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w/s 3433

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HOUSE FILE 495
BY COMMITTEE ON COMMERCE

Place On Calendar

(SUCCESSOR TO HSB 208)

Passed House, Date ^(p.972) 3/31/93 Passed Senate, Date ^(p.1236) 4/20/93
Vote: Ayes 55 Nays 43 Vote: Ayes 50 Nays 0
Approved May 3, 1993

A BILL FOR

1 An Act relating to regulation of insurance, including the
2 authority of the division to regulate certain policies and
3 contracts and the parties to such policies and contracts,
4 establishing fees, and providing a penalty.

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

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HF 495

1 Section 1. Section 85.22, Code 1993, is amended to read as
2 follows:

3 85.22 LIABILITY OF OTHERS -- SUBROGATION.

4 When an employee receives an injury or incurs an
5 occupational disease or an occupational hearing loss for which
6 compensation is payable under this chapter, chapter 85A, or
7 chapter 85B, and which injury or occupational disease or
8 occupational hearing loss is caused under circumstances
9 creating a legal liability against some person, other than the
10 employee's employer or any employee of such employer as
11 provided in section 85.20 to pay damages, the employee, or the
12 employee's dependent, or the trustee of such dependent, may
13 take proceedings against the employer for compensation, and
14 the employee or, in case of death, the employee's legal
15 representative may also maintain an action against such third
16 party for damages. When an injured employee or the employee's
17 legal representative brings an action against such third
18 party, a copy of the original notice shall be served upon the
19 employer by the plaintiff, not less than ten days before the
20 trial of the case, but a failure to give such notice shall not
21 prejudice the rights of the employer, and the following rights
22 and duties shall ensue:

23 1. If compensation is paid the employee or dependent or
24 the trustee of ~~such~~ the dependent under this chapter, the
25 employer by whom the same compensation was paid, or the
26 employer's insurer which paid it, shall be indemnified out of
27 the recovery of damages to the extent of the payment ~~so~~ made,
28 with legal interest, or to the extent of any payment to be
29 made in the future, except for ~~such~~ attorney fees as ~~may-be~~
30 allowed, by the district court, to the injured employee's
31 attorney or the attorney of the employee's personal
32 representative, and ~~shall-have~~ has a lien on the claim for
33 such recovery and the judgment ~~thereon~~ on the recovery for the
34 compensation for which the employer or insurer is liable. In
35 order to continue and preserve the lien, the employer or

1 insurer shall, within thirty days after receiving notice of
2 such suit from the employee, file, in the office of the clerk
3 of the court where the action is brought, notice of the lien.

4 2. In case the employee fails to bring ~~such~~ an action
5 within ninety days, or where a city or a city under special
6 charter is ~~such~~ the third party, within thirty days after
7 written notice so to do given by the employer or the
8 employer's insurer, as the case may be, then the employer or
9 the insurer ~~shall-be~~ is subrogated to the rights of the
10 employee to maintain the action against ~~such~~ the third party,
11 and may recover damages for the injury to the same extent that
12 the employee might.

13 3. In case of recovery under subsection 1 or 2, the court
14 shall enter judgment for distribution of the proceeds thereof
15 of the recovery as follows:

16 a. A sum sufficient to repay the employer for the amount
17 of compensation actually paid by the employer to that time.

18 b. A sum sufficient to pay the employer the present worth,
19 computed at the interest rate provided in section 535.3 for
20 court judgments and decrees, of the future payments of
21 compensation for which the employer is liable, but the sum is
22 not a final adjudication of the future payments which the
23 employee is entitled to receive and if the sum received by the
24 employer is in excess of the amount required to pay the
25 compensation, the excess shall be paid to the employee.

26 c. The balance, if any, shall be paid over to the
27 employee.

28 3 4. Before a settlement ~~shall-become~~ becomes effective
29 between an employee or an employer and ~~such~~ the third party
30 who is liable for the injury, it must be with the written
31 consent of the employee, in case the settlement is between the
32 employer or insurer and ~~such~~ the third person; and the consent
33 of the employer or insurer, in case the settlement is between
34 the employee and ~~such~~ the third party; or on refusal of
35 consent, in either case, then upon the written approval of the

1 industrial commissioner.

2 4 5. A written memorandum of any settlement, if made,
3 shall be filed by the employer or insurance carrier in the
4 office of the industrial commissioner.

5 5 6. For subrogation purposes hereunder under this
6 section, any payment made ~~unto~~ to an injured employee, the
7 employee's guardian, parent, next friend, or legal
8 representative, by or on behalf of any third party, or the
9 third party's principal or agent liable for, connected with,
10 or involved in causing an injury to ~~such~~ the employee shall be
11 considered as having been so paid as damages resulting from
12 and because ~~said~~ the injury was caused under circumstances
13 creating a legal liability against ~~said~~ the third party,
14 whether such payment ~~be-made~~ is under a covenant not to sue,
15 compromise settlement, denial of liability, or otherwise.

16 6 7. When the state of Iowa has paid any compensation or
17 benefits under the provisions of this chapter, the word
18 "employer" as used in this section ~~shall-mean~~ means and
19 ~~include~~ includes the state of Iowa.

20 Sec. 2. Section 85.61, subsection 11, unnumbered paragraph
21 3, Code 1993, is amended to read as follows:

22 "Worker" or "employee" includes a basic emergency medical
23 care provider as defined in section 147.1, ~~or~~ an advanced
24 emergency medical care provider as defined in section 147A.1,
25 a volunteer ambulance driver, or an emergency medical
26 technician trainee, only if an agreement is reached between
27 ~~the-basic-or-advanced-emergency-medical-care-provider~~ such
28 worker or employee and the employer for whom the volunteer
29 services are provided that workers' compensation coverage
30 under chapters 85, 85A, and 85B is to be provided by the
31 employer. A basic or advanced emergency medical care provider
32 who is a worker or employee under this paragraph is not a
33 casual employee. "Volunteer ambulance driver" means a person
34 performing services as a volunteer ambulance driver at the
35 request of the person in charge of a fire department or

1 ambulance service of a municipality. "Emergency medical
2 technician trainee" means a person enrolled in and training
3 for emergency medical technician certification.

4 Sec. 3. NEW SECTION. 87.23A INSURANCE TRADE PRACTICES
5 COVERED.

6 A workers' compensation coverage plan regulated under this
7 chapter shall be considered a person for purposes of chapter
8 507B.

9 Sec. 4. Section 505.7, Code 1993, is amended by adding the
10 following new subsection:

11 NEW SUBSECTION. 7. The insurance division shall, by
12 January 15 of each year, prepare estimates of projected
13 receipts, refunds, and reimbursements to be generated by the
14 examinations function of the division during the calendar year
15 in which the report is due, and such receipts, refunds, and
16 reimbursements shall be treated in the same manner as
17 repayment receipts, as defined in section 8.2, subsection 8,
18 and shall be available to the division to pay the expenses of
19 the division's examination function.

20 Sec. 5. Section 507B.4, subsection 1, Code 1993, is
21 amended by adding the following new paragraph:

22 NEW PARAGRAPH. j. Is a misrepresentation, including any
23 intentional misquote of premium rate, for the purpose of
24 inducing or tending to induce the purchase of an insurance
25 policy.

26 Sec. 6. Section 507C.3, Code 1993, is amended by adding
27 the following new subsection:

28 NEW SUBSECTION. 6. Prepaid health care delivery plans
29 which are regulated by the commissioner.

30 Sec. 7. Section 507C.14, subsection 3, Code 1993, is
31 amended by striking the subsection.

32 Sec. 8. Section 507C.26, Code 1993, is amended by adding
33 the following new subsection:

34 NEW SUBSECTION. 4. A person receiving property from an
35 insurer or any benefit from an insurer which is a fraudulent

1 transfer under subsection 1 is personally liable for the
2 property or benefit and shall account to the liquidator.

3 Sec. 9. Section 507C.42, subsections 3 and 4, Code 1993,
4 are amended to read as follows:

5 3. CLASS 3. Claims under policies, including claims of
6 the federal or any state or local government, for losses
7 incurred, including third-party claims, claims against the
8 insurer for liability for bodily injury or for injury to or
9 destruction of tangible property which are not under policies,
10 and claims of a guaranty association or foreign guaranty
11 association. Claims ~~under-nonassessable-policies~~ for unearned
12 premium. Claims under life insurance and annuity policies,
13 whether for death proceeds, annuity proceeds, or investment
14 values shall be treated as loss claims. That portion of a
15 loss, indemnification for which is provided by other benefits
16 or advantages recovered by the claimant, shall not be included
17 in this class, other than benefits or advantages recovered or
18 recoverable in discharge of familial obligations of support or
19 by way of succession at death or as proceeds of life
20 insurance, or as gratuities. A payment by an employer to an
21 employee is not a gratuity.

22 4. CLASS 4. ~~Premium-refunds,-claims~~ Claims of general
23 creditors, including claims of ceding and assuming reinsurers
24 in their capacity as such, and subrogation claims.

25 Sec. 10. Section 509A.14, subsection 2, Code 1993, is
26 amended by striking the subsection.

27 Sec. 11. Section 509A.15, subsection 1, Code 1993, is
28 amended to read as follows:

29 1. Within ninety days following the end of a fiscal year,
30 the governing body of a self-insurance plan of a political
31 subdivision or a school corporation shall file with the
32 commissioner of insurance a certificate of compliance,
33 actuarial opinion, and an annual financial report. The
34 ~~certificate-of-compliance~~ filing shall be accompanied by a
35 ~~filing~~ fee of one hundred dollars. A penalty of fifteen

1 dollars per day shall be assessed for failure to comply with
2 the ninety-day filing requirement, except that the
3 commissioner may waive the penalty upon a showing that special
4 circumstances exist which justify the waiver. The certificate
5 shall be signed and dated by the appropriate public official
6 representing the governing body, and shall certify the
7 following:

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

10 b. That an actuarial opinion has been attached to the
11 certificate which attests to the adequacy of reserves, rates,
12 and financial condition of the plan. ~~The actuarial opinion~~
13 ~~shall be issued by a fellow of the society of actuaries.~~ The
14 actuarial opinion must include, but is not limited to, a brief
15 commentary about the adequacy of the reserves, rates, and the
16 financial condition of the plan, a test of the prior year
17 claim reserve, a brief description of how the reserves were
18 calculated, and whether or not the plan is able to cover all
19 reasonably anticipated expenses. The actuarial opinion shall
20 be prepared, signed, and dated by a person who is a member of
21 the American academy of actuaries. If necessary, the actuary
22 should assist the public body in preparing the annual
23 financial report. The annual financial report shall be in a
24 format as prescribed by the commissioner.

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

30 d. That the governing body has contracted or otherwise
31 arranged with a ~~third-party-for-plan-administration~~ third-
32 party administrator who holds a current certificate of
33 registration issued by the commissioner pursuant to section
34 510.21, or with a person not required to obtain the
35 certificate as an administrator as defined in section 510.11,

1 subsection 1.

2 Sec. 12. NEW SECTION. 510.5A UNFAIR COMPETITION OR
3 UNFAIR AND DECEPTIVE ACTS OR PRACTICES PROHIBITED.

4 A managing general agent is subject to chapter 507B
5 relating to unfair insurance trade practices.

6 Sec. 13. NEW SECTION. 510.23 UNFAIR COMPETITION OR
7 UNFAIR AND DECEPTIVE ACTS OR PRACTICES PROHIBITED.

8 An administrator is subject to chapter 507B relating to
9 unfair insurance trade practices.

10 Sec. 14. NEW SECTION. 510A.6 PENALTIES.

11 1. If the commissioner believes that a controlling
12 producer or any other person subject to this chapter has not
13 materially complied with this chapter, or any rule adopted or
14 order issued pursuant to this chapter, after notice and
15 opportunity to be heard, the commissioner may order the
16 controlling producer to cease placing business with the
17 controlled insurer. Additionally, if the commissioner finds
18 that because of such noncompliance the controlled insurer or
19 any policyholder of the controlled insurer has suffered any
20 loss or damage, the commissioner may maintain a civil action
21 or intervene in an action brought by or on behalf of the
22 insurer or policyholder for recovery of compensatory damages
23 for the benefit of the insurer or policyholder, or for other
24 appropriate relief.

25 2. If an order for liquidation or rehabilitation of the
26 controlled insurer has been entered pursuant to chapter 507C,
27 and the receiver appointed under that order believes that the
28 controlling producer or any other person has not materially
29 complied with this chapter, or any rule adopted or order
30 issued pursuant to this chapter, and that the insurer suffered
31 any loss or damage as a result of the noncompliance, the
32 receiver may maintain a civil action for recovery of damages
33 or other appropriate sanctions for the benefit of the insurer.

34 3. This section shall not be construed to affect or limit
35 the right of the commissioner to impose any other penalties,

1 as appropriate, which the commissioner is authorized to
2 impose.

3 4. This section shall not be construed to affect or limit
4 the rights of policyholders, claimants, creditors, or other
5 third parties.

6 Sec. 15. NEW SECTION. 512B.21A REQUIRED RESERVES.

7 A society shall have in cash, or in securities which are
8 authorized for investment purposes for insurance companies
9 pursuant to section 511.8, surplus in an amount not less than
10 five million dollars.

11 Sec. 16. NEW SECTION. 513A.7 UNFAIR COMPETITION OR
12 UNFAIR AND DECEPTIVE ACTS OR PRACTICES PROHIBITED.

13 A third-party payor of health care benefits is subject to
14 chapter 507B relating to unfair insurance trade practices.

15 Sec. 17. Section 514B.32, Code 1993, is amended by adding
16 the following new subsection:

17 NEW SUBSECTION. 4. A health maintenance organization
18 authorized under this chapter shall be considered a person for
19 purposes of chapter 507B.

20 Sec. 18. Section 515.81A, Code 1993, is amended to read as
21 follows:

22 515.81A CANCELLATION OF COMMERCIAL LINES POLICIES OR
23 CONTRACTS.

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

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

35 a. Nonpayment of premium.

1 b. Misrepresentation or fraud made by or with the
2 knowledge of the insured in obtaining the policy or contract,
3 when renewing the policy or contract, or in presenting a claim
4 under the policy or contract.

5 c. Actions by the insured which substantially change or
6 increase the risk insured.

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

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

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

23 a. The volatility of the premiums charged for reinsurance
24 in the market.

25 b. The number of reinsurers in the market.

26 c. The variance in the premiums for reinsurance offered by
27 the reinsurers in the market.

28 d. The attempt by the insurer to obtain alternate
29 reinsurance.

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

31 4. A commercial line policy or contract of insurance,
32 except a policy or contract for crop hail or multiperil crop
33 insurance, shall not be canceled except by notice to the
34 insured as provided in this subsection. A notice of
35 cancellation shall include the reason for cancellation of the

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

11 Sec. 19. NEW SECTION. 515.130 REBATES PROHIBITED.

12 An insurance company or an employee of the insurance
13 company, or an agent, shall not pay, allow, or give, or offer
14 to pay, allow, or give, directly or indirectly, as an
15 inducement to purchase or acquire insurance or after insurance
16 has been effected, any rebate, discount, abatement, credit, or
17 reduction of the premium named in a policy of insurance, or
18 any special favor or advantage in the dividends or other
19 benefits to accrue on the policy, or any valuable
20 consideration or inducement, not specified in the policy,
21 except to the extent provided for in an applicable filing. An
22 insured named in a policy, or an employee of the insured,
23 shall not knowingly receive or accept, directly or indirectly,
24 any rebate, discount, abatement, credit, or reduction of
25 premium, or any such special favor or advantage or valuable
26 consideration or inducement.

27 This section shall not be construed to prohibit the payment
28 of commissions or other compensation to duly licensed agents,
29 or to prohibit any insurer from allowing or returning to its
30 participating policyholders, members, or subscribers,
31 dividends, savings, or unabsorbed premium deposits. As used
32 in this section, "insurance" includes suretyship and "policy"
33 includes bond.

34 Sec. 20. Section 515.147, Code 1993, is amended to read as
35 follows:

1 515.147 BUSINESS WITH NONADMITTED INSURERS.

2 This chapter does not prevent a licensed resident or
3 nonresident agent of this state, qualified to write excess and
4 surplus lines insurance, from procuring insurance in certain
5 nonadmitted insurers if such insurance is restricted to the
6 type and kind of insurance authorized by this chapter,
7 excluding insurance authorized under section 515.48,
8 subsection 5, paragraph "a", and the agent makes oath to the
9 commissioner of insurance in the form prescribed by the
10 commissioner that the agent has made diligent effort to place
11 the insurance in authorized insurers and has either exhausted
12 the capacity of all authorized insurers or has been unable to
13 obtain the desired insurance in insurers licensed to transact
14 business in this state. The procuring of a contract of
15 insurance in a nonadmitted insurer makes the insurer liable
16 for, and the agent shall pay, the taxes on the premiums as if
17 the insurer were duly authorized to transact business in the
18 state. A sworn report of all business transacted by agents of
19 this state in nonadmitted insurers shall be made to the
20 commissioner of insurance on or before March 1 of each year
21 for the preceding calendar year, on the form required by the
22 commissioner of insurance. The report shall be accompanied by
23 a remittance to cover the taxes on the premiums. An agent who
24 makes the oath, pays the taxes on the premiums, and files the
25 report has not written such contracts of insurance unlawfully,
26 and is not personally liable for the contracts.

27 Sec. 21. Section 515A.4, Code 1993, is amended by adding
28 the following new subsection:

29 NEW SUBSECTION. 9. If a hearing is requested pursuant to
30 section 515A.6, subsection 7, a filing shall not take effect
31 until thirty days after formal approval is given by the
32 commissioner.

33 Sec. 22. Section 515A.16, Code 1993, is amended to read as
34 follows:

35 515A.16 REBATES-PROHIBITED PREMIUMS.

