

Shey, Chair
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HSB 516
COMMERCE AND REGULATION

HOUSE FILE SF1
BY (PROPOSED COMMITTEE ON
COMMERCE AND REGULATION
BILL BY CHAIRPERSON METCALF)

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

A BILL FOR

1 An Act relating to the administration and enforcement of
2 provisions regulating invention developers, by providing
3 registration requirements, fees, for the establishment of a
4 fund, for the appropriation of moneys in that fund, making
5 penalties applicable, and providing effective dates.

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

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1 Section 1. Section 523G.3, subsection 2, Code 1999, is
2 amended by striking the subsection.

3 Sec. 2. Section 523G.3, Code 1999, is amended by adding the
4 following new subsections:

5 NEW SUBSECTION. 6A. "Fund" means the invention developer
6 administration and enforcement fund created pursuant to
7 section 523G.3C.

8 NEW SUBSECTION. 10. "Office" means the secretary of
9 state's office as provided in chapter 9.

10 Sec. 3. NEW SECTION. 523G.3A POWERS AND DUTIES OF THE
11 OFFICE AND THE ATTORNEY GENERAL.

12 1. The office shall administer and enforce the provisions
13 of this chapter and may do all of the following:

14 a. Adopt rules necessary to administer and enforce this
15 chapter in accordance with chapter 17A.

16 b. Investigate the business and business records of
17 invention developers and conduct necessary investigations.

18 c. Administer oaths and affirmations, subpoena witnesses,
19 receive evidence, and require the production of business
20 records relating to an investigation.

21 d. Apply to district court for the issuance of an order
22 requiring a person's appearance before the office, if the
23 person has refused to obey a subpoena issued by the office.
24 The person may also be required to produce documentary
25 evidence germane to the subject of the investigation. A
26 failure to obey a court order under this subsection
27 constitutes contempt of court.

28 e. Issue an order directed at an invention developer to
29 cease and desist from engaging in an act which is in violation
30 of this chapter or a rule adopted by the office. The order
31 shall be based on an investigation which provides reasonable
32 evidence of a violation. The office may apply to district
33 court in order to enforce the order. A failure to obey a
34 court order under this subsection constitutes contempt of
35 court.

1 2. Upon request of the office, the attorney general may
2 assist the office by bringing a legal action necessary in
3 order to carry out the provisions of this section.

4 Sec. 4. NEW SECTION. 523G.3B REQUIREMENTS FOR
5 REGISTRATION.

6 1. The following are requirements for registration under
7 this chapter:

8 a. An invention developer shall file a registration
9 statement with the office not later than May 1 of each year.
10 The registration statement shall contain all of the following
11 information:

12 (1) The name and address of the invention developer.

13 (2) The name and address of each owner, officer, or other
14 official of the invention developer's business. However, if
15 the invention developer is a corporation, the registration
16 statement shall contain the names and addresses of the chief
17 executive officer and the members of the board of directors.

18 (3) A description of the invention development services
19 offered.

20 (4) A copy of each form of contract used by the invention
21 developer.

22 (5) A copy of the invention developer's most recent
23 financial statement, including balance sheets and related
24 statements of income of the invention developer, prepared in
25 accordance with generally accepted accounting principles,
26 audited by a certified public accountant, and dated not more
27 than twelve months prior to the date of the application.

28 (6) The total number of customers who have contracted with
29 the invention developer in this state during the invention
30 developer's preceding fiscal year.

31 (7) The invention developer's gross income from the
32 invention development business in this state during the
33 invention developer's preceding fiscal year.

34 (8) The number of customers who have received from the
invention developer's services an amount of money in excess of

1 the amount of money paid by those customers to the invention
2 developer pursuant to a contract. The amount received by a
3 customer reported on the statement shall only include income
4 earned from the successful development, promotion, licensing,
5 publishing, exhibiting, or marketing of the customer's
6 invention pursuant to the contract executed between the
7 invention developer and the customer.

8 b. The invention developer shall submit an annual
9 registration fee accompanying the registration statement to
10 the office in the amount of two hundred fifty dollars. The
11 fee shall be deposited into the invention developers
12 administration and enforcement fund as provided in section
13 523G.3C.

14 c. The invention developer shall submit a copy of evidence
15 of financial responsibility as required by section 523G.6
16 accompanying the registration statement.

17 2. The office shall issue a certificate of compliance to
18 an invention developer who has complied with the registration
19 requirements of this section.

