policies or contracts
17 issued by the insolvent insurer, if the association finds that
18 under the policies or contracts the benefits provided,
19 provisions pertaining to renewal, or the premiums charged or
20 which may be charged are not reasonable. If the owner of a
21 policy or contract to be modified fails or refuses to accept
22 the modification as approved by the court, the association may
23 terminate the policy or contract as of a date not less than
24 one hundred eighty days after the modification is sent to the
25 owner. The association shall have no liability under the
26 policy or contract for any claim incurred or continuing beyond
27 the termination date. However, this paragraph does not apply
28 to interest adjustments made pursuant to section 508C.3,
29 subsection 3, paragraph "a".

30 Sec. 9. Section 508C.9, subsection 3, paragraph b, Code
31 1991, is amended to read as follows:

32 b. Class A assessments in excess of one hundred dollars
33 per company per calendar year and class B assessments against
34 member insurers for each account shall be in the proportion
35 that the average of the aggregate premiums received on

1 business in this state by each assessed member insurer on
2 policies or contracts related to that account for the three
3 most recent calendar years for which information is available,
4 preceding the year in which the insurer became impaired or
5 insolvent, is to the average of the aggregate premiums
6 received on business in this state by all assessed member
7 insurers on policies related to that account for the three
8 most recent calendar years for which information is available
9 preceding the assessment.

10 Sec. 10. Section 508C.9, subsection 5, paragraph a, Code
11 1991, is amended to read as follows:

12 a. The total of all assessments upon a member insurer for
13 each account shall not in any one calendar year exceed two
14 percent of the average of the insurer's premiums received in
15 this state during the three most recent calendar years for
16 which information is available, preceding the year in which
17 the insurer becomes impaired or insolvent, on the policies
18 related to that account. If the maximum assessment for an
19 account, together with the other assets of the association in
20 the account, does not provide in any one year in the account
21 an amount sufficient to carry out the responsibilities of the
22 association, the necessary additional funds shall be assessed
23 for the account in succeeding years as soon as permitted by
24 this chapter.

25 Sec. 11. Section 509.1, subsection 3, paragraph d, Code
26 Supplement 1991, is amended to read as follows:

27 d. The amount of insurance on the life of a debtor shall
28 not exceed the amount owed by the debtor to the creditor, or
29 the face amount of a totally or partially executed loan or
30 loan commitment creating personal liability and made in good
31 faith for general agricultural or horticultural purposes to a
32 debtor with seasonal income. However, in no event shall the
33 amount of insurance exceed fifty two hundred thousand dollars.

34 Sec. 12. Section 509A.15, subsection 1, unnumbered
35 paragraph 1, Code 1991, is amended to read as follows:

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

9 Sec. 13. Section 511.28, Code 1991, is amended to read as
10 follows:

11 511.28 SERVICE OF PROCESS.

12 Such Any notice or process, with ~~a copy thereof~~ three
13 copies of the notice or process, may be mailed to the
14 commissioner at Des Moines, Iowa, in a certified mail letter
15 addressed to the commissioner by the commissioner's official
16 ~~title, and the.~~ The commissioner shall ~~immediately upon its~~
17 ~~receipt~~ acknowledge service ~~thereon~~ on behalf of the defendant
18 foreign insurance company by writing ~~thereon~~, giving the date
19 ~~thereof~~ of receipt of the notice or process, and shall
20 ~~immediately~~ return ~~such~~ the notice or process in a certified
21 mail letter to the clerk of the court in which the suit is
22 pending, addressed to the clerk by the clerk's official title,
23 and shall also ~~forthwith~~ mail ~~such~~ a copy, with a copy of the
24 commissioner's acknowledgment of service written thereon, in a
25 certified mail letter addressed to the person or corporation
26 ~~who shall be~~ named or designated by such company in ~~such~~ the
27 written instrument. Notice or process received prior to 12
28 noon shall be forwarded the same working day. Notice or
29 process received after 12 noon shall be forwarded the next
30 working day. A fee of fifteen dollars must accompany the
31 request for notice or process.

32 Sec. 14. NEW SECTION. 511.39 CHARITABLE ORGANIZATIONS --
33 INSURABLE INTEREST.

34 A charitable organization described in section 501(c)(3) of
35 the Internal Revenue Code, as defined in section 422.3, has an

1 insurable interest in the life of a person who, when
2 purchasing a life insurance policy, makes a donation to the
3 charitable organization or makes the charitable organization
4 the beneficiary of all or a part of the proceeds of the policy
5 or joins with a charitable organization in applying for an
6 insurance policy which when issued will insure that person's
7 life and name the organization as owner or beneficiary of all
8 or any portion of the benefits of the life insurance policy.

9 Sec. 15. Section 512B.24, subsection 1, Code 1991, is
10 amended to read as follows:

11 1. A society transacting business in this state, on or
12 before March 1 annually, unless for cause shown the time has
13 been extended by the commissioner, shall file with the
14 commissioner a true statement of its financial condition,
15 transactions, and affairs for the preceding calendar year and
16 shall pay a fee of ~~twenty-five~~ fifty dollars. The statement
17 shall ~~may~~ be in general form and content as approved by the
18 national association of insurance commissioners for fraternal
19 benefit societies and shall be supplemented by additional
20 information as adopted by rule of the commissioner.

21 Sec. 16. Section 512B.25, Code 1991, is amended to read as
22 follows:

23 512B.25 ANNUAL LICENSE.

24 A society which is authorized to transact business in this
25 state on January 1, 1991, and a society licensed on or after
26 January 1, 1991, may continue in business until ~~April-30~~ June
27 1, 1991. The authority of the society may thereafter be
28 renewed annually. A license terminates on the succeeding
29 ~~April-30~~ June 1. However, a license issued shall continue in
30 full force and effect until a new license is issued or
31 specifically refused. For each license or renewal the society
32 shall pay the commissioner a fee of ~~twenty-five~~ fifty dollars.
33 A duly certified copy or duplicate of the license is prima
34 facie evidence that the licensee is a fraternal benefit
35 society within the meaning of this chapter.

1 Sec. 17. Section 513A.5, Code Supplement 1991, is amended
2 to read as follows:

3 513A.5 SUBJECT TO STATE LAWS.

4 A third-party payor unable to establish that the third-
5 party payor is subject to the jurisdiction of another agency
6 of the state, any subdivision of the state, or the federal
7 government, is subject to all appropriate provisions of Title
8 XX regarding the conduct of the business of the third-party
9 payor including, but not limited to, filing with and approval
10 by the commissioner of the form of the health benefit policy,
11 contract, or certificate.

12 Sec. 18. Section 514A.13, Code Supplement 1991, is amended
13 to read as follows:

14 514A.13 FILING REQUIREMENT -- PRIOR APPROVAL.

15 A policy of insurance against loss or expense from sickness
16 or from the bodily injury or death by accident of the insured
17 shall not be issued or delivered to any person in this state
18 and an application, rider, or endorsement shall not be used in
19 connection with the policy until a copy of the policy form and
20 of the classification of risks and the premium rates, or, in
21 the case of cooperatives or assessment companies the estimated
22 costs pertaining to the policy, have been filed with and
23 approved by the commissioner.

24 A filing is deemed to be approved unless disapproved by the
25 commissioner within thirty days of receipt of the filing by
26 the commissioner. Subsequent rate changes are also subject to
27 this section.

28 Sec. 19. Section 514B.4, Code 1991, is amended to read as
29 follows:

30 514B.4 MEMBER OF THE PROFESSION -- SUBBAG-2A. NEW. (CP) 1991

31 REQUIREMENT OF CERTIFICATE OF AUTHORITY

32 The license holder from a foreign jurisdiction shall be licensed

33 in this state only if the holder has a certificate of authority of

34 the state of origin. Such certificate shall be filed with

35 the commissioner of the state of origin and the commissioner of

1 to assure the availability, accessibility, and continuity of
2 service through adequate personnel and facilities.

3 2. Has arrangements established in accordance with
4 ~~regulations-promulgated~~ rules adopted by the ~~director-of~~
5 ~~public-health~~ commissioner for a continuous review of health
6 care processes and outcomes.

7 3. Has a procedure established in accordance with
8 ~~regulations-of~~ rules adopted by the ~~director-of-public-health~~
9 commissioner to develop, compile, evaluate, and report
10 statistics relating to the cost of its operations, the pattern
11 of utilization of its services, the availability and
12 accessibility of its services, and other matters as may be
13 reasonably required by the ~~director-of-public-health~~
14 commissioner.

15 The ~~director-of-public-health~~ commissioner, in carrying-out
16 ~~the-obligations-under~~ administering this section and sections
17 514B.25 and 514B.26, may contract with qualified persons to
18 make recommendations concerning the determinations required to
19 be made by the ~~director-of-public-health~~ commissioner. Such
20 recommendations may be accepted in full or in part by the
21 ~~director-of-public-health~~ commissioner.

22 ~~Within-a-reasonable-period-of-time-from-the-receipt-of-the~~
23 ~~application-for-a-certificate-of-authority,-the-director-of~~
24 ~~public-health-shall-certify-to-the-commissioner-whether-the~~
25 ~~proposed-health-maintenance-organization-meets-the~~
26 ~~requirements-of-this-section;-If-the-director-of-public~~
27 ~~health-certifies-that-the-health-maintenance-organization-does~~
28 ~~not-meet-these-requirements,-the-director-of-public-health~~
29 ~~shall-specify-in-what-respects-it-is-deficient-~~

30 Sec. 20. Section 514B.5, unnumbered paragraph 1, Code
31 1991, is amended to read as follows:

32 The commissioner shall issue or deny a certificate of
33 authority to any person filing an application pursuant to
34 section 514B.3 within a reasonable period of time after
35 ~~receiving-certification-from-the-director-of-public-health.~~

1 Issuance of a certificate of authority shall be granted upon
2 payment of the application fee prescribed in section 514B.22
3 if the commissioner is satisfied that the following conditions
4 are met:

5 Sec. 21. Section 514B.5, subsections 2 and 7, Code 1991,
6 are amended to read as follows:

7 2. ~~The director of public health certifies~~ commissioner
8 finds that the health maintenance organization's proposed plan
9 of operation meets the requirements of section 514B.4.

10 ~~7. Any deficiencies certified by the director of public~~
11 ~~health have been corrected.~~

12 Sec. 22. Section 514B.6, unnumbered paragraph 2, Code
13 1991, is amended to read as follows:

14 A health maintenance organization shall file notice with
15 the commissioner before the exercise of any power granted in
16 subsections 1 and 2. ~~The notice shall be accompanied by~~
17 ~~adequate supporting information obtained from the director of~~
18 ~~public health relating to the health maintenance~~
19 ~~organization's need for physical facilities.~~ The commissioner
20 shall disapprove the exercise of power if in the
21 commissioner's opinion it would substantially and adversely
22 affect the financial soundness of the health maintenance
23 organization and endanger its ability to meet its obligations.
24 The commissioner may ~~promulgate~~ adopt rules exempting from the
25 filing requirement of this section those activities having a
26 minimum effect.

27 Sec. 23. Section 514B.12, Code 1991, is amended to read as
28 follows:

29 514B.12 ANNUAL REPORT.

30 A health maintenance organization shall annually before the
31 first day of March file with the commissioner, ~~with a copy to~~
32 ~~the director of public health,~~ a report verified by at least
33 two of its principal officers and covering the preceding
34 calendar year. The report shall be on forms prescribed by the
35 commissioner and shall include:

1 1. Financial statements of the organization including a
2 balance sheet as of the end of the preceding calendar year and
3 statement of profit and loss for the year then ended,
4 certified by a certified public accountant or an independent
5 public accountant.

6 2. Any material changes in the information submitted
7 pursuant to section 514B.3.

8 3. The number of persons enrolled during the year, the
9 number of enrollees as of the end of the year and the number
10 of enrollments terminated during the year.

11 4. ~~A summary of information compiled pursuant to section~~
12 ~~514B.4, subsection 3, in the form required by the director of~~
13 ~~public health.~~

14 5. ~~Other information relating to the performance of the~~
15 ~~health maintenance organization as is necessary to enable the~~
16 ~~commissioner to carry out the commissioner's duties under this~~
17 ~~chapter.~~

18 Sec. 24. Section 514B.14, unnumbered paragraph 1, Code
19 1991, is amended to read as follows:

20 A health maintenance organization shall establish and
21 maintain a complaint system which has been approved by the
22 commissioner ~~in consultation with the director of public~~
23 ~~health~~ and which shall provide for the resolution of written
24 complaints initiated by enrollees concerning health care
25 services. A health maintenance organization shall submit to
26 the commissioner ~~and to the director of public health~~ an
27 annual report in a form prescribed by the commissioner ~~in~~
28 ~~consultation with the director of public health,~~ which shall
29 include:

30 Sec. 25. Section 514B.23, Code 1991, is amended to read as
31 follows:

32 514B.23 RULES.

33 The commissioner ~~and the director of public health may~~
34 promulgate shall adopt rules, pursuant to chapter 17A, as are
35 necessary to ~~carry out the provisions of~~ administer this

1 chapter, ~~subject to review in accordance with chapter 17A.~~

2 Sec. 26. Section 514B.24, Code 1991, is amended to read as
3 follows:

4 514B.24 EXAMINATIONS PERMITTED.

5 The commissioner shall make an examination of the affairs
6 of any health maintenance organization and its providers as
7 often as the commissioner deems necessary for the protection
8 of the interests of the people of this state, but not less
9 frequently than once every three years.

10 ~~The director of public health shall make an examination~~
11 ~~concerning the quality of health care services provided~~
12 ~~through any health maintenance organization as often as the~~
13 ~~director of public health deems necessary for the protection~~
14 ~~of the interests of the people of this state, but not less~~
15 ~~frequently than once every three years.~~

16. Every health maintenance organization and provider shall
17 submit its books and records to the commissioner ~~and the~~
18 ~~director of public health~~ and in every way facilitate the
19 examination. For the purpose of examinations, the
20 commissioner ~~of insurance and the director of public health~~
21 may administer oaths to and examine the officers and agents of
22 the health maintenance organization and the principals of its
23 providers concerning their business. The expenses of
24 examinations under this section shall be assessed against the
25 organization being examined and remitted to the commissioner
26 ~~or director of public health as the case may be.~~

27 In lieu of the examination required by this section, the
28 commissioner ~~of insurance or the director of public health~~ may
29 accept the report of an examination made by the appropriate
30 departments in other states.

31 Sec. 27. Section 514B.26, unnumbered paragraphs 1 and 3,
32 Code 1991, are amended to read as follows:

33 When the commissioner has cause to believe that grounds for
34 the denial, suspension, or revocation of a certificate of
35 authority exist, the commissioner shall notify the health

1 maintenance organization in writing of the particular grounds
 2 for denial, suspension, or revocation and shall issue a notice
 3 of a time fixed for a hearing, which shall be held not less
 4 than ten days after the receipt by the health maintenance
 5 organization of the notice. ~~The director of public health or~~
 6 ~~the director of public health's designee shall participate in~~
 7 ~~the proceedings of the hearing and the director of public~~
 8 ~~health's recommendation and findings with respect to matters~~
 9 ~~relating to the quality of health care services provided in~~
 10 ~~connection with any decision regarding denial, suspension, or~~
 11 ~~revocation of a certificate of authority, or in connection~~
 12 ~~with an order to the health maintenance organization by the~~
 13 ~~commissioner to cease from methods or practices in violation~~
 14 ~~of this chapter, shall be conclusive and binding upon the~~
 15 ~~commissioner.~~

16 After the hearing, or upon the failure of the health
 17 maintenance organization to appear at the hearing, the
 18 commissioner shall take action as the commissioner deems
 19 advisable and which is permitted by the commissioner under the
 20 provisions of this chapter and shall reduce the findings to
 21 writing. Copies of the written findings shall be mailed to
 22 the health maintenance organization charged with violation of
 23 this chapter ~~and to the director of public health.~~

24 Sec. 28. Section 514B.27, Code 1991, is amended to read as
 25 follows:

26 514B.27 JUDICIAL REVIEW.

27 The action of the commissioner ~~and the recommendation and~~
 28 ~~findings of the director of public health~~ under section
 29 514B.26 ~~shall be~~ is subject to judicial review in accordance
 30 with ~~the terms of the Iowa administrative procedure Act~~
 31 chapter 17A.

32 Sec. 29. Section 514B.30, unnumbered paragraph 1, Code
 33 1991, is amended to read as follows:

34 No An officer, director, trustee, partner, or employee of a
 35 health maintenance organization shall not testify as to nor or

1 make other public disclosure of any communication made to a
2 provider and deemed privileged under section 622.10, and which
3 communication has come into the knowledge or possession of
4 such officer, director, trustee, partner, or employee by
5 reason of employment with ~~said~~ the health maintenance
6 organization. To the extent necessary to effectuate the
7 examinations provided in section 514B.24 only, the
8 ~~commissioner or the director of public health shall have the~~
9 ~~right to~~ may examine medical or hospital records of a person
10 receiving basic health care services under the provisions of
11 this chapter but shall not testify as to such confidential
12 communications or make other public disclosure thereof without
13 the express consent of ~~said~~ the person or the person's legal
14 representative, if the person ~~be~~ is deceased or incompetent.
15 The provisions of section 622.10 respecting waiver shall apply
16 to this section.

17 Sec. 30. Section 514C.4, subsection 1, paragraph d, Code
18 1991, is amended by striking the paragraph.

19 Sec. 31. Section 514C.4, subsection 4, Code 1991, is
20 amended by striking the subsection.

21 Sec. 32. Section 514D.4, subsection 5, Code 1991, is
22 amended to read as follows:

23 5. The commissioner may upon notice and hearing at any
24 time after the initial filing or approval of any individual
25 accident and sickness policy or subscriber contract form,
26 withdraw approval or suspend further sale of the form if the
27 benefits provided are unreasonable in relation to the premium
28 charge. The commissioner shall establish reasonable and
29 creditable anticipated minimum loss ratios for medicare
30 supplement and other accident and sickness insurance policies.
31 ~~For purposes of establishing loss ratios, policies issued as a~~
32 ~~result of solicitations of individuals through the mails or by~~
33 ~~mass media advertising, including both print and broadcast~~
34 ~~advertising, shall be deemed to be individual policies,~~
35 ~~including any certificates issued under these policies.~~

1 Sec. 33. Section 514H.12, subsection 6, Code Supplement
2 1991, is amended to read as follows:

3 6. The premium credit provided by this section is only
4 available in connection with a either of the following:

5 a. A basic benefit plan approved by the commissioner.
6 ~~which-satisfies~~

7 b. A major medical policy approved by the commissioner
8 providing coverage to an eligible individual either on a group
9 or individual basis.

