

REPRINTED

MAR 17 1997

Place On Calendar

HOUSE FILE 557

BY COMMITTEE ON COMMERCE AND
REGULATION

(SUCCESSOR TO HSB 178)

Passed House, Date 3-18-97 ^(P.651) Passed Senate, Date 4/23/97 ^(P.1395)
Vote: Ayes 99 Nays 0 Vote: Ayes 45 Nays 1
Approved May 26, 1997

A BILL FOR

1 An Act relating to the operation and regulation of certain
2 insurance companies and mutual associations, and the
3 regulatory authority of the insurance division of the
4 department of commerce.

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

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

HF 557

1 Section 1. Section 507.3, subsection 1, Code 1997, is
2 amended to read as follows:

3 1. Upon determining that an examination should be
4 conducted, the commissioner or the commissioner's designee may
5 ~~issue an examination warrant appointing~~ appoint one or more
6 examiners to perform the examination and ~~instructing~~ instruct
7 them as to the scope of the examination. In conducting the
8 examination, the examiner shall observe those guidelines and
9 procedures set forth in the examiners' handbook adopted by the
10 national association of insurance commissioners. The
11 commissioner may also employ other guidelines as the
12 commissioner deems appropriate.

13 Sec. 2. Section 507C.34, subsection 2, paragraph a,
14 subparagraph (3), Code 1997, is amended to read as follows:

15 (3) Claims falling within the priorities established in
16 section 507C.42, ~~subsections~~ subsection 1 and-2.

17 Sec. 3. Section 507C.42, Code 1997, is amended to read as
18 follows:

19 507C.42 PRIORITY OF DISTRIBUTION.

20 The priority of distribution of claims from the insurer's
21 estate shall be in accordance with the order in which each
22 class of claims is set forth. Claims in each class shall be
23 paid in full or adequate funds retained for the payment before
24 the members of the next class receive any payment. Subclasses
25 shall not be established within a class. The order of
26 distribution of claims is:

27 1. Class 1. The costs and expenses of administration,
28 including but not limited to the following:

29 a. The actual and necessary costs of preserving or
30 recovering the assets of the insurer.

31 b. Compensation for all authorized services rendered in
32 the liquidation.

33 c. Necessary filing fees.

34 d. The fees and mileage payable to witnesses.

35 e. Authorized reasonable attorney's fees and other

1 professional services rendered in the liquidation.

2 f. The reasonable expenses of a guaranty association or
3 foreign guaranty association in handling claims.

4 ~~2.---Class 2.---Reasonable compensation to employees for
5 services performed to the extent that they do not exceed two
6 months of monetary compensation and represent payment for
7 services performed within one year before the filing of the
8 petition for liquidation or, if the rehabilitation preceded
9 liquidation, within one year before the filing of the petition
10 for rehabilitation.---Officers and directors are not entitled
11 to the benefit of this priority.---The priority is in lieu of
12 other similar priority which may be authorized by law as to
13 wages or compensation of employees.~~

14 3 2. Class 3 2. Claims under policies, including claims
15 of the federal or any state or local government, for losses
16 incurred, including third-party claims, claims against the
17 insurer for liability for bodily injury or for injury to or
18 destruction of tangible property which are not under policies,
19 claims of a guaranty association or foreign guaranty
20 association, and claims for unearned premium. Claims under
21 life insurance and annuity policies, whether for death
22 proceeds, annuity proceeds, or investment values, shall be
23 treated as loss claims. That portion of a loss,
24 indemnification for which is provided by other benefits or
25 advantages recovered by the claimant, shall not be included in
26 this class, other than benefits or advantages recovered or
27 recoverable in discharge of familial obligations of support or
28 by way of succession at death or as proceeds of life
29 insurance, or as gratuities. A payment by an employer to an
30 employee is not a gratuity.

31 3. Class 3. Claims of the federal government except those
32 under class 2.

33 4. Class 4. Reasonable compensation to employees for
34 services performed to the extent that they do not exceed two
35 months of monetary compensation and represent payment for

1 services performed within one year before the filing of the
2 petition for liquidation or, if the rehabilitation preceded
3 liquidation, within one year before the filing of the petition
4 for rehabilitation. Officers and directors are not entitled
5 to the benefit of this priority. The priority is in lieu of
6 other similar priority which may be authorized by law as to
7 wages or compensation of employees.

8 4 5. Class 4 5. Claims of general creditors, including
9 claims of ceding and assuming reinsurers in their capacity as
10 such, and subrogation claims.

11 5 6. Class 5 6. Claims of ~~the federal or~~ any state or
12 local government except those under class 3 2. Claims,
13 including those of a governmental body for a penalty or
14 forfeiture, are allowed in this class only to the extent of
15 the pecuniary loss sustained from the act, transaction, or
16 proceeding out of which the penalty or forfeiture arose, with
17 reasonable and actual costs incurred. The remainder of such
18 claims shall be postponed to the class of claims under
19 subsection 8 9.

20 6 7. Class 6 7. Claims filed late or any other claims
21 other than claims under subsections 7 8 and 8 9.

22 7 8. Class 7 8. Surplus or contribution notes, or similar
23 obligations, and premium refunds on assessable policies.
24 Payments to members of domestic mutual insurance companies are
25 limited in accordance with law.

26 8 9. Class 8 9. The claims of shareholders or other
27 owners.

28 Sec. 4. Section 507C.59, Code 1997, is amended to read as
29 follows:

30 507C.59 SUBORDINATION OF CLAIMS FOR NONCOOPERATION.

31 If an ancillary receiver in another state or foreign
32 country, whether called by that name or not, fails to transfer
33 to the domiciliary liquidator in this state assets within the
34 ancillary receiver's control other than special deposits,
35 diminished only by the expenses of the ancillary receivership,

1 the claims filed in the ancillary receivership, other than
2 special deposit claims or secured claims, shall be placed in
3 the class of claims under section 507C.42, subsection 7 8.

4 Sec. 5. Section 508.10, Code 1997, is amended by adding
5 the following new unnumbered paragraph:

6 NEW UNNUMBERED PARAGRAPH. A foreign company authorized to
7 do business in this state shall not assumptively reinsure a
8 block of business which includes policyholders residing in
9 this state to a company not authorized to do business in this
10 state without the prior written approval of the commissioner.

11 Sec. 6. Section 508.14, Code 1997, is amended to read as
12 follows:

13 508.14 VIOLATION BY DOMESTIC COMPANY -- DISSOLUTION OR
14 ADMINISTRATIVE PENALTY.

15 1. Upon a failure of a company organized under the laws of
16 this state to make the deposit provided in section 511.8,
17 subsection 16, or file the statement in the time herein
18 stated, or to file in a timely manner any financial statement
19 required by rule of the commissioner of insurance, the
20 commissioner of insurance shall notify the attorney general of
21 the default, who shall at once apply to the district court of
22 the county where the home office of the company is located for
23 an order requiring the company to show cause, upon reasonable
24 notice to be fixed by the court, why its business shall not be
25 discontinued. If, upon the hearing, ~~no~~ sufficient cause is
26 not shown, the court shall decree its dissolution.

27 2. In lieu of a district court action authorized by this
28 section, the commissioner may impose an administrative penalty
29 of ~~three~~ five hundred dollars upon the company. The right of
30 the company to transact further new business in this state
31 shall immediately cease until the requirements of this chapter
32 have been fully complied with.

33 3. The commissioner may give notice to a company, which
34 has failed to file evidence of deposit and all delinquent
35 statements within the time fixed, that the company is in

1 violation of this section. If the company fails to file
2 evidence of deposit and all delinquent statements within ten
3 days of the date of the notice, the company is subject to an
4 additional administrative penalty of one hundred dollars for
5 each day the failure continues.

6 4. Amounts received by the commissioner pursuant to
7 subsections 2 and 3 shall be paid to the treasurer of state
8 for deposit in the general fund of the state as provided in
9 section 505.7.

10 Sec. 7. Section 511.36, subsection 2, Code 1997, is
11 amended to read as follows:

12 2. The rate of interest charged on a policy loan made
13 under subsection 1, paragraph "b", shall not exceed the
14 greater of the following:

15 a. The published monthly average for the calendar month
16 ending two months before the date on which the rate is
17 determined. For purposes of this subsection, "published
18 monthly average" means one of the following:

19 (1) Moody's corporate bond yield average-monthly average
20 corporates as published in Moody's investors service, inc., or
21 any successor to the investors service.

22 (2) If Moody's corporate bond yield average-monthly
23 average corporates is no longer published, a substantially
24 similar average established by rule issued by the commissioner
25 of insurance.

26 ~~On or before the first day of each month, the commissioner~~
27 ~~of insurance shall determine the published monthly average for~~
28 ~~the calendar month ending one month before the date on which~~
29 ~~the monthly average is determined, and publish the rate, as a~~
30 ~~notice in the Iowa administrative bulletin or as a legal~~
31 ~~notice in a newspaper of general circulation published in Polk~~
32 ~~county prior to the first day of the following calendar month.~~
33 ~~This published monthly average is effective on the first day~~
34 ~~of the following calendar month.--The determination of this~~
35 ~~published monthly average by the commissioner of insurance is~~

1 ~~exempt-from-chapter-17A-~~

2 b. The rate used to compute the cash surrender values
3 under the policy during the applicable period plus one percent
4 per annum.

5 Sec. 8. Section 515.35, subsection 3, paragraph a,
6 subparagraph (2), subparagraph subdivision (a), Code 1997, is
7 amended to read as follows:

8 (a) That the loan will be fully collateralized by cash,
9 cash equivalents, or obligations issued or guaranteed by the
10 United States or an agency or an instrumentality of the United
11 States, and that the collateral will be adjusted as necessary
12 each business day during the term of the loan to maintain the
13 required collateralization in the event of market value
14 changes in the loaned securities or collateral.

15 Sec. 9. Section 515.51, Code 1997, is amended to read as
16 follows:

17 515.51 POLICIES -- EXECUTION -- REQUIREMENTS.

18 All policies or contracts of insurance made or entered into
19 by the company may be made either with or without the seal of
20 the company, but shall be subscribed by the president, or such
21 other officer as may be designated by the directors for that
22 purpose, and be attested to by the secretary or the
23 secretary's designee of the company. ~~A policy or contract~~
24 ~~authorized by this chapter shall not be delivered in this~~
25 ~~state unless it is an individual policy or contract form~~ A
26 group motor vehicle or group homeowners policy shall not be
27 written or delivered within this state unless such policy is
28 an individual policy or contract form.

29 Sec. 10. NEW SECTION. 515.68A FOREIGN COMPANIES --
30 REINSURANCE.

31 A foreign company authorized to do business in this state
32 shall not assumptively reinsure a block of business which
33 includes policyholders residing in this state to a company not
34 authorized to do business in this state without the prior
35 written approval of the commissioner.

1 Sec. 11. Section 515B.1, Code 1997, is amended by striking
2 the section and inserting in lieu thereof the following:

3 515B.1 SCOPE.

4 This chapter shall apply to all kinds of direct insurance
5 authorized to be written by an insurer licensed to operate in
6 this state under chapter 515 or chapter 520, but shall not be
7 applicable to the following:

8 1. Life, annuity, health, or disability insurance.

9 2. Mortgage guaranty, financial guaranty or other forms of
10 insurance offering protection against investment risks.

11 3. Fidelity or surety bonds, or any other bonding
12 obligations.

13 4. Credit insurance, vendors' single interest insurance,
14 or collateral protection insurance or any similar insurance
15 protecting the interests of a creditor arising out of a
16 creditor-debtor transaction.

17 5. Insurance warranties or service contracts, including
18 insurance that provides for the repair, replacement, or
19 service of goods or property, or indemnification for repair,
20 replacement, or service, for the operational or structural
21 failure of the goods or property due to a defect in materials,
22 workmanship, or normal wear and tear, or provides
23 reimbursement for the liability incurred by the issuer of
24 agreements or service contracts that provide such benefits.

25 6. Title insurance.

26 7. Ocean marine insurance.

27 8. A transaction or combination of transactions between a
28 person, including affiliates of such person, and an insurer,
29 including affiliates of such insurer, which involves the
30 transfer of investment or credit risk unaccompanied by
31 transfer of insurance risk.

32 9. Insurance provided by or guaranteed by government.

33 Sec. 12. Section 515B.2, Code 1997, is amended by adding
34 the following new subsection:

35 NEW SUBSECTION. 1A. "Claimant" means an insured making a

1 first party claim or any person instituting a liability claim
2 against an insolvent insurer. "Claimant" does not include a
3 person who is an affiliate of an insolvent insurer.

4 Sec. 13. Section 515B.5, subsection 1, paragraph a, Code
5 1997, is amended by striking the paragraph and inserting in
6 lieu thereof the following:

7 a. Be obligated to pay covered claims existing prior to
8 the final order of liquidation and arising within thirty days
9 after the final order of liquidation, or before the policy
10 expiration date if less than thirty days after the final order
11 of liquidation, or before the insured replaces the policy or
12 causes its cancellation, if the insured does so within thirty
13 days of the final order of liquidation. Such obligation shall
14 be satisfied by paying to the claimant an amount as follows:

15 (1) The full amount of a covered claim for benefits under
16 a workers' compensation insurance coverage.

17 (2) An amount in excess of one hundred dollars but not
18 exceeding ten thousand dollars per policy for a covered claim
19 for the return of unearned premium.

20 (3) An amount not exceeding the lesser of the policy
21 limits or three hundred thousand dollars per claim for all
22 covered claims for all damages arising out of any one or
23 series of accidents, occurrences, or incidents, regardless of
24 the number of persons making claims or the number of
25 applicable policies.

26 Sec. 14. Section 515B.5, subsection 1, paragraph c, Code
27 1997, is amended by adding the following new unnumbered
28 paragraph:

29 NEW UNNUMBERED PARAGRAPH. The association shall also have
30 the right to pursue and retain for its own account salvage and
31 subrogation recoverable on paid covered claim obligations. An
32 obligation of the association to defend an insured shall cease
33 upon the association's payment of an amount equal to the
34 lesser of the association's covered claim obligation or the
35 applicable policy limits.

