

MAR 8 2004

Place On Calendar

HOUSE FILE 2489
BY COMMITTEE ON COMMERCE,
REGULATION AND LABOR

(SUCCESSOR TO HSB 658)

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

A BILL FOR

1 An Act relating to the regulation of various industries by the
2 insurance division, including modifications related to the
3 interstate insurance product regulation compact;
4 investigations and penalties; procedures and contempt orders;
5 insurance company investments; insurance producer licensing;
6 individual health insurance programs; coverage obligations of
7 the Iowa comprehensive health insurance association; coverage
8 of federal Trade Adjustment Act recipients; penalties and
9 discipline applicable to holders of establishment and sales
10 permits for cemetery and funeral merchandise and services; and
11 providing and applying penalties.

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

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HF 2489

1 Section 1. Section 272C.1, subsection 6, paragraph z, Code
2 2003, is amended by striking the paragraph.

3 Sec. 2. Section 272C.3, subsection 2, paragraph a, Code
4 Supplement 2003, is amended to read as follows:

5 a. Revoke a license, or suspend a license either until
6 further order of the board or for a specified period, upon any
7 of the grounds specified in section 147.55, 148.6, 148B.7,
8 152.10, 153.34, 154A.24, 169.13, 455B.219, 542.10, 542B.21,
9 543B.29, 544A.13, 544B.15, or 602.3203 or chapter 151~~7~~ or 155,
10 507B~~7~~-~~or~~-522B~~7~~ as applicable, or upon any other grounds
11 specifically provided for in this chapter for revocation of
12 the license of a licensee subject to the jurisdiction of that
13 board, or upon failure of the licensee to comply with a
14 decision of the board imposing licensee discipline;

15 Sec. 3. Section 272C.4, subsection 6, Code 2003, is
16 amended to read as follows:

17 6. Define by rule acts or omissions ~~which~~ that are grounds
18 for revocation or suspension of a license under section
19 147.55, 148.6, 148B.7, 152.10, 153.34, 154A.24, 169.13,
20 455B.219, 542.10, 542B.21, 543B.29, 544A.13, 544B.15, or
21 602.3203 or chapter 151~~7~~ or 155, 507B~~7~~-~~or~~-522B~~7~~ as applicable,
22 and to define by rule acts or omissions ~~which~~ that constitute
23 negligence, careless acts, or omissions within the meaning of
24 section 272C.3, subsection 2, paragraph "b", which licensees
25 are required to report to the board pursuant to section
26 272C.9, subsection 2;

27 Sec. 4. Section 432.5, Code Supplement 2003, is amended to
28 read as follows:

29 432.5 RISK RETENTION GROUPS.

30 A risk retention group organized and operating pursuant to
31 Pub. L. No. 99-563, also known as the risk retention
32 amendments of 1986, shall pay as taxes to the director of
33 revenue an amount equal to ~~two-percent~~ the applicable percent,
34 as provided in section 432.1, subsection 4, of the gross
35 amount of the premiums received during the previous calendar

1 year for risks placed in this state. A resident or
2 nonresident agent producer shall report and pay the taxes on
3 the premiums for risks that the agent producer has placed in
4 this state with or on behalf of a risk retention group. The
5 failure of a risk retention group to pay the tax imposed in
6 this section shall result in the risk retention group being
7 considered an unauthorized insurer under chapter 507A.

8 Sec. 5. NEW SECTION. 505.7A CIVIL PENALTIES.

9 Unless specifically provided for in this subtitle,
10 penalties imposed under this subtitle by order of the
11 commissioner of insurance after hearing shall not exceed one
12 thousand dollars for each act or violation of this subtitle,
13 up to an aggregate of ten thousand dollars, unless the person
14 knew or reasonably should have known the person was in
15 violation of this subtitle, in which case the penalty shall
16 not exceed five thousand dollars for each act or violation, up
17 to an aggregate of fifty thousand dollars in any one six-month
18 period.

19 Sec. 6. Section 505A.1, article III, subsections 1 and 2,
20 Code Supplement 2003, are amended to read as follows:

21 1. The compacting states hereby create and establish an
22 entity a joint public agency known as the interstate insurance
23 product regulation commission. Pursuant to article IV, the
24 commission has the power to develop uniform standards for
25 product lines, receive and provide prompt review of products
26 filed therewith, and give approval to those product filings
27 satisfying applicable uniform standards, provided it is not
28 intended for the commission to be the exclusive entity for
29 receipt and review of insurance product filings. Nothing
30 herein shall prohibit any insurer from filing its product in
31 any state wherein the insurer is licensed to conduct the
32 business of insurance, and any such filing shall be subject to
33 the laws of the state where filed.

34 2. The commission is a body corporate comprising each and
35 politic, and an instrumentality of the compacting state.

1 Sec. 7. Section 505A.1, article III, subsection 3, Code
2 Supplement 2003, is amended by striking the subsection.

3 Sec. 8. Section 505A.1, article V, subsection 1, paragraph
4 c, subparagraphs (3) and (4), Code Supplement 2003, are
5 amended to read as follows:

6 (3) Providing reasonable standards and procedures:

7 (a) For the establishment and meetings of other
8 committees.

9 (b) Governing any general or specific delegation of any
10 authority or function of the commission.

11 (4) Providing reasonable procedures for calling and
12 conducting meetings of the commission, ~~and~~ that consists of a
13 majority of commission members ensuring reasonable advance
14 notice of each such meeting, and providing for the right of
15 citizens to attend each such meeting with enumerated
16 exceptions designed to protect the public's interest, the
17 privacy of individuals, and insurers' proprietary information,
18 including trade secrets. The commission may meet in camera
19 only after a majority of the entire membership votes to close
20 a meeting en toto or in part. As soon as practicable, the
21 commission shall make public:

22 (a) A copy of the vote to close the meeting, revealing the
23 vote of each member, with no proxy votes allowed.

24 (b) Votes taken during such meeting.

25 Sec. 9. Section 505A.1, article V, subsection 1, paragraph
26 c, Code Supplement 2003, is amended by adding the following
27 new subparagraph:

28 NEW SUBPARAGRAPH. (8) Promulgating a code of ethics to
29 address permissible and prohibited activities of commission
30 members and employees.

31 Sec. 10. Section 505A.1, article V, subsection 1, Code
32 Supplement 2003, is amended by adding the following new
33 paragraph:

34 NEW PARAGRAPH. d. The commission shall publish its bylaws
35 in a convenient form and file a copy of the bylaws, along with

1 any amendments, with the appropriate agency or officer in each
2 of the compacting states.

3 Sec. 11. Section 505A.1, article VII, subsection 2, Code
4 Supplement 2003, is amended to read as follows:

5 2. RULEMAKING PROCEDURE. Rules and operating procedures
6 shall be made pursuant to a rulemaking process that conforms
7 to the model state administrative procedure act of 1981 as
8 amended, as may be appropriate to the operations of the
9 commission. Before the commission adopts a uniform standard,
10 the commission shall give written notice to the relevant state
11 legislative committee or committees in each compacting state
12 responsible for insurance issues of its intention to adopt the
13 uniform standard. The commission, in adopting a uniform
14 standard, shall consider fully all submitted materials and
15 issue a concise explanation of its decision.

16 Sec. 12. Section 505A.1, article VIII, subsection 1, Code
17 Supplement 2003, is amended to read as follows:

18 1. The commission shall promulgate rules ~~to-establish~~
19 ~~establishing~~ conditions and procedures ~~under-which-the~~
20 ~~commission-shall-make-its-information-and-official-records~~
21 ~~available-to-the-public-for-inspection-or-copying~~ for public
22 inspection and copying of its information and official
23 records, except such information and records involving the
24 privacy of individuals and insurers' trade secrets. The
25 commission may promulgate additional rules under which it may
26 make available to federal and state agencies, including law
27 enforcement agencies, records, and information otherwise
28 exempt from disclosure, and may enter into agreements with
29 such agencies to receive or exchange information or records
30 subject to nondisclosure and confidentiality provisions.

31 Sec. 13. Section 505A.1, article VIII, subsection 4,
32 paragraphs a and b, Code Supplement 2003, are amended to read
33 as follows:

34 a. With respect to the commissioner's market regulation of
35 a product or advertisement that is approved or certified to

1 the commission, ~~no-activity-of-an-insurer~~ the content of the
2 product or advertisement shall not constitute a violation of
3 the provisions, standards, or requirements of this compact
4 except upon a final order of the commission, issued at the
5 request of a commissioner after prior notice to the insurer
6 and an opportunity for hearing before the commission.

7 b. Before a commissioner may bring an action for violation
8 of any provision, standard, or requirement of this compact
9 relating to the ~~use~~ content of an advertisement not approved
10 or certified to the commission, the commission, or an
11 authorized commission officer or employee, must authorize the
12 action. However, authorization pursuant to this paragraph
13 does not require notice to the insurer, opportunity for
14 hearing, or disclosure of requests for authorization or
15 records of the commission's action on such requests.

16 Sec. 14. Section 505A.1, article XI, subsection 1, Code
17 Supplement 2003, is amended to read as follows:

18 1. Not later than thirty days after the commission has
19 given notice of a disapproved product or advertisement filed
20 with the commission, the insurer or third-party filer whose
21 filing was disapproved may appeal the determination to a
22 review panel appointed by the commission. The commission
23 shall adopt rules to establish procedures for appointing such
24 review panels and provide for notice and hearing. ~~The~~
25 ~~decision-of-the-review-panel-shall-be-the-final-action-of-the~~
26 ~~commission-and-not-subject-to-review-by-any-court-~~
27 ~~Notwithstanding-the-foregoing,~~ An allegation that the
28 commission, in disapproving a product or advertisement filed
29 with the commission, acted arbitrarily, capriciously, or in a
30 manner that is an abuse of discretion or otherwise not in
31 accordance with the law, is subject to judicial review in
32 accordance with article III, section 5.

33 Sec. 15. Section 505A.1, article XII, subsection 6, Code
34 Supplement 2003, is amended to read as follows:

35 6. The commission shall keep complete and accurate

1 accounts of all its internal receipts, including grants and
2 donations, and disbursements of all funds under its control.
3 The internal financial accounts of the commission shall be
4 subject to the accounting procedures established under its
5 bylaws. The financial accounts and reports, including the
6 system of internal controls and procedures of the commission,
7 shall be audited annually by an independent certified public
8 accountant. Upon the determination of the commission, but no
9 less frequently than every three years, the review of the
10 independent auditor shall include a management and performance
11 audit of the commission. The commission shall make an annual
12 report to the governor and legislature of the compacting
13 states, which shall include a report of the independent audit.
14 The commission's internal accounts, ~~any work papers related to~~
15 ~~any internal audit, and any work papers related to the~~
16 ~~independent audit,~~ shall not be confidential, ~~provided that~~
17 and such materials may be shared with the commissioner of any
18 compacting state ~~and shall remain confidential pursuant to~~
19 ~~article VII~~ upon request; provided, however, that any work
20 papers related to any internal or independent audit and any
21 information regarding the privacy of the individuals and
22 insurers' proprietary information, including trade secrets,
23 shall remain confidential.

24 Sec. 16. Section 505A.1, article XVI, subsection 1,
25 paragraph b, Code Supplement 2003, is amended to read as
26 follows:

27 b. For any product approved or certified to the
28 commission, the rules, uniform standards, and any other
29 requirements of the commission shall constitute the exclusive
30 provisions applicable to the content, approval, and
31 certification of such products. For advertisement that is
32 subject to the commission's authority, any rule, uniform
33 standard, or other requirement of the commission which governs
34 the content of the advertisement shall constitute the
35 exclusive provision that a commissioner may apply to the

1 content of the advertisement. Notwithstanding the foregoing,
2 action taken by the commission shall not abrogate or restrict:

3 (1) The access of any person, ~~including the attorney~~
4 ~~general~~, to state courts.

5 (2) Remedies available under state law related to breach
6 of contract, tort, general consumer protection laws, or
7 general consumer protection regulations that apply to the sale
8 or advertisement of the product or other laws not specifically
9 directed to the content of the product.

10 (3) State law relating to the construction of insurance
11 contracts.

12 (4) The authority of the attorney general of the state,
13 including but not limited to maintaining any actions or
14 proceedings, as authorized by law.

15 Sec. 17. Section 507.14, Code 2003, is amended by adding
16 the following new unnumbered paragraph:

17 NEW UNNUMBERED PARAGRAPH. Analysis notes, work papers, or
18 other documents related to the analysis of an insurer are not
19 public records under chapter 22.

20 Sec. 18. Section 507.16, Code 2003, is amended to read as
21 follows:

22 507.16 UNLAWFUL SOLICITATION OF BUSINESS.

23 Any It shall be unlawful for any officer, manager, agent,
24 or representative of any insurance company contemplated by
25 this chapter, who, with knowledge that its certificate of
26 authority has been suspended or revoked, or that it is
27 insolvent, or is doing an unlawful or unauthorized business,
28 solicits to solicit or receive applications for insurance for
29 said the company, or-receives-applications-therefor, or does
30 to do any other act or thing toward receiving or procuring any
31 new business for said the company, shall-be-deemed-guilty-of-a
32 serious-misdemeanor, and-the. The provisions of sections
33 511.16 and 511.17 are hereby extended to all companies
34 contemplated by this chapter.

35 Sec. 19. Section 507A.10, Code 2003, is amended to read as

1 follows:

2 507A.10 CEASE AND DESIST ORDER ORDERS -- CIVIL PENALTY AND
3 CRIMINAL PENALTIES.

4 1. Upon a determination by the commissioner, after a
5 hearing conducted pursuant to chapter 17A, that a person or
6 insurer has violated a provision of this chapter, the
7 commissioner shall reduce the findings of the hearing to
8 writing and deliver a copy of the findings to the person or
9 insurer, may issue an order requiring the person or insurer to
10 cease and desist from engaging in the conduct resulting in the
11 violation, and may assess a civil penalty of not more than
12 fifty thousand dollars against the person or insurer.

13 2. a. Upon a determination by the commissioner that a
14 person or insurer has engaged, is engaging, or is about to
15 engage in any act or practice constituting a violation of this
16 chapter or a rule adopted or order issued under this chapter,
17 the commissioner may issue a summary order, including a brief
18 statement of findings of fact, conclusions of law, and policy
19 reasons for the decision, and directing the person or insurer
20 to cease and desist from engaging in the act or practice or to
21 take other affirmative action as is in the judgment of the
22 commissioner necessary to comply with the requirements of this
23 chapter.

24 b. A person to whom a summary order has been issued under
25 this subsection may contest the order by filing a request for
26 a contested case proceeding and hearing as provided in chapter
27 17A and in accordance with rules adopted by the commissioner.
28 However, the person shall have at least thirty days from the
29 date that the order is issued in order to file the request.
30 Section 17A.18A is inapplicable to a summary order issued
31 under this subsection. If a hearing is not timely requested,
32 the summary order becomes final by operation of law. The
33 order shall remain effective from the date of issuance until
34 the date the order becomes final by operation of law or is
35 overturned by a presiding officer or court following a request

1 for hearing.

2 c. A person or insurer violating a summary order issued
3 under this subsection shall be deemed in contempt of that
4 order. The commissioner may petition the district court to
5 enforce the order as certified by the commissioner. The
6 district court shall find the person in contempt of the order
7 if the court finds after hearing that the person or insurer is
8 not in compliance with the order. The court may assess a
9 civil penalty against the person or insurer and may issue
10 further orders as it deems appropriate.

11 3. A person acting as an insurance producer, as defined in
12 chapter 522B, without proper licensure, or an insurer who
13 willfully violates any provision of this chapter, or any rule
14 adopted or order issued under this chapter, is guilty of a
15 class "D" felony.

16 4. A person acting as an insurance producer, as defined in
17 chapter 522B, without proper licensure, or an insurer who
18 willfully violates any provision of this chapter, or any rule
19 adopted or order issued under this chapter, and when such
20 violation results in a loss of more than ten thousand dollars,
21 is guilty of a class "C" felony.

22 5. The commissioner may refer such evidence as is
23 available concerning violations of this chapter or of any rule
24 adopted or order issued under this chapter, or of the failure
25 of a person to comply with the licensing requirements of
26 chapter 522B, to the attorney general or the proper county
27 attorney who may, with or without such reference, institute
28 the appropriate criminal proceedings under this chapter.

29 6. This chapter does not limit the power of the state to
30 punish any person for any conduct that constitutes a crime
31 under any other statute.

32 Sec. 20. Section 507B.2, subsection 1, Code 2003, is
33 amended to read as follows:

34 1. "Person" shall mean any individual, corporation,
35 association, partnership, reciprocal exchange, interinsurer,

1 fraternal beneficiary association, and any other legal entity
2 engaged in the business of insurance, including agents,
3 ~~brokers~~ insurance producers and adjusters. "Person" shall
4 also mean any corporation operating under the provisions of
5 chapter 514 and any benevolent association as defined and
6 operated under chapter 512A. For purposes of this chapter,
7 corporations operating under the provisions of chapter 514 and
8 chapter 512A shall be deemed to be engaged in the business of
9 insurance.

10 Sec. 21. Section 507B.3, Code Supplement 2003, is amended
11 by adding the following new subsection:

12 NEW SUBSECTION. 3. Information obtained by the
13 commissioner in the course of investigating a consumer
14 complaint may, in the discretion of the commissioner, be
15 provided to the insurance company or insurance producer which
16 is the subject of the complaint or to the consumer who filed
17 the complaint or the individual insured who is the subject of
18 the complaint without waiving the confidentiality afforded by
19 this section to the commissioner or other persons.

20 Sec. 22. Section 507B.6, subsection 5, Code 2003, is
21 amended to read as follows:

22 5. Statements of charges, notices, orders, subpoenas, and
23 other processes of the commissioner under this chapter may be
24 served by anyone ~~duly~~ authorized by the commissioner, either
25 in the manner provided by law for service of process in civil
26 actions, or by mailing a copy ~~thereof~~ by restricted certified
27 mail to the person affected by ~~such~~ the statement, notice,
28 order, subpoena, or other process at the person's residence or
29 principal office or place of business. The verified return by
30 the person ~~so~~ serving ~~such~~ the statement, notice, order,
31 subpoena, or other process, setting forth the manner of such
32 service, shall be proof of ~~the-same~~ service, and the return
33 receipt for ~~such~~ the statement, notice, order, subpoena, or
34 other process, ~~and~~ mailed by restricted certified mail as
35 ~~aforsaid~~, shall be proof of the service ~~of-the-same~~.

1 Sec. 23. NEW SECTION. 507B.6A SUMMARY CEASE AND DESIST
2 ORDERS.

3 1. Upon a determination by the commissioner that a person
4 or insurer has engaged, is engaging, or is about to engage in
5 any act or practice constituting a violation of this chapter
6 or a rule adopted or order issued under this chapter, the
7 commissioner may issue a summary order, including a brief
8 statement of findings of fact, conclusions of law, and policy
9 reasons for the decision, and directing the person or insurer
10 to cease and desist from engaging in the act or practice or to
11 take other affirmative action as is in the judgment of the
12 commissioner necessary to comply with the requirements of this
13 chapter.

14 2. A person who has been issued a summary order under this
15 section may contest the order by filing a request for a
16 contested case proceeding and hearing as provided in chapter
17 17A and in accordance with the rules adopted by the
18 commissioner. However, the person shall have at least thirty
19 days from the date that the order is issued in order to file
20 the request. Section 17A.18A is inapplicable to a summary
21 order issued under this section. The order shall remain
22 effective from the date of issuance unless overturned by a
23 presiding officer or court following a request for hearing.
24 If a hearing is not timely requested, the summary order
25 becomes final by operation of law.

26 3. A person or insurer violating a summary order issued
27 under this section shall be deemed in contempt of that order.
28 The commissioner may petition the district court to enforce
29 the order as certified by the commissioner. The district
30 court shall adjudge the person in contempt of the order if the
31 court finds after hearing that the person or insurer is not in
32 compliance with the order. The court may assess a civil
33 penalty against the person or insurer and may issue further
34 orders as it deems appropriate.

35 Sec. 24. Section 507B.7, Code 2003, is amended to read as

1 follows:

2 507B.7 CEASE AND DESIST ORDERS AND MODIFICATIONS-THEREOF
3 PENALTIES.

4 1. If, after such hearing, the commissioner determines
5 that the a person charged has engaged in an unfair method of
6 competition or an unfair or deceptive act or practice, the
7 commissioner shall reduce the findings to writing and shall
8 issue and cause to be served upon the person charged with the
9 violation a copy of such findings, an order requiring such
10 person to cease and desist from engaging in such method of
11 competition, act, or practice, and ~~if-the-act-or-practice-is-a~~
12 ~~violation-of-section-507B.47-507B.4A7-or-507B.57~~ the
13 commissioner may at the commissioner's discretion order any
14 one or more of the following:

15 a. Payment of a civil penalty of not more than one
16 thousand dollars for each act or violation of this subtitle,
17 but not to exceed an aggregate of ten thousand dollars, unless
18 the person knew or reasonably should have known the person was
19 in violation of ~~section-507B.47-507B.4A7-or-507B.5~~ this
20 subtitle, in which case the penalty shall be not more than
21 five thousand dollars for each act or violation, but not to
22 exceed an aggregate penalty of fifty thousand dollars in any
23 one six-month period. If the commissioner finds that a
24 violation of ~~section-507B.47-507B.4A7-or-507B.5~~ this subtitle
25 was directed, encouraged, condoned, ignored, or ratified by
26 the employer of the person or by an insurer, the commissioner
27 shall also assess a fine to the employer or insurer.

28 b. Suspension or revocation of the license of a person as
29 defined in section 507B.2, subsection 1, if the person knew or
30 reasonably should have known the person was in violation of
31 ~~section-507B.47-507B.4A7-or-507B.5~~ this subtitle.

32 c. Payment of interest at the rate of ten percent per
33 annum if the commissioner finds that the insurer failed to pay
34 interest as required under section 507B.4, subsection 12.

35 2. Until the expiration of the time allowed under section

1 507B.8 for filing a petition for review if no such petition
2 has been duly filed within such time, or, if a petition for
3 review has been filed within such time, then until the
4 transcript of the record in the proceeding has been filed in
5 the district court, as hereinafter provided, the commissioner
6 may at any time, upon such notice and in such manner as the
7 commissioner may deem proper, modify or set aside in whole or
8 in part any order issued by the commissioner under this
9 section.

10 3. After the expiration of the time allowed for filing
11 such a petition for review if no such petition has been duly
12 filed within such time, the commissioner may at any time,
13 after notice and opportunity for hearing, reopen and alter,
14 modify, or set aside, in whole or in part, any order issued by
15 the commissioner under this section, whenever in the
16 commissioner's opinion conditions of fact or of law have so
17 changed as to require such action, or if the public interest
18 shall so require.

19 4. Any person who violates a cease and desist order of the
20 commissioner, and while such order is in effect, may, after
21 notice and hearing and upon order of the commissioner, be
22 subject at the discretion of the commissioner to any one or
23 more of the following:

24 a. A monetary penalty of not more than ten thousand
25 dollars for each and every act or violation.

26 b. Suspension or revocation of such person's license.

27 Sec. 25. Section 507C.6, subsection 4, Code 2003, is
28 amended by striking the subsection and inserting in lieu
29 thereof the following:

30 4. It shall be unlawful for a person as defined in
31 subsection 1 to fail to cooperate with the commissioner, or to
32 obstruct or interfere with the commissioner in the conduct of
33 a delinquency proceeding or an investigation preliminary or
34 incidental to a delinquency proceeding, or to violate a valid
35 order of the commissioner.

