

MAR 19 2003
Place On Calendar

HOUSE FILE 647
BY COMMITTEE ON COMMERCE,
REGULATION AND LABOR

(SUCCESSOR TO HSB 196)

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

A BILL FOR

1 An Act relating to insurance, including various filing and
2 information privacy requirements throughout the insurance
3 code, calculation of assessments by the Iowa individual health
4 benefit reinsurance association, payment of certain insurance
5 fees, certain self-funded insurance plans by school
6 corporations or political subdivisions, designation of the
7 commissioner of insurance as process agent for various
8 entities conducting insurance business in this state,
9 notification provisions relating to the effective date of
10 cancellation of insurance, beneficial stock ownership filings,
11 funding agreements, creating an insurable interest in active
12 or retired employee lives for the benefit of an employer,
13 providing for an interstate insurance product regulation
14 compact, and providing for retroactive applicability and an
15 effective date.

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

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HC 647

DIVISION I

1
2 Section 1. Section 505.8, subsection 6, Code 2003, is
3 amended to read as follows:

4 6. a. Notwithstanding chapter 22, the commissioner shall
5 keep confidential both information obtained in the course of
6 an investigation and information submitted to the insurance
7 division pursuant to chapters 514J and 515D.

8 b. The commissioner shall adopt rules protecting the
9 privacy of information held by an insurer or an agent
10 consistent with the federal Gramm-Leach-Bliley Act, Pub. L.
11 No. 106-102.

12 c. However, notwithstanding paragraphs "a" and "b", if the
13 commissioner determines that it is necessary or appropriate in
14 the public interest or for the protection of the public, the
15 commissioner may share information with other regulatory
16 authorities or governmental agencies or may publish
17 information concerning a violation of this chapter or a rule
18 or order under this chapter. Such information may be redacted
19 so that personally identifiable information is not made
20 available.

21 d. The commissioner may adopt rules protecting the privacy
22 of information submitted to the insurance division consistent
23 with this section.

24 Sec. 2. NEW SECTION. 505.24 SALE OF POLICY TERM
25 INFORMATION BY CONSUMER REPORTING AGENCY.

26 1. For purposes of this section, unless the context
27 otherwise requires, "consumer reporting agency" means any
28 person that for monetary fees, dues, or on a cooperative
29 nonprofit basis regularly engages in whole or in part in the
30 practice of assembling or evaluating consumer credit
31 information or other information on consumers for the purpose
32 of furnishing consumer reports to third parties and that uses
33 any means or facility of interstate commerce for the purpose
34 of preparing or furnishing consumer reports.

35 2. A consumer reporting agency shall not provide or sell

1 data or lists that include any information that in whole or in
2 part was submitted in conjunction with an insurance inquiry
3 about a consumer's credit information or a request for a
4 credit report or insurance score. Information submitted in
5 conjunction with an insurance inquiry about a consumer
6 includes, but is not limited to, the expiration dates of an
7 insurance policy or any other information that may identify
8 time periods during which a consumer's insurance may expire
9 and the terms and conditions of the consumer's insurance
10 coverage.

11 3. The restrictions provided in subsection 2 do not apply
12 to data or lists supplied by a consumer reporting agency to an
13 insurance producer from whom information was received, the
14 insurer on whose behalf such producer acted, or such insurer's
15 affiliates or holding companies.

16 4. This section shall not be construed to restrict any
17 insurer from being able to obtain a claims history report or a
18 motor vehicle report.

19 Sec. 3. Section 507A.4, subsection 9, Code 2003, is
20 amended by adding the following new paragraph:

21 NEW PARAGRAPH. e. When not otherwise provided, a foreign
22 or domestic multiple employee welfare arrangement doing
23 business in this state shall pay to the commissioner of
24 insurance the fees as required in section 511.24.

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

27 507B.3 UNFAIR COMPETITION OR UNFAIR AND DECEPTIVE ACTS OR
28 PRACTICES PROHIBITED.

29 1. A person shall not engage in this state in any trade
30 practice which is defined in this chapter as, or determined
31 pursuant to section 507B.6 to be, an unfair method of
32 competition, or an unfair or deceptive act or practice in the
33 business of insurance. The issuance of a qualified charitable
34 gift annuity as provided in chapter 508F does not constitute a
35 trade practice in violation of this chapter.

1 2. The commissioner shall have power to examine and
2 investigate into the affairs of every person engaged in the
3 business of insurance in this state in order to determine
4 whether such person has been or is engaged in any unfair
5 method of competition or in any unfair or deceptive act or
6 practice prohibited by this section. The commissioner shall
7 keep confidential the information submitted to the insurance
8 division, or obtained by the insurance division in the course
9 of an investigation pursuant to section 505.8, subsection 6.

10 Sec. 5. Section 508.11, unnumbered paragraph 1, Code 2003,
11 is amended to read as follows:

12 The president or vice president and secretary or actuary,
13 or a majority of the directors of each company organized under
14 this chapter, shall annually, by on or before the first day of
15 March, prepare under oath and file in the office of the
16 commissioner of insurance or a depository designated by the
17 commissioner a statement of its affairs for the year
18 terminating on the thirty-first day of December preceding,
19 showing:

20 Sec. 6. Section 508.31A, Code 2003, is amended to read as
21 follows:

22 508.31A FUNDING AGREEMENTS.

23 1. A life insurance company organized under this chapter
24 may issue funding agreements. The issuance of a funding
25 agreement under this section is deemed to be doing insurance
26 business. For purposes of this section, "funding agreement"
27 means an agreement for an insurer to accept and accumulate
28 funds and to make one or more payments at future dates in
29 amounts that are not based on mortality or morbidity
30 contingencies of the person to whom the funding agreement is
31 issued. A funding agreement does not constitute life
32 insurance, an annuity, or other insurance authorized by
33 section 508.29, and does not constitute a security as defined
34 in section 502.102.

35 2. a. Funding agreements may be issued to the following:

1 (1) A person authorized by a state or foreign country to
2 engage in an insurance business or a subsidiary of such
3 business.

4 (2) A person for the purpose of funding any of the
5 following:

6 (a) Benefits under an employee benefit plan as defined in
7 the federal Employee Retirement Income Security Act of 1974,
8 29 U.S.C. § 1001 et seq., maintained in the United States or
9 in a foreign country.

10 (b) Activities of an organization exempt from taxation
11 pursuant to section 501c of the Internal Revenue Code, or any
12 similar organization in any foreign country.

13 (c) A program of the United States government, another
14 state government or political subdivision of such state, or of
15 a foreign country, or any agency or instrumentality of any
16 such government, political subdivision, or foreign country.

17 (d) An agreement providing for periodic payments in
18 satisfaction of a claim.

19 (e) A program of an institution which has assets in excess
20 of twenty-five million dollars.

21 (3) A person other than a natural person that has assets
22 of at least twenty-five million dollars.

23 (4) A person other than a natural person for the purpose
24 of providing collateral security for securities issued by such
25 person and registered with the federal securities and exchange
26 commission.

27 b. A funding agreement issued pursuant to subparagraph
28 (1), (2), or (3) shall be for a total amount of not less than
29 one million dollars.

30 c. An amount under a funding agreement shall not be
31 guaranteed or credited except upon reasonable assumptions as
32 to investment income and expenses and on a basis equitable to
33 all holders of funding agreements of a given class. Such
34 funding agreements shall not provide for payments to ~~or~~by the
35 insurer based on mortality or morbidity contingencies.

1 d. Amounts paid to the insurer pursuant to a funding
2 agreement, and proceeds applied under optional modes of
3 settlement, may be allocated by the insurer to one or more
4 separate accounts pursuant to section 508A.1.

5 3. A funding agreement is a class 2 claim under section
6 507C.42, subsection 2.

7 4. The commissioner may adopt rules to implement funding
8 agreements.

9 Sec. 7. Section 509.19, subsection 1, paragraphs a and c,
10 Code 2003, are amended to read as follows:

11 a. A person issuing a policy or contract providing group
12 health benefit coverages to a group of fifty-one or more
13 eligible employees as defined in chapter 513B shall provide to
14 the policyholder, contract holder, or sponsor of the group
15 health benefit plan, ~~upon request,~~ annually at renewal, upon
16 request, but not more than three months prior to the policy
17 renewal date, the total amount of actual claims identified as
18 paid or incurred and paid, and the total amount of premiums by
19 line of coverage. If premiums are not billed for each line of
20 coverage, it is not necessary to artificially separate
21 premiums for each line of coverage and will be acceptable to
22 supply total premiums for the period.

23 c. The information required by paragraph "a" shall be
24 provided by the carrier separately for the current policy
25 year-to-date and for the prior policy year two separate years,
26 either policy years or rolling twelve-month periods.

27 Sec. 8. Section 509A.15, subsection 4, Code 2003, is
28 amended by striking the subsection and inserting in lieu
29 thereof the following:

30 4. One or more political subdivisions of the state or one
31 or more school corporations maintaining self-insured plans
32 with yearly claims that do not exceed one percent of each
33 entity's general fund budget shall be exempt from the
34 requirements of this section where the plan insures employees
35 for all or part of a deductible, coinsurance payments, drug

1 costs, short-term disability benefits, vision benefits, or
2 dental benefits.

3 The yearly claim amount shall be determined annually on the
4 policy renewal date, or an alternative date established by
5 rule, by a plan administrator or political subdivision or
6 school corporation employee to be designated by the plan
7 administrator. The exemption shall not apply for the year
8 following a year in which yearly claims are determined to
9 exceed one percent of the political subdivision's or school
10 corporation's general fund budget.

11 Sec. 9. Section 510A.2, subsections 3, 4, and 5, Code
12 2003, are amended to read as follows:

13 3. "Controlled insurer" means a licensed insurer which
14 that is controlled, directly or indirectly, by a an insurance
15 producer.

16 4. "Controlling producer" means a an insurance producer
17 who, directly or indirectly, controls an insurer.

18 5. "Independent casualty actuary" means a casualty actuary
19 who is a member of the American academy of actuaries and who
20 is not an employee, principal, the direct or indirect owner
21 of, affiliated with, or in any way controlled by the insurer
22 or insurance producer.

23 Sec. 10. Section 510A.2, Code 2003, is amended by adding
24 the following new subsection:

25 NEW SUBSECTION. 5A. "Insurance producer" means a person
26 required to be licensed under the laws of this state to sell,
27 solicit, or negotiate insurance.

28 Sec. 11. Section 510A.2, subsection 7, Code 2003, is
29 amended by striking the subsection.

30 Sec. 12. Section 510A.4, subsection 1, paragraph b,
31 subparagraph (2), Code 2003, is amended to read as follows:

32 (2) The controlled insurer, except for insurance business
33 written through a residual market facility, accepts insurance
34 business only from the controlling producer, a producer
35 controlled by the controlled insurer, or a an insurance

1 producer that is a subsidiary of the controlled insurer.

2 Sec. 13. Section 510A.4, subsection 2, paragraph g, Code
3 2003, is amended to read as follows:

4 g. The controlled insurer shall provide the controlling
5 producer with its underwriting standards, rules, and
6 procedures manuals setting forth the rates to be charged, and
7 the conditions for the acceptance or rejection of risks. The
8 controlling producer shall adhere to the standards, rules,
9 procedures, rates, and conditions. The standards, rules,
10 procedures, rates, and conditions shall be the same as those
11 applicable to comparable business placed with the controlled
12 insurer by a an insurance producer other than the controlling
13 producer.

14 Sec. 14. Section 510A.4, subsection 4, Code 2003, is
15 amended to read as follows:

16 4. REPORTING REQUIREMENTS.

17 a. In addition to any other required loss reserve
18 certification, the controlled insurer shall annually, on April
19 1 of each year, file with the commissioner an opinion of an
20 independent casualty actuary, or another independent loss
21 reserve specialist acceptable to the commissioner, reporting
22 loss ratios for each line of business written and attesting to
23 the adequacy of loss reserves established for losses incurred
24 and outstanding as of year-end on business placed by the
25 insurance producer, including incurred but not reported
26 losses.

27 b. The controlled insurer shall annually report to the
28 commissioner the amount of commissions paid to the insurance
29 producer, the percentage such amount represents of the net
30 premiums written, and comparable amounts and percentage paid
31 to noncontrolling producers for placements of the same kinds
32 of insurance.

33 Sec. 15. Section 510A.5, Code 2003, is amended to read as
34 follows:

35 510A.5 DISCLOSURE.

1 The insurance producer, prior to the effective date of the
2 policy, shall deliver written notice to the prospective
3 insured disclosing the relationship between the insurance
4 producer and the controlled insurer; except that, if the
5 business is placed through a subproducer who is not a
6 controlling producer, the controlling producer shall retain in
7 the producer's records a signed commitment from the
8 subproducer that the subproducer is aware of the relationship
9 between the insurer and the insurance producer and that the
10 subproducer has notified or will notify the insured.

11 Sec. 16. Section 511.8, subsection 20, Code 2003, is
12 amended by adding the following new unnumbered paragraph:

13 NEW UNNUMBERED PARAGRAPH. "Venture capital fund" includes
14 an equity interest in the Iowa fund of funds as defined in
15 section 15E.62.

16 Sec. 17. Section 511.27, Code 2003, is amended to read as
17 follows:

18 511.27 COMMISSIONER AS PROCESS AGENT.

19 Every life insurance company and association ~~organized~~
20 ~~under-the-laws-of-another-state-or-country~~ shall, before
21 receiving a certificate to do business in this state or any
22 renewal ~~thereof~~ of a certificate to do business in this state,
23 file in the office of the commissioner of insurance a power of
24 attorney and an agreement in writing that ~~thereafter~~ service
25 of notice or process of any kind may be made on the
26 commissioner, ~~and-when-so-made~~ that shall be as valid,
27 binding, and effective for all purposes as if served upon the
28 company according to the laws of this or any other state, and
29 waiving all claim or right of error ~~by-reason-of-such~~
30 ~~acknowledgment-of-service~~ due to the filing of the power of
31 attorney and the agreement regarding service of notice or
32 process.

33 Sec. 18. NEW SECTION. 511.40 EMPLOYER -- INSURABLE
34 INTEREST.

35 1. As used in this section, "employees" includes officers,

1 managers, and directors of an employer, and the shareholders,
2 partners, members, proprietors, or other owners of the
3 employer.

4 2. An employer and a trust established by the employer for
5 the benefit of the employer or for the benefit of the
6 employer's active or retired employees has an insurable
7 interest in each of the lives of the employer's active or
8 retired employees and may insure their lives on an individual
9 or group basis.

10 3. The amount of coverage on the lives of nonmanagement or
11 nonkey employees shall be reasonably related to the benefit
12 provided to the employees.

13 4. On and after July 1, 2003, an employer or trust shall
14 obtain the written consent of each employee being insured by
15 an employer and trust pursuant to this section before insuring
16 the employee's life. The consent shall include an
17 acknowledgment by the employee that the employer or trust may
18 maintain the life insurance after the employee is no longer
19 employed by the employer. An employer shall not retaliate in
20 any manner against an employee who refuses to consent.

21 Sec. 19. Section 512B.33, Code 2003, is amended to read as
22 follows:

23 512B.33 SERVICE OF PROCESS.

24 1. A ~~foreign-or-alien~~ society authorized to do business in
25 this state shall ~~appoint-in-writing~~ file in the office of the
26 ~~commissioner to-be-its-true-and-lawful~~ a power of attorney
27 ~~upon-whom-all-lawful~~ and an agreement in writing that service
28 of process in any action or proceeding against it-shall-be
29 ~~served,-and-shall-agree-in-the-written-consent-to-process-that~~
30 ~~any-lawful-process-against-it-which-is~~ the society may be
31 served on the commissioner and shall be of the same legal
32 force and validity as if served upon the society, and that the
33 authority shall continue in force so long as any liability
34 remains outstanding in this state. Copies of the ~~appointment~~
35 power of attorney, certified by the commissioner, shall be

1 deemed sufficient evidence of the appointment and shall be
2 admitted in evidence with the same force and effect as the
3 original ~~may-be-admitted~~.

4 2. Service of process shall only be made upon the
5 commissioner, or if absent, upon the person in charge of the
6 commissioner's office. Service shall be made in ~~duplicate~~
7 triplicate and shall constitute sufficient service upon the
8 society. When legal process against a society is served upon
9 the commissioner, the commissioner shall ~~forthwith~~ promptly
10 forward one of the duplicate copies by registered mail,
11 prepaid, directed to the secretary or corresponding officer of
12 the society. ~~Service-shall-not-require-a~~ A society shall not
13 be required to file its answer, pleading, or defense in less
14 than thirty days from the date of mailing the copy of the
15 service to a society. Legal process shall not be served upon
16 a society except in the manner provided in this section.

17 Sec. 20. Section 513C.7, subsection 4, paragraph b, Code
18 2003, is amended to read as follows:

19 b. A carrier or an organized delivery system shall waive
20 any time period applicable to a preexisting condition
21 exclusion or limitation period with respect to particular
22 services in an individual health benefit plan for the period
23 of time an individual was previously covered by qualifying
24 previous coverage that provided benefits with respect to such
25 services, provided that the qualifying previous coverage was
26 continuous to a date not more than sixty-three days prior to
27 the effective date of the new coverage. For purposes of this
28 section, periods of coverage under medical assistance provided
29 pursuant to chapter 249A or 514I, or Medicare coverage
30 provided pursuant to Title XVIII of the federal Social
31 Security Act shall not be counted with respect to the sixty-
32 three day requirement.

33 Sec. 21. Section 513C.10, subsection 1, paragraph a, Code
34 2003, is amended to read as follows:

35 a. All persons that provide health benefit plans in this

1 state including insurers providing accident and sickness
2 insurance under chapter 509, 514, or 514A, whether on an
3 individual or group basis; fraternal benefit societies
4 providing hospital, medical, or nursing benefits under chapter
5 512B; and health maintenance organizations, organized delivery
6 systems, and all other entities providing health insurance or
7 health benefits subject to state insurance regulation shall be
8 members of the association.

9 Sec. 22. Section 513C.10, subsection 6, Code 2003, is
10 amended to read as follows:

11 6. The assessable loss plus necessary operating expenses
12 for the association, plus any additional expenses as provided
13 by law, shall be assessed by the association to all members in
14 proportion to their respective shares of total health
15 insurance premiums or payments for subscriber contracts
16 received in Iowa during the second preceding calendar year, or
17 with paid losses in the year, coinciding with or ending during
18 the calendar year, or on any other equitable basis as provided
19 in the plan of operation. In sharing losses, the association
20 may abate or defer any part of the assessment of a member, if,
21 in the opinion of the board, payment of the assessment would
22 endanger the ability of the member to fulfill its contractual
23 obligations. The association may also provide for an initial
24 or interim assessment against the members of the association
25 to meet the operating expenses of the association until the
26 next calendar year is completed. For purposes of this
27 subsection, "total health insurance premiums" and "payments
28 for subscriber contracts" include, without limitation,
29 premiums or other amounts paid to or received by a member for
30 individual and group health plan care coverage provided under
31 any chapter of the Code or Acts, and "paid losses" includes,
32 without limitation, claims paid by a member operating on a
33 self-funded basis for individual and group health plan care
34 coverage provided under any chapter of the Code or Acts. For
35 purposes of calculating and conducting the assessment, the

1 association shall have the express authority to require
2 members to report on an annual basis each member's total
3 health insurance premiums and payments for subscriber
4 contracts and paid losses. A member is liable for its share
5 of the assessment calculated in accordance with this section
6 regardless of whether it participates in the individual
7 insurance market.

8 Sec. 23. NEW SECTION. 514.2A SERVICE OF PROCESS.

9 A nonprofit health service corporation authorized to do
10 business in this state shall file in the office of the
11 commissioner a power of attorney and an agreement in writing
12 that service of process in any action or proceeding against
13 the corporation may be served on the commissioner and shall be
14 of the same legal force and validity as if served upon the
15 corporation, and that the authority shall continue in force so
16 long as any liability remains outstanding in this state.
17 Copies of the power of attorney, certified by the
18 commissioner, shall be deemed sufficient evidence of the
19 appointment and shall be admitted in evidence with the same
20 force and effect as the original.

21 Sec. 24. Section 514B.3, subsection 10, Code 2003, is
22 amended to read as follows:

23 10. A power of attorney executed by any applicant who-is
24 ~~not-domiciled-in-this-state~~ appointing the commissioner, the
25 commissioner's successors in office, and deputies ~~as-the-true~~
26 ~~and-lawful-attorney-of-the-applicant-for-this-state-upon-whom~~
27 ~~all-lawful~~ to receive process in any legal action or
28 proceeding against the health maintenance organization on a
29 cause of action arising in this state ~~may-be-served~~.

30 Sec. 25. Section 514B.12, unnumbered paragraph 1, Code
31 2003, is amended to read as follows:

32 A health maintenance organization shall annually on or
33 before the first day of March file with the commissioner or a
34 depository designated by the commissioner a report verified by
35 at least two of its principal officers and covering the

1 preceding calendar year. The report shall be on forms
2 prescribed by the commissioner and shall include:

3 Sec. 26. Section 514B.33, Code 2003, is amended by adding
4 the following new subsection:

5 NEW SUBSECTION. 1A. When not otherwise provided, a
6 foreign or domestic limited service organization doing
7 business in this state shall pay the commissioner the fees as
8 required in section 511.24.

9 Sec. 27. Section 514J.7, subsection 8, Code 2003, is
10 amended to read as follows:

11 8. The confidentiality of any medical records submitted
12 shall be maintained pursuant to applicable state and federal
13 laws. Other than the sharing of information required by this
14 chapter and the rules adopted pursuant to this chapter, the
15 commissioner shall keep confidential the information obtained
16 in the external review process pursuant to section 505.8,
17 subsection 6.

18 Sec. 28. Section 514J.10, Code 2003, is amended to read as
19 follows:

20 514J.10 REPORTING.

21 ~~Each carrier and organized delivery system shall file~~ The
22 commissioner shall prepare an annual report with the
23 commissioner containing all of the following:

- 24 1. The number of external reviews requested.
25 2. The number of the external reviews certified by the
26 commissioner.

27 3. The number of coverage decisions which were upheld by
28 an independent review entity.

29 The commissioner shall prepare a the report by January 31
30 of each year.

31 Sec. 29. Section 514J.13, Code 2003, is amended to read as
32 follows:

33 514J.13 EFFECT OF EXTERNAL REVIEW DECISION.

34 1. The review decision by the independent review entity
35 conducting the review is binding upon the carrier or organized

1 delivery system. The external review process shall not be
2 considered a contested case under chapter 17A, the Iowa
3 administrative procedure Act.

4 2. The enrollee or the enrollee's treating health care
5 provider acting on behalf of the enrollee may appeal the
6 review decision by the independent review entity conducting
7 the review by filing a petition for judicial review either in
8 Polk county district court or in the district court in the
9 county in which the enrollee resides. The petition for
10 judicial review must be filed within fifteen business days
11 after the issuance of the review decision. The petition shall
12 name the enrollee or the enrollee's treating health care
13 provider as the petitioner. The respondent shall be the
14 carrier or the organized delivery system. The petition shall
15 not name the independent review entity as a party. The
16 commissioner shall not be named as a respondent unless the
17 petitioner alleges action or inaction by the commissioner
18 under the standards articulated in section 17A.19, subsection
19 10. Allegations against the commissioner under section
20 17A.19, subsection 10, must be stated with particularity. The
21 commissioner may, upon motion, intervene in the judicial
22 review proceeding. The findings of fact by the independent
23 review entity conducting the review are conclusive and binding
24 on appeal.

25 3. The carrier or organized delivery system shall follow
26 and comply with the review decision of the independent review
27 entity conducting the review, or the decision of the court on
28 appeal. The carrier or organized delivery system and the
29 enrollee's treating health care provider shall not be subject
30 to any penalties, sanctions, or award of damages for following
31 and complying in good faith with the review decision of the
32 independent review entity conducting the review or decision of
33 the court on appeal.

34 4. The enrollee or the enrollee's treating health care
35 provider may bring an action in Polk county district court or

1 in the district court in the county in which the enrollee
2 resides to enforce the review decision of the independent
3 review entity conducting the review or the decision of the
4 court on appeal.

5 Sec. 30. Section 515.35, subsection 4, paragraph m, Code
6 2003, is amended by adding the following new unnumbered
7 paragraph:

8 NEW UNNUMBERED PARAGRAPH. "Venture capital fund" includes
9 an equity interest in the Iowa fund of funds as defined in
10 section 15E.62.

11 Sec. 31. Section 515.63, unnumbered paragraph 1, Code
12 2003, is amended to read as follows:

13 The president or the vice president and secretary of each
14 company organized or authorized to do business in the state
15 shall annually on or before the first day of March of each
16 year prepare under oath and file with the commissioner of
17 insurance or a depository designated by the commissioner a
18 full, true, and complete statement of the condition of such
19 company on the last day of the preceding year, which shall
20 exhibit the following items and facts:

21 Sec. 32. Section 515.73, Code 2003, is amended to read as
22 follows:

23 515.73 COMMISSIONER AS PROCESS AGENT.

24 Any ~~foreign~~ company desiring to transact the business of
25 insurance under this chapter, ~~by an agent or agents in the~~
26 ~~state,~~ shall file with the commissioner of insurance a power
27 of attorney and a signed written instrument, ~~duly signed and~~
28 ~~sealed,~~ authorizing such the commissioner to acknowledge
29 accept service of notice or process ~~for and in~~ on behalf of
30 such company ~~in this state, and consenting that service of~~
31 ~~notice or process may be made upon the said commissioner, and~~
32 when so made that shall be ~~taken and held~~ as valid as if
33 served upon the company according to the laws of this or any
34 other state, and waiving all claim, or right, of error, ~~by~~
35 reason of such acknowledgment of service due to the filing of

1 the power of attorney and the agreement regarding service of
2 notice or process.

3 Sec. 33. Section 515.92, Code 2003, is amended to read as
4 follows:

5 515.92 STATEMENT OF CAPITAL AND SURPLUS.

6 1. Every advertisement or public announcement, and every
7 sign, circular, or card issued or published by a foreign
8 company transacting the business of casualty insurance in the
9 state, or by an officer, agent, or representative thereof,
10 that purports to disclose the company's financial standing,
11 shall exhibit the capital actually paid in cash, and the
12 amount of net surplus of assets over all its liabilities
13 actually held and available for the payment of losses by fire
14 and for the protection of holders of fire policies, and shall
15 also exhibit the amount of net surplus of assets over all
16 liabilities in the United States actually available for the
17 payment of losses by fire and held in the United States for
18 the protection of holders of fire policies in the United
19 States, including in such liabilities the fund reserved for
20 reinsurance of outstanding risks, ~~and the same.~~ The amounts
21 stated for capital and net surplus shall correspond with the
22 latest verified statement made by the company or association
23 to the commissioner of insurance.

24 2. The company shall not write, place, or cause to be
25 written or placed, a policy or contract for insurance upon
26 property situated or located in this state except through ~~its~~
27 ~~resident-agent-or-agents~~ a licensed producer authorized to do
28 business in this state.

29 Sec. 34. Section 515.133, Code 2003, is amended to read as
30 follows:

31 515.133 EXAMINATION OF OFFICERS AND EMPLOYEES.

32 1. The commissioner of insurance is authorized to ~~summon~~
33 ~~before-the-commissioner,~~ issue a subpoena for examination
34 under oath, any officer, agent, or employee of any such
35 company suspected of violating any of the provisions of

1 section 515.131~~7--and7--on.~~

2 2. Upon the filing of a written, verified complaint to
3 with the commissioner in-writing by two or more residents of
4 this state charging-such alleging that a company under-oath
5 upon-their-knowledge-or-belief-with-violating-the-provisions
6 of-said has violated section 515.131, the commissioner shall
7 summon issue a subpoena for examination under oath to any
8 officer, agent, or employee of said the company before-the
9 commissioner-for-examination-under-oath.