1 Sec. 15. Section 515B.8, subsection 2, Code 1997, is
2 amended to read as follows:

3 2. The association and any similar entity in another state
4 shall be recognized as claimants in the liquidation of an
5 insolvent insurer for any amounts paid by them on covered
6 claim obligations as determined under this chapter or under
7 similar law in another state, and shall receive dividends and
8 any other distributions at the priority set forth under the
9 applicable liquidation law. The receiver, liquidator, or
10 statutory successor of an insolvent insurer shall be bound by
11 determinations of covered claim eligibility under this chapter
12 and by settlements of covered claims made by the association
13 or a similar organization in another state. The court having
14 jurisdiction shall grant such claims priority, ~~including the~~
15 ~~deductible portion thereof,~~ equal to that which the claimant
16 would have been entitled in the absence of this chapter
17 against the assets of the insolvent insurer ~~over all other~~
18 ~~claims not having statutory or secured priority.~~ The expenses
19 of the association or similar organization in handling claims
20 shall be accorded the same priority as the liquidator's
21 expenses.

22 Sec. 16. Section 515B.15, unnumbered paragraph 1, Code
23 1997, is amended to read as follows:

24 All proceedings to which the insolvent insurer is a party
25 or in which it is obligated to defend a party shall be stayed
26 from the date of the insolvency to and including the date set
27 as the deadline for the filing of claims against the insolvent
28 insurer or its receiver. However, upon application, the court
29 having jurisdiction of the receivership, may lengthen or
30 shorten the period, either as to all claims or as to any
31 particular claim. The association may, at the option of the
32 association, waive such stay as to specific cases involving
33 covered claims.

34 Sec. 17. Section 515B.16, Code 1997, is amended to read as
35 follows:

1 515B.16 ACTIONS AGAINST THE ASSOCIATION.

2 Actions against the association shall be brought against it
3 in ~~its~~ the association's own name and only in the Polk county
4 district court. Service of original notice in actions against
5 the association may be made on any officer thereof or upon the
6 commissioner of insurance on its behalf. The commissioner
7 shall promptly transmit any notice so served upon the
8 commissioner to the association.

9 Sec. 18. Section 518.7, Code 1997, is amended to read as
10 follows:

11 518.7 OFFICERS AND DIRECTORS -- ELECTION.

12 Officers or directors shall be elected in the manner and
13 for the length of time prescribed in the articles of
14 incorporation. The same person shall not simultaneously hold
15 the offices of president and secretary.

16 Sec. 19. Section 518A.6, Code 1997, is amended to read as
17 follows:

18 518A.6 OFFICERS -- ELECTION.

19 Officers or directors shall be elected in the manner and
20 for the length of time prescribed in the articles of
21 incorporation or bylaws. The same person shall not
22 simultaneously hold the offices of president and secretary.

23 Sec. 20. Section 521.13, Code 1997, is amended to read as
24 follows:

25 521.13 CONSOLIDATION PROHIBITED -- EXCEPTION.

26 ~~No~~ A company or companies as described in section 521.1
27 shall not consolidate or reinsure except insofar as provided
28 by section 515.49 with any other company or companies ~~not~~
29 ~~authorized-to-transact-business-in-this-state~~ or any insurance
30 company or companies organized under the laws of another state
31 without the commission's approval.

32 Sec. 21. Section 521A.1, subsection 6, unnumbered
33 paragraph 1, Code 1997, is amended to read as follows:

34 "Insurer" means a company qualified and licensed by the
35 insurance division to transact the business of insurance in

1 this state by certificate issued pursuant to chapters 508,
2 514B, 515, ~~518A~~, 515E, and 520, except that it shall not
3 include:

4 Sec. 22. Section 521A.3, subsection 4, paragraph a, Code
5 1997, is amended to read as follows:

6 a. The commissioner shall approve any merger or other
7 acquisition of control referred to in subsection 1 ~~of this~~
8 ~~section unless if~~, after a public hearing ~~thereon on such~~
9 merger or acquisition, the applicant has demonstrated to the
10 commissioner ~~finds any~~ all of the following:

11 (1) After the change of control the domestic insurer
12 referred to in subsection 1 ~~of this section would not~~ will be
13 able to satisfy the requirements for the issuance of a license
14 to write the line or lines of insurance for which it is
15 presently licensed.

16 (2) The effect of the merger or other acquisition of
17 control ~~would be~~ will not substantially to lessen competition
18 in insurance in this state ~~or tend to create a monopoly~~
19 therein.

20 (3) The financial condition of any acquiring party ~~is such~~
21 ~~as might~~ will not jeopardize the financial stability of the
22 insurer, or prejudice the interest of its policyholders.

23 (4) The plans or proposals which the acquiring party has
24 to liquidate the insurer, sell its assets or consolidate or
25 merge it with any person, or to make any other material change
26 in its business or corporate structure or management, are not
27 unfair ~~and or~~ unreasonable to policyholders of the insurer and
28 are not in contrary to the public interest.

29 (5) The competence, experience, and integrity of those
30 persons who would control the operation of the insurer are
31 ~~such that it would not be in the interest~~ sufficient to
32 indicate that the interests of policyholders of the insurer
33 and of the public ~~to permit~~ will not be jeopardized by the
34 merger or other acquisition of control.

35 Sec. 23. Section 515B.25, Code 1997, is repealed.

EXPLANATION

1

2 This bill amends provisions of the insurance code relating
3 generally to the operation and regulation of insurers and the
4 operation of the insurance division of the department of
5 commerce.

6 Code section 507.3 is amended by striking language
7 requiring the commissioner to issue an examination warrant
8 when appointing an examiner.

9 Code section 507C.34 is amended by striking certain claims
10 for which amounts are to be reserved as indicated in the
11 proposal of the liquidator of an insolvent insurer. This
12 change is a conforming change as a result of the amendment to
13 section 507C.42.

14 Code section 507C.42 relates to the priority of
15 distribution of claims from an insurer's estate and is amended
16 by establishing a separate class of claims related to the
17 federal government. These claims are third in priority.
18 Currently, these claims are fifth in priority and included
19 with a class of claims including those of state and local
20 governments. The section is also amended by moving the
21 existing class 2 claims to class 4. These claims include
22 reasonable compensation to employees involved in the
23 liquidation.

24 Code section 507C.59 is amended to conform with the
25 amendments to section 507C.42.

26 Code section 508.10 is amended to prevent a foreign life
27 insurance company from assumptively reinsuring a block of
28 business which includes Iowa policyholders to a company not
29 authorized to transact business in Iowa without the prior
30 written approval of the commissioner.

31 Code section 508.14 is amended by increasing from \$300 to
32 \$500 an administrative penalty which may be levied against an
33 insurance company failing to make a required deposit or timely
34 file certain statements. The levy of the administrative
35 penalty is in lieu of district court action which is currently

1 authorized. Additionally, the company's authority to transact
2 new business immediately ceases until the requirements of the
3 section are met. The commissioner may give notice to a
4 company that is in violation of the section. If the company
5 fails to file evidence of deposit and the statement as
6 required after notice, the company is subject to an additional
7 administrative penalty of \$100 for each day the failure
8 continues. Amounts received by the commissioner under this
9 section are to be deposited in the general fund of the state.

10 Code section 511.36 is amended by striking language which
11 specifically directs the insurance commissioner to determine
12 the published monthly average which is the interest rate which
13 may be charged on life insurance policy loans associated with
14 policies issued after July 1, 1984. The published monthly
15 average is defined in the section as the Moody's corporate
16 bond yield average-monthly average corporates as published in
17 Moody's investors service, inc., or any successor to the
18 investors service, or, if Moody's corporate bond yield
19 average-monthly average corporates is no longer published, a
20 substantially similar average established by rule issued by
21 the commissioner of insurance.

22 Code section 515.51 is amended to provide that a group
23 motor vehicle or group homeowners policy or contract of
24 insurance shall not be written or delivered in Iowa unless the
25 policy is an individual policy or contract form. Currently,
26 all policies or contracts of insurance, other than life
27 insurance, are prohibited from being delivered unless such
28 policies or contracts are an individual policy or contract
29 form. The Code section is also amended to allow the designee
30 of the secretary of an insurance company to attest to the
31 entering into of an insurance policy or contract.

32 New Code section 515.68A is created and prohibits a foreign
33 nonlife insurance company from assumptively reinsuring a block
34 of business which includes Iowa policyholders to a company not
35 authorized to transact business in Iowa without the prior

1 written approval of the commissioner.

2 Code section 515B.1, establishing the scope of the chapter
3 regarding the insurance guaranty association, is amended to
4 expand the exemptions to the applicability of the chapter to
5 include vendor's single interest insurance, collateral
6 protection insurance, or similar coverage arising out of a
7 creditor-debtor transaction; insurance warranties or service
8 contracts; annuity insurance; and insurance provided by or
9 guaranteed by government.

10 Code section 515B.2 is amended to define the term
11 "claimant" as an insured making a first party claim or a
12 person instituting a liability claim against an insolvent
13 insurer.

14 Code section 515B.5 is amended by striking language
15 providing that the guaranty fund is obligated for the amount
16 of a covered claim which is in excess of \$100 and less than
17 \$300,000 for all damages arising out of any one accident,
18 occurrence, or incident regardless of the number of persons
19 making claims. The bill provides that the obligation of the
20 fund is satisfied upon payment to the claimant of an amount in
21 excess of \$100 but not exceeding \$10,000 per policy for a
22 covered claim for the return of unearned premium. The bill
23 provides that the association has a right to pursue for its
24 own account, salvage and subrogation recoverable on paid
25 claims. The bill also provides that the guaranty
26 association's obligation to defend against a claim ceases upon
27 the payment of the lesser of the amount of the covered claim
28 or the applicable policy limits.

29 Code section 515B.8 is amended to provide that the guaranty
30 association or other similar out-of-state entity shall be
31 recognized as a claimant in the liquidation of an insolvent
32 insurer to the extent of amounts paid for covered claims.

33 Code section 515B.15 is amended to permit the guaranty
34 association to waive a stay of proceedings with respect to
35 specific covered claims.

1 Code section 515B.16 is amended to provide that an action
2 against the guaranty association can only be brought against
3 the association in Polk county district court.

4 Code sections 518.7 (county mutual insurance associations)
5 and 518A.6 (mutual casualty assessment insurance associations)
6 are amended to provide that the same person is prohibited from
7 simultaneously holding the offices of president and secretary
8 of such associations.

9 Code section 521.13 is amended to prohibit the
10 consolidation of certain insurance companies and associations
11 without the approval of the commission created under that
12 chapter.

13 The definition of "insurer" contained in chapter 521A
14 (insurance holding company systems) is amended to exclude
15 mutual casualty assessment insurance associations under
16 chapter 518A and include risk retention groups and purchasing
17 groups under chapter 515E.

18 Code section 521A.3 is amended to provide that the
19 commissioner shall approve a merger or other acquisition of
20 control of a domestic insurer if, after public hearing, the
21 applicant has made an affirmative showing of certain facts.
22 Currently, the commissioner is to approve the merger unless,
23 after public hearing, the commissioner finds that any of the
24 existing factors have not been met.

25 Code section 515B.25 is repealed and pertains to the early
26 access to assets of an insolvent insurer by the receiver for
27 distribution.

28
29
30
31
32
33
34
35

HOUSE FILE 557

H-1176

1 Amend House File 557 as follows:

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

4 "Sec. ____ . NEW SECTION. 514B.13A PROHIBITED
5 CONDUCT.

6 1. A health maintenance organization shall not
7 prohibit a participating provider from or penalize a
8 participating provider for discussing treatment
9 options with covered persons, irrespective of the
10 health maintenance organization's position on the
11 treatment options, or from advocating on behalf of
12 covered persons within the utilization review or
13 grievance processes established by the health
14 maintenance organization or a person contracting with
15 the health maintenance organization.

16 2. A health maintenance organization shall not
17 penalize a provider because the provider, in good
18 faith, reports to state or federal authorities any act
19 or practice by the health maintenance organization
20 that, in the opinion of the provider, jeopardizes
21 patient health or welfare.

22 Sec. ____ . NEW SECTION. 514F.4 PROHIBITED
23 CONDUCT.

24 1. A health care insurer shall not prohibit a
25 participating provider from or penalize a
26 participating provider for discussing treatment
27 options with covered persons, irrespective of the
28 health care insurer's position on the treatment
29 options, or from advocating on behalf of covered
30 persons within the utilization review or grievance
31 processes established by the health care insurer or a
32 person contracting with the health care insurer.

33 2. A health care insurer shall not penalize a
34 provider because the provider, in good faith, reports
35 to state or federal authorities any act or practice by
36 the health care insurer that, in the opinion of the
37 provider, jeopardizes patient health or welfare."

38 2. Renumber as necessary.

By DODERER of Johnson

H-1176 FILED MARCH 14, 1997

~~Withdrawn~~ Withdrawn

3-18-97

(P.650)

H-1175

1 Amend House File 557 as follows:

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

4 "Section 1. Section 87.22, unnumbered paragraph 1,
5 Code 1997, is amended to read as follows:

6 The president, vice president, secretary, and
7 treasurer of a corporation other than a family farm
8 corporation, but not to exceed four officers per
9 corporation, may exclude themselves from workers'
10 compensation coverage under chapters 85, 85A, and 85B
11 by knowingly and voluntarily rejecting workers'
12 compensation coverage by signing, and attaching to the
13 workers' compensation or employers' liability policy,
14 ~~initially-and-upon-renewal-of-the-policy,~~ a written
15 rejection, or if such a policy is not issued, by
16 signing a written rejection which is witnessed by two
17 disinterested individuals who are not, formally or
18 informally, affiliated with the corporation and which
19 is filed by the corporation with the industrial
20 commissioner, in substantially the following form:"

21 2. By renumbering as necessary.

