

MAR 11 1997

Place On Calendar

*Substituted*  
SF 393  
4-17-97  
(P.1235)

HOUSE FILE 553  
BY COMMITTEE ON COMMERCE  
AND REGULATION

(SUCCESSOR TO HSB 95)

Passed House, Date 3-17-97 (P.620) Passed Senate, Date 4-17-97 (P.1236)  
Vote: Ayes 96 Nays 0 Vote: Ayes 50 Nays 0

(P.1374) Approved May 2, 1997  
*Passed 4-21-97*  
*Vote 95-1*

A BILL FOR

1 An Act amending the uniform securities Act relating to the  
2 registration of securities and the registration of broker-  
3 dealers and agents, establishing fees, and providing an  
4 effective date.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
HOUSE FILE 553

S-3251

1 Amend House File 553, as passed by the House, as  
2 follows:  
3 1. Page 1, line 18, by inserting after the word  
4 "employee," the following: "member, manager".  
5 2. Page 1, line 28, by inserting after the word  
6 "partner," the following: "member, manager".  
By NEAL SCHUERER

*Adopted 4-17-97 (P.1236)*  
S-3251 FILED MARCH 26, 1997

HF 553

SENATE AMENDMENT TO HOUSE FILE 553

H-1794

1 Amend House File 553, as passed by the House, as  
2 follows:  
3 1. Page 1, line 18, by inserting after the word  
4 "employee," the following: "member, manager".  
5 2. Page 1, line 28, by inserting after the word  
6 "partner," the following: "member, manager".

RECEIVED FROM THE SENATE

H-1794 FILED APRIL 17, 1997

*House Concurred 4-21-97 (P.1373)*

1 Section 1. Section 502.102, subsection 3, Code 1997, is  
2 amended to read as follows:

3 3. "Agent" means any individual other than a broker-dealer  
4 who represents a broker-dealer or issuer in effecting or  
5 attempting to effect purchases or sales of securities.

6 "Agent" does not include an individual who represents an:

7 a. An issuer in doing any of the following:

8 a- (1) Effecting transactions in a security exempted by  
9 section 502.202, subsection 1, 2, 3, 4, 6, 10, 11, 12, 13, or  
10 17, or a security issued by an industrial loan company  
11 licensed under chapter 536A.

12 b- (2) Effecting transactions exempted by section 502.203  
13 or.

14 (3) Effecting transactions in a federal covered security  
15 as described in sections 18(b)(3) and 18(b)(4)(D) of the  
16 Securities Act of 1933 as amended in Pub. L. No. 104-290.

17 c- (4) Effecting transactions with an existing employees  
18 employee, partners partner, or directors director of the  
19 issuer if no commission or other remuneration is paid or given  
20 directly or indirectly for soliciting any person in this  
21 state.

22 b. A broker-dealer in effecting a transaction in this  
23 state which is limited to a transaction provided in section  
24 15(h)(2) of the Securities Exchange Act of 1934.

25 "Agent" also does not include any other individuals  
26 individual who are is not within the intent of this subsection  
27 whom the administrator by rule or order designates. A  
28 partner, officer, or director of a broker-dealer or issuer, or  
29 a person occupying a similar status or performing similar  
30 functions, is an agent only if such person otherwise comes  
31 within this definition.

32 Sec. 2. Section 502.102, Code 1997, is amended by adding  
33 the following new subsection:

34 NEW SUBSECTION. 5A. "Federal covered security" means any  
35 security that is a covered security under section 18(b) of the

1 Securities Act of 1933 or rules or regulations adopted under  
2 the Securities Act of 1933.

3 Sec. 3. Section 502.102, Code 1997, is amended by adding  
4 the following new subsection:

5 NEW SUBSECTION. 13A. "Securities and exchange commission"  
6 means the United States securities and exchange commission as  
7 established pursuant to 15 U.S.C. § 78(d).

8 Sec. 4. Section 502.102, subsection 14, Code 1997, is  
9 amended to read as follows:

10 14. "Security" means any note; stock; treasury stock;  
11 bond; debenture; evidence of indebtedness; certificate of  
12 interest or participation in a profit sharing agreement;  
13 collateral trust certificate; preorganization certificate or  
14 subscription; transferable share; investment contract; voting  
15 trust certificate; certificate of deposit for a security;  
16 fractional undivided interest in an oil, gas, or other mineral  
17 lease or in payments out of production under such a lease,  
18 right, or royalty; an interest in a limited liability company  
19 or in a limited liability partnership or any class or series  
20 of such interest, including any fractional or other interest  
21 in such interest; or, in general, any interest or instrument  
22 commonly known as a "security", or any certificate of interest  
23 or participation in, temporary or interim certificate for,  
24 receipt for, guarantee of, or warrant or right to subscribe to  
25 or purchase, any of the foregoing. "Security" does not  
26 include an insurance or endowment policy or annuity contract  
27 under which an insurance company promises to pay money either  
28 in a lump sum or periodically for life or for some other  
29 specified period. "Security" also does not include an  
30 interest in a limited liability company or a limited liability  
31 partnership if the person claiming that such an interest is  
32 not a security proves that all of the members of the limited  
33 liability company or limited liability partnership are  
34 actively engaged in the management of the limited liability  
35 company or limited liability partnership; provided that the

1 evidence that members vote or have the right to vote, or the  
2 right to information concerning the business and affairs of  
3 the limited liability company or limited liability  
4 partnership, or the right to participate in management, shall  
5 not establish, without more, that all members are actively  
6 engaged in the management of the limited liability company or  
7 limited liability partnership.

8 Sec. 5. Section 502.201, Code 1997, is amended to read as  
9 follows:

10 502.201 REGISTRATION REQUIREMENT.

11 It is unlawful for any person to offer or sell any security  
12 in this state unless one of the following applies:

13 1. It is registered under this chapter; ~~or.~~

14 2. The security or transaction is exempted under section  
15 502.202 or 502.203.

16 3. It is a federal covered security.

17 Sec. 6. Section 502.202, subsection 7, Code 1997, is  
18 amended to read as follows:

19 7. Any security issued or guaranteed by ~~any railroad,~~  
20 ~~other common carrier,~~ a public utility, or holding company  
21 which is any of the following:

22 ~~a. Subject to the jurisdiction of the interstate commerce~~  
23 ~~commission;~~

24 ~~b. a.~~ A registered holding company under the Public  
25 Utility Holding Company Act of 1935 or a subsidiary of such a  
26 company within the meaning of that Act; ~~or.~~

27 b. Regulated in respect of its rates and charges by a  
28 governmental authority of the United States or any state.

29 c. Regulated in respect of the issuance or guarantee of  
30 the security by a governmental authority of the United States,  
31 any state, Canada, or any Canadian province.

32 Sec. 7. NEW SECTION. 502.206A FEDERAL COVERED  
33 SECURITIES.

34 1. The administrator, by rule or order, may require the  
35 filing of any or all of the following documents with respect

1 to a federal covered security under section 18(b)(2) of the  
2 Securities Act of 1933:

3 a. Prior to the initial offer of a federal covered  
4 security in this state, all documents that are part of a  
5 current federal registration statement filed with the United  
6 States securities and exchange commission under the Securities  
7 Act of 1933, together with a consent to service of process  
8 signed by the issuer and a filing fee calculated as specified  
9 in section 502.208, subsection 2.

10 b. After the initial offer of a federal covered security  
11 in this state, all documents that are part of an amendment to  
12 a current federal registration statement filed with the United  
13 States securities and exchange commission under the Securities  
14 Act of 1933.