20 Sec. 5. NEW SECTION. 523G.3C INVENTION DEVELOPERS
21 ADMINISTRATION AND ENFORCEMENT FUND.

22 1. An invention developers administration and enforcement
23 fund is created in the state treasury under the control of the
24 office. The fund is composed of registration fees collected
25 by the office pursuant to section 523G.3B, and moneys
26 appropriated by the general assembly or available to and
27 obtained or accepted by the office from the United States or
28 private sources for placement in the fund.

29 2. Moneys in the fund are subject to an annual audit by
30 the auditor of state. The fund is subject to warrants written
31 by the director of revenue and finance, drawn upon the written
32 requisition of the secretary of state or a person designated
33 by the secretary of state.

34 3. Moneys in the fund are appropriated to the office and
35 shall be used exclusively for purposes necessary in order to

1 administer and enforce the provisions of this chapter as
2 determined by the office, and may be used to reimburse
3 expenses incurred by the attorney general in bringing a legal
4 action pursuant to this chapter.

5 4. The office shall not in any manner directly or
6 indirectly pledge the credit of the state.

7 5. Section 8.33 shall not apply to moneys in the fund.
8 Notwithstanding section 12C.7, moneys earned as income,
9 including as interest, from the fund shall remain in the fund
10 until expended as provided in this section.

11 Sec. 6. Section 523G.4, subsection 2, Code Supplement
12 1999, is amended by adding the following new paragraph:

13 NEW PARAGRAPH. d. A copy of a current registration
14 certificate issued pursuant to section 523G.3B.

15 Sec. 7. Section 523G.6, subsections 1 and 2, Code 1999,
16 are amended to read as follows:

17 1. An invention developer shall maintain as security
18 evidence of financial responsibility as approved by the
19 commissioner office. The security shall be either a bond or
20 cash deposit in an amount which is equal to the greater of
21 either ten percent of the invention developer's gross income
22 from the invention development business in this state during
23 the invention developer's preceding fiscal year, or twenty-
24 five thousand dollars. The commissioner office shall approve
25 the security before the invention developer renders or offers
26 to render invention development services in this state. The
27 invention developer shall have ninety days beginning on the
28 first day of the invention developer's new fiscal year to
29 change the security as necessary to conform to the
30 requirements of this subsection.

31 2. A surety who issues a bond must be approved by the
32 commissioner office. A copy of the bond shall be filed in a
33 manner and according to procedures approved by the
34 commissioner office. A cash deposit shall be filed with the
35 treasurer of state in a manner and according to procedures

1 approved by the treasurer of state in consultation with the
2 commissioner office. The treasurer of state shall not refund
3 a deposit until sixty days following either the date that the
4 invention developer has ceased doing business in the state or
5 a bond has been filed with the commissioner office in
6 compliance with this section.

7 Sec. 8. Section 523G.9, subsection 7, Code 1999, is
8 amended to read as follows:

9 7. A violation of this chapter or a rule adopted by the
10 commissioner office pursuant to this chapter is a violation of
11 section 714.16. The remedies and penalties provided by
12 section 714.16, including but not limited to provisions
13 relating to injunctive relief and penalties, apply to
14 violations of this chapter.

15 Sec. 9. Section 523G.9, Code 1999, is amended by adding
16 the following new subsection:

17 NEW SUBSECTION. 8. Upon request of the office, the
18 attorney general may institute a legal proceeding on behalf of
19 the state against a person in order to enforce the provisions
20 of this chapter.

21 Sec. 10. ADMINISTRATION AND ENFORCEMENT. The division of
22 insurance and the secretary of state shall cooperate in order
23 to efficiently transfer authority to administer and enforce
24 this chapter by January 1, 2001. The secretary of state's
25 office shall adopt rules necessary and to be effective by
26 January 1, 2001, in order to administer and enforce this
27 chapter.

28 Sec. 11. DIRECTIONS TO IOWA CODE EDITOR. The Iowa Code
29 editor shall, unless impracticable, transfer chapter 523G, as
30 amended by this Act, to a new chapter within title I, subtitle
31 4, of the Code.

32 Sec. 12. 1992 Iowa Acts, chapter 1114, section 13, is
33 repealed.

34 Sec. 13. EFFECTIVE DATES.

35 1. Except as provided in subsection 2, this Act takes

1 effect January 1, 2001.

2 2. Sections 10 and 11 of this Act, being deemed of
3 immediate importance, takes effect upon enactment.