1 Sec. 26. Section 507C.11, unnumbered paragraph 1, Code
2 2003, is amended to read as follows:

3 Notwithstanding chapter 22, in all administrative
4 proceedings pursuant to sections 507C.9 and 507C.10 all
5 orders, records, and documents pertaining to or a part of the
6 record of the proceedings are confidential except as is
7 necessary to obtain compliance with a proceeding. However,
8 the records may be released if either of the following occurs:

9 Sec. 27. Section 509.18, Code 2003, is amended to read as
10 follows:

11 509.18 PROHIBITED DEPOSIT IN FINANCIAL INSTITUTION.

12 A company or its agent licensed to sell a policy of credit
13 life or credit accident and health insurance or certificate
14 under a policy of group credit life or credit accident and
15 health insurance shall not deposit or offer to deposit funds
16 in a financial institution of this state in exchange for the
17 privilege of selling such insurance to or on behalf of the
18 financial institution. ~~Any person violating the provisions of~~
19 ~~this section shall be guilty of a simple misdemeanor.~~

20 Sec. 28. Section 511.8, subsection 1, Code Supplement
21 2003, is amended to read as follows:

22 1. UNITED STATES GOVERNMENT OBLIGATIONS.

23 a. Bonds or other evidences of indebtedness issued,
24 assumed, or guaranteed by the United States of America, or by
25 any agency or instrumentality thereof of the United States of
26 America.

27 b. Bonds or other evidences of indebtedness issued,
28 assumed, or guaranteed by the United States of America, or by
29 any agency or instrumentality of the United States of America
30 include investments in an open-end management investment
31 company registered with the federal securities and exchange
32 commission under the federal Investment Company Act of 1940,
33 15 U.S.C. § 80(a), and operated in accordance with 17 C.F.R. §
34 270.2a-7, the portfolio of which is limited to the United
35 States government obligations described in paragraph "a", and

1 which are included in the national association of insurance
2 commissioners' securities valuation office's United States
3 direct obligations-full faith and credit exempt list.

4 Sec. 29. Section 511.8, subsection 19, unnumbered
5 paragraph 1, Code Supplement 2003, is amended to read as
6 follows:

7 Bonds or other evidences of indebtedness, not to include
8 currency, issued, assumed, or guaranteed by a foreign
9 government other than Canada, or by a corporation incorporated
10 under the laws of a foreign government other than Canada.
11 Such governmental obligations must be valid, legally
12 authorized and issued, and on the date of acquisition have
13 predominantly investment qualities and characteristics as
14 provided by rule. Such corporate obligations must meet the
15 qualifications established in subsection 5 for bonds and other
16 evidences of indebtedness issued, assumed, or guaranteed by a
17 corporation incorporated under the laws of the United States
18 or Canada. Foreign investments authorized by this subsection
19 are not eligible in excess of ~~ten~~ twenty percent of the legal
20 reserve of the life insurance company or association.
21 Investments in obligations of a foreign government, other than
22 Canada and the United Kingdom, are not eligible in excess of
23 two percent of the legal reserve in the securities of foreign
24 governments of any one foreign nation. Investments in
25 obligations of the United Kingdom are not eligible in excess
26 of four percent of the legal reserve. Investments in a
27 corporation incorporated under the laws of a foreign
28 government other than Canada are not eligible in excess of two
29 percent of the legal reserve in the securities of any one
30 foreign corporation.

31 Sec. 30. Section 511.8, subsection 22, paragraph e, Code
32 Supplement 2003, is amended to read as follows:

33 e. Investments in financial instruments of foreign
34 governments or foreign corporate obligations, other than
35 Canada, used in hedging transactions are not eligible in

1 excess of ~~ten~~ twenty percent of the legal reserve, less any
2 foreign investment authorized by subsection 19 owned by the
3 company or association and in which its legal reserve is
4 invested, except insofar as the financial instruments are
5 collateralized by cash or United States government obligations
6 as authorized by subsection 1 deposited with a custodian bank
7 as defined in subsection 21, and held under a written
8 agreement with the custodian bank that complies with
9 subsection 21 and provides for the proceeds of the collateral,
10 subject to the terms and conditions of the applicable
11 collateral or other credit support agreement, to be remitted
12 to the legal reserve deposit of the company or association and
13 to vest in the state in accordance with section 508.18
14 whenever proceedings under that section are instituted.

15 Sec. 31. Section 511.8, Code Supplement 2003, is amended
16 by adding the following new subsection:

17 NEW SUBSECTION. 23. SECURITY LOANS.

18 a. A life insurance company or association may loan
19 securities held by it in its legal reserve to a broker-dealer
20 registered under the Securities Exchange Act of 1934, a
21 national bank, or a state bank, foreign bank, or trust company
22 that is a member of the United States federal reserve system,
23 and the loaned securities shall continue to be eligible for
24 inclusion in the legal reserve of the life insurance company
25 or association.

26 b. The loan shall be fully collateralized by cash, cash
27 equivalents, or obligations issued or guaranteed by the United
28 States or an agency or instrumentality of the United States.
29 The life insurance company or association shall take delivery
30 of the collateral either directly or through an authorized
31 custodian.

32 c. If the loan is collateralized by cash or cash
33 equivalents, the cash or cash equivalent collateral may be
34 reinvested by the life insurance company or association in
35 either individual securities which are eligible for inclusion

1 in the legal reserve of the life insurance company or
2 association or in repurchase agreements fully collateralized
3 by such securities if the life insurance company or
4 association takes delivery of the collateral either directly
5 or through an authorized custodian or pooled fund comprised of
6 individual securities which are eligible for inclusion in the
7 legal reserve of the life insurance company or association.
8 If such reinvestment is made in individual securities or in
9 repurchase agreements, the individual securities or the
10 securities which collateralize the repurchase agreements shall
11 mature in less than two hundred seventy days. If such
12 reinvestment is made in a pooled fund, the average maturity of
13 the securities comprising such pooled fund must be less than
14 two hundred seventy days. Individual securities and
15 securities comprising the pooled fund shall be investment
16 grade.

17 d. The loan shall be evidenced by a written agreement
18 which provides all of the following:

19 (1) That the loan will be fully collateralized at all
20 times during the term of the loan, and that the collateral
21 will be adjusted as necessary each business day during the
22 term of the loan to maintain the required collateralization in
23 the event of market value changes in the loaned securities or
24 collateral.

25 (2) If the loan is fully collateralized by cash or cash
26 equivalents, the cash or cash equivalent may be reinvested by
27 the life insurance company or association as provided in
28 paragraph "c".

29 (3) That the loan may be terminated by the life insurance
30 company or association at any time, and that the borrower
31 shall return the loaned stocks or obligations or equivalent
32 stocks or obligations within five business days after
33 termination.

34 (4) That the life insurance company or association has the
35 right to retain the collateral or use the collateral to

1 purchase investments equivalent to the loaned securities if
2 the borrower defaults under the terms of the agreement, and
3 that the borrower remains liable for any losses and expenses
4 incurred by the life insurance company or association due to
5 default that are not covered by the collateral.

6 e. Securities loaned pursuant to this subsection are not
7 eligible for inclusion in the legal reserve of the life
8 insurance company or association in excess of twenty percent
9 of the legal reserve.

10 Sec. 32. Section 511.16, Code 2003, is amended to read as
11 follows:

12 511.16 ILLEGAL BUSINESS.

13 ~~Any~~ It shall be unlawful for any officer, manager, or agent
14 of any life insurance company or association ~~who,~~ with
15 knowledge that it is doing business in an unlawful manner or
16 is insolvent, solicits to solicit or receive applications for
17 insurance with ~~said~~ the company or association, ~~or-receives~~
18 ~~applications-therefor,~~ or does to do any other act or thing
19 towards toward procuring or receiving any new business for
20 ~~such~~ the company or association, ~~shall-be-guilty-of-an~~
21 ~~aggravated-misdemeanor.~~

22 Sec. 33. Section 512A.8, Code 2003, is amended to read as
23 follows:

24 512A.8 PENALTIES VIOLATION.

25 Except as otherwise provided by law, it shall be unlawful
26 for any person or corporation to operate a benevolent
27 association in this state except as provided for in this
28 chapter. ~~Any-person-violating-the-provisions-of-this-chapter~~
29 ~~shall-be-guilty-of-a-serious-misdemeanor.~~

30 Sec. 34. Section 512B.35, Code 2003, is amended to read as
31 follows:

32 512B.35 PENALTIES FALSE OR FRAUDULENT STATEMENTS.

33 1. ~~A-person-who~~ It shall be unlawful for a person
34 knowingly makes to make a false or fraudulent statement or
35 representation in or relating to an application for membership

1 or for the purpose of obtaining money from or a benefit in a
2 society, ~~is guilty of a fraudulent practice.~~

3 2. ~~A person who willfully makes~~ It shall be unlawful for a
4 person to willfully make a false or fraudulent statement in a
5 verified report or declaration under oath required or
6 authorized by this chapter, or of a material fact or thing
7 contained in a sworn statement concerning the death or
8 disability of an insured for the purpose of procuring payment
9 of a benefit named in the certificate, ~~is guilty of perjury.~~

10 3. ~~A person who solicits~~ It shall be unlawful for a person
11 to solicit membership for, or in any manner assists to assist
12 in procuring membership in, a society not licensed to do
13 business in this state, ~~is guilty of a serious misdemeanor.~~

14 ~~4. A person guilty of a willful violation of, or neglect~~
15 ~~or refusal to comply with, a provision of this chapter for~~
16 ~~which a penalty is not otherwise prescribed, is guilty of a~~
17 ~~simple misdemeanor.~~

18 Sec. 35. Section 513C.3, subsection 15, Code Supplement
19 2003, is amended by adding the following new unnumbered
20 paragraph:

21 NEW UNNUMBERED PARAGRAPH. For purposes of this subsection,
22 an association policy under chapter 514E is not considered
23 "qualifying existing coverage" or "qualifying previous
24 coverage".

25 Sec. 36. Section 513C.8, Code 2003, is amended to read as
26 follows:

27 513C.8 HEALTH BENEFIT PLAN STANDARDS.

28 The commissioner board of directors of the Iowa
29 comprehensive health insurance association, with the approval
30 of the commissioner, shall adopt ~~by rule~~ the form and level of
31 coverage of the basic health benefit plan and the standard
32 health benefit plan for the individual market which shall
33 provide benefits substantially similar to ~~those as provided~~
34 ~~for under chapter 513B with respect to small group coverage,~~
35 ~~but which shall be appropriately adjusted at least every three~~

1 ~~years-to-reflect~~ the current state of the individual market.

2 Sec. 37. Section 513C.10, subsection 1, paragraph a, Code
3 Supplement 2003, is amended to read as follows:

4 a. All persons that provide health benefit plans in this
5 state including insurers providing accident and sickness
6 insurance under chapter 509, 514, or 514A, whether on an
7 individual or group basis; fraternal benefit societies
8 providing hospital, medical, or nursing benefits under chapter
9 512B; and health maintenance organizations, organized delivery
10 systems, ~~and-all~~ other entities providing health insurance or
11 health benefits subject to state insurance regulation, and all
12 other insurers as designated by the board of directors of the
13 Iowa comprehensive health insurance association with the
14 approval of the commissioner shall be members of the
15 association.

16 Sec. 38. Section 513C.10, subsection 4, Code Supplement
17 2003, is amended to read as follows:

18 4. The board shall develop procedures and assessment
19 mechanisms and make assessments and distributions as required
20 to equalize the individual carrier and organized delivery
21 system gains or losses so that each carrier or organized
22 delivery system receives the same ratio of paid claims to
23 ninety percent of earned premiums as the aggregate of all
24 basic and standard plans insured by all carriers and organized
25 delivery systems in the state.

26 Sec. 39. Section 514E.1, subsection 2, Code Supplement
27 2003, is amended to read as follows:

28 2. "Association policy" means an individual or group
29 policy issued by the association that provides the coverage
30 specified-in-section-514E-4 as set forth in the benefit plans
31 adopted by the association's board of directors and approved
32 by the commissioner.

33 Sec. 40. Section 514E.1, subsections 7, 8, and 12, Code
34 Supplement 2003, are amended by striking the subsections.

35 Sec. 41. Section 514E.1, subsection 9, Code Supplement

1 2003, is amended by adding the following new paragraph:

2 NEW PARAGRAPH. f. Who has been confirmed eligible under
3 the federal Trade Adjustment Act of 2002, Pub. L. No. 107-
4 210, as a recipient under that Act, by the department of
5 workforce development and the federal internal revenue
6 service.

7 Sec. 42. Section 514E.1, subsection 13, Code Supplement
8 2003, is amended to read as follows:

9 13. "Health care services" means services, the coverage of
10 which is authorized under chapter 509, chapter 514, chapter
11 514A, or chapter 514B as limited by ~~sections-514E.4-and-514E.5~~
12 benefit plans established by the association's board of
13 directors, with the approval of the commissioner and includes
14 services for the purposes of preventing, alleviating, curing,
15 or healing human illness, injury or physical disability.

16 Sec. 43. Section 514E.2, subsection 1, unnumbered
17 paragraph 1, Code Supplement 2003, is amended to read as
18 follows:

19 The Iowa comprehensive health insurance association is
20 established as a nonprofit corporation. The association shall
21 assure that ~~health-insurance, as limited by sections-514E.4~~
22 ~~and-514E.5, is~~ benefit plans as authorized in section 514E.1,
23 subsection 2, for an association policy, are made available to
24 each eligible Iowa resident and each federally eligible
25 individual applying to the association for coverage. The
26 association shall also be responsible for administering the
27 Iowa individual health benefit reinsurance association
28 pursuant to all of the terms and conditions contained in
29 chapter 513C.

30 Sec. 44. Section 514E.2, subsection 1, paragraph a, Code
31 Supplement 2003, is amended to read as follows:

32 a. All carriers ~~as defined in section-514E.1, subsection~~
33 ~~3,~~ and all organized delivery systems licensed by the director
34 of public health providing health insurance or health care
35 services in Iowa and all other insurers designated by the

1 association's board of directors and approved by the
2 commissioner shall be members of the association.

3 Sec. 45. Section 514E.2, subsection 6, Code Supplement
4 2003, is amended by striking the subsection and inserting in
5 lieu thereof the following:

6 6. Rates for coverages issued by the association shall
7 reflect rating characteristics used in the individual
8 insurance market. The rates for a given classification shall
9 not be more than one hundred fifty percent of the average
10 premium or payment rate for the classification charged by the
11 five carriers with the largest health insurance premium or
12 payment volume in the state during the preceding calendar
13 year. In determining the average rate of the five largest
14 carriers, the rates or payments charged by the carriers shall
15 be actuarially adjusted to determine the rate or payment that
16 would have been charged for benefits similar to those issued
17 by the association.

18 Sec. 46. Section 514E.4, Code 2003, is amended by striking
19 the section and inserting in lieu thereof the following:

20 514E.4 ASSOCIATION POLICY -- COVERAGE AND BENEFIT
21 REQUIREMENTS -- DEDUCTIBLES -- COINSURANCE.

22 The association policy shall pay for medically necessary
23 eligible health care services as established in the benefit
24 plans adopted by the association's board of directors and
25 approved by the commissioner. The plans shall provide
26 benefits, deductibles, and coinsurance that reflect the
27 current state of the individual insurance market. The board
28 may modify the benefits provided under the plans to reflect
29 the current state of the individual insurance market with the
30 approval of the commissioner.

31 Sec. 47. Section 514E.7, subsection 1, Code 2003, is
32 amended by adding the following new unnumbered paragraph:

33 NEW UNNUMBERED PARAGRAPH. The association shall rescind
34 coverage for an individual who no longer resides in the state.

35 Sec. 48. Section 514E.7, subsection 5, Code 2003, is

1 amended by adding the following new paragraph:

2 NEW PARAGRAPH. f. The individual is eligible for Medicare
3 based upon age.

4 Sec. 49. Section 514E.8, subsection 1, Code 2003, is
5 amended to read as follows:

6 1. An association policy shall contain provisions under
7 which the association is obligated to renew the ~~contract~~
8 coverage for an individual until the day on-which the
9 ~~individual in-whose-name-the-contract-is-issued-first~~ becomes
10 eligible for Medicare coverage, ~~except that in a family policy~~
11 ~~covering both husband and wife, the age of the younger spouse~~
12 ~~shall be used as the basis for meeting the durational~~
13 ~~requirements of this subsection. -- However, when the individual~~
14 ~~in whose name the contract is issued becomes eligible for~~
15 ~~Medicare coverage, the person shall be eligible for the~~
16 ~~Medicare supplement plan offered by the association~~ based on
17 age.

18 Sec. 50. Section 514E.11, Code 2003, is amended to read as
19 follows:

20 514E.11 NOTICE OF ASSOCIATION POLICY.

21 Every carrier, including a health maintenance organization
22 subject to chapter 514B and an organized delivery system,
23 authorized to provide health care insurance or coverage for
24 health care services in Iowa, shall provide a notice of the
25 availability of coverage by the association to any person who
26 receives a rejection of coverage for health insurance or
27 health care services, ~~or a notice to any person who is~~
28 ~~informed that~~ a rate for health insurance or coverage for
29 health care services that will exceed the rate of an
30 association policy, and that person is eligible to apply for
31 health insurance provided by the association. Application for
32 the health insurance shall be on forms prescribed by the
33 association's board of directors and made available to the
34 carriers and organized delivery systems and other entities
35 providing health care insurance or coverage for health care

1 services regulated by the commissioner.

2 Sec. 51. Section 515.35, subsection 3, paragraph a,
3 subparagraph (2), Code Supplement 2003, is amended by striking
4 the subparagraph and inserting in lieu thereof the following:

5 (2) A company may loan securities held by it to a broker-
6 dealer registered under the Securities Exchange Act of 1934, a
7 national bank, or a state bank, foreign bank, or trust company
8 that is a member of the United States federal reserve system,
9 and the loaned securities shall continue to be allowable
10 investments of the company.

11 (a) The loan shall be fully collateralized by cash, cash
12 equivalents, or obligations issued or guaranteed by the United
13 States or an agency or instrumentality of the United States.
14 The company shall take delivery of the collateral either
15 directly or through an authorized custodian.

16 (b) If the loan is collateralized by cash or cash
17 equivalents, the cash or cash equivalent collateral may be
18 reinvested by the company in either individual securities
19 which are allowable investments of the company or in
20 repurchase agreements fully collateralized by such securities
21 if the company takes delivery of the collateral either
22 directly or through an authorized custodian or a pooled fund
23 comprised of individual securities which are allowable
24 investments of the company. If such reinvestment is made in
25 individual securities or in repurchase agreements, the
26 individual securities or the securities which collateralize
27 the repurchase agreements shall mature in less than two
28 hundred seventy days. If such reinvestment is made in a
29 pooled fund, the average maturity of the securities comprising
30 such pooled fund must be less than two hundred seventy days.
31 Individual securities and securities comprising the pooled
32 fund shall be investment grade.

33 (c) The loan shall be evidenced by a written agreement
34 which provides all of the following:

35 (i) That the loan will be fully collateralized at all

1 times during the term of the loan, and that the collateral
2 will be adjusted as necessary each business day during the
3 term of the loan to maintain the required collateralization in
4 the event of market value changes in the loaned securities or
5 collateral.

6 (ii) If the loan is fully collateralized by cash or cash
7 equivalents, the cash or cash equivalent collateral may be
8 reinvested by the company as provided in subparagraph
9 subdivision (b).

10 (iii) That the loan may be terminated by the company at
11 any time, and that the borrower shall return the loaned stocks
12 and obligations or equivalent stocks or obligations within
13 five business days after termination.

14 (iv) That the company has the right to retain the
15 collateral or use the collateral to purchase investments
16 equivalent to the loaned securities if the borrower defaults
17 under the terms of the agreement, and that the borrower
18 remains liable for any losses and expenses incurred by the
19 company due to default that are not covered by the collateral.

20 (d) Securities loaned pursuant to this subparagraph (2)
21 are not eligible for investment of the company in excess of
22 twenty percent of admitted assets.

23 Sec. 52. Section 515.35, subsection 4, paragraph a, Code
24 Supplement 2003, is amended by adding the following new
25 unnumbered paragraph:

26 NEW UNNUMBERED PARAGRAPH. Bonds or other evidences of
27 indebtedness issued, assumed, or guaranteed by the United
28 States of America, or by any agency or instrumentality of the
29 United States of America include investments in an open-end
30 management investment company registered with the federal
31 securities and exchange commission under the federal
32 Investment Company Act of 1940, 15 U.S.C. § 80(a) and operated
33 in accordance with 17 C.F.R. § 270.2a-7, the portfolio of
34 which is limited to the United States government obligations
35 described in this paragraph "a", and which are included in the

1 national association of insurance commissioners' securities
2 valuation office's United States direct obligation-full faith
3 and credit list.

4 Sec. 53. Section 515.35, subsection 4, paragraph i,
5 subparagraphs (3) and (4), Code Supplement 2003, are amended
6 to read as follows:

7 (3) A company may invest in the obligations of a foreign
8 government other than Canada or of a corporation incorporated
9 under the laws of a foreign government other than Canada. Any
10 such governmental obligation must be valid, legally authorized
11 and issued, and on the date of acquisition have predominantly
12 investment qualities and characteristics as provided by rule.
13 Any such corporate obligation must on the date of acquisition
14 have investment qualities and characteristics, and must not
15 have speculative elements which are predominant, as provided
16 by rule. A company shall not invest more than two percent of
17 its admitted assets in the obligations of a foreign government
18 other than Canada and the United Kingdom. Investments in
19 obligations of the United Kingdom are not eligible in excess
20 of four percent of admitted assets. A company shall not
21 invest more than two percent of its admitted assets in the
22 obligations of a corporation incorporated under the laws of a
23 foreign government other than a corporation incorporated under
24 the laws of Canada.

25 (4) A company shall not invest more than ten twenty
26 percent of its admitted assets in foreign investments pursuant
27 to this paragraph.

28 Sec. 54. Section 515.120, Code 2003, is amended to read as
29 follows:

30 515.120 VIOLATIONS.

31 Any It shall be unlawful for any officer, manager, or agent
32 of any insurance company or association who, with knowledge
33 that it is doing business in an unlawful manner, or is
34 insolvent, ~~solicits~~ to solicit or receive applications for
35 insurance with ~~said~~ the company or association, ~~or-receives~~

1 ~~applications-therefor~~, or does to do any other act or thing
2 ~~towards~~ toward procuring or receiving any new business for
3 such company or association, ~~shall-be-guilty-of-a-serious~~
4 ~~misdemeanor.~~

5 Sec. 55. Section 515.121, Code 2003, is amended to read as
6 follows:

7 515.121 OFFICERS PUNISHED.

8 Any It shall be unlawful for any of the following to fail
9 to comply with or to violate any of the requirements of this
10 chapter:

11 1. The president, secretary, or other officer of any
12 company organized under the laws of this state, or any.

13 2. Any officer or person doing or attempting to do
14 business in this state for any insurance company organized
15 either within or without this state, failing to comply with
16 any of the requirements of this chapter, or violating any of
17 the provisions thereof, shall be guilty of a simple
18 misdemeanor.

19 Sec. 56. Section 515.140, Code 2003, is amended to read as
20 follows:

21 515.140 VIOLATIONS -- STATUS OF POLICY.

22 Any It shall be unlawful for any insurance company, its
23 officers or agents, or either of them, violating to violate
24 any of the provisions of section 515.138, by issuing,
25 delivering, or offering to issue or deliver any policy of fire
26 insurance on property in this state other or different from
27 than the standard form, herein as provided for, shall be
28 guilty of a simple misdemeanor in statute, but any policy so
29 issued or delivered shall, nevertheless, be binding upon the
30 company issuing or delivering the same, and such policy. The
31 company shall, until the payment of such fine a penalty
32 assessed by order after hearing, be disqualified from doing
33 any insurance business in this state, but any policy so issued
34 or delivered shall, nevertheless, be binding upon the company
35 issuing or delivering the same.