10 The policy shall also satisfy any conditions imposed by
11 rules adopted pursuant to subsection 1 which the commissioner
12 determines are necessary or convenient to implement and
13 administer the premium credit.

14 Sec. 34. Section 515.69, Code 1991, is amended to read as
15 follows:

16 515.69 FOREIGN COMPANIES -- CAPITAL REQUIRED.

17 A stock insurance company organized under or by the laws of
18 any other state or foreign government for the purpose
19 specified in this chapter, shall not, directly or indirectly,
20 take risks or transact business of insurance in this state
21 unless the company has one two and one-half million dollars of
22 actual paid-up capital, and a surplus in cash or invested in
23 securities authorized by law of not less than one two and one-
24 half million dollars, exclusive of assets deposited in a
25 state, territory, district, or country for the special benefit
26 or security of those insured therein in that state, territory,
27 district, or country.

28 Sec. 35. Section 515.71, Code 1991, is amended to read as
29 follows:

30 515.71 DEPOSIT OF SECURITIES -- AMOUNT.

31 Every alien insurer authorized to transact business in this
32 state shall at all times maintain a deposit with the
33 commissioner of insurance in cash or in securities in which
34 insurance companies are authorized to invest, of a sum equal
35 to the unearned-premium greater of the reserve on all policies

1 covering risks located in this state or one million dollars.
2 ~~Such~~ The securities shall be approved, and the amount of such
3 the deposit shall be determined, by the commissioner in
4 accordance with section 515.47, ~~provided, that the minimum~~
5 ~~amount of any deposit shall be twenty-five thousand dollars.~~
6 The commissioner, in the commissioner's discretion, may permit
7 the withdrawal of interest earnings.

8 In lieu of the deposit provided ~~herein any such~~ in this
9 section, an alien insurer may file with the commissioner a
10 bond of equal amount executed by a licensed United States
11 surety company, so conditioned for the protection of Iowa
12 creditors and policyholders.

13 ~~No such~~ An alien insurer shall not be granted a certificate
14 of authority to transact business in this state, or a renewal
15 ~~thereof of the certificate,~~ until such deposit ~~shall have been~~
16 is made, and the commissioner may revoke the certificate of
17 authority of ~~any such an~~ an alien insurer which fails to make
18 ~~such the~~ deposit within a reasonable period of time ~~after~~
19 ~~April 23, 1941.~~

20 Sec. 36. Section 515.74, Code 1991, is amended to read as
21 follows:

22 515.74 ~~MANNER OF SERVICE OF PROCESS.~~

23 ~~Such~~ Any notice or process, ~~with a copy thereof~~ three
24 copies of the notice or process, may be mailed to the
25 commissioner ~~of insurance~~ at Des Moines, Iowa, in a certified
26 mail letter addressed to the commissioner by the
27 commissioner's official title, ~~and the.~~ The commissioner
28 shall ~~immediately upon its receipt~~ acknowledge service thereon
29 on behalf of the defendant foreign insurance company by
30 writing thereon, giving the date ~~thereof~~ of receipt of the
31 notice or process, and shall ~~immediately~~ return such the
32 notice or process in a certified mail letter to the clerk of
33 the court in which the suit is pending, addressed to the clerk
34 by the clerk's official title, and shall also ~~forthwith~~ mail
35 ~~such a~~ copy, with a copy of the commissioner's acknowledgment

1 of service written thereon, in a certified mail letter
2 addressed to the person or corporation ~~who shall be~~ named or
3 designated by such company in such the written instrument.
4 Notice or process received prior to 12 noon shall be forwarded
5 the same working day. Notice or process received after 12
6 noon shall be forwarded the next working day. A fee of
7 fifteen dollars must accompany the request for notice or
8 process.

9 Sec. 37. Section 515A.4, subsection 4, Code 1991, is
10 amended to read as follows:

11 4. Subject to the exception specified in subsection 5 of
12 this section, each filing shall be on file for a waiting
13 period of ~~fifteen~~ thirty days before it becomes effective,
14 which period may be extended by the commissioner for an
15 additional period not to exceed fifteen days if the
16 commissioner gives written notice within such the waiting
17 period to the insurer or rating organization which made the
18 filing that the commissioner needs such additional time for
19 the consideration of such the filing. Upon written
20 application by such the insurer or rating organization, the
21 commissioner may authorize a filing which the commissioner has
22 reviewed to become effective before the expiration of the
23 waiting period or any extension thereof of the period. A
24 filing shall be deemed to meet the requirements of this
25 chapter unless disapproved by the commissioner within thirty
26 days of receipt thereof by the commissioner.

27 Sec. 38. Section 515B.2, subsection 3, paragraph b,
28 subparagraph (6), Code Supplement 1991, is amended by striking
29 the subparagraph and inserting in lieu thereof the following:

30 (6) Any sum that would otherwise be a covered claim but is
31 an amount owed to or on behalf of an insured who has a net
32 worth greater than ten million dollars on the date the policy
33 was issued.

34 Sec. 39. Section 515B.5, subsection 1, paragraph b, Code
35 Supplement 1991, is amended by striking the paragraph and

1 inserting in lieu thereof the following:

2 b. Be obligated to pay covered claims subject to a
3 limitation as established by the rights, duties, and
4 obligations under the policy of the insolvent insurer.

5 Sec. 40. Section 515B.5, subsection 2, paragraph g, Code
6 Supplement 1991, is amended to read as follows:

7 ~~g. If at any time the board of directors finds that the~~
8 ~~amount assessed for any insolvency exceeds the actual and~~
9 ~~projected liabilities of that insolvency, it may refund such~~
10 ~~excess to member insurers in the same proportion that each~~
11 ~~contributed to the original assessment or assessments~~ The
12 board of directors, in its discretion, may from time to time
13 refund excess amounts to member insurers that are not needed
14 for current or projected liabilities of a particular
15 insolvency. The amount of each refund is equal to the net
16 direct written premiums of the member insurer for the
17 preceding calendar year divided by the net written premiums of
18 all member insurers for the preceding calendar year,
19 multiplied by the total amount to be refunded to all members.
20 Any assessments or refunds of any member insurer in amounts
21 not to exceed twenty-five dollars may, at the discretion of
22 the board of directors, be waived.

23 Sec. 41. Section 515B.15, Code 1991, is amended by adding
24 the following new unnumbered paragraph:

25 NEW UNNUMBERED PARAGRAPH. As to any covered claims based
26 on the default of an insurer who is or who becomes insolvent,
27 or based on the failure of an insurer to defend an insured,
28 the association, on its own behalf or on behalf of the
29 insured, is entitled to set the default aside and defend such
30 claim on its merits.

31 Sec. 42. Section 515E.3, Code 1991, is amended to read as
32 follows:

33 515E.3 RISK RETENTION GROUPS ORGANIZED IN THIS STATE.

34 To be organized as a risk retention group in this state,
35 the group must be organized and licensed as a liability

1 insurance company authorized by the insurance laws of this
2 state. Except as provided elsewhere in this chapter, a risk
3 retention group organized in this state must comply with all
4 of the laws, rules, and requirements applicable to liability
5 insurers organized in this state. Additionally, a risk
6 retention group organized in this state must comply with
7 section 515E.4. These requirements do not exempt risk
8 retention groups from a duty imposed by any other law or rule
9 of the state. Before it may offer insurance in any state,
10 each risk retention group shall also submit for approval to
11 the commissioner of insurance of this state a plan of
12 operation or a feasibility study, and revisions of the plan or
13 study, within ten days of any change. The name under which a
14 risk retention group may be chartered and licensed shall be a
15 brief description of its membership followed by the phrase
16 "risk retention group" and, unless its membership consists
17 solely of insurers, shall not include the terms "insurance",
18 "mutual", "reciprocal", or any similar term. All risk
19 retention groups chartered in this state shall file with the
20 division and the national association of insurance
21 commissioners an annual statement blank prepared in accordance
22 with instructions prescribed by the commissioner. All
23 financial information reflected in the annual statement shall
24 be kept and prepared in accordance with accounting practices
25 and procedures prescribed by the commissioner. The
26 commissioner may adopt by reference the annual statement
27 handbook and the accounting practices and procedures manual of
28 the national association of insurance commissioners.

29 Sec. 43. Section 515E.8, subsection 1, Code 1991, is
30 amended by adding the following new paragraph:

31 NEW PARAGRAPH. g. The commissioner may require the notice
32 to be in a form prescribed by the national association of
33 insurance commissioners.

34 Sec. 44. Section 515F.5, subsection 3, Code 1991, is
35 amended to read as follows:

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

15 Sec. 45. Section 516A.3, unnumbered paragraph 2, Code
16 Supplement 1991, is amended to read as follows:

17 An insurer's insolvency protection is applicable only to
18 accidents occurring during a policy period in which its
19 insured's uninsured motorist coverage is in effect and only if
20 the liability insurer of the tort-feasor is insolvent at the
21 time of such an accident or becomes insolvent after the
22 accident.

23 Sec. 46. Section 522.1, unnumbered paragraph 1, Code
24 Supplement 1991, is amended to read as follows:

25 A person shall not, directly or indirectly, act within this
26 state as agent, or otherwise, in receiving or procuring
27 applications for insurance or reinsurance, or in doing or
28 transacting any kind of insurance business for a company or
29 association ~~unless exempt from the provisions of this chapter~~
30 ~~by section 512B-317 except that the licensing of persons so~~
31 ~~acting for county mutuals is subject only to section 518-16,~~
32 until the person has procured a license from the commissioner
33 of insurance for those lines of insurance for which the person
34 is transacting or engaging in business. This requirement
35 includes a person offering to the public, for a fee or

1 commission, to engage in the business of offering any advice,
2 counsel, opinion, or service with respect to the benefits,
3 advantages, or disadvantages promised under any policy of
4 insurance which could be issued in this state.

5 This chapter applies to the following professionals except
6 when in the course of their professional capacity they provide
7 information, recommendations, advice, or services, not
8 including solicitation, relating to the business of insurance:

9 1. An attorney licensed to practice law in this state.

10 2. A certified public accountant licensed pursuant to
11 chapter 116.

12 3. An actuary who is a member in good standing of the
13 American academy of actuaries, the society of actuaries, or
14 the casualty actuarial society.

15 4. A bank trust officer.

16 Sec. 47. Section 522.4, Code 1991, is amended to read as
17 follows:

18 522.4 FEE -- INSURERS TO CERTIFY AGENTS.

19 The fee charged for an agent's license shall be ten fifty
20 dollars. Every insurer authorized to transact business in
21 this state shall certify its agents to the commissioner who
22 shall keep a list of the agents and charge an annual
23 appointment fee of five dollars for each agent. The
24 commissioner shall remit the fees collected to the treasurer
25 of state for deposit in the general fund of the state.

26 Sec. 48. 1990 Iowa Acts, chapter 1234, section 76, as
27 amended by 1991 Iowa Acts, chapter 213, section 35, is amended
28 to read as follows:

29 SEC. 76. Sections 515A.1 through 515A.19, Code 1989, are
30 repealed effective July 1, ~~1993~~ 1994.

31 Sec. 49. Section 508.9, as amended by this Act, does not
32 affect a life insurance company authorized to transact
33 business in Iowa on or before July 1, 1990.

34 EXPLANATION

35 This bill amends certain provisions relating to the

1 regulation of insurance.

2 Section 79.17 is amended to provide that annuities
3 purchased pursuant to this section are to be treated as
4 individual annuities and not unallocated annuities.

5 Section 506.12 is a new section to require all insurance
6 companies domiciled in Iowa to maintain a principal executive
7 office in this state.

8 Section 507B.4 is amended to provide that failure of the
9 agent to designate on the application the licensee who
10 solicited and wrote the policy is deemed to be a
11 misrepresentation.

12 Section 508.9 is amended to increase the minimum surplus
13 which must be maintained by a mutual insurance company from
14 \$2,000,000 to \$5,000,000.

15 Section 508.29 is amended to require an insurer writing
16 accident and health insurance to hold 75 percent of the
17 aggregate reserves and policy and contract claims relating to
18 the business in investments enumerated in section 511.8
19 (section 511.8 establishes the requirements for the investment
20 of life insurance funds).

21 Section 508C.3 is amended to expand the guaranty fund to
22 include structured settlements involving liability insurers.

23 The definition of policies or contracts to which chapter
24 508C does not apply is also amended.

25 Section 508C.8 is amended to require that an adjustment of
26 the rate of interest credited on a policy or contract be made
27 if the rate of interest on any portion of the policy or
28 contract averaged over the period of four years prior to the
29 date on which the association becomes obligated with respect
30 to the policy or contract is not in excess of a rate of
31 interest determined by subtracting two percentage points from
32 Moody's corporate bond yield average for the same four-year
33 period. The amendment also provides that on or after the date
34 on which the Iowa life and health guaranty association becomes
35 obligated with respect to the policy or contract, the interest

1 credited to the guaranty fund is not to exceed the rate of
2 interest determined by subtracting three percentage points
3 from Moody's corporate bond yield as most recently available.
4 The guaranty association is prohibited from seeking
5 modifications in the interest as determined under the formula.

6 Section 508C.9 is amended to provide that assessments for
7 the guaranty fund are to be based on the average of the
8 premiums received in Iowa by the insurer during the previous
9 three calendar years, and not on the total premiums received
10 during that time period.

11 Section 509.1 is amended to increase the permissible amount
12 of credit life insurance from \$50,000 to \$200,000.

13 Section 509A.15 is amended to increase the time period
14 following the close of the fiscal year within which a self-
15 insurance plan must file its certificate of compliance.

16 Sections 511.28 and 515.74 are amended to impose a \$15 fee
17 for the service of process functions currently performed by
18 the division of insurance. The fee is payable by the party
19 requesting the service. Time guidelines for forwarding such
20 service are also provided.

21 Chapter 511 is amended by adding a new section, 511.39,
22 which permits a charitable organization to maintain an
23 insurable interest in a person who makes a donation by making
24 the charitable institution the beneficiary under a policy
25 insuring the life of the person.

26 Section 512B.24 is amended to increase the annual fee for
27 fraternal benefit societies transacting business in Iowa from
28 \$25 to \$50.

29 Section 512B.25 is amended to increase the license fee for
30 fraternal benefit societies authorized to transact business in
31 this state from \$25 to \$50. The effective date of the license
32 is also changed from April 30 to June 1 of each year.

33 Chapter 513A is amended by adding a new section, 513A.7,
34 which extends the commissioner's authority over form approval
35 to include domiciled and nondomiciled insurers.

1 Section 514A.13 is amended to provide that all rate changes
2 in accident and health policies are subject to the approval of
3 the insurance commissioner.

4 Chapter 514B is amended to strike the Iowa department of
5 public health's regulatory duties with respect to health
6 maintenance organizations. Those duties will remain with the
7 insurance division.

8 Section 514C.4, subsection 1, paragraph "d", and subsection
9 4 are stricken as a result of federal law which preempts these
10 provisions.

11 Section 514D.4 is amended to enable the insurance
12 commissioner to implement by rule the new federally permitted
13 minimum medicare supplement loss ratio of 75 percent for
14 medicare supplement insurance solicited through the mail or by
15 mass media advertising.

16 Section 514H.12 is amended to expand the \$25 premium credit
17 related to basic benefit coverage insurance for covering
18 certain eligible employees to apply to major medical policies
19 as approved by the commissioner.

20 Section 515.69 is amended to increase the amount of
21 security required for companies doing business in Iowa which
22 are not domiciled in Iowa from \$1 million to \$2.5 million.

23 Section 515.71 is amended to require an alien insurer doing
24 business in Iowa to maintain a deposit in an amount of the
25 greater of the reserve on all policies covering Iowa risks or
26 \$1 million.

27 Sections 515A.4 and 515F.5 are amended to extend the
28 waiting period for rate filings for workers' compensation and
29 casualty insurance from 15 to 30 days before they become
30 effective.

31 Section 515B.2 is amended to limit coverage under the
32 insurance guaranty association to persons with a net worth of
33 less than \$10 million.

34 Section 515B.5 is amended to limit the rights, duties, and
35 obligations of the guaranty fund to the same extent as those

1 of the insolvent insurer, and to empower the guaranty fund,
2 subject to the discretion of the fund's board of directors, to
3 refund assessment amounts which exceed the actual and
4 projected liabilities of the insolvent estate.

5 Section 515B.15 is amended to empower the guaranty fund to
6 have a default judgment set aside so that the fund can defend
7 against the claim on its merits.

8 Sections 515E.3 and 515E.8 are amended to conform the Iowa
9 risk retention Act with the national association of insurance
10 commissioners (NAIC) model Act by specifying that the annual
11 statement form is to be prescribed by the NAIC.

12 Section 516A.3 is amended to provide that an insurer's
13 insolvency protection is applicable to an insolvency which
14 occurs after a covered accident.

15 Section 522.1 is amended to broaden the licensing
16 requirements of agents.

17 Section 522.4 is amended to increase the agent license fee
18 from \$10 to \$50 for a one-year license.

19 1990 Iowa Acts, chapter 1234, section 76, is amended to
20 delay the repeal of chapter 515A, relating to workers'
21 compensation insurance from July 1, 1993, to July 1, 1994.

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SENATE FILE 2354

S-5455

1 Amend Senate File 2354 as follows:

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

4 "Sec. ____ . NEW SECTION. 509.17A COLLATERAL
5 INSURANCE AND FORCED PLACEMENT.

6 1. The commissioner shall review all collateral
7 insurance forms and rates to assure that the rates are
8 not excessive in comparison to the benefits provided
9 to consumers.

10 2. The commissioner may adopt by rule procedures
11 and restrictions to protect consumers from abusive
12 practices in forced placement or collateral insurance.
13 Rules may include, but are not limited to, the
14 following:

15 a. Notice requirements, to assure that consumers
16 have an opportunity to exercise reasonable choice in
17 the placement, of a collateral insurance policy.