15 c. To the extent necessary to compute fees, an annual or  
16 periodic report of the value of the federal covered securities  
17 offered or sold in this state together with the applicable  
18 filing fee, if any, calculated as specified in section  
19 502.208, subsection 2.

20 2. With respect to any security that is a federal covered  
21 security under section 18(b)(4)(D) of the Securities Act of  
22 1933, the administrator, by rule or otherwise, may require the  
23 issuer to file a notice on Form D as promulgated by the  
24 securities and exchange commission and a consent to service of  
25 process signed by the issuer not later than fifteen days after  
26 the first sale of the federal covered security in this state  
27 together with a filing fee, as established by rule adopted by  
28 the administrator.

29 3. The administrator, by rule or otherwise, may require  
30 the filing of any document filed with the securities and  
31 exchange commission under the Securities Act of 1933 with  
32 respect to a federal covered security under section 18(b)(3)  
33 or (4) of the Securities Act of 1933, together with a filing  
34 fee established by rule adopted by the administrator which  
35 shall not be more than one hundred dollars.

1 4. The administrator may issue a stop order suspending the  
2 offer and sale of a federal covered security, except a federal  
3 covered security under section 18(b)(1) of the Securities Act  
4 of 1933, if the administrator finds that both of the following  
5 apply:

6 a. The order is in the public interest.

7 b. The person against whom the stop order is issued has  
8 failed to comply with a requirement provided in this section.

9 5. The administrator, by rule or otherwise, may waive any  
10 requirement of this section if the administrator finds good  
11 cause that the requirement is not necessary in order to carry  
12 out the purposes of the section.

13 Sec. 8. Section 502.207A, subsection 5, Code 1997, is  
14 amended to read as follows:

15 5. In connection with an offering registered under this  
16 section, a person may be registered as an agent of the issuer  
17 under section 502.301 by the filing of an application by the  
18 issuer with the administrator for the registration of the  
19 person as an agent of the issuer and the paying of a fee of  
20 ten dollars. Notwithstanding any other provision of this  
21 chapter, the registration of the agent shall be effective  
22 until withdrawn by the issuer or until the securities  
23 registered pursuant to the registration statement have all  
24 been sold, whichever occurs first. The registration of an  
25 agent shall become effective when ordered by the administrator  
26 or on the fifth business day after the agent's application has  
27 been filed with the administrator, whichever occurs first, and  
28 the administrator shall not impose further conditions upon the  
29 registration of the agent. However, the administrator may  
30 deny, revoke, suspend, or withdraw the registration of the  
31 agent at any time as provided in section 502.304. ~~For the~~  
32 ~~purposes of registration of agents under this section, the~~  
33 ~~issuer and agent are not required to post bond.~~ An agent  
34 registered solely pursuant to this section is entitled to sell  
35 only securities registered under this section.

1     Sec. 9. Section 502.208, subsections 1, 2, 4, 5, 8, 9, 11,  
2 and 13, Code 1997, are amended to read as follows:

3     1. A registration statement or a notice filing made  
4 pursuant to section 502.206A may be filed by the issuer, any  
5 other person on whose behalf the offering is to be made, or a  
6 registered broker-dealer.

7     2. a. Except as provided in subsection 13 and section  
8 502.207A, subsection 3, paragraph "g", a person who files a  
9 registration statement or a notice filing shall pay a filing  
10 fee of one-tenth of one percent of the proposed aggregate  
11 sales price of the securities to be offered to persons in this  
12 state pursuant to the registration statement or notice filing.  
13 However, except as provided in paragraph "c" of this  
14 subsection, subsection 13, and section 502.207A, subsection 3,  
15 paragraph "g", the annual filing fee shall not be less than  
16 fifty dollars or more than one thousand dollars.

17     b. The administrator shall retain the filing fee even if  
18 the notice filing is withdrawn or the registration is  
19 withdrawn, denied, suspended, revoked, or abandoned.

20     c. A person who is ~~a face-amount-certificate-company,~~  
21 ~~open-end-management-investment-company,-or-a-unit-investment~~  
22 ~~trust,-as-defined-in-the-Investment-Company-Act-of-1940,~~ the  
23 issuer of a federal covered security under section 18(b)(2) of  
24 the Securities Act of 1933 shall initially register make a  
25 notice filing and annually renew a ~~registration-statement~~  
26 notice filing in this state for an indefinite amount or a  
27 fixed amount. The fixed amount must be for two hundred fifty  
28 thousand dollars. A registrant notice filer shall pay a  
29 filing fee when the statement notice is filed. If the  
30 ~~registration-statement~~ amount covered by the notice is  
31 indefinite, the registrant notice filer shall pay a filing fee  
32 of one thousand dollars. If the ~~registration-statement~~ amount  
33 covered by the notice is fixed, the registrant notice filer  
34 shall pay a filing fee of two hundred fifty dollars, and the  
35 following shall apply:

1 (1) The registrant notice filer shall file a sales report  
2 with the administrator or pay an additional filing fee of one  
3 thousand two hundred fifty dollars within ninety days after  
4 the registration-statement's notice filing's annual renewal  
5 date. If the registrant notice filer files a sales report  
6 with the administrator, the registrant notice filer shall pay  
7 an additional filing fee of one-tenth of one percent of the  
8 amount of securities sold in excess of two hundred fifty  
9 thousand dollars. The additional filing fee must be paid  
10 within ninety days after the registration-statement's notice  
11 filing's annual renewal date.

12 (2) ~~The administrator shall order the registration of~~  
13 notice filing covering the additional securities shall be  
14 effective retroactively as of the effective date of the  
15 registration-statement notice filing that is being amended.

16 4. Any document filed under this chapter or a predecessor  
17 act within five years preceding the filing of a registration  
18 statement or notice filing may be incorporated by reference in  
19 the registration statement or notice filing to the extent that  
20 the document is currently accurate.

21 5. The administrator may by rule or otherwise permit the  
22 omission of any item of information or document from any  
23 registration statement or notice filing.

24 8. The administrator may by rule require that registered  
25 securities of designated classes shall be issued under a trust  
26 indenture containing such provisions as the administrator  
27 determines.

28 9. a. A registration statement or notice filing shall  
29 remain effective for one year from its effective date unless  
30 it is renewed, extended, or amended by rule or order of the  
31 administrator. An initial notice filing or a renewal or  
32 amendment of a notice filing becomes effective on the date  
33 received by the administrator, or, if requested by the issuer,  
34 on the date that the initial notice filing, renewal, or  
35 amendment is effective with the securities and exchange



1 commission. All outstanding securities of the same class as a  
2 registered security or a security for which a notice filing  
3 has been made are considered to be registered or covered by a  
4 notice filing for the purpose of any transaction by or on  
5 behalf of a person who is not the issuer, and who is not in  
6 control of the issuer or controlled by the issuer or under  
7 common control with the issuer, so long as the registration  
8 statement or notice filing is effective, unless otherwise  
9 prescribed by order. A registration statement may or notice  
10 filing shall not be withdrawn after its effective date if any  
11 of the securities has been sold in this state, unless  
12 permitted by rule or order of the administrator. A  
13 registration statement is not effective during the time a stop  
14 order is in effect under section 502.209. A notice filing is  
15 not effective during the time that a stop order issued  
16 pursuant to section 502.206A is in effect. A registration  
17 statement which never became effective may be withdrawn  
18 without prejudice to the issuer upon request and for good  
19 cause as determined at the discretion of the administrator.