10 Sec. 35. Section 515.134, Code 2003, is amended to read as
11 follows:

12 515.134 REVOCATION OF AUTHORITY.

13 If upon such examination, and that of any other witness
14 produced and examined, the commissioner shall-determine
15 determines that such a company is-guilty-of-a-violation-of-any
16 of-the-provisions-of has violated section 515.131, or if any
17 such officer, agent, or employee after-being-duly-summoned
18 shall-fail fails to appear or submit to examination after
19 receiving a subpoena, the commissioner shall forthwith
20 promptly issue an order revoking the authority of such the
21 company to transact business within this state, and it the
22 company shall not thereafter be permitted to do the business
23 of fire insurance in this state at-any-time-within for one
24 year therefrom.

25 Sec. 36. Section 515B.2, subsection 2, Code 2003, is
26 amended to read as follows:

27 2. "Claimant" means an insured making a first party claim
28 or any person instituting a liability claim against the
29 insured of an insolvent insurer. "Claimant" does not include
30 a person who is an affiliate of an insolvent insurer.

31 Sec. 37. Section 515B.8, subsection 1, Code 2003, is
32 amended to read as follows:

33 1. Any person recovering under this chapter shall be
34 deemed to have assigned the person's rights under the policy
35 to the association to the extent of the person's recovery from

1 the association. Every insured or claimant seeking the
2 protection of this chapter shall co-operate with the
3 association to the same extent as such person would have been
4 required to co-operate with the insolvent insurer. The
5 association shall have no cause of action against the insured
6 of the insolvent insurer for any sums it has paid out except
7 causes of action the insolvent insurer would have had if the
8 sums had been paid by the insolvent insurer.

9 Sec. 38. Section 515B.9, subsection 1, Code 2003, is
10 amended by striking the subsection and inserting in lieu
11 thereof the following:

12 1. Any person having a claim under an insurance policy,
13 and the claim under such other policy alleges the same damages
14 or arises from the same facts, injury, or loss that gives rise
15 to a covered claim against the association, shall be required
16 to first exhaust all coverage provided by that policy, whether
17 such coverage is on a primary, excess, or pro rata basis and
18 any obligation of the association shall not be considered
19 other insurance.

20 Any amount payable on a covered claim shall be reduced by
21 the full applicable limits of such other insurance policy and
22 the association shall receive full credit for such limits or
23 where there are no applicable limits, the claim shall be
24 reduced by the total recovery.

25 a. A policy providing liability coverage to a person who
26 may be jointly and severally liable with, or a joint
27 tortfeasor with, the person covered under the policy of the
28 insolvent insurer shall be first exhausted before any claim is
29 made against the association and the association shall receive
30 credit for the same as provided above.

31 b. For purposes of this section, an insurance policy means
32 a policy issued by an insurance company, whether or not a
33 member insurer, which policy insures any of the types of risks
34 insured by an insurance company authorized to write insurance
35 under chapter 515, 516A, or 520, or comparable statutes of

1 another state, except those types of risks set forth in
2 chapters 508 and 514.

3 Sec. 39. Section 515B.16, Code 2003, is amended to read as
4 follows:

5 515B.16 ACTIONS AGAINST THE ASSOCIATION.

6 Any action against the association shall be brought against
7 the association in the association's own name. The Polk
8 county district court shall have exclusive jurisdiction and
9 venue of such actions. Service of the original notice in
10 actions against the association may be made on any officer of
11 the association or upon the commissioner of insurance on
12 behalf of the association. The commissioner shall promptly
13 transmit any notice so served upon the commissioner to the
14 association. Any action against the association shall be
15 commenced within three years after the date of the order of
16 liquidation.

17 Sec. 40. Section 515D.5, subsection 1, unnumbered
18 paragraph 1, Code 2003, is amended to read as follows:

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

1 Sec. 41. Section 515D.10, Code 2003, is amended to read as
2 follows:

3 515D.10 HEARING BEFORE COMMISSIONER.

4 Any named insured who has received a statement of reason
5 for cancellation, or of reason for an insurer's intent not to
6 renew a policy, may, within fifteen days of the receipt or
7 delivery of a statement of reason, request a hearing before
8 the commissioner of insurance. The purpose of this hearing
9 shall be limited to establishing the existence of the proof or
10 evidence used by the insurer in its reason for cancellation or
11 intent not to renew. The burden of proof of the reason for
12 cancellation or intent not to renew shall be upon the insurer.
13 Other than the sharing of information required by this chapter
14 and the rules adopted pursuant to the provisions of this
15 chapter, the commissioner shall keep confidential the
16 information obtained from the insured or in the hearing
17 process, pursuant to section 505.8, subsection 6. The
18 commissioner of insurance shall adopt rules for carrying out
19 the provisions of this section.

20 Sec. 42. Section 515E.3, Code 2003, is amended by adding
21 the following new unnumbered paragraph:

22 NEW UNNUMBERED PARAGRAPH. A risk retention group organized
23 in this state shall file in the office of the commissioner a
24 power of attorney and an agreement in writing that service of
25 process in any action or proceeding against the society may be
26 served on the commissioner and shall be of the same legal
27 force and validity as if served upon the society, and that the
28 authority shall continue in force so long as any liability
29 remains outstanding in this state. Copies of the power of
30 attorney, certified by the commissioner, shall be deemed
31 sufficient evidence of the appointment and shall be admitted
32 in evidence with the same force and effect as the original.

33 Sec. 43. Section 518.23, subsection 2, paragraph a, Code
34 2003, is amended to read as follows:

35 a. Except as provided in paragraph "b", notice of

1 cancellation is not effective unless mailed or delivered by
2 the association to the named insured at least twenty thirty
3 days before the effective date of cancellation.

4 Sec. 44. Section 518A.29, subsection 2, paragraph a, Code
5 2003, is amended to read as follows:

6 a. Except as provided in paragraph "b", notice of
7 cancellation is not effective unless mailed or delivered by
8 the association to the named insured at least twenty thirty
9 days before the effective date of cancellation.

10 Sec. 45. Section 521C.3, subsection 4, paragraph b, Code
11 2003, is amended to read as follows:

12 ~~b. If the applicant for a~~ A reinsurance intermediary
13 license ~~is a nonresident, such~~ applicant, as a condition
14 precedent to receiving or holding a license, shall designate
15 the commissioner as agent for service of process, and also
16 shall furnish the commissioner with the name and address of a
17 resident of this state upon whom notices or orders of the
18 commissioner or process affecting such nonresident reinsurance
19 intermediary may be served. The licensee shall promptly
20 notify the commissioner in writing of a change of the
21 designated agent for service of process, and the change
22 becomes effective upon acknowledgment by the commissioner.

23 Sec. 46. Section 523.7, Code 2003, is amended to read as
24 follows:

25 523.7 STATEMENT OF STOCK OWNERSHIP FILED WITH
26 COMMISSIONER.

27 1. Every person who is directly or indirectly the
28 beneficial owner of more than ten percent of any class of any
29 equity security of a domestic stock insurance company, or who
30 is a director or an officer of such company, shall file in the
31 office of the commissioner of insurance ~~within ten days after~~
32 ~~the person becomes such beneficial owner, director or officer~~
33 as prescribed by rule a statement, in such a form as the
34 commissioner may prescribe, of the amount of all equity
35 securities of such the company of which the person is the

1 beneficial owner, ~~7-and-within-ten-days-after-the-close-of-each~~
2 ~~calendar-month-thereafter~~

3 2. Within the time frame prescribed by rule, if there has
4 been a change in such the ownership during such-month a time
5 period prescribed by rule, a person who is directly or
6 indirectly the beneficial owner of more than ten percent of
7 any class of any equity security of a domestic stock insurance
8 company, or who is a director or an officer of such company,
9 shall file in the office of the commissioner a statement, in
10 such a form as the commissioner may prescribe, indicating the
11 person's ownership at the close of the calendar-month time
12 period prescribed by rule and such any changes in the person's
13 ownership as have occurred during such-calendar-month the time
14 period prescribed by rule.

15 Sec. 47. Sections 511.30, 515.78, and 518A.43, Code 2003,
16 are repealed.

17 Sec. 48. INDIVIDUAL HEALTH INSURANCE TASK FORCE. The
18 insurance division of the department of commerce shall
19 establish an individual health insurance task force. The
20 individual health insurance task force shall conduct a study
21 to review the individual health insurance market reform under
22 chapter 513C and the Iowa comprehensive health insurance
23 association under chapter 514E. The study shall include
24 review of the following:

25 1. The premium rating system for the guaranteed basic and
26 standard plans regulated under chapter 513C and the
27 comprehensive health insurance plans under chapter 514E.

28 2. The availability of and qualifications for coverage
29 under the guaranteed basic and standard plans regulated under
30 chapter 513C and the comprehensive health insurance plans
31 under chapter 514E.

32 3. The cost-sharing and assessment mechanisms under
33 sections 513C.10 and 514E.2.

34 4. Any other matters as agreed upon by the task force
35 which affect the individual health insurance market.

1 The commissioner of insurance shall select the members of
2 the task force which shall include representatives from the
3 Iowa comprehensive health insurance association, the public
4 employee governing bodies subject to chapter 509A, and other
5 health insurance-related parties or experts as deemed
6 appropriate by the commissioner.

7 The commissioner shall submit a report from the task force
8 to the general assembly on or before January 15, 2004,
9 regarding the task force's findings and recommendations
10 including proposed legislation concerning individual health
11 insurance.

12 Sec. 49. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY.
13 This section and the sections of this Act amending sections
14 513C.10, subsection 1, paragraph "a", and subsection 6, being
15 deemed of immediate importance, take effect upon enactment,
16 and apply retroactively to July 1, 1995.

17 DIVISION II

18 Sec. 50. NEW SECTION. 505A.1 INTERSTATE INSURANCE
19 PRODUCT REGULATION COMPACT.

20 The interstate insurance product regulation compact is
21 hereby entered into and enacted into law with all
22 jurisdictions legally joining therein, in the form
23 substantially as follows:

24 ARTICLE I -- PURPOSES

25 The purposes of this compact are, through means of joint
26 and cooperative action among the compacting states:

27 1. To promote and protect the interest of consumers of
28 individual and group annuity, life insurance, disability
29 income and long-term care insurance products.

30 2. To develop uniform standards for insurance products
31 covered under this compact.

32 3. To establish a central clearinghouse to receive and
33 provide prompt review of insurance products covered under the
34 compact and, in certain cases, advertisements related thereto,
35 submitted by insurers authorized to do business in one or more

1 compacting states.

2 4. To give appropriate regulatory approval to those
3 product filings and advertisements satisfying the applicable
4 uniform standard.

5 5. To improve coordination of regulatory resources and
6 expertise between state insurance departments regarding the
7 setting of uniform standards and review of insurance products
8 covered under this compact.

9 6. To create the interstate insurance product regulation
10 commission.

11 7. To perform these and such other related functions as
12 may be consistent with the state regulation of the business of
13 insurance.

14 ARTICLE II -- DEFINITIONS

15 For purposes of this compact, unless the context otherwise
16 requires:

17 1. "Advertisement" means any material designed to create
18 public interest in a product, or induce the public to
19 purchase, increase, modify, reinstate, borrow on, surrender,
20 replace or retain a policy, as more specifically defined in
21 the rules and operating procedures of the commission.

22 2. "Bylaws" means those bylaws established by the
23 commission for its governance, or for directing or controlling
24 the commission's actions or conduct.

25 3. "Commission" means the interstate insurance product
26 regulation commission established by this compact.

27 4. "Commissioner" means the chief insurance regulatory
28 official of a state including, but not limited to,
29 commissioner, superintendent, director, or administrator.

30 5. "Compacting state" means any state that has enacted
31 this compact legislation and that has not withdrawn pursuant
32 to article XIV, section 1, or been terminated pursuant to
33 article XIV, section 2.

34 6. "Domiciliary state" means the state in which an insurer
35 is incorporated or organized, or, in the case of an alien

1 insurer, its state of entry.

2 7. "Insurer" means any entity licensed by a state to issue
3 contracts of insurance for any of the lines of insurance
4 covered by this compact.

5 8. "Member" means the person chosen by a compacting state
6 as its representative to the commission, or the person's
7 designee.

8 9. "Noncompacting state" means any state which is not at
9 the time a compacting state.

10 10. "Operating procedures" means procedures promulgated by
11 the commission implementing a rule, uniform standard, or a
12 provision of this compact.

13 11. "Product" means the form of a policy or contract,
14 including any application, endorsement, or related form which
15 is attached to and made a part of the policy or contract, and
16 any evidence of coverage or certificate, for an individual or
17 group annuity, life insurance, disability income, or long-term
18 care insurance product that an insurer is authorized to issue.

19 12. "Rule" means a statement of general or particular
20 applicability and future effect promulgated by the commission,
21 including a uniform standard developed pursuant to article
22 VII, designed to implement, interpret, or prescribe law or
23 policy, or describing the organization, procedure, or practice
24 requirements of the commission, which shall have the force and
25 effect of law in the compacting states.

26 13. "State" means any state, district, or territory of the
27 United States of America.

28 14. "Third-party filer" means an entity that submits a
29 product filing to the commission on behalf of an insurer.

30 15. "Uniform standard" means a standard adopted by the
31 commission for a product line, pursuant to article VII, and
32 shall include all of the product requirements in aggregate,
33 provided that each uniform standard shall be construed,
34 whether express or implied, to prohibit the use of any
35 inconsistent, misleading, or ambiguous provisions in a

1 product, and the form of the product made available to the
2 public shall not be unfair, inequitable, or against public
3 policy as determined by the commission.

4 ARTICLE III -- ESTABLISHMENT OF THE COMMISSION AND VENUE

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

18 2. The commission is a body corporate comprising each
19 compacting state.

20 3. The commission is a not-for-profit entity, separate and
21 distinct from the individual compacting states.

22 4. The commission is solely responsible for its
23 liabilities except as otherwise specifically provided in this
24 compact.

25 5. Venue is proper and judicial proceedings by or against
26 the commission shall be brought solely and exclusively in a
27 court of competent jurisdiction where the principal office of
28 the commission is located.

29 ARTICLE IV -- POWERS OF THE COMMISSION

30 The commission shall have the following powers:

31 1. To promulgate rules, pursuant to article VII, which
32 shall have the force and effect of law and shall be binding in
33 the compacting states to the extent and in the manner provided
34 in this compact.

35 2. To exercise its rulemaking authority and establish

1 reasonable uniform standards for products covered under this
2 compact, and advertisement related thereto, which shall have
3 the force and effect of law and shall be binding in the
4 compacting states, but only for those products filed with the
5 commission, provided that a compacting state shall have the
6 right to opt out of such uniform standard pursuant to article
7 VII, to the extent and in the manner provided in this compact,
8 and, provided further, that any uniform standard established
9 by the commission for long-term care insurance products may
10 provide the same or greater protections for consumers as, but
11 shall not provide less than, those protections set forth in
12 the national association of insurance commissioners' long-term
13 care insurance model act and long-term care insurance model
14 regulation, respectively, adopted as of 2001. The commission
15 shall consider whether any subsequent amendments to the long-
16 term care insurance model act or long-term care insurance
17 model regulation adopted by the national association of
18 insurance commissioners require amending of the uniform
19 standards established by the commission for long-term care
20 insurance products.

21 3. To receive and review in an expeditious manner products
22 filed with the commission, and rate filings for disability
23 income and long-term care insurance products, and give
24 approval of those products and rate filings that satisfy the
25 applicable uniform standard, where such approval shall have
26 the force and effect of law, and be binding on the compacting
27 states to the extent and in the manner provided in the
28 compact.

29 4. To receive and review in an expeditious manner
30 advertisement relating to long-term care insurance products
31 for which uniform standards have been adopted by the
32 commission, and give approval to all advertisement that
33 satisfies the applicable uniform standard. For any product
34 covered under this compact, other than long-term care
35 insurance products, the commission shall have the authority to

1 require an insurer to submit all or any part of its
2 advertisement with respect to that product for review or
3 approval prior to use, if the commission determines that the
4 nature of the product is such that an advertisement of the
5 product could have the capacity or tendency to mislead the
6 public. The actions of the commission as provided in this
7 article shall have the force and effect of law and shall be
8 binding in the compacting states to the extent and in the
9 manner provided in this compact.

10 5. To exercise its rulemaking authority and designate
11 products and advertisement that may be subject to a self-
12 certification process without the need for prior approval by
13 the commission.

14 6. To promulgate operating procedures, pursuant to article
15 VII, which shall be binding in the compacting states to the
16 extent and in the manner provided in this compact.

17 7. To bring and prosecute legal proceedings or actions in
18 its name as the commission, provided that the standing of any
19 state insurance department to sue or be sued under applicable
20 law shall not be affected.

21 8. To issue subpoenas requiring the attendance and
22 testimony of witnesses and the production of evidence.

23 9. To establish and maintain offices.

24 10. To purchase and maintain insurance and bonds.

25 11. To borrow, accept, or contract for services of
26 personnel, including, but not limited to, employees of a
27 compacting state.

28 12. To hire employees, professionals, or specialists, and
29 elect or appoint officers, and to fix their compensation,
30 define their duties, and give them appropriate authority to
31 carry out the purposes of this compact, and determine their
32 qualifications, and to establish the commission's personnel
33 policies and programs relating to, among other things,
34 conflicts of interest, rates of compensation, and
35 qualifications of personnel.

- 1 13. To accept any and all appropriate donations and grants
2 of money, equipment, supplies, materials, and services, and to
3 receive, utilize, and dispose of the same, provided that at
4 all times the commission shall strive to avoid any appearance
5 of impropriety.
- 6 14. To lease, purchase, accept appropriate gifts or
7 donations of, or otherwise to own, hold, improve, or use, any
8 property, real, personal, or mixed, provided that at all times
9 the commission shall strive to avoid any appearance of
10 impropriety.
- 11 15. To sell, convey, mortgage, pledge, lease, exchange,
12 abandon, or otherwise dispose of any property, real, personal,
13 or mixed.
- 14 16. To remit filing fees to compacting states as may be
15 set forth in the bylaws, rules, or operating procedures.
- 16 17. To enforce compliance by compacting states with rules,
17 uniform standards, operating procedures, and bylaws.
- 18 18. To provide for dispute resolution among compacting
19 states.
- 20 19. To advise compacting states on issues relating to
21 insurers domiciled or doing business in noncompacting
22 jurisdictions, consistent with the purposes of this compact.
- 23 20. To provide advice and training to those personnel in
24 state insurance departments responsible for product review,
25 and to be a resource for state insurance departments.
- 26 21. To establish a budget and make expenditures.
- 27 22. To borrow money.
- 28 23. To appoint committees, including advisory committees
29 comprising members, state insurance regulators, state
30 legislators or their representatives, insurance industry and
31 consumer representatives, and such other interested persons as
32 may be designated in the bylaws.
- 33 24. To provide and receive information from, and to
34 cooperate with, law enforcement agencies.
- 35 25. To adopt and use a corporate seal.

1 26. To perform such other functions as may be necessary or
2 appropriate to achieve the purposes of this compact consistent
3 with the state regulation of the business of insurance.

4 ARTICLE V -- ORGANIZATION OF THE COMMISSION

5 1. MEMBERSHIP, VOTING, AND BYLAWS.

6 a. Each compacting state shall have and be limited to one
7 member. Each member shall be qualified to serve in that
8 capacity pursuant to applicable law of the compacting state.

9 Any member may be removed or suspended from office as provided
10 by the law of the state from which the member is appointed.

11 Any vacancy occurring in the commission shall be filled in
12 accordance with the laws of the compacting state wherein the
13 vacancy exists. Nothing herein shall be construed to affect
14 the manner in which a compacting state determines the election
15 or appointment and qualification of its own commissioner.

16 b. Each member shall be entitled to one vote and shall
17 have an opportunity to participate in the governance of the
18 commission in accordance with the bylaws. Notwithstanding any
19 provision herein to the contrary, no action of the commission
20 with respect to the promulgation of a uniform standard shall
21 be effective unless two-thirds of the members vote in favor
22 thereof.

23 c. The commission shall, by a majority of the members,
24 prescribe bylaws to govern its conduct as may be necessary or
25 appropriate to carry out the purposes, and exercise the
26 powers, of the compact, including, but not limited to:

27 (1) Establishing the fiscal year of the commission.

28 (2) Providing reasonable procedures for appointing and
29 electing members, as well as holding meetings, of the
30 management committee.

31 (3) Providing reasonable standards and procedures:

32 (a) For the establishment of other committees.

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

35 (4) Providing reasonable procedures for calling and

1 conducting meetings of the commission, and ensuring reasonable
2 notice of each such meeting.

3 (5) Establishing the titles, duties, and authority, and
4 reasonable procedures for the election of the officers of the
5 commission.

6 (6) Providing reasonable standards and procedures for the
7 establishment of the personnel policies and programs of the
8 commission. Notwithstanding any civil service or other
9 similar laws of any compacting state, the bylaws shall
10 exclusively govern the personnel policies and programs of the
11 commission.

12 (7) Providing a mechanism for winding up the operations of
13 the commission and the equitable disposition of any surplus
14 funds that may exist after the termination of this compact
15 after the payment or reserving of all of its debts and
16 obligations.

17 2. MANAGEMENT COMMITTEE, OFFICERS, AND PERSONNEL.

18 a. A management committee comprising no more than fourteen
19 members shall be established as follows:

20 (1) One member from each of the six compacting states with
21 the largest premium volume for individual and group annuities,
22 life, disability income, and long-term care insurance
23 products, determined from the records of the national
24 association of insurance commissioners for the prior year.

25 (2) Four members from those compacting states with at
26 least two percent of the market based on the premium volume
27 described in subparagraph (1), other than the six compacting
28 states with the largest premium volume, selected on a rotating
29 basis as provided in the bylaws.

30 (3) Four members from those compacting states with less
31 than two percent of the market, based on the premium volume
32 described subparagraph (1), with one selected from each of the
33 four zone regions of the national association of insurance
34 commissioners as provided in the bylaws.

35 b. The management committee shall have such authority and

1 duties as may be set forth in the bylaws, including but not
2 limited to:

3 (1) Managing the affairs of the commission in a manner
4 consistent with the bylaws and purposes of the commission.

5 (2) Establishing and overseeing an organizational
6 structure within, and appropriate procedures for, the
7 commission to provide for the creation of uniform standards
8 and other rules, receipt and review of product filings,
9 administrative and technical support functions, review of
10 decisions regarding the disapproval of a product filing, and
11 the review of elections made by a compacting state to opt out
12 of a uniform standard, provided that a uniform standard shall
13 not be submitted to the compacting states for adoption unless
14 approved by two-thirds of the members of the management
15 committee.

16 (3) Overseeing the offices of the commission.

17 (4) Planning, implementing, and coordinating
18 communications and activities with other state, federal, and
19 local government organizations in order to advance the goals
20 of the commission.

21 c. The commission shall elect annually officers from the
22 management committee, with each having such authority and
23 duties, as may be specified in the bylaws.

24 d. The management committee may, subject to the approval
25 of the commission, appoint or retain an executive director for
26 such period, upon such terms and conditions and for such
27 compensation as the commission may deem appropriate. The
28 executive director shall serve as secretary to the commission,
29 but shall not be a member of the commission. The executive
30 director shall hire and supervise such other staff as may be
31 authorized by the commission.

32 3. LEGISLATIVE AND ADVISORY COMMITTEES.

33 a. A legislative committee comprising state legislators or
34 their designees shall be established to monitor the operations
35 of, and make recommendations to, the commission, including the

1 management committee, provided that the manner of selection
2 and term of any legislative committee member shall be as set
3 forth in the bylaws. Prior to the adoption by the commission
4 of any uniform standard, revision to the bylaws, annual
5 budget, or other significant matter as may be provided in the
6 bylaws, the management committee shall consult with and report
7 to the legislative committee.

8 b. The commission shall establish two advisory committees,
9 one of which shall comprise consumer representatives
10 independent of the insurance industry, and the other
11 comprising insurance industry representatives.

12 c. The commission may establish additional advisory
13 committees as its bylaws may provide for the carrying out of
14 its functions.

15 4. CORPORATE RECORDS OF THE COMMISSION. The commission
16 shall maintain its corporate books and records in accordance
17 with the bylaws.

18 5. QUALIFIED IMMUNITY, DEFENSE, AND INDEMNIFICATION.

19 a. The members, officers, executive director, employees,
20 and representatives of the commission shall be immune from
21 suit and liability, either personally or in their official
22 capacity, for any claim for damage to, or loss of, property,
23 personal injury, or other civil liability caused by or arising
24 out of any actual or alleged act, error, or omission that
25 occurred, or that the person against whom the claim is made
26 had a reasonable basis for believing occurred, within the
27 scope of commission employment, duties, or responsibilities,
28 provided that nothing in this paragraph shall be construed to
29 protect any such person from suit or liability for any damage,
30 loss, injury, or liability caused by the intentional or
31 willful and wanton misconduct of that person.

32 b. The commission shall defend any member, officer,
33 executive director, employee, or representative of the
34 commission in any civil action seeking to impose liability
35 arising out of any actual or alleged act, error, or omission

1 that occurred within the scope of commission employment,
2 duties, or responsibilities, or that the person against whom
3 the claim is made had a reasonable basis for believing
4 occurred within the scope of commission employment, duties, or
5 responsibilities, provided that nothing herein shall be
6 construed to prohibit that person from retaining the person's
7 own counsel; and, provided further, that the actual or alleged
8 act, error, or omission did not result from that person's
9 intentional or willful and wanton misconduct.

10 c. The commission shall indemnify and hold harmless any
11 member, officer, executive director, employee, or
12 representative of the commission for the amount of any
13 settlement or judgment obtained against that person arising
14 out of any actual or alleged act, error, or omission that
15 occurred within the scope of commission employment, duties, or
16 responsibilities, or that such person had a reasonable basis
17 for believing occurred within the scope of commission
18 employment, duties, or responsibilities, provided that the
19 actual or alleged act, error, or omission did not result from
20 the intentional or willful and wanton misconduct of that
21 person.

22 ARTICLE VI -- MEETINGS AND ACTS OF THE COMMISSION

23 1. The commission shall meet and take such actions as are
24 consistent with the provisions of this compact and the bylaws.

25 2. Each member of the commission shall have the right and
26 power to cast a vote to which that compacting state is
27 entitled and to participate in the business and affairs of the
28 commission. A member shall vote in person or by such other
29 means as provided in the bylaws. The bylaws may provide for
30 members' participation in meetings by telephone or other means
31 of communication.

32 3. The commission shall meet at least once during each
33 calendar year. Additional meetings shall be held as set forth
34 in the bylaws.

35 ARTICLE VII -- RULES AND OPERATING PROCEDURES --

1 RULEMAKING FUNCTIONS OF THE COMMISSION AND
2 OPTING OUT OF UNIFORM STANDARDS

3 1. RULEMAKING AUTHORITY. The commission shall promulgate
4 reasonable rules, including uniform standards and operating
5 procedures, in order to effectively and efficiently achieve
6 the purposes of this compact. Notwithstanding the foregoing,
7 in the event the commission exercises its rulemaking authority
8 in a manner that is beyond the scope of the purposes of this
9 compact, or the powers granted hereunder, such an action by
10 the commission shall be invalid and have no force and effect.

11 2. RULEMAKING PROCEDURE. Rules and operating procedures
12 shall be made pursuant to a rulemaking process that conforms
13 to the model state administrative procedure act, as may be
14 appropriate to the operations of the commission. Before the
15 commission adopts a uniform standard, the commission shall
16 give written notice to the relevant state legislative
17 committee or committees in each compacting state responsible
18 for insurance issues of its intention to adopt the uniform
19 standard.

20 3. EFFECTIVE DATE AND OPT OUT OF A UNIFORM STANDARD. A
21 uniform standard shall become effective ninety days after its
22 promulgation by the commission or such later date as the
23 commission may determine, provided, however, that a compacting
24 state may opt out of a uniform standard as provided in this
25 article. "Opt out" means any action by a compacting state to
26 decline to adopt or participate in a promulgated uniform
27 standard. All other rules and operating procedures, and
28 amendments thereto, shall become effective as of the date
29 specified in each rule, operating procedure, or amendment.