1 No An agent shall not knowingly charge, demand, or receive
2 a premium for any policy of insurance except in accordance
3 with the provisions of this chapter. ~~No insurer or employee~~
4 ~~thereof, and no agent, shall pay, allow, or give, or offer to~~
5 ~~pay, allow, or give, directly or indirectly, as an inducement~~
6 ~~to insurance or after insurance has been effected, any rebate,~~
7 ~~discount, abatement, credit or reduction of the premium named~~
8 ~~in a policy of insurance, or any special favor or advantage in~~
9 ~~the dividends or other benefits to accrue thereon, or any~~
10 ~~valuable consideration or inducement whatever, not specified~~
11 ~~in the policy of insurance, except to the extent provided for~~
12 ~~in an applicable filing. -- No insured named in a policy of~~
13 ~~insurance, nor any employee of such insured shall knowingly~~
14 ~~receive or accept, directly or indirectly, any such rebate,~~
15 ~~discount, abatement, credit or reduction of premium, or any~~
16 ~~such special favor or advantage or valuable consideration or~~
17 ~~inducement.~~

18 Nothing in this section shall be construed as prohibiting
19 the payment of commissions or other compensation to duly
20 licensed agents, nor as prohibiting any insurer from allowing
21 or returning to its participating policyholders, members or
22 subscribers, dividends, savings or unabsorbed premium
23 deposits. -- As used in this section the word "insurance"
24 includes suretyship and the word "policy" includes bond.

25 Sec. 23. Section 515B.2, subsection 3, Code 1993, is
26 amended to read as follows:

27 3. a. "Covered claim" means an unpaid claim, including
28 one for unearned premiums, which arises out of and is within
29 the coverage and is subject to the applicable limits of an
30 insurance policy to which this chapter applies issued by an
31 insurer, if such insurer becomes an insolvent insurer after
32 July 1, 1970, and one of the following conditions exists:

33 (1) The claimant or insured is a resident of this state at
34 the time of the insured event. Other than an individual, the
35 residence of the claimant or insured is the state in which its

1 principal place of business is located.

2 (2) The claim is one a first party claim by an insured for
3 damage to property permanently located in this state.

4 b. "Covered claim" does not include any amount as follows:

5 (1) That is due any reinsurer, insurer, insurance pool,
6 underwriting association, or other group assuming insurance
7 risks, as subrogation, contribution, or indemnity recoveries,
8 or otherwise.

9 (2) That constitutes the portion of a claim that is within
10 an insured's deductible or self-insured retention.

11 (3) That is a claim for unearned premium calculated on a
12 retrospective basis, experience-rated plan, or premium subject
13 to adjustment after termination of the policy.

14 (4) That is due an attorney, adjuster, or witness as fees
15 for services rendered to the insolvent insurer.

16 (5) That is a fine, penalty, interest, or punitive or
17 exemplary damages.

18 (6) That constitutes a claim under a policy issued by an
19 insolvent insurer with a deductible or self-insured retention
20 of two hundred thousand dollars or more. However, such a
21 claim shall be considered a covered claim, if as of the
22 deadline set for the filing of claims against the insolvent
23 insurer or its liquidator, the insured is a debtor under 11
24 U.S.C. § 701 et seq.

25 (7) That would otherwise be a covered claim, but is an
26 obligation to or on behalf of a person who has a net worth, on
27 the date of the occurrence giving rise to the claim, greater
28 than that allowed by the guarantee fund law of the state of
29 residence of the claimant, and which state has denied coverage
30 to that claimant on that basis.

31 (8) That is an obligation owed to or on behalf of an
32 affiliate of, as defined in section 521A.1, an insolvent
33 insurer.

34 Notwithstanding the subparagraphs of this lettered
35 paragraph, a person is not prevented from presenting a

1 noncovered claim to the insolvent insurer or its liquidator,
2 but the noncovered claim shall not be asserted against any
3 other person, including the person to whom benefits were paid
4 or the insured of the insolvent insurer, except to the extent
5 that the claim is outside the coverage of the policy issued by
6 the insolvent insurer.

7 Sec. 24. Section 515B.17, Code 1993, is amended to read as
8 follows:

9 515B.17 TIMELY FILING OF CLAIMS.

10 Notwithstanding any other provision of this chapter, a
11 covered claim shall not include any claim filed with the
12 association after the final date set by the court for the
13 filing of claims against the insolvent insurer or its
14 receiver. ~~However-the-association-may-waive-the-requirement~~
15 ~~of-this-section-when-in-its-discretion-the-claim-was-not~~
16 ~~timely-presented-due-to-circumstances-beyond-the-control-of~~
17 ~~the-person-having-the-claim.~~

18 Sec. 25. Section 515C.7, Code 1993, is amended to read as
19 follows:

20 515C.7 RATE-MAKING PROVISIONS.

21 Mortgage guaranty insurance shall be subject to the
22 provisions of chapter 515A 515F, for the purposes of rate
23 making.

24 Sec. 26. Section 515E.10, Code 1993, is amended by adding
25 the following new unnumbered paragraph:

26 NEW UNNUMBERED PARAGRAPH. A risk retention group or
27 purchasing group operating under this chapter shall be
28 considered a person for purposes of chapter 507B.

29 Sec. 27. Section 521A.3, subsection 4, Code 1993, is
30 amended by adding the following new paragraph:

31 NEW PARAGRAPH. c. The commissioner may retain any
32 attorneys, actuaries, accountants, and other experts not
33 otherwise a part of the commissioner's staff as may be
34 reasonably necessary to assist the commissioner in reviewing
35 the proposed merger or acquisition of control, the reasonable

1 cost of which shall be paid by the acquiring party.

2 Sec. 28. Section 521A.5, subsection 1, paragraph a,
3 subparagraph (5), Code 1993, is amended to read as follows:

4 (5) After any material transaction with an affiliate and
5 after any dividends or distributions to shareholder
6 affiliates, the insurer's surplus as regards policyholders
7 shall be reasonable in relation to the insurer's outstanding
8 liabilities and adequate to its financial needs.

9 Sec. 29. Section 521A.5, subsection 1, paragraphs b and c,
10 Code 1993, are amended to read as follows:

11 b. A domestic insurer and a person in its holding company
12 system shall not enter into any of the following transactions
13 between each other involving amounts equal to or exceeding the
14 lesser of five three percent of the a nonlife insurer's
15 admitted assets or twenty-five percent of the surplus as
16 regards policyholders with respect to nonlife insurers, and
17 equal to or exceeding three percent of the insurer's admitted
18 assets with respect to life insurers, each as of the next
19 preceding December 31, unless the domestic insurer notifies
20 the commissioner in writing of its intention to enter into the
21 transaction at least thirty days prior to entering into the
22 transaction or within a shorter time permitted by the
23 commissioner and the commissioner has not disapproved of the
24 transaction within the time period:

- 25 (1) Sales.
- 26 (2) Purchases.
- 27 (3) Exchanges.
- 28 (4) Loans or extensions of credit.
- 29 (5) Guarantees.
- 30 (6) Investments.
- 31 (7) Loans or extensions of credit to a person who is not
32 an affiliate, if the domestic insurer makes the loans or
33 extensions of credit with the agreement or understanding that
34 the proceeds of the transactions, in whole or in substantial
35 part, are to be used to make loans or extensions of credit to,

1 to purchase assets of, or to make investments in, an affiliate
2 of the domestic insurer making the loans or extensions of
3 credit.

4 c. A domestic insurer and a person in its holding company
5 system shall not enter into any of the following transactions,
6 unless the domestic insurer notifies the commissioner in
7 writing of its intention to enter into the transaction at
8 least thirty days prior to entering into the transaction or
9 within a shorter time permitted by the commissioner and the
10 commissioner has not disapproved of the transaction within the
11 time period:

12 (1) ~~All reinsurance agreements which-in-the-aggregate-will~~
13 ~~or-may-require-as-consideration-the-net-transfer-of-assets-to~~
14 ~~or-by-the-domestic-insurer-in-an-amount,-as-of-the-next~~
15 ~~preceding-December-31,-exceeding-twenty-five-percent-of~~
16 statutory surplus or modifications to such agreements in which
17 the reinsurance premium or a change in the insurer's
18 liabilities equals or exceeds five percent of the insurer's
19 surplus as regards policyholders, as of the next preceding
20 December 31, including those agreements which may require as
21 consideration the transfer of assets from an insurer to a
22 nonaffiliate, if an agreement or understanding exists between
23 the insurer and nonaffiliate that any portion of such assets
24 will be transferred to one or more affiliates of the insurer.

25 (2) All management agreements, service contracts, and all
26 other cost-sharing arrangements involving at least one-half of
27 one percent of the insurer's surplus as of the next preceding
28 December 31.

29 (3) Any material transactions specified by rule which the
30 commissioner determines may adversely affect the interests of
31 the domestic insurer's policyholders.

32 Sec. 30. Section 521A.5, subsection 2, Code 1993, is
33 amended by adding the following new paragraph:

34 NEW PARAGRAPH. k. The quality of the company's earnings
35 and the extent to which the reported earnings include

1 extraordinary items.

2 Sec. 31. Section 521A.5, subsection 3, Code 1993, is
3 amended by striking the subsection and inserting in lieu
4 thereof the following:

5 3. DIVIDENDS AND OTHER DISTRIBUTIONS.

6 a. A domestic insurer may declare and pay dividends to its
7 shareholders only from earned surplus.

8 For the purposes of this paragraph, "earned surplus" means
9 surplus as regards policyholders less paid-in and contributed
10 surplus, and may include a fair revaluation of assets by the
11 board of directors that is reasonable under the circumstances.
12 Assets revalued by the board of directors cannot be included
13 in earned surplus until thirty days after the commissioner has
14 received notice of the revaluation and has approved the
15 revaluation. The commissioner shall approve or disapprove the
16 revaluation within thirty days after receiving notice of the
17 revaluation unless for good cause the commissioner extends the
18 approval period for an additional thirty days.

19 b. A domestic insurer shall not pay any extraordinary
20 dividend or make any other extraordinary distribution to its
21 shareholders until thirty days after the commissioner has
22 received notice of the declaration of the dividend or
23 distribution and has not disapproved such payment within the
24 period, or until the time the commissioner has approved the
25 payment within the thirty-day period.

26 For purposes of this paragraph, an "extraordinary dividend
27 or distribution" includes any dividend or distribution of cash
28 or other property, whose fair market value together with that
29 of other dividends or distributions made within the preceding
30 twelve months exceeds the greater of the following:

31 (1) Ten percent of insurer's surplus as regards
32 policyholders as of the thirty-first day of December next
33 preceding.

34 (2) The net gain from operations of the insurer, if the
35 insurer is a life insurer, or the net investment income, if

1 the insurer is not a life insurer, for the twelve-month period
2 ending the thirty-first day of December next preceding.

3 An extraordinary dividend or distribution does not include
4 pro rata distributions of any class of the insurer's own
5 securities.

6 c. A domestic insurer subject to registration under
7 section 521A.4 shall report to the commissioner all dividends
8 to shareholders within five business days following the
9 declaration of the dividends and not less than fourteen days
10 prior to the payment of the dividends. This report shall also
11 include a schedule setting forth all dividends or other
12 distributions made within the previous twelve months.

13 d. Notwithstanding any other provision of law, a domestic
14 insurer may declare an extraordinary dividend or distribution
15 which is conditional upon the commissioner's approval of the
16 dividend or distribution. Such declaration does not confer
17 any rights upon shareholders until the commissioner has
18 approved the payment of the dividend or distribution or the
19 commissioner has not disapproved the payment within the
20 thirty-day period as provided in paragraph "b".

21 Sec. 32. Section 521A.7, Code 1993, is amended to read as
22 follows:

23 521A.7 CONFIDENTIAL TREATMENT.

24 All information, documents and copies thereof obtained by
25 or disclosed to the commissioner or any other person in the
26 course of an examination or investigation made pursuant to
27 section 521A.6 and all information reported pursuant to
28 ~~section~~ sections 521A.4 and 521A.5, shall be given
29 confidential treatment and shall not be subject to subpoena
30 and shall not be made public by the commissioner or any other
31 person, except to insurance departments of other states,
32 without the prior written consent of the insurer to which it
33 pertains unless the commissioner, after giving the insurer and
34 its affiliates who would be affected thereby, notice and
35 opportunity to be heard, determines that the interests of

1 policyholders, shareholders or the public will be served by
2 the publication thereof, in which event the commissioner may
3 publish all or any part thereof in such manner as the
4 commissioner may deem appropriate.

5 Sec. 33. Section 522.2, Code 1993, is amended to read as
6 follows:

7 522.2 TERM OF LICENSE.

8 A license is valid for one-year three years.

9 Sec. 34. Section 714.8, Code 1993, is amended by adding
10 the following new subsection:

11 NEW SUBSECTION. 15. a. Prepares, presents, prepares for
12 presentation, or causes to be prepared or presented, either of
13 the following:

14 (1) An oral statement containing false, incomplete, or
15 misleading information related to an application for the
16 issuance of any insurance policy or contract, or in connection
17 with or in support of a claim for payment or other benefit
18 provided pursuant to an insurance policy or contract.

19 (2) A written statement containing false, incomplete, or
20 misleading information related to an application for the
21 issuance of any insurance policy or contract, or in connection
22 with or in support of a claim for payment or other benefit
23 provided pursuant to an insurance policy or contract.

24 b. A person who cooperates or furnishes evidence regarding
25 suspected insurance fraud, or who complies with a court order
26 to furnish such evidence or to provide testimony is not
27 subject to a criminal proceeding or to a civil penalty with
28 respect to a fraudulent insurance act related to the evidence
29 or testimony provided by the person; civil liability for
30 libel, slander, or other relevant tort action; or other civil
31 action. However, the immunity provided for in this section
32 shall not apply in a prosecution for perjury or insurance
33 fraud where the person acts with malice.

34 Sec. 35. 1990 Iowa Acts, chapter 1234, section 76, as
35 amended by 1991 Iowa Acts, chapter 213, section 35, and 1992

1 Iowa Acts, chapter 1162, section 51, is repealed.

2

EXPLANATION

3 This bill amends or creates the following Code sections:

4 Section 85.22 is amended to allow an employer to be
5 indemnified to the extent of any payment made by the employer
6 on behalf of the employee from any amount paid in the future
7 to the employee from a liable third party.

8 Section 85.61 is amended to provide that a volunteer
9 ambulance driver or emergency medical technician trainee is
10 provided workers' compensation coverage when acting in that
11 capacity.

12 Section 87.23A is created and provides that a workers'
13 compensation coverage plan is subject to chapter 507B, which
14 regulates insurance trade practices.

15 Section 505.7 is amended to require the insurance division
16 to annually prepare estimates of projected receipts generated
17 by the examination function with such funds to be available to
18 pay examination expenses.

19 Section 507B.4, subsection 1, is amended to clarify that
20 any intentional misquote of premium rate for the purpose of
21 inducing or tending to induce the purchase of an insurance
22 policy is an unfair or deceptive practice.

23 Section 507C.3 is amended to add prepaid health care
24 delivery plans to the entities subject to the supervision,
25 rehabilitation, and liquidation Act.

26 Section 507C.14 is amended to strike the authority of the
27 rehabilitator to appoint an advisory committee with respect to
28 the rehabilitation of an insurer if the rehabilitator deems
29 necessary.

30 Section 507C.26 is amended to provide that a person
31 receiving property from an insurer subject to rehabilitation
32 or liquidation pursuant to a fraudulent transfer is personally
33 liable for the property or benefit.

34 Section 507C.42 is amended to adjust the classes of claims
35 for purposes of the priority of distribution of property in an

1 insurer's estate.

2 Section 509A.14 is amended to eliminate the requirement
3 that at least once each twelve months, a governing body is to
4 obtain a certification from an outside consulting actuary that
5 the governing body's self-insurance plan for life, and
6 accident and health insurance is able to cover all reasonably
7 anticipated expenses.

8 Section 509A.15 is amended to provide that a governing body
9 of a self-insurance plan is to file an actuarial opinion and
10 annual financial report within 90 days of the end of the
11 fiscal year. A penalty of 15 dollars per day is to be
12 assessed for failure to comply with the 90 day filing
13 requirement, unless waived by the commissioner.

14 Section 510.5A is created and provides that a managing
15 general agent is subject to chapter 507B relating to unfair
16 insurance trade practices.

17 Section 510.23 is created and provides that an
18 administrator is subject to chapter 507B relating to unfair
19 insurance trade practices.

20 Section 510A.6 is created providing for penalties against
21 controlling producers failing to comply with the provisions of
22 chapter 510A.

23 Section 512B.21A is created requiring a fraternal benefit
24 society to maintain surplus in an amount not less than 5
25 million dollars.

26 Section 513A.7 is created and provides that a third-party
27 payor unable to establish that the payor is subject to the
28 jurisdiction of another state agency or the federal
29 government, is subject to the jurisdiction of the insurance
30 division.

31 Section 514B.32 is amended to provide that a health
32 maintenance organization is subject to chapter 507B relating
33 to unfair insurance trade practices.

34 Section 515.81A, relating to cancellation of commercial
35 lines policies, is amended to provide that multiperil

HOUSE FILE 495

H-3341

- 1 Amend House File 495 as follows:
- 2 1. Page 8, line 7, by inserting after the word
- 3 "society" the following: "incorporated on or after
- 4 July 1, 1993,".
- 5 2. Page 8, line 9, by striking the figure "511.8"
- 6 and inserting the following: "512B.21".

By HALVORSON of Clayton

H-3341 FILED MARCH 17, 1993

3/23/93 Adopted (P.774)

HOUSE FILE 495

H-3400

- 1 Amend House File 495 as follows:
- 2 1. Page 1, lines 28 and 29, by striking the words
- 3 "or to the extent of any payment to be made in the
- 4 future,".