By HANSEN of Pottawattamie

H-1175 FILED MARCH 14, 1997

Adopted
3/18/97
(p.650)

3-3/19/97 Commerce
5-4-1-97 Do Pass
5-4/10/97 Unfinished Business Calendar

HOUSE FILE **557**
BY COMMITTEE ON COMMERCE AND
REGULATION

(SUCCESSOR TO HSB 178)

(As Amended and Passed by the House, March 18, 1997)

Re-Passed House, Date 4/24/97 (p.1347) Passed Senate, Date 4/23/97
Vote: Ayes 97 Nays 0 Vote: Ayes 45 Nays 1
Approved May 26, 1997

A BILL FOR

1 An Act relating to the operation and regulation of certain
2 insurance companies and mutual associations, and the
3 regulatory authority of the insurance division of the
4 department of commerce.

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

6
7
8 House Amendments _____
9
10
11
12
13
14
15
16
17
18
19

1 Section 1. Section 87.22, unnumbered paragraph 1, Code
2 1997, is amended to read as follows:

3 The president, vice president, secretary, and treasurer of
4 a corporation other than a family farm corporation, but not to
5 exceed four officers per corporation, may exclude themselves
6 from workers' compensation coverage under chapters 85, 85A,
7 and 85B by knowingly and voluntarily rejecting workers'
8 compensation coverage by signing, and attaching to the
9 workers' compensation or employers' liability policy,
10 initially-and-upon-renewal-of-the-policy, a written rejection,
11 or if such a policy is not issued, by signing a written
12 rejection which is witnessed by two disinterested individuals
13 who are not, formally or informally, affiliated with the
14 corporation and which is filed by the corporation with the
15 industrial commissioner, in substantially the following form:

16 Sec. 2. Section 507.3, subsection 1, Code 1997, is amended
17 to read as follows:

18 1. Upon determining that an examination should be
19 conducted, the commissioner or the commissioner's designee may
20 ~~issue an examination warrant appointing~~ appoint one or more
21 examiners to perform the examination and ~~instructing~~ instruct
22 them as to the scope of the examination. In conducting the
23 examination, the examiner shall observe those guidelines and
24 procedures set forth in the examiners' handbook adopted by the
25 national association of insurance commissioners. The
26 commissioner may also employ other guidelines as the
27 commissioner deems appropriate.

28 Sec. 3. Section 507C.34, subsection 2, paragraph a,
29 subparagraph (3), Code 1997, is amended to read as follows:

30 (3) Claims falling within the priorities established in
31 section 507C.42, ~~subsections~~ subsection 1 and-2.

32 Sec. 4. Section 507C.42, Code 1997, is amended to read as
33 follows:

34 507C.42 PRIORITY OF DISTRIBUTION.

35 The priority of distribution of claims from the insurer's

1 estate shall be in accordance with the order in which each
2 class of claims is set forth. Claims in each class shall be
3 paid in full or adequate funds retained for the payment before
4 the members of the next class receive any payment. Subclasses
5 shall not be established within a class. The order of
6 distribution of claims is:

7 1. Class 1. The costs and expenses of administration,
8 including but not limited to the following:

9 a. The actual and necessary costs of preserving or
10 recovering the assets of the insurer.

11 b. Compensation for all authorized services rendered in
12 the liquidation.

13 c. Necessary filing fees.

14 d. The fees and mileage payable to witnesses.

15 e. Authorized reasonable attorney's fees and other
16 professional services rendered in the liquidation.

17 f. The reasonable expenses of a guaranty association or
18 foreign guaranty association in handling claims.

19 ~~2. Class 2. Reasonable compensation to employees for~~
20 ~~services performed to the extent that they do not exceed two~~
21 ~~months of monetary compensation and represent payment for~~
22 ~~services performed within one year before the filing of the~~
23 ~~petition for liquidation or, if the rehabilitation preceded~~
24 ~~liquidation, within one year before the filing of the petition~~
25 ~~for rehabilitation. Officers and directors are not entitled~~
26 ~~to the benefit of this priority. The priority is in lieu of~~
27 ~~other similar priority which may be authorized by law as to~~
28 ~~wages or compensation of employees.~~

29 3 2. Class 3 2. Claims under policies, including claims
30 of the federal or any state or local government, for losses
31 incurred, including third-party claims, claims against the
32 insurer for liability for bodily injury or for injury to or
33 destruction of tangible property which are not under policies,
34 claims of a guaranty association or foreign guaranty
35 association, and claims for unearned premium. Claims under

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

11 3. Class 3. Claims of the federal government except those
12 under class 2.

13 4. Class 4. Reasonable compensation to employees for
14 services performed to the extent that they do not exceed two
15 months of monetary compensation and represent payment for
16 services performed within one year before the filing of the
17 petition for liquidation or, if the rehabilitation preceded
18 liquidation, within one year before the filing of the petition
19 for rehabilitation. Officers and directors are not entitled
20 to the benefit of this priority. The priority is in lieu of
21 other similar priority which may be authorized by law as to
22 wages or compensation of employees.

23 4 5. Class 4 5. Claims of general creditors, including
24 claims of ceding and assuming reinsurers in their capacity as
25 such, and subrogation claims.

26 5 6. Class 5 6. Claims of ~~the-federal-or~~ any state or
27 local government except those under class 3 2. Claims,
28 including those of a governmental body for a penalty or
29 forfeiture, are allowed in this class only to the extent of
30 the pecuniary loss sustained from the act, transaction, or
31 proceeding out of which the penalty or forfeiture arose, with
32 reasonable and actual costs incurred. The remainder of such
33 claims shall be postponed to the class of claims under
34 subsection 8 9.

35 6 7. Class 6 7. Claims filed late or any other claims

1 other than claims under subsections 7 8 and 8 9.

2 7 8. Class 7 8. Surplus or contribution notes, or similar
3 obligations, and premium refunds on assessable policies.

4 Payments to members of domestic mutual insurance companies are
5 limited in accordance with law.

6 8 9. Class 8 9. The claims of shareholders or other
7 owners.

8 Sec. 5. Section 507C.59, Code 1997, is amended to read as
9 follows:

10 507C.59 SUBORDINATION OF CLAIMS FOR NONCOOPERATION.

11 If an ancillary receiver in another state or foreign
12 country, whether called by that name or not, fails to transfer
13 to the domiciliary liquidator in this state assets within the
14 ancillary receiver's control other than special deposits,
15 diminished only by the expenses of the ancillary receivership,
16 the claims filed in the ancillary receivership, other than
17 special deposit claims or secured claims, shall be placed in
18 the class of claims under section 507C.42, subsection 7 8.

19 Sec. 6. Section 508.10, Code 1997, is amended by adding
20 the following new unnumbered paragraph:

21 NEW UNNUMBERED PARAGRAPH. A foreign company authorized to
22 do business in this state shall not assumptively reinsure a
23 block of business which includes policyholders residing in
24 this state to a company not authorized to do business in this
25 state without the prior written approval of the commissioner.

26 Sec. 7. Section 508.14, Code 1997, is amended to read as
27 follows:

28 508.14 VIOLATION BY DOMESTIC COMPANY -- DISSOLUTION OR
29 ADMINISTRATIVE PENALTY.

30 1. Upon a failure of a company organized under the laws of
31 this state to make the deposit provided in section 511.8,
32 subsection 16, or file the statement in the time herein
33 stated, or to file in a timely manner any financial statement
34 required by rule of the commissioner of insurance, the
35 commissioner of insurance shall notify the attorney general of

1 the default, who shall at once apply to the district court of
2 the county where the home office of the company is located for
3 an order requiring the company to show cause, upon reasonable
4 notice to be fixed by the court, why its business shall not be
5 discontinued. If, upon the hearing, no sufficient cause is
6 not shown, the court shall decree its dissolution.

7 2. In lieu of a district court action authorized by this
8 section, the commissioner may impose an administrative penalty
9 of ~~three~~ five hundred dollars upon the company. The right of
10 the company to transact further new business in this state
11 shall immediately cease until the requirements of this chapter
12 have been fully complied with.

13 3. The commissioner may give notice to a company, which
14 has failed to file evidence of deposit and all delinquent
15 statements within the time fixed, that the company is in
16 violation of this section. If the company fails to file
17 evidence of deposit and all delinquent statements within ten
18 days of the date of the notice, the company is subject to an
19 additional administrative penalty of one hundred dollars for
20 each day the failure continues.

21 4. Amounts received by the commissioner pursuant to
22 subsections 2 and 3 shall be paid to the treasurer of state
23 for deposit in the general fund of the state as provided in
24 section 505.7.

25 Sec. 8. Section 511.36, subsection 2, Code 1997, is
26 amended to read as follows:

27 2. The rate of interest charged on a policy loan made
28 under subsection 1, paragraph "b", shall not exceed the
29 greater of the following:

30 a. The published monthly average for the calendar month
31 ending two months before the date on which the rate is
32 determined. For purposes of this subsection, "published
33 monthly average" means one of the following:

34 (1) Moody's corporate bond yield average-monthly average
35 corporates as published in Moody's investors service, inc., or

1 any successor to the investors service.

2 (2) If Moody's corporate bond yield average-monthly
3 average corporates is no longer published, a substantially
4 similar average established by rule issued by the commissioner
5 of insurance.

6 ~~On-or-before-the-first-day-of-each-month,-the-commissioner~~
7 ~~of-insurance-shall-determine-the-published-monthly-average-for~~
8 ~~the-calendar-month-ending-one-month-before-the-date-on-which~~
9 ~~the-monthly-average-is-determined,-and-publish-the-rate,-as-a~~
10 ~~notice-in-the-Iowa-administrative-bulletin-or-as-a-legal~~
11 ~~notice-in-a-newspaper-of-general-circulation-published-in-Polk~~
12 ~~county-prior-to-the-first-day-of-the-following-calendar-month-~~
13 ~~This-published-monthly-average-is-effective-on-the-first-day~~
14 ~~of-the-following-calendar-month.--The-determination-of-this~~
15 ~~published-monthly-average-by-the-commissioner-of-insurance-is~~
16 ~~exempt-from-chapter-17A-~~

17 b. The rate used to compute the cash surrender values
18 under the policy during the applicable period plus one percent
19 per annum.

20 Sec. 9. Section 515.35, subsection 3, paragraph a,
21 subparagraph (2), subparagraph subdivision (a), Code 1997, is
22 amended to read as follows:

23 (a) That the loan will be fully collateralized by cash,
24 cash equivalents, or obligations issued or guaranteed by the
25 United States or an agency or an instrumentality of the United
26 States, and that the collateral will be adjusted as necessary
27 each business day during the term of the loan to maintain the
28 required collateralization in the event of market value
29 changes in the loaned securities or collateral.

30 Sec. 10. Section 515.51, Code 1997, is amended to read as
31 follows:

32 515.51 POLICIES -- EXECUTION -- REQUIREMENTS.

33 All policies or contracts of insurance made or entered into
34 by the company may be made either with or without the seal of
35 the company, but shall be subscribed by the president, or such

1 other officer as may be designated by the directors for that
2 purpose, and be attested to by the secretary or the
3 secretary's designee of the company. ~~A-policy-or-contract~~
4 ~~authorized-by-this-chapter-shall-not-be-delivered-in-this~~
5 ~~state-unless-it-is-an-individual-policy-or-contract-form~~ A
6 group motor vehicle or group homeowners policy shall not be
7 written or delivered within this state unless such policy is
8 an individual policy or contract form.

9 Sec. 11. NEW SECTION. 515.68A FOREIGN COMPANIES --
10 REINSURANCE.

11 A foreign company authorized to do business in this state
12 shall not assumptively reinsure a block of business which
13 includes policyholders residing in this state to a company not
14 authorized to do business in this state without the prior
15 written approval of the commissioner.

16 Sec. 12. Section 515B.1, Code 1997, is amended by striking
17 the section and inserting in lieu thereof the following:

18 515B.1 SCOPE.

19 This chapter shall apply to all kinds of direct insurance
20 authorized to be written by an insurer licensed to operate in
21 this state under chapter 515 or chapter 520, but shall not be
22 applicable to the following:

- 23 1. Life, annuity, health, or disability insurance.
- 24 2. Mortgage guaranty, financial guaranty or other forms of
25 insurance offering protection against investment risks.
- 26 3. Fidelity or surety bonds, or any other bonding
27 obligations.
- 28 4. Credit insurance, vendors' single interest insurance,
29 or collateral protection insurance or any similar insurance
30 protecting the interests of a creditor arising out of a
31 creditor-debtor transaction.
- 32 5. Insurance warranties or service contracts, including
33 insurance that provides for the repair, replacement, or
34 service of goods or property, or indemnification for repair,
35 replacement, or service, for the operational or structural

1 failure of the goods or property due to a defect in materials,
2 workmanship, or normal wear and tear, or provides
3 reimbursement for the liability incurred by the issuer of
4 agreements or service contracts that provide such benefits.

5 6. Title insurance.

6 7. Ocean marine insurance.

7 8. A transaction or combination of transactions between a
8 person, including affiliates of such person, and an insurer,
9 including affiliates of such insurer, which involves the
10 transfer of investment or credit risk unaccompanied by
11 transfer of insurance risk.

12 9. Insurance provided by or guaranteed by government.

13 Sec. 13. Section 515B.2, Code 1997, is amended by adding
14 the following new subsection:

15 NEW SUBSECTION. 1A. "Claimant" means an insured making a
16 first party claim or any person instituting a liability claim
17 against an insolvent insurer. "Claimant" does not include a
18 person who is an affiliate of an insolvent insurer.

19 Sec. 14. Section 515B.5, subsection 1, paragraph a, Code
20 1997, is amended by striking the paragraph and inserting in
21 lieu thereof the following:

22 a. Be obligated to pay covered claims existing prior to
23 the final order of liquidation and arising within thirty days
24 after the final order of liquidation, or before the policy
25 expiration date if less than thirty days after the final order
26 of liquidation, or before the insured replaces the policy or
27 causes its cancellation, if the insured does so within thirty
28 days of the final order of liquidation. Such obligation shall
29 be satisfied by paying to the claimant an amount as follows:

30 (1) The full amount of a covered claim for benefits under
31 a workers' compensation insurance coverage.