18 b. A prohibition or limitation on the receipt of a
19 sales commission or other fee by the person making a
20 forced placement, or the person's employer.

21 3. For purposes of this section, unless the
22 context otherwise requires:

23 a. "Collateral insurance" means an insurance
24 policy solely or primarily intended to provide
25 security for a loan or to insure collateral for a
26 loan.

27 b. "Forced placement" means the purchase of an
28 insurance policy by a third person when the law or a
29 contract obligates another person to pay the insurance
30 premium."

31 2. Page 20, by inserting after line 25, the
32 following:

33 "Sec. ____ . RULES. The commissioner shall adopt by
34 rule objective standards as necessary to facilitate
35 implementation of section 18 of this Act."

36 3. By renumbering as necessary.

By WILLIAM D. PALMER

S-5455 FILED MARCH 31, 1992

ADOPTED (p.1124)

SENATE FILE 2354

S-5340

- 1 Amend Senate File 2354 as follows:
 2 1. Page 16, line 32, by striking the word "ten"
 3 and inserting the following: "fifty".

By WILLIAM D. PALMER

S-5340 FILED MARCH 23, 1992
but of order 3/31 (p. 1125)

SENATE FILE 2354

S-5369

- 1 Amend Senate File 2354 as follows:
 2 1. Page 4, by inserting after line 33, the
 3 following:
 4 "Sec. ____ . Section 509A.14, unnumbered paragraph
 5 1, Code 1991, is amended to read as follows:
 6 509A.14 APPROVAL OF SELF-INSURANCE PLANS.
 7 The commissioner of insurance shall adopt rules for
 8 self-insurance plans for life insurance and accident
 9 and health insurance for ~~the state~~, a political
 10 subdivision of the state, ~~or a school corporation, or~~
 11 ~~any other public body in the state~~. The rules adopted
 12 shall include, but are not limited to, the
 13 following:"
 14 2. Page 5, by striking lines 1 and 2, and
 inserting the following:
 "Within ~~thirty~~ ninety days following the end of a
 17 ~~self-insurance plan's~~ fiscal year, the governing body
 18 of a self-insurance plan of a political subdivision or
 19 a school corporation shall file".
 20 3. Page 13, by striking lines 17 and 18, and
 21 inserting the following:
 22 "Sec. ____ . Section 514C.4, subsection 1, paragraph
 23 d, Code 1991, is amended to read as follows:
 24 d. An individual or group Medicare supplemental
 25 policy, unless coverage pursuant to such policy is
 26 preempted by federal law."
 27 4. By renumbering as necessary.

By RICHARD VARN

S-5369 FILED MARCH 25, 1992

Adopted 3/31 (p. 1124)

SENATE FILE 2354

S-5331

1 Amend Senate File 2354 as follows:

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

4 "Sec. ____ . Section 509A.14, Code 1991, is amended
5 to read as follows:

6 509A.14 APPROVAL OF SELF-INSURANCE PLANS.

7 The commissioner of insurance shall adopt rules for
8 self-insurance plans for life insurance and accident
9 and health insurance for ~~the state~~, a political
10 subdivision of the state, or a school corporation, ~~or~~
11 ~~any other public body in the state~~. The rules adopted
12 shall include, but are not limited to, the following:

13 1. A requirement that the plan shall include all
14 coverages and provisions that are required by law in
15 insurance policies for the type of risk that the self-
16 insurance plan is intended to cover.

17 2. ~~A requirement that at least once each twelve~~
18 ~~months, the governing body of the public body shall~~
19 ~~obtain from an outside consulting actuary a~~
20 ~~certification that the plan is able to cover all~~
21 ~~reasonably anticipated expenses.~~

22 3. A requirement that if the resources of the plan
23 are inadequate to fully cover a claim under the plan,
24 then the public body is liable for any portion of the
25 claim that is left unpaid."

26 2. Page 5, by striking lines 1 and 2, and
27 inserting the following:

28 "Within thirty ninety days following the end of a
29 self-insurance plan's fiscal year, the governing body
30 of a self-insurance plan of a political subdivision or
31 a school corporation shall file".

32 3. Page 13, by striking lines 17 and 18, and
33 inserting the following:

34 "Sec. ____ . Section 514C.4, subsection 1, paragraph
35 d, Code 1991, is amended to read as follows:

36 d. An individual or group Medicare supplemental
37 policy, unless coverage pursuant to such policy is
38 preempted by federal law."

39 4. By renumbering as necessary.

By RICHARD VARN

S-5331 FILED MARCH 20, 1992

w/d 3/31 (p. 1124)

SENATE FILE 2354

S-5330

1 Amend Senate File 2354 as follows:

2 1. Page 16, by striking lines 27 through 33.

3 2. By renumbering as necessary.

By RICHARD VARN
HARRY G. SLIFE

JAMES B. KERSTEN
DONALD V. DOYLE

S-5330 FILED MARCH 20, 1992

Adopted 3/31 (p. 1124)

Rec Ways + Means, No Pass 4/10

SENATE FILE **2354**
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 2297)

(AS AMENDED AND PASSED BY THE SENATE MARCH 31, 1992)

- _____ - New Language by the Senate
- * - Language Stricken by the Senate

Re Passed Senate, Date 4/16/92 (p. 1450) Passed House, Date 4/15/92 (p. 1426)
 Vote: Ayes 50 Nays 0 Vote: Ayes 97 Nays 1
 Approved April 28, 1992 (p. 1697)

A BILL FOR

1 An Act relating to the regulation of insurance, requiring certain
 2 reports to the commissioner, establishing and continuing
 3 certain requirements for insurance companies doing business in
 4 Iowa and for agents, amending provisions relating to guaranty
 5 funds, self-insurers, and charitable organizations, increasing
 6 allowable credit life insurance amounts, amending provisions
 7 relating to the regulation of health maintenance
 8 organizations, increasing certain fees, and establishing
 9 penalties.
 10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

S. F. 2354

SENATE FILE 2354

H-5908

- 1 Amend Senate File 2354, as amended, passed, and re-
- 2 printed by the Senate, as follows:
- 3 1. Page 21, by inserting after line 22 the
- 4 following:
- 5 "Sec. ____ . Section 32 of this Act shall not apply
- 6 to a medicare supplemental policy delivered, issued
- 7 for delivery, continued, or renewed before January 1,
- 8 1992."
- 9 2. Renumber as necessary.

By DODERER of Johnson

H-5908 FILED APRIL 14, 1992

Adopted 4/15

1 Section 1. Section 79.17, Code Supplement 1991, is amended
2 by adding the following new subsection:

3 NEW SUBSECTION. 3. Any annuity purchased with moneys
4 deducted pursuant to this section is deemed to be an
5 individual annuity for purposes of chapter 508C, and not an
6 unallocated annuity.

7 Sec. 2. NEW SECTION. 506.12 PRINCIPAL EXECUTIVE OFFICE.

8 An insurance company incorporated under the laws of this
9 state for the purpose of engaging in the business of insurance
10 shall maintain a principal executive office in this state
11 unless otherwise allowed by the commissioner of insurance.
12 The location of the principal executive office in this state
13 of an insurance company incorporated under chapter 490 shall
14 be identified in the insurance company's articles of
15 incorporation.

16 Sec. 3. Section 507B.4, Code 1991, is amended by adding
17 the following new subsection:

18 NEW SUBSECTION. 10A. Failing to designate on an insurance
19 policy application the licensee who has solicited and written
20 the policy.

21 Sec. 4. Section 508.9, Code 1991, is amended to read as
22 follows:

23 508.9 MUTUAL COMPANIES -- CONDITIONS.

24 Level premium and natural premium life insurance companies
25 organized under the laws of this state upon the mutual plan
26 shall, before issuing policies, have actual applications on at
27 least two hundred and fifty lives for an average amount of one
28 thousand dollars each. A list of the applications giving the
29 name, age, residence, amount of insurance, and annual premium
30 of each applicant shall be filed with the commissioner of
31 insurance, and a deposit made with the commissioner of an
32 amount equal to three-fifths of the whole annual premium on
33 the applications, in cash or the securities required by
34 section 508.5. In addition, a deposit of cash or securities
35 of the character provided by law for the investment of funds

1 for life insurance companies in the sum of five million
2 dollars shall be made with the commissioner, which shall
3 constitute a guaranty security fund for the protection of
4 policyholders. The contribution to the guaranty security fund
5 shall not give to contributors to the fund or to other persons
6 any voting or other power in the management of the affairs of
7 the company. The guaranty security fund may be repaid to the
8 contributors to the guaranty security fund with interest at
9 six percent from the date of contribution, at any time, in
10 whole or in part, if the repayment does not reduce the surplus
11 of the company below the amount of ~~two~~ five million dollars
12 and then only if consent in writing for the repayment is
13 obtained from the commissioner of insurance. Upon compliance
14 with this section, the commissioner shall issue to the mutual
15 company the certificate prescribed in this chapter.

16 Sec. 5. Section 508.29, Code 1991, is amended by adding
17 the following new unnumbered paragraph:

18 NEW UNNUMBERED PARAGRAPH. A company insuring risks
19 authorized by this section shall invest or hold in cash, funds
20 equal to seventy-five percent of the aggregate reserves and
21 policy and contract claims for such risks. Investments
22 required by this paragraph shall only be made in securities
23 enumerated in section 511.8, and are subject to the same
24 limitations as provided for the investment of legal reserve,
25 and are subject to section 511.8, subsections 16, 17, and 21.

26 Sec. 6. Section 508C.3, subsection 3, paragraph a, Code
27 1991, is amended by striking the paragraph and inserting in
28 lieu thereof the following:

29 a. Any portion of a policy or contract to the extent that
30 the rate of interest on which it is based, averaged over the
31 period of four years prior to the date on which the
32 association becomes obligated with respect to the policy or
33 contract, exceeds a rate of interest determined by subtracting
34 two percentage points from Moody's corporate bond yield
35 average for the same four-year period or over such lesser

1 period if the policy or contract was issued less than four
2 years before the association became obligated; and on or after
3 the date on which the association becomes obligated with
4 respect to the policy or contract, exceeds the rate of
5 interest determined by subtracting three percentage points
6 from Moody's corporate bond yield average as most recently
7 available.

8 Sec. 7. Section 508C.3, subsection 3, paragraph h, Code
9 1991, is amended to read as follows:

10 h. An annuity contract issued to a government lottery or
11 ~~to a liability insurer in connection with a structured~~
12 settlement.

13 Sec. 8. Section 508C.8, subsection 3, paragraph d, Code
14 Supplement 1991, is amended to read as follows:

15 d. The association may offer modifications to the owners
16 of policies or contracts or classes of policies or contracts
17 issued by the insolvent insurer, if the association finds that
18 under the policies or contracts the benefits provided,
19 provisions pertaining to renewal, or the premiums charged or
20 which may be charged are not reasonable. If the owner of a
21 policy or contract to be modified fails or refuses to accept
22 the modification as approved by the court, the association may
23 terminate the policy or contract as of a date not less than
24 one hundred eighty days after the modification is sent to the
25 owner. The association shall have no liability under the
26 policy or contract for any claim incurred or continuing beyond
27 the termination date. However, this paragraph does not apply
28 to interest adjustments made pursuant to section 508C.3,
29 subsection 3, paragraph "a".

30 Sec. 9. Section 508C.9, subsection 3, paragraph b, Code
31 1991, is amended to read as follows:

32 b. Class A assessments in excess of one hundred dollars
33 per company per calendar year and class B assessments against
34 member insurers for each account shall be in the proportion
35 that the average of the aggregate premiums received on

1 business in this state by each assessed member insurer on
2 policies or contracts related to that account for the three
3 most recent calendar years for which information is available,
4 preceding the year in which the insurer became impaired or
5 insolvent, is to the average of the aggregate premiums
6 received on business in this state by all assessed member
7 insurers on policies related to that account for the three
8 most recent calendar years for which information is available
9 preceding the assessment.

10 Sec. 10. Section 508C.9, subsection 5, paragraph a, Code
11 1991, is amended to read as follows:

12 a. The total of all assessments upon a member insurer for
13 each account shall not in any one calendar year exceed two
14 percent of the average of the insurer's premiums received in
15 this state during the three most recent calendar years for
16 which information is available, preceding the year in which
17 the insurer becomes impaired or insolvent, on the policies
18 related to that account. If the maximum assessment for an
19 account, together with the other assets of the association in
20 the account, does not provide in any one year in the account
21 an amount sufficient to carry out the responsibilities of the
22 association, the necessary additional funds shall be assessed
23 for the account in succeeding years as soon as permitted by
24 this chapter.

25 Sec. 11. Section 509.1, subsection 3, paragraph d, Code
26 Supplement 1991, is amended to read as follows:

27 d. The amount of insurance on the life of a debtor shall
28 not exceed the amount owed by the debtor to the creditor, or
29 the face amount of a totally or partially executed loan or
30 loan commitment creating personal liability and made in good
31 faith for general agricultural or horticultural purposes to a
32 debtor with seasonal income. However, in no event shall the
33 amount of insurance exceed fifty two hundred thousand dollars.

34 Sec. 12. Section 509A.14, unnumbered paragraph 1, Code
35 1991, is amended to read as follows:

1 509A.14 APPROVAL OF SELF-INSURANCE PLANS.

2 The commissioner of insurance shall adopt rules for self-
3 insurance plans for life insurance and accident and health
4 insurance for the state, a political subdivision of the state,
5 or a school corporation, or any other public body in the
6 state. The rules adopted shall include, but are not limited
7 to, the following:

8 Sec. 13. NEW SECTION. 509.17A COLLATERAL INSURANCE AND
9 FORCED PLACEMENT.

10 1. The commissioner shall review all collateral insurance
11 forms and rates to assure that the rates are not excessive in
12 comparison to the benefits provided to consumers.

13 2. The commissioner may adopt by rule procedures and
14 restrictions to protect consumers from abusive practices in
15 forced placement or collateral insurance. Rules may include,
16 but are not limited to, the following:

17 a. Notice requirements, to assure that consumers have an
18 opportunity to exercise reasonable choice in the placement, of
19 a collateral insurance policy.

20 b. A prohibition or limitation on the receipt of a sales
21 commission or other fee by the person making a forced
22 placement, or the person's employer.

23 3. For purposes of this section, unless the context
24 otherwise requires:

25 a. "Collateral insurance" means an insurance policy solely
26 or primarily intended to provide security for a loan or to
27 insure collateral for a loan.

28 b. "Forced placement" means the purchase of an insurance
29 policy by a third person when the law or a contract obligates
30 another person to pay the insurance premium.

31 Sec. 14. Section 509A.15, subsection 1, unnumbered
32 paragraph 1, Code 1991, is amended to read as follows:

33 Within thirty ninety days following the end of a self-
34 insurance-plan's fiscal year, the governing body of a self-
35 insurance plan of a political subdivision or a school

1 corporation shall file with the commissioner of insurance a
2 certificate of compliance. The certificate of compliance
3 shall be accompanied by a filing fee of one hundred dollars.
4 The certificate shall be signed and dated by the appropriate
5 public official representing the governing body, and shall
6 certify the following:

7 Sec. 15. Section 511.28, Code 1991, is amended to read as
8 follows:

9 511.28 SERVICE OF PROCESS.

10 Such Any notice or process, with a-copy-thereof three
11 copies of the notice or process, may be mailed to the
12 commissioner at Des Moines, Iowa, in a certified mail letter
13 addressed to the commissioner by the commissioner's official
14 title, ~~and the.~~ The commissioner shall immediately-upon-its
15 receipt acknowledge service thereon on behalf of the defendant
16 foreign insurance company by writing thereon, giving the date
17 thereof of receipt of the notice or process, and shall
18 immediately return such the notice or process in a certified
19 mail letter to the clerk of the court in which the suit is
20 pending, addressed to the clerk by the clerk's official title,
21 and shall also forthwith mail such a copy, with a copy of the
22 commissioner's acknowledgment of service written thereon, in a
23 certified mail letter addressed to the person or corporation
24 who-shall-be named or designated by such company in such the
25 written instrument. Notice or process received prior to 12
26 noon shall be forwarded the same working day. Notice or
27 process received after 12 noon shall be forwarded the next
28 working day. A fee of fifteen dollars must accompany the
29 request for notice or process.

30 Sec. 16. NEW SECTION. 511.39 CHARITABLE ORGANIZATIONS --
31 INSURABLE INTEREST.

32 A charitable organization described in section 501(c)(3) of
33 the Internal Revenue Code, as defined in section 422.3, has an
34 insurable interest in the life of a person who, when
35 purchasing a life insurance policy, makes a donation to the

1 charitable organization or makes the charitable organization
2 the beneficiary of all or a part of the proceeds of the policy
3 or joins with a charitable organization in applying for an
4 insurance policy which when issued will insure that person's
5 life and name the organization as owner or beneficiary of all
6 or any portion of the benefits of the life insurance policy.

7 Sec. 17. Section 512B.24, subsection 1, Code 1991, is
8 amended to read as follows:

9 1. A society transacting business in this state, on or
10 before March 1 annually, unless for cause shown the time has
11 been extended by the commissioner, shall file with the
12 commissioner a true statement of its financial condition,
13 transactions, and affairs for the preceding calendar year and
14 shall pay a fee of ~~twenty-five~~ fifty dollars. The statement
15 ~~shall~~ may be in general form and content as approved by the
16 national association of insurance commissioners for fraternal
17 benefit societies and shall be supplemented by additional
18 information as adopted by rule of the commissioner.

19 Sec. 18. Section 512B.25, Code 1991, is amended to read as
20 follows:

21 512B.25 ANNUAL LICENSE.

22 A society which is authorized to transact business in this
23 state on January 1, 1991, and a society licensed on or after
24 January 1, 1991, may continue in business until ~~April-30~~ June
25 1, 1991. The authority of the society may thereafter be
26 renewed annually. A license terminates on the succeeding
27 ~~April-30~~ June 1. However, a license issued shall continue in
28 full force and effect until a new license is issued or
29 specifically refused. For each license or renewal the society
30 shall pay the commissioner a fee of ~~twenty-five~~ fifty dollars.
31 A duly certified copy or duplicate of the license is prima
32 facie evidence that the licensee is a fraternal benefit
33 society within the meaning of this chapter.