1 Sec. 57. Section 518A.41, Code 2003, is amended to read as
2 follows:

3 518A.41 INSURANCE PRODUCERS TO BE LICENSED.

4 No A person or corporation shall not solicit any an
5 application for insurance for any association in this state
6 without having procured from the commissioner of insurance a
7 license authorizing the person or corporation to act as an
8 insurance producer. ~~Violation-of-this-provision-shall~~
9 ~~constitute-a-serious-misdemeanor.~~

10 Sec. 58. Section 520.14, Code 2003, is amended to read as
11 follows:

12 520.14 VIOLATIONS -- EXCEPTIONS.

13 ~~Any~~ It shall be unlawful for an attorney ~~who-shall~~ to
14 exchange any contracts of insurance of the kind and character
15 specified in this chapter, or any for an attorney or
16 representative of such the attorney, ~~who-shall~~ to solicit or
17 negotiate any applications for the same without the attorney
18 having first complied with the foregoing provisions, ~~shall-be~~
19 ~~deemed-guilty-of-a-simple-misdemeanor.~~ For the purpose of
20 organization and upon issuance of permit by the commissioner
21 of insurance, powers of attorney and applications for such
22 contracts may be solicited without compliance with the
23 provisions of this chapter, but ~~no~~ an attorney, agent, or
24 other person shall not make any such contracts of indemnity
25 until all of the provisions of this chapter shall have been
26 complied with.

27 Sec. 59. Section 522B.11, subsection 1, Code 2003, is
28 amended by adding the following new paragraph:

29 NEW PARAGRAPH. q. Is the subject of an order of the
30 securities administrator of this state or any other state,
31 province, district, or territory, denying, suspending,
32 revoking, or otherwise taking action against a registration as
33 a broker-dealer, agent, investment adviser, or investment
34 adviser representative.

35 Sec. 60. Section 522B.11, subsection 5, Code 2003, is

1 amended to read as follows:

2 5. The commissioner may conduct an investigation of any
3 suspected violation of this chapter pursuant to section 507B.6
4 and may enforce the provisions and impose any penalty or
5 remedy authorized by this chapter and chapter 507B against any
6 person who is under investigation for, or charged with, a
7 violation of either chapter even if the person's license has
8 been surrendered or has lapsed by operation of law.

9 Sec. 61. Section 522B.11, Code 2003, is amended by adding
10 the following new subsection:

11 NEW SUBSECTION. 6. a. In order to assure a free flow of
12 information for accomplishing the purposes of this section,
13 all complaint files, investigation files, other investigation
14 reports, and other investigative information in the possession
15 of the commissioner or the commissioner's employees or agents
16 that relates to licensee discipline are privileged and
17 confidential, and are not subject to discovery, subpoena, or
18 other means of legal compulsion for their release to a person
19 other than the licensee, and are not admissible in evidence in
20 a judicial or administrative proceeding other than the
21 proceeding involving licensee discipline. A final written
22 decision of the commissioner in a disciplinary proceeding is a
23 public record.

24 b. Investigative information in the possession of the
25 commissioner or the commissioner's employees or agents that
26 relates to licensee discipline may be disclosed, in the
27 commissioner's discretion, to appropriate licensing
28 authorities within this state, the appropriate licensing
29 authority in another state, the District of Columbia, or a
30 territory or country in which the licensee is licensed or has
31 applied for a license.

32 c. If the investigative information in the possession of
33 the commissioner or the commissioner's employees or agents
34 indicates a crime has been committed, the information shall be
35 reported to the proper law enforcement agency.

1 d. Pursuant to the provisions of section 17A.19,
2 subsection 6, upon an appeal by the licensee, the commissioner
3 shall transmit the entire record of the contested case to the
4 reviewing court.

5 e. Notwithstanding the provisions of section 17A.19,
6 subsection 6, if a waiver of privilege has been involuntary
7 and evidence has been received at a disciplinary hearing, the
8 court shall issue an order to withhold the identity of the
9 individual whose privilege was waived.

10 Sec. 62. NEW SECTION. 522B.16A DUTIES OF LICENSEES.

11 1. An insurance producer has a continuing duty and
12 obligation to keep, at the insurance producer's place of
13 business, usual and customary records pertaining to
14 transactions undertaken by the insurance producer. All such
15 records shall be kept available and open for inspection by the
16 commissioner or the commissioner's representative at any time
17 during regular business hours, provided that the commissioner
18 or the commissioner's representative is not entitled to
19 inspect any records prepared in anticipation of litigation or
20 that are subject to any privilege recognized in chapter 622.
21 Such records shall be maintained for a minimum of three years
22 following the completion of an insurance transaction.

23 2. An insurance producer who willfully fails to comply
24 with this section commits a violation of this chapter and is
25 subject to sanctions under section 522B.11.

26 Sec. 63. Section 523A.401, subsection 6, paragraph c, Code
27 2003, is amended to read as follows:

28 c. The insurance policy shall not ~~allow-for-contesting~~
29 ~~coverage~~, be contestable, or limit death benefits in the case
30 of suicide, with respect to that portion of the face amount of
31 the policy that is required by paragraph "b". The policy
32 shall not refer to physical examination, or otherwise operate
33 as an exclusion, limitation, or condition other than requiring
34 submission of proof of death or surrender of policy at the
35 time the prepaid purchase agreement is funded, matures, or is

1 canceled, as the case may be.

2 Sec. 64. Section 523A.402, subsection 6, paragraph c, Code
3 2003, is amended to read as follows:

4 c. The annuity shall not ~~allow-for-contesting-coverage,~~ be
5 contestable, or limit death benefits in the case of suicide,
6 with respect to that portion of the face amount of the annuity
7 which is required by paragraph "b". The annuity shall refer
8 to physical examination, or otherwise operate as an exclusion,
9 limitation, or condition other than requiring submission of
10 proof of death or surrender of the annuity at the time the
11 prepaid purchase agreement is funded, matures, or is canceled,
12 as the case may be.

13 Sec. 65. Section 523A.501, subsection 6, Code 2003, is
14 amended to read as follows:

15 6. If no denial order is in effect and no proceeding is
16 pending under section 523A.503, the application becomes
17 effective at noon of the thirtieth day after a completed
18 application or an amendment completing the application is
19 filed, unless waived by the applicant. The commissioner may
20 specify an earlier effective date. Automatic effectiveness
21 under this subsection shall not be deemed approval of the
22 application. If the commissioner does not grant the permit,
23 the commissioner shall notify the person in writing of the
24 reasons for the denial. ~~The permit shall disclose on its face~~
25 ~~the permit holder's employer or the establishment on whose~~
26 ~~behalf the applicant will be making or attempting to make~~
27 ~~sales, the permit number, and the expiration date.~~

28 Sec. 66. Section 523A.502, subsection 7, Code 2003, is
29 amended to read as follows:

30 7. A sales permit is not assignable or transferable. A
31 permit holder selling all or part of a business shall cancel
32 the permit establishment's sales permits and the purchaser
33 shall apply for a new permit sales permits in the purchaser's
34 name within thirty days of the sale.

35 Sec. 67. Section 523A.503, subsection 1, unnumbered

1 paragraph 1, Code 2003, is amended to read as follows:

2 The commissioner may, pursuant to chapter 17A, deny any
3 permit application, or immediately suspend, ~~or~~ revoke, or
4 otherwise impose disciplinary action related to any permit
5 issued under this chapter for several reasons, including but
6 not limited to:

7 Sec. 68. Section 523A.503, subsection 3, Code 2003, is
8 amended to read as follows:

9 3. Except as provided in subsection 2, a permit shall not
10 be revoked, ~~or~~ suspended, or otherwise be the subject of
11 disciplinary action except after notice and hearing under
12 chapter 17A.

13 Sec. 69. Section 523A.503, Code 2003, is amended by adding
14 the following new subsection:

15 NEW SUBSECTION. 6. The commissioner may impose a civil
16 penalty in an amount not exceeding ten thousand dollars per
17 violation against any person violating this chapter. Each day
18 of a continuing violation constitutes a separate offense.

19 Sec. 70. Sections 506.7, 507B.11, 508.27, 511.18, 514.6,
20 514A.9, 514B.29, 515.132, 515.145, and 521.15, Code 2003, are
21 repealed.

22 Sec. 71. Sections 514.6, 514E.5, and 514E.6, Code 2003,
23 are repealed.

24 EXPLANATION

25 This bill contains revisions throughout the various
26 chapters comprising the insurance code. The bill also
27 contains certain revisions to Code chapter 523A, pertaining to
28 cemetery and funeral merchandise and services.

29 The bill deletes references to Code chapters 507B and 522B,
30 regarding unfair trade practices in insurance and the
31 licensing of insurance producers, respectively, throughout
32 Code chapter 272C, which relates to continuing education and
33 regulation for certain professions and occupations.

34 The bill modifies terminology in Code section 432.5 to
35 refer to "producer" instead of "agent", and also to conform to

1 the current insurance premium tax rate provision in Code
2 chapter 432. Code section 507B.2 also makes a similar change
3 in terminology from "agents" and "brokers" to "producers".

4 The bill creates a new centralized civil penalty section in
5 Code section 505.7A, in conjunction with other changes
6 throughout the bill that eliminate or modify penalties in many
7 provisions throughout the insurance code. The new provision
8 is intended to apply to all prohibited acts in Title XIII,
9 subtitle 1, regarding insurance and related regulation, where
10 a penalty is imposed by order of the insurance commissioner
11 after hearing. Penalties shall not exceed \$1,000 for each
12 violation, or \$10,000 in the aggregate, unless the person knew
13 or reasonably should have known the behavior violated an Iowa
14 statute, in which case the penalty shall not exceed \$5,000 for
15 each violation, or \$50,000 in the aggregate in any one six-
16 month period. Code sections 507C.6, 509.18, 512A.8, 512B.35,
17 515.120, 515.121, 515.140, 518A.41, and 520.14 are updated in
18 form and language, as part of this consolidation of general
19 penalties in new Code section 505.7A.

20 Code sections 507.16, 511.16, and 515.120, relating to
21 unlawful solicitation of business for insolvent or unlawful
22 insurers, are also all updated in form and language, according
23 to the penalty provision now in Code section 505.7A, as
24 described above.

25 The bill makes a number of modifications to certain
26 terminology and terms used in the interstate insurance product
27 regulation compact in Code section 505A.1, enacted in 2003.
28 The change to article III, for example, now specifies that the
29 entity to be formed will be a joint public agency, and not
30 only a body corporate, but also a body politic and an
31 instrumentality of the compacting state. Modifications to
32 article V provide for more specific rights relating to
33 meetings of the commission, including advance notice, public
34 attendance, and protection of proprietary information. A
35 specific procedure is mandated for closed meetings. Similar

1 types of specification are made through modifications to
2 articles VII, VIII, XI, XII, and XVI.

3 The bill adds a new unnumbered paragraph to Code section
4 507.14 to provide specifically that analysis notes, work
5 papers, or other documents related to the analysis of an
6 insurer are not public records under Code chapter 22, in
7 addition to the specified reports, notes, and work papers
8 already not considered public documents under Code chapter 22.

9 Code section 507A.10, relating to civil penalties and cease
10 and desist orders for unauthorized insurers, is expanded to
11 provide additional procedures relating to summary orders,
12 requests for contested case proceedings, contempt orders,
13 criminal penalties, and referral to criminal authorities.

14 Code section 507B.3 is amended to add a new paragraph to
15 allow the commissioner to provide information from an
16 investigation regarding insurance trade practices to a company
17 or producer that is the subject of the complaint or to the
18 consumer who filed the complaint without being deemed to have
19 waived confidentiality provisions.

20 Code section 507B.6 is amended to allow the service of
21 subpoenas, in addition to other documents currently listed, by
22 restricted certified mail. The language is also updated.

23 Similarly, new Code section 507B.6A is added to provide
24 procedures for the issuance of summary cease and desist
25 orders, requests for contested case proceedings, and contempt
26 orders in insurance trade practices cases.

27 Code section 507B.7, regarding cease and desist orders for
28 insurance trade practices, alters the penalty provisions
29 related to the cease and desist orders by removing the
30 connection of the violation to knowledge of violation of
31 certain statutory provisions before the imposition of a civil
32 penalty, and instead requiring only a general standard that
33 the person knew or reasonably should have known that the
34 conduct was in violation of Iowa law. In addition, the
35 commissioner is newly empowered to impose an additional

1 penalty when a person violates a cease and desist order, after
2 notice and hearing, and upon order.

3 The word "orders" is added to Code section 507C.11 to
4 specify that such documents, in addition to other records and
5 documents comprising the record of a proceeding, are
6 confidential.

7 Code sections 511.8 and 515.35 are amended to specify that
8 certain investments in open-end management investment
9 companies, the portfolio of which is limited to United States
10 government obligations, as further delineated in the
11 respective Code sections, meet the definition of certain bonds
12 specified under those Code sections.

13 Code sections 511.8 and 515.35 are also modified regarding
14 the allowable percentage insurance companies or associations
15 may invest in foreign government bonds. Code section 511.8 is
16 further modified regarding the amount that may be used for
17 hedging transactions, and a new subsection is added regarding
18 security loans. Code section 515.35 is further modified
19 regarding the loaning of securities by an insurance company.

20 Regarding program eligibility under the individual health
21 insurance market reforms chapter, the bill modifies Code
22 section 513C.3 by specifying that an association policy under
23 Code chapter 514E is not considered "qualifying existing
24 coverage" or "qualifying previous coverage".

25 With regard to program administration, basic and standard
26 plan offerings are eliminated over time, which the bill
27 implements through the amendments to Code section 513C.4 and
28 repeals of Code sections 513E.5 and 513E.6, effective January
29 1, 2005.

30 The bill amends Code section 513C.8 to provide that the
31 board of directors of the Iowa comprehensive health insurance
32 association, instead of the commissioner but with commissioner
33 approval, shall adopt forms and levels of coverage of basic
34 and standard individual health benefit plans for the
35 individual market that are substantially similar to the

1 current state of the individual market.

2 The bill amends Code section 513C.10, subsection 1,
3 paragraph "a", to provide that all insurers, as designated by
4 the board of directors of the Iowa comprehensive health
5 insurance association with the approval of the commissioner,
6 shall be included as members of the Iowa individual health
7 benefit reinsurance association.

8 The bill amends Code section 513C.10, subsection 4, to
9 provide that the Iowa individual health benefit reinsurance
10 association shall develop not only procedures but assessment
11 mechanisms to make assessments and distributions as required
12 to equalize individual carrier and organized delivery system
13 gains or losses.

14 The bill amends Code chapter 514E relating to the Iowa
15 comprehensive health insurance association (ICHA) and
16 specifically amends Code section 514E.7 to limit eligible
17 participants to residents. Code section 514E.11, regarding
18 notification of potential eligibility for ICHA, is also
19 modified. The bill also modifies Code sections 514E.1 and
20 514E.2 related to the federal Trade Adjustment Act, Pub. L.
21 No. 107-210, because the ICHA is the mechanism designated by
22 the governor pursuant to the trade Act.

23 Code section 514E.4 is amended relating to the payment of
24 medically necessary health care services. The bill also
25 addresses the provision of benefits, deductibles, and
26 coinsurance reflective of current individual insurance market
27 conditions in that Code section. The ICHA board is authorized
28 to make benefit changes from time to time to remain current
29 with market conditions. Code sections 514E.5 and 514E.6,
30 containing lists of excluded expenses and benefit limitations,
31 are repealed effective January 1, 2005. Corresponding changes
32 are made to delete unused definitions from Code section
33 514E.1. Changes are also made to Code section 513C.8 to
34 remove an outdated reference to Code chapter 513B, and to Code
35 sections 514E.7 and 514E.8 to coordinate that Code language

1 with Medicare requirements.

2 Regarding rate structures, Code section 514E.2 is amended
3 to allow for adjustments in ICHA rates to reflect rating
4 characteristics in the marketplace.

5 Code section 522B.11, regarding insurance producer license
6 denial, nonrenewal, or revocation, is modified in several
7 respects. A new paragraph is added relating to discipline or
8 penalty relative to an order against an individual as a
9 broker-dealer, agent, investment adviser, or investment
10 adviser representative. A new reference is added to the
11 commissioner's power to investigate suspected violations of
12 Code chapter 522B pursuant to Code section 507B.6. Finally, a
13 new provision is added to address the status of investigative
14 files as confidential, but final written decisions of the
15 commissioner as public records, although the commissioner has
16 the discretion to share investigative information with other
17 licensing authorities, and evidence of a crime must be
18 referred to law enforcement.

19 New Code section 522B.16A addresses duties of licensees,
20 including a duty to keep certain records pertaining to
21 insurance transactions undertaken by a producer, available for
22 inspection by the commissioner or the commissioner's
23 representative, for at least three years. Licensure sanctions
24 and civil penalties apply to a violation.

25 The bill modifies Code sections 523A.401 and 523A.402 in
26 the cemetery and funeral merchandise and services chapter,
27 relating to contestability clauses and death benefit
28 limitations in certain policies and annuities.

29 The bill also makes several changes to establishment and
30 sales permits for cemetery and funeral merchandise and
31 services. The bill deletes the requirement in Code section
32 523A.501 that a permit disclose on its face the permit
33 holder's employer or establishment, the permit number, and
34 expiration date. Code section 523A.502 is modified to refer
35 to the establishment's sales permits. Several changes are

1 made to Code section 523A.503 to refer to disciplinary action
2 which may be imposed in relation to a permit, as well as a
3 civil penalty not to exceed \$10,000 for violations of the Code
4 chapter.

5 The bill repeals Code sections 506.7 (general penalty
6 provision), 507B.11 (penalty for violation of cease and desist
7 order), 508.27 (penalty provision related to Code section
8 508.25, relating to use of form for which prior approval has
9 not been obtained), 511.18 (fraud in procuring insurance),
10 514.6 (rate approval for nonprofit health service
11 corporations), 514A.9 (general penalty provision), 514B.29
12 (general penalty provision), 514E.5 and 514E.6 (lists of
13 excluded expenses and benefit limitations), 515.132 (general
14 penalty provision), 515.145 (penalty provision for violation
15 of Code section 515.142, relating to operation of fire
16 insurance companies), and 521.15 (general penalty provision).
17 These repeals are made in conjunction with the consolidation
18 of general penalties and the new general penalty provision in
19 Code section 505.7A.

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HOUSE FILE 2489

S-5156

1 Amend House File 2489, as passed by the House, as
2 follows:

3 1. Page 20, by inserting after line 25, the
4 following:

5 "Sec. ____ . NEW SECTION. 514A.3A REFUND OF
6 UNEARNED PREMIUM UPON DEATH OF INSURED.

7 In the event of the death of the insured of any
8 policy covered by this chapter, the insurer, upon
9 receipt of notice of the insured's death supported by
10 a certified copy of a valid death certificate and a
11 request for a pro rata refund by a party entitled to
12 claim such a refund, shall refund the unearned premium
13 prorated to the month of the insured's death. Refund
14 of the premium and termination of the coverage shall
15 be without prejudice to any claim originating prior to
16 the date of the insured's death. The commissioner of
17 insurance shall adopt by rule the minimum amount
18 required for issuance of a refund."

19 2. Title page, line 7, by inserting after the
20 word "association;" the following: "refunds of
21 unearned premium;".

By COMMITTEE ON COMMERCE
JERRY BEHN, CHAIRPERSON

S-5156 FILED MARCH 29, 2004

HOUSE FILE 2489

S-5187

1 Amend House File 2489, as passed by the House, as
2 follows:

3 1. Page 32, by striking lines 13 through 18.

4 2. By renumbering as necessary.

By RON WIECK

S-5187 FILED MARCH 30, 2004

HOUSE FILE 2489

S-5168

1 Amend House File 2489, as passed by the House, as
2 follows:

3 1. Page 20, by inserting after line 25 the
4 following:

5 "Sec. ____ . NEW SECTION. 514C.21 MANDATED
6 COVERAGE FOR MENTAL HEALTH CONDITIONS.

7 1. For purposes of this section, unless the
8 context otherwise requires:

9 a. "Mental health condition" means a condition or
10 disorder involving mental illness or alcohol or
11 substance abuse that falls under any of the diagnostic
12 categories listed in the mental disorders section of
13 the international classification of disease, as
14 periodically revised.

15 b. "Rates, terms, and conditions" means any
16 lifetime payment limits, deductibles, copayments,
17 coinsurance, and any other cost-sharing requirements,
18 out-of-pocket limits, visit limitations, and any other
19 financial component of benefits coverage that affects
20 the covered individual.

21 2. a. Notwithstanding section 514C.6, a policy or
22 contract providing for third-party payment or
23 prepayment of health or medical expenses shall provide
24 coverage benefits for mental health conditions based
25 on rates, terms, and conditions which are no more
26 restrictive than the rates, terms, and conditions for
27 coverage benefits provided for other health or medical
28 conditions under the policy or contract.

29 Additionally, any rates, terms, and conditions
30 involving deductibles, copayments, coinsurance, and
31 any other cost-sharing requirements shall be
32 cumulative for coverage of both mental health
33 conditions and other health or medical conditions
34 under the policy or contract.

35 b. Coverage required under this subsection shall
36 be as follows:

37 (1) For the treatment of mental illness, coverage
38 shall be for services provided by a licensed mental
39 health professional, or services provided in a
40 licensed hospital or health facility.

41 (2) For the treatment of alcohol or substance
42 abuse, coverage shall be for services provided by a
43 substance abuse counselor, as approved by the
44 department of human services, a licensed health
45 facility providing a program for the treatment of
46 alcohol or substance abuse approved by the department
47 of human services, or a substance abuse treatment and
48 rehabilitation facility, as licensed by the department
49 of public health pursuant to chapter 125.

50 3. This section applies to the following classes

S-5168

S-5168

Page 2

1 of third-party payment provider contracts or policies
2 delivered, issued for delivery, continued, or renewed
3 in this state on or after January 1, 2005:

4 a. Individual or group accident and sickness
5 insurance providing coverage on an expense-incurred
6 basis.

7 b. An individual or group hospital or medical
8 service contract issued pursuant to chapter 509, 514,
9 or 514A.

10 c. A plan established pursuant to chapter 509A for
11 public employees.

12 d. An individual or group health maintenance
13 organization contract regulated under chapter 514B.

14 e. An individual or group Medicare supplemental
15 policy, unless coverage pursuant to such policy is
16 preempted by federal law.

17 f. Any other entity engaged in the business of
18 insurance, risk transfer, or risk retention, which is
19 subject to the jurisdiction of the commissioner.

20 g. An organized delivery system licensed by the
21 director of public health.

22 4. This section shall not apply to employers
23 actively engaged in business who, on at least fifty
24 percent of the employer's working days during the
25 preceding year, employed twenty-five or fewer full-
26 time eligible employees. In determining the number of
27 eligible employees, companies that are affiliated
28 companies or that are eligible to file a combined tax
29 return for purposes of state taxation are considered
30 one employer.

31 5. The commissioner shall adopt rules to
32 administer this section after consultation with the
33 mental health insurance advisory committee.

34 a. The commissioner shall appoint members to a
35 mental health insurance advisory committee. Members
36 shall include all sectors of society impacted by
37 issues associated with coverage of mental health
38 treatment by third-party payors including, but not
39 limited to, representatives of the insurance industry,
40 small and large employers, employee representatives
41 including labor, individual consumers, health care
42 providers, and other groups and individuals that may
43 be identified by the insurance division of the
44 department of commerce.