32 (2) An amount in excess of one hundred dollars but not
33 exceeding ten thousand dollars per policy for a covered claim
34 for the return of unearned premium.

35 (3) An amount not exceeding the lesser of the policy

1 limits or three hundred thousand dollars per claim for all
2 covered claims for all damages arising out of any one or
3 series of accidents, occurrences, or incidents, regardless of
4 the number of persons making claims or the number of
5 applicable policies.

6 Sec. 15. Section 515B.5, subsection 1, paragraph c, Code
7 1997, is amended by adding the following new unnumbered
8 paragraph:

9 NEW UNNUMBERED PARAGRAPH. The association shall also have
10 the right to pursue and retain for its own account salvage and
11 subrogation recoverable on paid covered claim obligations. An
12 obligation of the association to defend an insured shall cease
13 upon the association's payment of an amount equal to the
14 lesser of the association's covered claim obligation or the
15 applicable policy limits.

16 Sec. 16. Section 515B.8, subsection 2, Code 1997, is
17 amended to read as follows:

18 2. The association and any similar entity in another state
19 shall be recognized as claimants in the liquidation of an
20 insolvent insurer for any amounts paid by them on covered
21 claim obligations as determined under this chapter or under
22 similar law in another state, and shall receive dividends and
23 any other distributions at the priority set forth under the
24 applicable liquidation law. The receiver, liquidator, or
25 statutory successor of an insolvent insurer shall be bound by
26 determinations of covered claim eligibility under this chapter
27 and by settlements of covered claims made by the association
28 or a similar organization in another state. The court having
29 jurisdiction shall grant such claims priority, including the
30 deductible-portion-thereof, equal to that which the claimant
31 would have been entitled in the absence of this chapter
32 against the assets of the insolvent insurer over-all-other
33 claims-not-having-statutory-or-secured-priority. The expenses
34 of the association or similar organization in handling claims
35 shall be accorded the same priority as the liquidator's

1 expenses.

2 Sec. 17. Section 515B.15, unnumbered paragraph 1, Code
3 1997, is amended to read as follows:

4 All proceedings to which the insolvent insurer is a party
5 or in which it is obligated to defend a party shall be stayed
6 from the date of the insolvency to and including the date set
7 as the deadline for the filing of claims against the insolvent
8 insurer or its receiver. However, upon application, the court
9 having jurisdiction of the receivership, may lengthen or
10 shorten the period, either as to all claims or as to any
11 particular claim. The association may, at the option of the
12 association, waive such stay as to specific cases involving
13 covered claims.

14 Sec. 18. Section 515B.16, Code 1997, is amended to read as
15 follows:

16 515B.16 ACTIONS AGAINST THE ASSOCIATION.

17 Actions against the association shall be brought against it
18 in ~~its~~ the association's own name and only in the Polk county
19 district court. Service of original notice in actions against
20 the association may be made on any officer thereof or upon the
21 commissioner of insurance on its behalf. The commissioner
22 shall promptly transmit any notice so served upon the
23 commissioner to the association.

24 Sec. 19. Section 518.7, Code 1997, is amended to read as
25 follows:

26 518.7 OFFICERS AND DIRECTORS -- ELECTION.

27 Officers or directors shall be elected in the manner and
28 for the length of time prescribed in the articles of
29 incorporation. The same person shall not simultaneously hold
30 the offices of president and secretary.

31 Sec. 20. Section 518A.6, Code 1997, is amended to read as
32 follows:

33 518A.6 OFFICERS -- ELECTION.

34 Officers or directors shall be elected in the manner and
35 for the length of time prescribed in the articles of

1 incorporation or bylaws. The same person shall not
2 simultaneously hold the offices of president and secretary.

3 Sec. 21. Section 521.13, Code 1997, is amended to read as
4 follows:

5 521.13 CONSOLIDATION PROHIBITED -- EXCEPTION.

6 ~~No~~ A company or companies as described in section 521.1
7 shall not consolidate or reinsure except insofar as provided
8 by section 515.49 with any other company or companies ~~not~~
9 ~~authorized-to-transact-business-in-this-state~~ or any insurance
10 company or companies organized under the laws of another state
11 without the commission's approval.

12 Sec. 22. Section 521A.1, subsection 6, unnumbered
13 paragraph 1, Code 1997, is amended to read as follows:

14 "Insurer" means a company qualified and licensed by the
15 insurance division to transact the business of insurance in
16 this state by certificate issued pursuant to chapters 508,
17 514B, 515, ~~518A~~, 515E, and 520, except that it shall not
18 include:

19 Sec. 23. Section 521A.3, subsection 4, paragraph a, Code
20 1997, is amended to read as follows:

21 a. The commissioner shall approve any merger or other
22 acquisition of control referred to in subsection 1 ~~of this~~
23 ~~section-unless~~ if, after a public hearing ~~thereon~~ on such
24 merger or acquisition, the applicant has demonstrated to the
25 commissioner ~~finds-any~~ all of the following:

26 (1) After the change of control the domestic insurer
27 referred to in subsection 1 ~~of this section-would-not~~ will be
28 able to satisfy the requirements for the issuance of a license
29 to write the line or lines of insurance for which it is
30 presently licensed.

31 (2) The effect of the merger or other acquisition of
32 control ~~would-be~~ will not substantially ~~to~~ lessen competition
33 in insurance in this state ~~or-tend-to-create-a-monopoly~~
34 ~~therein.~~

35 (3) The financial condition of any acquiring party ~~is-such~~

1 ~~as-might~~ will not jeopardize the financial stability of the
2 insurer, or prejudice the interest of its policyholders.

3 (4) The plans or proposals which the acquiring party has
4 to liquidate the insurer, sell its assets or consolidate or
5 merge it with any person, or to make any other material change
6 in its business or corporate structure or management, are not
7 unfair ~~and~~ or unreasonable to policyholders of the insurer and
8 are not in contrary to the public interest.

9 (5) The competence, experience, and integrity of those
10 persons who would control the operation of the insurer are
11 ~~such-that-it-would-not-be-in-the-interest~~ sufficient to
12 indicate that the interests of policyholders of the insurer
13 and of the public ~~to-permit~~ will not be jeopardized by the
14 merger or other acquisition of control.

15 Sec. 24. Section 515B.25, Code 1997, is repealed.

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

S-3353

1 Amend House File 557, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 6, by inserting after line 19 the
4 following:

5 "Sec. ____ . NEW SECTION. 514B.33 ESTABLISHMENT OF
6 LIMITED SERVICE ORGANIZATIONS.

7 1. A person may apply to the commissioner for and
8 obtain a certificate of authority to establish and
9 operate a limited service organization in compliance
10 with this chapter. A person shall not establish or
11 operate a limited service organization in this state,
12 or sell, offer to sell, or solicit offers to purchase
13 or receive advance or periodic consideration in
14 conjunction with a limited service organization
15 without obtaining a certificate of authority under
16 this chapter.

17 2. The commissioner shall adopt rules pursuant to
18 chapter 17A establishing a certification process for
19 limited service organizations.

20 3. a. For purposes of this section, "limited
21 service organization" means an organization providing
22 dental care services, vision care services, mental
23 health services, substance abuse services,
24 pharmaceutical services, podiatric care services, or
25 such other services as may be determined by the
26 commissioner.

27 b. "Limited service organization" does not include
28 an organization providing hospital, medical, surgical,
29 or emergency services, except as such services are
30 provided incident to those services identified in
31 paragraph "a."

32 2. By renumbering as necessary.

By MICHAEL E. GRONSTAL

S-3353 FILED APRIL 2, 1997

Adopted

4/23/97

(P1394)

S-3423

1 Amend House File 557, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 10, by inserting after line 23 the
4 following:

5 "Sec. _____. Section 515D.4, subsection 2,
6 unnumbered paragraph 1, Code 1997, is amended to read
7 as follows:

8 ~~Coverage-under-a-policy~~ A person shall not be
9 ~~canceled-except-by-notice-to-the-insured-as-provided~~
10 ~~in-this-chapter---Notice-of-cancellation-of-coverage~~
11 ~~under-a-policy-is-not-effective~~ excluded from the
12 policy unless it the exclusion is based on one or more
13 of the following reasons:

14 Sec. _____. Section 515D.5, Code 1997, is amended to
15 read as follows:

16 515D.5 DELIVERY OF NOTICE.

17 1. Notwithstanding the provisions of sections
18 515.80 through 515.81A, a notice of cancellation of a
19 policy shall not be effective unless mailed or
20 delivered by the insurer to the named insured at least
21 twenty days prior to the effective date of
22 cancellation, or, where the cancellation is for
23 nonpayment of premium notwithstanding the provisions
24 of sections 515.80 and 515.81A at least ten days prior
25 to the date of cancellation. A post office department
26 certificate of mailing to the named insured at the
27 address shown in the policy shall be proof of receipt
28 of such mailing. Unless the reason accompanies the
29 notice of cancellation, the notice shall state that,
30 upon written request of the named insured, mailed or
31 delivered to the insurer not less than fifteen days
32 prior to the date of cancellation, the insurer will
33 state the reason for cancellation, together with
34 notification of the right to a hearing before the
35 commissioner within fifteen days as provided in this
36 chapter.

37 When the reason does not accompany the notice of
38 cancellation, the insurer shall, upon receipt of a
39 timely request by the named insured, state in writing
40 the reason for cancellation. A statement of reason
41 shall be mailed or delivered to the named insured
42 within five days after receipt of a request.

43 2. A notice of exclusion of a person under a
44 policy pursuant to section 515D.4, is not effective
45 unless written notice is mailed or delivered to the
46 named insured at least twenty days prior to the
47 effective date of the exclusion. The written notice
48 shall state the reason for the exclusion, together
49 with notification of the right to a hearing before the
50 commissioner pursuant to section 515D.10 within

S-3423

-1-

S-3423

Page 2

1 fifteen days of receipt or delivery of a statement of
2 reason as provided in this section."

3 2. By renumbering as necessary.

By MICHAEL E. GRONSTAL

Adopted 4/23/97 (p.1395)

S-3423 FILED APRIL 8, 1997

HOUSE FILE 557

S-3682

1 Amend House File 557, as amended, passed, and
2 reprinted by the House, as follows:

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

5 "Sec. 101. Section 70A.20, unnumbered paragraph 1,
6 Code 1997, is amended to read as follows:

7 A state employees disability insurance program is
8 created, which shall be administered by the director
9 of the department of personnel and which shall provide
10 disability benefits in an amount and for the employees
11 as provided in this section. The monthly disability
12 benefits shall provide twenty percent of monthly
13 earnings if employed less than one year, forty percent
14 of monthly earnings if employed one year or more but
15 less than two years, and sixty percent of monthly
16 earnings thereafter, reduced by primary and family
17 social security determined at the time social security
18 disability payments commence, railroad retirement
19 disability income, workers' compensation if
20 applicable, and any other state-sponsored sickness or
21 disability benefits payable. However, the amount of
22 benefits payable under the Iowa public employees'
23 retirement system pursuant to chapter 97B shall not
24 reduce the benefits payable pursuant to this section.
25 Subsequent social security or railroad retirement
26 increases shall not be used to further reduce the
27 insurance benefits payable. As used in this section,
28 "primary and family social security" shall not include
29 social security benefits awarded to an adult child
30 with a disability of the state employee with a
31 disability who does not reside with the state employee
32 with a disability if the social security benefits were
33 awarded to the adult child with a disability prior to
34 the approval of the state employee's benefits under
35 this section and shall not include benefits awarded to
36 a dependent of the state employee with a disability if
37 the state employee is quadriplegic, regardless of
38 whether the United States social security
39 administration records the benefits to the social
40 security number of the adult child with a disability,
41 the state employee with a disability, or any other
42 family member, and such social security benefits shall
43 not reduce the benefits payable pursuant to this
44 section. As used in this section, unless the context
45 otherwise requires, "adult" means a person who is
46 eighteen years of age or older. State employees shall
47 receive credit for the time they were continuously
48 employed prior to and on July 1, 1974. The following
49 provisions apply to the employees disability insurance
50 program:"

S-3682

-1-

S-3682

Page 2

1 2. Page 5, by inserting after line 24 the
2 following:
3 "Sec. 102. NEW SECTION. 509.3A GROUP DISABILITY
4 POLICIES -- RESTRICTION ON REDUCTION IN BENEFITS.
5 If the total monthly amount of loss of time
6 benefits promised for the same loss under all valid
7 loss of time disability insurance coverage upon the
8 insured, whether payable on a weekly or monthly basis,
9 exceeds the monthly earnings of the insured at the
10 time disability commenced or the insured's average
11 monthly earnings for the period of two years
12 immediately preceding a disability for which claim is
13 made, whichever is the greater, the insurer is liable
14 only for such proportionate amount of such benefits
15 under this policy as the amount of such monthly
16 earnings or such average monthly earnings of the
17 insured bears to the total amount of monthly benefits
18 for the same loss under all such coverage upon the
19 insured at the time such disability commences and for
20 the return of such part of the premiums paid during
21 such two years as shall exceed the pro rata amount of
22 the premiums for the benefits actually paid under this
23 section. This section shall not reduce the total
24 monthly amount of benefits payable under all such
25 coverage upon the insured below the sum of two hundred
26 dollars or the sum of the monthly benefits specified
27 in such coverages, whichever is the lesser, nor shall
28 it operate to reduce benefits other than those payable
29 for loss of time. For purposes of this paragraph and
30 with respect to benefits paid for total disability as
31 a result of quadriplegia, disability benefits paid to
32 a dependent of an insured pursuant to the federal
33 Social Security Act, 42 U.S.C. § 423 et seq., as a
34 result of such disability shall not be considered for
35 determining the total monthly amount of loss of time
36 benefits promised for the same loss under all valid
37 loss of time coverage or for determining the liability
38 of any insurer for benefits to be paid under such
39 policy."