20 b. During the effective period of a registration  
21 statement, the administrator may by rule or order require the  
22 person who filed the registration statement to file reports,  
23 not more often than quarterly, to keep reasonably current the  
24 information contained in the registration statement and to  
25 disclose the progress of the offering. If any of the  
26 securities registered has been sold in this state, the  
27 administrator may by rule or order extend the period for  
28 filing the reports for an additional period not exceeding two  
29 years from the date the registration became effective or from  
30 the date of its last amendment or extension.

31 ~~11. Except-for-face-amount-certificate-companies, open-end~~  
32 ~~management-investment-companies, and unit-investment-trusts,~~  
33 ~~as-defined-by-the-Investment-Company-Act-of-1940, registration~~  
34 Registration statements may be amended during the registration  
35 period to increase the amount of registered securities to be

1 offered for sale to persons in this state.

2 a. The amendment to the registration statement becomes  
3 effective on the date ordered by the administrator.

4 b. Filing fees shall be calculated as specified by  
5 subsection 2, paragraph "a", and subsection 13.

6 13. ~~a. --With the exception of face amount certificate~~  
7 ~~companies, open end management investment companies, and unit~~  
8 ~~investment trusts, a~~ A registrant who sold securities to  
9 persons in this state in excess of the amount of securities  
10 registered in this state at the time of the sale may file an  
11 amendment to its registration statement to register the  
12 additional securities. The following requirements shall  
13 apply:

14 {1} a. If a registrant proposes to sell securities to  
15 persons in this state pursuant to a registration statement  
16 that is currently effective in this state in an amount that  
17 exceeds the amount registered in this state, the registrant  
18 must do both of the following:

19 {a} (1) File an amendment to register the additional  
20 securities.

21 {b} (2) Pay an additional filing fee in the same amount as  
22 specified by subsection 2, paragraph "a", as though the  
23 amendment constitutes a separate issue.

24 {2} b. If a registrant sold securities to persons in this  
25 state in excess of the amount registered in this state at that  
26 time, the registrant must do both of the following:

27 {a} (1) File an amendment to register the additional  
28 securities.

29 {b} (2) Pay an additional filing fee that is three times  
30 the amount specified in subsection 2, paragraph "a", as though  
31 the amendment constitutes a separate issue.

32 {3} c. The administrator may order the amendment effective  
33 retroactively as of the effective date of the registration  
34 statement that is being amended.

35 Sec. 10. Section 502.302, subsection 4, Code 1997, is

1 amended to read as follows:

2 4. The administrator may by rule or order require a  
3 minimum capital for broker-dealers ~~and establish limitations~~  
4 ~~on aggregate indebtedness of broker-dealers in relation to net~~  
5 ~~capital and may classify broker-dealers for purposes of such~~  
6 requirements subject to the limitations of section 15 of the  
7 Securities Exchange Act of 1934. ~~The administrator may not,~~  
8 ~~however, with respect to any broker-dealer who is a member of~~  
9 ~~the national association of securities dealers, inc., or who~~  
10 ~~is registered with the securities and exchange commission,~~  
11 ~~require a higher minimum capital or lower ratio of aggregate~~  
12 ~~indebtedness to net capital than is contained in the rules and~~  
13 ~~regulations adopted by such association or commission.~~

14 Sec. 11. Section 502.303, subsections 1 and 2, Code 1997,  
15 are amended to read as follows:

16 1. Every registered broker-dealer shall make and keep such  
17 accounts, correspondence, memoranda, papers, books, and other  
18 records as the administrator by rule prescribes may prescribe  
19 by rule or order, except as provided by section 15 of the  
20 Securities Exchange Act of 1934. ~~All records so required shall~~  
21 ~~be preserved for three years unless the administrator by rule~~  
22 ~~prescribes otherwise for particular types of records.--All~~  
23 ~~required records shall be kept within this state or shall, at~~  
24 ~~the request of the administrator, be made available at any~~  
25 ~~time for examination at the administrator's option either in~~  
26 ~~the principal office of the registrant or by production of~~  
27 ~~exact copies thereof in this state.~~

28 2. Every registered broker-dealer shall file such  
29 financial reports as the administrator by rule prescribes by  
30 rule or order, not to exceed the limitations provided in  
31 section 15 of the Securities Exchange Act of 1934.

32 Sec. 12. Section 502.304, subsection 1, paragraph e, Code  
33 1997, is amended to read as follows:

34 e. Is the subject of an order of the administrator  
35 denying, suspending, or revoking registration as a broker-

1 dealer, agent, or insurance agent;

2 Sec. 13. Section 502.406, subsection 2, paragraph a, Code  
3 1997, is amended to read as follows:

4 a. ~~Neither-the~~ The fact that a registration statement or a  
5 notice filing has been filed under this chapter ~~nor or~~ the  
6 fact that ~~such~~ the statement has become effective ~~constitutes~~  
7 does not constitute a finding by the administrator that any  
8 document filed under this chapter is true, complete or not  
9 misleading. ~~Neither-any~~ Any such fact ~~nor or~~ the fact that an  
10 exemption is available for a security or a transaction ~~means~~  
11 does not mean that the administrator has passed in any way  
12 upon the merits or qualifications of, or has recommended or  
13 given approval to, any person, security or transaction.

14 Sec. 14. Section 502.501, subsection 1, paragraph a, Code  
15 1997, is amended to read as follows:

16 a. Violates section 502.201, subsection 1 or 2, or section  
17 502.208, subsection 12, or section 502.406, subsection 2,  
18 paragraph "b", or

19 Sec. 15. Section 502.602, Code 1997, is amended to read as  
20 follows:

21 502.602 FILING OF SALES AND ADVERTISING LITERATURE.

22 The administrator may by rule or order require the filing  
23 of any prospectus, pamphlet, circular, form letter,  
24 advertisement, or other sales literature or advertising  
25 communication addressed or intended for distribution to  
26 prospective investors, unless the security is a federal  
27 covered security or the transaction relates to a federal  
28 covered security or the security or transaction is exempted by  
29 section 502.202 or 502.203. The administrator may by rule or  
30 order prohibit the publication, circulation or use of any  
31 advertising deemed false or misleading.

32 Sec. 16. Section 502.607, subsection 1, Code 1997, is  
33 amended to read as follows:

34 1. Pursuant to ~~the-Iowa-administrative-procedure-Act~~  
35 chapter 17A, the administrator may from time to time make,

1 amend, and rescind such rules, forms, and orders as are  
2 necessary to carry out the provisions of this chapter,  
3 including rules and forms governing registration statements,  
4 notice filings, applications, and reports, and defining any  
5 terms, whether or not used in this chapter, insofar as the  
6 definitions are not inconsistent with the provisions of this  
7 chapter. For the purpose of rules and forms, the  
8 administrator may classify securities, persons, and other  
9 relevant matters, and prescribe different requirements for  
10 different classes.

11 Sec. 17. Section 502.608, subsections 2 and 3, Code 1997,  
12 are amended to read as follows:

13 2. The administrator shall keep a register of all  
14 applications for registration, notice filings, and  
15 registration statements which are or have been effective under  
16 this chapter and predecessor laws, and all censure, denial,  
17 suspension, or revocation orders which have been entered under  
18 this chapter and predecessor laws. The register shall be open  
19 for public inspection.

20 3. The information contained in or filed with any  
21 registration statement, application, notice filing, or report  
22 may be made available to the public under such rules as the  
23 administrator prescribes.