45 b. The committee shall meet upon the request of
46 the commissioner to review rules proposed under this
47 section by the commissioner, and to make suggestions
48 as appropriate."

By MATT McCOY

S-5168 FILED MARCH 29, 2004

**SENATE AMENDMENT TO
HOUSE FILE 2489**

H-8435

1 Amend House File 2489, as passed by the House, as
2 follows:

3 1. Page 20, by inserting after line 25, the
4 following:

5 "Sec. ____ . NEW SECTION. 514A.3A REFUND OF
6 UNEARNED PREMIUM UPON DEATH OF INSURED.

7 In the event of the death of the insured of any
8 policy covered by this chapter, the insurer, upon
9 receipt of notice of the insured's death supported by
10 a certified copy of a valid death certificate and a
11 request for a pro rata refund by a party entitled to
12 claim such a refund, shall refund the unearned premium
13 prorated to the month of the insured's death. Refund
14 of the premium and termination of the coverage shall
15 be without prejudice to any claim originating prior to
16 the date of the insured's death. The commissioner of
17 insurance shall adopt by rule the minimum amount
18 required for issuance of a refund."

19 2. Title page, line 7, by inserting after the
20 word "association;" the following: "refunds of
21 unearned premium;".

RECEIVED FROM THE SENATE

H-8435 FILED APRIL 6, 2004

HOFFMAW, CH
WILDERDYKE
OLDSOW

SF 02489

HSB 658

COMMERCE, REGULATION & LABOR

SENATE/HOUSE FILE _____

BY (PROPOSED DEPARTMENT OF
COMMERCE/INSURANCE
DIVISION BILL)

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

A BILL FOR

1 An Act relating to the regulation of various industries by the
2 insurance division, including modifications related to the
3 interstate insurance product regulation compact;
4 investigations and penalties; procedures and contempt orders;
5 insurance company investments; insurance producer licensing;
6 individual health insurance programs; coverage obligations and
7 tax offsets of the Iowa comprehensive health insurance
8 association; phaseout of certain individual insurance plans;
9 coverage of federal Trade Adjustment Act recipients; penalties
10 and discipline applicable to holders of establishment and
11 sales permits for cemetery and funeral merchandise and
12 services; providing and applying penalties; and providing
13 effective dates.

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

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1 Section 1. Section 272C.1, subsection 6, paragraph z, Code
2 2003, is amended by striking the paragraph.

3 Sec. 2. Section 272C.3, subsection 2, paragraph a, Code
4 Supplement 2003, is amended to read as follows:

5 a. Revoke a license, or suspend a license either until
6 further order of the board or for a specified period, upon any
7 of the grounds specified in section 147.55, 148.6, 148B.7,
8 152.10, 153.34, 154A.24, 169.13, 455B.219, 542.10, 542B.21,
9 543B.29, 544A.13, 544B.15, or 602.3203 or chapter 151~~7~~ or 155,
10 507B~~7~~-~~or~~-522B~~7~~ as applicable, or upon any other grounds
11 specifically provided for in this chapter for revocation of
12 the license of a licensee subject to the jurisdiction of that
13 board, or upon failure of the licensee to comply with a
14 decision of the board imposing licensee discipline;

15 Sec. 3. Section 272C.4, subsection 6, Code 2003, is
16 amended to read as follows:

17 6. Define by rule acts or omissions ~~which~~ that are grounds
18 for revocation or suspension of a license under section
19 147.55, 148.6, 148B.7, 152.10, 153.34, 154A.24, 169.13,
20 455B.219, 542.10, 542B.21, 543B.29, 544A.13, 544B.15, or
21 602.3203 or chapter 151~~7~~ or 155, 507B~~7~~-~~or~~-522B~~7~~ as applicable,
22 and to define by rule acts or omissions ~~which~~ that constitute
23 negligence, careless acts, or omissions within the meaning of
24 section 272C.3, subsection 2, paragraph "b", which licensees
25 are required to report to the board pursuant to section
26 272C.9, subsection 2;

27 Sec. 4. Section 432.5, Code Supplement 2003, is amended to
28 read as follows:

29 432.5 RISK RETENTION GROUPS.

30 A risk retention group organized and operating pursuant to
31 Pub. L. No. 99-563, also known as the risk retention
32 amendments of 1986, shall pay as taxes to the director of
33 revenue an amount equal to ~~two-percent~~ the applicable percent,
34 as provided in section 432.1, subsection 4, of the gross
35 amount of the premiums received during the previous calendar

1 year for risks placed in this state. A resident or
 2 nonresident agent producer shall report and pay the taxes on
 3 the premiums for risks that the agent producer has placed in
 4 this state with or on behalf of a risk retention group. The
 5 failure of a risk retention group to pay the tax imposed in
 6 this section shall result in the risk retention group being
 7 considered an unauthorized insurer under chapter 507A.

8 Sec. 5. NEW SECTION. 505.7A CIVIL PENALTIES.

9 Unless specifically provided for in this subtitle,
 10 penalties imposed under this subtitle by order of the
 11 commissioner of insurance after hearing shall not exceed one
 12 thousand dollars for each act or violation of this subtitle,
 13 up to an aggregate of ten thousand dollars, unless the person
 14 knew or reasonably should have known the person was in
 15 violation of this subtitle, in which case the penalty shall
 16 not exceed five thousand dollars for each act or violation, up
 17 to an aggregate of fifty thousand dollars in any one six-month
 18 period.

19 Sec. 6. Section 505A.1, article III, subsections 1 and 2,
 20 Code Supplement 2003, are amended to read as follows:

21 1. The compacting states hereby create and establish an
 22 entity a joint public agency known as the interstate insurance
 23 product regulation commission. Pursuant to article IV, the
 24 commission has the power to develop uniform standards for
 25 product lines, receive and provide prompt review of products
 26 filed therewith, and give approval to those product filings
 27 satisfying applicable uniform standards, provided it is not
 28 intended for the commission to be the exclusive entity for
 29 receipt and review of insurance product filings. Nothing
 30 herein shall prohibit any insurer from filing its product in
 31 any state wherein the insurer is licensed to conduct the
 32 business of insurance, and any such filing shall be subject to
 33 the laws of the state where filed.

34 2. The commission is a body corporate comprising-each and
 35 politic, and an instrumentality of the compacting state.

1 Sec. 7. Section 505A.1, article III, subsection 3, Code
2 Supplement 2003, is amended by striking the subsection.

3 Sec. 8. Section 505A.1, article V, subsection 1, paragraph
4 c, subparagraphs (3) and (4), Code Supplement 2003, are
5 amended to read as follows:

6 (3) Providing reasonable standards and procedures:

7 (a) For the establishment and meetings of other
8 committees.

9 (b) Governing any general or specific delegation of any
10 authority or function of the commission.

11 (4) Providing reasonable procedures for calling and
12 conducting meetings of the commission, ~~and~~ that consists of a
13 majority of commission members ensuring reasonable advance
14 notice of each such meeting, and providing for the right of
15 citizens to attend each such meeting with enumerated
16 exceptions designed to protect the public's interest, the
17 privacy of individuals, and insurers' proprietary information,
18 including trade secrets. The commission may meet in camera
19 only after a majority of the entire membership votes to close
20 a meeting en toto or in part. As soon as practicable, the
21 commission shall make public:

22 (a) A copy of the vote to close the meeting, revealing the
23 vote of each member, with no proxy votes allowed.

24 (b) Votes taken during such meeting.

25 Sec. 9. Section 505A.1, article V, subsection 1, paragraph
26 c, Code Supplement 2003, is amended by adding the following
27 new subparagraph:

28 NEW SUBPARAGRAPH. (8) Promulgating a code of ethics to
29 address permissible and prohibited activities of commission
30 members and employees.

31 Sec. 10. Section 505A.1, article V, subsection 1, Code
32 Supplement 2003, is amended by adding the following new
33 paragraph:

34 NEW PARAGRAPH. d. The commission shall publish its bylaws
35 in a convenient form and file a copy of the bylaws, along with

1 any amendments, with the appropriate agency or officer in each
2 of the compacting states.

3 Sec. 11. Section 505A.1, article VII, subsection 2, Code
4 Supplement 2003, is amended to read as follows:

5 2. RULEMAKING PROCEDURE. Rules and operating procedures
6 shall be made pursuant to a rulemaking process that conforms
7 to the model state administrative procedure act of 1981 as
8 amended, as may be appropriate to the operations of the
9 commission. Before the commission adopts a uniform standard,
10 the commission shall give written notice to the relevant state
11 legislative committee or committees in each compacting state
12 responsible for insurance issues of its intention to adopt the
13 uniform standard. The commission, in adopting a uniform
14 standard, shall consider fully all submitted materials and
15 issue a concise explanation of its decision.

16 Sec. 12. Section 505A.1, article VIII, subsection 1, Code
17 Supplement 2003, is amended to read as follows:

18 1. The commission shall promulgate rules ~~to-establish~~
19 establishing conditions and procedures ~~under-which-the~~
20 ~~commission-shall-make-its-information-and-official-records~~
21 ~~available-to-the-public-for-inspection-or-copying~~ for public
22 inspection and copying of its information and official
23 records, except such information and records involving the
24 privacy of individuals and insurers' trade secrets. The
25 commission may promulgate additional rules under which it may
26 make available to federal and state agencies, including law
27 enforcement agencies, records, and information otherwise
28 exempt from disclosure, and may enter into agreements with
29 such agencies to receive or exchange information or records
30 subject to nondisclosure and confidentiality provisions.

31 Sec. 13. Section 505A.1, article VIII, subsection 4,
32 paragraphs a and b, Code Supplement 2003, are amended to read
33 as follows:

34 a. With respect to the commissioner's market regulation of
35 a product or advertisement that is approved or certified to

1 the commission, ~~no-activity-of-an-insurer~~ the content of the
2 product or advertisement shall not constitute a violation of
3 the provisions, standards, or requirements of this compact
4 except upon a final order of the commission, issued at the
5 request of a commissioner after prior notice to the insurer
6 and an opportunity for hearing before the commission.

7 b. Before a commissioner may bring an action for violation
8 of any provision, standard, or requirement of this compact
9 relating to the use content of an advertisement not approved
10 or certified to the commission, the commission, or an
11 authorized commission officer or employee, must authorize the
12 action. However, authorization pursuant to this paragraph
13 does not require notice to the insurer, opportunity for
14 hearing, or disclosure of requests for authorization or
15 records of the commission's action on such requests.

16 Sec. 14. Section 505A.1, article XI, subsection 1, Code
17 Supplement 2003, is amended to read as follows:

18 1. Not later than thirty days after the commission has
19 given notice of a disapproved product or advertisement filed
20 with the commission, the insurer or third-party filer whose
21 filing was disapproved may appeal the determination to a
22 review panel appointed by the commission. The commission
23 shall adopt rules to establish procedures for appointing such
24 review panels and provide for notice and hearing. ~~The~~
25 ~~decision-of-the-review-panel-shall-be-the-final-action-of-the~~
26 ~~commission-and-not-subject-to-review-by-any-court-~~

27 ~~Notwithstanding-the-foregoing,~~ An allegation that the
28 commission, in disapproving a product or advertisement filed
29 with the commission, acted arbitrarily, capriciously, or in a
30 manner that is an abuse of discretion or otherwise not in
31 accordance with the law, is subject to judicial review in
32 accordance with article III, section 5.

33 Sec. 15. Section 505A.1, article XII, subsection 6, Code
34 Supplement 2003, is amended to read as follows:

35 6. The commission shall keep complete and accurate

1 accounts of all its internal receipts, including grants and
 2 donations, and disbursements of all funds under its control.
 3 The internal financial accounts of the commission shall be
 4 subject to the accounting procedures established under its
 5 bylaws. The financial accounts and reports, including the
 6 system of internal controls and procedures of the commission,
 7 shall be audited annually by an independent certified public
 8 accountant. Upon the determination of the commission, but no
 9 less frequently than every three years, the review of the
 10 independent auditor shall include a management and performance
 11 audit of the commission. The commission shall make an annual
 12 report to the governor and legislature of the compacting
 13 states, which shall include a report of the independent audit.
 14 The commission's internal accounts, ~~any work papers related to~~
 15 ~~any internal audit, and any work papers related to the~~
 16 ~~independent audit,~~ shall not be confidential, ~~provided that~~
 17 and such materials may be shared with the commissioner of any
 18 compacting state ~~and shall remain confidential pursuant to~~
 19 ~~article VII~~ upon request; provided, however, that any work
 20 papers related to any internal or independent audit and any
 21 information regarding the privacy of the individuals and
 22 insurers' proprietary information, including trade secrets,
 23 shall remain confidential.

24 Sec. 16. Section 505A.1, article XVI, subsection 1,
 25 paragraph b, Code Supplement 2003, is amended to read as
 26 follows:

27 b. For any product approved or certified to the
 28 commission, the rules, uniform standards, and any other
 29 requirements of the commission shall constitute the exclusive
 30 provisions applicable to the content, approval, and
 31 certification of such products. For advertisement that is
 32 subject to the commission's authority, any rule, uniform
 33 standard, or other requirement of the commission which governs
 34 the content of the advertisement shall constitute the
 35 exclusive provision that a commissioner may apply to the

1 content of the advertisement. Notwithstanding the foregoing,
2 action taken by the commission shall not abrogate or restrict:

3 (1) The access of any person, ~~including the attorney~~
4 ~~general,~~ to state courts.

5 (2) Remedies available under state law related to breach
6 of contract, tort, general consumer protection laws, or
7 general consumer protection regulations that apply to the sale
8 or advertisement of the product or other laws not specifically
9 directed to the content of the product.

10 (3) State law relating to the construction of insurance
11 contracts.

12 (4) The authority of the attorney general of the state,
13 including but not limited to maintaining any actions or
14 proceedings, as authorized by law.

15 Sec. 17. Section 507.14, Code 2003, is amended by adding
16 the following new unnumbered paragraph:

17 NEW UNNUMBERED PARAGRAPH. Analysis notes, work papers, or
18 other documents related to the analysis of an insurer are not
19 public records under chapter 22.

20 Sec. 18. Section 507.16, Code 2003, is amended to read as
21 follows:

22 507.16 UNLAWFUL SOLICITATION OF BUSINESS.

23 Any it shall be unlawful for any officer, manager, agent,
24 or representative of any insurance company contemplated by
25 this chapter, who, with knowledge that its certificate of
26 authority has been suspended or revoked, or that it is
27 insolvent, or is doing an unlawful or unauthorized business,
28 solicits to solicit or receive applications for insurance for
29 said the company, ~~or receives applications therefor,~~ or does
30 to do any other act or thing toward receiving or procuring any
31 new business for said the company, ~~shall be deemed guilty of a~~
32 serious misdemeanor, and the. The provisions of sections
33 511.16 and 511.17 are hereby extended to all companies
34 contemplated by this chapter.

35 Sec. 19. Section 507A.10, Code 2003, is amended to read as

1 follows:

2 507A.10 CEASE AND DESIST ORDER ORDERS -- CIVIL PENALTY AND
3 CRIMINAL PENALTIES.

4 1. Upon a determination by the commissioner, after a
5 hearing conducted pursuant to chapter 17A, that a person or
6 insurer has violated a provision of this chapter, the
7 commissioner shall reduce the findings of the hearing to
8 writing and deliver a copy of the findings to the person or
9 insurer, may issue an order requiring the person or insurer to
10 cease and desist from engaging in the conduct resulting in the
11 violation, and may assess a civil penalty of not more than
12 fifty thousand dollars against the person or insurer.

13 2. a. Upon a determination by the commissioner that a
14 person or insurer has engaged, is engaging, or is about to
15 engage in any act or practice constituting a violation of this
16 chapter or a rule adopted or order issued under this chapter,
17 the commissioner may issue a summary order directing the
18 person or insurer to cease and desist from engaging in the act
19 or practice or to take other affirmative action as is in the
20 judgment of the commissioner necessary to comply with the
21 requirements of this chapter.

22 b. A person to whom a summary order has been issued under
23 this subsection may contest the order by filing a request for
24 a contested case proceeding and hearing as provided in chapter
25 17A and in accordance with rules adopted by the commissioner.
26 However, the person shall have at least thirty days from the
27 date that the order is issued in order to file the request.
28 Section 17A.18A is inapplicable to a summary order issued
29 under this subsection. If a hearing is not timely requested,
30 the summary order becomes final by operation of law. The
31 order shall remain effective from the date of issuance until
32 the date the order becomes final by operation of law or is
33 overturned by a presiding officer or court following a request
34 for hearing.

35 c. A person or insurer violating a summary order issued

1 under this subsection shall be deemed in contempt of that
2 order. The commissioner may petition the district court to
3 enforce the order as certified by the commissioner. The
4 district court shall find the person in contempt of the order
5 if the court finds after hearing that the person or insurer is
6 not in compliance with the order. The court may assess a
7 civil penalty against the person or insurer and may issue
8 further orders as it deems appropriate.

9 3. A person acting as an insurance producer, as defined in
10 chapter 522B, without proper licensure, or an insurer who
11 willfully violates any provision of this chapter, or any rule
12 adopted or order issued under this chapter, is guilty of a
13 class "D" felony.

14 4. A person acting as an insurance producer, as defined in
15 chapter 522B, without proper licensure, or an insurer who
16 willfully violates any provision of this chapter, or any rule
17 adopted or order issued under this chapter, and when such
18 violation results in a loss of more than ten thousand dollars,
19 is guilty of a class "C" felony.

20 5. The commissioner may refer such evidence as is
21 available concerning violations of this chapter or of any rule
22 adopted or order issued under this chapter, or of the failure
23 of a person to comply with the licensing requirements of
24 chapter 522B, to the attorney general or the proper county
25 attorney who may, with or without such reference, institute
26 the appropriate criminal proceedings under this chapter.

27 6. This chapter does not limit the power of the state to
28 punish any person for any conduct that constitutes a crime
29 under any other statute.

30 Sec. 20. Section 507B.2, subsection 1, Code 2003, is
31 amended to read as follows:

32 1. "Person" shall mean any individual, corporation,
33 association, partnership, reciprocal exchange, interinsurer,
34 fraternal beneficiary association, and any other legal entity
35 engaged in the business of insurance, including agents,

1 ~~brokers~~ insurance producers and adjusters. "Person" shall
 2 also mean any corporation operating under the provisions of
 3 chapter 514 and any benevolent association as defined and
 4 operated under chapter 512A. For purposes of this chapter,
 5 corporations operating under the provisions of chapter 514 and
 6 chapter 512A shall be deemed to be engaged in the business of
 7 insurance.

8 Sec. 21. Section 507B.3, Code Supplement 2003, is amended
 9 by adding the following new subsection:

10 NEW SUBSECTION. 3. Information obtained by the
 11 commissioner in the course of investigating a consumer
 12 complaint may, in the discretion of the commissioner, be
 13 provided to the insurance company or insurance producer which
 14 is the subject of the complaint or to the consumer who filed
 15 the complaint or the individual insured who is the subject of
 16 the complaint without waiving the confidentiality afforded by
 17 this section to the commissioner or other persons.

18 Sec. 22. NEW SECTION. 507B.5A INVESTIGATIONS.

19 Prior to the commencement of a contested case, the
 20 commissioner may subpoena books, papers, records, and any
 21 other evidence necessary for the commissioner to determine
 22 whether a contested case proceeding should be instituted. The
 23 commissioner shall not be required to pay the costs of
 24 production of the subpoenaed documents or records.

25 Sec. 23. Section 507B.6, subsection 5, Code 2003, is
 26 amended to read as follows:

27 5. Statements of charges, notices, orders, subpoenas, and
 28 other processes of the commissioner under this chapter may be
 29 served by anyone ~~duly~~ authorized by the commissioner, either
 30 in the manner provided by law for service of process in civil
 31 actions, or by mailing a copy thereof by restricted certified
 32 mail to the person affected by ~~such~~ the statement, notice,
 33 order, subpoena, or other process at the person's residence or
 34 principal office or place of business. The verified return by
 35 the person ~~so~~ serving ~~such~~ the statement, notice, order,

1 subpoena, or other process, setting forth the manner of such
2 service, shall be proof of ~~the-same~~ service, and the return
3 receipt for ~~such~~ the statement, notice, order, subpoena, or
4 other process, and mailed by restricted certified mail as
5 ~~aforsaid~~, shall be proof of the service of ~~the-same~~.

6 Sec. 24. NEW SECTION. 507B.6A SUMMARY CEASE AND DESIST
7 ORDERS.

8 1. Upon a determination by the commissioner that a person
9 or insurer has engaged, is engaging, or is about to engage in
10 any act or practice constituting a violation of this chapter
11 or a rule adopted or order issued under this chapter, the
12 commissioner may issue a summary order directing the person or
13 insurer to cease and desist from engaging in the act or
14 practice or to take other affirmative action as is in the
15 judgment of the commissioner necessary to comply with the
16 requirements of this chapter.

17 2. A person who has been issued a summary order under this
18 section may contest the order by filing a request for a
19 contested case proceeding and hearing as provided in chapter
20 17A and in accordance with the rules adopted by the
21 commissioner. However, the person shall have at least thirty
22 days from the date that the order is issued in order to file
23 the request. Section 17A.18A is inapplicable to a summary
24 order issued under this section. The order shall remain
25 effective from the date of issuance unless overturned by a
26 presiding officer or court following a request for hearing.
27 If a hearing is not timely requested, the summary order
28 becomes final by operation of law.

29 3. A person or insurer violating a summary order issued
30 under this section shall be deemed in contempt of that order.
31 The commissioner may petition the district court to enforce
32 the order as certified by the commissioner. The district
33 court shall adjudge the person in contempt of the order if the
34 court finds after hearing that the person or insurer is not in
35 compliance with the order. The court may assess a civil

1 penalty against the person or insurer and may issue further
2 orders as it deems appropriate.

3 Sec. 25. Section 507B.7, Code 2003, is amended to read as
4 follows:

5 507B.7 CEASE AND DESIST ORDERS AND MODIFICATIONS-THEREOF
6 PENALTIES.

7 1. If, after such hearing, the commissioner determines
8 that the a person charged has engaged in an unfair method of
9 competition or an unfair or deceptive act or practice, the
10 commissioner shall reduce the findings to writing and shall
11 issue and cause to be served upon the person charged with the
12 violation a copy of such findings, an order requiring such
13 person to cease and desist from engaging in such method of
14 competition, act, or practice, and ~~if-the-act-or-practice-is-a~~
15 ~~violation-of-section-507B-47-507B-4A7-or-507B-57~~ the
16 commissioner may at the commissioner's discretion order any
17 one or more of the following:

18 a. Payment of a civil penalty of not more than one
19 thousand dollars for each act or violation of this subtitle,
20 but not to exceed an aggregate of ten thousand dollars, unless
21 the person knew or reasonably should have known the person was
22 in violation of ~~section-507B-47-507B-4A7-or-507B-5~~ this
23 subtitle, in which case the penalty shall be not more than
24 five thousand dollars for each act or violation, but not to
25 exceed an aggregate penalty of fifty thousand dollars in any
26 one six-month period. If the commissioner finds that a
27 violation of ~~section-507B-47-507B-4A7-or-507B-5~~ this subtitle
28 was directed, encouraged, condoned, ignored, or ratified by
29 the employer of the person or by an insurer, the commissioner
30 shall also assess a fine to the employer or insurer.

31 b. Suspension or revocation of the license of a person as
32 defined in section 507B.2, subsection 1, if the person knew or
33 reasonably should have known the person was in violation of
34 ~~section-507B-47-507B-4A7-or-507B-5~~ this subtitle.