34 Sec. 19. Section 513A.5, Code Supplement 1991, is amended
35 to read as follows:

1 513A.5 SUBJECT TO STATE LAWS.

2 A third-party payor unable to establish that the third-
3 party payor is subject to the jurisdiction of another agency
4 of the state, any subdivision of the state, or the federal
5 government, is subject to all appropriate provisions of Title
6 XX regarding the conduct of the business of the third-party
7 payor including, but not limited to, filing with and approval
8 by the commissioner of the form of the health benefit policy,
9 contract, or certificate.

10 Sec. 20. Section 514A.13, Code Supplement 1991, is amended
11 to read as follows:

12 514A.13 FILING REQUIREMENT -- PRIOR APPROVAL.

13 A policy of insurance against loss or expense from sickness
14 or from the bodily injury or death by accident of the insured
15 shall not be issued or delivered to any person in this state
16 and an application, rider, or endorsement shall not be used in
17 connection with the policy until a copy of the policy form and
18 of the classification of risks and the premium rates, or, in
19 the case of cooperatives or assessment companies the estimated
20 costs pertaining to the policy, have been filed with and
21 approved by the commissioner.

22 A filing is deemed to be approved unless disapproved by the
23 commissioner within thirty days of receipt of the filing by
24 the commissioner. Subsequent rate changes are also subject to
25 this section.

26 Sec. 21. Section 514B.4, Code 1991, is amended to read as
27 follows:

28 514B.4 ~~DUTIES-OF-THE-DIRECTOR-OF-PUBLIC-HEALTH~~ APPLICANT
29 FOR CERTIFICATE OF AUTHORITY.

30 The ~~director-of-public-health~~ commissioner shall determine
31 whether the applicant for a certificate of authority, with
32 respect to health care services to be furnished:

33 1. Has demonstrated the willingness and potential ability
34 to assure the availability, accessibility, and continuity of
35 service through adequate personnel and facilities.

1 2. Has arrangements established in accordance with
2 ~~regulations-promulgated~~ rules adopted by the ~~director-of~~
3 ~~public-health~~ commissioner for a continuous review of health
4 care processes and outcomes.

5 3. Has a procedure established in accordance with
6 ~~regulations-of~~ rules adopted by the director-of-public-health
7 commissioner to develop, compile, evaluate, and report
8 statistics relating to the cost of its operations, the pattern
9 of utilization of its services, the availability and
10 accessibility of its services, and other matters as may be
11 reasonably required by the ~~director-of-public-health~~
12 commissioner.

13 The ~~director-of-public-health~~ commissioner, in carrying-out
14 ~~the-obligations-under~~ administering this section and sections
15 514B.25 and 514B.26, may contract with qualified persons to
16 make recommendations concerning the determinations required to
17 be made by the ~~director-of-public-health~~ commissioner. Such
18 recommendations may be accepted in full or in part by the
19 ~~director-of-public-health~~ commissioner.

20 ~~Within-a-reasonable-period-of-time-from-the-receipt-of-the~~
21 ~~application-for-a-certificate-of-authority,-the-director-of~~
22 ~~public-health-shall-certify-to-the-commissioner-whether-the~~
23 ~~proposed-health-maintenance-organization-meets-the~~
24 ~~requirements-of-this-section.--If-the-director-of-public~~
25 ~~health-certifies-that-the-health-maintenance-organization-does~~
26 ~~not-meet-these-requirements,-the-director-of-public-health~~
27 ~~shall-specify-in-what-respects-it-is-deficient.~~

28 Sec. 22. Section 514B.5, unnumbered paragraph 1, Code
29 1991, is amended to read as follows:

30 The commissioner shall issue or deny a certificate of
31 authority to any person filing an application pursuant to
32 section 514B.3 within a reasonable period of time after
33 ~~receiving-certification-from-the-director-of-public-health.~~
34 Issuance of a certificate of authority shall be granted upon
35 payment of the application fee prescribed in section 514B.22

1 if the commissioner is satisfied that the following conditions
2 are met:

3 Sec. 23. Section 514B.5, subsections 2 and 7, Code 1991,
4 are amended to read as follows:

5 2. The ~~director-of-public-health-certifies~~ commissioner
6 finds that the health maintenance organization's proposed plan
7 of operation meets the requirements of section 514B.4.

8 ~~7.--Any-deficiencies-certified-by-the-director-of-public~~
9 ~~health-have-been-corrected:~~

10 Sec. 24. Section 514B.6, unnumbered paragraph 2, Code
11 1991, is amended to read as follows:

12 A health maintenance organization shall file notice with
13 the commissioner before the exercise of any power granted in
14 subsections 1 and 2. ~~The-notice-shall-be-accompanied-by~~
15 ~~adequate-supporting-information-obtained-from-the-director-of~~
16 ~~public-health-relating-to-the-health-maintenance~~
17 ~~organization's-need-for-physical-facilities.~~ The commissioner
18 shall disapprove the exercise of power if in the
19 commissioner's opinion it would substantially and adversely
20 affect the financial soundness of the health maintenance
21 organization and endanger its ability to meet its obligations.
22 The commissioner may ~~promulgate~~ adopt rules exempting from the
23 filing requirement of this section those activities having a
24 minimum effect.

25 Sec. 25. Section 514B.12, Code 1991, is amended to read as
26 follows:

27 514B.12 ANNUAL REPORT.

28 A health maintenance organization shall annually before the
29 first day of March file with the commissioner, ~~with-a-copy-to~~
30 ~~the-director-of-public-health,~~ a report verified by at least
31 two of its principal officers and covering the preceding
32 calendar year. The report shall be on forms prescribed by the
33 commissioner and shall include:

34 1. Financial statements of the organization including a
35 balance sheet as of the end of the preceding calendar year and

1 statement of profit and loss for the year then ended,
2 certified by a certified public accountant or an independent
3 public accountant.

4 2. Any material changes in the information submitted
5 pursuant to section 514B.3.

6 3. The number of persons enrolled during the year, the
7 number of enrollees as of the end of the year and the number
8 of enrollments terminated during the year.

9 4. ~~A summary of information compiled pursuant to section~~
10 ~~514B.4, subsection 3, in the form required by the director of~~
11 ~~public health.~~

12 5. Other information relating to the performance of the
13 health maintenance organization as is necessary to enable the
14 commissioner to carry out the commissioner's duties under this
15 chapter.

16 Sec. 26. Section 514B.14, unnumbered paragraph 1, Code
17 1991, is amended to read as follows:

18 A health maintenance organization shall establish and
19 maintain a complaint system which has been approved by the
20 commissioner ~~in consultation with the director of public~~
21 ~~health~~ and which shall provide for the resolution of written
22 complaints initiated by enrollees concerning health care
23 services. A health maintenance organization shall submit to
24 the commissioner ~~and to the director of public health~~ an
25 annual report in a form prescribed by the commissioner ~~in~~
26 ~~consultation with the director of public health,~~ which shall
27 include:

28 Sec. 27. Section 514B.23, Code 1991, is amended to read as
29 follows:

30 514B.23 RULES.

31 The commissioner ~~and the director of public health may~~
32 ~~promulgate~~ shall adopt rules, pursuant to chapter 17A, as are
33 necessary to ~~carry out the provisions of~~ administer this
34 ~~chapter, subject to review in accordance with chapter 17A.~~

35 Sec. 28. Section 514B.24, Code 1991, is amended to read as

1 follows:

2 514B.24 EXAMINATIONS PERMITTED.

3 The commissioner shall make an examination of the affairs
4 of any health maintenance organization and its providers as
5 often as the commissioner deems necessary for the protection
6 of the interests of the people of this state, but not less
7 frequently than once every three years.

8 ~~The director of public health shall make an examination~~
9 ~~concerning the quality of health care services provided~~
10 ~~through any health maintenance organization as often as the~~
11 ~~director of public health deems necessary for the protection~~
12 ~~of the interests of the people of this state, but not less~~
13 ~~frequently than once every three years.~~

14 Every health maintenance organization and provider shall
15 submit its books and records to the commissioner and the
16 ~~director of public health~~ and in every way facilitate the
17 examination. For the purpose of examinations, the
18 ~~commissioner of insurance and the director of public health~~
19 may administer oaths to and examine the officers and agents of
20 the health maintenance organization and the principals of its
21 providers concerning their business. The expenses of
22 examinations under this section shall be assessed against the
23 organization being examined and remitted to the commissioner
24 ~~or director of public health as the case may be.~~

25 In lieu of the examination required by this section, the
26 ~~commissioner of insurance or the director of public health~~ may
27 accept the report of an examination made by the appropriate
28 departments in other states.

29 Sec. 29. Section 514B.26, unnumbered paragraphs 1 and 3,
30 Code 1991, are amended to read as follows:

31 When the commissioner has cause to believe that grounds for
32 the denial, suspension, or revocation of a certificate of
33 authority exist, the commissioner shall notify the health
34 maintenance organization in writing of the particular grounds
35 for denial, suspension, or revocation and shall issue a notice

1 of a time fixed for a hearing, which shall be held not less
2 than ten days after the receipt by the health maintenance
3 organization of the notice. ~~The director of public health or~~
4 ~~the director of public health's designee shall participate in~~
5 ~~the proceedings of the hearing and the director of public~~
6 ~~health's recommendation and findings with respect to matters~~
7 ~~relating to the quality of health care services provided in~~
8 ~~connection with any decision regarding denial, suspension, or~~
9 ~~revocation of a certificate of authority, or in connection~~
10 ~~with an order to the health maintenance organization by the~~
11 ~~commissioner to cease from methods or practices in violation~~
12 ~~of this chapter, shall be conclusive and binding upon the~~
13 ~~commissioner.~~

14 After the hearing, or upon the failure of the health
15 maintenance organization to appear at the hearing, the
16 commissioner shall take action as the commissioner deems
17 advisable and which is permitted by the commissioner under the
18 provisions of this chapter and shall reduce the findings to
19 writing. Copies of the written findings shall be mailed to
20 the health maintenance organization charged with violation of
21 this chapter ~~and to the director of public health.~~

22 Sec. 30. Section 514B.27, Code 1991, is amended to read as
23 follows:

24 514B.27 JUDICIAL REVIEW.

25 The action of the commissioner ~~and the recommendation and~~
26 ~~findings of the director of public health~~ under section
27 514B.26 ~~shall be~~ is subject to judicial review in accordance
28 with ~~the terms of the Iowa administrative procedure Act~~
29 chapter 17A.

30 Sec. 31. Section 514B.30, unnumbered paragraph 1, Code
31 1991, is amended to read as follows:

32 No An officer, director, trustee, partner, or employee of a
33 health maintenance organization shall not testify as to ~~nor~~ or
34 make other public disclosure of any communication made to a
35 provider and deemed privileged under section 622.10, and which

1 communication has come into the knowledge or possession of
2 such officer, director, trustee, partner, or employee by
3 reason of employment with said the health maintenance
4 organization. To the extent necessary to effectuate the
5 examinations provided in section 514B.24 only, the
6 commissioner ~~or the director of public health shall have the~~
7 ~~right to~~ may examine medical or hospital records of a person
8 receiving basic health care services under the provisions of
9 this chapter but shall not testify as to such confidential
10 communications or make other public disclosure thereof without
11 the express consent of said the person or the person's legal
12 representative, if the person be is deceased or incompetent.
13 The provisions of section 622.10 respecting waiver shall apply
14 to this section.

15 Sec. 32. Section 514C.4, subsection 1, paragraph d, Code
16 1991, is amended to read as follows:

17 d. An individual or group Medicare supplemental policy,
18 unless coverage pursuant to such policy is preempted by
19 federal law.

20 Sec. 33. Section 514C.4, subsection 4, Code 1991, is
21 amended by striking the subsection.

22 Sec. 34. Section 514D.4, subsection 5, Code 1991, is
23 amended to read as follows:

24 5. The commissioner may upon notice and hearing at any
25 time after the initial filing or approval of any individual
26 accident and sickness policy or subscriber contract form,
27 withdraw approval or suspend further sale of the form if the
28 benefits provided are unreasonable in relation to the premium
29 charge. The commissioner shall establish reasonable and
30 creditable anticipated minimum loss ratios for medicare
31 supplement and other accident and sickness insurance policies.
32 ~~For purposes of establishing loss ratios, policies issued as a~~
33 ~~result of solicitations of individuals through the mails or by~~
34 ~~mass media advertising, including both print and broadcast~~
35 ~~advertising, shall be deemed to be individual policies.~~

1 including-any-certificates-issued-under-these-policies:

2 Sec. 35. Section 514H.12, subsection 6, Code Supplement
3 1991, is amended to read as follows:

4 6. The premium credit provided by this section is only
5 available in connection with a either of the following:

6 a. A basic benefit plan approved by the commissioner.

7 which-satisfies

8 b. A major medical policy approved by the commissioner
9 providing coverage to an eligible individual either on a group
10 or individual basis.

11 The policy shall also satisfy any conditions imposed by
12 rules adopted pursuant to subsection 1 which the commissioner
13 determines are necessary or convenient to implement and
14 administer the premium credit.

15 Sec. 36. Section 515.69, Code 1991, is amended to read as
16 follows:

17 515.69 FOREIGN COMPANIES -- CAPITAL REQUIRED.

18 A stock insurance company organized under or by the laws of
19 any other state or foreign government for the purpose
20 specified in this chapter, shall not, directly or indirectly,
21 take risks or transact business of insurance in this state
22 unless the company has ~~one~~ two and one-half million dollars of
23 actual paid-up capital, and a surplus in cash or invested in
24 securities authorized by law of not less than ~~one~~ two and one-
25 half million dollars, exclusive of assets deposited in a
26 state, territory, district, or country for the special benefit
27 or security of those insured therein in that state, territory,
28 district, or country.

29 Sec. 37. Section 515.71, Code 1991, is amended to read as
30 follows:

31 515.71 DEPOSIT OF SECURITIES -- AMOUNT.

32 Every alien insurer authorized to transact business in this
33 state shall at all times maintain a deposit with the
34 commissioner of insurance in cash or in securities in which
35 insurance companies are authorized to invest, of a sum equal

1 to the ~~unearned-premium~~ greater of the reserve on all policies
2 covering risks located in this state or one million dollars.
3 ~~Such~~ The securities shall be approved, and the amount of such
4 the deposit shall be determined, by the commissioner in
5 accordance with section 515.47; ~~provided, that the minimum~~
6 ~~amount of any deposit shall be twenty-five thousand dollars.~~
7 The commissioner, in the commissioner's discretion, may permit
8 the withdrawal of interest earnings.

9 In lieu of the deposit provided ~~herein any such~~ in this
10 section, an alien insurer may file with the commissioner a
11 bond of equal amount executed by a licensed United States
12 surety company, so conditioned for the protection of Iowa
13 creditors and policyholders.

14 ~~No such~~ An alien insurer shall not be granted a certificate
15 of authority to transact business in this state, or a renewal
16 thereof of the certificate, until such deposit ~~shall have been~~
17 is made, and the commissioner may revoke the certificate of
18 authority of ~~any such~~ an alien insurer which fails to make
19 such the deposit within a reasonable period of time after
20 ~~April 23, 1941.~~

21 Sec. 38. Section 515.74, Code 1991, is amended to read as
22 follows:

23 515.74 MANNER OF SERVICE OF PROCESS.

24 ~~Such~~ Any notice or process, ~~with a copy thereof~~ three
25 copies of the notice or process, may be mailed to the
26 commissioner ~~of insurance~~ at Des Moines, Iowa, in a certified
27 mail letter addressed to the commissioner by the
28 commissioner's official title, ~~and the.~~ The commissioner
29 shall ~~immediately upon its receipt~~ acknowledge service thereon
30 on behalf of the defendant foreign insurance company by
31 writing ~~thereon,~~ giving the date ~~thereof~~ of receipt of the
32 notice or process, and shall ~~immediately~~ return ~~such the~~
33 notice or process in a certified mail letter to the clerk of
34 the court in which the suit is pending, addressed to the clerk
35 by the clerk's official title, and shall also forthwith mail

1 such a copy, with a copy of the commissioner's acknowledgment
2 of service written thereon, in a certified mail letter
3 addressed to the person or corporation ~~who shall be~~ named or
4 designated by such company in such the written instrument.
5 Notice or process received prior to 12 noon shall be forwarded
6 the same working day. Notice or process received after 12
7 noon shall be forwarded the next working day. A fee of
8 fifteen dollars must accompany the request for notice or
9 process.

10 Sec. 39. Section 515A.4, subsection 4, Code 1991, is
11 amended to read as follows:

12 4. Subject to the exception specified in subsection 5 of
13 this section, each filing shall be on file for a waiting
14 period of fifteen thirty days before it becomes effective,
15 which period may be extended by the commissioner for an
16 additional period not to exceed fifteen days if the
17 commissioner gives written notice within such the waiting
18 period to the insurer or rating organization which made the
19 filing that the commissioner needs such additional time for
20 the consideration of such the filing. Upon written
21 application by such the insurer or rating organization, the
22 commissioner may authorize a filing which the commissioner has
23 reviewed to become effective before the expiration of the
24 waiting period or any extension thereof of the period. A
25 filing shall be deemed to meet the requirements of this
26 chapter unless disapproved by the commissioner within thirty
27 days of receipt thereof by the commissioner.

28 Sec. 40. Section 515B.5, subsection 1, paragraph b, Code
29 Supplement 1991, is amended by striking the paragraph and
30 inserting in lieu thereof the following:

31 b. Be obligated to pay covered claims subject to a
32 limitation as established by the rights, duties, and
33 obligations under the policy of the insolvent insurer.

34 Sec. 41. Section 515B.5, subsection 2, paragraph g, Code
35 Supplement 1991, is amended to read as follows:

1 g. ~~If at any time the board of directors finds that the~~
2 ~~amount assessed for any insolvency exceeds the actual and~~
3 ~~projected liabilities of that insolvency, it may refund such~~
4 ~~excess to member insurers in the same proportion that each~~
5 ~~contributed to the original assessment or assessments~~ The
6 board of directors, in its discretion, may from time to time
7 refund excess amounts to member insurers that are not needed
8 for current or projected liabilities of a particular
9 insolvency. The amount of each refund is equal to the net
10 direct written premiums of the member insurer for the
11 preceding calendar year divided by the net written premiums of
12 all member insurers for the preceding calendar year,
13 multiplied by the total amount to be refunded to all members.
14 Any assessments or refunds of any member insurer in amounts
15 not to exceed twenty-five dollars may, at the discretion of
16 the board of directors, be waived.