24 Sec. 18. Section 502.609, subsection 1, unnumbered  
25 paragraph 1, Code 1997, is amended to read as follows:

26 Every applicant for registration under this chapter, and  
27 every issuer which proposes to offer a security in this state,  
28 shall file with the administrator, in such form as the  
29 administrator by rule prescribes, an irrevocable consent  
30 appointing the administrator or the administrator's successor  
31 in office to be such person's attorney to receive service of  
32 any lawful process in any noncriminal suit, action or  
33 proceeding against such person or the successor, executor or  
34 administrator of such person which arises under this chapter  
35 or any rule or order hereunder after the consent has been

1 filed, with the same validity as if served personally on the  
2 person filing the consent. The consent need not be filed by a  
3 person who has filed a consent in connection with a previous  
4 registration or notice filing which is then in effect.

5 Service may be made by leaving a copy of the process in the  
6 office of the administrator, but it is not effective unless  
7 the plaintiff, including the administrator when acting as  
8 such,

9 Sec. 19. EFFECTIVE DATE. This Act, being deemed of  
10 immediate importance, takes effect upon enactment.

11 EXPLANATION

12 This bill amends a number of provisions included in chapter  
13 502, regulating securities. The bill adds provisions relating  
14 to federal covered securities regulated under the federal  
15 Securities Act of 1933 or rules or regulations promulgated by  
16 the securities and exchange commission. Under the federal  
17 Act, these securities are exempted from registration  
18 requirements. The bill revises the definition of "agent" to  
19 include a person who deals in federal covered securities. The  
20 bill provides that the administrator may require the filing of  
21 documents relating to federal covered securities, including a  
22 current federal registration statement, amendments to a  
23 current federal registration statement, reports concerning the  
24 value of federal covered securities, and any other documents  
25 required to be filed with the securities and exchange  
26 commission. The bill provides that the administrator may  
27 issue a stop order suspending the offer and sale of certain  
28 federal covered securities. It provides that the  
29 administrator may also waive the filing requirements of the  
30 bill for federal covered securities.

31 The bill adds limited liability partnerships to the types  
32 of entities dealing in securities regulated under the chapter.  
33 The bill eliminates a reference to the interstate commerce  
34 commission which has been abolished by Congress. The bill  
35 eliminates a reference, for purposes of registration of agents

1 under Code section 502.207A, to a surety bond required when an  
2 offering is made. The bill provides for minimum capital  
3 requirements for brokers. The bill allows the minimum capital  
4 requirement to be set by order of the administrator as well as  
5 by rule. The bill provides that the capital requirements are  
6 subject to limitations of the federal Securities Exchange Act  
7 of 1934 and eliminates provisions basing capital requirements  
8 on rules and regulations adopted by the national association  
9 of securities dealers, inc., or the United States securities  
10 and exchange commission. The bill provides for the  
11 application of disciplinary action against persons licensed as  
12 insurance agents who are subject to sanctions. The bill  
13 provides that a notice filing may be substituted for the  
14 filing of a registration statement.

15 The bill takes effect upon enactment.

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**HOUSE FILE 553  
FISCAL NOTE**

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A fiscal note for **House File 553** is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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House File 553 amends the Iowa Uniform Securities Act to conform with the National Securities Market Improvement Act (NSMIA) adopted by the United States Congress in October 1996.

**ASSUMPTIONS**

1. The NSMIA preempts State registration of investment company offerings, but preserves the ability of the State to require notice filings and fees.
2. In the absence of State legislation specifying the intent of the State to require notice filings and fees, the State is prohibited from collecting fees for registered offerings.
3. House File 553 specifies the intent of the State to require notice filings and fees.
4. The fees specified are equal to those collected by the State prior to the NSMIA's preemption of State security laws.

**FISCAL IMPACT**

House File 553 restores the authority of the Commissioner of Insurance to charge filing fees equal to those collected prior to federal preemption. The estimated fiscal impact to the General Fund for FY 1998 is \$4.0 million and for FY 1999 is \$4.2 million.

**SOURCES**

Department of Commerce

(LSB 1274hv, DAA)

FILED MARCH 12, 1997

BY DENNIS PROUTY, FISCAL DIRECTOR



Sukup, Ch  
Dinkla  
Doderer

HSB 95  
COMMERCE AND REGULATION

Introduced by

553

SENATE/HOUSE FILE \_\_\_\_\_

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 amending the uniform securities Act relating to the  
2 registration of securities and the registration of broker-  
3 dealers and agents, establishing fees, and providing an  
4 effective date.

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

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1 Section 1. Section 502.102, subsection 3, Code 1997, is  
2 amended to read as follows:

3 3. "Agent" means any individual other than a broker-dealer  
4 who represents a broker-dealer or issuer in effecting or  
5 attempting to effect purchases or sales of securities.

6 "Agent" does not include an individual who represents an:

7 a. An issuer in doing any of the following:

8 a- (1) Effecting transactions in a security exempted by  
9 section 502.202, subsection 1, 2, 3, 4, 6, 10, 11, 12, 13, or  
10 17, or a security issued by an industrial loan company  
11 licensed under chapter 536A.

12 b- (2) Effecting transactions exempted by section 502.203,  
13 or.

14 (3) Effecting transactions in a federal covered security  
15 as described in sections 18(b)(3) and 18(b)(4)(D) of the  
16 Securities Act of 1933 as amended in Pub. L. No. 104-290.

17 c- (4) Effecting transactions with an existing employees  
18 employee, partners partner, or directors director of the  
19 issuer if no commission or other remuneration is paid or given  
20 directly or indirectly for soliciting any person in this  
21 state.

22 b. A broker-dealer in effecting a transaction in this  
23 state which is limited to a transaction provided in section  
24 15(h)(2) of the Securities Exchange Act of 1934.

25 "Agent" also does not include any other individuals  
26 individual who are is not within the intent of this subsection  
27 whom the administrator by rule or order designates. A  
28 partner, officer, or director of a broker-dealer or issuer, or  
29 a person occupying a similar status or performing similar  
30 functions, is an agent only if such person otherwise comes  
31 within this definition.

32 Sec. 2. Section 502.102, Code 1997, is amended by adding  
33 the following new subsection:

34 NEW SUBSECTION. 5A. "Federal covered security" means any  
35 security that is a covered security under section 18(b) of the

1 Securities Act of 1933 or rules or regulations adopted under  
2 the Securities Act of 1933, except that up through October 10,  
3 1999, a federal covered security for which a fee has not been  
4 paid and promptly remedied following written notification from  
5 the administrator to the issuer of the nonpayment or  
6 underpayment of the fee, as required by this chapter, shall  
7 not be a federal covered security.

8 Sec. 3. Section 502.102, Code 1997, is amended by adding  
9 the following new subsection:

10 NEW SUBSECTION. 13A. "Securities and exchange commission"  
11 means the United States securities and exchange commission as  
12 established pursuant to 15 U.S.C. § 78(d).

13 Sec. 4. Section 502.102, subsection 14, Code 1997, is  
14 amended to read as follows:

15 14. "Security" means any note; stock; treasury stock;  
16 bond; debenture; evidence of indebtedness; certificate of  
17 interest or participation in a profit sharing agreement;  
18 collateral trust certificate; preorganization certificate or  
19 subscription; transferable share; investment contract; voting  
20 trust certificate; certificate of deposit for a security;  
21 fractional undivided interest in an oil, gas, or other mineral  
22 lease or in payments out of production under such a lease,  
23 right, or royalty; an interest in a limited liability company  
24 or in a limited liability partnership or any class or series  
25 of such interest, including any fractional or other interest  
26 in such interest; or, in general, any interest or instrument  
27 commonly known as a "security", or any certificate of interest  
28 or participation in, temporary or interim certificate for,  
29 receipt for, guarantee of, or warrant or right to subscribe to  
30 or purchase, any of the foregoing. "Security" does not  
31 include an insurance or endowment policy or annuity contract  
32 under which an insurance company promises to pay money either  
33 in a lump sum or periodically for life or for some other  
34 specified period. "Security" also does not include an  
35 interest in a limited liability company or a limited liability

1 partnership if the person claiming that such an interest is  
2 not a security proves that all of the members of the limited  
3 liability company or limited liability partnership are  
4 actively engaged in the management of the limited liability  
5 company or limited liability partnership; provided that the  
6 evidence that members vote or have the right to vote, or the  
7 right to information concerning the business and affairs of  
8 the limited liability company or limited liability  
9 partnership, or the right to participate in management, shall  
10 not establish, without more, that all members are actively  
11 engaged in the management of the limited liability company or  
12 limited liability partnership.