35 c. Payment of interest at the rate of ten percent per

1 annum if the commissioner finds that the insurer failed to pay
2 interest as required under section 507B.4, subsection 12.

3 2. Until the expiration of the time allowed under section
4 507B.8 for filing a petition for review if no such petition
5 has been duly filed within such time, or, if a petition for
6 review has been filed within such time, then until the
7 transcript of the record in the proceeding has been filed in
8 the district court, as hereinafter provided, the commissioner
9 may at any time, upon such notice and in such manner as the
10 commissioner may deem proper, modify or set aside in whole or
11 in part any order issued by the commissioner under this
12 section.

13 3. After the expiration of the time allowed for filing
14 such a petition for review if no such petition has been duly
15 filed within such time, the commissioner may at any time,
16 after notice and opportunity for hearing, reopen and alter,
17 modify, or set aside, in whole or in part, any order issued by
18 the commissioner under this section, whenever in the
19 commissioner's opinion conditions of fact or of law have so
20 changed as to require such action, or if the public interest
21 shall so require.

22 4. Any person who violates a cease and desist order of the
23 commissioner, and while such order is in effect, may, after
24 notice and hearing and upon order of the commissioner, be
25 subject at the discretion of the commissioner to any one or
26 more of the following:

27 a. A monetary penalty of not more than ten thousand
28 dollars for each and every act or violation.

29 b. Suspension or revocation of such person's license.

30 Sec. 26. Section 507C.6, subsection 4, Code 2003, is
31 amended by striking the subsection and inserting in lieu
32 thereof the following:

33 4. It shall be unlawful for a person as defined in
34 subsection 1 to fail to cooperate with the commissioner, or to
35 obstruct or interfere with the commissioner in the conduct of

1 a delinquency proceeding or an investigation preliminary or
2 incidental to a delinquency proceeding, or to violate a valid
3 order of the commissioner.

4 Sec. 27. Section 507C.11, unnumbered paragraph 1, Code
5 2003, is amended to read as follows:

6 Notwithstanding chapter 22, in all administrative
7 proceedings pursuant to sections 507C.9 and 507C.10 all
8 orders, records, and documents pertaining to or a part of the
9 record of the proceedings are confidential except as is
10 necessary to obtain compliance with a proceeding. However,
11 the records may be released if either of the following occurs:

12 Sec. 28. Section 509.18, Code 2003, is amended to read as
13 follows:

14 509.18 PROHIBITED DEPOSIT IN FINANCIAL INSTITUTION.

15 A company or its agent licensed to sell a policy of credit
16 life or credit accident and health insurance or certificate
17 under a policy of group credit life or credit accident and
18 health insurance shall not deposit or offer to deposit funds
19 in a financial institution of this state in exchange for the
20 privilege of selling such insurance to or on behalf of the
21 financial institution. ~~Any person violating the provisions of~~
22 ~~this section shall be guilty of a simple misdemeanor.~~

23 Sec. 29. Section 511.8, subsection 1, Code Supplement
24 2003, is amended to read as follows:

25 1. UNITED STATES GOVERNMENT OBLIGATIONS.

26 a. Bonds or other evidences of indebtedness issued,
27 assumed, or guaranteed by the United States of America, or by
28 any agency or instrumentality thereof of the United States of
29 America.

30 b. Bonds or other evidences of indebtedness issued,
31 assumed, or guaranteed by the United States of America, or by
32 any agency or instrumentality of the United States of America
33 include investments in an open-end management investment
34 company registered with the federal securities and exchange
35 commission under the federal Investment Company Act of 1940,

1 15 U.S.C. § 80(a), and operated in accordance with 17 C.F.R. §
2 270.2a-7, the portfolio of which is limited to the United
3 States government obligations described in paragraph "a", and
4 which are included in the national association of insurance
5 commissioners' securities valuation office's United States
6 direct obligations-full faith and credit exempt list.

7 Sec. 30. Section 511.8, subsection 19, unnumbered
8 paragraph 1, Code Supplement 2003, is amended to read as
9 follows:

10 Bonds or other evidences of indebtedness, not to include
11 currency, issued, assumed, or guaranteed by a foreign
12 government other than Canada, or by a corporation incorporated
13 under the laws of a foreign government other than Canada.
14 Such governmental obligations must be valid, legally
15 authorized and issued, and on the date of acquisition have
16 predominantly investment qualities and characteristics as
17 provided by rule. Such corporate obligations must meet the
18 qualifications established in subsection 5 for bonds and other
19 evidences of indebtedness issued, assumed, or guaranteed by a
20 corporation incorporated under the laws of the United States
21 or Canada. Foreign investments authorized by this subsection
22 are not eligible in excess of ~~ten~~ twenty percent of the legal
23 reserve of the life insurance company or association.
24 Investments in obligations of a foreign government, other than
25 Canada and the United Kingdom, are not eligible in excess of
26 two percent of the legal reserve in the securities of foreign
27 governments of any one foreign nation. Investments in
28 obligations of the United Kingdom are not eligible in excess
29 of four percent of the legal reserve. Investments in a
30 corporation incorporated under the laws of a foreign
31 government other than Canada are not eligible in excess of two
32 percent of the legal reserve in the securities of any one
33 foreign corporation.

34 Sec. 31. Section 511.8, subsection 22, paragraph e, Code
35 Supplement 2003, is amended to read as follows:

1 e. Investments in financial instruments of foreign
 2 governments or foreign corporate obligations, other than
 3 Canada, used in hedging transactions are not eligible in
 4 excess of ~~ten~~ twenty percent of the legal reserve, less any
 5 foreign investment authorized by subsection 19 owned by the
 6 company or association and in which its legal reserve is
 7 invested, except insofar as the financial instruments are
 8 collateralized by cash or United States government obligations
 9 as authorized by subsection 1 deposited with a custodian bank
 10 as defined in subsection 21, and held under a written
 11 agreement with the custodian bank that complies with
 12 subsection 21 and provides for the proceeds of the collateral,
 13 subject to the terms and conditions of the applicable
 14 collateral or other credit support agreement, to be remitted
 15 to the legal reserve deposit of the company or association and
 16 to vest in the state in accordance with section 508.18
 17 whenever proceedings under that section are instituted.

18 Sec. 32. Section 511.8, Code Supplement 2003, is amended
 19 by adding the following new subsection:

20 NEW SUBSECTION. 23. SECURITY LOANS.

21 a. A life insurance company or association may loan
 22 securities held by it in its legal reserve to a broker-dealer
 23 registered under the Securities Exchange Act of 1934, a
 24 national bank, or a state bank, foreign bank, or trust company
 25 that is a member of the United States federal reserve system,
 26 and the loaned securities shall continue to be eligible for
 27 inclusion in the legal reserve of the life insurance company
 28 or association.

29 b. The loan shall be fully collateralized by cash, cash
 30 equivalents, or obligations issued or guaranteed by the United
 31 States or an agency or instrumentality of the United States.
 32 The life insurance company or association shall take delivery
 33 of the collateral either directly or through an authorized
 34 custodian.

35 c. If the loan is collateralized by cash or cash

1 equivalents, the cash or cash equivalent collateral may be
2 reinvested by the life insurance company or association in
3 either individual securities which are eligible for inclusion
4 in the legal reserve of the life insurance company or
5 association or in repurchase agreements fully collateralized
6 by such securities if the life insurance company or
7 association takes delivery of the collateral either directly
8 or through an authorized custodian or pooled fund comprised of
9 individual securities which are eligible for inclusion in the
10 legal reserve of the life insurance company or association.
11 If such reinvestment is made in individual securities or in
12 repurchase agreements, the individual securities or the
13 securities which collateralize the repurchase agreements shall
14 mature in less than two hundred seventy days. If such
15 reinvestment is made in a pooled fund, the average maturity of
16 the securities comprising such pooled fund must be less than
17 two hundred seventy days. Individual securities and
18 securities comprising the pooled fund shall be investment
19 grade.

20 d. The loan shall be evidenced by a written agreement
21 which provides all of the following:

22 (1) That the loan will be fully collateralized at all
23 times during the term of the loan, and that the collateral
24 will be adjusted as necessary each business day during the
25 term of the loan to maintain the required collateralization in
26 the event of market value changes in the loaned securities or
27 collateral.

28 (2) If the loan is fully collateralized by cash or cash
29 equivalents, the cash or cash equivalent may be reinvested by
30 the life insurance company or association as provided in
31 paragraph "c".

32 (3) That the loan may be terminated by the life insurance
33 company or association at any time, and that the borrower
34 shall return the loaned stocks or obligations or equivalent
35 stocks or obligations within five business days after

1 termination.

2 (4) That the life insurance company or association has the
3 right to retain the collateral or use the collateral to
4 purchase investments equivalent to the loaned securities if
5 the borrower defaults under the terms of the agreement, and
6 that the borrower remains liable for any losses and expenses
7 incurred by the life insurance company or association due to
8 default that are not covered by the collateral.

9 e. Securities loaned pursuant to this subsection are not
10 eligible for inclusion in the legal reserve of the life
11 insurance company or association in excess of twenty percent
12 of the legal reserve.

13 Sec. 33. Section 511.16, Code 2003, is amended to read as
14 follows:

15 511.16 ILLEGAL BUSINESS.

16 Any It shall be unlawful for any officer, manager, or agent
17 of any life insurance company or association who, with
18 knowledge that it is doing business in an unlawful manner or
19 is insolvent, solicits to solicit or receive applications for
20 insurance with said the company or association, or-receives
21 applications-therefor, or does to do any other act or thing
22 towards toward procuring or receiving any new business for
23 such the company or association, shall-be-guilty-of-an
24 aggravated-misdemeanor.

25 Sec. 34. Section 512A.8, Code 2003, is amended to read as
26 follows:

27 512A.8 PENALTIES VIOLATION.

28 Except as otherwise provided by law, it shall be unlawful
29 for any person or corporation to operate a benevolent
30 association in this state except as provided for in this
31 chapter. ~~Any-person-violating-the-provisions-of-this-chapter~~
32 ~~shall-be-guilty-of-a-serious-misdemeanor.~~

33 Sec. 35. Section 512B.35, Code 2003, is amended to read as
34 follows:

35 512B.35 PENALTIES FALSE OR FRAUDULENT STATEMENTS.

1 1. ~~A person who~~ It shall be unlawful for a person
2 knowingly ~~makes to make~~ a false or fraudulent statement or
3 representation in or relating to an application for membership
4 or for the purpose of obtaining money from or a benefit in a
5 society, ~~is guilty of a fraudulent practice.~~

6 2. ~~A person who willfully makes~~ It shall be unlawful for a
7 person to willfully make a false or fraudulent statement in a
8 verified report or declaration under oath required or
9 authorized by this chapter, or of a material fact or thing
10 contained in a sworn statement concerning the death or
11 disability of an insured for the purpose of procuring payment
12 of a benefit named in the certificate, ~~is guilty of perjury.~~

13 3. ~~A person who solicits~~ It shall be unlawful for a person
14 to solicit membership for, or in any manner assists to assist
15 in procuring membership in, a society not licensed to do
16 business in this state, ~~is guilty of a serious misdemeanor.~~

17 ~~4. A person guilty of a willful violation of, or neglect~~
18 ~~or refusal to comply with, a provision of this chapter for~~
19 ~~which a penalty is not otherwise prescribed, is guilty of a~~
20 ~~simple misdemeanor.~~

21 Sec. 36. Section 513C.3, subsection 15, Code Supplement
22 2003, is amended by adding the following new unnumbered
23 paragraph:

24 NEW UNNUMBERED PARAGRAPH. For purposes of this subsection,
25 an association policy under chapter 514E is not considered
26 "qualifying existing coverage" or "qualifying previous
27 coverage".

28 Sec. 37. Section 513C.7, subsections 1, 2, and 5, Code
29 Supplement 2003, are amended by striking the subsections.

30 Sec. 38. Section 513C.8, Code 2003, is amended to read as
31 follows:

32 513C.8 HEALTH BENEFIT PLAN STANDARDS.

33 The commissioner board of directors of the Iowa
34 comprehensive health insurance association shall adopt by-rule
35 the form and level of coverage of the basic health benefit

1 plan and the standard health benefit plan for the guaranteed
 2 individual market which shall provide benefits substantially
 3 similar to those-as-provided-for-under-chapter-513B-with
 4 respect-to-small-group-coverage,-but-which-shall-be
 5 appropriately-adjusted-at-least-every-three-years-to-reflect
 6 the current state of the individual market.

7 Sec. 39. Section 513C.10, subsection 1, paragraph a, Code
 8 Supplement 2003, is amended to read as follows:

9 a. All persons that provide health benefit plans in this
 10 state including insurers providing accident and sickness
 11 insurance under chapter 509, 514, or 514A, whether on an
 12 individual or group basis; fraternal benefit societies
 13 providing hospital, medical, or nursing benefits under chapter
 14 512B; and health maintenance organizations, organized delivery
 15 systems, ~~and all~~ other entities providing health insurance or
 16 health benefits subject to state insurance regulation, and all
 17 other insurers as designated by the board of directors of the
 18 Iowa comprehensive health insurance association with the
 19 approval of the commissioner shall be members of the
 20 association.

21 Sec. 40. Section 513C.10, subsection 4, Code Supplement
 22 2003, is amended to read as follows:

23 4. The board shall develop procedures and assessment
 24 mechanisms and make assessments and distributions as required
 25 to equalize the individual carrier and organized delivery
 26 system gains or losses so that each carrier or organized
 27 delivery system receives the same ratio of paid claims to
 28 ninety percent of earned premiums as the aggregate of all
 29 basic and standard plans insured by all carriers and organized
 30 delivery systems in the state.

31 Sec. 41. Section 514E.1, subsection 2, Code Supplement
 32 2003, is amended to read as follows:

33 2. "Association policy" means an individual or group
 34 policy issued by the association that provides the coverage
 35 specified-in-section-514E-4 as set forth in the benefit plans

1 adopted by the association's board of directors and approved
2 by the commissioner.

3 Sec. 42. Section 514E.1, subsections 7, 8, 12, and 22,
4 Code Supplement 2003, are amended by striking the subsections.

5 Sec. 43. Section 514E.1, subsection 13, Code Supplement
6 2003, is amended to read as follows:

7 13. "Health care services" means services, the coverage of
8 which is authorized under chapter 509, chapter 514, chapter
9 514A, or chapter 514B as ~~limited-by-sections-514E-4-and-514E-5~~
10 established by the association's board of directors, and
11 includes services for the purposes of preventing, alleviating,
12 curing, or healing human illness, injury or physical
13 disability.

14 Sec. 44. Section 514E.2, subsection 1, unnumbered
15 paragraph 1, Code Supplement 2003, is amended to read as
16 follows:

17 The Iowa comprehensive health insurance association is
18 established as a nonprofit corporation. The association shall
19 assure that health insurance, as ~~limited-by-sections-514E-4~~
20 ~~and-514E-5~~, established by the association's board of
21 directors and subject to the approval of the commissioner, is
22 made available to each eligible Iowa resident, and each
23 federally eligible individual applying to the association for
24 coverage, and each individual who has been confirmed eligible
25 under the federal Trade Adjustment Act of 2002, Pub. L. No.
26 107-210, as a recipient under that Act by the department of
27 workforce development and the federal internal revenue
28 service. The association shall also be responsible for
29 administering the Iowa individual health benefit reinsurance
30 association pursuant to all of the terms and conditions
31 contained in chapter 513C.

32 Sec. 45. Section 514E.2, subsection 1, paragraph a, Code
33 Supplement 2003, is amended to read as follows:

34 a. All carriers ~~as-defined-in-section-514E-17-subsection~~
35 ~~37~~ and all organized delivery systems licensed by the director

1 of public health providing health insurance or health care
2 services in Iowa and all other insurers designated by the
3 association's board of directors and approved by the
4 commissioner shall be members of the association.

5 Sec. 46. Section 514E.2, subsection 6, Code Supplement
6 2003, is amended by striking the subsection and inserting in
7 lieu thereof the following:

8 6. Rates for coverages issued by the association shall
9 reflect rating characteristics used in the individual
10 insurance market. The rates for a given classification shall
11 not be more than one hundred fifty percent of the average
12 premium or payment rate for the classification charged by the
13 five carriers with the largest health insurance premium or
14 payment volume in the state during the preceding calendar
15 year. In determining the average rate of the five largest
16 carriers, the rates or payments charged by the carriers shall
17 be actuarially adjusted to determine the rate or payment that
18 would have been charged for benefits similar to those issued
19 by the association.

20 Sec. 47. Section 514E.2, subsection 13, Code Supplement
21 2003, is amended by striking the subsection and inserting in
22 lieu thereof the following:

23 13. An insurer may offset an assessment made pursuant to
24 this chapter against its premium tax liability pursuant to
25 chapter 432 to the extent of twenty percent of the amount of
26 the assessment for each of the five calendar years following
27 the year in which the assessment was paid. If an insurer
28 ceases doing business, all uncredited assessments may be
29 credited against its premium tax liability for the year it
30 ceases doing business.

31 Sec. 48. Section 514E.4, Code 2003, is amended by striking
32 the section and inserting in lieu thereof the following:

33 514E.4 ASSOCIATION POLICY -- COVERAGE AND BENEFIT
34 REQUIREMENTS -- DEDUCTIBLES -- COINSURANCE.

35 The association policy shall pay for medically necessary

1 eligible health care services as established in the benefit
2 plans adopted by the association's board of directors and
3 approved by the commissioner. The plans shall provide
4 benefits, deductibles, and coinsurance that reflect the
5 current state of the individual insurance market. The board
6 may modify the benefits provided under the plans to reflect
7 the current state of the individual insurance market with the
8 approval of the commissioner.

9 Sec. 49. Section 514E.7, subsection 1, Code 2003, is
10 amended by adding the following new unnumbered paragraph:

11 NEW UNNUMBERED PARAGRAPH. The association shall rescind
12 coverage for an individual who no longer resides in the state.

13 Sec. 50. Section 514E.7, subsection 4, paragraph b, Code
14 2003, is amended by adding the following new subparagraph:

15 NEW SUBPARAGRAPH. (4) In the case of an individual
16 transferring to an association policy from a basic or standard
17 health benefit plan under chapter 513C beginning on or after
18 January 1, 2005.

19 Sec. 51. Section 514E.7, subsection 5, Code 2003, is
20 amended by adding the following new paragraph:

21 NEW PARAGRAPH. f. The individual is eligible for Medicare
22 based upon age.

23 Sec. 52. Section 514E.8, subsection 1, Code 2003, is
24 amended to read as follows:

25 1. An association policy shall contain provisions under
26 which the association is obligated to renew the contract until
27 the day on which the individual ~~in-whose-name-the-contract-is~~
28 ~~issued-first~~ becomes eligible for Medicare coverage, ~~except~~
29 ~~that-in-a-family-policy-covering-both-husband-and-wife,-the~~
30 ~~age-of-the-younger-spouse-shall-be-used-as-the-basis-for~~
31 ~~meeting-the-durational-requirements-of-this-subsection.~~
32 ~~However,-when-the-individual-in-whose-name-the-contract-is~~
33 ~~issued-becomes-eligible-for-Medicare-coverage,-the-person~~
34 ~~shall-be-eligible-for-the-Medicare-supplement-plan-offered-by~~
35 the-association based on age.

1 Sec. 53. Section 514E.11, Code 2003, is amended to read as
2 follows:

3 514E.11 NOTICE OF ASSOCIATION POLICY.

4 Every carrier, including a health maintenance organization
5 subject to chapter 514B and an organized delivery system,
6 authorized to provide health care insurance or coverage for
7 health care services in Iowa, shall provide a notice of the
8 availability of coverage by the association to any person who
9 receives a rejection of coverage for health insurance or
10 health care services, ~~or a notice to any person who is~~
11 ~~informed that a rate for health insurance or coverage for~~
12 ~~health care services will exceed the rate of an association~~
13 ~~policy,~~ and that the person is eligible to apply for health
14 insurance provided by the association. Application for the
15 health insurance shall be on forms prescribed by the
16 association's board of directors and made available to the
17 carriers and organized delivery systems and other entities
18 providing health care insurance or coverage for health care
19 services regulated by the commissioner.

20 Sec. 54. Section 515.35, subsection 3, paragraph a,
21 subparagraph (2), Code Supplement 2003, is amended by striking
22 the subparagraph and inserting in lieu thereof the following:

23 (2) A company may loan securities held by it to a broker-
24 dealer registered under the Securities Exchange Act of 1934, a
25 national bank, or a state bank, foreign bank, or trust company
26 that is a member of the United States federal reserve system,
27 and the loaned securities shall continue to be allowable
28 investments of the company.

29 (a) The loan shall be fully collateralized by cash, cash
30 equivalents, or obligations issued or guaranteed by the United
31 States or an agency or instrumentality of the United States.
32 The company shall take delivery of the collateral either
33 directly or through an authorized custodian.

34 (b) If the loan is collateralized by cash or cash
35 equivalents, the cash or cash equivalent collateral may be

1 reinvested by the company in either individual securities
2 which are allowable investments of the company or in
3 repurchase agreements fully collateralized by such securities
4 if the company takes delivery of the collateral either
5 directly or through an authorized custodian or a pooled fund
6 comprised of individual securities which are allowable
7 investments of the company. If such reinvestment is made in
8 individual securities or in repurchase agreements, the
9 individual securities or the securities which collateralize
10 the repurchase agreements shall mature in less than two
11 hundred seventy days. If such reinvestment is made in a
12 pooled fund, the average maturity of the securities comprising
13 such pooled fund must be less than two hundred seventy days.
14 Individual securities and securities comprising the pooled
15 fund shall be investment grade.

16 (c) The loan shall be evidenced by a written agreement
17 which provides all of the following:

18 (i) That the loan will be fully collateralized at all
19 times during the term of the loan, and that the collateral
20 will be adjusted as necessary each business day during the
21 term of the loan to maintain the required collateralization in
22 the event of market value changes in the loaned securities or
23 collateral.

24 (ii) If the loan is fully collateralized by cash or cash
25 equivalents, the cash or cash equivalent collateral may be
26 reinvested by the company as provided in subparagraph
27 subdivision (b).

28 (iii) That the loan may be terminated by the company at
29 any time, and that the borrower shall return the loaned stocks
30 and obligations or equivalent stocks or obligations within
31 five business days after termination.

32 (iv) That the company has the right to retain the
33 collateral or use the collateral to purchase investments
34 equivalent to the loaned securities if the borrower defaults
35 under the terms of the agreement, and that the borrower

1 remains liable for any losses and expenses incurred by the
2 company due to default that are not covered by the collateral.

3 (d) Securities loaned pursuant to this subparagraph (2)
4 are not eligible for investment of the company in excess of
5 twenty percent of admitted assets.

6 Sec. 55. Section 515.35, subsection 4, paragraph a, Code
7 Supplement 2003, is amended by adding the following new
8 unnumbered paragraph:

9 NEW UNNUMBERED PARAGRAPH. Bonds or other evidences of
10 indebtedness issued, assumed, or guaranteed by the United
11 States of America, or by any agency or instrumentality of the
12 United States of America include investments in an open-end
13 management investment company registered with the federal
14 securities and exchange commission under the federal
15 Investment Company Act of 1940, 15 U.S.C. § 80(a) and operated
16 in accordance with 17 C.F.R. § 270.2a-7, the portfolio of
17 which is limited to the United States government obligations
18 described in this paragraph "a", and which are included in the
19 national association of insurance commissioners' securities
20 valuation office's United States direct obligation-full faith
21 and credit list.