17 Sec. 42. Section 515B.15, Code 1991, is amended by adding
18 the following new unnumbered paragraph:

19 NEW UNNUMBERED PARAGRAPH. As to any covered claims based
20 on the default of an insurer who is or who becomes insolvent,
21 or based on the failure of an insurer to defend an insured,
22 the association, on its own behalf or on behalf of the
23 insured, is entitled to set the default aside and defend such
24 claim on its merits.

25 Sec. 43. Section 515E.3, Code 1991, is amended to read as
26 follows:

27 515E.3 RISK RETENTION GROUPS ORGANIZED IN THIS STATE.

28 To be organized as a risk retention group in this state,
29 the group must be organized and licensed as a liability
30 insurance company authorized by the insurance laws of this
31 state. Except as provided elsewhere in this chapter, a risk
32 retention group organized in this state must comply with all
33 of the laws, rules, and requirements applicable to liability
34 insurers organized in this state. Additionally, a risk
35 retention group organized in this state must comply with

1 section 515E.4. These requirements do not exempt risk
2 retention groups from a duty imposed by any other law or rule
3 of the state. Before it may offer insurance in any state,
4 each risk retention group shall also submit for approval to
5 the commissioner of insurance of this state a plan of
6 operation or a feasibility study, and revisions of the plan or
7 study, within ten days of any change. The name under which a
8 risk retention group may be chartered and licensed shall be a
9 brief description of its membership followed by the phrase
10 "risk retention group" and, unless its membership consists
11 solely of insurers, shall not include the terms "insurance",
12 "mutual", "reciprocal", or any similar term. All risk
13 retention groups chartered in this state shall file with the
14 division and the national association of insurance
15 commissioners an annual statement blank prepared in accordance
16 with instructions prescribed by the commissioner. All
17 financial information reflected in the annual statement shall
18 be kept and prepared in accordance with accounting practices
19 and procedures prescribed by the commissioner. The
20 commissioner may adopt by reference the annual statement
21 handbook and the accounting practices and procedures manual of
22 the national association of insurance commissioners.

23 Sec. 44. Section 515E.8, subsection 1, Code 1991, is
24 amended by adding the following new paragraph:
25 NEW PARAGRAPH. g. The commissioner may require the notice
26 to be in a form prescribed by the national association of
27 insurance commissioners.

28 Sec. 45. Section 515F.5, subsection 3, Code 1991, is
29 amended to read as follows:
30 3. Subject to the exception in subsection 4, a filing
31 shall be on file for a waiting period of fifteen thirty days
32 before it becomes effective, which period may be extended by
33 the commissioner for an additional period not to exceed
34 fifteen days if written notice is given within the waiting
35 period to the insurer or advisory organization which made the

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

9 Sec. 46. Section 516A.3, unnumbered paragraph 2, Code
10 Supplement 1991, is amended to read as follows:

11 An insurer's insolvency protection is applicable only to
12 accidents occurring during a policy period in which its
13 insured's uninsured motorist coverage is in effect and only if
14 the liability insurer of the tort-feasor is insolvent at the
15 time of such an accident or becomes insolvent after the
16 accident.

17 Sec. 47. Section 522.1, unnumbered paragraph 1, Code
18 Supplement 1991, is amended to read as follows:

19 A person shall not, directly or indirectly, act within this
20 state as agent, or otherwise, in receiving or procuring
21 applications for insurance or reinsurance, or in doing or
22 transacting any kind of insurance business for a company or
23 association ~~unless exempt from the provisions of this chapter~~
24 ~~by section 512B.317 except that the licensing of persons so~~
25 ~~acting for county mutuals is subject only to section 518.167~~
26 until the person has procured a license from the commissioner
27 of insurance for those lines of insurance for which the person
28 is transacting or engaging in business. This requirement
29 includes a person offering to the public, for a fee or
30 commission, to engage in the business of offering any advice,
31 counsel, opinion, or service with respect to the benefits,
32 advantages, or disadvantages promised under any policy of
33 insurance which could be issued in this state.

34 This chapter applies to the following professionals except
35 when in the course of their professional capacity they provide

1 information, recommendations, advice, or services, not
2 including solicitation, relating to the business of insurance:

- 3 1. An attorney licensed to practice law in this state.
- 4 2. A certified public accountant licensed pursuant to
5 chapter 116.
- 6 3. An actuary who is a member in good standing of the
7 American academy of actuaries, the society of actuaries, or
8 the casualty actuarial society.
- 9 4. A bank trust officer.

10 Sec. 48. Section 522.4, Code 1991, is amended to read as
11 follows:

12 522.4 FEE -- INSURERS TO CERTIFY AGENTS.

13 The fee charged for an agent's license shall be ~~ten~~ fifty
14 dollars. Every insurer authorized to transact business in
15 this state shall certify its agents to the commissioner who
16 shall keep a list of the agents and charge an annual
17 appointment fee of five dollars for each agent. The
18 commissioner shall remit the fees collected to the treasurer
19 of state for deposit in the general fund of the state.

20 Sec. 49. RULES. The commissioner shall adopt by rule
21 objective standards as necessary to facilitate implementation
22 of section 20 of this Act.

23 Sec. 50. 1990 Iowa Acts, chapter 1234, section 76, as
24 amended by 1991 Iowa Acts, chapter 213, section 35, is amended
25 to read as follows:

26 SEC. 76. Sections 515A.1 through 515A.19, Code 1989, are
27 repealed effective July 1, ~~1993~~ 1994.

28 Sec. 51. Section 508.9, as amended by this Act, does not
29 affect a life insurance company authorized to transact
30 business in Iowa on or before July 1, 1990.

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HOUSE AMENDMENT TO
SENATE FILE 2354

S-5701

- 1 Amend Senate File 2354, as amended, passed, and re-
- 2 printed by the Senate, as follows:
- 3 1. Page 21, by inserting after line 22 the
- 4 following:
- 5 "Sec. ____ . Section 32 of this Act shall not apply
- 6 to a medicare supplemental policy delivered, issued
- 7 for delivery, continued, or renewed before January 1,
- 8 1992."
- 9 2. Renumber as necessary.

RECEIVED FROM THE HOUSE

S-5701 FILED APRIL 15, 1992

Senate concurred 4/16 (of 1450)

VARN, W.
DOYLE
GOTTINGS
JENSEN
SLIFE

SSB 2238

Commerce

Now

SENATE/HOUSE FILE 2297 ⁴²³⁵⁴
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 the regulation of insurance, requiring certain
2 reports to the commissioner, establishing and continuing
3 certain requirements for insurance companies doing business in
4 Iowa and for agents, amending provisions relating to guaranty
5 funds, self-insurers, and charitable organizations, increasing
6 certain fees, and establishing penalties.

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

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1 Section 1. Section 79.17, Code Supplement 1991, is amended
2 by adding the following new subsection:

3 NEW SUBSECTION. 3. Any annuity purchased with moneys
4 deducted pursuant to this section is deemed to be an
5 individual annuity for purposes of chapter 508C, and not an
6 unallocated annuity.

7 Sec. 2. NEW SECTION. 506.12 PRINCIPAL EXECUTIVE OFFICE.

8 An insurance company incorporated under the laws of this
9 state for the purpose of engaging in the business of insurance
10 shall maintain a principal executive office in this state
11 unless otherwise allowed by the commissioner of insurance.
12 The location of the principal executive office shall be
13 identified in the insurance company's articles of
14 incorporation.

15 Sec. 3. Section 507B.4, Code 1991, is amended by adding
16 the following new subsection:

17 NEW SUBSECTION. 10A. Failing to designate on an insurance
18 policy application the licensee who has solicited and written
19 the policy.

20 Sec. 4. Section 508.9, Code 1991, is amended to read as
21 follows:

22 508.9 MUTUAL COMPANIES -- CONDITIONS.

23 Level premium and natural premium life insurance companies
24 organized under the laws of this state upon the mutual plan
25 shall, before issuing policies, have actual applications on at
26 least two hundred and fifty lives for an average amount of one
27 thousand dollars each. A list of the applications giving the
28 name, age, residence, amount of insurance, and annual premium
29 of each applicant shall be filed with the commissioner of
30 insurance, and a deposit made with the commissioner of an
31 amount equal to three-fifths of the whole annual premium on
32 the applications, in cash or the securities required by
33 section 508.5. In addition, a deposit of cash or securities
34 of the character provided by law for the investment of funds
35 for life insurance companies in the sum of five million

1 dollars shall be made with the commissioner, which shall
2 constitute a guaranty security fund for the protection of
3 policyholders. The contribution to the guaranty security fund
4 shall not give to contributors to the fund or to other persons
5 any voting or other power in the management of the affairs of
6 the company. The guaranty security fund may be repaid to the
7 contributors to the guaranty security fund with interest at
8 six percent from the date of contribution, at any time, in
9 whole or in part, if the repayment does not reduce the surplus
10 of the company below the amount of ~~two~~ five million dollars
11 and then only if consent in writing for the repayment is
12 obtained from the commissioner of insurance. Upon compliance
13 with this section, the commissioner shall issue to the mutual
14 company the certificate prescribed in this chapter.

15 Sec. 5. Section 508.29, Code 1991, is amended by adding
16 the following new unnumbered paragraph:

17 NEW UNNUMBERED PARAGRAPH. A company insuring risks
18 authorized by this section shall invest or hold in cash, funds
19 equal to seventy-five percent of the aggregate reserves and
20 policy and contract claims for such risks. Investments
21 required by this paragraph shall only be made in securities
22 enumerated in section 511.8, and are subject to the same
23 limitations as provided for the investment of legal reserve,
24 and are subject to section 511.8, subsections 16, 17, and 21.

25 Sec. 6. Section 508C.3, subsection 3, paragraph a, Code
26 1991, is amended by striking the paragraph and inserting in
27 lieu thereof the following:

28 a. Any portion of a policy or contract to the extent that
29 the rate of interest on which it is based, averaged over the
30 period of four years prior to the date on which the
31 association becomes obligated with respect to the policy or
32 contract, exceeds a rate of interest determined by subtracting
33 two percentage points from Moody's corporate bond yield
34 average for the same four-year period or over such lesser
35 period if the policy or contract was issued less than four

1 years before the association became obligated; and on or after
2 the date on which the association becomes obligated with
3 respect to the policy or contract, exceeds the rate of
4 interest determined by subtracting three percentage points
5 from Moody's corporate bond yield average as most recently
6 available.

7 Sec. 7. Section 508C.3, subsection 3, paragraph h, Code
8 1991, is amended to read as follows:

9 h. An annuity contract issued to a government lottery or
10 ~~to-a-liability-insurer-in-connection-with-a-structured~~
11 ~~settlement.~~

12 Sec. 8. Section 508C.8, subsection 3, paragraph d, Code
13 Supplement 1991, is amended to read as follows:

14 d. The association may offer modifications to the owners
15 of policies or contracts or classes of policies or contracts
16 issued by the insolvent insurer, if the association finds that
17 under the policies or contracts the benefits provided,
18 provisions pertaining to renewal, or the premiums charged or
19 which may be charged are not reasonable. If the owner of a
20 policy or contract to be modified fails or refuses to accept
21 the modification as approved by the court, the association may
22 terminate the policy or contract as of a date not less than
23 one hundred eighty days after the modification is sent to the
24 owner. The association shall have no liability under the
25 policy or contract for any claim incurred or continuing beyond
26 the termination date. However, this paragraph does not apply
27 to interest adjustments made pursuant to section 508C.3,
28 subsection 3, paragraph "a".

29 Sec. 9. Section 508C.9, subsection 3, paragraph b, Code
30 1991, is amended to read as follows:

31 b. Class A assessments in excess of one hundred dollars
32 per company per calendar year and class B assessments against
33 member insurers for each account shall be in the proportion
34 that the average of the aggregate premiums received on
35 business in this state by each assessed member insurer on

1 policies or contracts related to that account for the three
 2 most recent calendar years for which information is available,
 3 preceding the year in which the insurer became impaired or
 4 insolvent, is to the average of the aggregate premiums
 5 received on business in this state by all assessed member
 6 insurers on policies related to that account for the three
 7 most recent calendar years for which information is available
 8 preceding the assessment.

9 Sec. 10. Section 508C.9, subsection 5, paragraph a, Code
 10 1991, is amended to read as follows:

11 a. The total of all assessments upon a member insurer for
 12 each account shall not in any one calendar year exceed two
 13 percent of the average of the insurer's premiums received in
 14 this state during the three most recent calendar years for
 15 which information is available, preceding the year in which
 16 the insurer becomes impaired or insolvent, on the policies
 17 related to that account. If the maximum assessment for an
 18 account, together with the other assets of the association in
 19 the account, does not provide in any one year in the account
 20 an amount sufficient to carry out the responsibilities of the
 21 association, the necessary additional funds shall be assessed
 22 for the account in succeeding years as soon as permitted by
 23 this chapter.

24 Sec. 11. Section 509A.15, subsection 1, unnumbered
 25 paragraph 1, Code 1991, is amended to read as follows:

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

34 Sec. 12. Section 511.28, Code 1991, is amended to read as
 35 follows:

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1 511.28 SERVICE OF PROCESS.

2 Such Any notice or process, with ~~a copy thereof~~ three
3 copies of the notice or process, may be mailed to the
4 commissioner at Des Moines, Iowa, in a certified mail letter
5 addressed to the commissioner by the commissioner's official
6 ~~title, and the.~~ The commissioner shall ~~immediately upon its~~
7 ~~receipt~~ acknowledge service ~~thereon~~ on behalf of the defendant
8 foreign insurance company by writing ~~thereon~~, giving the date
9 ~~thereof~~ of receipt of the notice or process, and shall
10 ~~immediately~~ return such the notice or process in a certified
11 mail letter to the clerk of the court in which the suit is
12 pending, addressed to the clerk by the clerk's official title,
13 and shall also ~~forthwith~~ mail such a copy, with a copy of the
14 commissioner's acknowledgment of service written thereon, in a
15 certified mail letter addressed to the person or corporation
16 ~~who shall be~~ named or designated by such company in such the
17 written instrument. Notice or process received prior to 12
18 noon shall be forwarded the same working day. Notice or
19 process received after 12 noon shall be forwarded the next
20 working day. A fee of fifteen dollars must accompany the
21 request for notice or process.

22 Sec. 13. NEW SECTION. 511.39 CHARITABLE ORGANIZATIONS --
23 INSURABLE INTEREST.

24 A charitable organization described in section 501(c)(3) of
25 the Internal Revenue Code, as defined in section 422.3, has an
26 insurable interest in the life of a person who, when
27 purchasing a life insurance policy, makes a donation to the
28 charitable organization or makes the charitable organization
29 the beneficiary of all or a part of the proceeds of the policy
30 or joins with a charitable organization in applying for an
31 insurance policy which when issued will insure that person's
32 life and name the organization as owner or beneficiary of all
33 or any portion of the benefits of the life insurance policy.

34 Sec. 14. Section 512B.24, subsection 1, Code 1991, is
35 amended to read as follows:

1 1. A society transacting business in this state, on or
2 before March 1 annually, unless for cause shown the time has
3 been extended by the commissioner, shall file with the
4 commissioner a true statement of its financial condition,
5 transactions, and affairs for the preceding calendar year and
6 shall pay a fee of ~~twenty-five~~ fifty dollars. The statement
7 shall be in general form and content as approved by the
8 national association of insurance commissioners for fraternal
9 benefit societies and shall be supplemented by additional
10 information as adopted by rule of the commissioner.

11 Sec. 15. Section 512B.25, Code 1991, is amended to read as
12 follows:

13 512B.25 ANNUAL LICENSE.

14 A society which is authorized to transact business in this
15 state on January 1, 1991, and a society licensed on or after
16 January 1, 1991, may continue in business until ~~April-30~~ June
17 1, 1991. The authority of the society may thereafter be
18 renewed annually. A license terminates on the succeeding
19 ~~April-30~~ June 1. However, a license issued shall continue in
20 full force and effect until a new license is issued or
21 specifically refused. For each license or renewal the society
22 shall pay the commissioner a fee of ~~twenty-five~~ fifty dollars.
23 A duly certified copy or duplicate of the license is prima
24 facie evidence that the licensee is a fraternal benefit
25 society within the meaning of this chapter.

26 Sec. 16. NEW SECTION. 513A.7 APPROVAL OF COMMISSIONER.

27 A policy or certificate of group insurance shall not be
28 delivered or issued for delivery in this state until the form
29 of the policy or certificate has been filed with and approved
30 by the commissioner of insurance.

31 Sec. 17. Section 514A.13, Code Supplement 1991, is amended
32 to read as follows:

33 514A.13 FILING REQUIREMENT -- PRIOR APPROVAL.

34 A policy of insurance against loss or expense from sickness
35 or from the bodily injury or death by accident of the insured

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1 shall not be issued or delivered to any person in this state
2 and an application, rider, or endorsement shall not be used in
3 connection with the policy until a copy of the policy form and
4 of the classification of risks and the premium rates, or, in
5 the case of cooperatives or assessment companies the estimated
6 costs pertaining to the policy, have been filed with and
7 approved by the commissioner.

8 A filing is deemed to be approved unless disapproved by the
9 commissioner within thirty days of receipt of the filing by
10 the commissioner. Subsequent rate changes are also subject to
11 this section.