By MCKINNEY of Dallas

H-3400 FILED MARCH 23, 1993

out of order 3/31/93 (P.970)

HOUSE FILE 495

H-3411

- 1 Amend House File 495, as follows:
- 2 1. Page 1, by striking line 1, through page 3,
- 3 line 19.

By RUNNING of Linn

H-3411 FILED MARCH 23, 1993

WITHDRAWN
3.31-93 (P.970)

HOUSE FILE 495

H-3412

- 1 Amend House File 495 as follows:
- 2 1. Page 1, line 28, by inserting after the word
- 3 "of" the following: "one-half of".

By RUNNING of Linn

H-3412 FILED MARCH 23, 1993

out of order 3/31/93 (P.970)

HOUSE FILE 495

H-3414

- 1 Amend House File 495 as follows:
- 2 1. Page 3, by inserting after line 19, the
- 3 following:
- 4 "8. Notwithstanding any other provision of this
- 5 section, the employer for whom the compensation was
- 6 paid, or the employer's insurer which paid the
- 7 compensation, shall not be indemnified out of the
- 8 recovery of any damages paid to the employee related
- 9 to medical expenses unless such employee selected the
- 10 employee's own health care provider with respect to
- 11 the injuries suffered."

By RUNNING of Linn

H-3414 FILED MARCH 23, 1993

WITHDRAWN
3/31/93 (P.970)

WITHDRAWN

HOUSE FILE 495

428

- 1 Amend House File 495 as follows:
2 1. Page 1, line 1, by striking the words and
3 figure "Code 1993, is" and inserting the following:
4 "subsections 2 through 6, Code 1993, are".
5 2. By striking page 1, line 3, through page 2,
6 line 3.

By HALVORSON of Clayton
TYRRELL of Iowa.

H-3428 FILED MARCH 24, 1993

adopted 3/31/93 (P.970)

HOUSE FILE 495

H-3447

- 1 Amend House File 495 as follows:
2 1. Page 3, by inserting after line 19 the
3 following:
4 "Sec. ____ . Section 85.27, Code 1993, is amended by
5 adding the following new unnumbered paragraphs:
6 NEW UNNUMBERED PARAGRAPH. Debt collection, as
7 defined in section 537.7102, shall not be undertaken
8 by any health service provider rendering treatment to
9 an employee against the employee or the employee's
10 dependents for the collection of charges in connection
11 with the treatment while a contested case proceeding
12 for determination of liability is pending before the
13 industrial commissioner relating to an injury alleged
14 to have given rise to the treatment, except that after
15 notification of the contested case proceeding the
16 health service provider rendering treatment to an
17 employee may send one itemized written bill to the
18 employee setting forth the amount of the charges in
19 connection with the treatment.
20 NEW UNNUMBERED PARAGRAPH. When it is necessary for
21 an employee to leave work for which the employee is
22 being paid wages to receive services pursuant to this
23 section, the employee shall be compensated at the
24 employee's regular rate for the time the employee is
25 required to leave work."
26 2. By renumbering as necessary.

By MCKINNEY of Dallas

H-3447 FILED MARCH 24, 1993

WITHDRAWN

3. 31- 93 (P. 970)

HOUSE FILE 495

H-3452

1 Amend House File 495 as follows:

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

4 "Sec. ____ . Section 85.30, Code 1993, is amended by
5 adding the following new unnumbered paragraph:

6 NEW UNNUMBERED PARAGRAPH. The employer shall pay
7 the reasonable charges of a person who provides
8 services or supplies pursuant to section 85.27 within
9 sixty days following a billing and any interest or
10 service charges lawfully imposed by the provider if
11 the charges are not paid when due. If a provider's
12 reasonable charges have been paid by the injured
13 employee, or a third party on the employee's behalf,
14 the employee shall be reimbursed by the employer
15 together with interest computed from the date the
16 charges were paid."

17 2. By renumbering as necessary.

By MCKINNEY of Dallas

H-3452 FILED MARCH 24, 1993

~~XXXXXXXXXX~~
3-31-93 (p.970)

HOUSE FILE 495

3454

Amend House File 495 as follows:

WITHDRAWN

1. Page 3, by striking lines 5 through 15, and inserting the following:

~~"5 6. For subrogation purposes hereunder, any payment made unto an injured employee, the employee's guardian, parent, next friend, or legal representative, by or on behalf of any third party, or the third party's principal or agent liable for, connected with, or involved in causing an injury to such employee shall be considered as having been so paid as damages resulting from and because said injury was caused under circumstances creating a legal liability against said third party, whether such payment be made under a covenant not to sue, compromise settlement, denial of liability or otherwise.~~

a. Only payments for lost earnings or medical expenses made to or directed by the employee, by or on behalf of the third party, in resolution of the employee's cause of action against the third party, constitute damages or settlement proceeds received by the employee for purposes of this section.

b. Upon receipt of a prior written notice from an employer claiming indemnification under this section, employees shall in any settlement with a third party, set forth in a written settlement document the amount, if any, of the settlement proceeds which represent damages for lost earnings or medical expenses. The employer shall be indemnified accordingly.

c. Upon petitions from an employer claiming indemnification under this section, the trier-of-fact in any third party proceeding shall separately set forth in any judgment the amount of the judgment and verdict which represents damage for lost earnings or medical expenses. The employer shall be indemnified accordingly."

2. By renumbering as necessary.

By KREIMAN of Davis
RUNNING of Linn

H-3454 FILED MARCH 24, 1993

WITHDRAWN 3/31/93 (970)

HOUSE FILE 495

H-3453

1 Amend House File 495 as follows:

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

4 "Sec. ____ . Section 85.33, subsections 3 and 4,
5 Code 1993, are amended to read as follows:

6 3. If an employee is temporarily, partially
7 disabled and the employer for whom the employee was
8 working at the time of injury offers to the employee
9 suitable work consistent with the employee's
10 disability the employee shall accept the suitable
11 work, and be compensated with temporary partial
12 benefits. If the employee refuses to accept the
13 suitable work with the employer the employee shall not
14 be compensated with temporary partial, temporary
15 total, or healing period benefits during the period of
16 the refusal. If suitable work is not offered by the
17 former employer, and an employee who is temporarily
18 partially disabled performs work with a different
19 employer, the employee shall be compensated with
20 temporary partial benefits.

21 4. If an employee is entitled to temporary partial
22 benefits under subsection 3 of this section, the
23 employer for whom the employee was working at the time
24 of injury shall pay to the employee weekly
25 compensation benefits, as provided in section 85.32,
26 for and during the period of temporary partial
27 disability. The temporary partial benefit shall be
28 sixty-six and two-thirds percent of the difference
29 between the employee's weekly earnings at the time of
30 injury, computed in compliance with section 85.36, and
31 the employee's actual gross weekly income from
32 employment during the period of temporary partial
33 disability. ~~If at the time of injury an employee is~~
34 ~~paid on the basis of the output of the employee, with~~
35 ~~a minimum guarantee pursuant to a written employment~~
36 ~~agreement, the minimum guarantee shall be used as the~~
37 ~~employee's weekly earnings at the time of injury.~~
38 However, the weekly compensation benefits shall not
39 exceed the payments to which the employee would be
40 entitled under section 85.36 or section 85.37, or
41 under subsection 1 of this section."

42 2. Renumber as necessary.

By MCKINNEY of Dallas

H-3453 FILED MARCH 24, 1993

WITHDRAWN

3/31/93
(p. 970)

HOUSE FILE 495

H-3483

- 1 Amend House File 495 as follows:
2 1. Page 19, line 11, by striking the letter "a."
3 2. Page 19, line 14, by striking the figure "(1)"
4 and inserting the following: "a."
5 3. Page 19, line 19, by striking the figure "(2)"
6 and inserting the following: "b."
7 4. Page 19, by striking lines 24 through 33.
By MCKINNEY of Dallas

H-3483 FILED MARCH 25, 1993

WITHDRAWN
3-31-93 (p.972)

HOUSE FILE 495

H-3484

- 1 Amend House File 495 as follows:
2 1. Page 4, by inserting after line 3 the
3 following:
4 "Sec. ____ . Section 86.13, unnumbered paragraph 4,
5 Code 1993, is amended to read as follows:
6 If a delay in commencement or termination of weekly
7 benefits payable under this chapter or chapter 85,
8 85A, or 85B, or delay or denial of payment of
9 reasonable charges from providers of services or
10 supplies pursuant to section 85.27, occurs without
11 reasonable or probable cause or excuse, the industrial
12 commissioner shall award benefits amounts in addition
13 to those benefits amounts payable under this chapter,
14 or chapter 85, 85A, or 85B, up to fifty percent of the
15 amount of benefits or charges that were unreasonably
16 delayed, terminated, or denied. Any additional
17 amount awarded under this section is due on the date
18 of the decision of the award and if not paid when due
19 interest accrues at the rate provided in section
20 85.30."
21 2. Renumber as necessary.

WITHDRAWN
3-31-93 (p.970)
By MCKINNEY of Dallas

H-3484 FILED MARCH 25, 1993

HOUSE FILE 495

H-3600

- 1 Amend the amendment, H-3483, to House File 495 as
2 follows:
3 1. Page 1, by striking lines 2 through 7 and
4 inserting the following:
5 " ____ . Page 19, line 24, by inserting after the
6 word "person" the following: ", when acting without
7 malice, "."
8 2. Renumber as necessary.

By HALVORSON of Clayton

H-3600 FILED MARCH 31, 1993

ADOPTED

4-1-93 Senate - Comm. on
4-12-93 Senate - Ref. to W. & M. Com.
4-15-93 Senate - Do Pass

HOUSE FILE 495
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 208)

(As Amended and Passed the House March 31, 1993)

Passed House, Date ^(P.1516) 4/21/93 Passed Senate, Date ^(P.1236) 4/20/93
Vote: Ayes 93 Nays 3 Vote: Ayes 50 Nays 0
Approved May 3, 1993

A BILL FOR

1 An Act relating to regulation of insurance, including the
2 authority of the division to regulate certain policies and
3 contracts and the parties to such policies and contracts,
4 establishing fees, and providing a penalty.

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

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House Amendments _____
Deleted Language *

1 Section 1. Section 85.22, subsections 2 through 6, Code
2 1993, are amended to read as follows:

*3 2. In case the employee fails to bring such an action
4 within ninety days, or where a city or a city under special
5 charter is such the third party, within thirty days after
6 written notice so to do given by the employer or the
7 employer's insurer, as the case may be, then the employer or
8 the insurer ~~shall-be~~ is subrogated to the rights of the
9 employee to maintain the action against such the third party,
10 and may recover damages for the injury to the same extent that
11 the employee might.

12 3. In case of recovery under subsection 1 or 2, the court
13 shall enter judgment for distribution of the proceeds ~~thereof~~
14 of the recovery as follows:

15 a. A sum sufficient to repay the employer for the amount
16 of compensation actually paid by the employer to that time.

17 b. A sum sufficient to pay the employer the present worth,
18 computed at the interest rate provided in section 535.3 for
19 court judgments and decrees, of the future payments of
20 compensation for which the employer is liable, but the sum is
21 not a final adjudication of the future payments which the
22 employee is entitled to receive and if the sum received by the
23 employer is in excess of the amount required to pay the
24 compensation, the excess shall be paid to the employee.

25 c. The balance, if any, shall be paid over to the
26 employee.

27 3 4. Before a settlement ~~shall-become~~ becomes effective
28 between an employee or an employer and such the third party
29 who is liable for the injury, it must be with the written
30 consent of the employee, in case the settlement is between the
31 employer or insurer and such the third person; and the consent
32 of the employer or insurer, in case the settlement is between
33 the employee and such the third party; or on refusal of
34 consent, in either case, then upon the written approval of the
35 industrial commissioner.

1 4 5. A written memorandum of any settlement, if made,
2 shall be filed by the employer or insurance carrier in the
3 office of the industrial commissioner.

4 5 6. For subrogation purposes ~~hereunder~~ under this
5 section, any payment made ~~unto~~ to an injured employee, the
6 employee's guardian, parent, next friend, or legal
7 representative, by or on behalf of any third party, or the
8 third party's principal or agent liable for, connected with,
9 or involved in causing an injury to ~~such~~ the employee shall be
10 considered as having been so paid as damages resulting from
11 and because ~~said~~ the injury was caused under circumstances
12 creating a legal liability against ~~said~~ the third party,
13 whether such payment ~~be-made~~ is under a covenant not to sue,
14 compromise settlement, denial of liability, or otherwise.

15 6 7. When the state of Iowa has paid any compensation or
16 benefits under the provisions of this chapter, the word
17 "employer" as used in this section ~~shall-mean~~ means and
18 ~~include~~ includes the state of Iowa.

19 Sec. 2. Section 85.61, subsection 11, unnumbered paragraph
20 3, Code 1993, is amended to read as follows:

21 "Worker" or "employee" includes a basic emergency medical
22 care provider as defined in section 147.1, ~~or~~ an advanced
23 emergency medical care provider as defined in section 147A.1,
24 a volunteer ambulance driver, or an emergency medical
25 technician trainee, only if an agreement is reached between
26 ~~the-basic-or-advanced-emergency-medical-care-provider~~ such
27 worker or employee and the employer for whom the volunteer
28 services are provided that workers' compensation coverage
29 under chapters 85, 85A, and 85B is to be provided by the
30 employer. A basic or advanced emergency medical care provider
31 who is a worker or employee under this paragraph is not a
32 casual employee. "Volunteer ambulance driver" means a person
33 performing services as a volunteer ambulance driver at the
34 request of the person in charge of a fire department or
35 ambulance service of a municipality. "Emergency medical

1 technician trainee" means a person enrolled in and training
2 for emergency medical technician certification.

3 Sec. 3. NEW SECTION. 87.23A INSURANCE TRADE PRACTICES
4 COVERED.

5 A workers' compensation coverage plan regulated under this
6 chapter shall be considered a person for purposes of chapter
7 507B.

8 Sec. 4. Section 505.7, Code 1993, is amended by adding the
9 following new subsection:

10 NEW SUBSECTION. 7. The insurance division shall, by
11 January 15 of each year, prepare estimates of projected
12 receipts, refunds, and reimbursements to be generated by the
13 examinations function of the division during the calendar year
14 in which the report is due, and such receipts, refunds, and
15 reimbursements shall be treated in the same manner as
16 repayment receipts, as defined in section 8.2, subsection 8,
17 and shall be available to the division to pay the expenses of
18 the division's examination function.

19 Sec. 5. Section 507B.4, subsection 1, Code 1993, is
20 amended by adding the following new paragraph:

21 NEW PARAGRAPH. j. Is a misrepresentation, including any
22 intentional misquote of premium rate, for the purpose of
23 inducing or tending to induce the purchase of an insurance
24 policy.

25 Sec. 6. Section 507C.3, Code 1993, is amended by adding
26 the following new subsection:

27 NEW SUBSECTION. 6. Prepaid health care delivery plans
28 which are regulated by the commissioner.

29 Sec. 7. Section 507C.14, subsection 3, Code 1993, is
30 amended by striking the subsection.

31 Sec. 8. Section 507C.26, Code 1993, is amended by adding
32 the following new subsection:

33 NEW SUBSECTION. 4. A person receiving property from an
34 insurer or any benefit from an insurer which is a fraudulent
35 transfer under subsection 1 is personally liable for the

1 property or benefit and shall account to the liquidator.

2 Sec. 9. Section 507C.42, subsections 3 and 4, Code 1993,
3 are amended to read as follows:

4 3. CLASS 3. Claims under policies, including claims of
5 the federal or any state or local government, for losses
6 incurred, including third-party claims, claims against the
7 insurer for liability for bodily injury or for injury to or
8 destruction of tangible property which are not under policies,
9 and claims of a guaranty association or foreign guaranty
10 association. ~~Claims under nonassessable policies~~ for unearned
11 premium. Claims under life insurance and annuity policies,
12 whether for death proceeds, annuity proceeds, or investment
13 values shall be treated as loss claims. That portion of a
14 loss, indemnification for which is provided by other benefits
15 or advantages recovered by the claimant, shall not be included
16 in this class, other than benefits or advantages recovered or
17 recoverable in discharge of familial obligations of support or
18 by way of succession at death or as proceeds of life
19 insurance, or as gratuities. A payment by an employer to an
20 employee is not a gratuity.

21 4. CLASS 4. ~~Premium-refunds, claims~~ Claims of general
22 creditors, including claims of ceding and assuming reinsurers
23 in their capacity as such, and subrogation claims.

24 Sec. 10. Section 509A.14, subsection 2, Code 1993, is
25 amended by striking the subsection.

26 Sec. 11. Section 509A.15, subsection 1, Code 1993, is
27 amended to read as follows:

28 1. Within ninety days following the end of a fiscal year,
29 the governing body of a self-insurance plan of a political
30 subdivision or a school corporation shall file with the
31 commissioner of insurance a certificate of compliance,
32 actuarial opinion, and an annual financial report. The
33 ~~certificate-of-compliance filing~~ shall be accompanied by a
34 filing fee of one hundred dollars. A penalty of fifteen
35 dollars per day shall be assessed for failure to comply with

1 the ninety-day filing requirement, except that the
2 commissioner may waive the penalty upon a showing that special
3 circumstances exist which justify the waiver. The certificate
4 shall be signed and dated by the appropriate public official
5 representing the governing body, and shall certify the
6 following:

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

9 b. That an actuarial opinion has been attached to the
10 certificate which attests to the adequacy of reserves, rates,
11 and financial condition of the plan. ~~The actuarial opinion~~
12 ~~shall be issued by a fellow of the society of actuaries.~~ The
13 actuarial opinion must include, but is not limited to, a brief
14 commentary about the adequacy of the reserves, rates, and the
15 financial condition of the plan, a test of the prior year
16 claim reserve, a brief description of how the reserves were
17 calculated, and whether or not the plan is able to cover all
18 reasonably anticipated expenses. The actuarial opinion shall
19 be prepared, signed, and dated by a person who is a member of
20 the American academy of actuaries. If necessary, the actuary
21 should assist the public body in preparing the annual
22 financial report. The annual financial report shall be in a
23 format as prescribed by the commissioner.