40 3. Page 6, by inserting after line 19 the
41 following:
42 "Sec. 103. Section 514A.3, subsection 2, paragraph
43 f, unnumbered paragraph 2, Code 1997, is amended to
44 read as follows:

45 Relation of earnings to insurance: If the total
46 monthly amount of loss of time benefits promised for
47 the same loss under all valid loss of time coverage
48 upon the insured, whether payable on a weekly or
49 monthly basis, shall exceed the monthly earnings of
50 the insured at the time disability commenced or the

S-3682

-2-

S-3682

Page 3

1 insured's average monthly earnings for the period of
2 two years immediately preceding a disability for which
3 claim is made, whichever is the greater, the insurer
4 ~~will be~~ is liable only for such proportionate amount
5 of such benefits under this policy as the amount of
6 such monthly earnings or such average monthly earnings
7 of the insured bears to the total amount of monthly
8 benefits for the same loss under all such coverage
9 upon the insured at the time such disability commences
10 and for the return of such part of the premiums paid
11 during such two years as shall exceed the pro rata
12 amount of the premiums for the benefits actually paid
13 hereunder under this section; but this shall not
14 operate to reduce the total monthly amount of benefits
15 payable under all such coverage upon the insured below
16 the sum of two hundred dollars or the sum of the
17 monthly benefits specified in such coverages,
18 whichever is the lesser, nor shall it operate to
19 reduce benefits other than those payable for loss of
20 time. For purposes of this paragraph and with respect
21 to benefits paid for total disability as a result of
22 quadriplegia, disability benefits paid to a dependent
23 of an insured pursuant to the federal Social Security
24 Act, 42 U.S.C. § 423 et seq., as a result of such
25 disability shall not be considered for determining the
26 total monthly amount of loss of time benefits promised
27 for the same loss under all valid loss of time
28 coverage or for determining the liability of any
29 insurer for benefits to be paid under such policy."

30 4. Page 12, by inserting after line 14 the
31 following:

32 "Sec. ____ . APPLICABILITY. Sections 101, 102, and
33 103 of this Act shall apply to all individuals
34 receiving disability benefits on July 1, 1997, whether
35 or not the date on which an individual became eligible
36 to receive, or began receiving, benefits was prior to
37 July 1, 1997. Sections 101, 102, and 103 of this Act
38 shall not establish a right or cause of action in
39 favor of an individual receiving disability benefits
40 for any additional benefits for a period prior to July
41 1, 1997, as a result of this Act."

42 5. By renumbering as necessary.

By O. GENE MADDOX

S-3682 FILED APRIL 22, 1997

WITHDRAWN

4/23/97

(R 1394)

HOUSE FILE 557

S-3679

1 Amend House File 557, as amended, passed, and
2 reprinted by the House, as follows:
3 1. Page 1, by inserting before line 1 the
4 following:
5 "Sec. 101. Section 70A.20, unnumbered paragraph 1,
6 Code 1997, is amended to read as follows:
7 A state employees disability insurance program is
8 created, which shall be administered by the director
9 of the department of personnel and which shall provide
10 disability benefits in an amount and for the employees
11 as provided in this section. The monthly disability
12 benefits shall provide twenty percent of monthly
13 earnings if employed less than one year, forty percent
14 of monthly earnings if employed one year or more but
15 less than two years, and sixty percent of monthly
16 earnings thereafter, reduced by primary and family
17 social security determined at the time social security
18 disability payments commence, railroad retirement
19 disability income, workers' compensation if
20 applicable, and any other state-sponsored sickness or
21 disability benefits payable. However, the amount of
22 benefits payable under the Iowa public employees'
23 retirement system pursuant to chapter 97B shall not
24 reduce the benefits payable pursuant to this section.
25 Subsequent social security or railroad retirement
26 increases shall not be used to further reduce the
27 insurance benefits payable. As used in this section,
28 "primary and family social security" shall not include
29 social security benefits awarded to an adult child
30 with a disability of the state employee with a
31 disability who does not reside with the state employee
32 with a disability if the social security benefits were
33 awarded to the adult child with a disability prior to
34 the approval of the state employee's benefits under
35 this section and shall not include benefits awarded to
36 a dependent of the state employee with a disability if
37 the state employee is quadriplegic, regardless of
38 whether the United States social security
39 administration records the benefits to the social
40 security number of the adult child with a disability,
41 the state employee with a disability, or any other
42 family member, and such social security benefits shall
43 not reduce the benefits payable pursuant to this
44 section. As used in this section, unless the context
45 otherwise requires, "adult" means a person who is
46 eighteen years of age or older. State employees shall
47 receive credit for the time they were continuously
48 employed prior to and on July 1, 1974. The following
49 provisions apply to the employees disability insurance
50 program:"

S-3679

-1-

S-3679

Page 2

1 2. Page 5, by inserting after line 24 the
2 following:
3 "Sec. 102. NEW SECTION. 509.3A GROUP DISABILITY
4 POLICIES -- RESTRICTION ON REDUCTION IN BENEFITS.
5 If the total monthly amount of loss of time
6 benefits promised for the same loss under all valid
7 loss of time disability insurance coverage upon the
8 insured, whether payable on a weekly or monthly basis,
9 exceeds the monthly earnings of the insured at the
10 time disability commenced or the insured's average
11 monthly earnings for the period of two years
12 immediately preceding a disability for which claim is
13 made, whichever is the greater, the insurer is liable
14 only for such proportionate amount of such benefits
15 under this policy as the amount of such monthly
16 earnings or such average monthly earnings of the
17 insured bears to the total amount of monthly benefits
18 for the same loss under all such coverage upon the
19 insured at the time such disability commences and for
20 the return of such part of the premiums paid during
21 such two years as shall exceed the pro rata amount of
22 the premiums for the benefits actually paid under this
23 section. This section shall not reduce the total
24 monthly amount of benefits payable under all such
25 coverage upon the insured below the sum of two hundred
26 dollars or the sum of the monthly benefits specified
27 in such coverages, whichever is the lesser, nor shall
28 it operate to reduce benefits other than those payable
29 for loss of time. For purposes of this paragraph and
30 with respect to benefits paid for total disability as
31 a result of quadriplegia, disability benefits paid to
32 a dependent of an insured pursuant to the federal
33 Social Security Act, 42 U.S.C. § 423 et seq., as a
34 result of such disability shall not be considered for
35 determining the total monthly amount of loss of time
36 benefits promised for the same loss under all valid
37 loss of time coverage or for determining the liability
38 of any insurer for benefits to be paid under such
39 policy."

40 3. Page 6, by inserting after line 19 the
41 following:
42 "Sec. 103. Section 514A.3, subsection 2, paragraph
43 f, unnumbered paragraph 2, Code 1997, is amended to
44 read as follows:
45 Relation of earnings to insurance: If the total
46 monthly amount of loss of time benefits promised for
47 the same loss under all valid loss of time coverage
48 upon the insured, whether payable on a weekly or
49 monthly basis, shall exceed the monthly earnings of
50 the insured at the time disability commenced or the
S-3679

S-3679

Page 3

1 insured's average monthly earnings for the period of
2 two years immediately preceding a disability for which
3 claim is made, whichever is the greater, the insurer
4 ~~will be~~ is liable only for such proportionate amount
5 of such benefits under this policy as the amount of
6 such monthly earnings or such average monthly earnings
7 of the insured bears to the total amount of monthly
8 benefits for the same loss under all such coverage
9 upon the insured at the time such disability commences
10 and for the return of such part of the premiums paid
11 during such two years as shall exceed the pro rata
12 amount of the premiums for the benefits actually paid
13 hereunder under this section; but this shall not
14 operate to reduce the total monthly amount of benefits
15 payable under all such coverage upon the insured below
16 the sum of two hundred dollars or the sum of the
17 monthly benefits specified in such coverages,
18 whichever is the lesser, nor shall it operate to
19 reduce benefits other than those payable for loss of
20 time. For purposes of this paragraph and with respect
21 to benefits paid for total disability as a result of
22 quadriplegia, disability benefits paid to a dependent
23 of an insured pursuant to the federal Social Security
24 Act, 42 U.S.C. § 423 et seq., as a result of such
25 disability shall not be considered for determining the
26 total monthly amount of loss of time benefits promised
27 for the same loss under all valid loss of time
28 coverage or for determining the liability of any
29 insurer for benefits to be paid under such policy."

30 4. Page 12, by inserting after line 14 the
31 following:

32 "Sec. ____ . APPLICABILITY. Sections 101, 102, and
33 103 of this Act shall apply to all individuals
34 receiving disability benefits on July 1, 1998, whether
35 or not the date on which an individual became eligible
36 to receive, or began receiving, benefits was prior to
37 July 1, 1998. Sections 101, 102, and 103 of this Act
38 shall not establish a right or cause of action in
39 favor of an individual receiving disability benefits
40 for any additional benefits for a period prior to July
41 1, 1997, as a result of this Act."

42 5. By renumbering as necessary.

By O. GENE MADDOX

S-3679 FILED APRIL 22, 1997

O/Order 4/23/97

(P.1394)

SENATE AMENDMENT TO HOUSE FILE 557

H-1905

1 Amend House File 557, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 6, by inserting after line 19 the
4 following:

5 "Sec. ____ . NEW SECTION. 514B.33 ESTABLISHMENT OF
6 LIMITED SERVICE ORGANIZATIONS.

7 1. A person may apply to the commissioner for and
8 obtain a certificate of authority to establish and
9 operate a limited service organization in compliance
10 with this chapter. A person shall not establish or
11 operate a limited service organization in this state,
12 or sell, offer to sell, or solicit offers to purchase
13 or receive advance or periodic consideration in
14 conjunction with a limited service organization
15 without obtaining a certificate of authority under
16 this chapter.

17 2. The commissioner shall adopt rules pursuant to
18 chapter 17A establishing a certification process for
19 limited service organizations.

20 3. a. For purposes of this section, "limited
21 service organization" means an organization providing
22 dental care services, vision care services, mental
23 health services, substance abuse services,
24 pharmaceutical services, podiatric care services, or
25 such other services as may be determined by the
26 commissioner.

27 b. "Limited service organization" does not include
28 an organization providing hospital, medical, surgical,
29 or emergency services, except as such services are
30 provided incident to those services identified in
31 paragraph "a".

32 2. Page 10, by inserting after line 23 the
33 following:

34 "Sec. ____ . Section 515D.4, subsection 2,
35 unnumbered paragraph 1, Code 1997, is amended to read
36 as follows:

37 ~~Coverage-under-a-policy~~ A person shall not be
38 ~~cancelled-except-by-notice-to-the-insured-as-provided~~
39 ~~in-this-chapter.--Notice-of-cancellation-of-coverage~~
40 ~~under-a-policy-is-not-effective~~ excluded from the
41 policy unless it the exclusion is based on one or more
42 of the following reasons:

43 Sec. ____ . Section 515D.5, Code 1997, is amended to
44 read as follows:

45 515D.5 DELIVERY OF NOTICE.

46 1. Notwithstanding the provisions of sections
47 515.80 through 515.81A, a notice of cancellation of a
48 policy shall not be effective unless mailed or
49 delivered by the insurer to the named insured at least
50 twenty days prior to the effective date of

H-1905

-1-

H-1905

Page 2

1 cancellation, or, where the cancellation is for
 2 nonpayment of premium notwithstanding the provisions
 3 of sections 515.80 and 515.81A at least ten days prior
 4 to the date of cancellation. A post office department
 5 certificate of mailing to the named insured at the
 6 address shown in the policy shall be proof of receipt
 7 of such mailing. Unless the reason accompanies the
 8 notice of cancellation, the notice shall state that,
 9 upon written request of the named insured, mailed or
 10 delivered to the insurer not less than fifteen days
 11 prior to the date of cancellation, the insurer will
 12 state the reason for cancellation, together with
 13 notification of the right to a hearing before the
 14 commissioner within fifteen days as provided in this
 15 chapter.

16 When the reason does not accompany the notice of
 17 cancellation, the insurer shall, upon receipt of a
 18 timely request by the named insured, state in writing
 19 the reason for cancellation. A statement of reason
 20 shall be mailed or delivered to the named insured
 21 within five days after receipt of a request.

22 2. A notice of exclusion of a person under a
 23 policy pursuant to section 515D.4, is not effective
 24 unless written notice is mailed or delivered to the
 25 named insured at least twenty days prior to the
 26 effective date of the exclusion. The written notice
 27 shall state the reason for the exclusion, together
 28 with notification of the right to a hearing before the
 29 commissioner pursuant to section 515D.10 within
 30 fifteen days of receipt or delivery of a statement of
 31 reason as provided in this section."

32 3. By renumbering, relettering, or redesignating
 33 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-1905 FILED APRIL 23, 1997

House concurred 4/24/97 (p. 1547)

HANSEN, B. CHAIR
METCALF
KOENIGS

HSB 178
COMMERCE AND REGULATION

Succeeded B
SENATE/HOUSE FILE FILE 557
BY (PROPOSED DEPARTMENT OF
COMMERCE/INSURANCE DIVISION
BILL)

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

A BILL FOR

1 An Act relating to the operation and regulation of certain
2 insurance companies and mutual associations, and the
3 regulatory authority of the insurance division of the
4 department of commerce.

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

- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

1 Section 1. Section 507.3, subsection 1, Code 1997, is
2 amended to read as follows:

3 1. Upon determining that an examination should be
4 conducted, the commissioner or the commissioner's designee may
5 ~~issue an examination warrant appointing~~ appoint one or more
6 examiners to perform the examination and ~~instructing~~ instruct
7 them as to the scope of the examination. In conducting the
8 examination, the examiner shall observe those guidelines and
9 procedures set forth in the examiners' handbook adopted by the
10 national association of insurance commissioners. The
11 commissioner may also employ other guidelines as the
12 commissioner deems appropriate.

13 Sec. 2. Section 507C.34, subsection 2, paragraph a,
14 subparagraph (3), Code 1997, is amended to read as follows:

15 (3) Claims falling within the priorities established in
16 section 507C.42, ~~subsections~~ subsection 1 and-2.