12 Sec. 18. Section 514C.4, subsection 1, paragraph d, Code
13 1991, is amended by striking the paragraph.

14 Sec. 19. Section 514C.4, subsection 4, Code 1991, is
15 amended by striking the subsection.

16 Sec. 20. Section 514D.4, subsection 5, Code 1991, is
17 amended to read as follows:

18 5. The commissioner may upon notice and hearing at any
19 time after the initial filing or approval of any individual
20 accident and sickness policy or subscriber contract form,
21 withdraw approval or suspend further sale of the form if the
22 benefits provided are unreasonable in relation to the premium
23 charge. The commissioner shall establish reasonable and
24 creditable anticipated minimum loss ratios for medicare
25 supplement and other accident and sickness insurance policies.
26 ~~For purposes of establishing loss ratios, policies issued as a~~
27 ~~result of solicitations of individuals through the mails or by~~
28 ~~mass media advertising, including both print and broadcast~~
29 ~~advertising, shall be deemed to be individual policies,~~
30 ~~including any certificates issued under these policies.~~

31 Sec. 21. Section 514H.12, subsection 6, Code Supplement
32 1991, is amended to read as follows:

33 6. The premium credit provided by this section is only
34 available in connection with a either of the following:

35 a. A basic benefit plan approved by the commissioner.

1 ~~which-satisfies~~

2 b. A major medical policy approved by the commissioner
3 providing coverage to an eligible individual either on a group
4 or individual basis.

5 The policy shall also satisfy any conditions imposed by
6 rules adopted pursuant to subsection 1 which the commissioner
7 determines are necessary or convenient to implement and
8 administer the premium credit.

9 Sec. 22. Section 515.69, Code 1991, is amended to read as
10 follows:

11 515.69 FOREIGN COMPANIES -- CAPITAL REQUIRED.

12 A stock insurance company organized under or by the laws of
13 any other state or foreign government for the purpose
14 specified in this chapter, shall not, directly or indirectly,
15 take risks or transact business of insurance in this state
16 unless the company has one two and one-half million dollars of
17 actual paid-up capital, and a surplus in cash or invested in
18 securities authorized by law of not less than one two and one-
19 half million dollars, exclusive of assets deposited in a
20 state, territory, district, or country for the special benefit
21 or security of those insured therein in that state, territory,
22 district, or country.

23 Sec. 23. Section 515.71, Code 1991, is amended to read as
24 follows:

25 515.71 DEPOSIT OF SECURITIES -- AMOUNT.

26 Every alien insurer authorized to transact business in this
27 state shall at all times maintain a deposit with the
28 commissioner of insurance in cash or in securities in which
29 insurance companies are authorized to invest, of a sum equal
30 to the unearned-premium greater of the reserve on all policies
31 covering risks located in this state or one million dollars.
32 ~~Such~~ The securities shall be approved, and the amount of such
33 the deposit shall be determined, by the commissioner in
34 accordance with section 515.477-~~provided, that the minimum~~
35 ~~amount of any deposit shall be twenty-five thousand dollars.~~

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1 The commissioner, in the commissioner's discretion, may permit
2 the withdrawal of interest earnings.

3 In lieu of the deposit provided ~~herein-any-such~~ in this
4 section, an alien insurer may file with the commissioner a
5 bond of equal amount executed by a licensed United States
6 surety company, so conditioned for the protection of Iowa
7 creditors and policyholders.

8 ~~No-such~~ An alien insurer shall not be granted a certificate
9 of authority to transact business in this state, or a renewal
10 thereof of the certificate, until such deposit ~~shall-have-been~~
11 is made, and the commissioner may revoke the certificate of
12 authority of ~~any-such~~ an alien insurer which fails to make
13 such the deposit within a reasonable period of time ~~after~~
14 ~~April-23-1941~~.

15 Sec. 24. Section 515.74, Code 1991, is amended to read as
16 follows:

17 515.74 ~~MANNER-OF~~ SERVICE OF PROCESS.

18 Such Any notice or process, with ~~a-copy-thereof~~ three
19 copies of the notice or process, may be mailed to the
20 commissioner ~~of-insurance~~ at Des Moines, Iowa, in a certified
21 mail letter addressed to the commissioner by the
22 commissioner's official title, ~~and-the.~~ The commissioner
23 shall ~~immediately-upon-its-receipt~~ acknowledge service thereon
24 on behalf of the defendant foreign insurance company by
25 writing thereon, giving the date ~~thereof~~ of receipt of the
26 notice or process, and shall ~~immediately~~ return such the
27 notice or process in a certified mail letter to the clerk of
28 the court in which the suit is pending, addressed to the clerk
29 by the clerk's official title, and shall also ~~forthwith~~ mail
30 such a copy, with a copy of the commissioner's acknowledgment
31 of service written thereon, in a certified mail letter
32 addressed to the person or corporation ~~who-shall-be~~ named or
33 designated by such company in such the written instrument.
34 Notice or process received prior to 12 noon shall be forwarded
35 the same working day. Citations received after 12 noon shall

1 be forwarded the next working day. A fee of fifteen dollars
2 must accompany the request for notice or process.

3 Sec. 25. Section 515A.4, subsection 4, Code 1991, is
4 amended to read as follows:

5 4. Subject to the exception specified in subsection 5 of
6 this section, each filing shall be on file for a waiting
7 period of ~~fifteen~~ thirty days before it becomes effective,
8 which period may be extended by the commissioner for an
9 additional period not to exceed fifteen days if the
10 commissioner gives written notice within ~~such~~ the waiting
11 period to the insurer or rating organization which made the
12 filing that the commissioner needs ~~such~~ additional time for
13 the consideration of ~~such~~ the filing. Upon written
14 application by ~~such~~ the insurer or rating organization, the
15 commissioner may authorize a filing which the commissioner has
16 reviewed to become effective before the expiration of the
17 waiting period or any extension ~~thereof~~ of the period. A
18 filing shall be deemed to meet the requirements of this
19 chapter unless disapproved by the commissioner within thirty
20 days of receipt ~~thereof~~ by the commissioner.

21 Sec. 26. Section 515B.2, subsection 3, paragraph b,
22 subparagraph (6), Code Supplement 1991, is amended by striking
23 the subparagraph and inserting in lieu thereof the following:

24 (6) Any sum that would otherwise be a covered claim but is
25 an amount owed to or on behalf of an insured who has a net
26 worth greater than ten million dollars on the date the policy
27 was issued.

28 Sec. 27. Section 515B.5, subsection 1, paragraph b, Code
29 Supplement 1991, is amended by striking the paragraph and
30 inserting in lieu thereof the following:

31 b. Be obligated to pay covered claims subject to a
32 limitation as established by the rights, duties, and
33 obligations under the policy of the insolvent insurer.

34 Sec. 28. Section 515B.5, subsection 2, paragraph g, Code
35 Supplement 1991, is amended to read as follows:

1 g. ~~if-at-any-time-the-board-of-directors-finds-that-the~~
2 ~~amount-assessed-for-any-insolvency-exceeds-the-actual-and~~
3 ~~projected-liabilities-of-that-insolvency,-it-may-refund-such~~
4 ~~excess-to-member-insurers-in-the-same-proportion-that-each~~
5 ~~contributed-to-the-original-assessment-or-assessments~~ The
6 board of directors, in its discretion, may from time to time
7 refund excess amounts to member insurers that are not needed
8 for current or projected liabilities of a particular
9 insolvency. The amount of each refund is equal to the net
10 direct written premiums of the member insurer for the
11 preceding calendar year divided by the net written premiums of
12 all member insurers for the preceding calendar year,
13 multiplied by the total amount to be refunded to all members.
14 Any assessments or refunds of any member insurer in amounts
15 not to exceed twenty-five dollars may, at the discretion of
16 the board of directors, be waived.

17 Sec. 29. Section 515B.15, Code 1991, is amended by adding
18 the following new unnumbered paragraph:

19 NEW UNNUMBERED PARAGRAPH. As to any covered claims based
20 on the default of an insurer who is or who becomes insolvent,
21 or based on the failure of an insurer to defend an insured,
22 the association, on its own behalf or on behalf of the
23 insured, is entitled to set the default aside and defend such
24 claim on its merits.

25 Sec. 30. Section 515E.3, Code 1991, is amended to read as
26 follows:

27 515E.3 RISK RETENTION GROUPS ORGANIZED IN THIS STATE.
28 To be organized as a risk retention group in this state,
29 the group must be organized and licensed as a liability
30 insurance company authorized by the insurance laws of this
31 state. Except as provided elsewhere in this chapter, a risk
32 retention group organized in this state must comply with all
33 of the laws, rules, and requirements applicable to liability
34 insurers organized in this state. Additionally, a risk
35 retention group organized in this state must comply with

1 section 515E.4. These requirements do not exempt risk
2 retention groups from a duty imposed by any other law or rule
3 of the state. Before it may offer insurance in any state,
4 each risk retention group shall also submit for approval to
5 the commissioner of insurance of this state a plan of
6 operation or a feasibility study, and revisions of the plan or
7 study, within ten days of any change. The name under which a
8 risk retention group may be chartered and licensed shall be a
9 brief description of its membership followed by the phrase
10 "risk retention group" and, unless its membership consists
11 solely of insurers, shall not include the terms "insurance",
12 "mutual", "reciprocal", or any similar term. All risk
13 retention groups chartered in this state shall file with the
14 division and the national association of insurance
15 commissioners an annual statement blank prepared in accordance
16 with instructions prescribed by the commissioner. All
17 financial information reflected in the annual statement shall
18 be kept and prepared in accordance with accounting practices
19 and procedures prescribed by the commissioner. The
20 commissioner may adopt by reference the annual statement
21 handbook and the accounting practices and procedures manual of
22 the national association of insurance commissioners.

23 Sec. 31. Section 515E.8, subsection 1, Code 1991, is
24 amended by adding the following new paragraph:

25 NEW PARAGRAPH. g. The commissioner may require the notice
26 to be in a form prescribed by the national association of
27 insurance commissioners.

28 Sec. 32. Section 515F.5, subsection 3, Code 1991, is
29 amended to read as follows:

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

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

9 Sec. 33. Section 516A.3, unnumbered paragraph 2, Code
10 Supplement 1991, is amended to read as follows:

11 An insurer's insolvency protection is applicable only to
12 accidents occurring during a policy period in which its
13 insured's uninsured motorist coverage is in effect and only if
14 the liability insurer of the tort-feasor is insolvent at the
15 time of such an accident or becomes insolvent after the
16 accident.

17 Sec. 34. Section 522.1, unnumbered paragraph 1, Code
18 Supplement 1991, is amended to read as follows:

19 A person shall not, directly or indirectly, act within this
20 state as agent, or otherwise, in receiving or procuring
21 applications for insurance or reinsurance, or in doing or
22 transacting any kind of insurance business for a company or
23 association ~~unless exempt from the provisions of this chapter~~
24 ~~by section 512B-317, except that the licensing of persons so~~
25 ~~acting for county mutuals is subject only to section 518-167~~
26 including engaging in the business of offering any advice,
27 counsel, opinion, or service with respect to the benefits,
28 advantages, or disadvantages under a policy or contract of
29 insurance that can be issued in this state for a fee or
30 commission, until the person has procured a license from the
31 commissioner of insurance for those lines of insurance for
32 which the person is transacting or engaging in business. This
33 chapter does not apply to an attorney licensed to practice law
34 in this state, an attorney's employee, a certified public
35 accountant licensed pursuant to chapter 115, a certified

1 public accountant's employee, or partnership through advocacy
2 and community training (PACT) volunteers.

3 Sec. 35. Section 522.4, Code 1991, is amended to read as
4 follows:

5 522.4 FEE -- INSURERS TO CERTIFY AGENTS.

6 The fee charged for an agent's license shall be ten fifty
7 dollars. Every insurer authorized to transact business in
8 this state shall certify its agents to the commissioner who
9 shall keep a list of the agents and charge an annual
10 appointment fee of five dollars for each agent. The
11 commissioner shall remit the fees collected to the treasurer
12 of state for deposit in the general fund of the state.

13 Sec. 36. 1990 Iowa Acts, chapter 1234, section 76, as
14 amended by 1991 Iowa Acts, chapter 213, section 35, is amended
15 to read as follows:

16 SEC. 76. Sections 515A.1 through 515A.19, Code 1989, are
17 repealed effective July 1, ~~1993~~ 1994.

18 Sec. 37. Section 508.9, as amended by this Act, does not
19 affect a life insurance company authorized to transact
20 business in Iowa on or before July 1, 1992.

21 EXPLANATION

22 This bill amends certain provisions relating to the
23 regulation of insurance.

24 Section 79.17 is amended to provide that annuities
25 purchased pursuant to this section are to be treated as
26 individual annuities and not unallocated annuities.

27 Section 506.12 is a new section to require all insurance
28 companies domiciled in Iowa to maintain a principal executive
29 office in this state.

30 Section 507B.4 is amended to provide that failure of the
31 agent to designate on the application the licensee who
32 solicited and wrote the policy is deemed to be a
33 misrepresentation.

34 Section 508.9 is amended to increase the minimum surplus
35 which must be maintained by a mutual insurance company from

1 \$2,000,000 to \$5,000,000.

2 Section 508.29 is amended to require an insurer writing
3 accident and health insurance to hold 75 percent of the
4 aggregate reserves and policy and contract claims relating to
5 the business in investments enumerated in section 511.8
6 (section 511.8 establishes the requirements for the investment
7 of life insurance funds).

8 Section 508C.3 is amended to expand the guaranty fund to
9 include structured settlements involving liability insurers.

10 The definition of policies or contracts to which chapter
11 508C does not apply is also amended.

12 Section 508C.8 is amended to require that an adjustment of
13 the rate of interest credited on a policy or contract be made
14 if the rate of interest on any portion of the policy or
15 contract averaged over the period of four years prior to the
16 date on which the association becomes obligated with respect
17 to the policy or contract is not in excess of a rate of
18 interest determined by subtracting two percentage points from
19 Moody's corporate bond yield average for the same four-year
20 period. The amendment also provides that on or after the date
21 on which the Iowa life and health guaranty association becomes
22 obligated with respect to the policy or contract, the interest
23 credited to the guaranty fund is not to exceed the rate of
24 interest determined by subtracting three percentage points
25 from Moody's corporate bond yield as most recently available.
26 The guaranty association is prohibited from seeking
27 modifications in the interest as determined under the formula.

28 Section 508C.9 is amended to provide that assessments for
29 the guaranty fund are to be based on the average of the
30 premiums received in Iowa by the insurer during the previous
31 three calendar years, and not on the total premiums received
32 during that time period.

33 Section 509A.15 is amended to increase the time period
34 following the close of the fiscal year within which a self-
35 insurance plan must file its certificate of compliance.

1 Sections 511.28 and 515.74 are amended to impose a \$15 fee
2 for the service of process functions currently performed by
3 the division of insurance. The fee is payable by the party
4 requesting the service. Time guidelines for forwarding such
5 service are also provided.

6 Chapter 511 is amended by adding a new section, 511.39,
7 which permits a charitable organization to maintain an
8 insurable interest in a person who makes a donation by making
9 the charitable institution the beneficiary under a policy
10 insuring the life of the person.

11 Section 512B.24 is amended to increase the annual fee for
12 fraternal benefit societies transacting business in Iowa from
13 \$25 to \$50.

14 Section 512B.25 is amended to increase the license fee for
15 fraternal benefit societies authorized to transact business in
16 this state from \$25 to \$50. The effective date of the license
17 is also changed from April 30 to June 1 of each year.

18 Chapter 513A is amended by adding a new section, 513A.7,
19 which extends the commissioner's authority over form approval
20 to include domiciled and nondomiciled insurers.

21 Section 514A.13 is amended to provide that all rate changes
22 in accident and health policies are subject to the approval of
23 the insurance commissioner.

24 Section 514C.4, subsection 1, paragraph "d", and subsection
25 4 are stricken as a result of federal law which preempts these
26 provisions.

27 Section 514D.4 is amended to enable the insurance
28 commissioner to implement by rule the new federally permitted
29 minimum medicare supplement loss ratio of 75 percent for
30 medicare supplement insurance solicited through the mail or by
31 mass media advertising.

32 Section 514H.12 is amended to expand the \$25 premium credit
33 related to basic benefit coverage insurance for covering
34 certain eligible employees to apply to major medical policies
35 as approved by the commissioner.

1 Section 515.69 is amended to increase the amount of
2 security required for companies doing business in Iowa which
3 are not domiciled in Iowa from \$1 million to \$2.5 million.

4 Section 515.71 is amended to require an alien insurer doing
5 business in Iowa to maintain a deposit in an amount of the
6 greater of the reserve on all policies covering Iowa risks or
7 \$1 million.

8 Sections 515A.4 and 515F.5 are amended to extend the
9 waiting period for rate filings for workers' compensation and
10 casualty insurance from 15 to 30 days before they become
11 effective.

12 Section 515B.2 is amended to limit coverage under the
13 insurance guaranty association to persons with a net worth of
14 less than \$10 million.

15 Section 515B.5 is amended to limit the rights, duties, and
16 obligations of the guaranty fund to the same extent as those
17 of the insolvent insurer, and to empower the guaranty fund,
18 subject to the discretion of the fund's board of directors, to
19 refund assessment amounts which exceed the actual and
20 projected liabilities of the insolvent estate.

21 Section 515B.15 is amended to empower the guaranty fund to
22 have a default judgment set aside so that the fund can defend
23 against the claim on its merits.

24 Sections 515E.3 and 515E.8 are amended to conform the Iowa
25 risk retention Act with the national association of insurance
26 commissioners (NAIC) model Act by specifying that the annual
27 statement form is to be prescribed by the NAIC.

28 Section 516A.3 is amended to provide that an insurer's
29 insolvency protection is applicable to an insolvency which
30 occurs after a covered accident.

31 Section 522.1 is amended to broaden the licensing
32 requirements of agents.

33 Section 522.4 is amended to increase the agent license fee
34 from \$10 to \$50 for a one-year license.

35 1990 Iowa Acts, chapter 1234, section 76, is amended to

1 delay the repeal of chapter 515A, relating to workers'
2 compensation insurance from July 1, 1993, to July 1, 1994.

3 BACKGROUND STATEMENT

4 SUBMITTED BY THE AGENCY

5 Section 1 clarifies that annuities purchased pursuant to
6 this statutory authority are entitled to the broader limits of
7 guaranty fund coverage applicable to individual annuities.

8 Section 2 imposes upon all domestic insurers the
9 requirement that a principal executive office be maintained
10 within our state. Requiring this presence has the advantages
11 of allowing the division to more closely monitor the insurer's
12 activities, eases the administrative burden associated with
13 examining a logistically distant insurer, and benefits the
14 Iowa economy by assuring Iowa insurers are employing Iowans.