13 Sec. 5. Section 502.201, Code 1997, is amended to read as  
14 follows:

15 502.201 REGISTRATION REQUIREMENT.

16 It is unlawful for any person to offer or sell any security  
17 in this state unless one of the following applies:

- 18 1. It is registered under this chapter~~,-or.~~  
19 2. The security or transaction is exempted under section  
20 502.202 or 502.203.  
21 3. It is a federal covered security.

22 Sec. 6. Section 502.202, subsection 7, Code 1997, is  
23 amended to read as follows:

24 7. Any security issued or guaranteed by ~~any-railroad,~~  
25 ~~other-common-carrier,~~ a public utility, or holding company  
26 which is any of the following:

27 ~~a.--Subject-to-the-jurisdiction-of-the-interstate-commerce~~  
28 ~~commission;~~

29 ~~b. a.~~ a. A registered holding company under the Public  
30 Utility Holding Company Act of 1935 or a subsidiary of such a  
31 company within the meaning of that Act~~,-or.~~

32 b. Regulated in respect of its rates and charges by a  
33 governmental authority of the United States or any state.

34 c. Regulated in respect of the issuance or guarantee of  
35 the security by a governmental authority of the United States,

1 any state, Canada, or any Canadian province.

2 Sec. 7. NEW SECTION. 502.206A FEDERAL COVERED  
3 SECURITIES.

4 1. The administrator, by rule or order, may require the  
5 filing of any or all of the following documents with respect  
6 to a federal covered security under section 18(b)(2) of the  
7 Securities Act of 1933:

8 a. Prior to the initial offer of a federal covered  
9 security in this state, all documents that are part of a  
10 current federal registration statement filed with the United  
11 States securities and exchange commission under the Securities  
12 Act of 1933, together with a consent to service of process  
13 signed by the issuer and a filing fee calculated as specified  
14 in section 502.208, subsections 2 and 13.

15 b. After the initial offer of a federal covered security  
16 in this state, all documents that are part of an amendment to  
17 a current federal registration statement filed with the United  
18 States securities and exchange commission under the Securities  
19 Act of 1933.

20 c. An annual or periodic report of the value of the  
21 federal covered securities offered or sold in this state  
22 together with the applicable filing fee, if any, calculated as  
23 specified in section 502.208, subsections 2 and 13.

24 2. With respect to any security that is a federal covered  
25 security under section 18(b)(4)(D) of the Securities Act of  
26 1933, the administrator, by rule or otherwise, may require the  
27 issuer to file a notice on Form D as promulgated by the  
28 securities and exchange commission and a consent to service of  
29 process signed by the issuer not later than fifteen days after  
30 the first sale of the federal covered security in this state  
31 together with a filing fee, as established by rule adopted by  
32 the administrator.

33 3. The administrator, by rule or otherwise, may require  
34 the filing of any document filed with the securities and  
35 exchange commission under the Securities Act of 1933 with

1 respect to a federal covered security under section 18(b)(3)  
2 or (4) of the Securities Act of 1933, together with a filing  
3 fee established by rule adopted by the administrator which  
4 shall not be more than one hundred dollars.

5 4. The administrator may issue a stop order suspending the  
6 offer and sale of a federal covered security, except a federal  
7 covered security under section 18(b)(1) of the Securities Act  
8 of 1933, if the administrator finds that both of the following  
9 apply:

10 a. The order is in the public interest.

11 b. The person against whom the stop order is issued has  
12 failed to comply with a requirement provided in this section.

13 5. The administrator, by rule or otherwise, may waive any  
14 requirement of this section if the administrator finds good  
15 cause that the requirement is not necessary in order to carry  
16 out the purposes of the section.

17 Sec. 8. Section 502.207A, subsection 5, Code 1997, is  
18 amended to read as follows:

19 5. In connection with an offering registered under this  
20 section, a person may be registered as an agent of the issuer  
21 under section 502.301 by the filing of an application by the  
22 issuer with the administrator for the registration of the  
23 person as an agent of the issuer and the paying of a fee of  
24 ten dollars. Notwithstanding any other provision of this  
25 chapter, the registration of the agent shall be effective  
26 until withdrawn by the issuer or until the securities  
27 registered pursuant to the registration statement have all  
28 been sold, whichever occurs first. The registration of an  
29 agent shall become effective when ordered by the administrator  
30 or on the fifth business day after the agent's application has  
31 been filed with the administrator, whichever occurs first, and  
32 the administrator shall not impose further conditions upon the  
33 registration of the agent. However, the administrator may  
34 deny, revoke, suspend, or withdraw the registration of the  
35 agent at any time as provided in section 502.304. ~~For the~~

1 purposes-of-registration-of-agents-under-this-section, the  
2 issuer-and-agent-are-not-required-to-post-bond. An agent  
3 registered solely pursuant to this section is entitled to sell  
4 only securities registered under this section.

5 Sec. 9. Section 502.302, subsection 4, Code 1997, is  
6 amended to read as follows:

7 4. The administrator may by rule or order require a  
8 minimum capital for broker-dealers and ~~establish limitations~~  
9 ~~on aggregate indebtedness of broker-dealers in relation to net~~  
10 ~~capital and may classify broker-dealers for purposes of such~~  
11 ~~requirements~~ subject to the limitations of section 15 of the  
12 Securities Exchange Act of 1934. ~~The administrator may not,~~  
13 ~~however, with respect to any broker-dealer who is a member of~~  
14 ~~the national association of securities dealers, inc., or who~~  
15 ~~is registered with the securities and exchange commission,~~  
16 ~~require a higher minimum capital or lower ratio of aggregate~~  
17 ~~indebtedness to net capital than is contained in the rules and~~  
18 ~~regulations adopted by such association or commission.~~

19 Sec. 10. Section 502.303, subsections 1 and 2, Code 1997,  
20 are amended to read as follows:

21 1. Every registered broker-dealer shall make and keep such  
22 accounts, correspondence, memoranda, papers, books, and other  
23 records as the administrator by rule prescribes may prescribe  
24 by rule or order, except as provided by section 15 of the  
25 Securities Exchange Act of 1934. ~~All records so required shall~~  
26 ~~be preserved for three years unless the administrator by rule~~  
27 ~~prescribes otherwise for particular types of records. All~~  
28 ~~required records shall be kept within this state or shall, at~~  
29 ~~the request of the administrator, be made available at any~~  
30 ~~time for examination at the administrator's option either in~~  
31 ~~the principal office of the registrant or by production of~~  
32 ~~exact copies thereof in this state.~~

33 2. Every registered broker-dealer shall file such  
34 financial reports as the administrator by rule prescribes by  
35 rule or order, not to exceed the limitations provided in

1 section 15 of the Securities Exchange Act of 1934.