17 Sec. 3. Section 507C.42, Code 1997, is amended to read as
18 follows:

19 507C.42 PRIORITY OF DISTRIBUTION.

20 The priority of distribution of claims from the insurer's
21 estate shall be in accordance with the order in which each
22 class of claims is set forth. Claims in each class shall be
23 paid in full or adequate funds retained for the payment before
24 the members of the next class receive any payment. Subclasses
25 shall not be established within a class. The order of
26 distribution of claims is: --

27 1. Class 1. The costs and expenses of administration,
28 including but not limited to the following:

29 a. The actual and necessary costs of preserving or
30 recovering the assets of the insurer.

31 b. Compensation for all authorized services rendered in
32 the liquidation.

33 c. Necessary filing fees.

34 d. The fees and mileage payable to witnesses.

35 e. Authorized reasonable attorney's fees and other

1 professional services rendered in the liquidation.

2 f. The reasonable expenses of a guaranty association or
3 foreign guaranty association in handling claims.

4 ~~2.---Class 2.---Reasonable compensation to employees for
5 services performed to the extent that they do not exceed two
6 months of monetary compensation and represent payment for
7 services performed within one year before the filing of the
8 petition for liquidation or, if the rehabilitation preceded
9 liquidation, within one year before the filing of the petition
10 for rehabilitation.---Officers and directors are not entitled
11 to the benefit of this priority.---The priority is in lieu of
12 other similar priority which may be authorized by law as to
13 wages or compensation of employees.~~

14 3 2. Class 3 2. Claims under policies, including claims
15 of the federal or any state or local government, for losses
16 incurred, including third-party claims, claims against the
17 insurer for liability for bodily injury or for injury to or
18 destruction of tangible property which are not under policies,
19 claims of a guaranty association or foreign guaranty
20 association, and claims for unearned premium. Claims under
21 life insurance and annuity policies, whether for death
22 proceeds, annuity proceeds, or investment values, shall be
23 treated as loss claims. That portion of a loss,
24 indemnification for which is provided by other benefits or
25 advantages recovered by the claimant, shall not be included in
26 this class, other than benefits or advantages recovered or
27 recoverable in discharge of familial obligations of support or
28 by way of succession at death or as proceeds of life
29 insurance, or as gratuities. A payment by an employer to an
30 employee is not a gratuity.

31 3. Class 3. Claims of the federal government except those
32 under class 2.

33 4. Class 4. Reasonable compensation to employees for
34 services performed to the extent that they do not exceed two
35 months of monetary compensation and represent payment for

1 services performed within one year before the filing of the
2 petition for liquidation or, if the rehabilitation preceded
3 liquidation, within one year before the filing of the petition
4 for rehabilitation. Officers and directors are not entitled
5 to the benefit of this priority. The priority is in lieu of
6 other similar priority which may be authorized by law as to
7 wages or compensation of employees.

8 4 5. Class 4 5. Claims of general creditors, including
9 claims of ceding and assuming reinsurers in their capacity as
10 such, and subrogation claims.

11 5 6. Class 5 6. Claims of ~~the federal or~~ any state or
12 local government except those under class 3 2. Claims,
13 including those of a governmental body for a penalty or
14 forfeiture, are allowed in this class only to the extent of
15 the pecuniary loss sustained from the act, transaction, or
16 proceeding out of which the penalty or forfeiture arose, with
17 reasonable and actual costs incurred. The remainder of such
18 claims shall be postponed to the class of claims under
19 subsection 8 9.

20 6 7. Class 6 7. Claims filed late or any other claims
21 other than claims under subsections 7 8 and 8 9.

22 7 8. Class 7 8. Surplus or contribution notes, or similar
23 obligations, and premium refunds on assessable policies.
24 Payments to members of domestic mutual insurance companies are
25 limited in accordance with law.

26 8 9. Class 8 9. The claims of shareholders or other
27 owners.

28 Sec. 4. Section 507C.59, Code 1997, is amended to read as
29 follows:

30 507C.59 SUBORDINATION OF CLAIMS FOR NONCOOPERATION.

31 If an ancillary receiver in another state or foreign
32 country, whether called by that name or not, fails to transfer
33 to the domiciliary liquidator in this state assets within the
34 ancillary receiver's control other than special deposits,
35 diminished only by the expenses of the ancillary receivership,

1 the claims filed in the ancillary receivership, other than
2 special deposit claims or secured claims, shall be placed in
3 the class of claims under section 507C.42, subsection 7 8.

4 Sec. 5. Section 508.10, Code 1997, is amended by adding
5 the following new unnumbered paragraph:

6 NEW UNNUMBERED PARAGRAPH. A foreign company authorized to
7 do business in this state shall not assumptively reinsure a
8 block of business which includes policyholders residing in
9 this state to a company not authorized to do business in this
10 state without the prior written approval of the commissioner.

11 Sec. 6. Section 508.14, Code 1997, is amended to read as
12 follows:

13 508.14 VIOLATION BY DOMESTIC COMPANY -- DISSOLUTION OR
14 ADMINISTRATIVE PENALTY.

15 1. Upon a failure of a company organized under the laws of
16 this state to make the deposit provided in section 511.8,
17 subsection 16, or file the statement in the time herein
18 stated, or to file in a timely manner any financial statement
19 required by rule of the commissioner of insurance, the
20 commissioner of insurance shall notify the attorney general of
21 the default, who shall at once apply to the district court of
22 the county where the home office of the company is located for
23 an order requiring the company to show cause, upon reasonable
24 notice to be fixed by the court, why its business shall not be
25 discontinued. If, upon the hearing, no sufficient cause is
26 not shown, the court shall decree its dissolution.

27 2. In lieu of a district court action authorized by this
28 section, the commissioner may impose an administrative penalty
29 of three five hundred dollars upon the company. The right of
30 the company to transact further new business in this state
31 shall immediately cease until the requirements of this chapter
32 have been fully complied with.

33 3. The commissioner may give notice to a company, which
34 has failed to file evidence of deposit and all delinquent
35 statements within the time fixed, that the company is in

1 violation of this section. If the company fails to file
2 evidence of deposit and all delinquent statements within ten
3 days of the date of the notice, the company is subject to an
4 additional administrative penalty of one hundred dollars for
5 each day the failure continues.

6 4. Amounts received by the commissioner pursuant to
7 subsections 2 and 3 shall be paid to the treasurer of state
8 for deposit in the general fund of the state as provided in
9 section 505.7.

10 Sec. 7. Section 511.36, subsection 2, Code 1997, is
11 amended to read as follows:

12 2. The rate of interest charged on a policy loan made
13 under subsection 1, paragraph "b", shall not exceed the
14 greater of the following:

15 a. The published monthly average for the calendar month
16 ending two months before the date on which the rate is
17 determined. For purposes of this subsection, "published
18 monthly average" means one of the following:

19 (1) Moody's corporate bond yield average-monthly average
20 corporates as published in Moody's investors service, inc., or
21 any successor to the investors service.

22 (2) If Moody's corporate bond yield average-monthly
23 average corporates is no longer published, a substantially
24 similar average established by rule issued by the commissioner
25 of insurance.

26 ~~On or before the first day of each month, the commissioner~~
27 ~~of insurance shall determine the published monthly average for~~
28 ~~the calendar month ending one month before the date on which~~
29 ~~the monthly average is determined, and publish the rate, as a~~
30 ~~notice in the Iowa administrative bulletin or as a legal~~
31 ~~notice in a newspaper of general circulation published in Polk~~
32 ~~county prior to the first day of the following calendar month.~~
33 ~~This published monthly average is effective on the first day~~
34 ~~of the following calendar month. The determination of this~~
35 ~~published monthly average by the commissioner of insurance is~~

1 ~~exempt-from-chapter-17A:~~

2 b. The rate used to compute the cash surrender values
3 under the policy during the applicable period plus one percent
4 per annum.

5 Sec. 8. Section 515.35, subsection 3, paragraph a,
6 subparagraph (2), subparagraph subdivision (a), Code 1997, is
7 amended to read as follows:

8 (a) That the loan will be fully collateralized by cash,
9 cash equivalents, or obligations issued or guaranteed by the
10 United States or an agency or an instrumentality of the United
11 States, and that the collateral will be adjusted as necessary
12 each business day during the term of the loan to maintain the
13 required collateralization in the event of market value
14 changes in the loaned securities or collateral.

15 Sec. 9. Section 515.51, Code 1997, is amended to read as
16 follows:

17 515.51 POLICIES -- EXECUTION -- REQUIREMENTS.

18 All policies or contracts of insurance made or entered into
19 by the company may be made either with or without the seal of
20 the company, but shall be subscribed by the president, or such
21 other officer as may be designated by the directors for that
22 purpose, and be attested to by the secretary of the company.
23 ~~A policy or contract authorized by this chapter shall not be~~
24 ~~delivered in this state unless it is an individual policy or~~
25 ~~contract form~~ A group motor vehicle or group homeowners policy
26 shall not be written or delivered within this state unless
27 such policy is an individual policy or contract form.

28 Sec. 10. NEW SECTION. 515.68A FOREIGN COMPANIES --
29 REINSURANCE.

30 A foreign company authorized to do business in this state
31 shall not assumptively reinsure a block of business which
32 includes policyholders residing in this state to a company not
33 authorized to do business in this state without the prior
34 written approval of the commissioner.

35 Sec. 11. Section 515B.1, Code 1997, is amended by striking

1 the section and inserting in lieu thereof the following:

2 515B.1 SCOPE.

3 This chapter shall apply to all kinds of direct insurance
4 authorized to be written by an insurer licensed to operate in
5 this state under chapter 515 or chapter 520, but shall not be
6 applicable to the following:

7 1. Life, annuity, health, or disability insurance.

8 2. Mortgage guaranty, financial guaranty or other forms of
9 insurance offering protection against investment risks.

10 3. Fidelity or surety bonds, or any other bonding
11 obligations.

12 4. Credit insurance, vendors' single interest insurance,
13 or collateral protection insurance or any similar insurance
14 protecting the interests of a creditor arising out of a
15 creditor-debtor transaction.

16 5. Insurance warranties or service contracts, including
17 insurance that provides for the repair, replacement, or
18 service of goods or property, or indemnification for repair,
19 replacement, or service, for the operational or structural
20 failure of the goods or property due to a defect in materials,
21 workmanship, or normal wear and tear, or provides
22 reimbursement for the liability incurred by the issuer of
23 agreements or service contracts that provide such benefits.

24 6. Title insurance.

25 7. Ocean marine insurance.

26 8. A transaction or combination of transactions between a
27 person, including affiliates of such person, and an insurer,
28 including affiliates of such insurer, which involves the
29 transfer of investment or credit risk unaccompanied by
30 transfer of insurance risk.

31 9. Insurance provided by or guaranteed by government.

32 Sec. 12. Section 515B.2, Code 1997, is amended by adding
33 the following new subsection:

34 NEW SUBSECTION. 1A. "Claimant" means an insured making a
35 first party claim or any person instituting a liability claim

1 against an insolvent insurer. "Claimant" does not include a
2 person who is an affiliate of an insolvent insurer.

3 Sec. 13. Section 515B.5, subsection 1, paragraph a, Code
4 1997, is amended by striking the paragraph and inserting in
5 lieu thereof the following:

6 a. Be obligated to pay covered claims existing prior to
7 the final order of liquidation and arising within thirty days
8 after the final order of liquidation, or before the policy
9 expiration date if less than thirty days after the final order
10 of liquidation, or before the insured replaces the policy or
11 causes its cancellation, if the insured does so within thirty
12 days of the final order of liquidation. Such obligation shall
13 be satisfied by paying to the claimant an amount as follows:

14 (1) The full amount of a covered claim for benefits under
15 a workers' compensation insurance coverage.

16 (2) An amount in excess of one hundred dollars but not
17 exceeding ten thousand dollars per policy for a covered claim
18 for the return of unearned premium.

19 (3) An amount not exceeding the lesser of the policy
20 limits or three hundred thousand dollars per claim for all
21 covered claims for all damages arising out of any one or
22 series of accidents, occurrences, or incidents, regardless of
23 the number of persons making claims or the number of
24 applicable policies.

25 Sec. 14. Section 515B.5, subsection 1, paragraph c, Code
26 1997, is amended by adding the following new unnumbered
27 paragraph:

28 NEW UNNUMBERED PARAGRAPH. The association shall also have
29 the right to pursue and retain for its own account salvage and
30 subrogation recoverable on paid covered claim obligations. An
31 obligation of the association to defend an insured shall cease
32 upon the association's payment of an amount equal to the
33 lesser of the association's covered claim obligation or the
34 applicable policy limits.

35 Sec. 15. Section 515B.8, subsection 2, Code 1997, is

1 amended to read as follows:

2 2. The association and any similar entity in another state
3 shall be recognized as claimants in the liquidation of an
4 insolvent insurer for any amounts paid by them on covered
5 claim obligations as determined under this chapter or under
6 similar law in another state, and shall receive dividends and
7 any other distributions at the priority set forth under the
8 applicable liquidation law. The receiver, liquidator, or
9 statutory successor of an insolvent insurer shall be bound by
10 determinations of covered claim eligibility under this chapter
11 and by settlements of covered claims made by the association
12 or a similar organization in another state. The court having
13 jurisdiction shall grant such claims priority~~7-including-the~~
14 ~~deductible-portion-thereof7~~ equal to that which the claimant
15 would have been entitled in the absence of this chapter
16 against the assets of the insolvent insurer ~~over-all-other~~
17 ~~claims-not-having-statutory-or-secured-priority.~~ The expenses
18 of the association or similar organization in handling claims
19 shall be accorded the same priority as the liquidator's
20 expenses.

21 Sec. 16. Section 515B.15, unnumbered paragraph 1, Code
22 1997, is amended to read as follows:

23 All proceedings to which the insolvent insurer is a party
24 or in which it is obligated to defend a party shall be stayed
25 from the date of the insolvency to and including the date set
26 as the deadline for the filing of claims against the insolvent
27 insurer or its receiver. However, upon application, the court
28 having jurisdiction of the receivership, may lengthen or
29 shorten the period, either as to all claims or as to any
30 particular claim. The association may, at the option of the
31 association, waive such stay as to specific cases involving
32 covered claims.