4 EXPLANATION

5 In 1992 the general assembly enacted S.F. 2189 (1992 Iowa
6 Acts, ch. 1114), the "Invention Development Services Act",
7 which provides for the protection of inventors from persons
8 who offer to develop inventions. The provisions are codified
9 in Code chapter 523G under the administration of the insurance
10 commissioner. The original bill provided that several
11 provisions relating to evidence of financial responsibility,
12 enforcement and penalty provisions, and powers provided to the
13 commissioner to administer and enforce the provisions are
14 contingent upon an appropriation of moneys and the allocation
15 of full-time equivalent positions. In 1998, the general
16 assembly enacted H.F. 2271 (1998 Iowa Acts, ch. 1119, § 6)
17 which repealed Code provisions which provided for registration
18 requirements and administrative and enforcement authority to
19 the commissioner.

20 This bill provides that the secretary of state's office
21 rather than the commissioner of insurance is responsible for
22 administering and enforcing the provisions of the chapter.

23 The bill reinstates language repealed in 1998 that
24 prescribes the power and duties of the insurance commissioner
25 under Code chapter 523G (changed under the bill to the
26 secretary of state's office), and provides for registration
27 requirements. The bill places the provisions in a different
28 place in the Code chapter and makes stylistic changes in order
29 to better conform with bill drafting practices.

30 The reinstated provision authorizes the secretary of state
31 to administer and enforce the provisions of the chapter,
32 including the following: the authority to adopt rules;
33 conduct investigations; administer oaths; receive evidence or
34 testimony including by subpoena; issue orders or apply to
district court for the issuance of orders for the production

1 of evidence; and issue orders to cease and desist from
2 engaging in acts violative of the chapter. A new provision in
3 the bill allows the office to apply to district court to
4 enforce such an order.

5 A new provision states that upon request, the attorney
6 general may assist the office in bringing a legal action
7 necessary in order to carry out the provisions of the chapter,
8 including by applying to district court in order to enforce an
9 order or penalties. A person who violates the chapter's
10 provisions is guilty of consumer fraud as provided in Code
11 section 714.16.

12 The bill reinstates provisions requiring an invention
13 developer to register (under the bill with the secretary of
14 state's office). The bill requires the same information in
15 the registration application, the same \$250 annual
16 registration fee, and the same evidence of financial
17 responsibility as was contained in Code section 523G.10 prior
18 to its repeal. The bill refers to these items as registration
19 requirements and renumbers the provisions in a manner
20 consistent with Code style.

21 The bill provides a new section that requires that the \$250
22 registration fee must be deposited in a special fund under the
23 control of the office referred to as the invention developers
24 administration and enforcement fund. The bill provides for
25 the management of the fund consistent with other funds
26 established in the Code. Moneys in the fund are appropriated
27 to the secretary of state's office and must be used
28 exclusively to administer and enforce the provisions of this
29 chapter, and may be used to reimburse expenses incurred by the
30 attorney general.

31 The bill requires the insurance commissioner and the
32 secretary of state to cooperate in order to efficiently
33 transfer authority to administer and enforce the chapter as
34 amended by the bill by January 1, 2001. The bill requires
35 the secretary of state's office to adopt rules necessary in

1 order to administer and enforce the chapter by January 1,
 2 2001. The bill repeals a section in 1992 legislation
 3 providing that certain provisions relating to evidence of
 4 financial responsibility, registration requirements, and
 5 enforcement authority is implemented upon an appropriation and
 6 allocation of full-time equivalent positions.

7 Generally, the bill takes effect on January 1, 2001, except
 8 for the provision concerning actions taken relating to the
 9 transition of administration and enforcement from the
 10 insurance division to the secretary of state. That provision
 11 takes effect upon enactment.

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FEB 21 2000

WAYS AND MEANS

HOUSE FILE 2358
BY COMMITTEE ON COMMERCE
AND REGULATION

(SUCCESSOR TO HSB 516)

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

A BILL FOR

1 An Act relating to the administration and enforcement of
2 provisions regulating invention developers, by providing
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HF 2358

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5 NEW SUBSECTION. 6A. "Fund" means the invention developer
6 administration and enforcement fund created pursuant to
7 section 523G.3C.

8 NEW SUBSECTION. 10. "Office" means the secretary of
9 state's office as provided in chapter 9.

10 Sec. 3. NEW SECTION. 523G.3A ADMINISTRATION AND
11 RULEMAKING.

12 The office shall administer this chapter and may adopt
13 rules pursuant to chapter 17A as necessary to carry out the
14 administration.