2 Sec. 11. Section 502.304, subsection 1, paragraph e, Code  
3 1997, is amended to read as follows:

4 e. Is the subject of an order of the administrator  
5 denying, suspending, or revoking registration as a broker-  
6 dealer, agent, or insurance agent;

7 Sec. 12. Section 502.501, subsection 1, paragraph a, Code  
8 1997, is amended to read as follows:

9 a. Violates section 502.201, subsection 1 or 2, or section  
10 502.208, subsection 12, or section 502.406, subsection 2,  
11 paragraph "b", or

12 Sec. 13. Section 502.602, Code 1997, is amended to read as  
13 follows:

14 502.602 FILING OF SALES AND ADVERTISING LITERATURE.

15 The administrator may by rule or order require the filing  
16 of any prospectus, pamphlet, circular, form letter,  
17 advertisement, or other sales literature or advertising  
18 communication addressed or intended for distribution to  
19 prospective investors, unless the security or transaction is a  
20 federal covered security or is exempted by section 502.202 or  
21 502.203. The administrator may by rule or order prohibit the  
22 publication, circulation or use of any advertising deemed  
23 false or misleading.

24 Sec. 14. EFFECTIVE DATE. This Act, being deemed of  
25 immediate importance, takes effect upon enactment.

26 EXPLANATION

27 This bill amends a number of provisions included in chapter  
28 502, regulating securities. The bill adds provisions relating  
29 to federal covered securities regulated under the federal  
30 Securities Act of 1933 or rules or regulations promulgated by  
31 the securities and exchange commission. Under the federal  
32 Act, these securities are exempted from registration  
33 requirements. The bill revises the definition of "agent" to  
34 include a person who deals in federal covered securities. The  
35 bill provides that the administrator may require the filing of



1 documents relating to federal covered securities, including a  
2 current federal registration statement, amendments to a  
3 current federal registration statement, reports concerning the  
4 value of federal covered securities, and any other documents  
5 required to be filed with the securities and exchange  
6 commission. The bill provides that the administrator may  
7 issue a stop order suspending the offer and sale of certain  
8 federal covered securities. It provides that the  
9 administrator may also waive the filing requirements of the  
10 bill for federal covered securities.

11 The bill adds limited liability partnerships to the types  
12 of entities dealing in securities regulated under the chapter.  
13 The bill eliminates a reference to the interstate commerce  
14 commission which has been abolished by Congress. The bill  
15 eliminates a reference, for purposes of registration of agents  
16 under Code section 502.207A, to a surety bond required when an  
17 offering is made. The bill provides for minimum capital  
18 requirements for brokers. The bill allows the minimum capital  
19 requirement to be set by order of the administrator as well as  
20 by rule. The bill provides that the capital requirements are  
21 subject to limitations of the federal Securities Exchange Act  
22 of 1934 and eliminates provisions basing capital requirements  
23 on rules and regulations adopted by the national association  
24 of securities dealers, inc., or the United States securities  
25 and exchange commission. The bill provides for the  
26 application of disciplinary action against persons licensed as  
27 insurance agents who are subject to sanctions.

28 The bill takes effect upon enactment.

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TERRY E. BRANSTAD, GOVERNOR

INSURANCE DIVISION  
IOWA DEPARTMENT OF COMMERCE

## MEMORANDUM

To: Members of the 77th General Assembly

From: Craig A. Goettsch  
Superintendent of Securities

Re: Securities Legislation

Date: January 31, 1997

The Insurance Division/ Securities Bureau has filed legislation which is largely technical corrections to chapter 502, the Iowa Uniform Securities Act (IUSA). The bulk of this proposal is intended to conform IUSA to the National Securities Markets Improvement Act of 1996 ("NSMIA"), which became law in October, 1996. In NSMIA, the Congress has tried to divide regulatory responsibilities between the states and the federal Securities and Exchange Commission.

Most of the language in the bill is taken from a draft developed by the North American Securities Administrators Association ("NASAA"). NASAA determined that its approach would be to conform to the intent of the Congress, and to stress to the greatest extent possible, uniformity. Clearly, the Congress has put a premium on states being as uniform as possible. Drafts of this legislation were shared with the Iowa Bar Securities Committee and some industry representatives. We expect this bill to be noncontroversial.

Sections 1, 2, 4, 6, 8, 9, 10, 13, 14, and 15 relate to the NSMIA. In section 3 we propose to add the term limited liability partnership to the LLC definition change from last year. The Bureau has three open enforcement cases involving LLPs. Section 5 deletes the reference to the Interstate Commerce Commission in existing section 502.202(7)(a), since the ICC no longer exists. Section 7 contains a deletion of an outdated reference to the surety bond. Sections 11 and 12 add the fact that the person has been the subject of an administrative action affecting an insurance license (e.g., an insurance agent whose license is revoked for converting premiums would be subject to a securities licensing action as well) to the reasons for sanctioning an agent.

Please do not hesitate to contact me if you have any questions.

SECURITIES BUREAU

INSURANCE DIVISION / LUCAS BUILDING / DES MOINES, IOWA 50319 / 515-281-4441

HOUSE FILE 553

AN ACT

AMENDING THE UNIFORM SECURITIES ACT RELATING TO THE  
REGISTRATION OF SECURITIES AND THE REGISTRATION OF  
BROKER-DEALERS AND AGENTS, ESTABLISHING FEES, AND  
PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 502.102, subsection 3, Code 1997, is amended to read as follows:

3. "Agent" means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities.

"Agent" does not include an individual who represents an:

a. An issuer in doing any of the following:

a- (1) Effecting transactions in a security exempted by section 502.202, subsection 1, 2, 3, 4, 6, 10, 11, 12, 13, or 17, or a security issued by an industrial loan company licensed under chapter 536A.

b- (2) Effecting transactions exempted by section 502.203; or.

(3) Effecting transactions in a federal covered security as described in sections 18(b)(3) and 18(b)(4)(D) of the Securities Act of 1933 as amended in Pub. L. No. 104-290.

c- (4) Effecting transactions with an existing employees employee, member, manager, partners partner, or directors director of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state.

b. A broker-dealer in effecting a transaction in this state which is limited to a transaction provided in section 15(h)(2) of the Securities Exchange Act of 1934.

"Agent" also does not include any other individuals individual who are is not within the intent of this subsection whom the administrator by rule or order designates. A partner, member, manager, officer, or director of a broker-dealer or issuer, or a person occupying a similar status or performing similar functions, is an agent only if such person otherwise comes within this definition.

Sec. 2. Section 502.102, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. "Federal covered security" means any security that is a covered security under section 18(b) of the Securities Act of 1933 or rules or regulations adopted under the Securities Act of 1933.

Sec. 3. Section 502.102, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 13A. "Securities and exchange commission" means the United States securities and exchange commission as established pursuant to 15 U.S.C. § 78(d).

Sec. 4. Section 502.102, subsection 14, Code 1997, is amended to read as follows:

14. "Security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of

interest or participation in a profit sharing agreement; collateral trust certificate; preorganization certificate or subscription; transferable share; investment contract; voting trust certificate; certificate of deposit for a security; fractional undivided interest in an oil, gas, or other mineral lease or in payments out of production under such a lease, right, or royalty; an interest in a limited liability company or in a limited liability partnership or any class or series of such interest, including any fractional or other interest in such interest; or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security" does not include an insurance or endowment policy or annuity contract under which an insurance company promises to pay money either in a lump sum or periodically for life or for some other specified period. "Security" also does not include an interest in a limited liability company or a limited liability partnership if the person claiming that such an interest is not a security proves that all of the members of the limited liability company or limited liability partnership are actively engaged in the management of the limited liability company or limited liability partnership; provided that the evidence that members vote or have the right to vote, or the right to information concerning the business and affairs of the limited liability company or limited liability partnership, or the right to participate in management, shall not establish, without more, that all members are actively engaged in the management of the limited liability company or limited liability partnership.