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

29 d. That the governing body has contracted or otherwise
30 arranged with a ~~third-party-for-plan-administration~~ third-
31 party administrator who holds a current certificate of
32 registration issued by the commissioner pursuant to section
33 510.21, or with a person not required to obtain the
34 certificate as an administrator as defined in section 510.11,
35 subsection 1.

1 Sec. 12. NEW SECTION. 510.5A UNFAIR COMPETITION OR
2 UNFAIR AND DECEPTIVE ACTS OR PRACTICES PROHIBITED.

3 A managing general agent is subject to chapter 507B
4 relating to unfair insurance trade practices.

5 Sec. 13. NEW SECTION. 510.23 UNFAIR COMPETITION OR
6 UNFAIR AND DECEPTIVE ACTS OR PRACTICES PROHIBITED.

7 An administrator is subject to chapter 507B relating to
8 unfair insurance trade practices.

9 Sec. 14. NEW SECTION. 510A.6 PENALTIES.

10 1. If the commissioner believes that a controlling
11 producer or any other person subject to this chapter has not
12 materially complied with this chapter, or any rule adopted or
13 order issued pursuant to this chapter, after notice and
14 opportunity to be heard, the commissioner may order the
15 controlling producer to cease placing business with the
16 controlled insurer. Additionally, if the commissioner finds
17 that because of such noncompliance the controlled insurer or
18 any policyholder of the controlled insurer has suffered any
19 loss or damage, the commissioner may maintain a civil action
20 or intervene in an action brought by or on behalf of the
21 insurer or policyholder for recovery of compensatory damages
22 for the benefit of the insurer or policyholder, or for other
23 appropriate relief.

24 2. If an order for liquidation or rehabilitation of the
25 controlled insurer has been entered pursuant to chapter 507C,
26 and the receiver appointed under that order believes that the
27 controlling producer or any other person has not materially
28 complied with this chapter, or any rule adopted or order
29 issued pursuant to this chapter, and that the insurer suffered
30 any loss or damage as a result of the noncompliance, the
31 receiver may maintain a civil action for recovery of damages
32 or other appropriate sanctions for the benefit of the insurer.

33 3. This section shall not be construed to affect or limit
34 the right of the commissioner to impose any other penalties,
35 as appropriate, which the commissioner is authorized to

1 impose.

2 4. This section shall not be construed to affect or limit
3 the rights of policyholders, claimants, creditors, or other
4 third parties.

5 Sec. 15. NEW SECTION. 512B.21A REQUIRED RESERVES.

6 A society incorporated on or after July 1, 1993, shall have
7 in cash, or in securities which are authorized for investment
8 purposes for insurance companies pursuant to section 512B.21,
9 surplus in an amount not less than five million dollars.

10 Sec. 16. NEW SECTION. 513A.7 UNFAIR COMPETITION OR
11 UNFAIR AND DECEPTIVE ACTS OR PRACTICES PROHIBITED.

12 A third-party payor of health care benefits is subject to
13 chapter 507B relating to unfair insurance trade practices.

14 Sec. 17. Section 514B.32, Code 1993, is amended by adding
15 the following new subsection:

16 NEW SUBSECTION. 4. A health maintenance organization
17 authorized under this chapter shall be considered a person for
18 purposes of chapter 507B.

19 Sec. 18. Section 515.81A, Code 1993, is amended to read as
20 follows:

21 515.81A CANCELLATION OF COMMERCIAL LINES POLICIES OR
22 CONTRACTS.

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

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

34 a. Nonpayment of premium.

35 b. Misrepresentation or fraud made by or with the

1 knowledge of the insured in obtaining the policy or contract,
2 when renewing the policy or contract, or in presenting a claim
3 under the policy or contract.

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

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

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

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

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

24 b. The number of reinsurers in the market.

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

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

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

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

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

10 Sec. 19. NEW SECTION. 515.130 REBATES PROHIBITED.

11 An insurance company or an employee of the insurance
12 company, or an agent, shall not pay, allow, or give, or offer
13 to pay, allow, or give, directly or indirectly, as an
14 inducement to purchase or acquire insurance or after insurance
15 has been effected, any rebate, discount, abatement, credit, or
16 reduction of the premium named in a policy of insurance, or
17 any special favor or advantage in the dividends or other
18 benefits to accrue on the policy, or any valuable
19 consideration or inducement, not specified in the policy,
20 except to the extent provided for in an applicable filing. An
21 insured named in a policy, or an employee of the insured,
22 shall not knowingly receive or accept, directly or indirectly,
23 any rebate, discount, abatement, credit, or reduction of
24 premium, or any such special favor or advantage or valuable
25 consideration or inducement.

26 This section shall not be construed to prohibit the payment
27 of commissions or other compensation to duly licensed agents,
28 or to prohibit any insurer from allowing or returning to its
29 participating policyholders, members, or subscribers,
30 dividends, savings, or unabsorbed premium deposits. As used
31 in this section, "insurance" includes suretyship and "policy"
32 includes bond.

33 Sec. 20. Section 515.147, Code 1993, is amended to read as
34 follows:

35 515.147 BUSINESS WITH NONADMITTED INSURERS.

1 This chapter does not prevent a licensed resident or
2 nonresident agent of this state, qualified to write excess and
3 surplus lines insurance, from procuring insurance in certain
4 nonadmitted insurers if such insurance is restricted to the
5 type and kind of insurance authorized by this chapter,
6 excluding insurance authorized under section 515.48,
7 subsection 5, paragraph "a", and the agent makes oath to the
8 commissioner of insurance in the form prescribed by the
9 commissioner that the agent has made diligent effort to place
10 the insurance in authorized insurers and has either exhausted
11 the capacity of all authorized insurers or has been unable to
12 obtain the desired insurance in insurers licensed to transact
13 business in this state. The procuring of a contract of
14 insurance in a nonadmitted insurer makes the insurer liable
15 for, and the agent shall pay, the taxes on the premiums as if
16 the insurer were duly authorized to transact business in the
17 state. A sworn report of all business transacted by agents of
18 this state in nonadmitted insurers shall be made to the
19 commissioner of insurance on or before March 1 of each year
20 for the preceding calendar year, on the form required by the
21 commissioner of insurance. The report shall be accompanied by
22 a remittance to cover the taxes on the premiums. An agent who
23 makes the oath, pays the taxes on the premiums, and files the
24 report has not written such contracts of insurance unlawfully,
25 and is not personally liable for the contracts.

26 Sec. 21. Section 515A.4, Code 1993, is amended by adding
27 the following new subsection:

28 NEW SUBSECTION. 9. If a hearing is requested pursuant to
29 section 515A.6, subsection 7, a filing shall not take effect
30 until thirty days after formal approval is given by the
31 commissioner.

32 Sec. 22. Section 515A.16, Code 1993, is amended to read as
33 follows:

34 515A.16 REBATES-PROHIBITED PREMIUMS.

35 No An agent shall not knowingly charge, demand, or receive

1 a premium for any policy of insurance except in accordance
2 with the provisions of this chapter. ~~No insurer or employee~~
3 ~~thereof, and no agent, shall pay, allow, or give, or offer to~~
4 ~~pay, allow, or give, directly or indirectly, as an inducement~~
5 ~~to insurance or after insurance has been effected, any rebate,~~
6 ~~discount, abatement, credit or reduction of the premium named~~
7 ~~in a policy of insurance, or any special favor or advantage in~~
8 ~~the dividends or other benefits to accrue thereon, or any~~
9 ~~valuable consideration or inducement whatever, not specified~~
10 ~~in the policy of insurance, except to the extent provided for~~
11 ~~in an applicable filing. -- No insured named in a policy of~~
12 ~~insurance, nor any employee of such insured, shall knowingly~~
13 ~~receive or accept, directly or indirectly, any such rebate,~~
14 ~~discount, abatement, credit or reduction of premium, or any~~
15 ~~such special favor or advantage or valuable consideration or~~
16 ~~inducement.~~

17 Nothing in this section shall be construed as prohibiting
18 the payment of commissions or other compensation to duly
19 licensed agents, nor as prohibiting any insurer from allowing
20 or returning to its participating policyholders, members or
21 subscribers, dividends, savings or unabsorbed premium
22 deposits. -- As used in this section the word "insurance"
23 includes suretyship and the word "policy" includes bond.

24 Sec. 23. Section 515B.2, subsection 3, Code 1993, is
25 amended to read as follows:

26 3. a. "Covered claim" means an unpaid claim, including
27 one for unearned premiums, which arises out of and is within
28 the coverage and is subject to the applicable limits of an
29 insurance policy to which this chapter applies issued by an
30 insurer, if such insurer becomes an insolvent insurer after
31 July 1, 1970, and one of the following conditions exists:

32 (1) The claimant or insured is a resident of this state at
33 the time of the insured event. Other than an individual, the
34 residence of the claimant or insured is the state in which its
35 principal place of business is located.

1 (2) The claim is ~~one~~ a first party claim by an insured for
2 damage to property permanently located in this state.

3 b. "Covered claim" does not include any amount as follows:

4 (1) That is due any reinsurer, insurer, insurance pool,
5 underwriting association, or other group assuming insurance
6 risks, as subrogation, contribution, or indemnity recoveries,
7 or otherwise.

8 (2) That constitutes the portion of a claim that is within
9 an insured's deductible or self-insured retention.

10 (3) That is a claim for unearned premium calculated on a
11 retrospective basis, experience-rated plan, or premium subject
12 to adjustment after termination of the policy.

13 (4) That is due an attorney, adjuster, or witness as fees
14 for services rendered to the insolvent insurer.

15 (5) That is a fine, penalty, interest, or punitive or
16 exemplary damages.

17 (6) That constitutes a claim under a policy issued by an
18 insolvent insurer with a deductible or self-insured retention
19 of two hundred thousand dollars or more. However, such a
20 claim shall be considered a covered claim, if as of the
21 deadline set for the filing of claims against the insolvent
22 insurer or its liquidator, the insured is a debtor under 11
23 U.S.C. § 701 et seq.

24 (7) That would otherwise be a covered claim, but is an
25 obligation to or on behalf of a person who has a net worth, on
26 the date of the occurrence giving rise to the claim, greater
27 than that allowed by the guarantee fund law of the state of
28 residence of the claimant, and which state has denied coverage
29 to that claimant on that basis.

30 (8) That is an obligation owed to or on behalf of an
31 affiliate of, as defined in section 521A.1, an insolvent
32 insurer.

33 Notwithstanding the subparagraphs of this lettered
34 paragraph, a person is not prevented from presenting a
35 noncovered claim to the insolvent insurer or its liquidator,

1 but the noncovered claim shall not be asserted against any
2 other person, including the person to whom benefits were paid
3 or the insured of the insolvent insurer, except to the extent
4 that the claim is outside the coverage of the policy issued by
5 the insolvent insurer.

6 Sec. 24. Section 515B.17, Code 1993, is amended to read as
7 follows:

8 515B.17 TIMELY FILING OF CLAIMS.

9 Notwithstanding any other provision of this chapter, a
10 covered claim shall not include any claim filed with the
11 association after the final date set by the court for the
12 filing of claims against the insolvent insurer or its
13 receiver. ~~However-the-association-may-waive-the-requirement~~
14 ~~of-this-section-when-in-its-discretion-the-claim-was-not~~
15 ~~timely-presented-due-to-circumstances-beyond-the-control-of~~
16 ~~the-person-having-the-claim.~~

17 Sec. 25. Section 515C.7, Code 1993, is amended to read as
18 follows:

19 515C.7 RATE-MAKING PROVISIONS.

20 Mortgage guaranty insurance shall be subject to the
21 provisions of chapter ~~515A~~ 515F, for the purposes of rate
22 making.

23 Sec. 26. Section 515E.10, Code 1993, is amended by adding
24 the following new unnumbered paragraph:

25 NEW UNNUMBERED PARAGRAPH. A risk retention group or
26 purchasing group operating under this chapter shall be
27 considered a person for purposes of chapter 507B.

28 Sec. 27. Section 521A.3, subsection 4, Code 1993, is
29 amended by adding the following new paragraph:

30 NEW PARAGRAPH. c. The commissioner may retain any
31 attorneys, actuaries, accountants, and other experts not
32 otherwise a part of the commissioner's staff as may be
33 reasonably necessary to assist the commissioner in reviewing
34 the proposed merger or acquisition of control, the reasonable
35 cost of which shall be paid by the acquiring party.

1 Sec. 28. Section 521A.5, subsection 1, paragraph a,
2 subparagraph (5), Code 1993, is amended to read as follows:

3 (5) After any material transaction with an affiliate and
4 after any dividends or distributions to shareholder
5 affiliates, the insurer's surplus as regards policyholders
6 shall be reasonable in relation to the insurer's outstanding
7 liabilities and adequate to its financial needs.

8 Sec. 29. Section 521A.5, subsection 1, paragraphs b and c,
9 Code 1993, are amended to read as follows:

10 b. A domestic insurer and a person in its holding company
11 system shall not enter into any of the following transactions
12 between each other involving amounts equal to or exceeding the
13 lesser of five three percent of the a nonlife insurer's
14 admitted assets or twenty-five percent of the surplus as
15 regards policyholders with respect to nonlife insurers, and
16 equal to or exceeding three percent of the insurer's admitted
17 assets with respect to life insurers, each as of the next
18 preceding December 31, unless the domestic insurer notifies
19 the commissioner in writing of its intention to enter into the
20 transaction at least thirty days prior to entering into the
21 transaction or within a shorter time permitted by the
22 commissioner and the commissioner has not disapproved of the
23 transaction within the time period:

24 (1) Sales.

25 (2) Purchases.

26 (3) Exchanges.

27 (4) Loans or extensions of credit.

28 (5) Guarantees.

29 (6) Investments.

30 (7) Loans or extensions of credit to a person who is not
31 an affiliate, if the domestic insurer makes the loans or
32 extensions of credit with the agreement or understanding that
33 the proceeds of the transactions, in whole or in substantial
34 part, are to be used to make loans or extensions of credit to,
35 to purchase assets of, or to make investments in, an affiliate

1 of the domestic insurer making the loans or extensions of
2 credit.

3 c. A domestic insurer and a person in its holding company
4 system shall not enter into any of the following transactions,
5 unless the domestic insurer notifies the commissioner in
6 writing of its intention to enter into the transaction at
7 least thirty days prior to entering into the transaction or
8 within a shorter time permitted by the commissioner and the
9 commissioner has not disapproved of the transaction within the
10 time period:

11 (1) ~~All reinsurance agreements which in the aggregate will~~
12 ~~or may require as consideration the net transfer of assets to~~
13 ~~or by the domestic insurer in an amount, as of the next~~
14 ~~preceding December 31, exceeding twenty-five percent of~~
15 statutory surplus or modifications to such agreements in which
16 the reinsurance premium or a change in the insurer's
17 liabilities equals or exceeds five percent of the insurer's
18 surplus as regards policyholders, as of the next preceding
19 December 31, including those agreements which may require as
20 consideration the transfer of assets from an insurer to a
21 nonaffiliate, if an agreement or understanding exists between
22 the insurer and nonaffiliate that any portion of such assets
23 will be transferred to one or more affiliates of the insurer.

24 (2) All management agreements, service contracts, and all
25 other cost-sharing arrangements involving at least one-half of
26 one percent of the insurer's surplus as of the next preceding
27 December 31.

28 (3) Any material transactions specified by rule which the
29 commissioner determines may adversely affect the interests of
30 the domestic insurer's policyholders.

31 Sec. 30. Section 521A.5, subsection 2, Code 1993, is
32 amended by adding the following new paragraph:

33 NEW PARAGRAPH. k. The quality of the company's earnings
34 and the extent to which the reported earnings include
35 extraordinary items.

1 Sec. 31. Section 521A.5, subsection 3, Code 1993, is
2 amended by striking the subsection and inserting in lieu
3 thereof the following:

4 3. DIVIDENDS AND OTHER DISTRIBUTIONS.

5 a. A domestic insurer may declare and pay dividends to its
6 shareholders only from earned surplus.

7 For the purposes of this paragraph, "earned surplus" means
8 surplus as regards policyholders less paid-in and contributed
9 surplus, and may include a fair revaluation of assets by the
10 board of directors that is reasonable under the circumstances.
11 Assets revalued by the board of directors cannot be included
12 in earned surplus until thirty days after the commissioner has
13 received notice of the revaluation and has approved the
14 revaluation. The commissioner shall approve or disapprove the
15 revaluation within thirty days after receiving notice of the
16 revaluation unless for good cause the commissioner extends the
17 approval period for an additional thirty days.

18 b. A domestic insurer shall not pay any extraordinary
19 dividend or make any other extraordinary distribution to its
20 shareholders until thirty days after the commissioner has
21 received notice of the declaration of the dividend or
22 distribution and has not disapproved such payment within the
23 period, or until the time the commissioner has approved the
24 payment within the thirty-day period.

25 For purposes of this paragraph, an "extraordinary dividend
26 or distribution" includes any dividend or distribution of cash
27 or other property, whose fair market value together with that
28 of other dividends or distributions made within the preceding
29 twelve months exceeds the greater of the following:

30 (1) Ten percent of insurer's surplus as regards
31 policyholders as of the thirty-first day of December next
32 preceding.