22 Sec. 56. Section 515.35, subsection 4, paragraph i,
23 subparagraphs (3) and (4), Code Supplement 2003, are amended
24 to read as follows:

25 (3) A company may invest in the obligations of a foreign
26 government other than Canada or of a corporation incorporated
27 under the laws of a foreign government other than Canada. Any
28 such governmental obligation must be valid, legally authorized
29 and issued, and on the date of acquisition have predominantly
30 investment qualities and characteristics as provided by rule.
31 Any such corporate obligation must on the date of acquisition
32 have investment qualities and characteristics, and must not
33 have speculative elements which are predominant, as provided
34 by rule. A company shall not invest more than two percent of
35 its admitted assets in the obligations of a foreign government

1 other than Canada and the United Kingdom. Investments in
2 obligations of the United Kingdom are not eligible in excess
3 of four percent of admitted assets. A company shall not
4 invest more than two percent of its admitted assets in the
5 obligations of a corporation incorporated under the laws of a
6 foreign government other than a corporation incorporated under
7 the laws of Canada.

8 (4) A company shall not invest more than ten twenty
9 percent of its admitted assets in foreign investments pursuant
10 to this paragraph.

11 Sec. 57. Section 515.120, Code 2003, is amended to read as
12 follows:

13 515.120 VIOLATIONS.

14 Any It shall be unlawful for any officer, manager, or agent
15 of any insurance company or association who, with knowledge
16 that it is doing business in an unlawful manner, or is
17 insolvent, ~~solicits~~ to solicit or receive applications for
18 insurance with ~~said~~ the company or association, ~~or-receives~~
19 ~~applications-therefor,~~ or does to do any other act or thing
20 towards toward procuring or receiving any new business for
21 such company or association, ~~shall-be-guilty-of-a-serious~~
22 ~~misdemeanor.~~

23 Sec. 58. Section 515.121, Code 2003, is amended to read as
24 follows:

25 515.121 OFFICERS PUNISHED.

26 Any It shall be unlawful for any of the following to fail
27 to comply with or to violate any of the requirements of this
28 chapter:

29 1. The president, secretary, or other officer of any
30 company organized under the laws of this state, ~~or-any.~~

31 2. Any officer or person doing or attempting to do
32 business in this state for any insurance company organized
33 either within or without this state, ~~failing-to-comply-with~~
34 ~~any-of-the-requirements-of-this-chapter,~~ ~~or-violating-any-of~~
35 ~~the-provisions-thereof,~~ ~~shall-be-guilty-of-a-simple~~

1 misdemeanor.

2 Sec. 59. Section 515.140, Code 2003, is amended to read as
3 follows:

4 515.140 VIOLATIONS -- STATUS OF POLICY.

5 Any It shall be unlawful for any insurance company, its
6 officers or agents, or either of them, violating to violate
7 any of the provisions of section 515.138, by issuing,
8 delivering, or offering to issue or deliver any policy of fire
9 insurance on property in this state ~~or different from~~
10 than the standard form, ~~herein as provided for, shall be~~
11 ~~guilty of a simple misdemeanor in statute,~~ but any policy so
12 issued or delivered shall, nevertheless, be binding upon the
13 company issuing or delivering the ~~same, and such~~ policy. The
14 company shall, until the payment of ~~such fine~~ a penalty
15 assessed by order after hearing, be disqualified from doing
16 any insurance business in this state, ~~but any policy so issued~~
17 ~~or delivered shall, nevertheless, be binding upon the company~~
18 ~~issuing or delivering the same.~~

19 Sec. 60. Section 515A.6, subsection 7, Code 2003, is
20 amended by striking the subsection.

21 Sec. 61. Section 518A.41, Code 2003, is amended to read as
22 follows:

23 518A.41 INSURANCE PRODUCERS TO BE LICENSED.

24 No A person or corporation shall not solicit any an
25 application for insurance for any association in this state
26 without having procured from the commissioner of insurance a
27 license authorizing the person or corporation to act as an
28 insurance producer. ~~Violation of this provision shall~~
29 ~~constitute a serious misdemeanor.~~

30 Sec. 62. Section 520.14, Code 2003, is amended to read as
31 follows:

32 520.14 VIOLATIONS -- EXCEPTIONS.

33 Any It shall be unlawful for an attorney ~~who shall~~ to
34 exchange any contracts of insurance of the kind and character
35 specified in this chapter, or any for an attorney or

1 representative of ~~such the~~ attorney, ~~who shall~~ to solicit or
2 negotiate any applications for the same without the attorney
3 having first complied with the foregoing provisions, ~~shall be~~
4 ~~deemed guilty of a simple misdemeanor~~. For the purpose of
5 organization and upon issuance of permit by the commissioner
6 of insurance, powers of attorney and applications for such
7 contracts may be solicited without compliance with the
8 provisions of this chapter, but ~~no~~ an attorney, agent, or
9 other person shall not make any such contracts of indemnity
10 until all of the provisions of this chapter shall have been
11 complied with.

12 Sec. 63. Section 522B.11, subsection 1, paragraph b, Code
13 2003, is amended to read as follows:

14 b. Violating any state insurance laws, federal Act
15 relating to the business of insurance, or any order of any
16 court of competent jurisdiction, or violating any informal
17 settlement agreement, regulation, subpoena, or order of the
18 commissioner or of a commissioner of another state.

19 Sec. 64. Section 522B.11, subsection 1, Code 2003, is
20 amended by adding the following new paragraph:

21 NEW PARAGRAPH. q. Is the subject of an order of the
22 securities administrator of this state or any other state,
23 province, district, or territory, denying, suspending,
24 revoking, or otherwise taking action against a registration as
25 a broker-dealer, agent, investment adviser, or investment
26 adviser representative.

27 Sec. 65. Section 522B.11, subsection 5, Code 2003, is
28 amended to read as follows:

29 5. The commissioner may conduct an investigation of any
30 suspected violation of this chapter pursuant to section 507B.6
31 and may enforce the provisions and impose any penalty or
32 remedy authorized by this chapter and chapter 507B against any
33 person who is under investigation for, or charged with, a
34 violation of either chapter even if the person's license has
35 been surrendered or has lapsed by operation of law.

1 Sec. 66. Section 522B.11, Code 2003, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 6. a. In order to assure a free flow of
4 information for accomplishing the purposes of this section,
5 all complaint files, investigation files, other investigation
6 reports, and other investigative information in the possession
7 of the commissioner or the commissioner's employees or agents
8 that relates to licensee discipline are privileged and
9 confidential, and are not subject to discovery, subpoena, or
10 other means of legal compulsion for their release to a person
11 other than the licensee, and are not admissible in evidence in
12 a judicial or administrative proceeding other than the
13 proceeding involving licensee discipline. A final written
14 decision of the commissioner in a disciplinary proceeding is a
15 public record.

16 b. Investigative information in the possession of the
17 commissioner or the commissioner's employees or agents that
18 relates to licensee discipline may be disclosed, in the
19 commissioner's discretion, to appropriate licensing
20 authorities within this state, the appropriate licensing
21 authority in another state, the District of Columbia, or a
22 territory or country in which the licensee is licensed or has
23 applied for a license.

24 c. If the investigative information in the possession of
25 the commissioner or the commissioner's employees or agents
26 indicates a crime has been committed, the information shall be
27 reported to the proper law enforcement agency.

28 d. Pursuant to the provisions of section 17A.19,
29 subsection 6, upon an appeal by the licensee, the commissioner
30 shall transmit the entire record of the contested case to the
31 reviewing court.

32 e. Notwithstanding the provisions of section 17A.19,
33 subsection 6, if a waiver of privilege has been involuntary
34 and evidence has been received at a disciplinary hearing, the
35 court shall issue an order to withhold the identity of the

1 individual whose privilege was waived.

2 Sec. 67. NEW SECTION. 522B.16A DUTIES OF LICENSEES.

3 1. An insurance producer, as a condition of licensure, is
4 under a duty to submit to a physical or mental examination
5 when directed in writing by the commissioner for cause. All
6 objections shall be waived as to the admissibility of the
7 examining physician's testimony or reports on the grounds of
8 privileged communications. The medical testimony or report
9 shall not be used against the insurance producer in any
10 proceeding other than one relating to licensee discipline by
11 the commissioner. The commissioner, upon probable cause, may
12 order a physical or mental examination to be performed, and
13 upon refusal of the licensee to submit to the examination, the
14 commissioner may order that the allegations pursuant to which
15 the order of physical or mental examination was made shall be
16 taken to be established.

17 2. A licensee has a continuing duty to report to the
18 commissioner those acts or omissions found in section 522B.11,
19 subsection 1, when committed by another insurance producer.

20 3. Unless prohibited by court order or agreement of the
21 parties, an insurance producer shall have a continuing duty
22 and obligation, as a condition of licensure, to report to the
23 commissioner every adverse judgment in a professional or
24 occupational malpractice action to which the licensee is a
25 party, and every settlement of a claim against the licensee
26 alleging malpractice.

27 4. An insurance producer has a continuing duty and
28 obligation to keep at the insurance producer's place of
29 business the usual and customary records pertaining to
30 transactions undertaken by the insurance producer. Records
31 shall be maintained for a minimum of three years following the
32 completion of any insurance transaction.

33 5. An insurance producer who willfully fails to comply
34 with subsection 2, 3, or 4 commits a violation of this chapter
35 and is subject to sanction under section 522B.11.

1 Sec. 68. Section 523A.401, subsection 6, paragraph c, Code
2 2003, is amended to read as follows:

3 c. The insurance policy shall not ~~allow-for-contesting~~
4 ~~coverage, be contestable, or~~ limit death benefits in the case
5 of suicide, with respect to that portion of the face amount of
6 the policy that is required by paragraph "b". The policy
7 shall not refer to physical examination, or otherwise operate
8 as an exclusion, limitation, or condition other than requiring
9 submission of proof of death or surrender of policy at the
10 time the prepaid purchase agreement is funded, matures, or is
11 canceled, as the case may be.

12 Sec. 69. Section 523A.402, subsection 6, paragraph c, Code
13 2003, is amended to read as follows:

14 c. The annuity shall not ~~allow-for-contesting-coverage, be~~
15 ~~contestable, or~~ limit death benefits in the case of suicide,
16 with respect to that portion of the face amount of the annuity
17 which is required by paragraph "b". The annuity shall refer
18 to physical examination, or otherwise operate as an exclusion,
19 limitation, or condition other than requiring submission of
20 proof of death or surrender of the annuity at the time the
21 prepaid purchase agreement is funded, matures, or is canceled,
22 as the case may be.

23 Sec. 70. Section 523A.501, subsection 6, Code 2003, is
24 amended to read as follows:

25 6. If no denial order is in effect and no proceeding is
26 pending under section 523A.503, the application becomes
27 effective at noon of the thirtieth day after a completed
28 application or an amendment completing the application is
29 filed, unless waived by the applicant. The commissioner may
30 specify an earlier effective date. Automatic effectiveness
31 under this subsection shall not be deemed approval of the
32 application. If the commissioner does not grant the permit,
33 the commissioner shall notify the person in writing of the
34 reasons for the denial. ~~The-permit-shall-disclose-on-its-face~~
35 ~~the-permit-holder's-employer-or-the-establishment-on-whose~~

1 ~~behalf-the-applicant-will-be-making-or-attempting-to-make~~
2 ~~sales,-the-permit-number,-and-the-expiration-date-~~

3 Sec. 71. Section 523A.502, subsection 7, Code 2003, is
4 amended to read as follows:

5 7. A sales permit is not assignable or transferable. A
6 permit holder selling all or part of a business shall cancel
7 the permit establishment's sales permits and the purchaser
8 shall apply for a new permit sales permits in the purchaser's
9 name within thirty days of the sale.

10 Sec. 72. Section 523A.503, subsection 1, unnumbered
11 paragraph 1, Code 2003, is amended to read as follows:

12 The commissioner may, pursuant to chapter 17A, deny any
13 permit application, or immediately suspend, or revoke, or
14 otherwise impose disciplinary action related to any permit
15 issued under this chapter for several reasons, including but
16 not limited to:

17 Sec. 73. Section 523A.503, subsection 3, Code 2003, is
18 amended to read as follows:

19 3. Except as provided in subsection 2, a permit shall not
20 be revoked, or suspended, or otherwise be the subject of
21 disciplinary action except after notice and hearing under
22 chapter 17A.

23 Sec. 74. Section 523A.503, Code 2003, is amended by adding
24 the following new subsection:

25 NEW SUBSECTION. 6. The commissioner may impose a civil
26 penalty in an amount not exceeding ten thousand dollars per
27 violation against any person violating this chapter. Each day
28 of a continuing violation constitutes a separate offense.

29 Sec. 75. Sections 506.7, 507B.11, 508.27, 511.18, 514.6,
30 514A.9, 514B.29, 515.132, 515.145, and 521.15, Code 2003, are
31 repealed.

32 Sec. 76. Sections 514E.5 and 514E.6, Code 2003, are
33 repealed.

34 Sec. 77. EFFECTIVE DATE. The sections of this Act
35 amending section 513C.7 and section 514E.2, subsection 13, and

1 repealing sections 514E.5 and 514E.6 take effect January 1,
2 2005.

3 EXPLANATION

4 This bill contains revisions throughout the various
5 chapters comprising the insurance code. The bill also
6 contains certain revisions to Code chapter 523A, pertaining to
7 cemetery and funeral merchandise and services.

8 The bill deletes references to Code chapters 507B and 522B,
9 regarding unfair trade practices in insurance and the
10 licensing of insurance producers, respectively, throughout
11 Code chapter 272C, which relates to continuing education and
12 regulation for certain professions and occupations.

13 The bill modifies terminology in Code section 432.5 to
14 refer to "producer" instead of "agent", and also to conform to
15 the current insurance premium tax rate provision in Code
16 chapter 432. Code section 507B.2 also makes a similar change
17 in terminology from "agents" and "brokers" to "producers".

18 The bill creates a new centralized civil penalty section in
19 Code section 505.7A, in conjunction with other changes
20 throughout the bill that eliminate or modify penalties in many
21 provisions throughout the insurance code. The new provision
22 is intended to apply to all prohibited acts in Title XIII,
23 subtitle 1, regarding insurance and related regulation, where
24 a penalty is imposed by order of the insurance commissioner
25 after hearing. Penalties shall not exceed \$1,000 for each
26 violation, or \$10,000 in the aggregate, unless the person knew
27 or reasonably should have known the behavior violated an Iowa
28 statute, in which case the penalty shall not exceed \$5,000 for
29 each violation, or \$50,000 in the aggregate in any one six-
30 month period. Code sections 507C.6, 509.18, 512A.8, 512B.35,
31 515.120, 515.121, 515.140, 518A.41, and 520.14 are updated in
32 form and language, as part of this consolidation of general
33 penalties in new Code section 505.7A.

34 Code sections 507.16, 511.16, and 515.120, relating to
35 unlawful solicitation of business for insolvent or unlawful

1 insurers, are also all updated in form and language, according
2 to the penalty provision now in Code section 505.7A, as
3 described above.

4 The bill makes a number of modifications to certain
5 terminology and terms used in the interstate insurance product
6 regulation compact in Code section 505A.1, enacted in 2003.
7 The change to article III, for example, now specifies that the
8 entity to be formed will be a joint public agency, and not
9 only a body corporate, but also a body politic and an
10 instrumentality of the compacting state. Modifications to
11 article V provide for more specific rights relating to
12 meetings of the commission, including advance notice, public
13 attendance, and protection of proprietary information. A
14 specific procedure is mandated for closed meetings. Similar
15 types of specification are made through modifications to
16 articles VII, VIII, XI, XII, and XVI.

17 The bill adds a new unnumbered paragraph to Code section
18 507.14 to provide specifically that analysis notes, work
19 papers, or other documents related to the analysis of an
20 insurer are not public records under Code chapter 22, in
21 addition to the specified reports, notes, and work papers
22 already not considered public documents under Code chapter 22.

23 Code section 507A.10, relating to civil penalties and cease
24 and desist orders for unauthorized insurers, is expanded to
25 provide additional procedures relating to summary orders,
26 requests for contested case proceedings, contempt orders,
27 criminal penalties, and referral to criminal authorities.

28 Code section 507B.3 is amended to add a new paragraph to
29 allow the commissioner to provide information from an
30 investigation regarding insurance trade practices to a company
31 or producer that is the subject of the complaint or to the
32 consumer who filed the complaint without being deemed to have
33 waived confidentiality provisions.

34 New Code section 507B.5A, also in the chapter regarding
35 insurance trade practices, is added to allow the commissioner

1 to subpoena books, papers, and other records, without cost,
2 prior to commencing a contested case proceeding in order to
3 determine whether a contested case should be instituted.

4 Code section 507B.6 is amended to allow the service of
5 subpoenas, in addition to other documents currently listed, by
6 restricted certified mail. The language is also updated.

7 Similarly, new Code section 507B.6A is added to provide
8 procedures for the issuance of summary cease and desist
9 orders, requests for contested case proceedings, and contempt
10 orders in insurance trade practices cases.

11 Code section 507B.7, regarding cease and desist orders for
12 insurance trade practices, alters the penalty provisions
13 related to the cease and desist orders by removing the
14 connection of the violation to knowledge of violation of
15 certain statutory provisions before the imposition of a civil
16 penalty, and instead requiring only a general standard that
17 the person knew or reasonably should have known that the
18 conduct was in violation of Iowa law. In addition, the
19 commissioner is newly empowered to impose an additional
20 penalty when a person violates a cease and desist order, after
21 notice and hearing, and upon order.

22 The word "orders" is added to Code section 507C.11 to
23 specify that such documents, in addition to other records and
24 documents comprising the record of a proceeding, are
25 confidential.

26 Code sections 511.8 and 515.35 are amended to specify that
27 certain investments in open-end management investment
28 companies, the portfolio of which is limited to United States
29 government obligations, as further delineated in the
30 respective Code sections, meet the definition of certain bonds
31 specified under those Code sections.

32 Code sections 511.8 and 515.35 are also modified regarding
33 the allowable percentage insurance companies or associations
34 may invest in foreign government bonds. Code section 511.8 is
35 further modified regarding the amount that may be used for

1 hedging transactions, and a new subsection is added regarding
2 security loans. Code section 515.35 is further modified
3 regarding the loaning of securities by an insurance company.

4 Regarding program eligibility under the individual health
5 insurance market reforms chapter, the bill modifies Code
6 section 513C.3 by specifying that an association policy under
7 Code chapter 514E is not considered "qualifying existing
8 coverage" or "qualifying previous coverage".

9 Certain subsections of Code section 513C.7 regarding basic
10 and standard health plans are stricken effective January 1,
11 2005.

12 With regard to program administration, basic and standard
13 plan offerings are eliminated over time, which the bill
14 implements through the amendments to Code section 513C.4 and
15 repeals of Code sections 513E.5 and 513E.6, effective January
16 1, 2005.

17 The bill amends Code section 513C.8 to provide that the
18 board of directors of the Iowa comprehensive health insurance
19 association, instead of the commissioner, shall adopt forms
20 and levels of coverage of basic and standard individual health
21 benefit plans for the guaranteed individual market that are
22 substantially similar to the current state of the individual
23 market.

24 The bill amends Code section 513C.10, subsection 1,
25 paragraph "a", to provide that all insurers, as designated by
26 the board of directors of the Iowa comprehensive health
27 insurance association with the approval of the commissioner,
28 shall be included as members of the Iowa individual health
29 benefit reinsurance association.

30 The bill amends Code section 513C.10, subsection 4, to
31 provide that the Iowa individual health benefit reinsurance
32 association shall develop not only procedures but assessment
33 mechanisms to make assessments and distributions as required
34 to equalize individual carrier and organized delivery system
35 gains or losses.

1 The bill amends Code chapter 514E relating to the Iowa
2 comprehensive health insurance association (ICHA) and
3 specifically amends Code section 514E.7 to limit eligible
4 participants to residents, and, due to the sunset of basic and
5 standard plans beginning January 1, 2005, to allow new
6 participants in the ICHA plan to transfer from a basic and
7 standard plan without a limitation on preexisting conditions.
8 Code section 514E.11, regarding notification of potential
9 eligibility for ICHA, is also modified. The bill also
10 modifies Code section 514E.2 related to the federal Trade
11 Adjustment Act, Pub. L. No. 107-210, because the ICHA is the
12 mechanism designated by the governor pursuant to the trade
13 Act.

14 Code section 514E.4 is amended relating to the payment of
15 medically necessary health care services. The bill also
16 addresses the provision of benefits, deductibles, and
17 coinsurance reflective of current individual insurance market
18 conditions in that Code section. The ICHA board is authorized
19 to make benefit changes from time to time to remain current
20 with market conditions. Code sections 514E.5 and 514E.6,
21 containing lists of excluded expenses and benefit limitations,
22 are repealed effective January 1, 2005. Corresponding changes
23 are made to delete unused definitions from Code section
24 514E.1. Changes are also made to Code section 513C.8 to
25 remove an outdated reference to Code chapter 513B, and to Code
26 sections 514E.7 and 514E.8 to coordinate that Code language
27 with Medicare requirements.

28 Regarding rate structures, Code section 514E.2 is amended
29 to allow for adjustments in ICHA rates to reflect rating
30 characteristics in the marketplace and is amended to allow an
31 insurer to offset an assessment made under this chapter
32 against its premium tax liability pursuant to Code chapter
33 432. The amendment to Code section 514E.2, subsection 13,
34 allowing the offset, takes effect January 1, 2005.

35 The bill amends Code section 514E.2, regarding the Iowa

1 comprehensive health insurance association, to provide for the
2 coverage of individuals applying for coverage pursuant to the
3 federal Trade Adjustment Act of 2002.

4 Code section 522B.11, regarding insurance producer license
5 denial, nonrenewal, or revocation, is modified in several
6 respects. The provision regarding discipline or penalty for
7 violation of insurance laws is made more specific, by
8 reference to state insurance laws, federal Acts relating to
9 insurance, orders of courts of competent jurisdiction, and
10 informal settlement agreements. A new paragraph is added
11 relating to discipline or penalty relative to an order against
12 an individual as a broker-dealer, agent, investment adviser,
13 or investment adviser representative. A new reference is
14 added to the commissioner's power to investigate suspected
15 violations of Code chapter 522B pursuant to Code section
16 507B.6. Finally, a new provision is added to address the
17 status of investigative files as confidential, but final
18 written decisions of the commissioner as public records,
19 although the commissioner has the discretion to share
20 investigative information with other licensing authorities,
21 and evidence of a crime must be referred to law enforcement.

22 New Code section 522B.16A addresses duties of licensees,
23 including duty to submit to physical or mental examination
24 when directed in writing by the commissioner for cause, duty
25 to report certain acts or omissions by another producer, duty
26 to report adverse judgments in professional malpractice
27 actions and settlements, and a duty to keep certain records
28 for at least three years.

29 The bill modifies Code sections 523A.401 and 523A.402 in
30 the cemetery and funeral merchandise and services chapter,
31 relating to contestability clauses and death benefit
32 limitations in certain policies and annuities.

33 The bill also makes several changes to establishment and
34 sales permits for cemetery and funeral merchandise and
35 services. The bill deletes the requirement in Code section

1 523A.501 that a permit disclose on its face the permit
 2 holder's employer or establishment, the permit number, and
 3 expiration date. Code section 523A.502 is modified to refer
 4 to the establishment's sales permits. Several changes are
 5 made to Code section 523A.503 to refer to disciplinary action
 6 which may be imposed in relation to a permit, as well as a
 7 civil penalty not to exceed \$10,000 for violations of the Code
 8 chapter.