Sec. 5. Section 502.201, Code 1997, is amended to read as follows:

502.201 REGISTRATION REQUIREMENT.

It is unlawful for any person to offer or sell any security in this state unless one of the following applies:

1. It is registered under this chapter, ~~or,~~
2. The security or transaction is exempted under section 502.202 or 502.203.
3. It is a federal covered security.

Sec. 6. Section 502.202, subsection 7, Code 1997, is amended to read as follows:

7. Any security issued or guaranteed by ~~any railroad, other common carrier, a~~ public utility, ~~or~~ holding company which is any of the following:

~~a. Subject to the jurisdiction of the interstate commerce commission;~~

~~b. a.~~ A registered holding company under the Public Utility Holding Company Act of 1935 or a subsidiary of such a company within the meaning of that Act, ~~or.~~

b. Regulated in respect of its rates and charges by a governmental authority of the United States or any state.

c. Regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, any state, Canada, or any Canadian province.

Sec. 7. NEW SECTION. 502.206A FEDERAL COVERED SECURITIES.

1. The administrator, by rule or order, may require the filing of any or all of the following documents with respect to a federal covered security under section 18(b)(2) of the Securities Act of 1933:

a. Prior to the initial offer of a federal covered security in this state, all documents that are part of a current federal registration statement filed with the United States securities and exchange commission under the Securities Act of 1933, together with a consent to service of process signed by the issuer and a filing fee calculated as specified in section 502.208, subsection 2.

b. After the initial offer of a federal covered security in this state, all documents that are part of an amendment to a current federal registration statement filed with the United States securities and exchange commission under the Securities Act of 1933.

c. To the extent necessary to compute fees, an annual or periodic report of the value of the federal covered securities offered or sold in this state together with the applicable filing fee, if any, calculated as specified in section 502.208, subsection 2.

2. With respect to any security that is a federal covered security under section 18(b)(4)(D) of the Securities Act of 1933, the administrator, by rule or otherwise, may require the issuer to file a notice on Form D as promulgated by the securities and exchange commission and a consent to service of process signed by the issuer not later than fifteen days after the first sale of the federal covered security in this state together with a filing fee, as established by rule adopted by the administrator.

3. The administrator, by rule or otherwise, may require the filing of any document filed with the securities and exchange commission under the Securities Act of 1933 with respect to a federal covered security under section 18(b)(3) or (4) of the Securities Act of 1933, together with a filing fee established by rule adopted by the administrator which shall not be more than one hundred dollars.

4. The administrator may issue a stop order suspending the offer and sale of a federal covered security, except a federal covered security under section 18(b)(1) of the Securities Act of 1933, if the administrator finds that both of the following apply:

- a. The order is in the public interest.
- b. The person against whom the stop order is issued has failed to comply with a requirement provided in this section.

5. The administrator, by rule or otherwise, may waive any requirement of this section if the administrator finds good cause that the requirement is not necessary in order to carry out the purposes of the section.

Sec. 8. Section 502.207A, subsection 5, Code 1997, is amended to read as follows:

5. In connection with an offering registered under this section, a person may be registered as an agent of the issuer under section 502.301 by the filing of an application by the issuer with the administrator for the registration of the person as an agent of the issuer and the paying of a fee of ten dollars. Notwithstanding any other provision of this chapter, the registration of the agent shall be effective until withdrawn by the issuer or until the securities registered pursuant to the registration statement have all been sold, whichever occurs first. The registration of an agent shall become effective when ordered by the administrator or on the fifth business day after the agent's application has been filed with the administrator, whichever occurs first, and the administrator shall not impose further conditions upon the registration of the agent. However, the administrator may deny, revoke, suspend, or withdraw the registration of the agent at any time as provided in section 502.304. ~~For the purposes of registration of agents under this section, the issuer and agent are not required to post bond.~~ An agent registered solely pursuant to this section is entitled to sell only securities registered under this section.

Sec. 9. Section 502.208, subsections 1, 2, 4, 5, 8, 9, 11, and 13, Code 1997, are amended to read as follows:

1. A registration statement or a notice filing made pursuant to section 502.206A may be filed by the issuer, any other person on whose behalf the offering is to be made, or a registered broker-dealer.

2. a. Except as provided in subsection 13 and section 502.207A, subsection 3, paragraph "g", a person who files a

registration statement or a notice filing shall pay a filing fee of one-tenth of one percent of the proposed aggregate sales price of the securities to be offered to persons in this state pursuant to the registration statement or notice filing. However, except as provided in paragraph "c" of this subsection, subsection 13, and section 502.207A, subsection 3, paragraph "g", the annual filing fee shall not be less than fifty dollars or more than one thousand dollars.

b. The administrator shall retain the filing fee even if the notice filing is withdrawn or the registration is withdrawn, denied, suspended, revoked, or abandoned.

c. A person who is ~~a face-amount-certificate-company, open-end-management-investment-company, or a unit-investment trust, as defined in the Investment Company Act of 1940, the issuer of a federal covered security under section 18(b)(2) of the Securities Act of 1933~~ shall initially register ~~make a~~ notice filing and annually renew a ~~registration-statement~~ notice filing in this state for an indefinite amount or a fixed amount. The fixed amount must be for two hundred fifty thousand dollars. A registrant notice filer shall pay a filing fee when the ~~statement~~ notice is filed. If the ~~registration-statement amount covered by the notice~~ is indefinite, the registrant notice filer shall pay a filing fee of one thousand dollars. If the ~~registration-statement amount covered by the notice~~ is fixed, the registrant notice filer shall pay a filing fee of two hundred fifty dollars, and the following shall apply:

(1) The registrant notice filer shall file a sales report with the administrator or pay an additional filing fee of one thousand two hundred fifty dollars within ninety days after the ~~registration-statement's~~ notice filing's annual renewal date. If the registrant notice filer files a sales report with the administrator, the registrant notice filer shall pay an additional filing fee of one-tenth of one percent of the amount of securities sold in excess of two hundred fifty

thousand dollars. The additional filing fee must be paid within ninety days after the ~~registration-statement's~~ notice filing's annual renewal date.

(2) The ~~administrator shall order the registration of~~ notice filing covering the additional securities ~~shall be~~ effective retroactively as of the effective date of the ~~registration-statement~~ notice filing that is being amended.

4. Any document filed under this chapter or a predecessor act within five years preceding the filing of a registration statement or notice filing may be incorporated by reference in the registration statement or notice filing to the extent that the document is currently accurate.

5. The administrator may by rule or otherwise permit the omission of any item of information or document from any registration statement or notice filing.

8. The administrator may by rule require that registered securities of designated classes shall be issued under a trust indenture containing such provisions as the administrator determines.