15 Sec. 4. NEW SECTION. 523G.3B REQUIREMENTS FOR
16 REGISTRATION.

17 1. The following are requirements for registration under
18 this chapter:

19 a. An invention developer shall file a registration
20 statement with the office not later than May 1 of each year.
21 The registration statement shall contain all of the following
22 information:

23 (1) The name and address of the invention developer.

24 (2) The name and address of each owner, officer, or other
25 official of the invention developer's business. However, if
26 the invention developer is a corporation, the registration
27 statement shall contain the names and addresses of the chief
28 executive officer and the members of the board of directors.

29 (3) A description of the invention development services
30 offered.

31 (4) A copy of each form of contract used by the invention
32 developer.

33 (5) A copy of the invention developer's most recent
34 financial statement, including balance sheets and related
35 statements of income of the invention developer, prepared in

1 accordance with generally accepted accounting principles,
2 audited by a certified public accountant, and dated not more
3 than twelve months prior to the date of the application.

4 (6) The total number of customers who have contracted with
5 the invention developer in this state during the invention
6 developer's preceding fiscal year.

7 (7) The invention developer's gross income from the
8 invention development business in this state during the
9 invention developer's preceding fiscal year.

10 (8) The number of customers who have received from the
11 invention developer's services an amount of money in excess of
12 the amount of money paid by those customers to the invention
13 developer pursuant to a contract. The amount received by a
14 customer reported on the statement shall only include income
15 earned from the successful development, promotion, licensing,
16 publishing, exhibiting, or marketing of the customer's
17 invention pursuant to the contract executed between the
18 invention developer and the customer.

19 b. The invention developer shall submit an annual
20 registration fee accompanying the registration statement to
21 the office in the amount of two hundred fifty dollars. The
22 fee shall be deposited into the invention developers
23 administration and enforcement fund as provided in section
24 523G.3C.

25 c. The invention developer shall submit a copy of evidence
26 of financial responsibility as required by section 523G.6
27 accompanying the registration statement.

28 2. The office shall issue a certificate of compliance to
29 an invention developer who has complied with the registration
30 requirements of this section.

31 Sec. 5. NEW SECTION. 523G.3C INVENTION DEVELOPERS
32 ADMINISTRATION AND ENFORCEMENT FUND.

33 1. An invention developers administration and enforcement
34 fund is created in the state treasury under the control of the
35 office. The fund is composed of registration fees collected

1 by the office pursuant to section 523G.3B, and moneys
2 appropriated by the general assembly or available to and
3 obtained or accepted by the office from the United States or
4 private sources for placement in the fund.

5 2. Moneys in the fund are subject to an annual audit by
6 the auditor of state. The fund is subject to warrants written
7 by the director of revenue and finance, drawn upon the written
8 requisition of the secretary of state or a person designated
9 by the secretary of state.

10 3. Moneys in the fund are appropriated to the office and
11 shall be used exclusively for purposes necessary in order to
12 administer and enforce the provisions of this chapter as
13 determined by the office.

14 4. The office shall not in any manner directly or
15 indirectly pledge the credit of the state.

16 5. Section 8.33 shall not apply to moneys in the fund.
17 Notwithstanding section 12C.7, moneys earned as income,
18 including as interest, from the fund shall remain in the fund
19 until expended as provided in this section.

20 Sec. 6. Section 523G.4, subsection 2, Code Supplement
21 1999, is amended by adding the following new paragraph:

22 NEW PARAGRAPH. d. A copy of a current registration
23 certificate issued pursuant to section 523G.3B.

24 Sec. 7. Section 523G.6, subsections 1 and 2, Code 1999,
25 are amended to read as follows:

26 1. An invention developer shall maintain as security
27 evidence of financial responsibility as approved by the
28 commissioner office. The security shall be either a bond or
29 cash deposit in an amount which is equal to the greater of
30 either ten percent of the invention developer's gross income
31 from the invention development business in this state during
32 the invention developer's preceding fiscal year, or twenty-
33 five thousand dollars. The commissioner office shall approve
34 the security before the invention developer renders or offers
35 to render invention development services in this state. The

1 invention developer shall have ninety days beginning on the
2 first day of the invention developer's new fiscal year to
3 change the security as necessary to conform to the
4 requirements of this subsection.