30 4. OPT-OUT PROCEDURE. A compacting state may opt out of a
31 uniform standard, either by legislation or regulation duly
32 promulgated by the insurance department under the compacting
33 state's administrative procedure act. If a compacting state
34 elects to opt out of a uniform standard by regulation, it must
35 do all of the following:

1 a. Give written notice to the commission no later than ten
2 business days after the uniform standard is promulgated, or at
3 the time the state becomes a compacting state.

4 b. Find that the uniform standard does not provide
5 reasonable protections to the citizens of the state, given the
6 conditions in the state.

7 The commissioner shall make specific findings of fact and
8 conclusions of law, based on a preponderance of the evidence,
9 detailing the conditions in the state which warrant a
10 departure from the uniform standard and determining that the
11 uniform standard would not reasonably protect the citizens of
12 the state. The commissioner must consider and balance the
13 following factors and find that the conditions in the state
14 and needs of the citizens of the state outweigh both of the
15 following:

16 (1) The intent of the legislature to participate in, and
17 the benefits of, an interstate agreement to establish national
18 uniform consumer protections for the products subject to this
19 compact.

20 (2) The presumption that a uniform standard adopted by the
21 commission provides reasonable protections to consumers of the
22 relevant product.

23 Notwithstanding the foregoing, a compacting state may, at
24 the time of its enactment of this compact, prospectively opt
25 out of all uniform standards involving long-term care
26 insurance products by expressly providing for such opt out in
27 the enacted compact, and such an opt out shall not be treated
28 as a material variance in the offer or acceptance of any state
29 to participate in this compact. Such an opt out shall be
30 effective at the time of enactment of this compact by the
31 compacting state and shall apply to all existing uniform
32 standards involving long-term care insurance products and
33 those subsequently promulgated.

34 5. EFFECT OF OPT OUT. If a compacting state elects to opt
35 out of a uniform standard, the uniform standard shall remain

1 applicable in the compacting state electing to opt out until
2 such time the opt-out legislation is enacted into law or the
3 regulation opting out becomes effective.

4 Once the opt out of a uniform standard by a compacting
5 state becomes effective, as provided under the laws of that
6 state, the uniform standard shall have no further force and
7 effect in that state unless and until the legislation or
8 regulation implementing the opt out is repealed or otherwise
9 becomes ineffective under the laws of the state. If a
10 compacting state opts out of a uniform standard after the
11 uniform standard has been made effective in that state, the
12 opt out shall have the same prospective effect as provided
13 under article XIV for withdrawals.

14 ARTICLE VIII -- COMMISSION RECORDS AND ENFORCEMENT

15 1. The commission shall promulgate rules to establish
16 conditions and procedures under which the commission shall
17 make its information and official records available to the
18 public for inspection or copying. The commission may
19 promulgate additional rules under which it may make available
20 to federal and state agencies, including law enforcement
21 agencies, records, and information otherwise exempt from
22 disclosure, and may enter into agreements with such agencies
23 to receive or exchange information or records subject to
24 nondisclosure and confidentiality provisions.

25 2. Except as to privileged records, data, and information,
26 the laws of any compacting state pertaining to confidentiality
27 or nondisclosure shall not relieve any compacting state
28 commissioner of the duty to disclose any relevant records,
29 data, or information to the commission, provided that
30 disclosure to the commission shall not be deemed to waive or
31 otherwise affect any confidentiality requirement, and further
32 provided that, except as otherwise expressly provided in this
33 compact, the commission shall not be subject to the compacting
34 state's laws pertaining to confidentiality and nondisclosure
35 with respect to records, data, and information in its

1 possession. Confidential information of the commission shall
2 remain confidential after such information is provided to any
3 commissioner.

4 3. The commission shall monitor compacting states for
5 compliance with duly adopted bylaws, rules, including uniform
6 standards, and operating procedures. The commission shall
7 notify any noncomplying compacting state in writing of its
8 noncompliance with commission bylaws, rules, or operating
9 procedures. If a noncomplying compacting state fails to
10 remedy its noncompliance within the time specified in the
11 notice of noncompliance, the compacting state shall be deemed
12 to be in default as set forth in article XIV.

13 4. The commissioner of any state in which an insurer is
14 authorized to do business, or is conducting the business of
15 insurance, shall continue to exercise the commissioner's
16 authority to oversee the market regulation of the activities
17 of the insurer in accordance with the provisions of the
18 state's law. The commissioner's enforcement of compliance
19 with the compact is governed by the following provisions:

20 a. With respect to the commissioner's market regulation of
21 a product or advertisement that is approved or certified to
22 the commission, no activity of an insurer shall constitute a
23 violation of the provisions, standards, or requirements of
24 this compact except upon a final order of the commission,
25 issued at the request of a commissioner after prior notice to
26 the insurer and an opportunity for hearing before the
27 commission.

28 b. Before a commissioner may bring an action for violation
29 of any provision, standard, or requirement of this compact
30 relating to the use of an advertisement not approved or
31 certified to the commission, the commission, or an authorized
32 commission officer or employee, must authorize the action.
33 However, authorization pursuant to this paragraph does not
34 require notice to the insurer, opportunity for hearing, or
35 disclosure of requests for authorization or records of the

1 commission's action on such requests.

2 5. STAY OF UNIFORM STANDARD. If a compacting state has
3 formally initiated the process of opting out of a uniform
4 standard by regulation, and while the regulatory opt out is
5 pending, the compacting state may petition the commission, at
6 least fifteen days before the effective date of the uniform
7 standard, to stay the effectiveness of the uniform standard in
8 that state. The commission may grant a stay if it determines
9 the regulatory opt out is being pursued in a reasonable manner
10 and there is a likelihood of success. If a stay is granted or
11 extended by the commission, the stay or extension thereof may
12 postpone the effective date by up to ninety days, unless
13 affirmatively extended by the commission, provided a stay may
14 not be permitted to remain in effect for more than one year
15 unless the compacting state can show extraordinary
16 circumstances which warrant a continuance of the stay,
17 including, but not limited to, the existence of a legal
18 challenge which prevents the compacting state from opting out.
19 A stay may be terminated by the commission upon notice that
20 the rulemaking process has been terminated.

21 6. Not later than thirty days after a rule or operating
22 procedure is adopted, any person may file a petition for
23 judicial review of the rule or operating procedure, provided
24 that the filing of such a petition shall not stay or otherwise
25 prevent the rule or operating procedure from becoming
26 effective unless the court finds that the petitioner has a
27 substantial likelihood of success. The court shall give
28 deference to the actions of the commission consistent with
29 applicable law and shall not find the rule or operating
30 procedure to be unlawful if the rule or operating procedure
31 represents a reasonable exercise of the commission's
32 authority.

33 ARTICLE IX -- DISPUTE RESOLUTION

34 The commission shall attempt, upon the request of a member,
35 to resolve any disputes or other issues which are subject to

1 this compact and which may arise between two or more
2 compacting states, or between compacting states and
3 noncompacting states, and the commission shall promulgate an
4 operating procedure providing for resolution of such disputes.

5 ARTICLE X -- PRODUCT FILING AND APPROVAL

6 1. Insurers and third-party filers seeking to have a
7 product approved by the commission shall file the product
8 with, and pay applicable filing fees to, the commission.
9 Nothing in this compact shall be construed to restrict or
10 otherwise prevent an insurer from filing its product with the
11 insurance department in any state wherein the insurer is
12 licensed to conduct the business of insurance, and such filing
13 shall be subject to the laws of the states where filed.

14 2. The commission shall establish appropriate filing and
15 review processes and procedures pursuant to commission rules
16 and operating procedures. Notwithstanding any provision
17 herein to the contrary, the commission shall promulgate rules
18 to establish conditions and procedures under which the
19 commission will provide public access to product filing
20 information. In establishing such rules, the commission shall
21 consider the interests of the public in having access to such
22 information, as well as protection of personal medical and
23 financial information and trade secrets, that may be contained
24 in a product filing or supporting information.

25 3. Any product approved by the commission may be sold or
26 otherwise issued in those compacting states in which the
27 insurer is legally authorized to do business.

28 ARTICLE XI -- REVIEW OF COMMISSION DECISIONS
29 REGARDING FILINGS

30 1. Not later than thirty days after the commission has
31 given notice of a disapproved product or advertisement filed
32 with the commission, the insurer or third-party filer whose
33 filing was disapproved may appeal the determination to a
34 review panel appointed by the commission. The commission
35 shall adopt rules to establish procedures for appointing such

1 review panels and provide for notice and hearing. The
2 decision of the review panel shall be the final action of the
3 commission and not subject to review by any court.

4 Notwithstanding the foregoing, an allegation that the
5 commission, in disapproving a product or advertisement filed
6 with the commission, acted arbitrarily, capriciously, or in a
7 manner that is an abuse of discretion or otherwise not in
8 accordance with the law, is subject to judicial review in
9 accordance with article III, section 5.

10 2. The commission shall have authority to monitor, review,
11 and reconsider products and advertisement subsequent to their
12 filing or approval upon a finding that the product does not
13 meet the relevant uniform standard. Where appropriate, the
14 commission may withdraw or modify its approval after proper
15 notice and hearing, subject to the appeal process in section
16 1.

17 ARTICLE XII -- FINANCE

18 1. The commission shall pay or provide for the payment of
19 the reasonable expenses of its establishment and organization.
20 To fund the cost of its initial operations, the commission may
21 accept contributions and other forms of funding from the
22 national association of insurance commissioners, compacting
23 states, and other sources. Contributions and other forms of
24 funding from other sources shall be of such a nature that the
25 independence of the commission concerning the performance of
26 its duties shall not be compromised.

27 2. The commission shall collect a filing fee from each
28 insurer and third-party filer filing a product with the
29 commission to cover the cost of the operations and activities
30 of the commission and its staff in a total amount sufficient
31 to cover the commission's annual budget.

32 3. The commission's budget for a fiscal year shall not be
33 approved until it has been subject to notice and comment as
34 set forth in article VII.

35 4. The commission shall be exempt from all taxation in and

1 by the compacting states.

2 5. The commission shall not pledge the credit of any
3 compacting state, except by and with the appropriate legal
4 authority of that compacting state.

5 6. The commission shall keep complete and accurate
6 accounts of all its internal receipts, including grants and
7 donations, and disbursements of all funds under its control.
8 The internal financial accounts of the commission shall be
9 subject to the accounting procedures established under its
10 bylaws. The financial accounts and reports, including the
11 system of internal controls and procedures of the commission,
12 shall be audited annually by an independent certified public
13 accountant. Upon the determination of the commission, but no
14 less frequently than every three years, the review of the
15 independent auditor shall include a management and performance
16 audit of the commission. The commission shall make an annual
17 report to the governor and legislature of the compacting
18 states, which shall include a report of the independent audit.
19 The commission's internal accounts, any work papers related to
20 any internal audit, and any work papers related to the
21 independent audit, shall be confidential, provided that such
22 materials may be shared with the commissioner of any
23 compacting state and shall remain confidential pursuant to
24 article VII.

25 7. A compacting state shall not have any claim to or
26 ownership of any property held by or vested in the commission
27 or to any commission funds held pursuant to the provisions of
28 this compact.

29 ARTICLE XIII -- COMPACTING STATES,

30 EFFECTIVE DATE, AND AMENDMENT

31 1. Any state is eligible to become a compacting state.

32 2. This compact shall become effective and binding upon
33 legislative enactment of this compact into law by two
34 compacting states, provided the commission shall become
35 effective for purposes of adopting uniform standards for

1 reviewing, and giving approval or disapproval of, products
2 filed with the commission that satisfy applicable uniform
3 standards only after twenty-six states are compacting states
4 or, alternatively, by states representing greater than forty
5 percent of the premium volume for life insurance, annuity,
6 disability income, and long-term care insurance products,
7 based on records of the national association of insurance
8 commissioners for the prior year. Thereafter, it shall become
9 effective and binding as to any other compacting state upon
10 enactment of this compact into law by that state.

11 3. Amendments to this compact may be proposed by the
12 commission for enactment by the compacting states. An
13 amendment shall not become effective and binding upon the
14 commission and the compacting states unless and until all
15 compacting states enact the amendment into law.

16 ARTICLE XIV -- WITHDRAWAL, DEFAULT, AND TERMINATION

17 1. WITHDRAWAL.

18 a. Once effective, this compact shall continue in force
19 and remain binding upon each and every compacting state,
20 provided that a compacting state may withdraw from this
21 compact by enacting a statute specifically repealing the
22 statute which enacted the compact into law.

23 b. The effective date of withdrawal is the effective date
24 of the repealing statute. However, the withdrawal shall not
25 apply to any product filings approved or self-certified, or
26 any advertisement of such products, on the date the repealing
27 statute becomes effective, except by mutual agreement of the
28 commission and the withdrawing state unless the approval is
29 rescinded by the withdrawing state as provided in paragraph
30 "e".

31 c. The commissioner of the withdrawing state shall
32 immediately notify the management committee in writing upon
33 the introduction of legislation repealing this compact in the
34 withdrawing state.

35 d. The commission shall notify the other compacting states

1 of the introduction of such legislation within ten days after
2 its receipt of notice.

3 e. The withdrawing state is responsible for all
4 obligations, duties, and liabilities incurred through the
5 effective date of withdrawal, including any obligations, the
6 performance of which extend beyond the effective date of
7 withdrawal, except to the extent those obligations may have
8 been released or relinquished by mutual agreement of the
9 commission and the withdrawing state. The commission's
10 approval of products and advertisement prior to the effective
11 date of withdrawal shall continue to be effective and be given
12 full force and effect in the withdrawing state, unless
13 formally rescinded by the withdrawing state in the same manner
14 as provided by the laws of the withdrawing state for the
15 prospective disapproval of products or advertisement
16 previously approved under state law.

17 f. Reinstatement following withdrawal of any compacting
18 state shall occur upon the effective date of the withdrawing
19 state reenacting the compact.

20 2. DEFAULT.

21 a. If the commission determines that any compacting state
22 has at any time defaulted in the performance of any of its
23 obligations or responsibilities under this compact, the bylaws
24 or duly promulgated rules or operating procedures, then, after
25 notice and hearing as set forth in the bylaws, all rights,
26 privileges, and benefits conferred by this compact on the
27 defaulting state shall be suspended from the effective date of
28 default as fixed by the commission. The grounds for default
29 include, but are not limited to, failure of a compacting state
30 to perform its obligations or responsibilities, and any other
31 grounds designated in commission rules. The commission shall
32 immediately notify the defaulting state in writing of the
33 defaulting state's suspension, pending a cure of the default.
34 The commission shall stipulate the conditions and the time
35 period within which the defaulting state must cure its

1 default. If the defaulting state fails to cure the default
2 within the time period specified by the commission, the
3 defaulting state shall be terminated from this compact and all
4 rights, privileges, and benefits conferred by this compact
5 shall be terminated from the effective date of termination.

6 b. Product approvals by the commission or product self-
7 certifications, or any advertisement in connection with such
8 product, that are in force on the effective date of
9 termination shall remain in force in the defaulting state in
10 the same manner as if the defaulting state had withdrawn
11 voluntarily pursuant to section 1.

12 c. Reinstatement following termination of any compacting
13 state requires a reenactment of this compact.

14 3. DISSOLUTION OF COMPACT.

15 a. This compact dissolves effective upon the date of the
16 withdrawal or default of the compacting state which reduces
17 membership in this compact to one compacting state.

18 b. Upon the dissolution of this compact, this compact
19 becomes null and void and shall be of no further force or
20 effect, and the business and affairs of the commission shall
21 be wound up and any surplus funds shall be distributed in
22 accordance with the bylaws.

23 ARTICLE XV -- SEVERABILITY AND CONSTRUCTION

24 1. The provisions of this compact shall be severable, and
25 if any phrase, clause, sentence, or provision is deemed
26 unenforceable, the remaining provisions of this compact shall
27 be enforceable.

28 2. The provisions of this compact shall be liberally
29 construed to effectuate its purposes.

30 ARTICLE XVI -- BINDING EFFECT OF COMPACT AND OTHER LAWS

31 1. OTHER LAWS.

32 a. Nothing herein prevents the enforcement of any other
33 law of a compacting state, except as provided in paragraph
34 "b".

35 b. For any product approved or certified to the

1 commission, the rules, uniform standards, and any other
2 requirements of the commission shall constitute the exclusive
3 provisions applicable to the content, approval, and
4 certification of such products. For advertisement that is
5 subject to the commission's authority, any rule, uniform
6 standard, or other requirement of the commission which governs
7 the content of the advertisement shall constitute the
8 exclusive provision that a commissioner may apply to the
9 content of the advertisement. Notwithstanding the foregoing,
10 action taken by the commission shall not abrogate or restrict:

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

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

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

20 c. All insurance products filed with individual states
21 shall be subject to the laws of those states.

22 2. BINDING EFFECT OF THIS COMPACT.

23 a. All lawful actions of the commission, including all
24 rules and operating procedures adopted by the commission, are
25 binding upon the compacting states.

26 b. All agreements between the commission and the
27 compacting states are binding in accordance with their terms.

28 c. Upon the request of a party to a conflict over the
29 meaning or interpretation of commission actions, and upon a
30 majority vote of the compacting states, the commission may
31 issue advisory opinions regarding the meaning or
32 interpretation in dispute.

33 d. In the event any provision of this compact exceeds the
34 constitutional limits imposed on the legislature of any
35 compacting state, the obligations, duties, powers, or

1 jurisdiction sought to be conferred by that provision upon the
2 commission shall be ineffective as to that compacting state,
3 and those obligations, duties, powers, or jurisdiction shall
4 remain in the compacting state and shall be exercised by the
5 agency thereof to which those obligations, duties, powers, or
6 jurisdiction are delegated by law in effect at the time this
7 compact becomes effective.

8 EXPLANATION

9 This bill makes numerous changes throughout the various
10 Code chapters that comprise the insurance code.

11 The bill amends Code sections 505.8, 507B.3, 514J.7, and
12 515D.10 to require the commissioner to keep information
13 obtained through investigations and hearings confidential.
14 However, Code section 505.8 permits the commissioner to share
15 information with other regulatory or governmental agencies, or
16 to publish information regarding statutory, rule, or order
17 violations. The commissioner may also adopt rules to protect
18 the privacy of information submitted to the insurance
19 division.

20 The bill adds new Code section 505.24 to restrict certain
21 actions by a consumer reporting agency regarding the reuse or
22 sale of information about a consumer the agency has obtained
23 in the course of an insurance inquiry about the consumer.

24 New paragraphs are added to Code sections 507A.4 and
25 514B.33 to provide that foreign or domestic multiple employee
26 welfare arrangements, more commonly known as MEWAs and limited
27 service organizations doing business in Iowa shall pay fees
28 under the schedule in Code section 511.24.

29 Code language regarding annual filing requirements for
30 financial statements in Code sections 508.11, 514B.12, and
31 515.63 is amended to provide that the filing is due on or
32 before the first day of March, rather than by the first day of
33 March, and also allows the commissioner to designate a
34 depository for filing other than the commissioner's office.

35 The bill adds a new provision to Code section 508.31A

1 regarding funding agreements for payments to be made at future
2 dates. Specifically, the new provision permits such
3 agreements to be issued to a person other than a natural
4 person for the purpose of providing collateral security for
5 registered securities issued by that person.

6 The bill amends Code section 509.19 to provide that a total
7 premium amount is sufficient information to comply with the
8 requirements of the section to provide information upon
9 request to a renewing group policyholder if premiums are not
10 separately billed for each line of coverage. Flexibility is
11 provided in determining the time period for the data, either
12 policy years or rolling 12-month periods.

13 A new subsection is added to Code section 509A.15 that
14 grants an exemption from the requirements of that Code section
15 to certain self-insured plans by political subdivisions or
16 school corporations.

17 Code section 510A.2, regarding the definitions for the Code
18 chapter for property and casualty insurance, is amended by
19 striking the definition of "producer" and adding a definition
20 of "insurance producer". Related changes are made in other
21 sections of Code chapter 510A.

22 New paragraphs are added to Code section 511.8, subsection
23 20, and section 515.35, subsection 4, paragraph "m", to refer
24 to the definition of "venture capital fund" in Code chapter
25 15E.

26 Code sections 511.27, 512B.33, 514B.3, 515.73, 515E.3, and
27 521C.3 are amended pertaining to agreements to the
28 commissioner's status as the registered agent for service of
29 process for various foreign and domestic companies doing
30 insurance business in the state. Code section 514.2A adds a
31 new section requiring such an agreement for nonprofit health
32 service corporations. In some instances, the changes expand
33 the scope of the Code language to require such agreements by
34 domestic entities as well as foreign entities. In most
35 instances, the changes also update existing Code language.

1 New Code section 511.40 creates an insurable interest in
2 the lives of active or retired employees for an employer and a
3 trust established by the employer for the benefit of the
4 employer or for the benefit of the active and retired
5 employees. The employees may be insured on an individual or
6 group basis. An employer must obtain consent from the
7 employee prior to obtaining insurance, including an
8 acknowledgement that the coverage may continue even after the
9 employee is no longer employed by the employer. "Employee"
10 includes officers, managers, directors, shareholders,
11 partners, members, proprietors, or other owners, but for the
12 nonmanagement employees, the amount of coverage must be
13 reasonably related to the benefit provided.

14 The bill amends Code section 513C.7 to reference expressly
15 medical assistance provided under Code chapter 514I.

16 The bill amends Code section 513C.10 regarding calculation
17 of assessments for the Iowa individual health benefit
18 reinsurance association, and also addresses which insurers are
19 members of the association.

20 The bill revises Code section 514J.10, relating to external
21 review of health care decisions, to provide that the
22 commissioner shall prepare an annual report with summary
23 information, rather than requiring each carrier to file a
24 report.

25 The bill provides, in Code section 514J.13, that the
26 external review process is not a contested case under the Iowa
27 administrative procedures Act, the independent review entity
28 shall not be named as a party, and the commissioner shall not
29 be named as a defendant in petitions filed for judicial review
30 of an independent review decision unless the petition alleges
31 the actions in the external review process fall within those
32 permitted by Code section 17A.19, subsection 10. However, the
33 commission may intervene upon motion. The bill also divides
34 the existing language in Code section 514J.13 into
35 subsections.

1 The bill provides, in Code section 515.92, that a company
2 may only write or place a policy or contract for insurance
3 upon property located in this state through a licensed
4 producer authorized to do business in this state. The bill
5 also makes grammatical changes, and divides the existing
6 language in Code section 515.92 into subsections.

7 The bill updates existing Code language in Code sections
8 515.133 and 515.134, makes grammatical changes, and divides
9 the existing language in Code section 515.133 into
10 subsections.

11 The bill amends the definition of "claimant" in Code
12 section 515B.2 to include the claims against the insured of an
13 insolvent insurer.

14 An exception is added to Code section 515B.8 regarding
15 certain causes of action the insolvent insurer would have had.

16 Code section 515B.9, regarding nonduplication of recovery
17 in claims covered by the insurance guaranty association, is
18 rewritten to exclude consideration of any obligation of the
19 insurance guaranty association as other insurance, when a
20 claim under another policy alleges the same damages. The Code
21 section now also expressly addresses policies that provide
22 coverage for joint and several liability.

23 A three-year statute of limitations following the date of
24 the order of liquidation is added to Code section 515B.16
25 regarding claims brought against the insurance guaranty
26 association.

27 Twenty-day notice provisions regarding mailings prior to an
28 effective date of cancellation are changed to 30 days in Code
29 sections 515D.5, 518.23, and 518A.29.

30 A filing requirement in Code section 523.7 for beneficial
31 ownership is replaced with the commissioner's authority to
32 prescribe the filing requirements by rule. Grammatical
33 changes are also made to the existing Code language, and it is
34 also divided into subsections.

35 In division II, the bill adds the interstate insurance

1 product regulation compact as new Code chapter 505A. The
2 compact is intended, in part, to create the nonprofit
3 interstate insurance product regulation commission and to
4 develop uniform standards for certain insurance products.
5 Each compacting state is entitled to one member on the
6 commission. Procedures are set forth for filing insurance
7 products with the commission and obtaining commission
8 approval. The compact becomes effective and binding upon
9 legislative enactment by two states; the approval process for
10 insurance products, however, requires 26 compacting states as
11 members representing greater than 40 percent of the premium
12 volume for life insurance, annuity, disability income, and
13 long-term care insurance products.

14 The bill repeals Code sections 511.30, 515.78, and 518A.43.
15 Code section 511.30 relates to the use of intoxication as a
16 defense in an action on an insurance policy. Code section
17 515.78 relates to an agent's certificate of authority. Code
18 section 518A.43 relates to the cancellation of an insurance
19 producer's license.

20 The bill contains a provision regarding retroactive
21 applicability to July 1, 1995, with respect to the amendments
22 to Code section 513C.10, regarding the Iowa individual health
23 benefit reinsurance association. Those provisions and the
24 retroactive applicability provision are also subject to an
25 immediate effective date provision.

26 The bill provides for a task force and report coordinated
27 by the insurance division on individual health insurance
28 market reform and the Iowa comprehensive health insurance
29 association. The report is due to the general assembly on or
30 before January 15, 2004.

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HOUSE FILE 647

H-1144

- 1 Amend House File 647 as follows:
2 1. Page 5, by inserting after line 26 the
3 following:
4 "Sec. ____ . NEW SECTION. 509.20 NOTICE OF RATE
5 INCREASE.
6 1. For purposes of this section, "policy or
7 contract for group health benefit coverages, including
8 a contract to provide services to a plan providing
9 group health benefit coverages" applies to all of the
10 following:
11 a. A group policy of health insurance under this
12 chapter.
13 b. A plan established pursuant to chapter 509A for
14 public employees.
15 c. A plan offered pursuant to chapter 513B.
16 d. A group contract of a nonprofit health service
17 corporation under chapter 514.
18 e. A group plan of a health maintenance
19 organization under chapter 514B.
20 f. An organized delivery system authorized under
21 1993 Iowa Acts, chapter 158, and licensed by the
22 director of public health.
23 g. Preferred provider contracts limiting choice of
24 specific provider.
25 h. Any other policy, contract, or plan for
26 covering the health care costs of a defined group.
27 2. A person who issues a policy or contract for
28 group health benefit coverages, including a contract
29 to provide services to a plan providing group health
30 benefit coverages to a group, shall provide notice of
31 a rate increase for the policy or contract at least
32 forty-five days prior to the effective date of the
33 rate increase to the policyholder, contract holder, or
34 sponsor of the group health benefit plan.
35 3. A person who issues a policy or contract for
36 group health benefit coverages, including a contract
37 to provide services to a plan providing group health
38 benefit coverages to a group, shall provide notice of
39 cancellation of the policy or contract at least forty-
40 five days prior to the effective date of the rate
41 increase to the policyholder, contract holder, or
42 sponsor of the group health benefit plan."
43 2. Page 12, by inserting after line 20 the
44 following:
45 "Sec. ____ . Section 514.6, Code 2003, is amended to
46 read as follows:
47 514.6 RATES -- APPROVAL BY COMMISSIONER -- NOTICE
48 OF INCREASE.
49 1. The rates charged by any such corporation to
50 the subscribers for health care service shall at all

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1 times be subject to the approval of the commissioner
2 of insurance.

3 2. A corporation offering health care services to
4 subscribers pursuant to this chapter shall provide
5 notice of a rate increase to subscribers at least
6 forty-five days prior to the effective date of the
7 rate increase.

8 3. A corporation offering health care services to
9 subscribers pursuant to this chapter shall provide
10 notice of cancellation to a subscriber at least forty-
11 five days prior to the effective date of the
12 cancellation."

13 3. By renumbering, redesignating, and correcting
14 internal references as necessary.