15 Section 3 acts as a consumer protection measure. By
16 requiring an agent to designate agent's name on an insurance
17 application, the insurance division will be able to identify
18 the person who has solicited the insurance policy and made the
19 alleged representations concerning the policy. Without this
20 amendment, the insurance division may not be able to determine
21 who solicited a particular policy when a consumer expresses
22 concerns in reference to the policy.

23 Section 4 increases the surplus requirement for a mutual
24 life insurer to eliminate inconsistency in the surplus
25 requirements for a stock life versus a mutual insurer.

26 Section 5 imposes investments restrictions on accident and
27 health insurance business similar to those imposed on life
28 insurance business. This section will enable the division to
29 provide greater regulatory oversight of insurers who are
30 writing business in this area.

31 Section 6 expands guaranty fund coverage to include
32 structured settlement annuities. Conceptually, a structured
33 annuity is no different than other annuities and it was
34 determined that those annuitants should also be covered by the
35 fund.

1 Section 7, excluding any modifications regarding interest
2 rates from the power of the guaranty association to seek court
3 approval of modifications, is necessary because the guaranty
4 association should not be responsible for guarantees in excess
5 of what was a reasonable guarantee based on market conditions
6 at the time the policy was issued.

7 Section 8, bringing the chapter 508C interest credit on
8 annuity and other cash surrender value accounts provisions
9 into conformity with the model act, is necessary because the
10 guaranty association should not be responsible for guarantees
11 in excess of what was a reasonable guaranty based on market
12 conditions at the time the policy was issued.

13 Sections 9 and 10 correct a clerical error and impose
14 statutorily current division practice.

15 Section 11 by extending the time frame in which these
16 reports must be filed, more closely parallels the time frame
17 necessary for the self-insured plans to compile and submit the
18 necessary information.

19 Sections 12 and 24 impose a fee for the division's function
20 of providing service of process. The requests for this
21 service have increased dramatically in recent years from one
22 to two per week to 12 to 15 per week. Imposing the fee will
23 result in the party requesting and benefiting from the
24 function to bear the costs of the service. Most states
25 already charge a fee for this service.

26 Section 13 permits a charitable institution to have an
27 insurable interest under a policy of life insurance donated to
28 the institution.

29 Section 14 increases the fee to cover the division's
30 increased costs associated with this transaction.

31 Section 15 changes the license renewal date from April 1 to
32 June 1 to coincide with the renewal date for other entities
33 under the division's authority.

34 Section 16 clarifies that the statute applies to all
35 policies, both issued in and issued for delivery in this

1 state. Requiring prior approval for both types of issue
2 increases the protection afforded Iowa residents by assuring
3 all forms providing insurance coverage to our residents have
4 had the prior approval of the commissioner.

5 Section 17 requires prior approval of all rate changes.
6 The division's authority has been challenged concerning
7 renewal rate authority. This change clarifies that the
8 division has authority over all rates utilized within Iowa.

9 Sections 18 and 19 strike section 514C.4, subsection 1,
10 paragraph "d", and section 514C.4, subsection 4, as a result
11 of federal law preempting these provisions. Although these
12 provisions no longer have force of law due to the preemption,
13 continued inclusion of them in our statutes could lead to a
14 misunderstanding of the current state of the law in this area.

15 Section 20 conforms state law to that permitted by federal
16 law. The NAIC model upon which our statute is based cannot be
17 revised in any manner by the NAIC that would cause it to no
18 longer be in conformance with OBRA 1990. However, the NAIC
19 recommends that states apply the 75 percent loss ratio to all
20 group business (eliminating the exception for group business
21 conducted through the mails, etc.). While the NAIC is
22 restricted from such a change to its model, states are free to
23 impose more stringent standards than OBRA.

24 Section 21 expands the \$25 premium credit related to basic
25 benefit coverage insurance for covering certain eligible
26 employees to apply to major medical policies as approved by
27 the commissioner.

28 Section 22 increases the amount of assets required to be
29 possessed by a foreign insurer to eliminate inconsistency in
30 the surplus requirements for a foreign versus a domestic
31 other-than-life insurer.

32 Section 23 increases the deposit required of alien (non-US)
33 insurers authorized to do business in Iowa. This provides
34 greater protection to the residents of Iowa in the event the
35 insurer is unable to meet its obligations.

1 Sections 25 and 32 increase the rate filing fees for
2 workers compensation and casualty insurance from \$15 to \$30.

3 Section 26 negates coverage under the guaranty fund to
4 those entities having a net worth of greater than \$10 million.
5 This limitation is a further spreading of risk but retains the
6 protections of the fund to those individual who most need it.
7 This conforms the Iowa statute to the recommendations of the
8 national association of insurance commissioners model Act.

9 Section 27 clarifies the language and makes it clear that
10 the association is not liable for any claims against the
11 insolvent insurer that are not within the coverage of the
12 policy. This will preclude a finding that the association is
13 liable for an amount greater than that which the insurer would
14 have been exposed to but for the insolvency of the insurer.

15 Section 28 clarifies the statute and makes this section
16 consistent with 515B.5(1)(c).

17 Section 29 adopts the recommendations of the national
18 association of insurance commissioners. It takes some period
19 of time after an insolvency is declared for the liquidator to
20 deliver claim files to the association and this allows the
21 association to avoid a default that might have been entered.
22 It also enables the association to set aside defaults which
23 were entered before an insurer has been declared insolvent but
24 during the period in which the insurer, for whatever reason,
25 allowed defaults to be entered against its insureds.

26 Section 30 conforms the requirements of risk retention
27 groups filing to that required of all insurers. It conforms
28 to the NAIC recommendations.

29 Section 31 includes the same requirement as section 30 but
30 applies to purchasing groups. Uniformity of filing and
31 examination are achieved by this requirement.

32 Section 33 relates to uninsured motorist coverage. The
33 1991 general assembly amended section 516A.3 by deleting "or
34 becomes insolvent within one year after such an accident".
35 The intent was to broaden the circumstances under which an

1 insurer would be required to provide uninsured motorist
 2 coverage to its policyholders. However, the language actually
 3 narrows the circumstances under which this coverage would be
 4 available to the policyholder. By adding the words "or
 5 becomes insolvent thereafter", insurers will be required to
 6 provide uninsured motorist coverage to its policyholders
 7 regardless of when the insolvency occurs or the order of
 8 liquidation is entered.

9 Section 34 broadens the agent licensing statute to require
 10 licensure of all persons who offer advise, counsel, opinion,
 11 or service in connection with the sale or offer of sale of any
 12 insurance product. This requires individuals who provide
 13 these services either in person or by phone to comply with our
 14 licensing requirements. It specifically brings under the
 15 division's jurisdiction those individuals who call themselves
 16 counselor, advisor, or some other title rather than agent and
 17 who claim by virtue of title they are not subject to agent
 18 licensing requirements. It clarifies that it doesn't matter
 19 what you call yourself, if you are performing an agent's
 20 function, you are subject to agent licensing requirements.

21 Section 35 increases from \$10 to \$50 the fee for an
 22 insurance agent's license. This has been the fee since 1988,
 23 but due to a clerical error this change was never incorporated
 24 in the Code.

25 Section 36 delays the repeal of chapter 515A, relating to
 26 workers' compensation insurance, from July 1, 1993, to July 1,
 27 1994.

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SENATE FILE 2354

AN ACT

RELATING TO THE REGULATION OF INSURANCE, REQUIRING CERTAIN REPORTS TO THE COMMISSIONER, ESTABLISHING AND CONTINUING CERTAIN REQUIREMENTS FOR INSURANCE COMPANIES DOING BUSINESS IN IOWA AND FOR AGENTS, AMENDING PROVISIONS RELATING TO GUARANTY FUNDS, SELF-INSURERS, AND CHARITABLE ORGANIZATIONS, INCREASING ALLOWABLE CREDIT LIFE INSURANCE AMOUNTS, AMENDING PROVISIONS RELATING TO THE REGULATION OF HEALTH MAINTENANCE ORGANIZATIONS, INCREASING CERTAIN FEES, AND ESTABLISHING PENALTIES.

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

Section 1. Section 79.17, Code Supplement 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Any annuity purchased with moneys deducted pursuant to this section is deemed to be an individual annuity for purposes of chapter 508C, and not an unallocated annuity.

Sec. 2. NEW SECTION. 506.12 PRINCIPAL EXECUTIVE OFFICE.

An insurance company incorporated under the laws of this state for the purpose of engaging in the business of insurance shall maintain a principal executive office in this state unless otherwise allowed by the commissioner of insurance. The location of the principal executive office in this state of an insurance company incorporated under chapter 490 shall be identified in the insurance company's articles of incorporation.

Sec. 3. Section 507B.4, Code 1991, is amended by adding the following new subsection:

NEW SUBSECTION. 10A. Failing to designate on an insurance policy application the licensee who has solicited and written the policy.

Sec. 4. Section 508.9, Code 1991, is amended to read as follows:

508.9 MUTUAL COMPANIES -- CONDITIONS.

Level premium and natural premium life insurance companies organized under the laws of this state upon the mutual plan shall, before issuing policies, have actual applications on at least two hundred and fifty lives for an average amount of one thousand dollars each. A list of the applications giving the name, age, residence, amount of insurance, and annual premium of each applicant shall be filed with the commissioner of insurance, and a deposit made with the commissioner of an amount equal to three-fifths of the whole annual premium on the applications, in cash or the securities required by section 508.5. In addition, a deposit of cash or securities of the character provided by law for the investment of funds for life insurance companies in the sum of five million dollars shall be made with the commissioner, which shall constitute a guaranty security fund for the protection of policyholders. The contribution to the guaranty security fund shall not give to contributors to the fund or to other persons any voting or other power in the management of the affairs of the company. The guaranty security fund may be repaid to the contributors to the guaranty security fund with interest at six percent from the date of contribution, at any time, in whole or in part, if the repayment does not reduce the surplus of the company below the amount of two five million dollars and then only if consent in writing for the repayment is obtained from the commissioner of insurance. Upon compliance with this section, the commissioner shall issue to the mutual company the certificate prescribed in this chapter.

Sec. 5. Section 508.29, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A company insuring risks authorized by this section shall invest or hold in cash, funds equal to seventy-five percent of the aggregate reserves and policy and contract claims for such risks. Investments required by this paragraph shall only be made in securities enumerated in section 511.8, and are subject to the same limitations as provided for the investment of legal reserve.

and are subject to section 511.8, subsections 16, 17, and 21.

Sec. 6. Section 508C.3, subsection 3, paragraph a, Code 1991, is amended by striking the paragraph and inserting in lieu thereof the following:

a. Any portion of a policy or contract to the extent that the rate of interest on which it is based, averaged over the period of four years prior to the date on which the association becomes obligated with respect to the policy or contract, exceeds a rate of interest determined by subtracting two percentage points from Moody's corporate bond yield average for the same four-year period or over such lesser period if the policy or contract was issued less than four years before the association became obligated; and on or after the date on which the association becomes obligated with respect to the policy or contract, exceeds the rate of interest determined by subtracting three percentage points from Moody's corporate bond yield average as most recently available.

Sec. 7. Section 508C.3, subsection 3, paragraph h, Code 1991, is amended to read as follows:

h. An annuity contract issued to a government lottery or ~~to a liability insurer in connection with a structured settlement.~~

Sec. 8. Section 508C.8, subsection 3, paragraph d, Code Supplement 1991, is amended to read as follows:

d. The association may offer modifications to the owners of policies or contracts or classes of policies or contracts issued by the insolvent insurer, if the association finds that under the policies or contracts the benefits provided, provisions pertaining to renewal, or the premiums charged or which may be charged are not reasonable. If the owner of a policy or contract to be modified fails or refuses to accept the modification as approved by the court, the association may terminate the policy or contract as of a date not less than one hundred eighty days after the modification is sent to the owner. The association shall have no liability under the policy or contract for any claim incurred or continuing beyond

the termination date. However, this paragraph does not apply to interest adjustments made pursuant to section 508C.3, subsection 3, paragraph "a".

Sec. 9. Section 508C.9, subsection 3, paragraph b, Code 1991, is amended to read as follows:

b. Class A assessments in excess of one hundred dollars per company per calendar year and class B assessments against member insurers for each account shall be in the proportion that the average of the aggregate premiums received on business in this state by each assessed member insurer on policies or contracts related to that account for the three most recent calendar years for which information is available, preceding the year in which the insurer became impaired or insolvent, is to the average of the aggregate premiums received on business in this state by all assessed member insurers on policies related to that account for the three most recent calendar years for which information is available preceding the assessment.

Sec. 10. Section 508C.9, subsection 5, paragraph a, Code 1991, is amended to read as follows:

a. The total of all assessments upon a member insurer for each account shall not in any one calendar year exceed two percent of the average of the insurer's premiums received in this state during the three most recent calendar years for which information is available, preceding the year in which the insurer becomes impaired or insolvent, on the policies related to that account. If the maximum assessment for an account, together with the other assets of the association in the account, does not provide in any one year in the account an amount sufficient to carry out the responsibilities of the association, the necessary additional funds shall be assessed for the account in succeeding years as soon as permitted by this chapter.

Sec. 11. Section 509.1, subsection 3, paragraph d, Code Supplement 1991, is amended to read as follows:

d. The amount of insurance on the life of a debtor shall not exceed the amount owed by the debtor to the creditor, or

the face amount of a totally or partially executed loan or loan commitment creating personal liability and made in good faith for general agricultural or horticultural purposes to a debtor with seasonal income. However, in no event shall the amount of insurance exceed fifty two hundred thousand dollars.

Sec. 12. Section 509A.14, unnumbered paragraph 1, Code 1991, is amended to read as follows:

509A.14 APPROVAL OF SELF-INSURANCE PLANS.

The commissioner of insurance shall adopt rules for self-insurance plans for life insurance and accident and health insurance for ~~the state; a political subdivision of the state; or a school corporation; or any other public body in the state.~~ The rules adopted shall include, but are not limited to, the following:

Sec. 13. NEW SECTION. 509.17A COLLATERAL INSURANCE AND FORCED PLACEMENT.

1. The commissioner shall review all collateral insurance forms and rates to assure that the rates are not excessive in comparison to the benefits provided to consumers.

2. The commissioner may adopt by rule procedures and restrictions to protect consumers from abusive practices in forced placement or collateral insurance. Rules may include, but are not limited to, the following:

a. Notice requirements, to assure that consumers have an opportunity to exercise reasonable choice in the placement, of a collateral insurance policy.

b. A prohibition or limitation on the receipt of a sales commission or other fee by the person making a forced placement, or the person's employer.

3. For purposes of this section, unless the context otherwise requires:

a. "Collateral insurance" means an insurance policy solely or primarily intended to provide security for a loan or to insure collateral for a loan.

b. "Forced placement" means the purchase of an insurance policy by a third person when the law or a contract obligates another person to pay the insurance premium.

Sec. 14. Section 509A.15, subsection 1, unnumbered paragraph 1, Code 1991, is amended to read as follows:

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

Sec. 15. Section 511.28, Code 1991, is amended to read as follows:

511.28 SERVICE OF PROCESS.

Such any notice or process, with a copy thereof three copies of the notice or process, may be mailed to the commissioner at Des Moines, Iowa, in a certified mail letter addressed to the commissioner by the commissioner's official title and the. The commissioner shall immediately upon its receipt acknowledge service thereon on behalf of the defendant foreign insurance company by writing thereon, giving the date thereof of receipt of the notice or process, and shall immediately return such the notice or process in a certified mail letter to the clerk of the court in which the suit is pending, addressed to the clerk by the clerk's official title, and shall also forthwith mail such a copy, with a copy of the commissioner's acknowledgment of service written thereon, in a certified mail letter addressed to the person or corporation who shall be named or designated by such company in such the written instrument. Notice or process received prior to 12 noon shall be forwarded the same working day. Notice or process received after 12 noon shall be forwarded the next working day. A fee of fifteen dollars must accompany the request for notice or process.

Sec. 16. NEW SECTION. 511.39 CHARITABLE ORGANIZATIONS -- INSURABLE INTEREST.

A charitable organization described in section 501(c)(3) of the Internal Revenue Code, as defined in section 422.3, has an insurable interest in the life of a person who, when purchasing a life insurance policy, makes a donation to the charitable organization or makes the charitable organization the beneficiary of all or a part of the proceeds of the policy or joins with a charitable organization in applying for an insurance policy which when issued will insure that person's life and name the organization as owner or beneficiary of all or any portion of the benefits of the life insurance policy.

Sec. 17. Section 512B.24, subsection 1, Code 1991, is amended to read as follows:

1. A society transacting business in this state, on or before March 1 annually, unless for cause shown the time has been extended by the commissioner, shall file with the commissioner a true statement of its financial condition, transactions, and affairs for the preceding calendar year and shall pay a fee of ~~twenty-five~~ fifty dollars. The statement shall ~~may~~ be in general form and content as approved by the national association of insurance commissioners for fraternal benefit societies and shall be supplemented by additional information as adopted by rule of the commissioner.

Sec. 18. Section 512B.25, Code 1991, is amended to read as follows:

512B.25 ANNUAL LICENSE.

A society which is authorized to transact business in this state on January 1, 1991, and a society licensed on or after January 1, 1991, may continue in business until ~~April-30~~ June 1, 1991. The authority of the society may thereafter be renewed annually. A license terminates on the succeeding ~~April-30~~ June 1. However, a license issued shall continue in full force and effect until a new license is issued or specifically refused. For each license or renewal the society shall pay the commissioner a fee of ~~twenty-five~~ fifty dollars. A duly certified copy or duplicate of the license is prima facie evidence that the licensee is a fraternal benefit society within the meaning of this chapter.

Sec. 19. Section 513A.5, Code Supplement 1991, is amended to read as follows:

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 including, but not limited to, filing with and approval by the commissioner of the form of the health benefit policy, contract, or certificate.

Sec. 20. Section 514A.13, Code Supplement 1991, is amended to read as follows:

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. Subsequent rate changes are also subject to this section.

Sec. 21. Section 514B.4, Code 1991, is amended to read as follows:

514B.4 ~~DUTIES OF THE DIRECTOR OF PUBLIC HEALTH~~ APPLICANT FOR CERTIFICATE OF AUTHORITY.