9 The bill repeals Code sections 506.7 (general penalty
 10 provision), 507B.11 (penalty for violation of cease and desist
 11 order), 508.27 (penalty provision related to Code section
 12 508.25, relating to use of form for which prior approval has
 13 not been obtained), 511.18 (fraud in procuring insurance),
 14 514.6 (rate approval for nonprofit health service
 15 corporations), 514A.9 (general penalty provision), 514B.29
 16 (general penalty provision), 514E.5 and 514E.6 (lists of
 17 excluded expenses and benefit limitations), 515.132 (general
 18 penalty provision), 515.145 (penalty provision for violation
 19 of Code section 515.142, relating to operation of fire
 20 insurance companies), and 521.15 (general penalty provision).
 21 These repeals are made in conjunction with the consolidation
 22 of general penalties and the new general penalty provision in
 23 Code section 505.7A.

24 The repeals of Code sections 514E.5 and 514E.6 take effect
 25 January 1, 2005.

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HOUSE FILE 2489

AN ACT

RELATING TO THE REGULATION OF VARIOUS INDUSTRIES BY THE INSURANCE DIVISION, INCLUDING MODIFICATIONS RELATED TO THE INTERSTATE INSURANCE PRODUCT REGULATION COMPACT; INVESTIGATIONS AND PENALTIES; PROCEDURES AND CONTEMPT ORDERS; INSURANCE COMPANY INVESTMENTS; INSURANCE PRODUCER LICENSING; INDIVIDUAL HEALTH INSURANCE PROGRAMS; COVERAGE OBLIGATIONS OF THE IOWA COMPREHENSIVE HEALTH INSURANCE ASSOCIATION; REFUNDS OF UNEARNED PREMIUM; COVERAGE OF FEDERAL TRADE ADJUSTMENT ACT RECIPIENTS; PENALTIES AND DISCIPLINE APPLICABLE TO HOLDERS OF ESTABLISHMENT AND SALES PERMITS FOR CEMETERY AND FUNERAL MERCHANDISE AND SERVICES; AND PROVIDING AND APPLYING PENALTIES.

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

Section 1. Section 272C.1, subsection 6, paragraph z, Code 2003, is amended by striking the paragraph.

Sec. 2. Section 272C.3, subsection 2, paragraph a, Code Supplement 2003, is amended to read as follows:

a. Revoke a license, or suspend a license either until further order of the board or for a specified period, upon any of the grounds specified in section 147.55, 148.6, 148B.7, 152.10, 153.34, 154A.24, 169.13, 455B.219, 542.10, 542B.21, 543B.29, 544A.13, 544B.15, or 602.3203 or chapter 151, or 155, 507B, ~~or-522B,~~ as applicable, or upon any other grounds specifically provided for in this chapter for revocation of the license of a licensee subject to the jurisdiction of that board, or upon failure of the licensee to comply with a decision of the board imposing licensee discipline;

Sec. 3. Section 272C.4, subsection 6, Code 2003, is amended to read as follows:

6. Define by rule acts or omissions which that are grounds for revocation or suspension of a license under section 147.55, 148.6, 148B.7, 152.10, 153.34, 154A.24, 169.13, 455B.219, 542.10, 542B.21, 543B.29, 544A.13, 544B.15, or 602.3203 or chapter 151, or 155, 507B-~~or-522B,~~ as applicable, and to define by rule acts or omissions which that constitute negligence, careless acts, or omissions within the meaning of section 272C.3, subsection 2, paragraph "b", which licensees are required to report to the board pursuant to section 272C.9, subsection 2;

Sec. 4. Section 432.5, Code Supplement 2003, is amended to read as follows:

432.5 RISK RETENTION GROUPS.

A risk retention group organized and operating pursuant to Pub. L. No. 99-563, also known as the risk retention amendments of 1986, shall pay as taxes to the director of revenue an amount equal to two-percent the applicable percent, as provided in section 432.1, subsection 4, of the gross amount of the premiums received during the previous calendar year for risks placed in this state. A resident or nonresident agent producer shall report and pay the taxes on

the premiums for risks that the agent producer has placed in this state with or on behalf of a risk retention group. The failure of a risk retention group to pay the tax imposed in this section shall result in the risk retention group being considered an unauthorized insurer under chapter 507A.

Sec. 5. NEW SECTION. 505.7A CIVIL PENALTIES.

Unless specifically provided for in this subtitle, penalties imposed under this subtitle by order of the commissioner of insurance after hearing shall not exceed one thousand dollars for each act or violation of this subtitle, up to an aggregate of ten thousand dollars, unless the person knew or reasonably should have known the person was in violation of this subtitle, in which case the penalty shall not exceed five thousand dollars for each act or violation, up to an aggregate of fifty thousand dollars in any one six-month period.

Sec. 6. Section 505A.1, article III, subsections 1 and 2, Code Supplement 2003, are amended to read as follows:

1. The compacting states hereby create and establish an entity a joint public agency known as the interstate insurance product regulation commission. Pursuant to article IV, the commission has the power to develop uniform standards for product lines, receive and provide prompt review of products filed therewith, and give approval to those product filings satisfying applicable uniform standards, provided it is not intended for the commission to be the exclusive entity for receipt and review of insurance product filings. Nothing herein shall prohibit any insurer from filing its product in any state wherein the insurer is licensed to conduct the business of insurance, and any such filing shall be subject to the laws of the state where filed.

2. The commission is a body corporate comprising each and politic, and an instrumentality of the compacting state.

Sec. 7. Section 505A.1, article III, subsection 3, Code Supplement 2003, is amended by striking the subsection.

Sec. 8. Section 505A.1, article V, subsection 1, paragraph c, subparagraphs (3) and (4), Code Supplement 2003, are amended to read as follows:

(3) Providing reasonable standards and procedures:

(a) For the establishment and meetings of other committees.

(b) Governing any general or specific delegation of any authority or function of the commission.

(4) Providing reasonable procedures for calling and conducting meetings of the commission and that consists of a majority of commission members ensuring reasonable advance notice of each such meeting, and providing for the right of citizens to attend each such meeting with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and insurers' proprietary information, including trade secrets. The commission may meet in camera only after a majority of the entire membership votes to close a meeting en toto or in part. As soon as practicable, the commission shall make public:

(a) A copy of the vote to close the meeting, revealing the vote of each member, with no proxy votes allowed.

(b) Votes taken during such meeting.

Sec. 9. Section 505A.1, article V, subsection 1, paragraph c, Code Supplement 2003, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (8) Promulgating a code of ethics to address permissible and prohibited activities of commission members and employees.

Sec. 10. Section 505A.1, article V, subsection 1, Code Supplement 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. The commission shall publish its bylaws in a convenient form and file a copy of the bylaws, along with any amendments, with the appropriate agency or officer in each of the compacting states.

Sec. 11. Section 505A.1, article VII, subsection 2, Code Supplement 2003, is amended to read as follows:

2. RULEMAKING PROCEDURE. Rules and operating procedures shall be made pursuant to a rulemaking process that conforms to the model state administrative procedure act of 1981 as amended, as may be appropriate to the operations of the commission. Before the commission adopts a uniform standard, the commission shall give written notice to the relevant state legislative committee or committees in each compacting state responsible for insurance issues of its intention to adopt the uniform standard. The commission, in adopting a uniform standard, shall consider fully all submitted materials and issue a concise explanation of its decision.

Sec. 12. Section 505A.1, article VIII, subsection 1, Code Supplement 2003, is amended to read as follows:

1. The commission shall promulgate rules ~~to establish establishing conditions and procedures under which the commission shall make its information and official records available to the public for inspection or copying for public inspection and copying of its information and official records, except such information and records involving the privacy of individuals and insurers' trade secrets.~~ The commission may promulgate additional rules under which it may make available to federal and state agencies, including law enforcement agencies, records, and information otherwise exempt from disclosure, and may enter into agreements with such agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

Sec. 13. Section 505A.1, article VIII, subsection 4, paragraphs a and b, Code Supplement 2003, are amended to read as follows:

a. With respect to the commissioner's market regulation of a product or advertisement that is approved or certified to the commission, ~~no activity of an insurer~~ the content of the product or advertisement shall not constitute a violation of

the provisions, standards, or requirements of this compact except upon a final order of the commission, issued at the request of a commissioner after prior notice to the insurer and an opportunity for hearing before the commission.

b. Before a commissioner may bring an action for violation of any provision, standard, or requirement of this compact relating to the use content of an advertisement not approved or certified to the commission, the commission, or an authorized commission officer or employee, must authorize the action. However, authorization pursuant to this paragraph does not require notice to the insurer, opportunity for hearing, or disclosure of requests for authorization or records of the commission's action on such requests.

Sec. 14. Section 505A.1, article XI, subsection 1, Code Supplement 2003, is amended to read as follows:

1. Not later than thirty days after the commission has given notice of a disapproved product or advertisement filed with the commission, the insurer or third-party filer whose filing was disapproved may appeal the determination to a review panel appointed by the commission. The commission shall adopt rules to establish procedures for appointing such review panels and provide for notice and hearing. ~~The decision of the review panel shall be the final action of the commission and not subject to review by any court. Notwithstanding the foregoing, an~~ An allegation that the commission, in disapproving a product or advertisement filed with the commission, acted arbitrarily, capriciously, or in a manner that is an abuse of discretion or otherwise not in accordance with the law, is subject to judicial review in accordance with article III, section 5.

Sec. 15. Section 505A.1, article XII, subsection 6, Code Supplement 2003, is amended to read as follows:

6. The commission shall keep complete and accurate accounts of all its internal receipts, including grants and donations, and disbursements of all funds under its control.

The internal financial accounts of the commission shall be subject to the accounting procedures established under its bylaws. The financial accounts and reports, including the system of internal controls and procedures of the commission, shall be audited annually by an independent certified public accountant. Upon the determination of the commission, but no less frequently than every three years, the review of the independent auditor shall include a management and performance audit of the commission. The commission shall make an annual report to the governor and legislature of the compacting states, which shall include a report of the independent audit. The commission's internal accounts, ~~any work papers related to any internal audit, and any work papers related to the independent audit,~~ shall not be confidential, provided that and such materials may be shared with the commissioner of any compacting state and shall remain confidential pursuant to article VII upon request; provided, however, that any work papers related to any internal or independent audit and any information regarding the privacy of the individuals and insurers' proprietary information, including trade secrets, shall remain confidential.

Sec. 16. Section 505A.1, article XVI, subsection 1, paragraph b, Code Supplement 2003, is amended to read as follows:

b. For any product approved or certified to the commission, the rules, uniform standards, and any other requirements of the commission shall constitute the exclusive provisions applicable to the content, approval, and certification of such products. For advertisement that is subject to the commission's authority, any rule, uniform standard, or other requirement of the commission which governs the content of the advertisement shall constitute the exclusive provision that a commissioner may apply to the content of the advertisement. Notwithstanding the foregoing, action taken by the commission shall not abrogate or restrict:

(1) ~~The access of any person, including the attorney general,~~ to state courts.

(2) Remedies available under state law related to breach of contract, tort, general consumer protection laws, or general consumer protection regulations that apply to the sale or advertisement of the product or other laws not specifically directed to the content of the product.

(3) State law relating to the construction of insurance contracts.

(4) The authority of the attorney general of the state, including but not limited to maintaining any actions or proceedings, as authorized by law.

Sec. 17. Section 507.14, Code 2003, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Analysis notes, work papers, or other documents related to the analysis of an insurer are not public records under chapter 22.

Sec. 18. Section 507.16, Code 2003, is amended to read as follows:

507.16 UNLAWFUL SOLICITATION OF BUSINESS.

Any It shall be unlawful for any officer, manager, agent, or representative of any insurance company contemplated by this chapter, who, with knowledge that its certificate of authority has been suspended or revoked, or that it is insolvent, or is doing an unlawful or unauthorized business, solicits to solicit or receive applications for insurance for said the company, or receives applications therefor, or does to do any other act or thing toward receiving or procuring any new business for said the company, shall be deemed guilty of a serious misdemeanor, and the. The provisions of sections 511.16 and 511.17 are hereby extended to all companies contemplated by this chapter.

Sec. 19. Section 507A.10, Code 2003, is amended to read as follows:

507A.10 CEASE AND DESIST ORDER ORDERS -- CIVIL PENALTY AND CRIMINAL PENALTIES.

1. Upon a determination by the commissioner, after a hearing conducted pursuant to chapter 17A, that a person or insurer has violated a provision of this chapter, the commissioner shall reduce the findings of the hearing to writing and deliver a copy of the findings to the person or insurer, may issue an order requiring the person or insurer to cease and desist from engaging in the conduct resulting in the violation, and may assess a civil penalty of not more than fifty thousand dollars against the person or insurer.

2. a. Upon a determination by the commissioner that a person or insurer has engaged, is engaging, or is about to engage in any act or practice constituting a violation of this chapter or a rule adopted or order issued under this chapter, the commissioner may issue a summary order, including a brief statement of findings of fact, conclusions of law, and policy reasons for the decision, and directing the person or insurer to cease and desist from engaging in the act or practice or to take other affirmative action as is in the judgment of the commissioner necessary to comply with the requirements of this chapter.

b. A person to whom a summary order has been issued under this subsection may contest the order by filing a request for a contested case proceeding and hearing as provided in chapter 17A and in accordance with rules adopted by the commissioner. However, the person shall have at least thirty days from the date that the order is issued in order to file the request. Section 17A.18A is inapplicable to a summary order issued under this subsection. If a hearing is not timely requested, the summary order becomes final by operation of law. The order shall remain effective from the date of issuance until the date the order becomes final by operation of law or is overturned by a presiding officer or court following a request for hearing.

c. A person or insurer violating a summary order issued under this subsection shall be deemed in contempt of that order. The commissioner may petition the district court to enforce the order as certified by the commissioner. The district court shall find the person in contempt of the order if the court finds after hearing that the person or insurer is not in compliance with the order. The court may assess a civil penalty against the person or insurer and may issue further orders as it deems appropriate.

3. A person acting as an insurance producer, as defined in chapter 522B, without proper licensure, or an insurer who willfully violates any provision of this chapter, or any rule adopted or order issued under this chapter, is guilty of a class "D" felony.

4. A person acting as an insurance producer, as defined in chapter 522B, without proper licensure, or an insurer who willfully violates any provision of this chapter, or any rule adopted or order issued under this chapter, and when such violation results in a loss of more than ten thousand dollars, is guilty of a class "C" felony.

5. The commissioner may refer such evidence as is available concerning violations of this chapter or of any rule adopted or order issued under this chapter, or of the failure of a person to comply with the licensing requirements of chapter 522B, to the attorney general or the proper county attorney who may, with or without such reference, institute the appropriate criminal proceedings under this chapter.

6. This chapter does not limit the power of the state to punish any person for any conduct that constitutes a crime under any other statute.

Sec. 20. Section 507B.2, subsection 1, Code 2003, is amended to read as follows:

1. "Person" shall mean any individual, corporation, association, partnership, reciprocal exchange, interinsurer, fraternal beneficiary association, and any other legal entity

engaged in the business of insurance, including agents, brokers insurance producers and adjusters. "Person" shall also mean any corporation operating under the provisions of chapter 514 and any benevolent association as defined and operated under chapter 512A. For purposes of this chapter, corporations operating under the provisions of chapter 514 and chapter 512A shall be deemed to be engaged in the business of insurance.

Sec. 21. Section 507B.3, Code Supplement 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 3. Information obtained by the commissioner in the course of investigating a consumer complaint may, in the discretion of the commissioner, be provided to the insurance company or insurance producer which is the subject of the complaint or to the consumer who filed the complaint or the individual insured who is the subject of the complaint without waiving the confidentiality afforded by this section to the commissioner or other persons.

Sec. 22. Section 507B.6, subsection 5, Code 2003, is amended to read as follows:

5. Statements of charges, notices, orders, subpoenas, and other processes of the commissioner under this chapter may be served by anyone ~~duy~~ authorized by the commissioner, either in the manner provided by law for service of process in civil actions, or by mailing a copy thereof by restricted certified mail to the person affected by such the statement, notice, order, subpoena, or other process at the person's residence or principal office or place of business. The verified return by the person ~~so~~ serving such the statement, notice, order, subpoena, or other process, setting forth the manner of such service, shall be proof of ~~the-same~~ service, and the return receipt for such the statement, notice, order, subpoena, or other process, and mailed by restricted certified mail ~~as~~ afesaid, shall be proof of the service ~~of-the-same~~.

Sec. 23. NEW SECTION. 507B.6A SUMMARY CEASE AND DESIST ORDERS.

1. Upon a determination by the commissioner that a person or insurer has engaged, is engaging, or is about to engage in any act or practice constituting a violation of this chapter or a rule adopted or order issued under this chapter, the commissioner may issue a summary order, including a brief statement of findings of fact, conclusions of law, and policy reasons for the decision, and directing the person or insurer to cease and desist from engaging in the act or practice or to take other affirmative action as is in the judgment of the commissioner necessary to comply with the requirements of this chapter.

2. A person who has been issued a summary order under this section may contest the order by filing a request for a contested case proceeding and hearing as provided in chapter 17A and in accordance with the rules adopted by the commissioner. However, the person shall have at least thirty days from the date that the order is issued in order to file the request. Section 17A.18A is inapplicable to a summary order issued under this section. The order shall remain effective from the date of issuance unless overturned by a presiding officer or court following a request for hearing. If a hearing is not timely requested, the summary order becomes final by operation of law.

3. A person or insurer violating a summary order issued under this section shall be deemed in contempt of that order. The commissioner may petition the district court to enforce the order as certified by the commissioner. The district court shall adjudge the person in contempt of the order if the court finds after hearing that the person or insurer is not in compliance with the order. The court may assess a civil penalty against the person or insurer and may issue further orders as it deems appropriate.

Sec. 24. Section 507B.7, Code 2003, is amended to read as follows:

507B.7 CEASE AND DESIST ORDERS AND MODIFICATIONS-THEREOF PENALTIES.

1. If, after such hearing, the commissioner determines that the a person charged has engaged in an unfair method of competition or an unfair or deceptive act or practice, the commissioner shall reduce the findings to writing and shall issue and cause to be served upon the person charged with the violation a copy of such findings, an order requiring such person to cease and desist from engaging in such method of competition, act, or practice, and ~~if the act or practice is a violation of section-507B-4-507B-4A-or-507B-5~~, the commissioner may at the commissioner's discretion order any one or more of the following:

a. Payment of a civil penalty of not more than one thousand dollars for each act or violation of this subtitle, but not to exceed an aggregate of ten thousand dollars, unless the person knew or reasonably should have known the person was in violation of ~~section-507B-4-507B-4A-or-507B-5~~ this subtitle, in which case the penalty shall be not more than five thousand dollars for each act or violation, but not to exceed an aggregate penalty of fifty thousand dollars in any one six-month period. If the commissioner finds that a violation of ~~section-507B-4-507B-4A-or-507B-5~~ this subtitle was directed, encouraged, condoned, ignored, or ratified by the employer of the person or by an insurer, the commissioner shall also assess a fine to the employer or insurer.

b. Suspension or revocation of the license of a person as defined in section 507B.2, subsection 1, if the person knew or reasonably should have known the person was in violation of ~~section-507B-4-507B-4A-or-507B-5~~ this subtitle.

c. Payment of interest at the rate of ten percent per annum if the commissioner finds that the insurer failed to pay interest as required under section 507B.4, subsection 12.

2. Until the expiration of the time allowed under section 507B.8 for filing a petition for review if no such petition has been duly filed within such time, or, if a petition for review has been filed within such time, then until the transcript of the record in the proceeding has been filed in the district court, as hereinafter provided, the commissioner may at any time, upon such notice and in such manner as the commissioner may deem proper, modify or set aside in whole or in part any order issued by the commissioner under this section.

3. After the expiration of the time allowed for filing such a petition for review if no such petition has been duly filed within such time, the commissioner may at any time, after notice and opportunity for hearing, reopen and alter, modify, or set aside, in whole or in part, any order issued by the commissioner under this section, whenever in the commissioner's opinion conditions of fact or of law have so changed as to require such action, or if the public interest shall so require.

4. Any person who violates a cease and desist order of the commissioner, and while such order is in effect, may, after notice and hearing and upon order of the commissioner, be subject at the discretion of the commissioner to any one or more of the following:

a. A monetary penalty of not more than ten thousand dollars for each and every act or violation.

b. Suspension or revocation of such person's license.

Sec. 25. Section 507C.6, subsection 4, Code 2003, is amended by striking the subsection and inserting in lieu thereof the following:

4. It shall be unlawful for a person as defined in subsection 1 to fail to cooperate with the commissioner, or to obstruct or interfere with the commissioner in the conduct of a delinquency proceeding or an investigation preliminary or incidental to a delinquency proceeding, or to violate a valid order of the commissioner.

Sec. 26. Section 507C.11, unnumbered paragraph 1, Code 2003, is amended to read as follows:

Notwithstanding chapter 22, in all administrative proceedings pursuant to sections 507C.9 and 507C.10 all orders, records, and documents pertaining to or a part of the record of the proceedings are confidential except as is necessary to obtain compliance with a proceeding. However, the records may be released if either of the following occurs:

Sec. 27. Section 509.18, Code 2003, is amended to read as follows:

509.18 PROHIBITED DEPOSIT IN FINANCIAL INSTITUTION.

A company or its agent licensed to sell a policy of credit life or credit accident and health insurance or certificate under a policy of group credit life or credit accident and health insurance shall not deposit or offer to deposit funds in a financial institution of this state in exchange for the privilege of selling such insurance to or on behalf of the financial institution. ~~Any person violating the provisions of this section shall be guilty of a simple misdemeanor.~~

Sec. 28. Section 511.8, subsection 1, Code Supplement 2003, is amended to read as follows:

1. UNITED STATES GOVERNMENT OBLIGATIONS.

a. Bonds or other evidences of indebtedness issued, assumed, or guaranteed by the United States of America, or by any agency or instrumentality thereof of the United States of America.

b. Bonds or other evidences of indebtedness issued, assumed, or guaranteed by the United States of America, or by any agency or instrumentality of the United States of America include investments in an open-end management investment company registered with the federal securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. § 80(a), and operated in accordance with 17 C.F.R. § 270.2a-7, the portfolio of which is limited to the United States government obligations described in paragraph "a", and

which are included in the national association of insurance commissioners' securities valuation office's United States direct obligations-full faith and credit exempt list.

Sec. 29. Section 511.8, subsection 19, unnumbered paragraph 1, Code Supplement 2003, is amended to read as follows:

Bonds or other evidences of indebtedness, not to include currency, issued, assumed, or guaranteed by a foreign government other than Canada, or by a corporation incorporated under the laws of a foreign government other than Canada. Such governmental obligations must be valid, legally authorized and issued, and on the date of acquisition have predominantly investment qualities and characteristics as provided by rule. Such corporate obligations must meet the qualifications established in subsection 5 for bonds and other evidences of indebtedness issued, assumed, or guaranteed by a corporation incorporated under the laws of the United States or Canada. Foreign investments authorized by this subsection are not eligible in excess of ten twenty percent of the legal reserve of the life insurance company or association. Investments in obligations of a foreign government, other than Canada and the United Kingdom, are not eligible in excess of two percent of the legal reserve in the securities of foreign governments of any one foreign nation. Investments in obligations of the United Kingdom are not eligible in excess of four percent of the legal reserve. Investments in a corporation incorporated under the laws of a foreign government other than Canada are not eligible in excess of two percent of the legal reserve in the securities of any one foreign corporation.