By PETERSEN of Polk

H-1144 FILED MARCH 24, 2003

Withdrawn
3/31/03

HOUSE FILE 647

H-1159

1 Amend House File 647 as follows:

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

4 "Section 1. Section 29A.43, Code 2003, is amended
5 to read as follows:

6 29A.43 DISCRIMINATION PROHIBITED -- LEAVE OF
7 ABSENCE -- CONTINUATION OF HEALTH COVERAGE.

8 1. A person shall not discriminate against any
9 officer or enlisted person of the national guard or
10 organized reserves of the armed forces of the United
11 States because of that membership. An employer, or
12 agent of an employer, shall not discharge a person
13 from employment because of being an officer or
14 enlisted person of the military forces of the state,
15 or hinder or prevent the officer or enlisted person
16 from performing any military service the person is
17 called upon to perform by proper authority. A member
18 of the national guard or organized reserves of the
19 armed forces of the United States ordered to temporary
20 duty, as defined in section 29A.1, subsection 1, 3, or
21 11, for any purpose is entitled to a leave of absence
22 during the period of the duty or service, from the
23 member's private employment, other than employment of
24 a temporary nature, and upon completion of the duty or
25 service the employer shall restore the person to the
26 position held prior to the leave of absence, or employ
27 the person in a similar position. However, the person
28 shall give evidence to the employer of satisfactory
29 completion of the training or duty, and that the
30 person is still qualified to perform the duties of the
31 position. The period of absence shall be construed as
32 an absence with leave, and shall in no way affect the
33 employee's rights to vacation, sick leave, bonus, or
34 other employment benefits relating to the employee's
35 particular employment. A person violating a provision
36 of this section is guilty of a simple misdemeanor.

37 2. An officer or enlisted person of the national
38 guard or organized reserves of the armed forces of the
39 United States who has coverage under a group policy
40 for accident or health insurance as an employee or
41 member or as the spouse or covered dependent child of
42 an employee or member, whose coverage under the group
43 policy would otherwise terminate while the officer or
44 enlisted person was on a leave of absence during a
45 period of temporary duty or service, for any purpose,
46 as defined in section 29A.1, subsection 1, 3, or 11,
47 shall be considered to have been continuously insured
48 under the group policy for the purpose of obtaining
49 coverage under the group policy upon a return to
50 employment or to status as a full-time student who is

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1 twenty-five years of age or less. This subsection
2 does not apply to coverage of an injury suffered or a
3 disease contracted by a member of the national guard
4 or organized reserves of the armed forces of the
5 United States in the line of duty."

6 2. By renumbering as necessary.

By PETERSEN of Polk

H-1159 FILED MARCH 25, 2003

Adopted as amended 3/31/03

HOUSE FILE 647

H-1161

- 1 Amend House File 647 as follows:
2 1. Page 5, by inserting after line 26 the
3 following:
4 "Sec. ____ . NEW SECTION. 509.20 NOTICE OF RATE
5 INCREASE.
6 1. For purposes of this section, "policy or
7 contract for group health benefit coverages, including
8 a contract to provide services to a plan providing
9 group health benefit coverages" applies to all of the
10 following:
11 a. A group policy of health insurance under this
12 chapter.
13 b. A plan established pursuant to chapter 509A for
14 public employees.
15 c. A plan offered pursuant to chapter 513B.
16 d. A group contract of a nonprofit health service
17 corporation under chapter 514.
18 e. A group plan of a health maintenance
19 organization under chapter 514B.
20 f. An organized delivery system authorized under
21 1993 Iowa Acts, chapter 158, and licensed by the
22 director of public health.
23 g. Preferred provider contracts limiting choice of
24 specific provider.
25 h. Any other policy, contract, or plan for
26 covering the health care costs of a defined group.
27 2. A person who issues a policy or contract for
28 group health benefit coverages, including a contract
29 to provide services to a plan providing group health
30 benefit coverages to a group, shall provide notice of
31 a rate increase for the policy or contract at least
32 forty-five days prior to the effective date of the
33 rate increase to the policyholder, contract holder, or
34 sponsor of the group health benefit plan."
35 2. Page 12, by inserting after line 20 the
36 following:
37 "Sec. ____ . Section 514.6, Code 2003, is amended to
38 read as follows:
39 514.6 RATES -- APPROVAL BY COMMISSIONER -- NOTICE
40 OF INCREASE.
41 1. The rates charged by any such corporation to
42 the subscribers for health care service shall at all
43 times be subject to the approval of the commissioner
44 of insurance.
45 2. A corporation offering health care services to
46 subscribers pursuant to this chapter shall provide
47 notice of a rate increase to subscribers at least
48 forty-five days prior to the effective date of the
49 rate increase."
50 3. By renumbering, redesignating, and correcting

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1 internal references as necessary.

By PETERSEN of Polk

H-1161 FILED MARCH 25, 2003

Withdrawn 3/31/03

HOUSE FILE 647

H-1170

1 Amend House File 647 as follows:

2 1. Page 5, by striking lines 15 through 17 and
3 inserting the following: "health benefit plan, upon
4 request, annually, but not more than three months
5 prior to the policy renewal date, the total amount of
6 actual claims identified as".

7 2. By renumbering, redesignating, and correcting
8 internal references as necessary.

By HOFFMAN of Crawford

H-1170 FILED MARCH 26, 2003

Aborted 3/21/03

HOUSE FILE 647

H-1172

1 Amend House File 647 as follows:

2 1. Page 5, by inserting after line 8, the
3 following:

4 "Sec. ____ . Section 508.38, subsection 2,
5 unnumbered paragraph 1, Code 2003, is amended by
6 striking the unnumbered paragraph and inserting in
7 lieu thereof the following:

8 In the case of contracts issued on or after the
9 operative date of this section as defined in
10 subsection 11, no contract of annuity, except as
11 stated in subsection 1, shall be delivered or issued
12 for delivery in this state unless it contains in
13 substance the following provisions, or corresponding
14 provisions that in the opinion of the commissioner are
15 at least as favorable to the contract holder, upon
16 cessation of payment of considerations under the
17 contract:

18 Sec. ____ . Section 508.38, subsection 2, paragraphs
19 a and b, Code 2003, are amended by striking the
20 paragraphs and inserting in lieu thereof the
21 following:

22 a. That upon cessation of payment of
23 considerations under a contract or upon the written
24 request of the contract owner, the company shall grant
25 a paid-up annuity benefit on a plan stipulated in the
26 contract of such value as is specified in subsections
27 4, 5, 6, 7, and 9.

28 b. If a contract provides for a lump sum
29 settlement at maturity, or at any other time, that
30 upon surrender of the contract at or prior to the
31 commencement of any annuity payments, the company
32 shall pay in lieu of a paid-up annuity benefit a cash
33 surrender benefit of such amount as is specified in
34 subsections 4, 5, 7, and 9. The company may reserve
35 the right to defer the payment of such case surrender
36 benefit for a period not to exceed six months after
37 demand therefore with surrender of the contract after
38 making written request and receiving written approval
39 of the commissioner. The request shall address the
40 necessity and equitability to all policyholders of the
41 deferral.

42 Sec. ____ . Section 508.38, subsections 3 and 11,
43 Code 2003, are amended by striking the subsections and
44 inserting in lieu thereof the following:

45 3. The minimum values as specified in subsections
46 4, 5, 6, 7, and 9 of any paid-up annuity, cash
47 surrender, or death benefits available under an
48 annuity contract shall be based upon minimum
49 nonforfeiture amounts as defined in this section.

50 a. The minimum nonforfeiture amount at any time at

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1 or prior to the commencement of any annuity payments
2 shall be equal to an accumulation up to such time at
3 rates of interest as indicated in paragraph "b" of the
4 net considerations (as hereinafter defined) paid prior
5 to such time, decreased by the sum of all of the
6 following:

7 (1) Any prior withdrawals from or partial
8 surrenders of the contract accumulated at rates of
9 interest as indicated in paragraph "b".

10 (2) An annual contract charge of fifty dollars,
11 accumulated at rates of interest as indicated in
12 paragraph "b".

13 (3) The amount of any indebtedness to the company
14 on the contract, including interest due and accrued.

15 The net considerations for a given contract year
16 used to define the minimum nonforfeiture amount shall
17 be an amount equal to eighty-seven and one-half
18 percent of the gross considerations credited to the
19 contract during the contract year.

20 b. The interest rate used in determining minimum
21 nonforfeiture amounts shall be an annual rate of
22 interest determined as the lesser of three percent per
23 annum and all of the following, which shall be
24 specified in the contract if the interest rate will be
25 reset:

26 (1) The five-year constant maturity treasury rate
27 reported by the federal reserve as of a date, or
28 average over a period, rounded to the nearest one-
29 twentieth of one percent, specified in the contract no
30 longer than fifteen months prior to the contract issue
31 date or redetermination date under subparagraph (4).

32 (2) The result of subparagraph (1) shall be
33 reduced by one hundred twenty-five basis points.

34 (3) The resulting interest guarantee shall not be
35 less than one percent.

36 (4) The interest rate shall apply for an initial
37 period and may be redetermined for additional periods.
38 The redetermination date, basis, and period, if any,
39 shall be stated in the contract. The basis is the
40 date or average over a specified period that produces
41 the value of the five-year constant maturity treasury
42 rate to be used at each redetermination date.

43 During the period or term that a contract provides
44 substantive participation in an equity indexed
45 benefit, it may increase the reduction described in
46 subparagraph (2), by up to an additional one hundred
47 basis points to reflect the value of the equity index
48 benefit. The present value at the contract issue date
49 and at each redetermination date thereafter of the
50 additional reduction shall not exceed the market value

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1 of the benefit. The commissioner may require a
2 demonstration that the present value of the reduction
3 does not exceed the market value of the benefit.
4 Lacking such a demonstration that is acceptable to the
5 commissioner, the commissioner may disallow or limit
6 the additional reduction.

7 The commissioner may adopt rules to implement the
8 provisions of subparagraph (4), and to provide for
9 further adjustments to the calculation of minimum
10 nonforfeiture amounts for contracts that provide
11 substantive participation in an equity index benefit
12 and for other contracts that the commissioner
13 determines adjustments are justified.

14 11. After the effective date of this Act, a
15 company may elect to apply its provisions to annuity
16 contracts on a contract form-by-form basis before the
17 second anniversary of the effective date of this Act.
18 In all other instances, this section shall become
19 operative with respect to annuity contracts issued by
20 the company two years after the effective date of this
21 Act."

22 2. By renumbering, redesignating, and correcting
23 internal references as necessary.

By HOFFMAN of Crawford

H-1172 FILED MARCH 26, 2003

Adopted 3/31/03

H-1173

1 Amend House File 647 as follows:
 2 1. Page 1, by inserting before line 1 the
 3 following:
 4 "DIVISION I
 5 IOWA UNIFORM SECURITIES ACT
 6 Section 1. Section 502.102, subsection 3,
 7 paragraph a, subparagraph (3), Code 2003, is amended
 8 to read as follows:
 9 (3) Effecting transactions in a federal covered
 10 security as described in sections 18(b)(3) and
 11 ~~18(b)(4)(D)~~ of the Securities Act of 1933 as amended
 12 in Pub. L. No. 104-290, if a commission or other
 13 remuneration is not either directly or indirectly paid
 14 any person for soliciting in this state.
 15 Sec. 2. Section 502.102, subsection 4, paragraph
 16 d, Code 2003, is amended to read as follows:
 17 d. A cooperative organized pursuant to chapter 501
 18 for the purpose of engaging in the activities of an
 19 agricultural association as defined in section 499.2.
 20 ~~d.~~ e. Any other entity which is organized on a
 21 cooperative basis under the laws of this state for the
 22 purpose of engaging in the activities of an
 23 agricultural association as defined in section 499.2.
 24 Sec. 3. Section 502.202, subsection 19, Code 2003,
 25 is amended by striking the subsection.
 26 Sec. 4. Section 502.202, Code 2003, is amended by
 27 adding the following new subsection:
 28 NEW SUBSECTION. 20. A nonissuer transaction in an
 29 outstanding security by or through a broker-dealer
 30 registered or exempt from registration under this
 31 chapter, if:
 32 a. The issuer is a reporting issuer in a foreign
 33 jurisdiction designated by this subsection or by rule
 34 adopted or order issued under this chapter;
 35 b. The issuer has been subject to continuous
 36 reporting requirements in the foreign jurisdiction for
 37 not less than one hundred eighty days before the
 38 transaction; and
 39 c. (i) The security is listed on the foreign
 40 jurisdiction's securities exchange that has been
 41 designated by this paragraph or by rule adopted or
 42 order issued under this chapter; or
 43 (ii) The security is a security of the same issuer
 44 that is of senior or substantially equal rank to the
 45 listed security; or
 46 (iii) The security is a warrant or right to
 47 purchase or subscribe to any of the securities
 48 described in this paragraph "c".
 49 For purposes of this subsection, Canada, together
 50 with its provinces and territories, is a designated

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1 foreign jurisdiction and the Toronto stock exchange,
2 inc., is a designated securities exchange. The
3 administrator, by rule or order, may revoke the
4 designation of a securities exchange under this
5 subsection, if the administrator finds that revocation
6 is necessary or appropriate in the public interest and
7 for the protection of investors. An order issued
8 under this subsection must comply with section
9 502.204.

10 Sec. 5. Section 502.303, subsection 5, Code 2003,
11 is amended to read as follows:

12 5. The administrator may make examinations, within
13 or without this state, of the business and records of
14 each ~~registered~~ broker-dealer ~~or~~ registered or
15 required to be registered, the broker-dealer's agent,
16 an investment adviser registered or required to be
17 registered, or an investment adviser representative,
18 at the times and in the scope as the administrator
19 determines. The examinations may be made without
20 prior notice to the broker-dealer or investment
21 adviser. The administrator may copy all records the
22 administrator believes are necessary to conduct the
23 examination. The expense reasonably attributable to
24 an examination of the business records of the broker-
25 dealer or the broker-dealer's agent whose business is
26 examined shall be paid by the broker-dealer ~~or~~ and the
27 expense reasonably attributable to an examination of
28 the business records of the investment adviser or the
29 investment adviser representative whose business is
30 examined, ~~but~~ shall be paid by the investment adviser.
31 However, the expense so payable shall not exceed an
32 amount which the administrator by rule prescribes.
33 For the purpose of avoiding unnecessary duplication of
34 examinations, the administrator may cooperate with
35 securities administrators of other states, the
36 securities and exchange commission, and any national
37 securities exchange or national securities association
38 registered under the Securities Exchange Act of 1934.
39 The administrator shall not make public the
40 information obtained in the course of ~~examinations~~ an
41 examination, except ~~when~~ under any of the following
42 circumstances:

43 a. When a duty under this chapter requires the
44 administrator to take action regarding a broker-dealer
45 ~~or~~, the broker-dealer's agent, an investment adviser,
46 or an investment adviser representative to make the
47 information available to one of the agencies specified
48 in this section, ~~or except when.~~
49 b. When the administrator is called as a witness
50 in a criminal or civil proceeding.

1 Sec. 6. Section 502.304, subsection 1, paragraph
 2 g, Code 2003, is amended to read as follows:
 3 g. Has engaged in dishonest or unethical practices
 4 in the securities, commodities, investment, franchise,
 5 banking, finance, or insurance business;

6 DIVISION II

7 BUSINESS OPPORTUNITY PROMOTIONS

8 Sec. 7. Section 22.7, subsection 42, Code 2003, is
 9 amended to read as follows:

10 42. Information obtained by the commissioner of
 11 insurance in the course of an investigation as
 12 provided in section 502.603, ~~523B.8,~~ or 523C.23.

13 Sec. 8. Section 523B.1, subsection 1, Code 2003,
 14 is amended by striking the subsection.

15 Sec. 9. Section 523B.1, subsection 3, paragraph a,
 16 unnumbered paragraph 1, Code 2003, is amended to read
 17 as follows:

18 "Business opportunity" means an opportunity to
 19 start a business according to the terms of a contract
 20 ~~or agreement,~~ between a seller and purchaser, ~~express~~
 21 ~~or implied, orally or in writing,~~ at in which the
 22 purchaser provides an initial investment exceeding
 23 five hundred dollars, where; the parties agree seller
 24 represents that the seller or a person recommended by
 25 the seller is to provide to the purchaser any
 26 products, equipment, supplies, materials, or services
 27 for the purpose of enabling the purchaser to start a
 28 the business; and the seller represents, directly or
 29 indirectly, orally or in writing, any of the
 30 following:

31 Sec. 10. Section 523B.1, subsection 3, paragraph
 32 b, subparagraph (5), Code 2003, is amended to read as
 33 follows:

34 (5) The renewal or extension of a business
 35 opportunity contract ~~or agreement~~ entered into under
 36 this chapter or prior to July 1, 1981.

37 Sec. 11. Section 523B.1, Code 2003, is amended by
 38 adding the following new subsection:

39 NEW SUBSECTION. 3A. "Contract" means any
 40 agreement between parties which is express or implied,
 41 and which is made orally or in writing.

42 Sec. 12. Section 523B.1, subsection 4, unnumbered
 43 paragraph 1, Code 2003, is amended to read as follows:

44 "Franchise" means a contract ~~or agreement~~ between a
 45 seller and a purchaser, ~~express or implied, orally or~~
 46 ~~in writing,~~ where the parties agree to ~~both~~ all of the
 47 following:

48 Sec. 13. Section 523B.1, subsections 9, 10, and
 49 12, Code 2003, are amended to read as follows:

50 9. "Person" means ~~an individual, corporation,~~

1 ~~trust, partnership, incorporated or unincorporated~~
 2 ~~association, or any other legal entity, provided,~~
 3 ~~however, person the same as defined in section 4.1,~~
 4 ~~except that it does not include a government or~~
 5 ~~governmental subdivision or agency.~~

6 10. "Purchaser" means a person who enters into a
 7 contract ~~or agreement~~ for the acquisition of a
 8 business opportunity or a person to whom an offer to
 9 sell a business opportunity is directed.

10 12. "Sale" or "sell" includes every contract ~~or~~
 11 ~~agreement of~~ for sale, contract to sell, or
 12 disposition of, a business opportunity or interest in
 13 a business opportunity for value.

14 Sec. 14. Section 523B.2, subsections 1 through 7,
 15 Code 2003, are amended by striking the subsections.

16 Sec. 15. Section 523B.2, subsection 8, paragraphs
 17 a and b, Code 2003, are amended to read as follows:

18 1. IRREVOCABLE CONSENT TO SERVICE. A person
 19 required to file an irrevocable consent to service of
 20 process with the secretary of state as a seller as
 21 provided in section 523B.2A shall not act as a seller
 22 in the state

23 ~~a. It is unlawful to offer or sell a business~~
 24 ~~opportunity required to be registered pursuant to this~~
 25 ~~chapter unless the person provides a written~~
 26 ~~disclosure document as filed under subsection 2 is~~
 27 ~~delivered to each purchaser. The person shall deliver~~
 28 ~~the written disclosure document to the purchaser at~~
 29 ~~least ten business days prior to the earlier of the~~
 30 ~~purchaser's execution by a purchaser of a contract or~~
 31 ~~agreement imposing a binding legal obligation on the~~
 32 ~~purchaser or the payment by a purchaser of any~~
 33 ~~consideration in connection with the offer or sale of~~
 34 ~~the business opportunity.~~

35 ~~b. 2. DISCLOSURE DOCUMENT COVER SHEET. The~~
 36 ~~disclosure document shall have a cover sheet which is~~
 37 ~~entitled, shall consist of a title printed in bold and~~
 38 ~~a statement. The title and statement shall be in at~~
 39 ~~least ten point bold type, "DISCLOSURE REQUIRED BY~~
 40 ~~IOWA LAW."~~ and shall appear as follows:

41 DISCLOSURE REQUIRED BY IOWA LAW
 42 ~~Under the title shall appear the following statement~~
 43 ~~in at least ten point type: "The The registration of~~
 44 ~~this business opportunity does not constitute~~
 45 ~~approval, recommendation, or endorsement by the state~~
 46 ~~of Iowa. The information contained in this disclosure~~
 47 ~~document has not been verified by this state. If you~~
 48 ~~have any questions or concerns about this investment,~~
 49 ~~seek professional advice before you sign a contract or~~
 50 ~~make any payment. You are to be provided ten (10)~~

1 business days to review this document before signing a
2 contract ~~or agreement~~ or making any payment to the
3 seller or the seller's ~~representative.~~"
4 representative.

5 The seller's name and principal business address,
6 along with the date of the disclosure document, shall
7 also be provided on the cover sheet. No other
8 information shall appear on the cover sheet.

9 3. DISCLOSURE DOCUMENT CONTENTS. A disclosure
10 document shall be in one of the following forms:

11 a. A uniform franchise offering circular prepared
12 in accordance with the guidelines adopted by the North
13 American securities administrators association, inc.,
14 as amended through the effective date of this Act.

15 b. A disclosure document prepared pursuant to the
16 federal trade commission rule relating to disclosure
17 requirements and prohibitions concerning franchising
18 and business opportunity ventures in accordance with
19 16 C.F.R. § 436.

20 c. A form that includes all of the following:

21 Sec. 16. Section 523B.2, subsection 8, paragraph
22 c, unnumbered paragraph 1, Code 2003, is amended by
23 striking the unnumbered paragraph.

24 Sec. 17. Section 523B.2, subsection 8, paragraph
25 c, subparagraphs (13), (17), (18), (19), and (20),
26 Code 2003, are amended to read as follows:

27 (13) The business opportunity seller that secures
28 a bond pursuant to subsection 10 shall include in the
29 disclosure document the following statement: "As
30 required by the state of Iowa, the seller has secured
31 a bond issued by [insert name and address of surety
32 company], a surety company, authorized to do business
33 in this state. Before signing a contract ~~or agreement~~
34 to purchase this business opportunity, you should
35 check with the surety company to determine the bond's
36 current status."

37 (17) A statement describing any contractual
38 restrictions, prohibitions, or limitations on the
39 purchaser's conduct. Attach a copy of all business
40 opportunities and other contracts ~~or agreements~~
41 proposed for use or in use in this state including,
42 without limitation, all lease agreements, option:
43 agreements, and purchase agreements.

44 (18) The rights and obligations of the seller and
45 the purchaser regarding termination of the business
46 opportunity contract ~~or agreement~~.

47 (19) A statement accurately describing the grounds
48 upon which the purchaser may initiate legal action to
49 terminate the business opportunity contract ~~or~~
50 agreement.

1 (20) A copy of the most recent audited financial
2 statement of the seller, prepared within thirteen
3 months of the first offer in this state, together with
4 a statement of any material changes in the financial
5 condition of the seller from that date. ~~The~~
6 ~~administrator may allow the seller to submit a limited~~
7 ~~review in order to satisfy the requirements of~~
8 ~~subparagraph (13).~~

9 Sec. 18. Section 523B.2, subsection 8, paragraph
10 c, subparagraph (25), Code 2003, is amended by
11 striking the subparagraph.

12 Sec. 19. Section 523B.2, subsection 9, paragraphs
13 a and b, Code 2003, are amended to read as follows:

14 ~~a. It is unlawful to~~ A person shall not offer or
15 sell a business opportunity ~~required to be registered~~
16 unless ~~the~~ a business opportunity contract ~~or~~
17 agreement is in writing and a copy of the contract ~~or~~
18 agreement is given provided to the purchaser at the
19 time the purchaser ~~signs~~ executes the contract ~~or~~
20 agreement.

21 ~~b. The contract or agreement is subject to this~~
22 ~~chapter and section 714.16.~~

23 Sec. 20. Section 523B.2, subsection 9, paragraph
24 c, unnumbered paragraph 1, Code 2003, is amended to
25 read as follows:

26 ~~Contracts or agreements~~ A business opportunity
27 contract shall set forth in at least ten point type or
28 equivalent size, if handwritten, all of the following:

29 Sec. 21. Section 523B.2, subsection 10, Code 2003,
30 is amended by striking the subsection.

31 Sec. 22. NEW SECTION. 523B.2A SERVICE OF
32 PROCESS.

33 1. A person shall not act as a seller in this
34 state unless the person has filed an irrevocable
35 consent of service of process with the secretary of
36 state on a form approved by the secretary of state.
37 The form shall appoint the secretary of state to be
38 the seller's attorney to receive service of process
39 for any lawful process in a noncriminal suit, action,
40 or proceeding against the seller or the seller's
41 successor, executor, or administrator which arises
42 under this chapter after the consent has been filed.
43 Service of process delivered to the secretary of state
44 shall have the same force and validity as if served
45 personally on the person filing the consent.

46 2. A person who engages in conduct prohibited or
47 made actionable under this chapter and who has not
48 filed a consent to service of process is deemed to
49 have appointed the attorney general to be the person's
50 attorney for purposes of service of process in a

1 noncriminal suit, action, or proceeding against the
2 person or the person's successor, executor, or
3 administrator, which is the result of that conduct and
4 which is brought under this chapter, including a rule
5 adopted or order issued under this chapter. Service
6 of process shall be made by leaving a copy of the
7 process in the office of the attorney general.
8 Service of process is effective after both of the
9 following have occurred:

10 a. The plaintiff, who may be the attorney general,
11 in a suit, action, or proceeding instituted by the
12 attorney general, sends notice of the service and a
13 copy of the process by certified mail or restricted
14 certified mail to the defendant's or respondent's last
15 known address or takes other steps which are
16 reasonably calculated to give actual notice.

17 b. The plaintiff's affidavit of compliance with
18 this subsection is filed on or before the return day
19 of the process, if any, or within such further time as
20 the court allows.

21 3. When process is served under this section, the
22 court, or the attorney general in a proceeding before
23 the attorney general, shall order such continuance as
24 may be necessary to afford the defendant or respondent
25 reasonable opportunity to defend.

26 Sec. 23. Section 523B.3, Code 2003, is amended to
27 read as follows:

28 523B.3 EXEMPTIONS FROM ~~REGISTRATION AND DISCLOSURE~~
29 REQUIREMENTS.

30 ~~1. EXEMPTIONS.~~ The following business
31 opportunities are exempt from the requirements of
32 section 523B.2:

33 ~~a. 1.~~ The offer or sale of a business opportunity
34 if the purchaser is a bank, savings and loan
35 association, trust company, insurance company, credit
36 union, or investment company as defined by the federal
37 Investment Company Act of 1940, a pension or profit-
38 sharing trust, or other financial institution or
39 institutional buyer, or a broker-dealer registered
40 pursuant to chapter 502, whether the purchaser is
41 acting for itself or in a fiduciary capacity.

42 ~~b. 2. a.~~ The An offer or sale of a business:
43 opportunity which is ~~defined as a franchise under~~
44 ~~section 523B.1, subsection 4,~~ provided that the seller
45 delivers to each purchaser at the earlier of the first
46 personal meeting between the seller and the purchaser,
47 or ten business days prior to the earlier of the
48 execution by a purchaser of a contract ~~or agreement~~
49 imposing a binding legal obligation on the purchaser
50 or the payment by a purchaser of any consideration in

1 connection with the offer or sale of the business
2 opportunity, one of the following disclosure
3 documents:

4 (1) A uniform franchise-offering circular prepared
5 in accordance with the guidelines adopted by the North
6 American securities administrators association, inc.,
7 as amended through September 21, 1983.

8 (2) A disclosure document prepared pursuant to the
9 federal trade commission rule entitled "Disclosure
10 requirements and prohibitions concerning franchising
11 and business opportunity ventures", 16 C.F.R. § 436
12 (1979).

13 b. For the purposes of this ~~paragraph~~ subsection,
14 a personal meeting means a face-to-face meeting
15 between the purchaser and the seller or their
16 representatives, which is held for the purpose of
17 discussing the offer or sale of a business
18 opportunity. The ~~administrator~~ attorney general may
19 by rule adopt any amendment to the uniform franchise-
20 offering circular that has been adopted by the North
21 American securities administrators association, inc.,
22 or any amendment to the disclosure document prepared
23 pursuant to the federal trade commission rule entitled
24 "Disclosure requirements and prohibitions concerning
25 franchising and business opportunity ventures", 16
26 C.F.R. § 436 (1979), that has been adopted by the
27 federal trade commission.