33 (2) The net gain from operations of the insurer, if the
34 insurer is a life insurer, or the net investment income, if
35 the insurer is not a life insurer, for the twelve-month period

1 ending the thirty-first day of December next preceding.

2 An extraordinary dividend or distribution does not include
3 pro rata distributions of any class of the insurer's own
4 securities.

5 c. A domestic insurer subject to registration under
6 section 521A.4 shall report to the commissioner all dividends
7 to shareholders within five business days following the
8 declaration of the dividends and not less than fourteen days
9 prior to the payment of the dividends. This report shall also
10 include a schedule setting forth all dividends or other
11 distributions made within the previous twelve months.

12 d. Notwithstanding any other provision of law, a domestic
13 insurer may declare an extraordinary dividend or distribution
14 which is conditional upon the commissioner's approval of the
15 dividend or distribution. Such declaration does not confer
16 any rights upon shareholders until the commissioner has
17 approved the payment of the dividend or distribution or the
18 commissioner has not disapproved the payment within the
19 thirty-day period as provided in paragraph "b".

20 Sec. 32. Section 521A.7, Code 1993, is amended to read as
21 follows:

22 521A.7 CONFIDENTIAL TREATMENT.

23 All information, documents and copies thereof obtained by
24 or disclosed to the commissioner or any other person in the
25 course of an examination or investigation made pursuant to
26 section 521A.6 and all information reported pursuant to
27 ~~section~~ sections 521A.4 and 521A.5, shall be given
28 confidential treatment and shall not be subject to subpoena
29 and shall not be made public by the commissioner or any other
30 person, except to insurance departments of other states,
31 without the prior written consent of the insurer to which it
32 pertains unless the commissioner, after giving the insurer and
33 its affiliates who would be affected thereby, notice and
34 opportunity to be heard, determines that the interests of
35 policyholders, shareholders or the public will be served by

1 the publication thereof, in which event the commissioner may
2 publish all or any part thereof in such manner as the
3 commissioner may deem appropriate.

4 Sec. 33. Section 522.2, Code 1993, is amended to read as
5 follows:

6 522.2 TERM OF LICENSE.

7 A license is valid for ~~one-year~~ three years.

8 Sec. 34. Section 714.8, Code 1993, is amended by adding
9 the following new subsection:

10 NEW SUBSECTION. 15. a. Prepares, presents, prepares for
11 presentation, or causes to be prepared or presented, either of
12 the following:

13 (1) An oral statement containing false, incomplete, or
14 misleading information related to an application for the
15 issuance of any insurance policy or contract, or in connection
16 with or in support of a claim for payment or other benefit
17 provided pursuant to an insurance policy or contract.

18 (2) A written statement containing false, incomplete, or
19 misleading information related to an application for the
20 issuance of any insurance policy or contract, or in connection
21 with or in support of a claim for payment or other benefit
22 provided pursuant to an insurance policy or contract.

23 b. A person who cooperates or furnishes evidence regarding
24 suspected insurance fraud, or who complies with a court order
25 to furnish such evidence or to provide testimony is not
26 subject to a criminal proceeding or to a civil penalty with
27 respect to a fraudulent insurance act related to the evidence
28 or testimony provided by the person; civil liability for
29 libel, slander, or other relevant tort action; or other civil
30 action. However, the immunity provided for in this section
31 shall not apply in a prosecution for perjury or insurance
32 fraud where the person acts with malice.

33 Sec. 35. 1990 Iowa Acts, chapter 1234, section 76, as
34 amended by 1991 Iowa Acts, chapter 213, section 35, and 1992
35 Iowa Acts, chapter 1162, section 51, is repealed.

HF 495

HOUSE FILE 495

S-3433

1 Amend House File 495, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 18, by striking lines 8 through 32.
4 2. Page 18, by inserting before line 33, the
5 following:

6 "Sec. ____ . WORKERS' COMPENSATION MARKET --
7 MONITORING. The commissioner of insurance shall
8 monitor the residual and assigned risks markets for
9 workers' compensation coverage. The commissioner
10 shall monitor, at a minimum, the effect of the
11 residual and assigned risks markets on the volume of
12 coverage written in the voluntary market."

13 3. By renumbering as necessary.

By COMMITTEE ON COMMERCE
PATRICK DELUHERY, Chairperson

S-3433 FILED APRIL 7, 1993

adopted 4-20-93
(p.1236)

HOUSE FILE 495

S-3474

1 Amend House File 495, as amended, passed, and
2 reprinted by the House, as follows:

3 1. By striking page 1, line 1 through page 2, line
4 18.

By MICHAEL E. GRONSTAL

S-3474 FILED APRIL 12, 1993

adopted 4/20/93 (p. 1236)

SENATE AMENDMENT TO HOUSE FILE 495

H-4076

1 Amend House File 495, as amended, passed, and
2 reprinted by the House, as follows:

3 1. By striking page 1, line 1 through page 2, line
4 18.

5 1. Page 18, by striking lines 8 through 32.

6 2. Page 18, by inserting before line 33, the
7 following:

8 "Sec. ____ . WORKERS' COMPENSATION MARKET --

9 MONITORING. The commissioner of insurance shall
10 monitor the residual and assigned risks markets for
11 workers' compensation coverage. The commissioner
12 shall monitor, at a minimum, the effect of the
13 residual and assigned risks markets on the volume of
14 coverage written in the voluntary market."

15 3. By renumbering, relettering, or redesignating
16 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-4076 FILED APRIL 20, 1993

House Concurred
4.21-93
P. 1515

HSB 208

Commerce

Metcalf - Ch.
Churchill
Doderer
Hobson - Clayton
Mc Coy

SENATE/HOUSE FILE 495
BY (PROPOSED DEPARTMENT OF
COMMERCE/INSURANCE DIVISION
BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to regulation of insurance, including the
2 authority of the division to regulate certain policies and
3 contracts and the parties to such policies and contracts,
4 establishing fees, and providing a penalty.

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

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1 Section 1. Section 85.22, Code 1993, is amended to read as
2 follows:

3 85.22 LIABILITY OF OTHERS -- SUBROGATION.

4 When an employee receives an injury or incurs an
5 occupational disease or an occupational hearing loss for which
6 compensation is payable under this chapter, chapter 85A, or
7 chapter 85B, and which injury or occupational disease or
8 occupational hearing loss is caused under circumstances
9 creating a legal liability against some person, other than the
10 employee's employer or any employee of such employer as
11 provided in section 85.20 to pay damages, the employee, or the
12 employee's dependent, or the trustee of such dependent, may
13 take proceedings against the employer for compensation, and
14 the employee or, in case of death, the employee's legal
15 representative may also maintain an action against such third
16 party for damages. When an injured employee or the employee's
17 legal representative brings an action against such third
18 party, a copy of the original notice shall be served upon the
19 employer by the plaintiff, not less than ten days before the
20 trial of the case, but a failure to give such notice shall not
21 prejudice the rights of the employer, and the following rights
22 and duties shall ensue:

23 1. If compensation is paid the employee or dependent or
24 the trustee of ~~such~~ the dependent under this chapter, the
25 employer by whom the same compensation was paid, or the
26 employer's insurer which paid it, shall be indemnified out of
27 the recovery of damages to the extent of the payment ~~so~~ made,
28 with legal interest, or to the extent of any payment to be
29 made in the future, except for ~~such~~ attorney fees as ~~may-be~~
30 allowed, by the district court, to the injured employee's
31 attorney or the attorney of the employee's personal
32 representative, and ~~shall-have~~ has a lien on the claim for
33 such recovery and the judgment thereon on the recovery for the
34 compensation for which the employer or insurer is liable. In
35 order to continue and preserve the lien, the employer or

1 insurer shall, within thirty days after receiving notice of
2 such suit from the employee, file, in the office of the clerk
3 of the court where the action is brought, notice of the lien.

4 2. In case the employee fails to bring such an action
5 within ninety days, or where a city or a city under special
6 charter is such the third party, within thirty days after
7 written notice so to do given by the employer or the
8 employer's insurer, as the case may be, then the employer or
9 the insurer ~~shall-be~~ is subrogated to the rights of the
10 employee to maintain the action against such the third party,
11 and may recover damages for the injury to the same extent that
12 the employee might.

13 3. In case of recovery under subsection 1 or 2, the court
14 shall enter judgment for distribution of the proceeds ~~thereof~~
15 of the recovery as follows:

16 a. A sum sufficient to repay the employer for the amount
17 of compensation actually paid by the employer to that time.

18 b. A sum sufficient to pay the employer the present worth,
19 computed at the interest rate provided in section 535.3 for
20 court judgments and decrees, of the future payments of
21 compensation for which the employer is liable, but the sum is
22 not a final adjudication of the future payments which the
23 employee is entitled to receive and if the sum received by the
24 employer is in excess of the amount required to pay the
25 compensation, the excess shall be paid to the employee.

26 c. The balance, if any, shall be paid over to the
27 employee.

28 3 4. Before a settlement ~~shall-become~~ becomes effective
29 between an employee or an employer and such the third party
30 who is liable for the injury, it must be with the written
31 consent of the employee, in case the settlement is between the
32 employer or insurer and such the third person; and the consent
33 of the employer or insurer, in case the settlement is between
34 the employee and such the third party; or on refusal of
35 consent, in either case, then upon the written approval of the

1 industrial commissioner.

2 4 5. A written memorandum of any settlement, if made,
3 shall be filed by the employer or insurance carrier in the
4 office of the industrial commissioner.

5 5 6. For subrogation purposes ~~hereunder~~ under this
6 section, any payment made ~~unto~~ to an injured employee, the
7 employee's guardian, parent, next friend, or legal
8 representative, by or on behalf of any third party, or the
9 third party's principal or agent liable for, connected with,
10 or involved in causing an injury to ~~such~~ the employee shall be
11 considered as having been so paid as damages resulting from
12 and because ~~said~~ the injury was caused under circumstances
13 creating a legal liability against ~~said~~ the third party,
14 whether such payment ~~be-made~~ is under a covenant not to sue,
15 compromise settlement, denial of liability, or otherwise.

16 6 7. When the state of Iowa has paid any compensation or
17 benefits under the provisions of this chapter, the word
18 "employer" as used in this section ~~shall-mean~~ means and
19 ~~include~~ includes the state of Iowa.

20 Sec. 2. NEW SECTION. 87.23A INSURANCE TRADE PRACTICES
21 COVERED.

22 A workers' compensation coverage plan regulated under this
23 chapter shall be considered a person for purposes of chapter
24 507B.

25 Sec. 3. Section 507B.4, subsection 1, Code 1993, is
26 amended by adding the following new paragraph:

27 NEW PARAGRAPH. j. Is a misrepresentation, including any
28 intentional misquote of premium rate, for the purpose of
29 inducing or tending to induce the purchase of an insurance
30 policy.

31 Sec. 4. Section 507C.3, Code 1993, is amended by adding
32 the following new subsection:

33 NEW SUBSECTION. 6. Prepaid health care delivery plans
34 which are regulated by the commissioner.

35 Sec. 5. Section 507C.14, subsection 3, Code 1993, is

1 amended by striking the subsection.

2 Sec. 6. Section 507C.26, Code 1993, is amended by adding
3 the following new subsection:

4 NEW SUBSECTION. 4. A person receiving property from an
5 insurer or any benefit from an insurer which is a fraudulent
6 transfer under subsection 1 is personally liable for the
7 property or benefit and shall account to the liquidator.

8 Sec. 7. Section 507C.42, subsections 3 and 4, Code 1993,
9 are amended to read as follows:

10 3. CLASS 3. Claims under policies, including claims of
11 the federal or any state or local government, for losses
12 incurred, including third-party claims, claims against the
13 insurer for liability for bodily injury or for injury to or
14 destruction of tangible property which are not under policies,
15 and claims of a guaranty association or foreign guaranty
16 association. ~~Claims under nonassessable policies~~ for unearned
17 premium. Claims under life insurance and annuity policies,
18 whether for death proceeds, annuity proceeds, or investment
19 values shall be treated as loss claims. That portion of a
20 loss, indemnification for which is provided by other benefits
21 or advantages recovered by the claimant, shall not be included
22 in this class, other than benefits or advantages recovered or
23 recoverable in discharge of familial obligations of support or
24 by way of succession at death or as proceeds of life
25 insurance, or as gratuities. A payment by an employer to an
26 employee is not a gratuity.

27 4. CLASS 4. ~~Premium-refunds-claims~~ Claims of general
28 creditors, including claims of ceding and assuming reinsurers
29 in their capacity as such, and subrogation claims.

30 Sec. 8. Section 509A.14, subsection 2, Code 1993, is
31 amended by striking the subsection.

32 Sec. 9. Section 509A.15, subsection 1, Code 1993, is
33 amended to read as follows:

34 1. Within ninety days following the end of a fiscal year,
35 the governing body of a self-insurance plan of a political

1 subdivision or a school corporation shall file with the
2 commissioner of insurance a certificate of compliance,
3 actuarial opinion, and an annual financial report. The
4 certificate-of-compliance filing shall be accompanied by a
5 filing fee of one hundred dollars. A penalty of fifteen
6 dollars per day shall be assessed for failure to comply with
7 the ninety-day filing requirement, except that the
8 commissioner may waive the penalty upon a showing that special
9 circumstances exist which justify the waiver. The certificate
10 shall be signed and dated by the appropriate public official
11 representing the governing body, and shall certify the
12 following:

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

15 b. That an actuarial opinion has been attached to the
16 certificate which attests to the adequacy of reserves, rates,
17 and financial condition of the plan. ~~The actuarial opinion~~
18 ~~shall be issued by a fellow of the society of actuaries.~~ The
19 actuarial opinion must include, but is not limited to, a brief
20 commentary about the adequacy of the reserves, rates, and the
21 financial condition of the plan, a test of the prior year
22 claim reserve, a brief description of how the reserves were
23 calculated, and whether or not the plan is able to cover all
24 reasonably anticipated expenses. The actuarial opinion shall
25 be prepared, signed, and dated by a person who is a member of
26 the American academy of actuaries. If necessary, the actuary
27 should assist the public body in preparing the annual
28 financial report. The annual financial report shall be in a
29 format as prescribed by the commissioner.

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

35 d. That the governing body has contracted or otherwise

1 arranged with a third-party-for-plan-administration third-
2 party administrator who holds a current certificate of
3 registration issued by the commissioner pursuant to section
4 510.21, or with a person not required to obtain the
5 certificate as an administrator as defined in section 510.11,
6 subsection 1.

7 Sec. 10. NEW SECTION. 510.5A UNFAIR COMPETITION OR
8 UNFAIR AND DECEPTIVE ACTS OR PRACTICES PROHIBITED.

9 A managing general agent is subject to chapter 507B
10 relating to unfair insurance trade practices.

11 Sec. 11. NEW SECTION. 510.23 UNFAIR COMPETITION OR
12 UNFAIR AND DECEPTIVE ACTS OR PRACTICES PROHIBITED.

13 An administrator is subject to chapter 507B relating to
14 unfair insurance trade practices.

15 Sec. 12. NEW SECTION. 510A.6 PENALTIES.

16 1. If the commissioner believes that a controlling
17 producer or any other person subject to this chapter has not
18 materially complied with this chapter, or any rule adopted or
19 order issued pursuant to this chapter, after notice and
20 opportunity to be heard, the commissioner may order the
21 controlling producer to cease placing business with the
22 controlled insurer. Additionally, if the commissioner finds
23 that because of such noncompliance the controlled insurer or
24 any policyholder of the controlled insurer has suffered any
25 loss or damage, the commissioner may maintain a civil action
26 or intervene in an action brought by or on behalf of the
27 insurer or policyholder for recovery of compensatory damages
28 for the benefit of the insurer or policyholder, or for other
29 appropriate relief.

30 2. If an order for liquidation or rehabilitation of the
31 controlled insurer has been entered pursuant to chapter 507C,
32 and the receiver appointed under that order believes that the
33 controlling producer or any other person has not materially
34 complied with this chapter, or any rule adopted or order
35 issued pursuant to this chapter, and that the insurer suffered

1 any loss or damage as a result of the noncompliance, the
2 receiver may maintain a civil action for recovery of damages
3 or other appropriate sanctions for the benefit of the insurer.

4 3. This section shall not be construed to affect or limit
5 the right of the commissioner to impose any other penalties,
6 as appropriate, which the commissioner is authorized to
7 impose.

8 4. This section shall not be construed to affect or limit
9 the rights of policyholders, claimants, creditors, or other
10 third parties.

11 Sec. 13. NEW SECTION. 512B.21A REQUIRED RESERVES.

12 A society shall have in cash, or in securities which are
13 authorized for investment purposes for insurance companies
14 pursuant to section 511.8, surplus in an amount not less than
15 five million dollars.

16 Sec. 14. NEW SECTION. 513A.7 UNFAIR COMPETITION OR
17 UNFAIR AND DECEPTIVE ACTS OR PRACTICES PROHIBITED.

18 A third-party payor of health care benefits is subject to
19 chapter 507B relating to unfair insurance trade practices.

20 Sec. 15. Section 514B.32, Code 1993, is amended by adding
21 the following new subsection:

22 NEW SUBSECTION. 4. A health maintenance organization
23 authorized under this chapter shall be considered a person for
24 purposes of chapter 507B.

25 Sec. 16. Section 515.81A, Code 1993, is amended to read as
26 follows:

27 515.81A CANCELLATION OF COMMERCIAL LINES POLICIES OR
28 CONTRACTS.

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

35 2. A commercial line policy or contract of insurance,

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

5 a. Nonpayment of premium.

6 b. Misrepresentation or fraud made by or with the
7 knowledge of the insured in obtaining the policy or contract,
8 when renewing the policy or contract, or in presenting a claim
9 under the policy or contract.