33 Sec. 17. Section 515B.16, Code 1997, is amended to read as
34 follows:

35 515B.16 ACTIONS AGAINST THE ASSOCIATION.

1 Actions against the association shall be brought against it
2 in its the association's own name and only in the Polk county
3 district court. Service of original notice in actions against
4 the association may be made on any officer thereof or upon the
5 commissioner of insurance on its behalf. The commissioner
6 shall promptly transmit any notice so served upon the
7 commissioner to the association.

8 Sec. 18. Section 518.7, Code 1997, is amended to read as
9 follows:

10 518.7 OFFICERS AND DIRECTORS -- ELECTION.

11 Officers or directors shall be elected in the manner and
12 for the length of time prescribed in the articles of
13 incorporation. The same person shall not simultaneously hold
14 the offices of president and secretary.

15 Sec. 19. Section 518A.6, Code 1997, is amended to read as
16 follows:

17 518A.6 OFFICERS -- ELECTION.

18 Officers or directors shall be elected in the manner and
19 for the length of time prescribed in the articles of
20 incorporation or bylaws. The same person shall not
21 simultaneously hold the offices of president and secretary.

22 Sec. 20. Section 521.13, Code 1997, is amended to read as
23 follows:

24 521.13 CONSOLIDATION PROHIBITED -- EXCEPTION.

25 No A company or companies as described in section 521.1
26 shall not consolidate or reinsure except insofar as provided
27 by section 515.49 with any other company or companies not
28 authorized-to-transact-business-in-this-state or any insurance
29 company or companies organized under the laws of another state
30 without the commission's approval.

31 Sec. 21. Section 521A.1, subsection 6, unnumbered
32 paragraph 1, Code 1997, is amended to read as follows:

33 "Insurer" means a company qualified and licensed by the
34 insurance division to transact the business of insurance in
35 this state by certificate issued pursuant to chapters 508,

1 514B, 515, ~~518A~~, 515E, and 520, except that it shall not
2 include:

3 Sec. 22. Section 521A.3, subsection 4, paragraph a, Code
4 1997, is amended to read as follows:

5 a. The commissioner shall approve any merger or other
6 acquisition of control referred to in subsection 1 ~~of this~~
7 ~~section unless~~ if, after a public hearing ~~thereon~~ on such
8 merger or acquisition, the applicant has demonstrated to the
9 commissioner ~~finds any~~ all of the following:

10 (1) After the change of control the domestic insurer
11 referred to in subsection 1 ~~of this section would not~~ will be
12 able to satisfy the requirements for the issuance of a license
13 to write the line or lines of insurance for which it is
14 presently licensed.

15 (2) The effect of the merger or other acquisition of
16 control ~~would be~~ will not substantially ~~to~~ lessen competition
17 in insurance in this state ~~or tend to create a monopoly~~
18 therein.

19 (3) The financial condition of any acquiring party ~~is such~~
20 ~~as might~~ will not jeopardize the financial stability of the
21 insurer, or prejudice the interest of its policyholders.

22 (4) The plans or proposals which the acquiring party has
23 to liquidate the insurer, sell its assets or consolidate or
24 merge it with any person, or to make any other material change
25 in its business or corporate structure or management, are not
26 unfair and or unreasonable to policyholders of the insurer and
27 are not in contrary to the public interest.

28 (5) The competence, experience, and integrity of those
29 persons who would control the operation of the insurer are
30 ~~such that it would not be in the interest~~ sufficient to
31 indicate that the interests of policyholders of the insurer
32 and of the public ~~to permit~~ will not be jeopardized by the
33 merger or other acquisition of control.

34 Sec. 23. Section 515B.25, Code 1997, is repealed.

35

EXPLANATION

1 This bill amends provisions of the insurance code relating
2 generally to the operation and regulation of insurers and the
3 operation of the insurance division of the department of
4 commerce.

5 Code section 507.3 is amended by striking language
6 requiring the commissioner to issue an examination warrant
7 when appointing an examiner.

8 Code section 507C.34 is amended by striking certain claims
9 for which amounts are to be reserved as indicated in the
10 proposal of the liquidator of an insolvent insurer. This
11 change is a conforming change as a result of the amendment to
12 section 507C.42.

13 Code section 507C.42 relates to the priority of
14 distribution of claims from an insurer's estate and is amended
15 by establishing a separate class of claims related to the
16 federal government. These claims are third in priority.
17 Currently, these claims are fifth in priority and included
18 with a class of claims including those of state and local
19 governments. The section is also amended by moving the
20 existing class 2 claims to class 4. These claims include
21 reasonable compensation to employees involved in the
22 liquidation.

23 Code section 507C.59 is amended to conform with the
24 amendments to section 507C.42.

25 Code section 508.10 is amended to prevent a foreign life
26 insurance company from assumptively reinsuring a block of
27 business which includes Iowa policyholders to a company not
28 authorized to transact business in Iowa without the prior
29 written approval of the commissioner.

30 Code section 508.14 is amended by increasing from \$300 to
31 \$500 an administrative penalty which may be levied against an
32 insurance company failing to make a required deposit or timely
33 file certain statements. The levy of the administrative
34 penalty is in lieu of district court action which is currently
35 authorized. Additionally, the company's authority to transact

1 new business immediately ceases until the requirements of the
2 section are met. The commissioner may give notice to a
3 company that is in violation of the section. If the company
4 fails to file evidence of deposit and the statement as
5 required after notice, the company is subject to an additional
6 administrative penalty of \$100 for each day the failure
7 continues. Amounts received by the commissioner under this
8 section are to be deposited in the general fund of the state.

9 Code section 511.36 is amended by striking language which
10 specifically directs the insurance commissioner to determine
11 the published monthly average which is the interest rate which
12 may be charged on life insurance policy loans associated with
13 policies issued after July 1, 1984. The published monthly
14 average is defined in the section as the Moody's corporate
15 bond yield average-monthly average corporates as published in
16 Moody's investors service, inc., or any successor to the
17 investors service, or, if Moody's corporate bond yield
18 average-monthly average corporates is no longer published, a
19 substantially similar average established by rule issued by
20 the commissioner of insurance.

21 Code section 515.51 is amended to provide that a group
22 motor vehicle or group homeowners policy or contract of
23 insurance shall not be written or delivered in Iowa unless the
24 policy is an individual policy or contract form. Currently,
25 all policies or contracts of insurance, other than life
26 insurance, are prohibited from being delivered unless such
27 policies or contracts are an individual policy or contract
28 form.

29 New Code section 515.68A is created and prohibits a foreign
30 nonlife insurance company from assumptively reinsuring a block
31 of business which includes Iowa policyholders to a company not
32 authorized to transact business in Iowa without the prior
33 written approval of the commissioner.

34 Code section 515B.1, establishing the scope of the chapter
35 regarding the insurance guaranty association, is amended to

1 expand the exemptions to the applicability of the chapter to
2 include vendor's single interest insurance, collateral
3 protection insurance, or similar coverage arising out of a
4 creditor-debtor transaction; insurance warranties or service
5 contracts; annuity insurance; and insurance provided by or
6 guaranteed by government.

7 Code section 515B.2 is amended to define the term
8 "claimant" as an insured making a first party claim or a
9 person instituting a liability claim against an insolvent
10 insurer.

11 Code section 515B.5 is amended by striking language
12 providing that the guaranty fund is obligated for the amount
13 of a covered claim which is in excess of \$100 and less than
14 \$300,000 for all damages arising out of any one accident,
15 occurrence, or incident regardless of the number of persons
16 making claims. The bill provides that the obligation of the
17 fund is satisfied upon payment to the claimant of an amount in
18 excess of \$100 but not exceeding \$10,000 per policy for a
19 covered claim for the return of unearned premium. The bill
20 provides that the association has a right to pursue for its
21 own account, salvage and subrogation recoverable on paid
22 claims. The bill also provides that the guaranty
23 association's obligation to defend against a claim ceases upon
24 the payment of the lesser of the amount of the covered claim
25 or the applicable policy limits.

26 Code section 515B.8 is amended to provide that the guaranty
27 association or other similar out-of-state entity shall be
28 recognized as a claimant in the liquidation of an insolvent
29 insurer to the extent of amounts paid for covered claims.

30 Code section 515B.15 is amended to permit the guaranty
31 association to waive a stay of proceedings with respect to
32 specific covered claims.

33 Code section 515B.16 is amended to provide that an action
34 against the guaranty association can only be brought against
35 the association in Polk county district court.

1 Code sections 518.7 (county mutual insurance associations)
2 and 518A.6 (mutual casualty assessment insurance associations)
3 are amended to provide that the same person is prohibited from
4 simultaneously holding the offices of president and secretary
5 of such associations.

6 Code section 521.13 is amended to prohibit the
7 consolidation of certain insurance companies and associations
8 without the approval of the commission created under that
9 chapter.

10 The definition of "insurer" contained in chapter 521A
11 (insurance holding company systems) is amended to exclude
12 mutual casualty assessment insurance associations under
13 chapter 518A and include risk retention groups and purchasing
14 groups under chapter 515E.

15 Code section 521A.3 is amended to provide that the
16 commissioner shall approve a merger or other acquisition of
17 control of a domestic insurer if, after public hearing, the
18 applicant has made an affirmative showing of certain facts.
19 Currently, the commissioner is to approve the merger unless,
20 after public hearing, the commissioner finds that any of the
21 existing factors have not been met.

22 Code section 515B.25 is repealed and pertains to the early
23 access to assets of an insolvent insurer by the receiver for
24 distribution.

25
26
27
28
29
30
31
32
33
34
35

HOUSE FILE 557

AN ACT
RELATING TO THE OPERATION AND REGULATION OF CERTAIN INSURANCE
COMPANIES AND MUTUAL ASSOCIATIONS, AND THE REGULATORY
AUTHORITY OF THE INSURANCE DIVISION OF THE DEPARTMENT OF
COMMERCE.

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

Section 1. Section 87.22, unnumbered paragraph 1, Code 1997, is amended to read as follows:

The president, vice president, secretary, and treasurer of a corporation other than a family farm corporation, but not to exceed four officers per corporation, may exclude themselves from workers' compensation coverage under chapters 85, 85A, and 85B by knowingly and voluntarily rejecting workers' compensation coverage by signing, and attaching to the workers' compensation or employers' liability policy, ~~initially and upon renewal of the policy,~~ a written rejection, or if such a policy is not issued, by signing a written rejection which is witnessed by two disinterested individuals who are not, formally or informally, affiliated with the corporation and which is filed by the corporation with the industrial commissioner, in substantially the following form:

Sec. 2. Section 507.3, subsection 1, Code 1997, is amended to read as follows:

1. Upon determining that an examination should be conducted, the commissioner or the commissioner's designee may ~~issue an examination warrant appointing~~ appoint one or more examiners to perform the examination and ~~instructing~~ instruct them as to the scope of the examination. In conducting the examination, the examiner shall observe those guidelines and procedures set forth in the examiners' handbook adopted by the national association of insurance commissioners. The commissioner may also employ other guidelines as the commissioner deems appropriate.

Sec. 3. Section 507C.34, subsection 2, paragraph a, subparagraph (3), Code 1997, is amended to read as follows:

(3) Claims falling within the priorities established in section 507C.42, ~~subsections~~ subsection 1 and 2.

Sec. 4. Section 507C.42, Code 1997, is amended to read as follows:

507C.42 PRIORITY OF DISTRIBUTION.

The priority of distribution of claims from the insurer's estate shall be in accordance with the order in which each class of claims is set forth. Claims in each class shall be paid in full or adequate funds retained for the payment before the members of the next class receive any payment. Subclasses shall not be established within a class. The order of distribution of claims is:

1. Class 1. The costs and expenses of administration, including but not limited to the following:
 - a. The actual and necessary costs of preserving or recovering the assets of the insurer.
 - b. Compensation for all authorized services rendered in the liquidation.
 - c. Necessary filing fees.
 - d. The fees and mileage payable to witnesses.
 - e. Authorized reasonable attorney's fees and other professional services rendered in the liquidation.
 - f. The reasonable expenses of a guaranty association or foreign guaranty association in handling claims.

~~2. Class 2. Reasonable compensation to employees for services performed to the extent that they do not exceed two months of monetary compensation and represent payment for services performed within one year before the filing of the petition for liquidation or, if the rehabilitation preceded liquidation, within one year before the filing of the petition for rehabilitation. Officers and directors are not entitled to the benefit of this priority. The priority is in lieu of other similar priority which may be authorized by law as to wages or compensation of employees.~~

3 2. Class 3 2. 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, claims of a guaranty association or foreign guaranty association, and claims 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.

3. Class 3. Claims of the federal government except those under class 2.

4. Class 4. Reasonable compensation to employees for services performed to the extent that they do not exceed two months of monetary compensation and represent payment for services performed within one year before the filing of the petition for liquidation or, if the rehabilitation preceded liquidation, within one year before the filing of the petition for rehabilitation. Officers and directors are not entitled to the benefit of this priority. The priority is in lieu of

other similar priority which may be authorized by law as to wages or compensation of employees.

4 5. Class 4 5. Claims of general creditors, including claims of ceding and assuming reinsurers in their capacity as such, and subrogation claims.

5 6. Class 5 6. Claims of the federal or any state or local government except those under class 3 2. Claims, including those of a governmental body for a penalty or forfeiture, are allowed in this class only to the extent of the pecuniary loss sustained from the act, transaction, or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs incurred. The remainder of such claims shall be postponed to the class of claims under subsection 8 9.

6 7. Class 6 7. Claims filed late or any other claims other than claims under subsections 7 8 and 8 9.

7 8. Class 7 8. Surplus or contribution notes, or similar obligations, and premium refunds on assessable policies. Payments to members of domestic mutual insurance companies are limited in accordance with law.

8 9. Class 8 9. The claims of shareholders or other owners.