28 ~~e.~~ 3. The offer or sale of a business opportunity
29 for which the cash payment made by a purchaser does
30 not exceed five hundred dollars and the payment is
31 made for the not-for-profit sale of sales
32 demonstration equipment, material, or samples, or the
33 payment is made for product inventory sold to the
34 purchaser at a bona fide wholesale price.

35 ~~d.~~ ~~The offer or sale of a business opportunity~~
36 ~~which the administrator exempts by order or a class of~~
37 ~~business opportunities which the administrator exempts~~
38 ~~by rule upon the finding that the exemption would not~~
39 ~~be contrary to public interest and that registration~~
40 ~~would not be necessary or appropriate for the~~
41 ~~protection of purchasers.~~

42 ~~2. Denial or revocation of exemptions.~~ :

43 ~~a.~~ ~~If the public interest of the protection of~~
44 ~~purchasers so requires, the administrator may by order~~
45 ~~deny or revoke an exemption specified in this section~~
46 ~~with respect to a particular offering of one or more~~
47 ~~business opportunities. An order shall not be entered~~
48 ~~without appropriate prior notice to all interested~~
49 ~~parties, opportunity for hearing, and written findings~~
50 ~~of fact and conclusions of law.~~

1 ~~b. If the public interest or the protection of~~
2 ~~purchasers so requires, the administrator may by order~~
3 ~~summarily deny or revoke any of the specified~~
4 ~~exemptions pending final determination of any~~
5 ~~proceedings under this section. Upon entry of the~~
6 ~~order, the administrator shall promptly notify all~~
7 ~~interested parties that it has been entered and of the~~
8 ~~reasons for entering the order and that within fifteen~~
9 ~~days of the receipt of a written request the matter~~
10 ~~will be set down for hearing. If a hearing is not~~
11 ~~requested the order shall remain in effect until it is~~
12 ~~modified or vacated by the administrator. If a~~
13 ~~hearing is requested or ordered, the administrator~~
14 ~~shall not modify or vacate the order or extend it~~
15 ~~until final determination.~~

16 ~~e. An order under this section shall not operate~~
17 ~~retroactively.~~

18 ~~d. A person does not violate section 523B.2 by~~
19 ~~reason of an offer or sale effected after the entry of~~
20 ~~an order under paragraph "b" if the person sustains~~
21 ~~the burden of proof that the person did not know, and~~
22 ~~in the exercise of reasonable care could not have~~
23 ~~known, of the order.~~

24 ~~3. BURDEN OF PROOF.~~ In an administrative, civil,
25 or criminal proceeding related to this chapter, the,
26 burden of proving an exemption, an exception from a
27 definition, or an exclusion from this chapter, is upon
28 the person claiming it.

29 Sec. 24. Section 523B.7, subsection 1, Code 2003,
30 is amended to read as follows:

31 1. a. A person who violates requirements for
32 disclosure and the contents of business opportunity
33 contracts pursuant to section 523B.2, subsection 1, 8,
34 or 9, is liable to the purchaser in an action for
35 rescision of the agreement contract, or for recovery of
36 all money or other valuable consideration paid for the
37 business opportunity, and for actual damages together
38 with interest as determined pursuant to section 668.13
39 from the date of sale, reasonable attorney's fees, and
40 court costs.

41 b. A person who ~~violates~~ provides misleading
42 advertising as provided in section 523B.12, subsection
43 2 or 3, is liable to the purchaser who may sue either
44 at law or in equity for rescision of the contract, or
45 for recovery of all money or other valuable
46 consideration paid for the business opportunity, and
47 for the recovery of treble damages together with
48 interest as determined pursuant to section 668.13 from
49 the date of sale, reasonable attorney's fees, and
50 court costs.

1 c. A person who violates disclosure requirements
2 of section 523B.2, subsection 8, or who provides
3 misleading advertising as provided in section 523B.12,
4 subsection 2 or 3, or who breaches a business
5 opportunity contract or ~~agreement~~ or an obligation
6 arising under the contract ~~or agreement~~, is liable to
7 the purchaser ~~who~~. The purchaser may sue the surety
8 of the seller's bond, either at law or in equity, to
9 recover all money or other valuable consideration paid
10 for the business opportunity and actual damages,
11 together with interest as determined pursuant to
12 section 668.13 from the date of sale, reasonable
13 attorney's fees, and court costs. The liability of
14 the surety shall not exceed the amount of the bond.

15 Sec. 25. Section 523B.8, Code 2003, is amended to
16 read as follows:

17 523B.8 ~~POWERS OF ADMINISTRATOR ENFORCEMENT.~~

18 1. a. Upon the administrator's attorney general's
19 determination that a person has engaged, is engaging,
20 or is about to engage in any act or practice
21 constituting a violation of this chapter ~~or~~, including
22 a rule adopted or order ~~adopted~~ ~~or~~ issued under this
23 chapter, the administrator attorney general may issue
24 a summary order directing the person to cease and
25 desist from engaging in the act or practice or to take
26 other affirmative action as in the judgment of the
27 administrator attorney general is necessary to comply
28 with the requirements of this chapter.

29 b. ~~If a hearing is not timely requested the person~~
30 against whom the order is made does not contest the
31 order as provided in chapter 17A, the summary order
32 becomes final by operation of law. The order shall
33 remain effective from the date of issuance until the
34 date the order becomes final by operation of law or is
35 overturned by a presiding officer or court following a
36 request for hearing after the order is contested. A
37 person who has been issued a summary order under this
38 subsection may contest it by filing a request for may
39 initiate a contested case proceeding as provided in
40 chapter 17A and in accordance with the rules adopted
41 by the administrator attorney general. However, the
42 person shall have at least thirty days from the date
43 that the order is issued in order to ~~file the request~~
44 initiate the contested case proceeding. Section
45 17A.18A is inapplicable to a summary order issued
46 under this subsection.

47 c. A person violating a summary order issued under
48 this subsection shall be deemed in contempt of that
49 order. The administrator attorney general may
50 petition the district court to enforce the order as

1 certified by the ~~administrator~~ attorney general. The
2 district court shall adjudge the person in contempt of
3 the order if the court finds after a hearing that the
4 person is not in compliance with the order. The court
5 shall assess a civil penalty against the person in an
6 amount not less than three thousand dollars but not
7 greater than ten thousand dollars per violation, and
8 may issue further orders as it deems appropriate.

9 A consent agreement between the ~~administrator~~
10 attorney general and the seller may be filed in the
11 miscellaneous docket of the clerk of the district
12 court.

13 2. a. The ~~administrator~~ attorney general shall
14 conduct investigations necessary to administer and
15 enforce this chapter. The attorney general may do any
16 of the following:

17 (1) Make public or private investigations within
18 or outside of this state as the ~~administrator~~ attorney
19 general deems necessary to determine whether a person
20 has violated or is about to violate a provision of
21 this chapter ~~or, including a rule adopted or order~~
22 issued under this chapter, or to aid in the
23 ~~enforcement of this chapter or in the prescribing of~~
24 ~~rules and forms under this chapter.~~

25 (2) Notwithstanding chapter 22, keep confidential
26 the information obtained in the course of an
27 investigation. However, if the ~~administrator~~ attorney
28 general determines that it is necessary or appropriate
29 in the public interest or for the protection of the
30 public, the ~~administrator~~ attorney general shall share
31 information with the insurance division of the
32 department of commerce, or with other regulatory
33 authorities or governmental agencies, or may publish
34 information concerning a violation of this chapter or
35 a rule adopted or order issued under this chapter.

36 (3) Require or permit a person to file a
37 statement, under oath or otherwise as the
38 ~~administrator~~ attorney general determines, as to all
39 the facts and circumstances concerning the matter to
40 be investigated.

41 (4) Publish information concerning a violation of
42 this chapter ~~or, including a violation of a rule or~~
43 order under this chapter.

44 b. For the purpose of ~~an investigation or~~
45 ~~proceeding under enforcing~~ this chapter, the
46 ~~administrator or an officer designated by the~~
47 administrator attorney general may administer oaths
48 and affirmations, subpoena witnesses, compel the
49 attendance of witnesses, take evidence and require the
50 production of records which the ~~administrator~~ attorney

1 general deems relevant or material to the inquiry.
2 c. If a person resists or refuses to obey a
3 subpoena issued to that person, the district court
4 upon application by the administrator attorney general
5 may issue to the person an order requiring the person
6 to appear before the administrator attorney general,
7 to produce documentary evidence if so ordered, or to
8 give evidence related to the matter under
9 investigation. Failure to obey the order of the court
10 is punishable as a contempt of court.

11 d. A person is not excused from attending and
12 testifying or from producing a document or record
13 before the administrator or an officer designated by
14 the administrator attorney general, on the grounds
15 that the testimony or evidence, documentary or
16 otherwise, required by the administrator attorney
17 general may tend to incriminate the person or subject
18 the person to a penalty or forfeiture. However, an
19 individual shall not be prosecuted or subjected to a
20 penalty or forfeiture on account of a transaction,
21 matter, or thing concerning which the person is
22 compelled, after claiming the person's privilege
23 against self-incrimination, to testify or produce,
24 except that the individual testifying is not exempt
25 from prosecution and punishment for perjury or
26 contempt related to such testimony.

27 ~~3. Judicial review of a decision of the~~
28 ~~administrator may be sought under chapter 17A.~~

29 ~~4. 3. a.~~ If it appears to the administrator
30 attorney general that a person has engaged, is
31 engaged, or is about to engage in any act or practice
32 constituting a violation of this chapter, ~~or of~~
33 including a rule adopted or order adopted or issued
34 under this chapter, the administrator attorney general
35 may bring an action in ~~the~~ district court to enjoin
36 the ~~acts~~ act or ~~practices~~ practice constituting the
37 violation and to enforce compliance with this chapter
38 ~~or any rule or order adopted or issued pursuant to~~
39 ~~this chapter.~~ Upon a proper showing a permanent or
40 temporary injunction shall be granted and a receiver
41 or conservator may be appointed for the defendant or
42 the defendant's assets. Upon proper showing by the
43 administrator attorney general, the court may enter an
44 order of rescission, restitution, or disgorgement, as
45 well as prejudgment and postjudgment interest,
46 directed at any person who has engaged in an act
47 constituting a violation of this chapter.

48 b. The administrator attorney general, in bringing
49 an injunctive action under paragraph "a", shall not be
50 required to post bond.

1 4. The attorney general may refer available
2 evidence concerning a possible violation of chapter
3 502 to the insurance division of the department of
4 commerce.

5 5. The attorney general may institute appropriate
6 criminal proceedings or may direct the case to the
7 appropriate county attorney to institute appropriate
8 criminal proceedings.

9 Sec. 26. Section 523B.10, Code 2003, is amended to
10 read as follows:

11 523B.10 RULES.

12 ~~The administrator attorney general may adopt rules~~
13 ~~according to chapter 17A as necessary or appropriate~~
14 ~~for the protection of purchasers and to implement the~~
15 ~~purposes of this and the provisions of this chapter,~~
16 ~~required to administer and enforce this chapter,~~
17 ~~including but not limited to rules governing~~
18 ~~registrations, applications, disclosure statements,~~
19 ~~and reports. In adopting rules the administrator~~
20 ~~shall co-operate with agency administrators of other~~
21 ~~states and the federal trade commission to achieve~~
22 ~~uniformity in the form and content of registrations,~~
23 ~~applications and reports as practicable.~~

24 Sec. 27. Section 523B.11, Code 2003, is amended to
25 read as follows:

26 523B.11 PENALTIES.

27 1. a. A seller who willfully violates
28 requirements for disclosure and the contents of
29 business opportunity contracts pursuant to section
30 523B.2, subsection 1, 8, or 9, or who provides
31 misleading advertising as provided in section 523B.12,
32 subsection 2, who willfully violates a rule under this
33 chapter, who willfully violates an order of which the
34 person has notice, or who violates section 523B.12,
35 subsection 1, knowing that the statement made was
36 false or misleading in any material respect, upon
37 conviction, is guilty of a class "D" felony.
38 Otherwise, a person who violates a rule adopted or
39 order issued under this chapter is, upon conviction,
40 guilty of an aggravated misdemeanor. Each of the acts
41 specified constitutes a separate offense and a
42 prosecution or conviction for any one of such offenses
43 does not bar prosecution or conviction for any other
44 offense.

45 2. A business opportunity contract is subject to
46 section 714.16.

47 3. A seller who willfully uses any device or
48 scheme to defraud a person in connection with ~~the~~ an
49 advertisement, offer to sell or lease, sale, or lease
50 of a business opportunity, or who willfully violates

1 any other provision of this chapter, except as
 2 provided in ~~subsections 1 and 3~~, subsection 1 is, upon
 3 conviction, guilty of a fraudulent practice as
 4 provided in chapter 714.

5 ~~3. A seller who violates a rule or order adopted~~
 6 ~~or issued under this chapter is, upon conviction,~~
 7 ~~guilty of an aggravated misdemeanor.~~

8 ~~4. The administrator may refer available evidence~~
 9 ~~concerning a possible violation of this chapter or of~~
 10 ~~a rule or order issued under this chapter to the~~
 11 ~~attorney general. The attorney general, with or~~
 12 ~~without such a referral, may institute appropriate~~
 13 ~~criminal proceedings or may direct the case to the~~
 14 ~~appropriate county attorney to institute appropriate~~
 15 ~~criminal proceedings.~~

16 Sec. 28. Section 523B.12, subsections 1, 2, and 3,
 17 Code 2003, are amended to read as follows:

18 1. MISLEADING ~~FILINGS~~ STATEMENTS. ~~It is unlawful~~
 19 ~~to~~ A person shall not make or cause to be made, a
 20 misleading statement in a disclosure document filed
 21 with the administrator required pursuant to section
 22 523B.2 or in a proceeding under this chapter, a
 23 statement which is, at. The statement shall be deemed
 24 to be misleading if any of the following applies:

25 a. At the time and in the light of the
 26 circumstances under which it is made, the statement is
 27 false or misleading in a material respect ~~or, in~~
 28 ~~connection with such a statement, to omit to state.~~

29 b. An omission of a material fact is necessary in
 30 order to make the statement made, in the light of the
 31 circumstances under which it is made, not misleading.

32 ~~2. UNLAWFUL REPRESENTATIONS. The fact that an~~
 33 ~~application for registration has been filed or the~~
 34 ~~fact that a business opportunity is effectively~~
 35 ~~registered does not constitute a finding by the~~
 36 ~~administrator that a document filed under this chapter~~
 37 ~~is true, complete, and not misleading. The fact that~~
 38 ~~an application for registration has been filed, that a~~
 39 ~~business opportunity is effectively registered, or~~
 40 ~~that an exemption or exception is available for a~~
 41 ~~business opportunity does not mean that the~~
 42 ~~administrator has passed in any way upon the merits or~~
 43 ~~qualifications of, or recommended or given approval~~
 44 ~~to, a person or business opportunity. It is unlawful~~
 45 ~~to make, or cause to be made, to a purchaser, any~~
 46 ~~representation inconsistent with this subsection.~~

47 ~~3. 2. ADVERTISING. It is unlawful for a~~ A seller
 48 shall not, in connection with the offer or sale of a
 49 business opportunity in this state, ~~to~~ publish,
 50 circulate, or use advertising which contains an untrue

1 statement of a material fact or omits to state a
2 material fact necessary in order to make the
3 statements made, in the light of the circumstances
4 under which they are made, not misleading.

5 Sec. 29. Section 523B.12, subsection 4, unnumbered
6 paragraph 1, Code 2003, are amended to read as
7 follows:

8 ~~It is unlawful for a business opportunity~~ A seller
9 ~~of a business opportunity shall not do any of the~~
10 following:

11 Sec. 30. Section 523B.12, subsection 4, paragraphs
12 d, f, h, and j, Code 2003, are amended to read as
13 follows:

14 d. Misrepresent the training and management
15 assistance available to the ~~business opportunity~~
16 purchaser.

17 f. Misrepresent, by failure to disclose or
18 otherwise, the termination, transfer, or renewal
19 provision of a business opportunity agreement
20 contract.

21 h. Assign a so-called exclusive territory
22 encompassing the same area to more than one ~~business~~
23 ~~opportunity~~ purchaser.

24 j. Provide merchandise, machines, or displays of a
25 brand or kind substantially different from or inferior
26 to those promised by the ~~business opportunity~~ seller.

27 Sec. 31. Section 523B.13, subsections 5 and 6,
28 Code 2003, are amended by striking the subsections.

29 Sec. 32. Section 523B.5, Code 2003, is repealed.

30 DIVISION III

31 RETIREMENT FACILITIES

32 Sec. 33. Section 523D.1, subsection 1, Code 2003,
33 is amended by striking the subsection.

34 Sec. 34. Section 523D.3, subsection 1, unnumbered
35 paragraph 1, Code 2003, is amended to read as follows:

36 At the time of, or prior to, the execution of a
37 contract to provide continuing care or senior adult
38 congregate living services, or at the time of, or
39 prior to the provider's acceptance of part or all of
40 the entrance fee by or on behalf of a prospective
41 resident, whichever occurs first, the provider shall
42 deliver ~~a~~ an initial disclosure statement to the
43 person, and to the person's personal representative if
44 one is appointed, with whom the contract is to be
45 entered into. Unless incorporated by reference, in
46 whole or in part, the initial disclosure statement
47 shall not constitute part of the contract between the
48 resident and provider. The initial disclosure
49 statement shall contain all of the following
50 information unless the information is in the contract,

1 a copy of which must be attached to the statement:

2 Sec. 35. Section 523D.3, subsection 1, paragraph
3 c, subparagraph (4), Code 2003, is amended to read as
4 follows:

5 (4) A description of any matter in which the
6 person is subject to a currently effective injunctive
7 or restrictive order of a court, or a description of
8 any matter within the past five years where the person
9 has had a state or federal license or permit suspended
10 or revoked as a result of an action brought by a
11 governmental agency of this or any state ~~or the~~
12 ~~division of insurance~~, arising out of or relating to
13 business activity or health care, including, without
14 limitation, actions affecting a license to operate a
15 foster care facility, health care facility, retirement
16 home, home for the aged, or facility licensed under
17 this chapter or a similar law of another state.

18 Sec. 36. Section 523D.3, subsection 1, paragraph
19 k, Code 2003, is amended to read as follows:

20 k. Other material information concerning the
21 facility or the provider ~~required by the division of~~
22 ~~insurance or which the provider wishes to include.~~

23 Sec. 37. Section 523D.3, subsection 2, unnumbered
24 paragraph 1, Code 2003, is amended to read as follows:

25 The provider shall ~~file with the insurance~~
26 ~~division~~, prepare annually within five months
27 following the end of the provider's fiscal year, an
28 annual disclosure statement which shall contain the
29 information ~~required by this chapter~~ for the initial
30 disclosure statement. The disclosure statement shall
31 be available for review at the facility by a resident,
32 prospective resident, or that person's personal
33 representative. The annual disclosure statement shall
34 also be accompanied by a narrative describing:

35 Sec. 38. Section 523D.3, subsections 3 and 4, Code
36 2003, are amended to read as follows:

37 ~~3. In the event an amendment is filed with the~~
38 ~~division of insurance pursuant to subsection 4, the~~
39 ~~provider shall deliver a copy of the amendment or the~~
40 ~~amended disclosure statement to a prospective resident~~
41 ~~and to a prospective resident's personal~~
42 ~~representative if one is appointed prior to the~~
43 ~~provider's acceptance of part or all of the entrance~~
44 ~~fee or the execution of the continuing care or senior~~
45 ~~congregate living services contract by the prospective~~
46 ~~resident.~~

47 4. 3. a. In addition to filing the annual
48 disclosure statement, the provider may amend its
49 currently filed disclosure statement at any other time
50 if, in the opinion of the provider, an amendment is

1 necessary to prevent the disclosure statement and
2 annual disclosure statement from containing any
3 material misstatement of fact or omission to state a
4 material fact required to be included in the
5 statement. The amendment or amended disclosure
6 statement ~~shall be filed with the division of~~
7 ~~insurance before the statement is delivered to a~~
8 ~~resident or prospective resident and a personal~~
9 ~~representative of a resident or prospective resident~~
10 and is subject to all the requirements, including
11 those as to content and delivery, of this chapter.

12 b. If an amendment to an initial disclosure
13 statement is prepared, the provider shall deliver a
14 copy of the amendment or the amended disclosure
15 statement to a prospective resident or to a
16 prospective resident's personal representative if one
17 is appointed prior to the provider's acceptance of
18 part or all of the entrance fee or the execution of
19 the continuing care or senior congregate living
20 services contract by the prospective resident. If an
21 amendment to an annual disclosure statement is
22 prepared, the provider shall make a copy of the
23 amendment or the amended disclosure statement for
24 review at the facility to a prospective resident, a
25 resident, or a personal representative of the
26 prospective resident or resident.

27 Sec. 39. Section 523D.4, subsection 2, Code 2003,
28 is amended to read as follows:

29 2. A provider shall not ~~file with the division of~~
30 ~~insurance or~~ make, publish, disseminate, circulate, or
31 deliver to any person or place before the public, or
32 cause, directly or indirectly, to be made, published,
33 disseminated, circulated, or delivered to any person
34 or placed before the public, a financial statement
35 which does not meet generally accepted accounting
36 principles.

37 Sec. 40. Section 523D.5, subsections 1 and 2, Code
38 2003, are amended by striking the subsections.

39 Sec. 41. Section 523D.5, subsections 3 and 4, Code
40 2003, are amended to read as follows:

41 3. CONSTRUCTION. New construction shall not begin
42 until ~~the filing required by this section has been~~
43 ~~made and~~ at least fifty percent of the proposed number
44 of independent living units in the initial stage or
45 phase have been reserved pursuant to executed
46 contracts and at least ten percent of the entrance
47 fees required by those contracts are held in escrow
48 pursuant to this chapter. However, the requirements
49 of this subsection may be ~~waived by the commissioner~~
50 ~~by rule or order upon a showing of good cause.~~

1 disregarded if the provider has done any of the
2 following:

3 ~~For purposes of this subsection, "good cause"~~
4 ~~includes, but is not limited to, evidence of the~~
5 ~~following:~~

6 a. Secured financing adequate in an amount and
7 term to complete the project ~~described in the filing~~
8 ~~required by this section.~~

9 b. ~~Cash~~ Provided cash reserves adequate in an
10 amount to operate the facility for twenty-four months
11 based upon reasonable projections of income and
12 expenses.

13 c. ~~Creation of~~ Created an escrow account in which
14 a resident's entrance fee or purchase price will be
15 deposited, if the terms of the escrow agreement
16 provide reasonable protection from loss until at least
17 fifty percent of the proposed number of independent
18 living units in the initial stage or phase have been
19 reserved.

20 4. ESCROW REQUIREMENTS. Unless ~~proof has been~~
21 ~~submitted to the commissioner that the~~ conditions for
22 the release of escrowed funds set forth in this
23 section have already been met, ~~the~~ a provider shall
24 establish an interest-bearing escrow account at a
25 state or federally regulated financial institution ,
26 located within this state to receive any deposits or
27 entrance fees or portions of deposits or fees for a
28 living unit which has not been previously occupied by
29 a resident for which an entry fee arrangement is used.
30 The escrow account agreement shall be entered into
31 between the financial institution and the provider
32 with the financial institution as the escrow agent and
33 as a fiduciary for the resident or prospective
34 resident. The agreement shall state that the purpose
35 of the escrow account is to protect the resident or
36 prospective resident and that the funds deposited
37 shall be kept and maintained in an account separate
38 and apart from the provider's business accounts.

39 Sec. 42. Section 523D.5, subsection 5, paragraph
40 c, unnumbered paragraph 1, Code 2003, is amended to
41 read as follows:

42 Except as provided by paragraphs "a" and "b",
43 amounts held in escrow shall be released only upon
44 ~~approval of the commissioner. The commissioner shall~~
45 ~~approve the release of funds only upon~~ a determination
46 that at least one of the following conditions has been
47 satisfied:

48 Sec. 43. Section 523D.6, subsection 1, unnumbered
49 paragraph 1, Code 2003, is amended to read as follows:

50 ~~In addition to any other provisions prescribed by~~

1 ~~rules adopted under this chapter, each~~ A contract
2 providing for continuing care or senior adult
3 congregate living services by a provider shall be
4 written in nontechnical language easily understood by
5 a lay person and shall include all of the following:

6 Sec. 44. Section 523D.7, subsection 3, Code 2003,
7 is amended to read as follows:

8 3. A person shall not file or maintain an action
9 under this section if the person, before filing the
10 action, received an offer to refund, payable upon
11 acceptance, all amounts paid the provider, facility,
12 or person violating this chapter, together with
13 interest from the date of payment, less the reasonable
14 value of care and lodging provided prior to receipt of
15 the offer, and the person failed to accept the offer
16 within thirty days of its receipt. ~~At the time a~~
17 ~~provider makes a written offer of refund, the provider~~
18 ~~shall file a copy with the division of insurance.~~ The
19 refund offer shall refer to the provisions of this
20 section.

21 Sec. 45. Section 523D.7, subsection 5, Code 2003,
22 is amended by striking the subsection.

23 Sec. 46. Section 523D.8, subsection 1, Code 2003,
24 is amended to read as follows:

25 1. A person who willfully and knowingly violates a
26 provision of this chapter ~~or a rule adopted or order~~
27 ~~entered pursuant to this chapter,~~ upon conviction, is
28 guilty of an aggravated misdemeanor.

29 Sec. 47. NEW SECTION. 523D.11 CONSTRUCTION WITH
30 OTHER LAW.

31 This chapter does not limit a person's liability
32 under another statute or at common law. The
33 provisions of this chapter as it existed prior to the
34 effective date of this Act shall continue to govern
35 all actions based on facts occurring prior to the
36 effective date of this Act.

37 Sec. 48. Section 523D.12, subsection 1, Code 2003,
38 is amended by striking the subsection.

39 Sec. 49. Section 523D.12, subsection 2, unnumbered
40 paragraph 1, Code 2003, is amended to read as follows:

41 ~~The commissioner or the attorney general may, for~~
42 the purpose of discovering or investigating violations
43 of this chapter ~~or rules adopted pursuant to this~~
44 ~~chapter~~ do any or all of the following:

45 Sec. 50. Section 523D.12, subsection 2, paragraphs
46 a and c, Code 2003, are amended to read as follows:

47 a. Investigate the business and examine the books,
48 accounts, records, and files used by a provider. With
49 the exception of an examination involving new
50 construction, an examination involving a complaint by

1 a resident or a prospective resident or where good
2 cause exists for the lack of prior notice, as
3 determined by the ~~commissioner~~ attorney general, the
4 ~~division of insurance~~ attorney general shall provide
5 at least seven days' prior notice to the facility
6 before conducting an on-site examination.

7 c. Apply to the district court for issuance of an
8 order requiring a person's appearance before the
9 ~~commissioner or~~ attorney general. The person may also
10 be required to produce documentary evidence germane to
11 the subject of the investigation. Failure to obey a
12 court order under this subsection constitutes contempt
13 of court.

14 Sec. 51. Section 523D.14, Code 2003, is amended to
15 read as follows:

16 523D.14 INJUNCTIONS.

17 The attorney general may petition the district
18 court in any county of the state for an injunction to
19 restrain a person subject to this chapter and any
20 agents, employees, or associates of the person from
21 engaging in conduct or practices in violation of this
22 ~~chapter or rules adopted pursuant to this chapter.~~ In
23 a proceeding for an injunction, the attorney general
24 may apply to the court for the issuance of a subpoena
25 to require the appearance of a defendant and the
26 defendant's agents and any documents, books, or
27 records germane to the hearing upon the petition for
28 an injunction. Upon proof of any of the violations
29 described in the petition for injunction, the court
30 may grant the injunction.