Sec. 30. Section 511.8, subsection 22, paragraph e, Code Supplement 2003, is amended to read as follows:

e. Investments in financial instruments of foreign governments or foreign corporate obligations, other than Canada, used in hedging transactions are not eligible in

excess of ten twenty percent of the legal reserve, less any foreign investment authorized by subsection 19 owned by the company or association and in which its legal reserve is invested, except insofar as the financial instruments are collateralized by cash or United States government obligations as authorized by subsection 1 deposited with a custodian bank as defined in subsection 21, and held under a written agreement with the custodian bank that complies with subsection 21 and provides for the proceeds of the collateral, subject to the terms and conditions of the applicable collateral or other credit support agreement, to be remitted to the legal reserve deposit of the company or association and to vest in the state in accordance with section 508.18 whenever proceedings under that section are instituted.

Sec. 31. Section 511.8, Code Supplement 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 23. SECURITY LOANS.

a. A life insurance company or association may loan securities held by it in its legal reserve to a broker-dealer registered under the Securities Exchange Act of 1934, a national bank, or a state bank, foreign bank, or trust company that is a member of the United States federal reserve system, and the loaned securities shall continue to be eligible for inclusion in the legal reserve of the life insurance company or association.

b. The loan shall be fully collateralized by cash, cash equivalents, or obligations issued or guaranteed by the United States or an agency or instrumentality of the United States. The life insurance company or association shall take delivery of the collateral either directly or through an authorized custodian.

c. If the loan is collateralized by cash or cash equivalents, the cash or cash equivalent collateral may be reinvested by the life insurance company or association in either individual securities which are eligible for inclusion

in the legal reserve of the life insurance company or association or in repurchase agreements fully collateralized by such securities if the life insurance company or association takes delivery of the collateral either directly or through an authorized custodian or pooled fund comprised of individual securities which are eligible for inclusion in the legal reserve of the life insurance company or association. If such reinvestment is made in individual securities or in repurchase agreements, the individual securities or the securities which collateralize the repurchase agreements shall mature in less than two hundred seventy days. If such reinvestment is made in a pooled fund, the average maturity of the securities comprising such pooled fund must be less than two hundred seventy days. Individual securities and securities comprising the pooled fund shall be investment grade.

d. The loan shall be evidenced by a written agreement which provides all of the following:

(1) That the loan will be fully collateralized at all times during the term of the loan, 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.

(2) If the loan is fully collateralized by cash or cash equivalents, the cash or cash equivalent may be reinvested by the life insurance company or association as provided in paragraph "c".

(3) That the loan may be terminated by the life insurance company or association at any time, and that the borrower shall return the loaned stocks or obligations or equivalent stocks or obligations within five business days after termination.

(4) That the life insurance company or association has the right to retain the collateral or use the collateral to

purchase investments equivalent to the loaned securities if the borrower defaults under the terms of the agreement, and that the borrower remains liable for any losses and expenses incurred by the life insurance company or association due to default that are not covered by the collateral.

e. Securities loaned pursuant to this subsection are not eligible for inclusion in the legal reserve of the life insurance company or association in excess of twenty percent of the legal reserve.

Sec. 32. Section 511.16, Code 2003, is amended to read as follows:

511.16 ILLEGAL BUSINESS.

Any It shall be unlawful for any officer, manager, or agent of any life insurance company or association who, with knowledge that it is doing business in an unlawful manner or is insolvent, solicits to solicit or receive applications for insurance with said the company or association, or receives applications therefor, or does to do any other act or thing towards toward procuring or receiving any new business for such the company or association, shall be guilty of an aggravated misdemeanor.

Sec. 33. Section 512A.8, Code 2003, is amended to read as follows:

512A.8 PENALTIES VIOLATION.

Except as otherwise provided by law, it shall be unlawful for any person or corporation to operate a benevolent association in this state except as provided for in this chapter. Any person violating the provisions of this chapter shall be guilty of a serious misdemeanor.

Sec. 34. Section 512B.35, Code 2003, is amended to read as follows:

512B.35 PENALTIES FALSE OR FRAUDULENT STATEMENTS.

1. A person who It shall be unlawful for a person knowingly makes to make a false or fraudulent statement or representation in or relating to an application for membership

or for the purpose of obtaining money from or a benefit in a society, ~~is guilty of a fraudulent practice.~~

2. A person who willfully makes It shall be unlawful for a person to willfully make a false or fraudulent statement in a verified report or declaration under oath required or authorized by this chapter, or of a material fact or thing contained in a sworn statement concerning the death or disability of an insured for the purpose of procuring payment of a benefit named in the certificate, is guilty of perjury.

3. A person who solicits It shall be unlawful for a person to solicit membership for, or in any manner assists to assist in procuring membership in, a society not licensed to do business in this state, is guilty of a serious misdemeanor.

~~4. A person guilty of a willful violation of, or neglect or refusal to comply with, a provision of this chapter for which a penalty is not otherwise prescribed, is guilty of a simple misdemeanor.~~

Sec. 35. Section 513C.3, subsection 15, Code Supplement 2003, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For purposes of this subsection, an association policy under chapter 514E is not considered "qualifying existing coverage" or "qualifying previous coverage".

Sec. 36. Section 513C.8, Code 2003, is amended to read as follows:

513C.8 HEALTH BENEFIT PLAN STANDARDS.

The commissioner board of directors of the Iowa comprehensive health insurance association, with the approval of the commissioner, shall adopt by rule the form and level of coverage of the basic health benefit plan and the standard health benefit plan for the individual market which shall provide benefits substantially similar to those as provided for under chapter 513B with respect to small group coverage, but which shall be appropriately adjusted at least every three years to reflect the current state of the individual market.

Sec. 37. Section 513C.10, subsection 1, paragraph a, Code Supplement 2003, is amended to read as follows:

a. All persons that provide health benefit plans in this state including insurers providing accident and sickness insurance under chapter 509, 514, or 514A, whether on an individual or group basis; fraternal benefit societies providing hospital, medical, or nursing benefits under chapter 512B; and health maintenance organizations, organized delivery systems, and ~~all~~ other entities providing health insurance or health benefits subject to state insurance regulation, and all other insurers as designated by the board of directors of the Iowa comprehensive health insurance association with the approval of the commissioner shall be members of the association.

Sec. 38. Section 513C.10, subsection 4, Code Supplement 2003, is amended to read as follows:

4. The board shall develop procedures and assessment mechanisms and make assessments and distributions as required to equalize the individual carrier and organized delivery system gains or losses so that each carrier or organized delivery system receives the same ratio of paid claims to ninety percent of earned premiums as the aggregate of all basic and standard plans insured by all carriers and organized delivery systems in the state.

Sec. 39. NEW SECTION. 514A.3A REFUND OF UNEARNED PREMIUM UPON DEATH OF INSURED.

In the event of the death of the insured of any policy covered by this chapter, the insurer, upon receipt of notice of the insured's death supported by a certified copy of a valid death certificate and a request for a pro rata refund by a party entitled to claim such a refund, shall refund the unearned premium prorated to the month of the insured's death. Refund of the premium and termination of the coverage shall be without prejudice to any claim originating prior to the date of the insured's death. The commissioner of insurance shall

adopt by rule the minimum amount required for issuance of a refund.

Sec. 40. Section 514E.1, subsection 2, Code Supplement 2003, is amended to read as follows:

2. "Association policy" means an individual or group policy issued by the association that provides the coverage specified in section 514B-4 as set forth in the benefit plans adopted by the association's board of directors and approved by the commissioner.

Sec. 41. Section 514E.1, subsections 7, 8, and 12, Code Supplement 2003, are amended by striking the subsections.

Sec. 42. Section 514E.1, subsection 9, Code Supplement 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. Who has been confirmed eligible under the federal Trade Adjustment Act of 2002, Pub. L. No. 107-210, as a recipient under that Act, by the department of workforce development and the federal internal revenue service.

Sec. 43. Section 514E.1, subsection 13, Code Supplement 2003, is amended to read as follows:

13. "Health care services" means services, the coverage of which is authorized under chapter 509, chapter 514, chapter 514A, or chapter 514B as limited by sections 514B-4 and 514B-5 benefit plans established by the association's board of directors, with the approval of the commissioner and includes services for the purposes of preventing, alleviating, curing, or healing human illness, injury or physical disability.

Sec. 44. Section 514E.2, subsection 1, unnumbered paragraph 1, Code Supplement 2003, is amended to read as follows:

The Iowa comprehensive health insurance association is established as a nonprofit corporation. The association shall assure that health insurance, as limited by sections 514B-4 and 514B-5, is benefit plans as authorized in section 514E.1, subsection 2, for an association policy, are made available to each eligible Iowa resident and each federally eligible

individual applying to the association for coverage. The association shall also be responsible for administering the Iowa individual health benefit reinsurance association pursuant to all of the terms and conditions contained in chapter 513C.

Sec. 45. Section 514E.2, subsection 1, paragraph a, Code Supplement 2003, is amended to read as follows:

a. All carriers ~~as defined in section 514E.1, subsection 3,~~ and all organized delivery systems licensed by the director of public health providing health insurance or health care services in Iowa and all other insurers designated by the association's board of directors and approved by the commissioner shall be members of the association.

Sec. 46. Section 514E.2, subsection 6, Code Supplement 2003, is amended by striking the subsection and inserting in lieu thereof the following:

6. Rates for coverages issued by the association shall reflect rating characteristics used in the individual insurance market. The rates for a given classification shall not be more than one hundred fifty percent of the average premium or payment rate for the classification charged by the five carriers with the largest health insurance premium or payment volume in the state during the preceding calendar year. In determining the average rate of the five largest carriers, the rates or payments charged by the carriers shall be actuarially adjusted to determine the rate or payment that would have been charged for benefits similar to those issued by the association.

Sec. 47. Section 514E.4, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

514E.4 ASSOCIATION POLICY -- COVERAGE AND BENEFIT REQUIREMENTS -- DEDUCTIBLES -- COINSURANCE.

The association policy shall pay for medically necessary eligible health care services as established in the benefit plans adopted by the association's board of directors and

approved by the commissioner. The plans shall provide benefits, deductibles, and coinsurance that reflect the current state of the individual insurance market. The board may modify the benefits provided under the plans to reflect the current state of the individual insurance market with the approval of the commissioner.

Sec. 48. Section 514E.7, subsection 1, Code 2003, is amended by adding the following new unnumbered paragraph: NEW UNNUMBERED PARAGRAPH. The association shall rescind coverage for an individual who no longer resides in the state.

Sec. 49. Section 514E.7, subsection 5, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. f. The individual is eligible for Medicare based upon age.

Sec. 50. Section 514E.8, subsection 1, Code 2003, is amended to read as follows:

1. An association policy shall contain provisions under which the association is obligated to renew the contract coverage for an individual until the day on which the individual ~~in whose name the contract is issued first becomes eligible for Medicare coverage except that in a family policy covering both husband and wife the age of the younger spouse shall be used as the basis for meeting the durational requirements of this subsection. However, when the individual in whose name the contract is issued becomes eligible for Medicare coverage, the person shall be eligible for the Medicare supplement plan offered by the association based on age.~~

Sec. 51. Section 514E.11, Code 2003, is amended to read as follows:

514E.11 NOTICE OF ASSOCIATION POLICY.

Every carrier, including a health maintenance organization subject to chapter 514B and an organized delivery system, authorized to provide health care insurance or coverage for health care services in Iowa, shall provide a notice of the

availability of coverage by the association to any person who receives a rejection of coverage for health insurance or health care services, or ~~a notice to any person who is informed that~~ a rate for health insurance or coverage for health care services that will exceed the rate of an association policy, and that person is eligible to apply for health insurance provided by the association. Application for the health insurance shall be on forms prescribed by the association's board of directors and made available to the carriers and organized delivery systems and other entities providing health care insurance or coverage for health care services regulated by the commissioner.

Sec. 52. Section 515.35, subsection 3, paragraph a, subparagraph (2), Code Supplement 2003, is amended by striking the subparagraph and inserting in lieu thereof the following:

(2) A company may loan securities held by it to a broker-dealer registered under the Securities Exchange Act of 1934, a national bank, or a state bank, foreign bank, or trust company that is a member of the United States federal reserve system, and the loaned securities shall continue to be allowable investments of the company.

(a) The loan shall be fully collateralized by cash, cash equivalents, or obligations issued or guaranteed by the United States or an agency or instrumentality of the United States. The company shall take delivery of the collateral either directly or through an authorized custodian.

(b) If the loan is collateralized by cash or cash equivalents, the cash or cash equivalent collateral may be reinvested by the company in either individual securities which are allowable investments of the company or in repurchase agreements fully collateralized by such securities if the company takes delivery of the collateral either directly or through an authorized custodian or a pooled fund comprised of individual securities which are allowable investments of the company. If such reinvestment is made in

individual securities or in repurchase agreements, the individual securities or the securities which collateralize the repurchase agreements shall mature in less than two hundred seventy days. If such reinvestment is made in a pooled fund, the average maturity of the securities comprising such pooled fund must be less than two hundred seventy days. Individual securities and securities comprising the pooled fund shall be investment grade.

(c) The loan shall be evidenced by a written agreement which provides all of the following:

(i) That the loan will be fully collateralized at all times during the term of the loan, 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.

(ii) If the loan is fully collateralized by cash or cash equivalents, the cash or cash equivalent collateral may be reinvested by the company as provided in subparagraph subdivision (b).

(iii) That the loan may be terminated by the company at any time, and that the borrower shall return the loaned stocks and obligations or equivalent stocks or obligations within five business days after termination.

(iv) That the company has the right to retain the collateral or use the collateral to purchase investments equivalent to the loaned securities if the borrower defaults under the terms of the agreement, and that the borrower remains liable for any losses and expenses incurred by the company due to default that are not covered by the collateral.

(d) Securities loaned pursuant to this subparagraph (2) are not eligible for investment of the company in excess of twenty percent of admitted assets.

Sec. 53. Section 515.35, subsection 4, paragraph a, Code Supplement 2003, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Bonds or other evidences of indebtedness issued, assumed, or guaranteed by the United States of America, or by any agency or instrumentality of the United States of America include investments in an open-end management investment company registered with the federal securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. § 80(a) and operated in accordance with 17 C.F.R. § 270.2a-7, the portfolio of which is limited to the United States government obligations described in this paragraph "a", and which are included in the national association of insurance commissioners' securities valuation office's United States direct obligation-full faith and credit list.

Sec. 54. Section 515.35, subsection 4, paragraph i, subparagraphs (3) and (4), Code Supplement 2003, are amended to read as follows:

(3) A company may invest in the obligations of a foreign government other than Canada or of a corporation incorporated under the laws of a foreign government other than Canada. Any such governmental obligation must be valid, legally authorized and issued, and on the date of acquisition have predominantly investment qualities and characteristics as provided by rule. Any such corporate obligation must on the date of acquisition have investment qualities and characteristics, and must not have speculative elements which are predominant, as provided by rule. A company shall not invest more than two percent of its admitted assets in the obligations of a foreign government other than Canada and the United Kingdom. Investments in obligations of the United Kingdom are not eligible in excess of four percent of admitted assets. A company shall not invest more than two percent of its admitted assets in the obligations of a corporation incorporated under the laws of a foreign government other than a corporation incorporated under the laws of Canada.

(4) A company shall not invest more than ten twenty percent of its admitted assets in foreign investments pursuant to this paragraph.

Sec. 55. Section 515.120, Code 2003, is amended to read as follows:

515.120 VIOLATIONS.

Any It shall be unlawful for any officer, manager, or agent of any insurance company or association who, with knowledge that it is doing business in an unlawful manner, or is insolvent, ~~solicits to solicit~~ or receive applications for insurance with said the company or association, or receives applications-therefor, or does to do any other act or thing towards toward procuring or receiving any new business for such company or association, ~~shall be guilty of a serious misdemeanor.~~

Sec. 56. Section 515.121, Code 2003, is amended to read as follows:

515.121 OFFICERS PUNISHED.

Any It shall be unlawful for any of the following to fail to comply with or to violate any of the requirements of this chapter:

1. The president, secretary, or other officer of any company organized under the laws of this state, or any,

2. Any officer or person doing or attempting to do business in this state for any insurance company organized either within or without this state, failing to comply with any of the requirements of this chapter, or violating any of the provisions thereof, shall be guilty of a simple misdemeanor.

Sec. 57. Section 515.140, Code 2003, is amended to read as follows:

515.140 VIOLATIONS -- STATUS OF POLICY.

Any It shall be unlawful for any insurance company, its officers or agents, or either of them, violating to violate any of the provisions of section 515.138, by issuing,

delivering, or offering to issue or deliver any policy of fire insurance on property in this state other ~~or different from than~~ the standard form, herein ~~as provided for, shall be~~ as provided for, but any policy so issued or delivered shall, nevertheless, be binding upon the company issuing or delivering the same, ~~and such policy. The~~ policy. The company shall, until the payment of such fine ~~a penalty~~ assessed by order after hearing, be disqualified from doing any insurance business in this state; ~~but any policy so issued or delivered shall, nevertheless, be binding upon the company issuing or delivering the same.~~

Sec. 58. Section 518A.41, Code 2003, is amended to read as follows:

518A.41 INSURANCE PRODUCERS TO BE LICENSED.

No A person or corporation shall not solicit any an application for insurance for any association in this state without having procured from the commissioner of insurance a license authorizing the person or corporation to act as an insurance producer. ~~Violation of this provision shall constitute a serious misdemeanor.~~

Sec. 59. Section 520.14, Code 2003, is amended to read as follows:

520.14 VIOLATIONS -- EXCEPTIONS.

Any It shall be unlawful for an attorney who ~~shall to~~ exchange any contracts of insurance of the kind and character specified in this chapter, or any for an attorney or representative of such ~~the~~ attorney, ~~who shall to~~ to solicit or negotiate any applications for the same without the attorney having first complied with the foregoing provisions, ~~shall be deemed guilty of a simple misdemeanor.~~ For the purpose of organization and upon issuance of permit by the commissioner of insurance, powers of attorney and applications for such contracts may be solicited without compliance with the provisions of this chapter, but no an attorney, agent, or other person shall not make any such contracts of indemnity

until all of the provisions of this chapter shall have been complied with.

Sec. 60. Section 522B.11, subsection 1, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. q. Is the subject of an order of the securities administrator of this state or any other state, province, district, or territory, denying, suspending, revoking, or otherwise taking action against a registration as a broker-dealer, agent, investment adviser, or investment adviser representative.

Sec. 61. Section 522B.11, subsection 5, Code 2003, is amended to read as follows:

5. The commissioner may conduct an investigation of any suspected violation of this chapter pursuant to section 507B.6 and may enforce the provisions and impose any penalty or remedy authorized by this chapter and chapter 507B against any person who is under investigation for, or charged with, a violation of either chapter even if the person's license has been surrendered or has lapsed by operation of law.

Sec. 62. Section 522B.11, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 6. a. In order to assure a free flow of information for accomplishing the purposes of this section, all complaint files, investigation files, other investigation reports, and other investigative information in the possession of the commissioner or the commissioner's employees or agents that relates to licensee discipline are privileged and confidential, and are not subject to discovery, subpoena, or other means of legal compulsion for their release to a person other than the licensee, and are not admissible in evidence in a judicial or administrative proceeding other than the proceeding involving licensee discipline. A final written decision of the commissioner in a disciplinary proceeding is a public record.

b. Investigative information in the possession of the commissioner or the commissioner's employees or agents that relates to licensee discipline may be disclosed, in the commissioner's discretion, to appropriate licensing authorities within this state, the appropriate licensing authority in another state, the District of Columbia, or a territory or country in which the licensee is licensed or has applied for a license.

c. If the investigative information in the possession of the commissioner or the commissioner's employees or agents indicates a crime has been committed, the information shall be reported to the proper law enforcement agency.

d. Pursuant to the provisions of section 17A.19, subsection 6, upon an appeal by the licensee, the commissioner shall transmit the entire record of the contested case to the reviewing court.

e. Notwithstanding the provisions of section 17A.19, subsection 6, if a waiver of privilege has been involuntary and evidence has been received at a disciplinary hearing, the court shall issue an order to withhold the identity of the individual whose privilege was waived.

Sec. 63. NEW SECTION. 522B.16A DUTIES OF LICENSEES.

1. An insurance producer has a continuing duty and obligation to keep, at the insurance producer's place of business, usual and customary records pertaining to transactions undertaken by the insurance producer. All such records shall be kept available and open for inspection by the commissioner or the commissioner's representative at any time during regular business hours, provided that the commissioner or the commissioner's representative is not entitled to inspect any records prepared in anticipation of litigation or that are subject to any privilege recognized in chapter 622. Such records shall be maintained for a minimum of three years following the completion of an insurance transaction.

2. An insurance producer who willfully fails to comply with this section commits a violation of this chapter and is subject to sanctions under section 522B.11.

Sec. 64. Section 523A.401, subsection 6, paragraph c, Code 2003, is amended to read as follows:

c. The insurance policy shall not ~~allow-for-contesting coverage, be contestable, or~~ limit death benefits in the case of suicide, with respect to that portion of the face amount of the policy that is required by paragraph "b". The policy shall not refer to physical examination, or otherwise operate as an exclusion, limitation, or condition other than requiring submission of proof of death or surrender of policy at the time the prepaid purchase agreement is funded, matures, or is canceled, as the case may be.

Sec. 65. Section 523A.402, subsection 6, paragraph c, Code 2003, is amended to read as follows:

c. The annuity shall not ~~allow-for-contesting-coverage, be contestable, or~~ limit death benefits in the case of suicide, with respect to that portion of the face amount of the annuity which is required by paragraph "b". The annuity shall refer to physical examination, or otherwise operate as an exclusion, limitation, or condition other than requiring submission of proof of death or surrender of the annuity at the time the prepaid purchase agreement is funded, matures, or is canceled, as the case may be.

Sec. 66. Section 523A.501, subsection 6, Code 2003, is amended to read as follows:

6. If no denial order is in effect and no proceeding is pending under section 523A.503, the application becomes effective at noon of the thirtieth day after a completed application or an amendment completing the application is filed, unless waived by the applicant. The commissioner may specify an earlier effective date. Automatic effectiveness under this subsection shall not be deemed approval of the application. If the commissioner does not grant the permit,

the commissioner shall notify the person in writing of the reasons for the denial. ~~The permit shall disclose on its face the permit holder's employer or the establishment on whose behalf the applicant will be making or attempting to make sales, the permit number, and the expiration date.~~

Sec. 67. Section 523A.502, subsection 7, Code 2003, is amended to read as follows:

7. A sales permit is not assignable or transferable. A permit holder selling all or part of a business shall cancel the permit establishment's sales permits and the purchaser shall apply for a new permit sales permits in the purchaser's name within thirty days of the sale.

Sec. 68. Section 523A.503, subsection 1, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The commissioner may, pursuant to chapter 17A, deny any permit application, or immediately suspend, or revoke, or otherwise impose disciplinary action related to any permit issued under this chapter for several reasons, including but not limited to:

Sec. 69. Section 523A.503, subsection 3, Code 2003, is amended to read as follows:

3. Except as provided in subsection 2, a permit shall not be revoked, or suspended, or otherwise be the subject of disciplinary action except after notice and hearing under chapter 17A.

Sec. 70. Section 523A.503, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The commissioner may impose a civil penalty in an amount not exceeding ten thousand dollars per violation against any person violating this chapter. Each day of a continuing violation constitutes a separate offense.

Sec. 71. Sections 506.7, 507B.11, 508.27, 511.18, 514.6, 514A.9, 514B.29, 515.132, 515.145, and 521.15, Code 2003, are repealed.

Sec. 72. Sections 514.6, 514E.5, and 514E.6, Code 2003, are repealed.

CHRISTOPHER C. RANTS
Speaker of the House

JEFFREY M. LAMBERTI
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2489, Eightieth General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved _____, 2004

THOMAS J. VILSACK
Governor