Sec. 5. Section 507C.59, Code 1997, is amended to read as follows:

507C.59 SUBORDINATION OF CLAIMS FOR NONCOOPERATION.

If an ancillary receiver in another state or foreign country, whether called by that name or not, fails to transfer to the domiciliary liquidator in this state assets within the ancillary receiver's control other than special deposits, diminished only by the expenses of the ancillary receivership, the claims filed in the ancillary receivership, other than special deposit claims or secured claims, shall be placed in the class of claims under section 507C.42, subsection 7 8.

Sec. 6. Section 508.10, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A foreign company authorized to do business in this state shall not assumptively reinsure a

block of business which includes policyholders residing in this state to a company not authorized to do business in this state without the prior written approval of the commissioner.

Sec. 7. Section 508.14, Code 1997, is amended to read as follows:

508.14 VIOLATION BY DOMESTIC COMPANY -- DISSOLUTION OR ADMINISTRATIVE PENALTY.

1. Upon a failure of a company organized under the laws of this state to make the deposit provided in section 511.8, subsection 16, or file the statement in the time herein stated, or to file in a timely manner any financial statement required by rule of the commissioner of insurance, the commissioner of insurance shall notify the attorney general of the default, who shall at once apply to the district court of the county where the home office of the company is located for an order requiring the company to show cause, upon reasonable notice to be fixed by the court, why its business shall not be discontinued. If, upon the hearing, no sufficient cause is not shown, the court shall decree its dissolution.

2. In lieu of a district court action authorized by this section, the commissioner may impose an administrative penalty of three five hundred dollars upon the company. The right of the company to transact further new business in this state shall immediately cease until the requirements of this chapter have been fully complied with.

3. The commissioner may give notice to a company, which has failed to file evidence of deposit and all delinquent statements within the time fixed, that the company is in violation of this section. If the company fails to file evidence of deposit and all delinquent statements within ten days of the date of the notice, the company is subject to an additional administrative penalty of one hundred dollars for each day the failure continues.

4. Amounts received by the commissioner pursuant to subsections 2 and 3 shall be paid to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

Sec. 8. Section 511.36, subsection 2, Code 1997, is amended to read as follows:

2. The rate of interest charged on a policy loan made under subsection 1, paragraph "b", shall not exceed the greater of the following:

a. The published monthly average for the calendar month ending two months before the date on which the rate is determined. For purposes of this subsection, "published monthly average" means one of the following:

(1) Moody's corporate bond yield average-monthly average corporates as published in Moody's investors service, inc., or any successor to the investors service.

(2) If Moody's corporate bond yield average-monthly average corporates is no longer published, a substantially similar average established by rule issued by the commissioner of insurance.

~~On or before the first day of each month, the commissioner of insurance shall determine the published monthly average for the calendar month ending one month before the date on which the monthly average is determined, and publish the rate, as a notice in the Iowa administrative bulletin or as a legal notice in a newspaper of general circulation published in Polk county prior to the first day of the following calendar month. This published monthly average is effective on the first day of the following calendar month. The determination of this published monthly average by the commissioner of insurance is exempt from chapter 17A.~~

b. The rate used to compute the cash surrender values under the policy during the applicable period plus one percent per annum.

Sec. 9. NEW SECTION. 514B.33 ESTABLISHMENT OF LIMITED SERVICE ORGANIZATIONS.

1. A person may apply to the commissioner for and obtain a certificate of authority to establish and operate a limited service organization in compliance with this chapter. A person shall not establish or operate a limited service organization in this state, or sell, offer to sell, or solicit

offers to purchase or receive advance or periodic consideration in conjunction with a limited service organization without obtaining a certificate of authority under this chapter.

2. The commissioner shall adopt rules pursuant to chapter 17A establishing a certification process for limited service organizations.

3. a. For purposes of this section, "limited service organization" means an organization providing dental care services, vision care services, mental health services, substance abuse services, pharmaceutical services, podiatric care services, or such other services as may be determined by the commissioner.

b. "Limited service organization" does not include an organization providing hospital, medical, surgical, or emergency services, except as such services are provided incident to those services identified in paragraph "a".

Sec. 10. Section 515.35, subsection 3, paragraph a, subparagraph (2), subparagraph subdivision (a), Code 1997, is amended to read as follows:

(a) That the loan will be fully collateralized by cash, cash equivalents, or obligations issued or guaranteed by the United States or an agency or an instrumentality of the United States, and that the collateral will be adjusted as necessary each business day during the term of the loan to maintain the required collateralization in the event of market value changes in the loaned securities or collateral.

Sec. 11. Section 515.51, Code 1997, is amended to read as follows:

515.51 POLICIES -- EXECUTION -- REQUIREMENTS.

All policies or contracts of insurance made or entered into by the company may be made either with or without the seal of the company, but shall be subscribed by the president, or such other officer as may be designated by the directors for that purpose, and be attested to by the secretary or the secretary's designee of the company. ~~A policy or contract authorized by this chapter shall not be delivered in this~~

~~state-unless-it-is-an-individual-policy-or-contract-form~~ A group motor vehicle or group homeowners policy shall not be written or delivered within this state unless such policy is an individual policy or contract form.

Sec. 12. NEW SECTION. 515.68A FOREIGN COMPANIES -- REINSURANCE.

A foreign company authorized to do business in this state shall not assumptively reinsure a block of business which includes policyholders residing in this state to a company not authorized to do business in this state without the prior written approval of the commissioner.

Sec. 13. Section 515B.1, Code 1997, is amended by striking the section and inserting in lieu thereof the following:

515B.1 SCOPE.

This chapter shall apply to all kinds of direct insurance authorized to be written by an insurer licensed to operate in this state under chapter 515 or chapter 520, but shall not be applicable to the following:

1. Life, annuity, health, or disability insurance.
2. Mortgage guaranty, financial guaranty or other forms of insurance offering protection against investment risks.
3. Fidelity or surety bonds, or any other bonding obligations.
4. Credit insurance, vendors' single interest insurance, or collateral protection insurance or any similar insurance protecting the interests of a creditor arising out of a creditor-debtor transaction.
5. Insurance warranties or service contracts, including insurance that provides for the repair, replacement, or service of goods or property, or indemnification for repair, replacement, or service, for the operational or structural failure of the goods or property due to a defect in materials, workmanship, or normal wear and tear, or provides reimbursement for the liability incurred by the issuer of agreements or service contracts that provide such benefits.
6. Title insurance.
7. Ocean marine insurance.

8. A transaction or combination of transactions between a person, including affiliates of such person, and an insurer, including affiliates of such insurer, which involves the transfer of investment or credit risk unaccompanied by transfer of insurance risk.

9. Insurance provided by or guaranteed by government.

Sec. 14. Section 515B.2, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. "Claimant" means an insured making a first party claim or any person instituting a liability claim against an insolvent insurer. "Claimant" does not include a person who is an affiliate of an insolvent insurer.

Sec. 15. Section 515B.5, subsection 1, paragraph a, Code 1997, is amended by striking the paragraph and inserting in lieu thereof the following:

a. Be obligated to pay covered claims existing prior to the final order of liquidation and arising within thirty days after the final order of liquidation, or before the policy expiration date if less than thirty days after the final order of liquidation, or before the insured replaces the policy or causes its cancellation, if the insured does so within thirty days of the final order of liquidation. Such obligation shall be satisfied by paying to the claimant an amount as follows:

(1) The full amount of a covered claim for benefits under a workers' compensation insurance coverage.

(2) An amount in excess of one hundred dollars but not exceeding ten thousand dollars per policy for a covered claim for the return of unearned premium.

(3) An amount not exceeding the lesser of the policy limits or three hundred thousand dollars per claim for all covered claims for all damages arising out of any one or series of accidents, occurrences, or incidents, regardless of the number of persons making claims or the number of applicable policies.

Sec. 16. Section 515B.5, subsection 1, paragraph c, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. The association shall also have the right to pursue and retain for its own account salvage and subrogation recoverable on paid covered claim obligations. An obligation of the association to defend an insured shall cease upon the association's payment of an amount equal to the lesser of the association's covered claim obligation or the applicable policy limits.

Sec. 17. Section 515B.8, subsection 2, Code 1997, is amended to read as follows:

2. The association and any similar entity in another state shall be recognized as claimants in the liquidation of an insolvent insurer for any amounts paid by them on covered claim obligations as determined under this chapter or under similar law in another state, and shall receive dividends and any other distributions at the priority set forth under the applicable liquidation law. The receiver, liquidator, or statutory successor of an insolvent insurer shall be bound by determinations of covered claim eligibility under this chapter and by settlements of covered claims made by the association or a similar organization in another state. The court having jurisdiction shall grant such claims priority, ~~including the deductible portion thereof,~~ equal to that which the claimant would have been entitled in the absence of this chapter against the assets of the insolvent insurer ~~over all other claims not having statutory or secured priority.~~ The expenses of the association or similar organization in handling claims shall be accorded the same priority as the liquidator's expenses.

Sec. 18. Section 515B.15, unnumbered paragraph 1, Code 1997, is amended to read as follows:

All proceedings to which the insolvent insurer is a party or in which it is obligated to defend a party shall be stayed from the date of the insolvency to and including the date set as the deadline for the filing of claims against the insolvent insurer or its receiver. However, upon application, the court having jurisdiction of the receivership, may lengthen or shorten the period, either as to all claims or as to any

particular claim. The association may, at the option of the association, waive such stay as to specific cases involving covered claims.

Sec. 19. Section 515B.16, Code 1997, is amended to read as follows:

515B.16 ACTIONS AGAINST THE ASSOCIATION.

Actions against the association shall be brought against it in its the association's own name and only in the Polk county district court. Service of original notice in actions against the association may be made on any officer thereof or upon the commissioner of insurance on its behalf. The commissioner shall promptly transmit any notice so served upon the commissioner to the association.

Sec. 20. Section 515D.4, subsection 2, unnumbered paragraph 1, Code 1997, is amended to read as follows:

~~Coverage-under-a-policy~~ A person shall not be canceled except-by-notice-to-the-insured-as-provided-in-this-chapter- ~~Notice-of-cancellation-of-coverage-under-a-policy-is-not effective~~ excluded from the policy unless it the exclusion is based on one or more of the following reasons:

Sec. 21. Section 515D.5, Code 1997, is amended to read as follows:

515D.5 DELIVERY OF NOTICE.

1. Notwithstanding the provisions of sections 515.80 through 515.81A, a notice of cancellation of a policy shall not be effective unless mailed or delivered by the insurer to the named insured at least twenty days prior to the effective date of cancellation, or, where the cancellation is for nonpayment of premium notwithstanding the provisions of sections 515.80 and 515.81A at least ten days prior to the date of cancellation. A post office department certificate of mailing to the named insured at the address shown in the policy shall be proof of receipt of such mailing. Unless the reason accompanies the notice of cancellation, the notice shall state that, upon written request of the named insured, mailed or delivered to the insurer not less than fifteen days prior to the date of cancellation, the insurer will state the

reason for cancellation, together with notification of the right to a hearing before the commissioner within fifteen days as provided in this chapter.

When the reason does not accompany the notice of cancellation, the insurer shall, upon receipt of a timely request by the named insured, state in writing the reason for cancellation. A statement of reason shall be mailed or delivered to the named insured within five days after receipt of a request.

2. A notice of exclusion of a person under a policy pursuant to section 515D.4, is not effective unless written notice is mailed or delivered to the named insured at least twenty days prior to the effective date of the exclusion. The written notice shall state the reason for the exclusion, together with notification of the right to a hearing before the commissioner pursuant to section 515D.10 within fifteen days of receipt or delivery of a statement of reason as provided in this section.

Sec. 22. Section 518.7, Code 1997, is amended to read as follows:

518.7 OFFICERS AND DIRECTORS -- ELECTION.

Officers or directors shall be elected in the manner and for the length of time prescribed in the articles of incorporation. The same person shall not simultaneously hold the offices of president and secretary.

Sec. 23. Section 518A.6, Code 1997, is amended to read as follows:

518A.6 OFFICERS -- ELECTION.

Officers or directors shall be elected in the manner and for the length of time prescribed in the articles of incorporation or bylaws. The same person shall not simultaneously hold the offices of president and secretary.

Sec. 24. Section 521.13, Code 1997, is amended to read as follows:

521.13 CONSOLIDATION PROHIBITED -- EXCEPTION.

~~No~~ A company or companies as described in section 521.1 shall not consolidate or reinsure except insofar as provided

by section 515.49 with any other company or companies ~~not authorized to transact business in this state or any insurance company or companies organized under the laws of another state without the commission's approval.~~

Sec. 25. Section 521A.1, subsection 6, unnumbered paragraph 1, Code 1997, is amended to read as follows:

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

Sec. 26. Section 521A.3, subsection 4, paragraph a, Code 1997, is amended to read as follows:

a. The commissioner shall approve any merger or other acquisition of control referred to in subsection 1 ~~of this section unless if~~, after a public hearing ~~thereon on such merger or acquisition, the applicant has demonstrated to the commissioner finds any all~~ of the following:

(1) After the change of control the domestic insurer referred to in subsection 1 ~~of this section would not will~~ be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed.

(2) The effect of the merger or other acquisition of control ~~would be will not~~ substantially to lessen competition in insurance in this state ~~or tend to create a monopoly therein.~~

(3) The financial condition of any acquiring party ~~is such as might will not~~ jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders.

(4) The plans or proposals which the acquiring party has to liquidate the insurer, sell its assets or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are not unfair and or unreasonable to policyholders of the insurer and are not in contrary to the public interest.

(5) The competence, experience, and integrity of those persons who would control the operation of the insurer are ~~such that it would not be in the interest sufficient to indicate that the interests~~ of policyholders of the insurer and of the public ~~to permit will not be jeopardized by the merger or other acquisition of control.~~

Sec. 27. Section 515B.25, Code 1997, is repealed.

RON J. CORBETT
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 557, Seventy-seventh General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved May 26, 1997

TERRY E. BRANSTAD
Governor