31 Sec. 52. Sections 523D.2, 523D.9, 523D.10, and
32 523D.13, Code 2003, are repealed."

33 2. Title page, line 1, by striking the word "
34 insurance," and inserting the following: "regulated
35 industries, including the Iowa uniform securities
36 Act,".

37 3. By renumbering, redesignating, and correcting
38 internal references as necessary.

By HOFFMAN of Crawford

HOUSE FILE 647

H-1180

1 Amend the amendment, H-1159, to House File 647 as
2 follows:

3 1. By striking page 1, line 4 through page 2,
4 line 5, and inserting the following:

5 "Section 1. Section 29A.43, Code 2003, is amended
6 to read as follows:

7 29A.43 DISCRIMINATION PROHIBITED -- LEAVE OF
8 ABSENCE -- CONTINUATION OF HEALTH COVERAGE.

9 1. A person shall not discriminate against any
10 officer or enlisted person of the national guard or
11 organized reserves of the armed forces of the United
12 States because of that membership. An employer, or
13 agent of an employer, shall not discharge a person
14 from employment because of being an officer or
15 enlisted person of the military forces of the state,
16 or hinder or prevent the officer or enlisted person
17 from performing any military service the person is
18 called upon to perform by proper authority. A member
19 of the national guard or organized reserves of the
20 armed forces of the United States ordered to temporary
21 duty, as defined in section 29A.1, subsection 1, 3, or
22 11, for any purpose is entitled to a leave of absence
23 during the period of the duty or service, from the
24 member's private employment, other than employment of
25 a temporary nature, and upon completion of the duty or
26 service the employer shall restore the person to the
27 position held prior to the leave of absence, or employ
28 the person in a similar position. However, the person
29 shall give evidence to the employer of satisfactory
30 completion of the training or duty, and that the
31 person is still qualified to perform the duties of the
32 position. The period of absence shall be construed as
33 an absence with leave, and shall in no way affect the
34 employee's rights to vacation, sick leave, bonus, or
35 other employment benefits relating to the employee's
36 particular employment. A person violating a provision
37 of this section is guilty of a simple misdemeanor.

38 2. An officer or enlisted person of the national
39 guard or organized reserves of the armed forces of the
40 United States who is insured as a dependent under a
41 group policy for accident or health insurance as a
42 full-time student less than twenty-five years of age,
43 whose coverage under the group policy would otherwise
44 terminate while the officer or enlisted person was on
45 a leave of absence during a period of temporary duty
46 or service, as defined for members of the national
47 guard in section 29A.1, subsection 1, 3, or 11, or as
48 a member of the organized reserves called to active
49 duty from a reserve component status, shall be
50 considered to have been continuously insured under the

H-1180

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Page 2

1 group policy for the purpose of returning to the
2 insured dependent status as a full-time student who is
3 less than twenty-five years of age. This subsection
4 does not apply to coverage of an injury suffered or a
5 disease contracted by a member of the national guard
6 or organized reserves of the armed forces of the
7 United States in the line of duty."

8 2. By renumbering, redesignating, and correcting
9 internal references as necessary.

By PETERSEN of Polk

H-1180 FILED MARCH 27, 2003

Adopted 3/31/03

HOUSE FILE 647

H-1194

1 Amend the amendment, H-1172, to House File 647, as
2 follows:

3 1. Page 3, line 15, by striking the words "to
4 apply its provisions" and inserting the following:
5 "either to apply the provisions of this section as it
6 existed prior to the effective date of this Act or to
7 apply the provisions of this section as enacted by
8 this Act".

9 2. By renumbering, redesignating, and correcting
10 internal references as necessary.

By HOFFMAN of Crawford

H-1194 FILED MARCH 31, 2003

ADOPTED 3/31/03

CORRECTED COPY

HOUSE FILE 647
BY COMMITTEE ON COMMERCE,
REGULATION AND LABOR

(SUCCESSOR TO HSB 196)

(As Amended and Passed by the House March 31, 2003)

Passed House, Date Passed 3/31/03 Passed Senate, Date Passed 4/16/03
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved 4/28/03

A BILL FOR

1 An Act relating to insurance, including various filing and
2 information privacy requirements throughout the insurance
3 code, calculation of assessments by the Iowa individual health
4 benefit reinsurance association, payment of certain insurance
5 fees, certain self-funded insurance plans by school
6 corporations or political subdivisions, designation of the
7 commissioner of insurance as process agent for various
8 entities conducting insurance business in this state,
9 notification provisions relating to the effective date of
10 cancellation of insurance, beneficial stock ownership filings,
11 funding agreements, creating an insurable interest in active
12 or retired employee lives for the benefit of an employer,
13 providing for an interstate insurance product regulation
14 compact, and providing for retroactive applicability and an
15 effective date.

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

17

18

House Amendments _____

HF 647

DIVISION I

1
2 Section 1. Section 29A.43, Code 2003, is amended to read
3 as follows:

4 29A.43 DISCRIMINATION PROHIBITED -- LEAVE OF ABSENCE --
5 CONTINUATION OF HEALTH COVERAGE.

6 1. A person shall not discriminate against any officer or
7 enlisted person of the national guard or organized reserves of
8 the armed forces of the United States because of that
9 membership. An employer, or agent of an employer, shall not
10 discharge a person from employment because of being an officer
11 or enlisted person of the military forces of the state, or
12 hinder or prevent the officer or enlisted person from
13 performing any military service the person is called upon to
14 perform by proper authority. A member of the national guard
15 or organized reserves of the armed forces of the United States
16 ordered to temporary duty, as defined in section 29A.1,
17 subsection 1, 3, or 11, for any purpose is entitled to a leave
18 of absence during the period of the duty or service, from the
19 member's private employment, other than employment of a
20 temporary nature, and upon completion of the duty or service
21 the employer shall restore the person to the position held
22 prior to the leave of absence, or employ the person in a
23 similar position. However, the person shall give evidence to
24 the employer of satisfactory completion of the training or
25 duty, and that the person is still qualified to perform the
26 duties of the position. The period of absence shall be
27 construed as an absence with leave, and shall in no way affect
28 the employee's rights to vacation, sick leave, bonus, or other
29 employment benefits relating to the employee's particular
30 employment. A person violating a provision of this section is
31 guilty of a simple misdemeanor.

32 2. An officer or enlisted person of the national guard or
33 organized reserves of the armed forces of the United States
34 who is insured as a dependent under a group policy for
35 accident or health insurance as a full-time student less than

1 twenty-five years of age, whose coverage under the group
2 policy would otherwise terminate while the officer or enlisted
3 person was on a leave of absence during a period of temporary
4 duty or service, as defined for members of the national guard
5 in section 29A.1, subsection 1, 3, or 11, or as a member of
6 the organized reserves called to active duty from a reserve
7 component status, shall be considered to have been
8 continuously insured under the group policy for the purpose of
9 returning to the insured dependent status as a full-time
10 student who is less than twenty-five years of age. This
11 subsection does not apply to coverage of an injury suffered or
12 a disease contracted by a member of the national guard or
13 organized reserves of the armed forces of the United States in
14 the line of duty.

15 Sec. 2. Section 505.8, subsection 6, Code 2003, is amended
16 to read as follows:

17 6. a. Notwithstanding chapter 22, the commissioner shall
18 keep confidential both information obtained in the course of
19 an investigation and information submitted to the insurance
20 division pursuant to chapters 514J and 515D.

21 b. The commissioner shall adopt rules protecting the
22 privacy of information held by an insurer or an agent
23 consistent with the federal Gramm-Leach-Bliley Act, Pub. L.
24 No. 106-102.

25 c. However, notwithstanding paragraphs "a" and "b", if the
26 commissioner determines that it is necessary or appropriate in
27 the public interest or for the protection of the public, the
28 commissioner may share information with other regulatory
29 authorities or governmental agencies or may publish
30 information concerning a violation of this chapter or a rule
31 or order under this chapter. Such information may be redacted
32 so that personally identifiable information is not made
33 available.

34 d. The commissioner may adopt rules protecting the privacy
35 of information submitted to the insurance division consistent

1 with this section.

2 Sec. 3. NEW SECTION. 505.24 SALE OF POLICY TERM
3 INFORMATION BY CONSUMER REPORTING AGENCY.

4 1. For purposes of this section, unless the context
5 otherwise requires, "consumer reporting agency" means any
6 person that for monetary fees, dues, or on a cooperative
7 nonprofit basis regularly engages in whole or in part in the
8 practice of assembling or evaluating consumer credit
9 information or other information on consumers for the purpose
10 of furnishing consumer reports to third parties and that uses
11 any means or facility of interstate commerce for the purpose
12 of preparing or furnishing consumer reports.

13 2. A consumer reporting agency shall not provide or sell
14 data or lists that include any information that in whole or in
15 part was submitted in conjunction with an insurance inquiry
16 about a consumer's credit information or a request for a
17 credit report or insurance score. Information submitted in
18 conjunction with an insurance inquiry about a consumer
19 includes, but is not limited to, the expiration dates of an
20 insurance policy or any other information that may identify
21 time periods during which a consumer's insurance may expire
22 and the terms and conditions of the consumer's insurance
23 coverage.

24 3. The restrictions provided in subsection 2 do not apply
25 to data or lists supplied by a consumer reporting agency to an
26 insurance producer from whom information was received, the
27 insurer on whose behalf such producer acted, or such insurer's
28 affiliates or holding companies.

29 4. This section shall not be construed to restrict any
30 insurer from being able to obtain a claims history report or a
31 motor vehicle report.

32 Sec. 4. Section 507A.4, subsection 9, Code 2003, is
33 amended by adding the following new paragraph:

34 NEW PARAGRAPH. e. When not otherwise provided, a foreign
35 or domestic multiple employee welfare arrangement doing

1 business in this state shall pay to the commissioner of
2 insurance the fees as required in section 511.24.

3 Sec. 5. Section 507B.3, Code 2003, is amended to read as
4 follows:

5 507B.3 UNFAIR COMPETITION OR UNFAIR AND DECEPTIVE ACTS OR
6 PRACTICES PROHIBITED.

7 1. A person shall not engage in this state in any trade
8 practice which is defined in this chapter as, or determined
9 pursuant to section 507B.6 to be, an unfair method of
10 competition, or an unfair or deceptive act or practice in the
11 business of insurance. The issuance of a qualified charitable
12 gift annuity as provided in chapter 508F does not constitute a
13 trade practice in violation of this chapter.

14 2. The commissioner shall have power to examine and
15 investigate into the affairs of every person engaged in the
16 business of insurance in this state in order to determine
17 whether such person has been or is engaged in any unfair
18 method of competition or in any unfair or deceptive act or
19 practice prohibited by this section. The commissioner shall
20 keep confidential the information submitted to the insurance
21 division, or obtained by the insurance division in the course
22 of an investigation pursuant to section 505.8, subsection 6.

23 Sec. 6. Section 508.11, unnumbered paragraph 1, Code 2003,
24 is amended to read as follows:

25 The president or vice president and secretary or actuary,
26 or a majority of the directors of each company organized under
27 this chapter, shall annually, by on or before the first day of
28 March, prepare under oath and file in the office of the
29 commissioner of insurance or a depository designated by the
30 commissioner a statement of its affairs for the year
31 terminating on the thirty-first day of December preceding,
32 showing:

33 Sec. 7. Section 508.31A, Code 2003, is amended to read as
34 follows:

35 508.31A FUNDING AGREEMENTS.

1 1. A life insurance company organized under this chapter
2 may issue funding agreements. The issuance of a funding
3 agreement under this section is deemed to be doing insurance
4 business. For purposes of this section, "funding agreement"
5 means an agreement for an insurer to accept and accumulate
6 funds and to make one or more payments at future dates in
7 amounts that are not based on mortality or morbidity
8 contingencies of the person to whom the funding agreement is
9 issued. A funding agreement does not constitute life
10 insurance, an annuity, or other insurance authorized by
11 section 508.29, and does not constitute a security as defined
12 in section 502.102.

13 2. a. Funding agreements may be issued to the following:
14 (1) A person authorized by a state or foreign country to
15 engage in an insurance business or a subsidiary of such
16 business.

17 (2) A person for the purpose of funding any of the
18 following:

19 (a) Benefits under an employee benefit plan as defined in
20 the federal Employee Retirement Income Security Act of 1974,
21 29 U.S.C. § 1001 et seq., maintained in the United States or
22 in a foreign country.

23 (b) Activities of an organization exempt from taxation
24 pursuant to section 501c of the Internal Revenue Code, or any
25 similar organization in any foreign country.

26 (c) A program of the United States government, another
27 state government or political subdivision of such state, or of
28 a foreign country, or any agency or instrumentality of any
29 such government, political subdivision, or foreign country.

30 (d) An agreement providing for periodic payments in
31 satisfaction of a claim.

32 (e) A program of an institution which has assets in excess
33 of twenty-five million dollars.

34 (3) A person other than a natural person that has assets
35 of at least twenty-five million dollars.

1 (4) A person other than a natural person for the purpose
2 of providing collateral security for securities issued by such
3 person and registered with the federal securities and exchange
4 commission.

5 b. A funding agreement issued pursuant to subparagraph
6 (1), (2), or (3) shall be for a total amount of not less than
7 one million dollars.

8 c. An amount under a funding agreement shall not be
9 guaranteed or credited except upon reasonable assumptions as
10 to investment income and expenses and on a basis equitable to
11 all holders of funding agreements of a given class. Such
12 funding agreements shall not provide for payments to ~~or~~ by the
13 insurer based on mortality or morbidity contingencies.

14 d. Amounts paid to the insurer pursuant to a funding
15 agreement, and proceeds applied under optional modes of
16 settlement, may be allocated by the insurer to one or more
17 separate accounts pursuant to section 508A.1.

18 3. A funding agreement is a class 2 claim under section
19 507C.42, subsection 2.

20 4. The commissioner may adopt rules to implement funding
21 agreements.

22 Sec. 8. Section 508.38, subsection 2, unnumbered paragraph
23 1, Code 2003, is amended by striking the unnumbered paragraph
24 and inserting in lieu thereof the following:

25 In the case of contracts issued on or after the operative
26 date of this section as defined in subsection 11, no contract
27 of annuity, except as stated in subsection 1, shall be
28 delivered or issued for delivery in this state unless it
29 contains in substance the following provisions, or
30 corresponding provisions that in the opinion of the
31 commissioner are at least as favorable to the contract holder,
32 upon cessation of payment of considerations under the
33 contract:

34 Sec. 9. Section 508.38, subsection 2, paragraphs a and b,
35 Code 2003, are amended by striking the paragraphs and

1 inserting in lieu thereof the following:

2 a. That upon cessation of payment of considerations under
3 a contract or upon the written request of the contract owner,
4 the company shall grant a paid-up annuity benefit on a plan
5 stipulated in the contract of such value as is specified in
6 subsections 4, 5, 6, 7, and 9.

7 b. If a contract provides for a lump sum settlement at
8 maturity, or at any other time, that upon surrender of the
9 contract at or prior to the commencement of any annuity
10 payments, the company shall pay in lieu of a paid-up annuity
11 benefit a cash surrender benefit of such amount as is
12 specified in subsections 4, 5, 7, and 9. The company may
13 reserve the right to defer the payment of such cash surrender
14 benefit for a period not to exceed six months after demand
15 therefore with surrender of the contract after making written
16 request and receiving written approval of the commissioner.
17 The request shall address the necessity and equitability to
18 all policyholders of the deferral.

19 Sec. 10. Section 508.38, subsections 3 and 11, Code 2003,
20 are amended by striking the subsections and inserting in lieu
21 thereof the following:

22 3. The minimum values as specified in subsections 4, 5, 6,
23 7, and 9 of any paid-up annuity, cash surrender, or death
24 benefits available under an annuity contract shall be based
25 upon minimum nonforfeiture amounts as defined in this section.

26 a. The minimum nonforfeiture amount at any time at or
27 prior to the commencement of any annuity payments shall be
28 equal to an accumulation up to such time at rates of interest
29 as indicated in paragraph "b" of the net considerations (as
30 hereinafter defined) paid prior to such time, decreased by the
31 sum of all of the following:

32 (1) Any prior withdrawals from or partial surrenders of
33 the contract accumulated at rates of interest as indicated in
34 paragraph "b".

35 (2) An annual contract charge of fifty dollars,

1 accumulated at rates of interest as indicated in paragraph
2 "b".

3 (3) The amount of any indebtedness to the company on the
4 contract, including interest due and accrued.

5 The net considerations for a given contract year used to
6 define the minimum nonforfeiture amount shall be an amount
7 equal to eighty-seven and one-half percent of the gross
8 considerations credited to the contract during the contract
9 year.

10 b. The interest rate used in determining minimum
11 nonforfeiture amounts shall be an annual rate of interest
12 determined as the lesser of three percent per annum and all of
13 the following, which shall be specified in the contract if the
14 interest rate will be reset:

15 (1) The five-year constant maturity treasury rate reported
16 by the federal reserve as of a date, or average over a period,
17 rounded to the nearest one-twentieth of one percent, specified
18 in the contract no longer than fifteen months prior to the
19 contract issue date or redetermination date under subparagraph
20 (4).

21 (2) The result of subparagraph (1) shall be reduced by one
22 hundred twenty-five basis points.

23 (3) The resulting interest guarantee shall not be less
24 than one percent.

25 (4) The interest rate shall apply for an initial period
26 and may be redetermined for additional periods. The
27 redetermination date, basis, and period, if any, shall be
28 stated in the contract. The basis is the date or average over
29 a specified period that produces the value of the five-year
30 constant maturity treasury rate to be used at each
31 redetermination date.

32 During the period or term that a contract provides
33 substantive participation in an equity indexed benefit, it may
34 increase the reduction described in subparagraph (2), by up to
35 an additional one hundred basis points to reflect the value of

1 the equity index benefit. The present value at the contract
2 issue date and at each redetermination date thereafter of the
3 additional reduction shall not exceed the market value of the
4 benefit. The commissioner may require a demonstration that
5 the present value of the reduction does not exceed the market
6 value of the benefit. Lacking such a demonstration that is
7 acceptable to the commissioner, the commissioner may disallow
8 or limit the additional reduction.

9 The commissioner may adopt rules to implement the
10 provisions of subparagraph (4), and to provide for further
11 adjustments to the calculation of minimum nonforfeiture
12 amounts for contracts that provide substantive participation
13 in an equity index benefit and for other contracts that the
14 commissioner determines adjustments are justified.

15 11. After the effective date of this Act, a company may
16 elect either to apply the provisions of this section as it
17 existed prior to the effective date of this Act or to apply
18 the provisions of this section as enacted by this Act to
19 annuity contracts on a contract form-by-form basis before the
20 second anniversary of the effective date of this Act. In all
21 other instances, this section shall become operative with
22 respect to annuity contracts issued by the company two years
23 after the effective date of this Act.

24 Sec. 11. Section 509.19, subsection 1, paragraphs a and c,
25 Code 2003, are amended to read as follows:

26 a. A person issuing a policy or contract providing group
27 health benefit coverages to a group of fifty-one or more
28 eligible employees as defined in chapter 513B shall provide to
29 the policyholder, contract holder, or sponsor of the group
30 health benefit plan, upon request, annually, but not more than
31 three months prior to the policy renewal date, the total
32 amount of actual claims identified as paid or incurred and
33 paid, and the total amount of premiums by line of coverage.
34 If premiums are not billed for each line of coverage, it is
35 not necessary to artificially separate premiums for each line

1 of coverage and will be acceptable to supply total premiums
2 for the period.

3 c. The information required by paragraph "a" shall be
4 provided by the carrier separately for the-current-policy
5 year-to-date-and-for-the-prior-policy-year two separate years,
6 either policy years or rolling twelve-month periods.

7 Sec. 12. Section 509A.15, subsection 4, Code 2003, is
8 amended by striking the subsection and inserting in lieu
9 thereof the following:

10 4. One or more political subdivisions of the state or one
11 or more school corporations maintaining self-insured plans
12 with yearly claims that do not exceed one percent of each
13 entity's general fund budget shall be exempt from the
14 requirements of this section where the plan insures employees
15 for all or part of a deductible, coinsurance payments, drug
16 costs, short-term disability benefits, vision benefits, or
17 dental benefits.

18 The yearly claim amount shall be determined annually on the
19 policy renewal date, or an alternative date established by
20 rule, by a plan administrator or political subdivision or
21 school corporation employee to be designated by the plan
22 administrator. The exemption shall not apply for the year
23 following a year in which yearly claims are determined to
24 exceed one percent of the political subdivision's or school
25 corporation's general fund budget.

26 Sec. 13. Section 510A.2, subsections 3, 4, and 5, Code
27 2003, are amended to read as follows:

28 3. "Controlled insurer" means a licensed insurer which
29 that is controlled, directly or indirectly, by a an insurance
30 producer.

31 4. "Controlling producer" means a an insurance producer
32 who, directly or indirectly, controls an insurer.

33 5. "Independent casualty actuary" means a casualty actuary
34 who is a member of the American academy of actuaries and who
35 is not an employee, principal, the direct or indirect owner

1 of, affiliated with, or in any way controlled by the insurer
2 or insurance producer.

3 Sec. 14. Section 510A.2, Code 2003, is amended by adding
4 the following new subsection:

5 NEW SUBSECTION. 5A. "Insurance producer" means a person
6 required to be licensed under the laws of this state to sell,
7 solicit, or negotiate insurance.

8 Sec. 15. Section 510A.2, subsection 7, Code 2003, is
9 amended by striking the subsection.

10 Sec. 16. Section 510A.4, subsection 1, paragraph b,
11 subparagraph (2), Code 2003, is amended to read as follows:

12 (2) The controlled insurer, except for insurance business
13 written through a residual market facility, accepts insurance
14 business only from the controlling producer, a producer
15 controlled by the controlled insurer, or a an insurance
16 producer that is a subsidiary of the controlled insurer.

17 Sec. 17. Section 510A.4, subsection 2, paragraph g, Code
18 2003, is amended to read as follows:

19 g. The controlled insurer shall provide the controlling
20 producer with its underwriting standards, rules, and
21 procedures manuals setting forth the rates to be charged, and
22 the conditions for the acceptance or rejection of risks. The
23 controlling producer shall adhere to the standards, rules,
24 procedures, rates, and conditions. The standards, rules,
25 procedures, rates, and conditions shall be the same as those
26 applicable to comparable business placed with the controlled
27 insurer by a an insurance producer other than the controlling
28 producer.

29 Sec. 18. Section 510A.4, subsection 4, Code 2003, is
30 amended to read as follows:

31 4. REPORTING REQUIREMENTS.

32 a. In addition to any other required loss reserve
33 certification, the controlled insurer shall annually, on April
34 1 of each year, file with the commissioner an opinion of an
35 independent casualty actuary, or another independent loss

1 reserve specialist acceptable to the commissioner, reporting
2 loss ratios for each line of business written and attesting to
3 the adequacy of loss reserves established for losses incurred
4 and outstanding as of year-end on business placed by the
5 insurance producer, including incurred but not reported
6 losses.

7 b. The controlled insurer shall annually report to the
8 commissioner the amount of commissions paid to the insurance
9 producer, the percentage such amount represents of the net
10 premiums written, and comparable amounts and percentage paid
11 to noncontrolling producers for placements of the same kinds
12 of insurance.

13 Sec. 19. Section 510A.5, Code 2003, is amended to read as
14 follows:

15 510A.5 DISCLOSURE.

16 The insurance producer, prior to the effective date of the
17 policy, shall deliver written notice to the prospective
18 insured disclosing the relationship between the insurance
19 producer and the controlled insurer; except that, if the
20 business is placed through a subproducer who is not a
21 controlling producer, the controlling producer shall retain in
22 the producer's records a signed commitment from the
23 subproducer that the subproducer is aware of the relationship
24 between the insurer and the insurance producer and that the
25 subproducer has notified or will notify the insured.

26 Sec. 20. Section 511.8, subsection 20, Code 2003, is
27 amended by adding the following new unnumbered paragraph:

28 NEW UNNUMBERED PARAGRAPH. "Venture capital fund" includes
29 an equity interest in the Iowa fund of funds as defined in
30 section 15E.62.

31 Sec. 21. Section 511.27, Code 2003, is amended to read as
32 follows:

33 511.27 COMMISSIONER AS PROCESS AGENT.

34 Every life insurance company and association ~~organized~~
35 ~~under-the-laws-of-another-state-or-country~~ shall, before

1 receiving a certificate to do business in this state or any
2 renewal thereof of a certificate to do business in this state,
3 file in the office of the commissioner of insurance a power of
4 attorney and an agreement in writing that ~~thereafter~~ service
5 of notice or process of any kind may be made on the
6 commissioner, ~~and when so made~~ that shall be as valid,
7 binding, and effective for all purposes as if served upon the
8 company according to the laws of this or any other state, and
9 waiving all claim or right of error ~~by reason of such~~
10 ~~acknowledgment of service~~ due to the filing of the power of
11 attorney and the agreement regarding service of notice or
12 process.

13 Sec. 22. NEW SECTION. 511.40 EMPLOYER -- INSURABLE
14 INTEREST.

15 1. As used in this section, "employees" includes officers,
16 managers, and directors of an employer, and the shareholders,
17 partners, members, proprietors, or other owners of the
18 employer.

19 2. An employer and a trust established by the employer for
20 the benefit of the employer or for the benefit of the
21 employer's active or retired employees has an insurable
22 interest in each of the lives of the employer's active or
23 retired employees and may insure their lives on an individual
24 or group basis.

25 3. The amount of coverage on the lives of nonmanagement or
26 nonkey employees shall be reasonably related to the benefit
27 provided to the employees.

28 4. On and after July 1, 2003, an employer or trust shall
29 obtain the written consent of each employee being insured by
30 an employer and trust pursuant to this section before insuring
31 the employee's life. The consent shall include an
32 acknowledgment by the employee that the employer or trust may
33 maintain the life insurance after the employee is no longer
34 employed by the employer. An employer shall not retaliate in
35 any manner against an employee who refuses to consent.

1 Sec. 23. Section 512B.33, Code 2003, is amended to read as
2 follows:

3 512B.33 SERVICE OF PROCESS.

4 1. A ~~foreign-or-alien~~ society authorized to do business in
5 this state shall ~~appoint-in-writing~~ file in the office of the
6 commissioner ~~to-be-its-true-and-lawful~~ a power of attorney
7 ~~upon-whom-all-lawful~~ and an agreement in writing that service
8 of process in any action or proceeding against it-shall-be
9 ~~served, and shall agree in the written consent to process that~~
10 ~~any-lawful-process-against-it-which-is~~ the society may be
11 served on the commissioner and shall be of the same legal
12 force and validity as if served upon the society, and that the
13 authority shall continue in force so long as any liability
14 remains outstanding in this state. Copies of the ~~appointment~~
15 power of attorney, certified by the commissioner, shall be
16 deemed sufficient evidence of the appointment and shall be
17 admitted in evidence with the same force and effect as the
18 original ~~may-be-admitted~~.

19 2. Service of process shall only be made upon the
20 commissioner, or if absent, upon the person in charge of the
21 commissioner's office. Service shall be made in ~~duplicate~~
22 triplicate and shall constitute sufficient service upon the
23 society. When legal process against a society is served upon
24 the commissioner, the commissioner shall ~~forthwith~~ promptly
25 forward one of the duplicate copies by registered mail,
26 prepaid, directed to the secretary or corresponding officer of
27 the society. ~~Service shall not require a~~ A society shall not
28 be required to file its answer, pleading, or defense in less
29 than thirty days from the date of mailing the copy of the
30 service to a society. Legal process shall not be served upon
31 a society except in the manner provided in this section.