9. a. A registration statement or notice filing shall remain effective for one year from its effective date unless it is renewed, extended, or amended by rule or order of the administrator. An initial notice filing or a renewal or amendment of a notice filing becomes effective on the date received by the administrator, or, if requested by the issuer, on the date that the initial notice filing, renewal, or amendment is effective with the securities and exchange commission. All outstanding securities of the same class as a registered security or a security for which a notice filing has been made are considered to be registered or covered by a notice filing for the purpose of any transaction by or on behalf of a person who is not the issuer, and who is not in control of the issuer or controlled by the issuer or under common control with the issuer, so long as the registration statement or notice filing is effective, unless otherwise

prescribed by order. A registration statement may or notice filing shall not be withdrawn after its effective date if any of the securities has been sold in this state, unless permitted by rule or order of the administrator. A registration statement is not effective during the time a stop order is in effect under section 502.209. A notice filing is not effective during the time that a stop order issued pursuant to section 502.206A is in effect. A registration statement which never became effective may be withdrawn without prejudice to the issuer upon request and for good cause as determined at the discretion of the administrator.

b. During the effective period of a registration statement, the administrator may by rule or order require the person who filed the registration statement to file reports, not more often than quarterly, to keep reasonably current the information contained in the registration statement and to disclose the progress of the offering. If any of the securities registered has been sold in this state, the administrator may by rule or order extend the period for filing the reports for an additional period not exceeding two years from the date the registration became effective or from the date of its last amendment or extension.

11. ~~Except-for-face-amount-certificate-companies,-open-end management-investment-companies,-and-unit-investment-trusts,-as-defined-by-the-Investment-Company-Act-of-1940,-registration~~ Registration statements may be amended during the registration period to increase the amount of registered securities to be offered for sale to persons in this state.

a. The amendment to the registration statement becomes effective on the date ordered by the administrator.

b. Filing fees shall be calculated as specified by subsection 2, paragraph "a", and subsection 13.

13. ~~a.--With-the-exception-of-face-amount-certificate companies,-open-end-management-investment-companies,-and-unit investment-trusts,-a~~ A registrant who sold securities to

persons in this state in excess of the amount of securities registered in this state at the time of the sale may file an amendment to its registration statement to register the additional securities. The following requirements shall apply:

{1} a. If a registrant proposes to sell securities to persons in this state pursuant to a registration statement that is currently effective in this state in an amount that exceeds the amount registered in this state, the registrant must do both of the following:

{a} (1) File an amendment to register the additional securities.

{b} (2) Pay an additional filing fee in the same amount as specified by subsection 2, paragraph "a", as though the amendment constitutes a separate issue.

{2} b. If a registrant sold securities to persons in this state in excess of the amount registered in this state at that time, the registrant must do both of the following:

{a} (1) File an amendment to register the additional securities.

{b} (2) Pay an additional filing fee that is three times the amount specified in subsection 2, paragraph "a", as though the amendment constitutes a separate issue.

{3} c. The administrator may order the amendment effective retroactively as of the effective date of the registration statement that is being amended.

Sec. 10. Section 502.302, subsection 4, Code 1997, is amended to read as follows:

4. The administrator may by rule or order require a minimum capital for broker-dealers ~~and-establish-limitations on-aggregate-indebtedness-of-broker-dealers-in-relation-to-net capital-and-may-classify-broker-dealers-for-purposes-of-such requirements~~ subject to the limitations of section 15 of the Securities Exchange Act of 1934. ~~The administrator may not, however,-with-respect-to-any-broker-dealer-who-is-a-member-of~~

~~the national association of securities dealers, inc., or who is registered with the securities and exchange commission, require a higher minimum capital or lower ratio of aggregate indebtedness to net capital than is contained in the rules and regulations adopted by such association or commission.~~

Sec. 11. Section 502.303, subsections 1 and 2, Code 1997, are amended to read as follows:

1. Every registered broker-dealer shall make and keep such accounts, correspondence, memoranda, papers, books, and other records as the administrator ~~by rule prescribes~~ may prescribe by rule or order, except as provided by section 15 of the Securities Exchange Act of 1934. ~~All records so required shall be preserved for three years unless the administrator by rule prescribes otherwise for particular types of records. All required records shall be kept within this state or shall, at the request of the administrator, be made available at any time for examination at the administrator's option either in the principal office of the registrant or by production of exact copies thereof in this state.~~

2. Every registered broker-dealer shall file such financial reports as the administrator ~~by rule prescribes~~ by rule or order, not to exceed the limitations provided in section 15 of the Securities Exchange Act of 1934.

Sec. 12. Section 502.304, subsection 1, paragraph e, Code 1997, is amended to read as follows:

e. Is the subject of an order of the administrator denying, suspending, or revoking registration as a broker-dealer, agent, or insurance agent;

Sec. 13. Section 502.406, subsection 2, paragraph a, Code 1997, is amended to read as follows:

a. ~~Neither the~~ The fact that a registration statement or a notice filing has been filed under this chapter ~~nor or~~ the fact that such the statement has become effective constitutes ~~does not constitute~~ a finding by the administrator that any document filed under this chapter is true, complete or not

misleading. ~~Neither any~~ Any such fact ~~nor or~~ the fact that an exemption is available for a security or a transaction means does not mean that the administrator has passed in any way upon the merits or qualifications of, or has recommended or given approval to, any person, security or transaction.

Sec. 14. Section 502.501, subsection 1, paragraph a, Code 1997, is amended to read as follows:

a. Violates section 502.201, subsection 1 or 2, or section 502.208, subsection 12, or section 502.406, subsection 2, paragraph "b", or

Sec. 15. Section 502.602, Code 1997, is amended to read as follows:

502.602 FILING OF SALES AND ADVERTISING LITERATURE.

The administrator may by rule or order require the filing of any prospectus, pamphlet, circular, form letter, advertisement, or other sales literature or advertising communication addressed or intended for distribution to prospective investors, unless the security is a federal covered security or the transaction relates to a federal covered security or the security or transaction is exempted by section 502.202 or 502.203. The administrator may by rule or order prohibit the publication, circulation or use of any advertising deemed false or misleading.

Sec. 16. Section 502.607, subsection 1, Code 1997, is amended to read as follows:

1. Pursuant to ~~the Iowa administrative procedure Act~~ chapter 17A, the administrator may from time to time make, amend, and rescind such rules, forms, and orders as are necessary to carry out the provisions of this chapter, including rules and forms governing registration statements, notice filings, applications, and reports, and defining any terms, whether or not used in this chapter, insofar as the definitions are not inconsistent with the provisions of this chapter. For the purpose of rules and forms, the administrator may classify securities, persons, and other



relevant matters, and prescribe different requirements for different classes.

Sec. 17. Section 502.608, subsections 2 and 3, Code 1997, are amended to read as follows:

2. The administrator shall keep a register of all applications for registration, notice filings, and registration statements which are or have been effective under this chapter and predecessor laws, and all censure, denial, suspension, or revocation orders which have been entered under this chapter and predecessor laws. The register shall be open for public inspection.

3. The information contained in or filed with any registration statement, application, notice filing, or report may be made available to the public under such rules as the administrator prescribes.

Sec. 18. Section 502.609, subsection 1, unnumbered paragraph 1, Code 1997, is amended to read as follows:

Every applicant for registration under this chapter, and every issuer which proposes to offer a security in this state, shall file with the administrator, in such form as the administrator by rule prescribes, an irrevocable consent appointing the administrator or the administrator's successor in office to be such person's attorney to receive service of any lawful process in any noncriminal suit, action or proceeding against such person or the successor, executor or administrator of such person which arises under this chapter or any rule or order hereunder after the consent has been filed, with the same validity as if served personally on the person filing the consent. The consent need not be filed by a person who has filed a consent in connection with a previous registration or notice filing which is then in effect. Service may be made by leaving a copy of the process in the office of the administrator, but it is not effective unless the plaintiff, including the administrator when acting as such,

Sec. 19. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

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RON J. CORBETT  
Speaker of the House

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MARY E. KRAMER  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 553, Seventy-seventh General Assembly.

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ELIZABETH ISAACSON  
Chief Clerk of the House

Approved May 2, 1997

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TERRY E. BRANSTAD  
Governor