~~The director of public health~~ commissioner shall determine whether the applicant for a certificate of authority, with respect to health care services to be furnished:

1. Has demonstrated the willingness and potential ability to assure the availability, accessibility, and continuity of service through adequate personnel and facilities.

2. Has arrangements established in accordance with regulations promulgated rules adopted by the director of public health commissioner for a continuous review of health care processes and outcomes.

3. Has a procedure established in accordance with regulations of rules adopted by the director of public health commissioner to develop, compile, evaluate, and report statistics relating to the cost of its operations, the pattern of utilization of its services, the availability and accessibility of its services, and other matters as may be reasonably required by the director of public health commissioner.

The director of public health commissioner, in carrying out the obligations under administering this section and sections 514B.25 and 514B.26, may contract with qualified persons to make recommendations concerning the determinations required to be made by the director of public health commissioner. Such recommendations may be accepted in full or in part by the director of public health commissioner.

~~Within a reasonable period of time from the receipt of the application for a certificate of authority, the director of public health shall certify to the commissioner whether the proposed health maintenance organization meets the requirements of this section:--if the director of public health certifies that the health maintenance organization does not meet these requirements, the director of public health shall specify in what respects it is deficient:~~

Sec. 22. Section 514B.5, unnumbered paragraph 1, Code 1991, is amended to read as follows:

The commissioner shall issue or deny a certificate of authority to any person filing an application pursuant to section 514B.3 within a reasonable period of time ~~after receiving certification from the director of public health.~~ Issuance of a certificate of authority shall be granted upon payment of the application fee prescribed in section 514B.22 if the commissioner is satisfied that the following conditions are met:

Sec. 23. Section 514B.5, subsections 2 and 7, Code 1991, are amended to read as follows:

2. The director of public health certifies commissioner finds that the health maintenance organization's proposed plan of operation meets the requirements of section 514B.4.

~~7.--Any deficiencies certified by the director of public health have been corrected.~~

Sec. 24. Section 514B.6, unnumbered paragraph 2, Code 1991, is amended to read as follows:

A health maintenance organization shall file notice with the commissioner before the exercise of any power granted in subsections 1 and 2. ~~The notice shall be accompanied by adequate supporting information obtained from the director of public health relating to the health maintenance organization's need for physical facilities.~~ The commissioner shall disapprove the exercise of power if in the commissioner's opinion it would substantially and adversely affect the financial soundness of the health maintenance organization and endanger its ability to meet its obligations. The commissioner may promulgate ~~adopt~~ rules exempting from the filing requirement of this section those activities having a minimum effect.

Sec. 25. Section 514B.12, Code 1991, is amended to read as follows:

514B.12 ANNUAL REPORT.

A health maintenance organization shall annually before the first day of March file with the commissioner, ~~with a copy to the director of public health,~~ a report verified by at least two of its principal officers and covering the preceding calendar year. The report shall be on forms prescribed by the commissioner and shall include:

1. Financial statements of the organization including a balance sheet as of the end of the preceding calendar year and statement of profit and loss for the year then ended, certified by a certified public accountant or an independent public accountant.

2. Any material changes in the information submitted pursuant to section 514B.3.

3. The number of persons enrolled during the year, the number of enrollees as of the end of the year and the number of enrollments terminated during the year.

4. ~~A summary of information compiled pursuant to section 514B.4; subsection 3, in the form required by the director of public health;~~

5: Other information relating to the performance of the health maintenance organization as is necessary to enable the commissioner to carry out the commissioner's duties under this chapter.

Sec. 26. Section 514B.14, unnumbered paragraph 1, Code 1991, is amended to read as follows:

A health maintenance organization shall establish and maintain a complaint system which has been approved by the commissioner ~~in consultation with the director of public health~~ and which shall provide for the resolution of written complaints initiated by enrollees concerning health care services. A health maintenance organization shall submit to the commissioner ~~and to the director of public health~~ an annual report in a form prescribed by the commissioner ~~in consultation with the director of public health~~, which shall include:

Sec. 27. Section 514B.23, Code 1991, is amended to read as follows:

514B.23 RULES.

The commissioner ~~and the director of public health may promulgate~~ shall adopt rules, pursuant to chapter 17A, as are necessary to ~~carry out the provisions of~~ administer this chapter ~~subject to review in accordance with chapter 17A.~~

Sec. 28. Section 514B.24, Code 1991, is amended to read as follows:

514B.24 EXAMINATIONS PERMITTED.

The commissioner shall make an examination of the affairs of any health maintenance organization and its providers as often as the commissioner deems necessary for the protection

of the interests of the people of this state, but not less frequently than once every three years.

~~The director of public health shall make an examination concerning the quality of health care services provided through any health maintenance organization as often as the director of public health deems necessary for the protection of the interests of the people of this state, but not less frequently than once every three years.~~

Every health maintenance organization and provider shall submit its books and records to the commissioner ~~and the director of public health~~ and in every way facilitate the examination. For the purpose of examinations, the commissioner ~~of insurance and the director of public health~~ may administer oaths to and examine the officers and agents of the health maintenance organization and the principals of its providers concerning their business. The expenses of examinations under this section shall be assessed against the organization being examined and remitted to the commissioner ~~or director of public health as the case may be.~~

In lieu of the examination required by this section, the commissioner ~~of insurance or the director of public health~~ may accept the report of an examination made by the appropriate departments in other states.

Sec. 29. Section 514B.26, unnumbered paragraphs 1 and 3, Code 1991, are amended to read as follows:

When the commissioner has cause to believe that grounds for the denial, suspension, or revocation of a certificate of authority exist, the commissioner shall notify the health maintenance organization in writing of the particular grounds for denial, suspension, or revocation and shall issue a notice of a time fixed for a hearing, which shall be held not less than ten days after the receipt by the health maintenance organization of the notice. ~~The director of public health or the director of public health's designee shall participate in the proceedings of the hearing and the director of public health's recommendation and findings with respect to matters relating to the quality of health care services provided in~~

~~connection with any decision regarding denial, suspension, or revocation of a certificate of authority, or in connection with an order to the health maintenance organization by the commissioner to cease from methods or practices in violation of this chapter, shall be conclusive and binding upon the commissioner.~~

After the hearing, or upon the failure of the health maintenance organization to appear at the hearing, the commissioner shall take action as the commissioner deems advisable and which is permitted by the commissioner under the provisions of this chapter and shall reduce the findings to writing. Copies of the written findings shall be mailed to the health maintenance organization charged with violation of this chapter ~~and to the director of public health.~~

Sec. 30. Section 514B.27, Code 1991, is amended to read as follows:

514B.27 JUDICIAL REVIEW.

The action of the commissioner ~~and the recommendation and findings of the director of public health~~ under section 514B.26 shall be is subject to judicial review in accordance with the terms of the Iowa administrative procedure Act chapter 17A.

Sec. 31. Section 514B.30, unnumbered paragraph 1, Code 1991, is amended to read as follows:

No An officer, director, trustee, partner, or employee of a health maintenance organization shall not testify as to nor or make other public disclosure of any communication made to a provider and deemed privileged under section 622.10, and which communication has come into the knowledge or possession of such officer, director, trustee, partner, or employee by reason of employment with said the health maintenance organization. To the extent necessary to effectuate the examinations provided in section 514B.24 only, the commissioner ~~or the director of public health shall have the right to may~~ examine medical or hospital records of a person receiving basic health care services under the provisions of this chapter but shall not testify as to such confidential

communications or make other public disclosure thereof without the express consent of said the person or the person's legal representative, if the person be is deceased or incompetent. The provisions of section 622.10 respecting waiver shall apply to this section.

Sec. 32. Section 514C.4, subsection 1, paragraph d, Code 1991, is amended to read as follows:

d. An individual or group Medicare supplemental policy, unless coverage pursuant to such policy is preempted by federal law.

Sec. 33. Section 514C.4, subsection 4, Code 1991, is amended by striking the subsection.

Sec. 34. Section 514D.4, subsection 5, Code 1991, is amended to read as follows:

5. The commissioner may upon notice and hearing at any time after the initial filing or approval of any individual accident and sickness policy or subscriber contract form, withdraw approval or suspend further sale of the form if the benefits provided are unreasonable in relation to the premium charge. The commissioner shall establish reasonable and creditable anticipated minimum loss ratios for medicare supplement and other accident and sickness insurance policies. ~~For purposes of establishing loss ratios, policies issued as a result of solicitations of individuals through the mails or by mass media advertising, including both print and broadcast advertising, shall be deemed to be individual policies, including any certificates issued under these policies.~~

Sec. 35. Section 514H.12, subsection 6, Code Supplement 1991, is amended to read as follows:

6. The premium credit provided by this section is only available in connection with a either of the following:

a. A basic benefit plan approved by the commissioner, which satisfies

b. A major medical policy approved by the commissioner providing coverage to an eligible individual either on a group or individual basis.

The policy shall also satisfy any conditions imposed by rules adopted pursuant to subsection 1 which the commissioner determines are necessary or convenient to implement and administer the premium credit.

Sec. 36. Section 515.69, Code 1991, is amended to read as follows:

515.69 FOREIGN COMPANIES -- CAPITAL REQUIRED.

A stock insurance company organized under or by the laws of any other state or foreign government for the purpose specified in this chapter, shall not, directly or indirectly, take risks or transact business of insurance in this state unless the company has one two and one-half million dollars of actual paid-up capital, and a surplus in cash or invested in securities authorized by law of not less than one two and one-half million dollars, exclusive of assets deposited in a state, territory, district, or country for the special benefit or security of those insured therein in that state, territory, district, or country.

Sec. 37. Section 515.71, Code 1991, is amended to read as follows:

515.71 DEPOSIT OF SECURITIES -- AMOUNT.

Every alien insurer authorized to transact business in this state shall at all times maintain a deposit with the commissioner of insurance in cash or in securities in which insurance companies are authorized to invest, of a sum equal to the unearned-premium greater of the reserve on all policies covering risks located in this state or one million dollars. Such The securities shall be approved, and the amount of such the deposit shall be determined, by the commissioner in accordance with section 515.47~~7~~ provided that the minimum amount of any deposit shall be twenty-five thousand dollars. The commissioner, in the commissioner's discretion, may permit the withdrawal of interest earnings.

In lieu of the deposit provided herein any such in this section, an alien insurer may file with the commissioner a bond of equal amount executed by a licensed United States surety company, so conditioned for the protection of Iowa creditors and policyholders.

~~No such~~ An alien insurer shall not be granted a certificate of authority to transact business in this state, or a renewal thereof of the certificate, until such deposit ~~shall have been~~ is made, and the commissioner may revoke the certificate of authority of ~~any such an~~ an alien insurer which fails to make such the deposit within a reasonable period of time after ~~April 23, 1941.~~

Sec. 38. Section 515.74, Code 1991, is amended to read as follows:

515.74 MANNER-OF SERVICE OF PROCESS.

Such Any notice or process, with a copy thereof three copies of the notice or process, may be mailed to the commissioner ~~of insurance~~ at Des Moines, Iowa, in a certified mail letter addressed to the commissioner by the commissioner's official title, ~~and the~~ The commissioner shall ~~immediately upon its receipt~~ acknowledge service thereon on behalf of the defendant foreign insurance company by writing thereon, giving the date thereof of receipt of the notice or process, and shall ~~immediately return such the~~ notice or process in a certified mail letter to the clerk of the court in which the suit is pending, addressed to the clerk by the clerk's official title, and shall also ~~forthwith~~ mail such a copy, with a copy of the commissioner's acknowledgment of service written thereon, in a certified mail letter addressed to the person or corporation ~~who shall be named or designated by such company in such the~~ written instrument. Notice or process received prior to 12 noon shall be forwarded the same working day. Notice or process received after 12 noon shall be forwarded the next working day. A fee of fifteen dollars must accompany the request for notice or process.

Sec. 39. Section 515A.4, subsection 4, Code 1991, is amended to read as follows:

4. Subject to the exception specified in subsection 5 of this section, each filing shall be on file for a waiting period of fifteen thirty days before it becomes effective, which period may be extended by the commissioner for an

additional period not to exceed fifteen days if the commissioner gives written notice within such the waiting period to the insurer or rating organization which made the filing that the commissioner needs such additional time for the consideration of such the filing. Upon written application by such the insurer or rating organization, the commissioner may authorize a filing which the commissioner has reviewed to become effective before the expiration of the waiting period or any extension thereof of the period. A filing shall be deemed to meet the requirements of this chapter unless disapproved by the commissioner within thirty days of receipt thereof by the commissioner.

Sec. 40. Section 515B.5, subsection 1, paragraph b, Code Supplement 1991, is amended by striking the paragraph and inserting in lieu thereof the following:

b. Be obligated to pay covered claims subject to a limitation as established by the rights, duties, and obligations under the policy of the insolvent insurer.

Sec. 41. Section 515B.5, subsection 2, paragraph g, Code Supplement 1991, is amended to read as follows:

g. ~~If at any time the board of directors finds that the amount assessed for any insolvency exceeds the actual and projected liabilities of that insolvency, it may refund such excess to member insurers in the same proportion that each contributed to the original assessment or assessments~~ The board of directors, in its discretion, may from time to time refund excess amounts to member insurers that are not needed for current or projected liabilities of a particular insolvency. The amount of each refund is equal to the net direct written premiums of the member insurer for the preceding calendar year divided by the net written premiums of all member insurers for the preceding calendar year, multiplied by the total amount to be refunded to all members. Any assessments or refunds of any member insurer in amounts not to exceed twenty-five dollars may, at the discretion of the board of directors, be waived.

Sec. 42. Section 515B.15, Code 1991, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. As to any covered claims based on the default of an insurer who is or who becomes insolvent, or based on the failure of an insurer to defend an insured, the association, on its own behalf or on behalf of the insured, is entitled to set the default aside and defend such claim on its merits.

Sec. 43. Section 515E.3, Code 1991, is amended to read as follows:

515E.3 RISK RETENTION GROUPS ORGANIZED IN THIS STATE.

To be organized as a risk retention group in this state, the group must be organized and licensed as a liability insurance company authorized by the insurance laws of this state. Except as provided elsewhere in this chapter, a risk retention group organized in this state must comply with all of the laws, rules, and requirements applicable to liability insurers organized in this state. Additionally, a risk retention group organized in this state must comply with section 515E.4. These requirements do not exempt risk retention groups from a duty imposed by any other law or rule of the state. Before it may offer insurance in any state, each risk retention group shall also submit for approval to the commissioner of insurance of this state a plan of operation or a feasibility study, and revisions of the plan or study, within ten days of any change. The name under which a risk retention group may be chartered and licensed shall be a brief description of its membership followed by the phrase "risk retention group" and, unless its membership consists solely of insurers, shall not include the terms "insurance", "mutual", "reciprocal", or any similar term. All risk retention groups chartered in this state shall file with the division and the national association of insurance commissioners an annual statement blank prepared in accordance with instructions prescribed by the commissioner. All financial information reflected in the annual statement shall be kept and prepared in accordance with accounting practices

and procedures prescribed by the commissioner. The commissioner may adopt by reference the annual statement handbook and the accounting practices and procedures manual of the national association of insurance commissioners.

Sec. 44. Section 515E.8, subsection 1, Code 1991, is amended by adding the following new paragraph:

NEW PARAGRAPH. 9. The commissioner may require the notice to be in a form prescribed by the national association of insurance commissioners.

Sec. 45. Section 515F.5, subsection 3, Code 1991, is amended to read as follows:

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

Sec. 46. Section 516A.3, unnumbered paragraph 2, Code Supplement 1991, is amended to read as follows:

An insurer's insolvency protection is applicable only to accidents occurring during a policy period in which its insured's uninsured motorist coverage is in effect and only if the liability insurer of the tort-feasor is insolvent at the time of such an accident or becomes insolvent after the accident.

Sec. 47. Section 522.1, unnumbered paragraph 1, Code Supplement 1991, is amended to read as follows:

A person shall not, directly or indirectly, act within this state as agent, or otherwise, in receiving or procuring

applications for insurance or reinsurance, or in doing or transacting any kind of insurance business for a company or association ~~unless exempt from the provisions of this chapter by section 512B.317 except that the licensing of persons so acting for county mutuals is subject only to section 518.16,~~ until the person has procured a license from the commissioner of insurance for those lines of insurance for which the person is transacting or engaging in business. This requirement includes a person offering to the public, for a fee or commission, to engage in the business of offering any advice, counsel, opinion, or service with respect to the benefits, advantages, or disadvantages promised under any policy of insurance which could be issued in this state.

This chapter applies to the following professionals except when in the course of their professional capacity they provide information, recommendations, advice, or services, not including solicitation, relating to the business of insurance:

1. An attorney licensed to practice law in this state.
2. A certified public accountant licensed pursuant to chapter 116.
3. An actuary who is a member in good standing of the American academy of actuaries, the society of actuaries, or the casualty actuarial society.
4. A bank trust officer.

4. A bank trust officer.

Sec. 48. Section 522.4, Code 1991, is amended to read as follows:

522.4 FEE -- INSURERS TO CERTIFY AGENTS.

The fee charged for an agent's license shall be ten ~~ten~~ fifty dollars. Every insurer authorized to transact business in this state shall certify its agents to the commissioner who shall keep a list of the agents and charge an annual appointment fee of five dollars for each agent. The commissioner shall remit the fees collected to the treasurer of state for deposit in the general fund of the state.

Sec. 49. RULES. The commissioner shall adopt by rule objective standards as necessary to facilitate implementation of section 20 of this Act.

Sec. 50. Section 32 of this Act shall not apply to a medicare supplemental policy delivered, issued for delivery, continued, or renewed before January 1, 1992.

Sec. 51. 1990 Iowa Acts, chapter 1234, section 76, as amended by 1991 Iowa Acts, chapter 213, section 35, is amended to read as follows:

SEC. 76. Sections 515A.1 through 515A.19, Code 1989, are repealed effective July 1, ~~1993~~ 1994.

Sec. 52. Section 508.9, as amended by this Act, does not affect a life insurance company authorized to transact business in Iowa on or before July 1, 1990.

MICHAEL E. GRONSTAL
President of the Senate

ROBERT C. ARNOULD
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2354, Seventy-fourth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved April 28, 1992

TERRY E. BRANSTAD
Governor

SF 2354