10 c. Actions by the insured which substantially change or
11 increase the risk insured.

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

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

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

28 a. The volatility of the premiums charged for reinsurance
29 in the market.

30 b. The number of reinsurers in the market.

31 c. The variance in the premiums for reinsurance offered by
32 the reinsurers in the market.

33 d. The attempt by the insurer to obtain alternate
34 reinsurance.

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

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

16 Sec. 17. NEW SECTION. 515.130 REBATES PROHIBITED.

17 An insurance company or an employee of the insurance
18 company, or an agent, shall not pay, allow, or give, or offer
19 to pay, allow, or give, directly or indirectly, as an
20 inducement to purchase or acquire insurance or after insurance
21 has been effected, any rebate, discount, abatement, credit, or
22 reduction of the premium named in a policy of insurance, or
23 any special favor or advantage in the dividends or other
24 benefits to accrue on the policy, or any valuable
25 consideration or inducement, not specified in the policy,
26 except to the extent provided for in an applicable filing. An
27 insured named in a policy, or an employee of the insured,
28 shall not knowingly receive or accept, directly or indirectly,
29 any rebate, discount, abatement, credit, or reduction of
30 premium, or any such special favor or advantage or valuable
31 consideration or inducement.

32 This section shall not be construed to prohibit the payment
33 of commissions or other compensation to duly licensed agents,
34 or to prohibit any insurer from allowing or returning to its
35 participating policyholders, members, or subscribers,

1 dividends, savings, or unabsorbed premium deposits. As used
2 in this section, "insurance" includes suretyship and "policy"
3 includes bond.

4 Sec. 18. Section 515.147, Code 1993, is amended to read as
5 follows:

6 515.147 BUSINESS WITH NONADMITTED INSURERS.

7 This chapter does not prevent a licensed resident or
8 nonresident agent of this state, qualified to write excess and
9 surplus lines insurance, from procuring insurance in certain
10 nonadmitted insurers if such insurance is restricted to the
11 type and kind of insurance authorized by this chapter,
12 excluding insurance authorized under section 515.48,
13 subsection 5, paragraph "a", and the agent makes oath to the
14 commissioner of insurance in the form prescribed by the
15 commissioner that the agent has made diligent effort to place
16 the insurance in authorized insurers and has either exhausted
17 the capacity of all authorized insurers or has been unable to
18 obtain the desired insurance in insurers licensed to transact
19 business in this state. The procuring of a contract of
20 insurance in a nonadmitted insurer makes the insurer liable
21 for, and the agent shall pay, the taxes on the premiums as if
22 the insurer were duly authorized to transact business in the
23 state. A sworn report of all business transacted by agents of
24 this state in nonadmitted insurers shall be made to the
25 commissioner of insurance on or before March 1 of each year
26 for the preceding calendar year, on the form required by the
27 commissioner of insurance. The report shall be accompanied by
28 a remittance to cover the taxes on the premiums. An agent who
29 makes the oath, pays the taxes on the premiums, and files the
30 report has not written such contracts of insurance unlawfully,
31 and is not personally liable for the contracts.

32 Sec. 19. Section 515A.16, Code 1993, is amended to read as
33 follows:

34 515A.16 REBATES-PROHIBITED PREMIUMS.

35 No An agent shall not knowingly charge, demand, or receive

1 a premium for any policy of insurance except in accordance
2 with the provisions of this chapter. No insurer or employee
3 thereof, and no agent, shall pay, allow, or give, or offer to
4 pay, allow, or give, directly or indirectly, as an inducement
5 to insurance or after insurance has been effected, any rebate,
6 discount, abatement, credit or reduction of the premium named
7 in a policy of insurance, or any special favor or advantage in
8 the dividends or other benefits to accrue thereon, or any
9 valuable consideration or inducement whatever, not specified
10 in the policy of insurance, except to the extent provided for
11 in an applicable filing. -- No insured named in a policy of
12 insurance, nor any employee of such insured, shall knowingly
13 receive or accept, directly or indirectly, any such rebate,
14 discount, abatement, credit or reduction of premium, or any
15 such special favor or advantage or valuable consideration or
16 inducement.

17 Nothing in this section shall be construed as prohibiting
18 the payment of commissions or other compensation to duly
19 licensed agents, nor as prohibiting any insurer from allowing
20 or returning to its participating policyholders, members or
21 subscribers, dividends, savings or unabsorbed premium
22 deposits. -- As used in this section the word "insurance"

23 includes suretyship and the word "policy" includes bond.
24 Sec. 20. Section 515B.2, subsection 3, Code 1993, is
25 amended to read as follows:

26 3. a. "Covered claim" means an unpaid claim, including
27 one for unearned premiums, which arises out of and is within
28 the coverage and is subject to the applicable limits of an
29 insurance policy to which this chapter applies issued by an
30 insurer, if such insurer becomes an insolvent insurer after
31 July 1, 1970, and one of the following conditions exists:

32 (1) The claimant or insured is a resident of this state at
33 the time of the insured event. Other than an individual, the
34 residence of the claimant or insured is the state in which its
35 principal place of business is located.

1 (2) The claim is one a first party claim by an insured for
2 damage to property permanently located in this state.

3 b. "Covered claim" does not include any amount as follows:

4 (1) That is due any reinsurer, insurer, insurance pool,
5 underwriting association, or other group assuming insurance
6 risks, as subrogation, contribution, or indemnity recoveries,
7 or otherwise.

8 (2) That constitutes the portion of a claim that is within
9 an insured's deductible or self-insured retention.

10 (3) That is a claim for unearned premium calculated on a
11 retrospective basis, experience-rated plan, or premium subject
12 to adjustment after termination of the policy.

13 (4) That is due an attorney, adjuster, or witness as fees
14 for services rendered to the insolvent insurer.

15 (5) That is a fine, penalty, interest, or punitive or
16 exemplary damages.

17 (6) That constitutes a claim under a policy issued by an
18 insolvent insurer with a deductible or self-insured retention
19 of two hundred thousand dollars or more. However, such a
20 claim shall be considered a covered claim, if as of the
21 deadline set for the filing of claims against the insolvent
22 insurer or its liquidator, the insured is a debtor under 11
23 U.S.C. § 701 et seq.

24 (7) That would otherwise be a covered claim, but is an
25 obligation to or on behalf of a person who has a net worth, on
26 the date of the occurrence giving rise to the claim, greater
27 than that allowed by the guarantee fund law of the state of
28 residence of the claimant, and which state has denied coverage
29 to that claimant on that basis.

30 (8) That is an obligation owed to or on behalf of an
31 affiliate of, as defined in section 521A.1, an insolvent.
32 insurer.

33 Notwithstanding the subparagraphs of this lettered
34 paragraph, a person is not prevented from presenting a
35 noncovered claim to the insolvent insurer or its liquidator,

1 but the noncovered claim shall not be asserted against any
2 other person, including the person to whom benefits were paid
3 or the insured of the insolvent insurer, except to the extent
4 that the claim is outside the coverage of the policy issued by
5 the insolvent insurer.

6 Sec. 21. Section 515B.17, Code 1993, is amended to read as
7 follows:

8 515B.17 TIMELY FILING OF CLAIMS.

9 Notwithstanding any other provision of this chapter, a
10 covered claim shall not include any claim filed with the
11 association after the final date set by the court for the
12 filing of claims against the insolvent insurer or its
13 receiver. ~~However the association may waive the requirement~~
14 ~~of this section when in its discretion the claim was not~~
15 ~~timely presented due to circumstances beyond the control of~~
16 ~~the person having the claim.~~

17 Sec. 22. Section 515C.7, Code 1993, is amended to read as
18 follows:

19 515C.7 RATE-MAKING PROVISIONS.

20 Mortgage guaranty insurance shall be subject to the
21 provisions of chapter ~~515A~~ 515F, for the purposes of rate
22 making.

23 Sec. 23. Section 515E.10, Code 1993, is amended by adding
24 the following new unnumbered paragraph:

25 NEW UNNUMBERED PARAGRAPH. A risk retention group or
26 purchasing group operating under this chapter shall be
27 considered a person for purposes of chapter 507B.

28 Sec. 24. Section 521A.3, subsection 4, Code 1993, is
29 amended by adding the following new paragraph:

30 NEW PARAGRAPH. c. The commissioner may retain any
31 attorneys, actuaries, accountants, and other experts not
32 otherwise a part of the commissioner's staff as may be
33 reasonably necessary to assist the commissioner in reviewing
34 the proposed merger or acquisition of control, the reasonable
35 cost of which shall be paid by the acquiring party.

1 Sec. 25. Section 521A.5, subsection 1, paragraph a,
2 subparagraph (5), Code 1993, is amended to read as follows:

3 (5) After any material transaction with an affiliate and
4 after any dividends or distributions to shareholder
5 affiliates, the insurer's surplus as regards policyholders
6 shall be reasonable in relation to the insurer's outstanding
7 liabilities and adequate to its financial needs.

8 Sec. 26. Section 521A.5, subsection 1, paragraphs b and c,
9 Code 1993, are amended to read as follows:

10 b. A domestic insurer and a person in its holding company
11 system shall not enter into any of the following transactions
12 between each other involving amounts equal to or exceeding the
13 lesser of five three percent of the a nonlife insurer's
14 admitted assets or twenty-five percent of the surplus as
15 regards policyholders with respect to nonlife insurers, and
16 equal to or exceeding three percent of the insurer's admitted
17 assets with respect to life insurers, each as of the next
18 preceding December 31, unless the domestic insurer notifies
19 the commissioner in writing of its intention to enter into the
20 transaction at least thirty days prior to entering into the
21 transaction or within a shorter time permitted by the
22 commissioner and the commissioner has not disapproved of the
23 transaction within the time period:

- 24 (1) Sales.
25 (2) Purchases.
26 (3) Exchanges.
27 (4) Loans or extensions of credit.
28 (5) Guarantees.
29 (6) Investments.
30 (7) Loans or extensions of credit to a person who is not
31 an affiliate, if the domestic insurer makes the loans or
32 extensions of credit with the agreement or understanding that
33 the proceeds of the transactions, in whole or in substantial
34 part, are to be used to make loans or extensions of credit to,
35 to purchase assets of, or to make investments in, an affiliate

1 of the domestic insurer making the loans or extensions of
2 credit.

3 c. A domestic insurer and a person in its holding company
4 system shall not enter into any of the following transactions,
5 unless the domestic insurer notifies the commissioner in
6 writing of its intention to enter into the transaction at
7 least thirty days prior to entering into the transaction or
8 within a shorter time permitted by the commissioner and the
9 commissioner has not disapproved of the transaction within the
10 time period:

11 (1) ~~All reinsurance agreements which-in-the-aggregate-will~~
12 ~~or-may-require-as-consideration-the-net-transfer-of-assets-to~~
13 ~~or-by-the-domestic-insurer-in-an-amount-as-of-the-next~~
14 ~~preceding-December-31-exceeding-twenty-five-percent-of~~
15 statutory surplus or modifications to such agreements in which
16 the reinsurance premium or a change in the insurer's
17 liabilities equals or exceeds five percent of the insurer's
18 surplus as regards policyholders, as of the next preceding
19 December 31, including those agreements which may require as
20 consideration the transfer of assets from an insurer to a
21 nonaffiliate, if an agreement or understanding exists between
22 the insurer and nonaffiliate that any portion of such assets
23 will be transferred to one or more affiliates of the insurer.

24 (2) All management agreements, service contracts, and all
25 other cost-sharing arrangements involving at least one-half of
26 one percent of the insurer's surplus as of the next preceding
27 December 31.

28 (3) Any material transactions specified by rule which the
29 commissioner determines may adversely affect the interests of
30 the domestic insurer's policyholders.

31 Sec. 27. Section 521A.5, subsection 2, Code 1993, is
32 amended by adding the following new paragraph:

33 NEW PARAGRAPH. k. The quality of the company's earnings
34 and the extent to which the reported earnings include
35 extraordinary items,

1 Sec. 28. Section 521A.5, subsection 3, Code 1993, is
2 amended by striking the subsection and inserting in lieu
3 thereof the following:

4 3. DIVIDENDS AND OTHER DISTRIBUTIONS.

5 a. A domestic insurer may declare and pay dividends to its
6 shareholders only from earned surplus.

7 For the purposes of this paragraph, "earned surplus" means
8 surplus as regards policyholders less paid-in and contributed
9 surplus, and may include a fair revaluation of assets by the
10 board of directors that is reasonable under the circumstances.
11 Assets revalued by the board of directors cannot be included
12 in earned surplus until thirty days after the commissioner has
13 received notice of the revaluation and has approved the
14 revaluation. The commissioner shall approve or disapprove the
15 revaluation within thirty days after receiving notice of the
16 revaluation unless for good cause the commissioner extends the
17 approval period for an additional thirty days.

18 b. A domestic insurer shall not pay any extraordinary
19 dividend or make any other extraordinary distribution to its
20 shareholders until thirty days after the commissioner has
21 received notice of the declaration of the dividend or
22 distribution and has not disapproved such payment within the
23 period, or until the time the commissioner has approved the
24 payment within the thirty-day period.

25 For purposes of this paragraph, an "extraordinary dividend
26 or distribution" includes any dividend or distribution of cash
27 or other property, whose fair market value together with that
28 of other dividends or distributions made within the preceding
29 twelve months exceeds the greater of the following:

30 (1) Ten percent of insurer's surplus as regards
31 policyholders as of the thirty-first day of December next
32 preceding.

33 (2) The net gain from operations of the insurer, if the
34 insurer is a life insurer, or the net investment income, if
35 the insurer is not a life insurer, for the twelve-month period

1 ending the thirty-first day of December next preceding.

2 An extraordinary dividend or distribution does not include
3 pro rata distributions of any class of the insurer's own
4 securities.

5 c. A domestic insurer subject to registration under
6 section 521A.4 shall report to the commissioner all dividends
7 to shareholders within five business days following the
8 declaration of the dividends and not less than fourteen days
9 prior to the payment of the dividends. This report shall also
10 include a schedule setting forth all dividends or other
11 distributions made within the previous twelve months.

12 d. Notwithstanding any other provision of law, a domestic
13 insurer may declare an extraordinary dividend or distribution
14 which is conditional upon the commissioner's approval of the
15 dividend or distribution. Such declaration does not confer
16 any rights upon shareholders until the commissioner has
17 approved the payment of the dividend or distribution or the
18 commissioner has not disapproved the payment within the
19 thirty-day period as provided in paragraph "b".

20 Sec. 29. Section 521A.7, Code 1993, is amended to read as
21 follows:

22 521A.7 CONFIDENTIAL TREATMENT.

23 All information, documents and copies thereof obtained by
24 or disclosed to the commissioner or any other person in the
25 course of an examination or investigation made pursuant to
26 section 521A.6 and all information reported pursuant to
27 section sections 521A.4 and 521A.5, shall be given
28 confidential treatment and shall not be subject to subpoena
29 and shall not be made public by the commissioner or any other
30 person, except to insurance departments of other states,
31 without the prior written consent of the insurer to which it
32 pertains unless the commissioner, after giving the insurer and
33 its affiliates who would be affected thereby, notice and
34 opportunity to be heard, determines that the interests of
35 policyholders, shareholders or the public will be served by

1 the publication thereof, in which event the commissioner may
2 publish all or any part thereof in such manner as the
3 commissioner may deem appropriate.

4 Sec. 30. Section 522.2, Code 1993, is amended to read as
5 follows:

6 522.2 TERM OF LICENSE.

7 A license is valid for ~~one-year~~ three years.

8 EXPLANATION

9 This bill amends or creates the following Code sections:

10 Section 85.22 is amended to allow an employer to be
11 indemnified to the extent of any payment made by the employer
12 on behalf of the employee from any amount paid in the future
13 to the employee from a liable third-party.

14 Section 87.23A is created and provides that a workers'
15 compensation coverage plan is subject to chapter 507B, which
16 regulates insurance trade practices.

17 Section 507B.4, subsection 1, is amended to clarify that
18 any intentional misquote of premium rate for the purpose of
19 inducing or tending to induce the purchase of an insurance
20 policy is an unfair or deceptive practice.

21 Section 507C.3 is amended to add prepaid health care
22 delivery plans to the entities subject to the supervision,
23 rehabilitation, and liquidation Act.

24 Section 507C.14 is amended to strike the authority of the
25 rehabilitator to appoint an advisory committee with respect to
26 the rehabilitation of an insurer if the rehabilitator deems
27 necessary.

28 Section 507C.26 is amended to provide that a person
29 receiving property from an insurer subject to rehabilitation
30 or liquidation pursuant to a fraudulent transfer is personally
31 liable for the property or benefit.

32 Section 507C.42 is amended to adjust the classes of claims
33 for purposes of the priority of distribution of property in an
34 insurer's estate.

35 Section 509A.14 is amended to eliminate the requirement

1 that at least once each twelve months, a governing body is to
2 obtain a certification from an outside consulting actuary that
3 the governing body's self-insurance plan for life, and
4 accident and health insurance is able to cover all reasonably
5 anticipated expenses.

6 Section 509A.15 is amended to provide that a governing body
7 of a self-insurance plan is to file an actuarial opinion and
8 annual financial report within 90 days of the end of the
9 fiscal year. A penalty of 15 dollars per day is to be
10 assessed for failure to comply with the 90 day filing
11 requirement, unless waived by the commissioner.

12 Section 510.5A is created and provides that a managing
13 general agent is subject to chapter 507B relating to unfair
14 insurance trade practices.

15 Section 510.23 is created and provides that an
16 administrator is subject to chapter 507B relating to unfair
17 insurance trade practices.

18 Section 510A.6 is created providing for penalties against
19 controlling producers failing to comply with the provisions of
20 chapter 510A.