32 Sec. 24. Section 513C.7, subsection 4, paragraph b, Code
33 2003, is amended to read as follows:

34 b. A carrier or an organized delivery system shall waive
35 any time period applicable to a preexisting condition

1 exclusion or limitation period with respect to particular
2 services in an individual health benefit plan for the period
3 of time an individual was previously covered by qualifying
4 previous coverage that provided benefits with respect to such
5 services, provided that the qualifying previous coverage was
6 continuous to a date not more than sixty-three days prior to
7 the effective date of the new coverage. For purposes of this
8 section, periods of coverage under medical assistance provided
9 pursuant to chapter 249A or 514I, or Medicare coverage
10 provided pursuant to Title XVIII of the federal Social
11 Security Act shall not be counted with respect to the sixty-
12 three day requirement.

13 Sec. 25. Section 513C.10, subsection 1, paragraph a, Code
14 2003, is amended to read as follows:

15 a. All persons that provide health benefit plans in this
16 state including insurers providing accident and sickness
17 insurance under chapter 509, 514, or 514A, whether on an
18 individual or group basis; fraternal benefit societies
19 providing hospital, medical, or nursing benefits under chapter
20 512B; and health maintenance organizations, organized delivery
21 systems, and all other entities providing health insurance or
22 health benefits subject to state insurance regulation shall be
23 members of the association.

24 Sec. 26. Section 513C.10, subsection 6, Code 2003, is
25 amended to read as follows:

26 6. The assessable loss plus necessary operating expenses
27 for the association, plus any additional expenses as provided
28 by law, shall be assessed by the association to all members in
29 proportion to their respective shares of total health
30 insurance premiums or payments for subscriber contracts
31 received in Iowa during the second preceding calendar year, or
32 with paid losses in the year, coinciding with or ending during
33 the calendar year, or on any other equitable basis as provided
34 in the plan of operation. In sharing losses, the association
35 may abate or defer any part of the assessment of a member, if,

1 in the opinion of the board, payment of the assessment would
2 endanger the ability of the member to fulfill its contractual
3 obligations. The association may also provide for an initial
4 or interim assessment against the members of the association
5 to meet the operating expenses of the association until the
6 next calendar year is completed. For purposes of this
7 subsection, "total health insurance premiums" and "payments
8 for subscriber contracts" include, without limitation,
9 premiums or other amounts paid to or received by a member for
10 individual and group health plan care coverage provided under
11 any chapter of the Code or Acts, and "paid losses" includes,
12 without limitation, claims paid by a member operating on a
13 self-funded basis for individual and group health plan care
14 coverage provided under any chapter of the Code or Acts. For
15 purposes of calculating and conducting the assessment, the
16 association shall have the express authority to require
17 members to report on an annual basis each member's total
18 health insurance premiums and payments for subscriber
19 contracts and paid losses. A member is liable for its share
20 of the assessment calculated in accordance with this section
21 regardless of whether it participates in the individual
22 insurance market.

23 Sec. 27. NEW SECTION. 514.2A SERVICE OF PROCESS.

24 A nonprofit health service corporation authorized to do
25 business in this state shall file in the office of the
26 commissioner a power of attorney and an agreement in writing
27 that service of process in any action or proceeding against
28 the corporation may be served on the commissioner and shall be
29 of the same legal force and validity as if served upon the
30 corporation, and that the authority shall continue in force so
31 long as any liability remains outstanding in this state.
32 Copies of the power of attorney, certified by the
33 commissioner, shall be deemed sufficient evidence of the
34 appointment and shall be admitted in evidence with the same
35 force and effect as the original.

1 Sec. 28. Section 514B.3, subsection 10, Code 2003, is
2 amended to read as follows:

3 10. A power of attorney executed by any applicant ~~who is~~
4 ~~not domiciled in this state~~ appointing the commissioner, the
5 commissioner's successors in office, and deputies ~~as the true~~
6 ~~and lawful attorney of the applicant for this state upon whom~~
7 ~~all lawful~~ to receive process in any legal action or
8 proceeding against the health maintenance organization on a
9 cause of action arising in this state ~~may be served~~.

10 Sec. 29. Section 514B.12, unnumbered paragraph 1, Code
11 2003, is amended to read as follows:

12 A health maintenance organization shall annually on or
13 before the first day of March file with the commissioner or a
14 depository designated by the commissioner a report verified by
15 at least two of its principal officers and covering the
16 preceding calendar year. The report shall be on forms
17 prescribed by the commissioner and shall include:

18 Sec. 30. Section 514B.33, Code 2003, is amended by adding
19 the following new subsection:

20 NEW SUBSECTION. 1A. When not otherwise provided, a
21 foreign or domestic limited service organization doing
22 business in this state shall pay the commissioner the fees as
23 required in section 511.24.

24 Sec. 31. Section 514J.7, subsection 8, Code 2003, is
25 amended to read as follows:

26 8. The confidentiality of any medical records submitted
27 shall be maintained pursuant to applicable state and federal
28 laws. Other than the sharing of information required by this
29 chapter and the rules adopted pursuant to this chapter, the
30 commissioner shall keep confidential the information obtained
31 in the external review process pursuant to section 505.8,
32 subsection 6.

33 Sec. 32. Section 514J.10, Code 2003, is amended to read as
34 follows:

35 514J.10 REPORTING.

1 ~~Each carrier and organized delivery system shall file~~ The
2 commissioner shall prepare an annual report with the
3 ~~commissioner~~ containing all of the following:

4 1. The number of external reviews requested.

5 2. The number of the external reviews certified by the
6 commissioner.

7 3. The number of coverage decisions which were upheld by
8 an independent review entity.

9 The commissioner shall prepare a the report by January 31
10 of each year.

11 Sec. 33. Section 514J.13, Code 2003, is amended to read as
12 follows:

13 514J.13 EFFECT OF EXTERNAL REVIEW DECISION.

14 1. The review decision by the independent review entity
15 conducting the review is binding upon the carrier or organized
16 delivery system. The external review process shall not be
17 considered a contested case under chapter 17A, the Iowa
18 administrative procedure Act.

19 2. The enrollee or the enrollee's treating health care
20 provider acting on behalf of the enrollee may appeal the
21 review decision by the independent review entity conducting
22 the review by filing a petition for judicial review either in
23 Polk county district court or in the district court in the
24 county in which the enrollee resides. The petition for
25 judicial review must be filed within fifteen business days
26 after the issuance of the review decision. The petition shall
27 name the enrollee or the enrollee's treating health care
28 provider as the petitioner. The respondent shall be the
29 carrier or the organized delivery system. The petition shall
30 not name the independent review entity as a party. The
31 commissioner shall not be named as a respondent unless the
32 petitioner alleges action or inaction by the commissioner
33 under the standards articulated in section 17A.19, subsection
34 10. Allegations against the commissioner under section
35 17A.19, subsection 10, must be stated with particularity. The

1 commissioner may, upon motion, intervene in the judicial
2 review proceeding. The findings of fact by the independent
3 review entity conducting the review are conclusive and binding
4 on appeal.

5 3. The carrier or organized delivery system shall follow
6 and comply with the review decision of the independent review
7 entity conducting the review, or the decision of the court on
8 appeal. The carrier or organized delivery system and the
9 enrollee's treating health care provider shall not be subject
10 to any penalties, sanctions, or award of damages for following
11 and complying in good faith with the review decision of the
12 independent review entity conducting the review or decision of
13 the court on appeal.

14 4. The enrollee or the enrollee's treating health care
15 provider may bring an action in Polk county district court or
16 in the district court in the county in which the enrollee
17 resides to enforce the review decision of the independent
18 review entity conducting the review or the decision of the
19 court on appeal.

20 Sec. 34. Section 515.35, subsection 4, paragraph m, Code
21 2003, is amended by adding the following new unnumbered
22 paragraph:

23 NEW UNNUMBERED PARAGRAPH. "Venture capital fund" includes
24 an equity interest in the Iowa fund of funds as defined in
25 section 15E.62.

26 Sec. 35. Section 515.63, unnumbered paragraph 1, Code
27 2003, is amended to read as follows:

28 The president or the vice president and secretary of each
29 company organized or authorized to do business in the state
30 shall annually on or before the first day of March of each
31 year prepare under oath and file with the commissioner of
32 insurance or a depository designated by the commissioner a
33 full, true, and complete statement of the condition of such
34 company on the last day of the preceding year, which shall
35 exhibit the following items and facts:

1 Sec. 36. Section 515.73, Code 2003, is amended to read as
2 follows:

3 515.73 COMMISSIONER AS PROCESS AGENT.

4 Any foreign company desiring to transact the business of
5 insurance under this chapter, ~~by an agent or agents in the~~
6 ~~state,~~ shall file with the commissioner of insurance a power
7 of attorney and a signed written instrument, ~~duly signed and~~
8 ~~sealed,~~ authorizing such the commissioner to acknowledge
9 accept service of notice or process ~~for and in~~ on behalf of
10 such company ~~in this state, and consenting that service of~~
11 ~~notice or process may be made upon the said commissioner, and~~
12 ~~when so made~~ that shall be taken and held as valid as if
13 served upon the company according to the laws of this or any
14 other state, and waiving all claim, or right, of error, ~~by~~
15 ~~reason of such acknowledgment of service~~ due to the filing of
16 the power of attorney and the agreement regarding service of
17 notice or process.

18 Sec. 37. Section 515.92, Code 2003, is amended to read as
19 follows:

20 515.92 STATEMENT OF CAPITAL AND SURPLUS.

21 1. Every advertisement or public announcement, and every
22 sign, circular, or card issued or published by a foreign
23 company transacting the business of casualty insurance in the
24 state, or by an officer, agent, or representative thereof,
25 that purports to disclose the company's financial standing,
26 shall exhibit the capital actually paid in cash, and the
27 amount of net surplus of assets over all its liabilities
28 actually held and available for the payment of losses by fire
29 and for the protection of holders of fire policies, and shall
30 also exhibit the amount of net surplus of assets over all
31 liabilities in the United States actually available for the
32 payment of losses by fire and held in the United States for
33 the protection of holders of fire policies in the United
34 States, including in such liabilities the fund reserved for
35 reinsurance of outstanding risks, ~~and the same.~~ The amounts

1 stated for capital and net surplus shall correspond with the
2 latest verified statement made by the company or association
3 to the commissioner of insurance.

4 2. The company shall not write, place, or cause to be
5 written or placed, a policy or contract for insurance upon
6 property situated or located in this state except through ~~its~~
7 resident-agent-or-agents a licensed producer authorized to do
8 business in this state.

9 Sec. 38. Section 515.133, Code 2003, is amended to read as
10 follows:

11 515.133 EXAMINATION OF OFFICERS AND EMPLOYEES.

12 1. The commissioner of insurance is authorized to ~~summon~~
13 ~~before-the-commissioner,~~ issue a subpoena for examination
14 under oath, any officer, agent, or employee of any ~~such~~
15 company suspected of violating any of the provisions of
16 section 515.131~~7-and7-on.~~

17 2. Upon the filing of a written, verified complaint to
18 with the commissioner in-writing by two or more residents of
19 this state ~~charging-such~~ alleging that a company under-oath
20 ~~upon-their-knowledge-or-belief-with-violating-the-provisions~~
21 ~~of-said~~ has violated section 515.131, the commissioner shall
22 summon issue a subpoena for examination under oath to any
23 officer, agent, or employee of ~~said~~ the company ~~before-the~~
24 ~~commissioner-for-examination-under-oath.~~

25 Sec. 39. Section 515.134, Code 2003, is amended to read as
26 follows:

27 515.134 REVOCATION OF AUTHORITY.

28 If upon ~~such~~ examination, and that of any other witness
29 produced and examined, the commissioner ~~shall-determine~~
30 determines that ~~such a~~ company ~~is-guilty-of-a-violation-of-any~~
31 ~~of-the-provisions-of~~ has violated section 515.131, or if any
32 ~~such~~ officer, agent, or employee ~~after-being-duly-summoned~~
33 ~~shall-fail~~ fails to appear or submit to examination after
34 receiving a subpoena, the commissioner shall ~~forthwith~~
35 promptly issue an order revoking the authority of ~~such~~ the

1 company to transact business within this state, and it the
2 company shall not thereafter be permitted to do the business
3 of fire insurance in this state ~~at any time within~~ for one
4 year therefrom.

5 Sec. 40. Section 515B.2, subsection 2, Code 2003, is
6 amended to read as follows:

7 2. "Claimant" means an insured making a first party claim
8 or any person instituting a liability claim against the
9 insured of an insolvent insurer. "Claimant" does not include
10 a person who is an affiliate of an insolvent insurer.

11 Sec. 41. Section 515B.8, subsection 1, Code 2003, is
12 amended to read as follows:

13 1. Any person recovering under this chapter shall be
14 deemed to have assigned the person's rights under the policy
15 to the association to the extent of the person's recovery from
16 the association. Every insured or claimant seeking the
17 protection of this chapter shall co-operate with the
18 association to the same extent as such person would have been
19 required to co-operate with the insolvent insurer. The
20 association shall have no cause of action against the insured
21 of the insolvent insurer for any sums it has paid out except
22 causes of action the insolvent insurer would have had if the
23 sums had been paid by the insolvent insurer.

24 Sec. 42. Section 515B.9, subsection 1, Code 2003, is
25 amended by striking the subsection and inserting in lieu
26 thereof the following:

27 1. Any person having a claim under an insurance policy,
28 and the claim under such other policy alleges the same damages
29 or arises from the same facts, injury, or loss that gives rise
30 to a covered claim against the association, shall be required
31 to first exhaust all coverage provided by that policy, whether
32 such coverage is on a primary, excess, or pro rata basis and
33 any obligation of the association shall not be considered
34 other insurance.

35 Any amount payable on a covered claim shall be reduced by

1 the full applicable limits of such other insurance policy and
2 the association shall receive full credit for such limits or
3 where there are no applicable limits, the claim shall be
4 reduced by the total recovery.

5 a. A policy providing liability coverage to a person who
6 may be jointly and severally liable with, or a joint
7 tortfeasor with, the person covered under the policy of the
8 insolvent insurer shall be first exhausted before any claim is
9 made against the association and the association shall receive
10 credit for the same as provided above.

11 b. For purposes of this section, an insurance policy means
12 a policy issued by an insurance company, whether or not a
13 member insurer, which policy insures any of the types of risks
14 insured by an insurance company authorized to write insurance
15 under chapter 515, 516A, or 520, or comparable statutes of
16 another state, except those types of risks set forth in
17 chapters 508 and 514.

18 Sec. 43. Section 515B.16, Code 2003, is amended to read as
19 follows:

20 515B.16 ACTIONS AGAINST THE ASSOCIATION.

21 Any action against the association shall be brought against
22 the association in the association's own name. The Polk
23 county district court shall have exclusive jurisdiction and
24 venue of such actions. Service of the original notice in
25 actions against the association may be made on any officer of
26 the association or upon the commissioner of insurance on
27 behalf of the association. The commissioner shall promptly
28 transmit any notice so served upon the commissioner to the
29 association. Any action against the association shall be
30 commenced within three years after the date of the order of
31 liquidation.

32 Sec. 44. Section 515D.5, subsection 1, unnumbered
33 paragraph 1, Code 2003, is amended to read as follows:

34 Notwithstanding the provisions of sections 515.80 through
35 515.81A, a notice of cancellation of a policy shall not be

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

16 Sec. 45. Section 515D.10, Code 2003, is amended to read as
17 follows:

18 515D.10 HEARING BEFORE COMMISSIONER.

19 Any named insured who has received a statement of reason
20 for cancellation, or of reason for an insurer's intent not to
21 renew a policy, may, within fifteen days of the receipt or
22 delivery of a statement of reason, request a hearing before
23 the commissioner of insurance. The purpose of this hearing
24 shall be limited to establishing the existence of the proof or
25 evidence used by the insurer in its reason for cancellation or
26 intent not to renew. The burden of proof of the reason for
27 cancellation or intent not to renew shall be upon the insurer.
28 Other than the sharing of information required by this chapter
29 and the rules adopted pursuant to the provisions of this
30 chapter, the commissioner shall keep confidential the
31 information obtained from the insured or in the hearing
32 process, pursuant to section 505.8, subsection 6. The
33 commissioner of insurance shall adopt rules for carrying out
34 the provisions of this section.

35 Sec. 46. Section 515E.3, Code 2003, is amended by adding

1 the following new unnumbered paragraph:

2 NEW UNNUMBERED PARAGRAPH. A risk retention group organized
3 in this state shall file in the office of the commissioner a
4 power of attorney and an agreement in writing that service of
5 process in any action or proceeding against the society may be
6 served on the commissioner and shall be of the same legal
7 force and validity as if served upon the society, and that the
8 authority shall continue in force so long as any liability
9 remains outstanding in this state. Copies of the power of
10 attorney, certified by the commissioner, shall be deemed
11 sufficient evidence of the appointment and shall be admitted
12 in evidence with the same force and effect as the original.

13 Sec. 47. Section 518.23, subsection 2, paragraph a, Code
14 2003, is amended to read as follows:

15 a. Except as provided in paragraph "b", notice of
16 cancellation is not effective unless mailed or delivered by
17 the association to the named insured at least twenty thirty
18 days before the effective date of cancellation.

19 Sec. 48. Section 518A.29, subsection 2, paragraph a, Code
20 2003, is amended to read as follows:

21 a. Except as provided in paragraph "b", notice of
22 cancellation is not effective unless mailed or delivered by
23 the association to the named insured at least twenty thirty
24 days before the effective date of cancellation.

25 Sec. 49. Section 521C.3, subsection 4, paragraph b, Code
26 2003, is amended to read as follows:

27 ~~b. If the applicant for a~~ A reinsurance intermediary
28 ~~license is a nonresident,~~ such applicant, as a condition
29 precedent to receiving or holding a license, shall designate
30 the commissioner as agent for service of process, and also
31 shall furnish the commissioner with the name and address of a
32 resident of this state upon whom notices or orders of the
33 commissioner or process affecting such nonresident reinsurance
34 intermediary may be served. The licensee shall promptly
35 notify the commissioner in writing of a change of the

1 designated agent for service of process, and the change
2 becomes effective upon acknowledgment by the commissioner.

3 Sec. 50. Section 523.7, Code 2003, is amended to read as
4 follows:

5 523.7 STATEMENT OF STOCK OWNERSHIP FILED WITH
6 COMMISSIONER.

7 1. Every person who is directly or indirectly the
8 beneficial owner of more than ten percent of any class of any
9 equity security of a domestic stock insurance company, or who
10 is a director or an officer of such company, shall file in the
11 office of the commissioner of insurance ~~within ten days after~~
12 ~~the person becomes such beneficial owner, director or officer~~
13 as prescribed by rule a statement, in such a form as the
14 commissioner may prescribe, of the amount of all equity
15 securities of such the company of which the person is the
16 beneficial owner. ~~7 and within ten days after the close of each~~
17 ~~calendar month thereafter~~

18 2. Within the time frame prescribed by rule, if there has
19 been a change in such the ownership during such month a time
20 period prescribed by rule, a person who is directly or
21 indirectly the beneficial owner of more than ten percent of
22 any class of any equity security of a domestic stock insurance
23 company, or who is a director or an officer of such company,
24 shall file in the office of the commissioner a statement, in
25 such a form as the commissioner may prescribe, indicating the
26 person's ownership at the close of the calendar month time
27 period prescribed by rule and such any changes in the person's
28 ownership as have occurred during such calendar month the time
29 period prescribed by rule.

30 Sec. 51. Sections 511.30, 515.78, and 518A.43, Code 2003,
31 are repealed.

32 Sec. 52. INDIVIDUAL HEALTH INSURANCE TASK FORCE. The
33 insurance division of the department of commerce shall
34 establish an individual health insurance task force. The
35 individual health insurance task force shall conduct a study

1 to review the individual health insurance market reform under
2 chapter 513C and the Iowa comprehensive health insurance
3 association under chapter 514E. The study shall include
4 review of the following:

5 1. The premium rating system for the guaranteed basic and
6 standard plans regulated under chapter 513C and the
7 comprehensive health insurance plans under chapter 514E.

8 2. The availability of and qualifications for coverage
9 under the guaranteed basic and standard plans regulated under
10 chapter 513C and the comprehensive health insurance plans
11 under chapter 514E.

12 3. The cost-sharing and assessment mechanisms under
13 sections 513C.10 and 514E.2.

14 4. Any other matters as agreed upon by the task force
15 which affect the individual health insurance market.

16 The commissioner of insurance shall select the members of
17 the task force which shall include representatives from the
18 Iowa comprehensive health insurance association, the public
19 employee governing bodies subject to chapter 509A, and other
20 health insurance-related parties or experts as deemed
21 appropriate by the commissioner.

22 The commissioner shall submit a report from the task force
23 to the general assembly on or before January 15, 2004,
24 regarding the task force's findings and recommendations
25 including proposed legislation concerning individual health
26 insurance.

27 **Sec. 53. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY.**
28 This section and the sections of this Act amending sections
29 513C.10, subsection 1, paragraph "a", and subsection 6, being
30 deemed of immediate importance, take effect upon enactment,
31 and apply retroactively to July 1, 1995.

32 **DIVISION II**

33 **Sec. 54. NEW SECTION. 505A.1 INTERSTATE INSURANCE**
34 **PRODUCT REGULATION COMPACT.**

35 The interstate insurance product regulation compact is

1 hereby entered into and enacted into law with all
2 jurisdictions legally joining therein, in the form
3 substantially as follows:

4 ARTICLE I -- PURPOSES

5 The purposes of this compact are, through means of joint
6 and cooperative action among the compacting states:

7 1. To promote and protect the interest of consumers of
8 individual and group annuity, life insurance, disability
9 income and long-term care insurance products.

10 2. To develop uniform standards for insurance products
11 covered under this compact.

12 3. To establish a central clearinghouse to receive and
13 provide prompt review of insurance products covered under the
14 compact and, in certain cases, advertisements related thereto,
15 submitted by insurers authorized to do business in one or more
16 compacting states.

17 4. To give appropriate regulatory approval to those
18 product filings and advertisements satisfying the applicable
19 uniform standard.

20 5. To improve coordination of regulatory resources and
21 expertise between state insurance departments regarding the
22 setting of uniform standards and review of insurance products
23 covered under this compact.

24 6. To create the interstate insurance product regulation
25 commission.

26 7. To perform these and such other related functions as
27 may be consistent with the state regulation of the business of
28 insurance.

29 ARTICLE II -- DEFINITIONS

30 For purposes of this compact, unless the context otherwise
31 requires:

32 1. "Advertisement" means any material designed to create
33 public interest in a product, or induce the public to
34 purchase, increase, modify, reinstate, borrow on, surrender,
35 replace or retain a policy, as more specifically defined in

1 the rules and operating procedures of the commission.

2 2. "Bylaws" means those bylaws established by the
3 commission for its governance, or for directing or controlling
4 the commission's actions or conduct.

5 3. "Commission" means the interstate insurance product
6 regulation commission established by this compact.

7 4. "Commissioner" means the chief insurance regulatory
8 official of a state including, but not limited to,
9 commissioner, superintendent, director, or administrator.

10 5. "Compacting state" means any state that has enacted
11 this compact legislation and that has not withdrawn pursuant
12 to article XIV, section 1, or been terminated pursuant to
13 article XIV, section 2.

14 6. "Domiciliary state" means the state in which an insurer
15 is incorporated or organized, or, in the case of an alien
16 insurer, its state of entry.

17 7. "Insurer" means any entity licensed by a state to issue
18 contracts of insurance for any of the lines of insurance
19 covered by this compact.

20 8. "Member" means the person chosen by a compacting state
21 as its representative to the commission, or the person's
22 designee.

23 9. "Noncompacting state" means any state which is not at
24 the time a compacting state.

25 10. "Operating procedures" means procedures promulgated by
26 the commission implementing a rule, uniform standard, or a
27 provision of this compact.

28 11. "Product" means the form of a policy or contract,
29 including any application, endorsement, or related form which
30 is attached to and made a part of the policy or contract, and
31 any evidence of coverage or certificate, for an individual or
32 group annuity, life insurance, disability income, or long-term
33 care insurance product that an insurer is authorized to issue.

34 12. "Rule" means a statement of general or particular
35 applicability and future effect promulgated by the commission,

1 including a uniform standard developed pursuant to article
2 VII, designed to implement, interpret, or prescribe law or
3 policy, or describing the organization, procedure, or practice
4 requirements of the commission, which shall have the force and
5 effect of law in the compacting states.

6 13. "State" means any state, district, or territory of the
7 United States of America.

8 14. "Third-party filer" means an entity that submits a
9 product filing to the commission on behalf of an insurer.

10 15. "Uniform standard" means a standard adopted by the
11 commission for a product line, pursuant to article VII, and
12 shall include all of the product requirements in aggregate,
13 provided that each uniform standard shall be construed,
14 whether express or implied, to prohibit the use of any
15 inconsistent, misleading, or ambiguous provisions in a
16 product, and the form of the product made available to the
17 public shall not be unfair, inequitable, or against public
18 policy as determined by the commission.

19 ARTICLE III -- ESTABLISHMENT OF THE COMMISSION AND VENUE

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

33 2. The commission is a body corporate comprising each
34 compacting state.

35 3. The commission is a not-for-profit entity, separate and

1 distinct from the individual compacting states.

2 4. The commission is solely responsible for its
3 liabilities except as otherwise specifically provided in this
4 compact.

5 5. Venue is proper and judicial proceedings by or against
6 the commission shall be brought solely and exclusively in a
7 court of competent jurisdiction where the principal office of
8 the commission is located.

9 ARTICLE IV -- POWERS OF THE COMMISSION

10 The commission shall have the following powers:

11 1. To promulgate rules, pursuant to article VII, which
12 shall have the force and effect of law and shall be binding in
13 the compacting states to the extent and in the manner provided
14 in this compact.

15 2. To exercise its rulemaking authority and establish
16 reasonable uniform standards for products covered under this
17 compact, and advertisement related thereto, which shall have
18 the force and effect of law and shall be binding in the
19 compacting states, but only for those products filed with the
20 commission, provided that a compacting state shall have the
21 right to opt out of such uniform standard pursuant to article
22 VII, to the extent and in the manner provided in this compact,
23 and, provided further, that any uniform standard established
24 by the commission for long-term care insurance products may
25 provide the same or greater protections for consumers as, but
26 shall not provide less than, those protections set forth in
27 the national association of insurance commissioners' long-term
28 care insurance model act and long-term care insurance model
29 regulation, respectively, adopted as of 2001. The commission
30 shall consider whether any subsequent amendments to the long-
31 term care insurance model act or long-term care insurance
32 model regulation adopted by the national association of
33 insurance commissioners require amending of the uniform
34 standards established by the commission for long-term care
35 insurance products.

1 3. To receive and review in an expeditious manner products
2 filed with the commission, and rate filings for disability
3 income and long-term care insurance products, and give
4 approval of those products and rate filings that satisfy the
5 applicable uniform standard, where such approval shall have
6 the force and effect of law, and be binding on the compacting
7 states to the extent and in the manner provided in the
8 compact.

9 4. To receive and review in an expeditious manner
10 advertisement relating to long-term care insurance products
11 for which uniform standards have been adopted by the
12 commission, and give approval to all advertisement that
13 satisfies the applicable uniform standard. For any product
14 covered under this compact, other than long-term care
15 insurance products, the commission shall have the authority to
16 require an insurer to submit all or any part of its
17 advertisement with respect to that product for review or
18 approval prior to use, if the commission determines that the
19 nature of the product is such that an advertisement of the
20 product could have the capacity or tendency to mislead the
21 public. The actions of the commission as provided in this
22 article shall have the force and effect of law and shall be
23 binding in the compacting states to the extent and in the
24 manner provided in this compact.

25 5. To exercise its rulemaking authority and designate
26 products and advertisement that may be subject to a self-
27 certification process without the need for prior approval by
28 the commission.

29 6. To promulgate operating procedures, pursuant to article
30 VII, which shall be binding in the compacting states to the
31 extent and in the manner provided in this compact.

32 7. To bring and prosecute legal proceedings or actions in
33 its name as the commission, provided that the standing of any
34 state insurance department to sue or be sued under applicable
35 law shall not be affected.