5 2. A surety who issues a bond must be approved by the
6 commissioner office. A copy of the bond shall be filed in a
7 manner and according to procedures approved by the
8 commissioner office. A cash deposit shall be filed with the
9 treasurer of state in a manner and according to procedures
10 approved by the treasurer of state in consultation with the
11 commissioner office. The treasurer of state shall not refund
12 a deposit until sixty days following either the date that the
13 invention developer has ceased doing business in the state or
14 a bond has been filed with the commissioner office in
15 compliance with this section.

16 Sec. 8. Section 523G.9, subsection 7, Code 1999, is
17 amended to read as follows:

18 7. A violation of this chapter or a rule adopted by the
19 commissioner office pursuant to this chapter is a violation of
20 section 714.16. The remedies and penalties provided by
21 section 714.16, including but not limited to provisions
22 relating to injunctive relief and penalties, apply to
23 violations of this chapter.

24 Sec. 9. ADMINISTRATION AND ENFORCEMENT. The division of
25 insurance and the secretary of state shall cooperate in order
26 to efficiently transfer authority to administer and enforce
27 this chapter by January 1, 2001. The secretary of state's
28 office shall adopt rules necessary and to be effective by
29 January 1, 2001, in order to administer and enforce this
30 chapter.

31 Sec. 10. DIRECTIONS TO IOWA CODE EDITOR. The Iowa Code
32 editor shall, unless impracticable, transfer chapter 523G, as
33 amended by this Act, to a new chapter within title I, subtitle
34 4, of the Code.

35 Sec. 11. 1992 Iowa Acts, chapter 1114, section 13, is

1 repealed.

2 Sec. 12. EFFECTIVE DATES.

3 1. Except as provided in subsection 2, this Act takes
4 effect January 1, 2001.

5 2. Sections 10 and 11 of this Act, being deemed of
6 immediate importance, take effect upon enactment.

7

EXPLANATION

8 In 1992 the general assembly enacted S.F. 2189 (1992 Iowa
9 Acts, ch. 1114), the "Invention Development Services Act",
10 which provides for the protection of inventors from persons
11 who offer to develop inventions. The provisions are codified
12 in Code chapter 523G under the administration of the insurance
13 commissioner. The original bill provided that several
14 provisions relating to evidence of financial responsibility,
15 enforcement and penalty provisions, and powers provided to the
16 commissioner to administer and enforce the provisions are
17 contingent upon an appropriation of moneys and the allocation
18 of full-time equivalent positions. In 1998, the general
19 assembly enacted H.F. 2271 (1998 Iowa Acts, ch. 1119, § 6)
20 which repealed Code provisions which provided for registration
21 requirements and administrative and enforcement authority to
22 the commissioner.

23 This bill provides that the secretary of state's office
24 rather than the commissioner of insurance is responsible for
25 administering the provisions of the chapter.

26 The bill reinstates language repealed in 1998 that
27 prescribes the power and duties of the insurance commissioner
28 under Code chapter 523G (changed under the bill to the
29 secretary of state's office), and provides for registration
30 requirements. The bill places the provisions in a different
31 place in the Code chapter and makes stylistic changes in order
32 to better conform with bill drafting practices.

33 The bill reinstates provisions requiring an invention
34 developer to register (under the bill with the secretary of
35 state's office). The bill requires the same information in

1 the registration application, the same \$250 annual
2 registration fee, and the same evidence of financial
3 responsibility as was contained in Code section 523G.10⁶ prior
4 to its repeal. The bill refers to these items as registration
5 requirements and renumbers the provisions in a manner
6 consistent with Code style.

7 The bill provides a new section that requires that the \$250
8 registration fee must be deposited in a special fund under the
9 control of the office referred to as the invention developers
10 administration and enforcement fund. The bill provides for
11 the management of the fund consistent with other funds
12 established in the Code. Moneys in the fund are appropriated
13 to the secretary of state's office and must be used
14 exclusively to administer the provisions of this chapter.

15 The bill requires the insurance commissioner and the
16 secretary of state to cooperate in order to efficiently
17 transfer authority to administer and enforce the chapter as
18 amended by the bill by January 1, 2001. The bill requires
19 the secretary of state's office to adopt rules necessary in
20 order to administer and enforce the chapter by January 1,
21 2001. The bill repeals a section in 1992 legislation
22 providing that certain provisions relating to evidence of
23 financial responsibility, registration requirements, and
24 enforcement authority is implemented upon an appropriation and
25 allocation of full-time equivalent positions.

26 Generally, the bill takes effect on January 1, 2001, except
27 for the provision concerning actions taken relating to the
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29 insurance division to the secretary of state. That provision
30 takes effect upon enactment.

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