21 Section 512B.21A is created requiring a fraternal benefit
22 society to maintain surplus in an amount not less than 5
23 million dollars.

24 Section 513A.7 is created and provides that a third-party
25 payor unable to establish that the payor is subject to the
26 jurisdiction of another state agency or the federal
27 government, is subject to the jurisdiction of the insurance
28 division.

29 Section 514B.32 is amended to provide that a health
30 maintenance organization is subject to chapter 507B relating
31 to unfair insurance trade practices.

32 Section 515.81A, relating to cancellation of commercial
33 lines policies, is amended to provide that multiperil
34 insurance under the section is multiperil crop insurance.

35 Section 515.130 is created which includes language

1 currently contained in section 515A.16 which relates to
2 prohibiting rebates relating to purchases of insurance.

3 Section 515.147 is amended to provide that a licensed
4 resident or nonresident agent qualified to write excess and
5 surplus lines insurance cannot procure health insurance from a
6 nonadmitted insurer.

7 Section 515A.16 is amended to strike language which is
8 moved to new section 515.130 in this bill.

9 Section 515B.2 is amended to provide that a covered claim
10 is a first-party claim by an insured for damage to certain
11 property. The section is also amended to provide that a
12 covered claim does not include any amount that would otherwise
13 be a covered claim, but is an obligation to or on behalf of a
14 person who has a net worth, on the date of the occurrence
15 giving rise to the claim, greater than that allowed by the
16 guarantee fund law of the state of residence of the claimant,
17 and where that state has denied coverage to the claimant.
18 Also excluded from the definition of a covered claim is an
19 obligation owed to or on behalf of an affiliate of an
20 insolvent insurer.

21 Section 515B.17 is amended to strike language granting the
22 insurance guaranty association the authority to waive the
23 timeliness requirement for a filed claim if the association
24 finds that the claim was not presented in a timely manner due
25 to circumstances beyond the control of the person with the
26 claim.

27 Section 515C.7 is amended to correct a citation.

28 Section 515E.10 is amended to provide that a risk retention
29 group or purchasing group is subject to chapter 507B relating
30 to unfair insurance trade practices.

31 Section 521A.3 is amended to give the commissioner
32 authority to retain attorneys, actuaries, accountants, and
33 other experts reasonably necessary to review a proposed
34 acquisition by an insurance company. The section provides
35 that the expense of such persons is to be paid by the

1 acquiring party.

2 Section 521A.5 is amended to provide that a domestic
3 insurer and a person in the insurer's holding company system
4 shall not enter into certain transactions involving amounts
5 equal to or exceeding the lesser of three percent, previously
6 five percent, of a nonlife insurer's admitted assets or 25
7 percent of the surplus as regards policyholders with respect
8 to nonlife insurers, and equal to or exceeding three percent
9 of the insurer's admitted assets with respect to life
10 insurers. This section is amended to provide that notice of
11 the modification of a reinsurance agreement where the
12 reinsurance premium or a change in the insurer's liabilities
13 equals or exceeds five percent of the insurer's surplus
14 regarding policyholders must be given at least 30 days prior
15 to entering the agreement. The notice provision is also
16 expanded to include all management agreements, service
17 contracts, and all other cost-sharing arrangements. This
18 section is also amended to provide that a domestic insurer may
19 declare and pay dividends to shareholders only from earned
20 surplus.

21 Section 521A.7 is amended to add a citation to another Code
22 section.

23 Section 522.2 is amended to extend the validity of an
24 insurance agent's license from one to three years.

25 BACKGROUND STATEMENT

26 SUBMITTED BY THE AGENCY

27 Section 1: This amendment is proposed in response to the
28 Iowa Supreme Court's June 1992 ruling in Fisher v. Keller
29 Industries, Inc. Prior to Fisher, employers or the employers'
30 insurance companies were able to receive reimbursement for
31 workers' compensation benefits paid, including a credit for
32 future benefit payments, from damages the injured employee
33 collected under a third-party tort action. The Fisher ruling
34 precludes an employer paying workers' compensation benefits
35 from taking a credit for future benefits paid. The inability

1 of the insurer to receive credit for future benefit paid
2 allows, in effect, the injured employee a double recovery to
3 the extent of those future benefit payments. It also has the
4 potential to further increase workers' compensation insurance
5 rates as insurers are no longer able to recover costs as they
6 have in the past.

7 Sections 2, 10, 11, 14, 15 and 23: Each of these sections
8 further expands the scope of Iowa Code chapter 507B (Unfair
9 Trade Practices Act) by bringing various regulated entities
10 within its jurisdiction. Section 2 would include workers'
11 compensation coverage plans under chapter 87, including
12 employers who self-insure for workers' compensation purposes.
13 Section 10 and section 11 cover managing general agents and
14 administrators regulated under chapter 510. Section 14
15 includes third-party payors of health care benefits under
16 chapter 513A and section 15 covers health maintenance
17 organizations under chapter 514B. Section 23 brings risk
18 retention groups and purchasing groups operating under chapter
19 515E within the jurisdiction of chapter 507B. The expansion
20 of jurisdiction of the Unfair Trade Practices Act subjects the
21 entities regulated under the above-mentioned chapters to the
22 provision of the Act and allows the insurance division to
23 bring administrative action against the entity for violations
24 of the Unfair Trade Practices Act.

25 Section 3: The Unfair Trade Practices Act currently
26 provides that the misrepresentation of insurance policies for
27 the purpose of inducing the lapse, forfeiture, exchange,
28 conversion, or surrender of a policy is an unfair method of
29 compensation and unfair or deceptive act or practice. The
30 amendment expands the list by providing that misrepresentation
31 for the purpose of inducing the purchase of a policy is also a
32 violation of the Act.

33 Section 4: Chapter 507C provides the commissioner of
34 insurance with the authority to place an insurer under
35 supervision, rehabilitation, or liquidation in order to

1 protect the interests of the insureds and the general public.
2 The Act provides a listing of those entities to which it is
3 applicable. This amendment extends the Act's application to
4 include any form of prepaid health care delivery plan
5 regulated by the insurance division, which would include
6 health maintenance organizations, preferred provider
7 organizations, and other forms of prepaid plans. The
8 amendment will provide the commissioner with the authority to
9 commence legal action in the event the condition of the
10 prepaid health plan becomes financially unstable.

11 Section 5: Chapter 507C currently allows the commissioner,
12 in his capacity as rehabilitator of an insurer, to appoint an
13 advisory committee if the commissioner deems it necessary.
14 The proposed amendment would remove this provision from the
15 chapter. The appointment of a committee merely increases the
16 cost of the rehabilitation process as the expenses of the
17 committee are charged to the rehabilitator. The committee
18 process has not been used in Iowa and is not deemed to be of
19 any substantial benefit to the policyholders of the insurer.

20 Section 6: Chapter 507C provides that a transfer of
21 property or other benefit by an insurer within one year prior
22 to the filing of a petition for rehabilitation or liquidation
23 of that insurer is fraudulent if it is made without fair
24 consideration. This is an asset protection measure and is
25 intended to avoid transfers made by an insurance company to
26 persons just prior to liquidation without receiving proper
27 payment. It does not apply to good faith purchasers. The
28 proposed amendment requires a person receiving fraudulently
29 transferred property to return the property, or its value, to
30 the liquidator of the insurer.

31 Section 7: Claims against a liquidated insurer are
32 categorized into classes under section 507C.42, and are paid
33 in order of the classes established. Class 3 claims currently
34 include claims under nonassessable policies for unearned
35 premiums. The proposed amendment would delete the reference

1 to "nonassessable policies". Insurance policies sold in Iowa
2 are now issued on a nonassessable basis, meaning the insured
3 pays a flat premium for the policies at the time of issuance
4 or renewal, and is not later assessed additional premiums
5 during the policy period if the original premium charged does
6 not cover the cost of the policy. Because the distinction
7 between nonassessable and assessable policies, for all
8 practical purposes, no longer exists, the amendment is
9 intended to merely clean up existing Code language.

10 The second portion of the amendment deletes "premium
11 refunds" as a class 4 claim. Premium refunds are deemed to be
12 class 3 claims as "claims for unearned premiums".

13 Section 8: The proposed amendment deletes the annual
14 filing requirement under section 509A.14, subsection 2, of an
15 actuarial certification for the public body's self-insurance
16 plan. This requirement duplicates the filing requirements of
17 section 509A.15, under which the public body must include an
18 actuarial certification with its annual filing to the
19 insurance division.

20 Section 9: The first portion of the amendment provides for
21 a \$15 per day penalty for the late filing of the annual
22 reports by self-insured public bodies. Reports are to be
23 filed within 90 days following the end of the public body's
24 fiscal year. However, this deadline is rarely met. The
25 implementation of a late filing fee would provide an incentive
26 to the public entity to submit the required filing on a timely
27 basis and provide the division with a means to enforce the
28 filing deadline short of bringing an action to terminate the
29 plan.

30 Section 12: This amendment provides authority for the
31 commissioner to bring administrative action, and, in certain
32 situations, civil action, against a person who falls within
33 the jurisdiction of chapter 510A (producer controlled property
34 and casualty insurers). This provision brings the Act into
35 compliance with model act language and with the National

1 Association of Insurance Commissioners' (NAIC) accreditation
2 requirements.

3 Section 13: Unlike other insurers doing business in Iowa,
4 fraternal benefit societies licensed under chapter 512B do not
5 currently have specified surplus requirements which must be
6 maintained. Surplus requirements are set in order to ensure
7 that the insurer maintains an adequate reserve to pay claims
8 under existing policies. The proposed amendment sets specific
9 surplus levels for fraternal benefit societies and places
10 those requirements on the same level as insurers licensed as
11 life insurance companies under chapter 508 and nonlife
12 insurers under chapter 515.

13 Section 16: The amendment provides clarification as to the
14 type of multiperil insurance covered under section 515.81A.
15 The Code section deals with the cancellation of commercial
16 line policies, and provides for the exception of crop hail or
17 multiperil insurance. The intent was to provide an exception
18 only for crop hail or multiperil crop insurance. The term
19 "multiperil insurance" can imply more than just policies
20 dealing with crop coverage and the exception from the
21 cancellation provision of this section was not intended to
22 cover all forms of multiperil insurance.

23 Sections 17 and 19: In 1990, the provisions of Iowa Code
24 chapter 515A dealing with regulation of casualty insurance
25 were transferred to new Code chapter 515F, leaving chapter
26 515A to cover the workers' compensation liability insurance
27 rating process. The provisions of section 515A.16 which
28 prohibit rebating of premiums were inadvertently left in
29 chapter 515A, thus there currently does not exist a Code
30 section which prohibits rebating for all property/casualty
31 lines. This new section is being created by transferring the
32 portion of section 515A.16 which prohibits rebates.

33 Section 18: Iowa-licensed agents may currently sell
34 insurance coverage from certain nonadmitted insurers commonly
35 known as surplus lines or excess coverage. Surplus lines

1 coverage is normally obtained when there is no other market
2 available -- when insurance is not obtainable from an admitted
3 insurer. The proposed amendment prohibits the sale of health
4 insurance on a surplus lines basis. The health insurance
5 market in Iowa is adequately covered by admitted insurers and
6 thus there is no need to rely on nonadmitted insurers for
7 coverage of this type of insurance.

8 Sections 20 and 21: Both of these sections contain
9 amendments to the insurance guaranty association. Section 20
10 disallows coverage under the Iowa guaranty fund for a person
11 with a net worth greater than that which is allowed by the
12 state guarantee laws of the claimant's state of residence.
13 Several states, including Illinois, Minnesota, North Dakota,
14 Wisconsin, and Indiana, have included specific net worth
15 provisions in their guaranty laws. Since Iowa's law does not
16 contain some form of net worth restriction, other states which
17 deny claims because of net worth provisions are potentially
18 able to transfer their obligations to the Iowa fund.

19 The second portion of the amendment in section 20 disallows
20 claims by an affiliate of an insolvent insurer. This conforms
21 Iowa Code to the National Association of Insurance
22 Commissioners (NAIC) Model Act. Affiliates of an insurer,
23 such as a parent or subsidiary corporation, have some level of
24 responsibility for overseeing the financial stability of the
25 insurer. The affiliate should not be allowed to collect
26 benefits when other claimants have money due them.

27 Section 21 also acts to conform Iowa law to model act
28 language and to the laws of the other 49 states. Under the
29 current situation, claimants are provided with adequate notice
30 of the claim filing deadline by both the liquidator and the
31 Iowa guaranty association.

32 Section 22: Prior to the 1990 transfer of chapters 515A to
33 515F, the rate-making provisions for mortgage guaranty
34 insurance were contained in chapter 515A and referenced as
35 such. The Code sections for ratemaking for property-casualty

1 lines are now covered in chapter 515P and the reference in
2 chapter 515C for mortgage guaranty insurance needs to be
3 changed to correspond.

4 Section 24: This new provision merely codifies what is
5 currently the practice of the insurance commissioner in
6 contracting with various experts when reviewing documents
7 submitted by insurance companies in the event of a proposed
8 merger or acquisition. The amendment is to clarify that the
9 costs of the independent experts will be paid by the acquiring
10 party.

11 Sections 25 through 29: These sections include changes to
12 chapter 521A -- Insurance Holding Company Act. The amendments
13 are being proposed to conform Iowa law to the model act
14 language and to the requirements of the NAIC accreditation
15 program. Iowa was accredited in August 1992. The changes
16 proposed in these sections were noted by the review team as
17 necessary to meet the accreditation standards. Each of the
18 amendments addresses standards which must be met by a holding
19 company with respect to transactions affecting domestic
20 insurers, adequacy of surplus, and the payment of dividends
21 and other distributions.

22 Section 30: The amendment changes the term of an agent's
23 license from one to three years. This change was intended to
24 be made last session when the license fee was increased from
25 \$10 to \$50 but was inadvertently omitted from the division's
26 bill. The amendment is intended to be corrective and to
27 codify existing practice.

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HOUSE FILE 495

AN ACT

RELATING TO REGULATION OF INSURANCE, INCLUDING THE AUTHORITY OF THE DIVISION TO REGULATE CERTAIN POLICIES AND CONTRACTS AND THE PARTIES TO SUCH POLICIES AND CONTRACTS, ESTABLISHING FEES, AND PROVIDING A PENALTY.

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

Section 1. Section 85.61, subsection 11, unnumbered paragraph 3, Code 1993, is amended to read as follows:

"Worker" or "employee" includes a basic emergency medical care provider as defined in section 147.1, or an advanced emergency medical care provider as defined in section 147A.1, a volunteer ambulance driver, or an emergency medical technician trainee, only if an agreement is reached between the basic or advanced emergency medical care provider such worker or employee and the employer for whom the volunteer services are provided that workers' compensation coverage under chapters 85, 85A, and 85B is to be provided by the employer. A basic or advanced emergency medical care provider who is a worker or employee under this paragraph is not a casual employee. "Volunteer ambulance driver" means a person performing services as a volunteer ambulance driver at the request of the person in charge of a fire department or ambulance service of a municipality. "Emergency medical technician trainee" means a person enrolled in and training for emergency medical technician certification.

Sec. 2. NEW SECTION. 87.23A INSURANCE TRADE PRACTICES COVERED.

A workers' compensation coverage plan regulated under this chapter shall be considered a person for purposes of chapter 507B.

Sec. 3. Section 505.7, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 7. The insurance division shall, by January 15 of each year, prepare estimates of projected receipts, refunds, and reimbursements to be generated by the examinations function of the division during the calendar year in which the report is due, and such receipts, refunds, and reimbursements shall be treated in the same manner as repayment receipts, as defined in section 8.2, subsection 8, and shall be available to the division to pay the expenses of the division's examination function.

Sec. 4. Section 507B.4, subsection 1, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. j. Is a misrepresentation, including any intentional misquote of premium rate, for the purpose of inducing or tending to induce the purchase of an insurance policy.

Sec. 5. Section 507C.3, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Prepaid health care delivery plans which are regulated by the commissioner.

Sec. 6. Section 507C.14, subsection 3, Code 1993, is amended by striking the subsection.

Sec. 7. Section 507C.26, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A person receiving property from an insurer or any benefit from an insurer which is a fraudulent transfer under subsection 1 is personally liable for the property or benefit and shall account to the liquidator.

Sec. 8. Section 507C.42, subsections 3 and 4, Code 1993, are amended to read as follows:

3. CLASS 3. Claims under policies, including claims of the federal or any state or local government, for losses incurred, including third-party claims, claims against the insurer for liability for bodily injury or for injury to or destruction of tangible property which are not under policies, and claims of a guaranty association or foreign guaranty association. ~~Claims under nonassessable policies~~ for unearned premium. Claims under life insurance and annuity policies,

whether for death proceeds, annuity proceeds, or investment values shall be treated as loss claims. That portion of a loss, indemnification for which is provided by other benefits or advantages recovered by the claimant, shall not be included in this class, other than benefits or advantages recovered or recoverable in discharge of familial obligations of support or by way of succession at death or as proceeds of life insurance, or as gratuities. A payment by an employer to an employee is not a gratuity.

4. CLASS 4. ~~Premium-refunds,-claims~~ Claims of general creditors, including claims of ceding and assuming reinsurers in their capacity as such, and subrogation claims.

Sec. 9. Section 509A.14, subsection 2, Code 1993, is amended by striking the subsection.

Sec. 10. Section 509A.15, subsection 1, Code 1993, is amended to read as follows:

1. Within ninety days following the end of a 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, actuarial opinion, and an annual financial report. The certificate-of-compliance filing shall be accompanied by a filing fee of one hundred dollars. A penalty of fifteen dollars per day shall be assessed for failure to comply with the ninety-day filing requirement, except that the commissioner may waive the penalty upon a showing that special circumstances exist which justify the waiver. The certificate shall be signed and dated by the appropriate public official representing the governing body, and shall certify the following:

- a. That the plan meets the requirements of this chapter and the applicable provisions of the Iowa administrative code.
- b. That an actuarial opinion has been attached to the certificate which attests to the adequacy of reserves, rates, and financial condition of the plan. The-actuarial-opinion shall-be-issued-by-a-fellow-of-the-society-of-actuaries. The actuarial opinion must include, but is not limited to, a brief

commentary about the adequacy of the reserves, rates, and the financial condition of the plan, a test of the prior year claim reserve, a brief description of how the reserves were calculated, and whether or not the plan is able to cover all reasonably anticipated expenses. The actuarial opinion shall be prepared, signed, and dated by a person who is a member of the American academy of actuaries. If necessary, the actuary should assist the public body in preparing the annual financial report. The annual financial report shall be in a format as prescribed by the commissioner.

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

d. That the governing body has contracted or otherwise arranged with a third-party-for-plan-administration third-party administrator who holds a current certificate of registration issued by the commissioner pursuant to section 510.21, or with a person not required to obtain the certificate as an administrator as defined in section 510.11, subsection 1.

Sec. 11. NEW SECTION. 510.5A UNFAIR COMPETITION OR UNFAIR AND DECEPTIVE ACTS OR PRACTICES PROHIBITED.

A managing general agent is subject to chapter 507B relating to unfair insurance trade practices.

Sec. 12. NEW SECTION. 510.23 UNFAIR COMPETITION OR UNFAIR AND DECEPTIVE ACTS OR PRACTICES PROHIBITED.

An administrator is subject to chapter 507B relating to unfair insurance trade practices.

Sec. 13. NEW SECTION. 510A.6 PENALTIES.

1. If the commissioner believes that a controlling producer or any other person subject to this chapter has not materially complied with this chapter, or any rule adopted or order issued pursuant to this chapter, after notice and opportunity to be heard, the commissioner may order the controlling producer to cease placing business with the

controlled insurer. Additionally, if the commissioner finds that because of such noncompliance the controlled insurer or any policyholder of the controlled insurer has suffered any loss or damage, the commissioner may maintain a civil action or intervene in an action brought by or on behalf of the insurer or policyholder for recovery of compensatory damages for the benefit of the insurer or policyholder, or for other appropriate relief.

2. If an order for liquidation or rehabilitation of the controlled insurer has been entered pursuant to chapter 507C, and the receiver appointed under that order believes that the controlling producer or any other person has not materially complied with this chapter, or any rule adopted or order issued pursuant to this chapter, and that the insurer suffered any loss or damage as a result of the noncompliance, the receiver may maintain a civil action for recovery of damages or other appropriate sanctions for the benefit of the insurer.

3. This section shall not be construed to affect or limit the right of the commissioner to impose any other penalties, as appropriate, which the commissioner is authorized to impose.

4. This section shall not be construed to affect or limit the rights of policyholders, claimants, creditors, or other third parties.

Sec. 14. NEW SECTION. 512B.21A REQUIRED RESERVES.

A society incorporated on or after July 1, 1993, shall have in cash, or in securities which are authorized for investment purposes for insurance companies pursuant to section 512B.21, surplus in an amount not less than five million dollars.

Sec. 15. NEW SECTION. 513A.7 UNFAIR COMPETITION OR UNFAIR AND DECEPTIVE ACTS OR PRACTICES PROHIBITED.

A third-party payor of health care benefits is subject to chapter 507B relating to unfair insurance trade practices.

Sec. 16. Section 514B.32, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A health maintenance organization authorized under this chapter shall be considered a person for purposes of chapter 507B.

Sec. 17. Section 515.81A, Code 1993, is amended to read as follows:

515.81A CANCELLATION OF COMMERCIAL LINES POLICIES OR CONTRACTS.

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

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

- a. Nonpayment of premium.
- b. Misrepresentation or fraud made by or with the knowledge of the insured in obtaining the policy or contract, when renewing the policy or contract, or in presenting a claim under the policy or contract.
- c. Actions by the insured which substantially change or increase the risk insured.
- d. Determination by the commissioner that the continuation of the policy will jeopardize the insurer's solvency or will constitute a violation of the law of this or any other state.

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

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

- a. The volatility of the premiums charged for reinsurance in the market.
 - b. The number of reinsurers in the market.
 - c. The variance in the premiums for reinsurance offered by the reinsurers in the market.
 - d. The attempt by the insurer to obtain alternate reinsurance.
 - e. Any other factors deemed necessary by the commissioner.
4. A commercial line policy or contract of insurance, except a policy or contract for crop hail or multiperil crop insurance, shall not be canceled except by notice to the insured as provided in this subsection. A notice of cancellation shall include the reason for cancellation of the policy or contract. A notice of cancellation is not effective unless mailed or delivered to the named insured and a loss payee at least ten days prior to the effective date of cancellation, or if the cancellation is because of loss of reinsurance, at least thirty days prior to the effective date of cancellation. A post office department certificate of mailing to the named insured at the address shown in the policy or contract is proof of receipt of the mailing; however, such a certificate of mailing is not required if cancellation is for nonpayment of premium.

Sec. 18. NEW SECTION. 515.130 REBATES PROHIBITED.

An insurance company or an employee of the insurance company, or an agent, shall not pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, as an inducement to purchase or acquire insurance or after insurance has been effected, any rebate, discount, abatement, credit, or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue on the policy, or any valuable consideration or inducement, not specified in the policy, except to the extent provided for in an applicable filing. An insured named in a policy, or an employee of the insured, shall not knowingly receive or accept, directly or indirectly, any rebate, discount, abatement, credit, or reduction of

premium, or any such special favor or advantage or valuable consideration or inducement.

This section shall not be construed to prohibit the payment of commissions or other compensation to duly licensed agents, or to prohibit any insurer from allowing or returning to its participating policyholders, members, or subscribers, dividends, savings, or unabsorbed premium deposits. As used in this section, "insurance" includes suretyship and "policy" includes bond.

Sec. 19. Section 515.147, Code 1993, is amended to read as follows:

515.147 BUSINESS WITH NONADMITTED INSURERS.

This chapter does not prevent a licensed resident or nonresident agent of this state, qualified to write excess and surplus lines insurance, from procuring insurance in certain nonadmitted insurers if such insurance is restricted to the type and kind of insurance authorized by this chapter, excluding insurance authorized under section 515.48, subsection 5, paragraph "a", and the agent makes oath to the commissioner of insurance in the form prescribed by the commissioner that the agent has made diligent effort to place the insurance in authorized insurers and has either exhausted the capacity of all authorized insurers or has been unable to obtain the desired insurance in insurers licensed to transact business in this state. The procuring of a contract of insurance in a nonadmitted insurer makes the insurer liable for, and the agent shall pay, the taxes on the premiums as if the insurer were duly authorized to transact business in the state. A sworn report of all business transacted by agents of this state in nonadmitted insurers shall be made to the commissioner of insurance on or before March 1 of each year for the preceding calendar year, on the form required by the commissioner of insurance. The report shall be accompanied by a remittance to cover the taxes on the premiums. An agent who makes the oath, pays the taxes on the premiums, and files the report has not written such contracts of insurance unlawfully, and is not personally liable for the contracts.

Sec. 20. Section 515A.4, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 9. If a hearing is requested pursuant to section 515A.6, subsection 7, a filing shall not take effect until thirty days after formal approval is given by the commissioner.

Sec. 21. Section 515A.16, Code 1993, is amended to read as follows:

515A.16 REBATES-PROHIBITED PREMIUMS.

No An agent shall not knowingly charge, demand, or receive a premium for any policy of insurance except in accordance with the provisions of this chapter. ~~No insurer or employee thereof, and no agent, shall pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, as an inducement to insurance or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy of insurance, except to the extent provided for in an applicable filing;--No insured named in a policy of insurance, nor any employee of such insured shall knowingly receive or accept, directly or indirectly, any such rebate, discount, abatement, credit or reduction of premium, or any such special favor or advantage or valuable consideration or inducement.~~

~~Nothing in this section shall be construed as prohibiting the payment of commissions or other compensation to duly licensed agents, nor as prohibiting any insurer from allowing or returning to its participating policyholders, members or subscribers, dividends, savings or unabsorbed premium deposits.--As used in this section the word "insurance" includes suretyship and the word "policy" includes bond.~~

Sec. 22. Section 515B.2, subsection 3, Code 1993, is amended to read as follows:

3. a. "Covered claim" means an unpaid claim, including one for unearned premiums, which arises out of and is within

the coverage and is subject to the applicable limits of an insurance policy to which this chapter applies issued by an insurer, if such insurer becomes an insolvent insurer after July 1, 1970, and one of the following conditions exists:

(1) The claimant or insured is a resident of this state at the time of the insured event. Other than an individual, the residence of the claimant or insured is the state in which its principal place of business is located.

(2) The claim is one a first party claim by an insured for damage to property permanently located in this state.

b. "Covered claim" does not include any amount as follows:

(1) That is due any reinsurer, insurer, insurance pool, underwriting association, or other group assuming insurance risks, as subrogation, contribution, or indemnity recoveries, or otherwise.

(2) That constitutes the portion of a claim that is within an insured's deductible or self-insured retention.

(3) That is a claim for unearned premium calculated on a retrospective basis, experience-rated plan, or premium subject to adjustment after termination of the policy.

(4) That is due an attorney, adjuster, or witness as fees for services rendered to the insolvent insurer.

(5) That is a fine, penalty, interest, or punitive or exemplary damages.

(6) That constitutes a claim under a policy issued by an insolvent insurer with a deductible or self-insured retention of two hundred thousand dollars or more. However, such a claim shall be considered a covered claim, if as of the deadline set for the filing of claims against the insolvent insurer or its liquidator, the insured is a debtor under 11 U.S.C. § 701 et seq.

(7) That would otherwise be a covered claim, but is an obligation to or on behalf of a person who has a net worth, on the date of the occurrence giving rise to the claim, greater than that allowed by the guarantee fund law of the state of residence of the claimant, and which state has denied coverage to that claimant on that basis.

(8) That is an obligation owed to or on behalf of an affiliate of, as defined in section 521A.1, an insolvent insurer.

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

Sec. 23. Section 515B.17, Code 1993, is amended to read as follows:

515B.17 TIMELY FILING OF CLAIMS.

Notwithstanding any other provision of this chapter, a covered claim shall not include any claim filed with the association after the final date set by the court for the filing of claims against the insolvent insurer or its receiver. ~~However the association may waive the requirement of this section when in its discretion the claim was not timely presented due to circumstances beyond the control of the person having the claim.~~

Sec. 24. Section 515C.7, Code 1993, is amended to read as follows:

515C.7 RATE-MAKING PROVISIONS.

Mortgage guaranty insurance shall be subject to the provisions of chapter 515A 515F, for the purposes of rate making.

Sec. 25. Section 515E.10, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A risk retention group or purchasing group operating under this chapter shall be considered a person for purposes of chapter 507B.

Sec. 26. Section 521A.3, subsection 4, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. The commissioner may retain any attorneys, actuaries, accountants, and other experts not

otherwise a part of the commissioner's staff as may be reasonably necessary to assist the commissioner in reviewing the proposed merger or acquisition of control, the reasonable cost of which shall be paid by the acquiring party.

Sec. 27. Section 521A.5, subsection 1, paragraph a, subparagraph (5), Code 1993, is amended to read as follows:

(5) After any material transaction with an affiliate and after any dividends or distributions to shareholder affiliates, the insurer's surplus as regards policyholders shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

Sec. 28. Section 521A.5, subsection 1, paragraphs b and c, Code 1993, are amended to read as follows:

b. A domestic insurer and a person in its holding company system shall not enter into any of the following transactions between each other involving amounts equal to or exceeding the lesser of five ~~three~~ percent of the a nonlife insurer's admitted assets or twenty-five percent of the surplus as regards policyholders with respect to nonlife insurers, and equal to or exceeding three percent of the insurer's admitted assets with respect to life insurers, each as of the next preceding December 31, unless the domestic insurer notifies the commissioner in writing of its intention to enter into the transaction at least thirty days prior to entering into the transaction or within a shorter time permitted by the commissioner and the commissioner has not disapproved of the transaction within the time period:

- (1) Sales.
- (2) Purchases.
- (3) Exchanges.
- (4) Loans or extensions of credit.
- (5) Guarantees.
- (6) Investments.
- (7) Loans or extensions of credit to a person who is not an affiliate, if the domestic insurer makes the loans or extensions of credit with the agreement or understanding that the proceeds of the transactions, in whole or in substantial

part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in, an affiliate of the domestic insurer making the loans or extensions of credit.

c. A domestic insurer and a person in its holding company system shall not enter into any of the following transactions, unless the domestic insurer notifies the commissioner in writing of its intention to enter into the transaction at least thirty days prior to entering into the transaction or within a shorter time permitted by the commissioner and the commissioner has not disapproved of the transaction within the time period:

(1) All reinsurance agreements which-in-the-aggregate-will or-may-require-as-consideration-the-net-transfer-of-assets-to or-by-the-domestic-insurer-in-an-amount,-as-of-the-next preceding-December-31,-exceeding-twenty-five-percent-of statutory-surplus or modifications to such agreements in which the reinsurance premium or a change in the insurer's liabilities equals or exceeds five percent of the insurer's surplus as regards policyholders, as of the next preceding December 31, including those agreements which may require as consideration the transfer of assets from an insurer to a nonaffiliate, if an agreement or understanding exists between the insurer and nonaffiliate that any portion of such assets will be transferred to one or more affiliates of the insurer.

(2) All management agreements, service contracts, and all other cost-sharing arrangements involving at least one-half of one percent of the insurer's surplus as of the next preceding December 31.

(3) Any material transactions specified by rule which the commissioner determines may adversely affect the interests of the domestic insurer's policyholders.

Sec. 29. Section 521A.5, subsection 2, Code 1993, is amended by adding the following new paragraph:

NEW PARAGRAPH. k. The quality of the company's earnings and the extent to which the reported earnings include extraordinary items.

Sec. 30. Section 521A.5, subsection 3, Code 1993, is amended by striking the subsection and inserting in lieu thereof the following:

3. DIVIDENDS AND OTHER DISTRIBUTIONS.

a. A domestic insurer may declare and pay dividends to its shareholders only from earned surplus.

For the purposes of this paragraph, "earned surplus" means surplus as regards policyholders less paid-in and contributed surplus, and may include a fair revaluation of assets by the board of directors that is reasonable under the circumstances. Assets revalued by the board of directors cannot be included in earned surplus until thirty days after the commissioner has received notice of the revaluation and has approved the revaluation. The commissioner shall approve or disapprove the revaluation within thirty days after receiving notice of the revaluation unless for good cause the commissioner extends the approval period for an additional thirty days.

b. A domestic insurer shall not pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until thirty days after the commissioner has received notice of the declaration of the dividend or distribution and has not disapproved such payment within the period, or until the time the commissioner has approved the payment within the thirty-day period.

For purposes of this paragraph, an "extraordinary dividend or distribution" includes any dividend or distribution of cash or other property, whose fair market value together with that of other dividends or distributions made within the preceding twelve months exceeds the greater of the following:

(1) Ten percent of insurer's surplus as regards policyholders as of the thirty-first day of December next preceding.

(2) The net gain from operations of the insurer, if the insurer is a life insurer, or the net investment income, if the insurer is not a life insurer, for the twelve-month period ending the thirty-first day of December next preceding.

An extraordinary dividend or distribution does not include pro rata distributions of any class of the insurer's own securities.

c. A domestic insurer subject to registration under section 521A.4 shall report to the commissioner all dividends to shareholders within five business days following the declaration of the dividends and not less than fourteen days prior to the payment of the dividends. This report shall also include a schedule setting forth all dividends or other distributions made within the previous twelve months.

d. Notwithstanding any other provision of law, a domestic insurer may declare an extraordinary dividend or distribution which is conditional upon the commissioner's approval of the dividend or distribution. Such declaration does not confer any rights upon shareholders until the commissioner has approved the payment of the dividend or distribution or the commissioner has not disapproved the payment within the thirty-day period as provided in paragraph "b".

Sec. 31. Section 521A.7, Code 1993, is amended to read as follows:

521A.7 CONFIDENTIAL TREATMENT.

All information, documents and copies thereof obtained by or disclosed to the commissioner or any other person in the course of an examination or investigation made pursuant to section 521A.6 and all information reported pursuant to section sections 521A.4 and 521A.5, shall be given confidential treatment and shall not be subject to subpoena and shall not be made public by the commissioner or any other person, except to insurance departments of other states, without the prior written consent of the insurer to which it pertains unless the commissioner, after giving the insurer and its affiliates who would be affected thereby, notice and opportunity to be heard, determines that the interests of policyholders, shareholders or the public will be served by the publication thereof, in which event the commissioner may publish all or any part thereof in such manner as the commissioner may deem appropriate.

Sec. 32. Section 522.2, Code 1993, is amended to read as follows:

522.2 TERM OF LICENSE.

A license is valid for one-year three years.

Sec. 33. WORKERS' COMPENSATION MARKET -- MONITORING. The commissioner of insurance shall monitor the residual and assigned risks markets for workers' compensation coverage. The commissioner shall monitor, at a minimum, the effect of the residual and assigned risks markets on the volume of coverage written in the voluntary market.

Sec. 34. 1990 Iowa Acts, chapter 1234, section 76, as amended by 1991 Iowa Acts, chapter 213, section 35, and 1992 Iowa Acts, chapter 1162, section 51, is repealed.

HAROLD VAN MAANEN
Speaker of the House

LEONARD L. BOSWELL
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 495, Seventy-fifth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved May 3, 1993

TERRY E. BRANSTAD
Governor