1 8. To issue subpoenas requiring the attendance and
2 testimony of witnesses and the production of evidence.

3 9. To establish and maintain offices.

4 10. To purchase and maintain insurance and bonds.

5 11. To borrow, accept, or contract for services of
6 personnel, including, but not limited to, employees of a
7 compacting state.

8 12. To hire employees, professionals, or specialists, and
9 elect or appoint officers, and to fix their compensation,
10 define their duties, and give them appropriate authority to
11 carry out the purposes of this compact, and determine their
12 qualifications, and to establish the commission's personnel
13 policies and programs relating to, among other things,
14 conflicts of interest, rates of compensation, and
15 qualifications of personnel.

16 13. To accept any and all appropriate donations and grants
17 of money, equipment, supplies, materials, and services, and to
18 receive, utilize, and dispose of the same, provided that at
19 all times the commission shall strive to avoid any appearance
20 of impropriety.

21 14. To lease, purchase, accept appropriate gifts or
22 donations of, or otherwise to own, hold, improve, or use, any
23 property, real, personal, or mixed, provided that at all times
24 the commission shall strive to avoid any appearance of
25 impropriety.

26 15. To sell, convey, mortgage, pledge, lease, exchange,
27 abandon, or otherwise dispose of any property, real, personal,
28 or mixed.

29 16. To remit filing fees to compacting states as may be
30 set forth in the bylaws, rules, or operating procedures.

31 17. To enforce compliance by compacting states with rules,
32 uniform standards, operating procedures, and bylaws.

33 18. To provide for dispute resolution among compacting
34 states.

35 19. To advise compacting states on issues relating to

1 insurers domiciled or doing business in noncompacting
2 jurisdictions, consistent with the purposes of this compact.

3 20. To provide advice and training to those personnel in
4 state insurance departments responsible for product review,
5 and to be a resource for state insurance departments.

6 21. To establish a budget and make expenditures.

7 22. To borrow money.

8 23. To appoint committees, including advisory committees
9 comprising members, state insurance regulators, state
10 legislators or their representatives, insurance industry and
11 consumer representatives, and such other interested persons as
12 may be designated in the bylaws.

13 24. To provide and receive information from, and to
14 cooperate with, law enforcement agencies.

15 25. To adopt and use a corporate seal.

16 26. To perform such other functions as may be necessary or
17 appropriate to achieve the purposes of this compact consistent
18 with the state regulation of the business of insurance.

19 ARTICLE V -- ORGANIZATION OF THE COMMISSION

20 1. MEMBERSHIP, VOTING, AND BYLAWS.

21 a. Each compacting state shall have and be limited to one
22 member. Each member shall be qualified to serve in that
23 capacity pursuant to applicable law of the compacting state.
24 Any member may be removed or suspended from office as provided
25 by the law of the state from which the member is appointed.
26 Any vacancy occurring in the commission shall be filled in
27 accordance with the laws of the compacting state wherein the
28 vacancy exists. Nothing herein shall be construed to affect
29 the manner in which a compacting state determines the election
30 or appointment and qualification of its own commissioner.

31 b. Each member shall be entitled to one vote and shall
32 have an opportunity to participate in the governance of the
33 commission in accordance with the bylaws. Notwithstanding any
34 provision herein to the contrary, no action of the commission
35 with respect to the promulgation of a uniform standard shall

1 be effective unless two-thirds of the members vote in favor
2 thereof.

3 c. The commission shall, by a majority of the members,
4 prescribe bylaws to govern its conduct as may be necessary or
5 appropriate to carry out the purposes, and exercise the
6 powers, of the compact, including, but not limited to:

7 (1) Establishing the fiscal year of the commission.

8 (2) Providing reasonable procedures for appointing and
9 electing members, as well as holding meetings, of the
10 management committee.

11 (3) Providing reasonable standards and procedures:

12 (a) For the establishment of other committees.

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

15 (4) Providing reasonable procedures for calling and
16 conducting meetings of the commission, and ensuring reasonable
17 notice of each such meeting.

18 (5) Establishing the titles, duties, and authority, and
19 reasonable procedures for the election of the officers of the
20 commission.

21 (6) Providing reasonable standards and procedures for the
22 establishment of the personnel policies and programs of the
23 commission. Notwithstanding any civil service or other
24 similar laws of any compacting state, the bylaws shall
25 exclusively govern the personnel policies and programs of the
26 commission.

27 (7) Providing a mechanism for winding up the operations of
28 the commission and the equitable disposition of any surplus
29 funds that may exist after the termination of this compact
30 after the payment or reserving of all of its debts and
31 obligations.

32 2. MANAGEMENT COMMITTEE, OFFICERS, AND PERSONNEL.

33 a. A management committee comprising no more than fourteen
34 members shall be established as follows:

35 (1) One member from each of the six compacting states with

1 the largest premium volume for individual and group annuities,
2 life, disability income, and long-term care insurance
3 products, determined from the records of the national
4 association of insurance commissioners for the prior year.

5 (2) Four members from those compacting states with at
6 least two percent of the market based on the premium volume
7 described in subparagraph (1), other than the six compacting
8 states with the largest premium volume, selected on a rotating
9 basis as provided in the bylaws.

10 (3) Four members from those compacting states with less
11 than two percent of the market, based on the premium volume
12 described subparagraph (1), with one selected from each of the
13 four zone regions of the national association of insurance
14 commissioners as provided in the bylaws.

15 b. The management committee shall have such authority and
16 duties as may be set forth in the bylaws, including but not
17 limited to:

18 (1) Managing the affairs of the commission in a manner
19 consistent with the bylaws and purposes of the commission.

20 (2) Establishing and overseeing an organizational
21 structure within, and appropriate procedures for, the
22 commission to provide for the creation of uniform standards
23 and other rules, receipt and review of product filings,
24 administrative and technical support functions, review of
25 decisions regarding the disapproval of a product filing, and
26 the review of elections made by a compacting state to opt out
27 of a uniform standard, provided that a uniform standard shall
28 not be submitted to the compacting states for adoption unless
29 approved by two-thirds of the members of the management
30 committee.

31 (3) Overseeing the offices of the commission.

32 (4) Planning, implementing, and coordinating
33 communications and activities with other state, federal, and
34 local government organizations in order to advance the goals
35 of the commission.

1 c. The commission shall elect annually officers from the
2 management committee, with each having such authority and
3 duties, as may be specified in the bylaws.

4 d. The management committee may, subject to the approval
5 of the commission, appoint or retain an executive director for
6 such period, upon such terms and conditions and for such
7 compensation as the commission may deem appropriate. The
8 executive director shall serve as secretary to the commission,
9 but shall not be a member of the commission. The executive
10 director shall hire and supervise such other staff as may be
11 authorized by the commission.

12 3. LEGISLATIVE AND ADVISORY COMMITTEES.

13 a. A legislative committee comprising state legislators or
14 their designees shall be established to monitor the operations
15 of, and make recommendations to, the commission, including the
16 management committee, provided that the manner of selection
17 and term of any legislative committee member shall be as set
18 forth in the bylaws. Prior to the adoption by the commission
19 of any uniform standard, revision to the bylaws, annual
20 budget, or other significant matter as may be provided in the
21 bylaws, the management committee shall consult with and report
22 to the legislative committee.

23 b. The commission shall establish two advisory committees,
24 one of which shall comprise consumer representatives
25 independent of the insurance industry, and the other
26 comprising insurance industry representatives.

27 c. The commission may establish additional advisory
28 committees as its bylaws may provide for the carrying out of
29 its functions.

30 4. CORPORATE RECORDS OF THE COMMISSION. The commission
31 shall maintain its corporate books and records in accordance
32 with the bylaws.

33 5. QUALIFIED IMMUNITY, DEFENSE, AND INDEMNIFICATION.

34 a. The members, officers, executive director, employees,
35 and representatives of the commission shall be immune from

1 suit and liability, either personally or in their official
2 capacity, for any claim for damage to, or loss of, property,
3 personal injury, or other civil liability caused by or arising
4 out of any actual or alleged act, error, or omission that
5 occurred, or that the person against whom the claim is made
6 had a reasonable basis for believing occurred, within the
7 scope of commission employment, duties, or responsibilities,
8 provided that nothing in this paragraph shall be construed to
9 protect any such person from suit or liability for any damage,
10 loss, injury, or liability caused by the intentional or
11 willful and wanton misconduct of that person.

12 b. The commission shall defend any member, officer,
13 executive director, employee, or representative of the
14 commission in any civil action seeking to impose liability
15 arising out of any actual or alleged act, error, or omission
16 that occurred within the scope of commission employment,
17 duties, or responsibilities, or that the person against whom
18 the claim is made had a reasonable basis for believing
19 occurred within the scope of commission employment, duties, or
20 responsibilities, provided that nothing herein shall be
21 construed to prohibit that person from retaining the person's
22 own counsel; and, provided further, that the actual or alleged
23 act, error, or omission did not result from that person's
24 intentional or willful and wanton misconduct.

25 c. The commission shall indemnify and hold harmless any
26 member, officer, executive director, employee, or
27 representative of the commission for the amount of any
28 settlement or judgment obtained against that person arising
29 out of any actual or alleged act, error, or omission that
30 occurred within the scope of commission employment, duties, or
31 responsibilities, or that such person had a reasonable basis
32 for believing occurred within the scope of commission
33 employment, duties, or responsibilities, provided that the
34 actual or alleged act, error, or omission did not result from
35 the intentional or willful and wanton misconduct of that

1 person.

2 ARTICLE VI -- MEETINGS AND ACTS OF THE COMMISSION

3 1. The commission shall meet and take such actions as are
4 consistent with the provisions of this compact and the bylaws.

5 2. Each member of the commission shall have the right and
6 power to cast a vote to which that compacting state is
7 entitled and to participate in the business and affairs of the
8 commission. A member shall vote in person or by such other
9 means as provided in the bylaws. The bylaws may provide for
10 members' participation in meetings by telephone or other means
11 of communication.

12 3. The commission shall meet at least once during each
13 calendar year. Additional meetings shall be held as set forth
14 in the bylaws.

15 ARTICLE VII -- RULES AND OPERATING PROCEDURES --

16 RULEMAKING FUNCTIONS OF THE COMMISSION AND

17 OPTING OUT OF UNIFORM STANDARDS

18 1. RULEMAKING AUTHORITY. The commission shall promulgate
19 reasonable rules, including uniform standards and operating
20 procedures, in order to effectively and efficiently achieve
21 the purposes of this compact. Notwithstanding the foregoing,
22 in the event the commission exercises its rulemaking authority
23 in a manner that is beyond the scope of the purposes of this
24 compact, or the powers granted hereunder, such an action by
25 the commission shall be invalid and have no force and effect.

26 2. RULEMAKING PROCEDURE. Rules and operating procedures
27 shall be made pursuant to a rulemaking process that conforms
28 to the model state administrative procedure act, as may be
29 appropriate to the operations of the commission. Before the
30 commission adopts a uniform standard, the commission shall
31 give written notice to the relevant state legislative
32 committee or committees in each compacting state responsible
33 for insurance issues of its intention to adopt the uniform
34 standard.

35 3. EFFECTIVE DATE AND OPT OUT OF A UNIFORM STANDARD. A

1 uniform standard shall become effective ninety days after its
2 promulgation by the commission or such later date as the
3 commission may determine, provided, however, that a compacting
4 state may opt out of a uniform standard as provided in this
5 article. "Opt out" means any action by a compacting state to
6 decline to adopt or participate in a promulgated uniform
7 standard. All other rules and operating procedures, and
8 amendments thereto, shall become effective as of the date
9 specified in each rule, operating procedure, or amendment.

10 4. OPT-OUT PROCEDURE. A compacting state may opt out of a
11 uniform standard, either by legislation or regulation duly
12 promulgated by the insurance department under the compacting
13 state's administrative procedure act. If a compacting state
14 elects to opt out of a uniform standard by regulation, it must
15 do all of the following:

16 a. Give written notice to the commission no later than ten
17 business days after the uniform standard is promulgated, or at
18 the time the state becomes a compacting state.

19 b. Find that the uniform standard does not provide
20 reasonable protections to the citizens of the state, given the
21 conditions in the state.

22 The commissioner shall make specific findings of fact and
23 conclusions of law, based on a preponderance of the evidence,
24 detailing the conditions in the state which warrant a
25 departure from the uniform standard and determining that the
26 uniform standard would not reasonably protect the citizens of
27 the state. The commissioner must consider and balance the
28 following factors and find that the conditions in the state
29 and needs of the citizens of the state outweigh both of the
30 following:

31 (1) The intent of the legislature to participate in, and
32 the benefits of, an interstate agreement to establish national
33 uniform consumer protections for the products subject to this
34 compact.

35 (2) The presumption that a uniform standard adopted by the

1 commission provides reasonable protections to consumers of the
2 relevant product.

3 Notwithstanding the foregoing, a compacting state may, at
4 the time of its enactment of this compact, prospectively opt
5 out of all uniform standards involving long-term care
6 insurance products by expressly providing for such opt out in
7 the enacted compact, and such an opt out shall not be treated
8 as a material variance in the offer or acceptance of any state
9 to participate in this compact. Such an opt out shall be
10 effective at the time of enactment of this compact by the
11 compacting state and shall apply to all existing uniform
12 standards involving long-term care insurance products and
13 those subsequently promulgated.

14 5. EFFECT OF OPT OUT. If a compacting state elects to opt
15 out of a uniform standard, the uniform standard shall remain
16 applicable in the compacting state electing to opt out until
17 such time the opt-out legislation is enacted into law or the
18 regulation opting out becomes effective.

19 Once the opt out of a uniform standard by a compacting
20 state becomes effective, as provided under the laws of that
21 state, the uniform standard shall have no further force and
22 effect in that state unless and until the legislation or
23 regulation implementing the opt out is repealed or otherwise
24 becomes ineffective under the laws of the state. If a
25 compacting state opts out of a uniform standard after the
26 uniform standard has been made effective in that state, the
27 opt out shall have the same prospective effect as provided
28 under article XIV for withdrawals.

29 ARTICLE VIII -- COMMISSION RECORDS AND ENFORCEMENT

30 1. The commission shall promulgate rules to establish
31 conditions and procedures under which the commission shall
32 make its information and official records available to the
33 public for inspection or copying. The commission may
34 promulgate additional rules under which it may make available
35 to federal and state agencies, including law enforcement

1 agencies, records, and information otherwise exempt from
2 disclosure, and may enter into agreements with such agencies
3 to receive or exchange information or records subject to
4 nondisclosure and confidentiality provisions.

5 2. Except as to privileged records, data, and information,
6 the laws of any compacting state pertaining to confidentiality
7 or nondisclosure shall not relieve any compacting state
8 commissioner of the duty to disclose any relevant records,
9 data, or information to the commission, provided that
10 disclosure to the commission shall not be deemed to waive or
11 otherwise affect any confidentiality requirement, and further
12 provided that, except as otherwise expressly provided in this
13 compact, the commission shall not be subject to the compacting
14 state's laws pertaining to confidentiality and nondisclosure
15 with respect to records, data, and information in its
16 possession. Confidential information of the commission shall
17 remain confidential after such information is provided to any
18 commissioner.

19 3. The commission shall monitor compacting states for
20 compliance with duly adopted bylaws, rules, including uniform
21 standards, and operating procedures. The commission shall
22 notify any noncomplying compacting state in writing of its
23 noncompliance with commission bylaws, rules, or operating
24 procedures. If a noncomplying compacting state fails to
25 remedy its noncompliance within the time specified in the
26 notice of noncompliance, the compacting state shall be deemed
27 to be in default as set forth in article XIV.

28 4. The commissioner of any state in which an insurer is
29 authorized to do business, or is conducting the business of
30 insurance, shall continue to exercise the commissioner's
31 authority to oversee the market regulation of the activities
32 of the insurer in accordance with the provisions of the
33 state's law. The commissioner's enforcement of compliance
34 with the compact is governed by the following provisions:

35 a. With respect to the commissioner's market regulation of

1 a product or advertisement that is approved or certified to
2 the commission, no activity of an insurer shall constitute a
3 violation of the provisions, standards, or requirements of
4 this compact except upon a final order of the commission,
5 issued at the request of a commissioner after prior notice to
6 the insurer and an opportunity for hearing before the
7 commission.

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

17 5. STAY OF UNIFORM STANDARD. If a compacting state has
18 formally initiated the process of opting out of a uniform
19 standard by regulation, and while the regulatory opt out is
20 pending, the compacting state may petition the commission, at
21 least fifteen days before the effective date of the uniform
22 standard, to stay the effectiveness of the uniform standard in
23 that state. The commission may grant a stay if it determines
24 the regulatory opt out is being pursued in a reasonable manner
25 and there is a likelihood of success. If a stay is granted or
26 extended by the commission, the stay or extension thereof may
27 postpone the effective date by up to ninety days, unless
28 affirmatively extended by the commission, provided a stay may
29 not be permitted to remain in effect for more than one year
30 unless the compacting state can show extraordinary
31 circumstances which warrant a continuance of the stay,
32 including, but not limited to, the existence of a legal
33 challenge which prevents the compacting state from opting out.
34 A stay may be terminated by the commission upon notice that
35 the rulemaking process has been terminated.

1 6. Not later than thirty days after a rule or operating
2 procedure is adopted, any person may file a petition for
3 judicial review of the rule or operating procedure, provided
4 that the filing of such a petition shall not stay or otherwise
5 prevent the rule or operating procedure from becoming
6 effective unless the court finds that the petitioner has a
7 substantial likelihood of success. The court shall give
8 deference to the actions of the commission consistent with
9 applicable law and shall not find the rule or operating
10 procedure to be unlawful if the rule or operating procedure
11 represents a reasonable exercise of the commission's
12 authority.

13 ARTICLE IX -- DISPUTE RESOLUTION

14 The commission shall attempt, upon the request of a member,
15 to resolve any disputes or other issues which are subject to
16 this compact and which may arise between two or more
17 compacting states, or between compacting states and
18 noncompacting states, and the commission shall promulgate an
19 operating procedure providing for resolution of such disputes.

20 ARTICLE X -- PRODUCT FILING AND APPROVAL

21 1. Insurers and third-party filers seeking to have a
22 product approved by the commission shall file the product
23 with, and pay applicable filing fees to, the commission.
24 Nothing in this compact shall be construed to restrict or
25 otherwise prevent an insurer from filing its product with the
26 insurance department in any state wherein the insurer is
27 licensed to conduct the business of insurance, and such filing
28 shall be subject to the laws of the states where filed.

29 2. The commission shall establish appropriate filing and
30 review processes and procedures pursuant to commission rules
31 and operating procedures. Notwithstanding any provision
32 herein to the contrary, the commission shall promulgate rules
33 to establish conditions and procedures under which the
34 commission will provide public access to product filing
35 information. In establishing such rules, the commission shall

1 consider the interests of the public in having access to such
2 information, as well as protection of personal medical and
3 financial information and trade secrets, that may be contained
4 in a product filing or supporting information.

5 3. Any product approved by the commission may be sold or
6 otherwise issued in those compacting states in which the
7 insurer is legally authorized to do business.

8 ARTICLE XI -- REVIEW OF COMMISSION DECISIONS

9 REGARDING FILINGS

10 1. Not later than thirty days after the commission has
11 given notice of a disapproved product or advertisement filed
12 with the commission, the insurer or third-party filer whose
13 filing was disapproved may appeal the determination to a
14 review panel appointed by the commission. The commission
15 shall adopt rules to establish procedures for appointing such
16 review panels and provide for notice and hearing. The
17 decision of the review panel shall be the final action of the
18 commission and not subject to review by any court.

19 Notwithstanding the foregoing, an allegation that the
20 commission, in disapproving a product or advertisement filed
21 with the commission, acted arbitrarily, capriciously, or in a
22 manner that is an abuse of discretion or otherwise not in
23 accordance with the law, is subject to judicial review in
24 accordance with article III, section 5.

25 2. The commission shall have authority to monitor, review,
26 and reconsider products and advertisement subsequent to their
27 filing or approval upon a finding that the product does not
28 meet the relevant uniform standard. Where appropriate, the
29 commission may withdraw or modify its approval after proper
30 notice and hearing, subject to the appeal process in section
31 1.

32 ARTICLE XII -- FINANCE

33 1. The commission shall pay or provide for the payment of
34 the reasonable expenses of its establishment and organization.
35 To fund the cost of its initial operations, the commission may

1 accept contributions and other forms of funding from the
2 national association of insurance commissioners, compacting
3 states, and other sources. Contributions and other forms of
4 funding from other sources shall be of such a nature that the
5 independence of the commission concerning the performance of
6 its duties shall not be compromised.

7 2. The commission shall collect a filing fee from each
8 insurer and third-party filer filing a product with the
9 commission to cover the cost of the operations and activities
10 of the commission and its staff in a total amount sufficient
11 to cover the commission's annual budget.

12 3. The commission's budget for a fiscal year shall not be
13 approved until it has been subject to notice and comment as
14 set forth in article VII.

15 4. The commission shall be exempt from all taxation in and
16 by the compacting states.

17 5. The commission shall not pledge the credit of any
18 compacting state, except by and with the appropriate legal
19 authority of that compacting state.

20 6. The commission shall keep complete and accurate
21 accounts of all its internal receipts, including grants and
22 donations, and disbursements of all funds under its control.
23 The internal financial accounts of the commission shall be
24 subject to the accounting procedures established under its
25 bylaws. The financial accounts and reports, including the
26 system of internal controls and procedures of the commission,
27 shall be audited annually by an independent certified public
28 accountant. Upon the determination of the commission, but no
29 less frequently than every three years, the review of the
30 independent auditor shall include a management and performance
31 audit of the commission. The commission shall make an annual
32 report to the governor and legislature of the compacting
33 states, which shall include a report of the independent audit.
34 The commission's internal accounts, any work papers related to
35 any internal audit, and any work papers related to the

1 independent audit, shall be confidential, provided that such
2 materials may be shared with the commissioner of any
3 compacting state and shall remain confidential pursuant to
4 article VII.

5 7. A compacting state shall not have any claim to or
6 ownership of any property held by or vested in the commission
7 or to any commission funds held pursuant to the provisions of
8 this compact.

9 ARTICLE XIII -- COMPACTING STATES,
10 EFFECTIVE DATE, AND AMENDMENT

11 1. Any state is eligible to become a compacting state.

12 2. This compact shall become effective and binding upon
13 legislative enactment of this compact into law by two
14 compacting states, provided the commission shall become
15 effective for purposes of adopting uniform standards for
16 reviewing, and giving approval or disapproval of, products
17 filed with the commission that satisfy applicable uniform
18 standards only after twenty-six states are compacting states
19 or, alternatively, by states representing greater than forty
20 percent of the premium volume for life insurance, annuity,
21 disability income, and long-term care insurance products,
22 based on records of the national association of insurance
23 commissioners for the prior year. Thereafter, it shall become
24 effective and binding as to any other compacting state upon
25 enactment of this compact into law by that state.

26 3. Amendments to this compact may be proposed by the
27 commission for enactment by the compacting states. An
28 amendment shall not become effective and binding upon the
29 commission and the compacting states unless and until all
30 compacting states enact the amendment into law.

31 ARTICLE XIV -- WITHDRAWAL, DEFAULT, AND TERMINATION

32 1. WITHDRAWAL.

33 a. Once effective, this compact shall continue in force
34 and remain binding upon each and every compacting state,
35 provided that a compacting state may withdraw from this

1 compact by enacting a statute specifically repealing the
2 statute which enacted the compact into law.

3 b. The effective date of withdrawal is the effective date
4 of the repealing statute. However, the withdrawal shall not
5 apply to any product filings approved or self-certified, or
6 any advertisement of such products, on the date the repealing
7 statute becomes effective, except by mutual agreement of the
8 commission and the withdrawing state unless the approval is
9 rescinded by the withdrawing state as provided in paragraph
10 "e".

11 c. The commissioner of the withdrawing state shall
12 immediately notify the management committee in writing upon
13 the introduction of legislation repealing this compact in the
14 withdrawing state.

15 d. The commission shall notify the other compacting states
16 of the introduction of such legislation within ten days after
17 its receipt of notice.

18 e. The withdrawing state is responsible for all
19 obligations, duties, and liabilities incurred through the
20 effective date of withdrawal, including any obligations, the
21 performance of which extend beyond the effective date of
22 withdrawal, except to the extent those obligations may have
23 been released or relinquished by mutual agreement of the
24 commission and the withdrawing state. The commission's
25 approval of products and advertisement prior to the effective
26 date of withdrawal shall continue to be effective and be given
27 full force and effect in the withdrawing state, unless
28 formally rescinded by the withdrawing state in the same manner
29 as provided by the laws of the withdrawing state for the
30 prospective disapproval of products or advertisement
31 previously approved under state law.

32 f. Reinstatement following withdrawal of any compacting
33 state shall occur upon the effective date of the withdrawing
34 state reenacting the compact.

35 2. DEFAULT.

1 a. If the commission determines that any compacting state
2 has at any time defaulted in the performance of any of its
3 obligations or responsibilities under this compact, the bylaws
4 or duly promulgated rules or operating procedures, then, after
5 notice and hearing as set forth in the bylaws, all rights,
6 privileges, and benefits conferred by this compact on the
7 defaulting state shall be suspended from the effective date of
8 default as fixed by the commission. The grounds for default
9 include, but are not limited to, failure of a compacting state
10 to perform its obligations or responsibilities, and any other
11 grounds designated in commission rules. The commission shall
12 immediately notify the defaulting state in writing of the
13 defaulting state's suspension, pending a cure of the default.
14 The commission shall stipulate the conditions and the time
15 period within which the defaulting state must cure its
16 default. If the defaulting state fails to cure the default
17 within the time period specified by the commission, the
18 defaulting state shall be terminated from this compact and all
19 rights, privileges, and benefits conferred by this compact
20 shall be terminated from the effective date of termination.

21 b. Product approvals by the commission or product self-
22 certifications, or any advertisement in connection with such
23 product, that are in force on the effective date of
24 termination shall remain in force in the defaulting state in
25 the same manner as if the defaulting state had withdrawn
26 voluntarily pursuant to section 1.

27 c. Reinstatement following termination of any compacting
28 state requires a reenactment of this compact.

29 3. DISSOLUTION OF COMPACT.

30 a. This compact dissolves effective upon the date of the
31 withdrawal or default of the compacting state which reduces
32 membership in this compact to one compacting state.

33 b. Upon the dissolution of this compact, this compact
34 becomes null and void and shall be of no further force or
35 effect, and the business and affairs of the commission shall

1 be wound up and any surplus funds shall be distributed in
2 accordance with the bylaws.

3 ARTICLE XV -- SEVERABILITY AND CONSTRUCTION

4 1. The provisions of this compact shall be severable, and
5 if any phrase, clause, sentence, or provision is deemed
6 unenforceable, the remaining provisions of this compact shall
7 be enforceable.

8 2. The provisions of this compact shall be liberally
9 construed to effectuate its purposes.

10 ARTICLE XVI -- BINDING EFFECT OF COMPACT AND OTHER LAWS

11 1. OTHER LAWS.

12 a. Nothing herein prevents the enforcement of any other
13 law of a compacting state, except as provided in paragraph
14 "b".

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

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

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

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

35 c. All insurance products filed with individual states

1 shall be subject to the laws of those states.

2 2. BINDING EFFECT OF THIS COMPACT.

3 a. All lawful actions of the commission, including all
4 rules and operating procedures adopted by the commission, are
5 binding upon the compacting states.

6 b. All agreements between the commission and the
7 compacting states are binding in accordance with their terms.

8 c. Upon the request of a party to a conflict over the
9 meaning or interpretation of commission actions, and upon a
10 majority vote of the compacting states, the commission may
11 issue advisory opinions regarding the meaning or
12 interpretation in dispute.

13 d. In the event any provision of this compact exceeds the
14 constitutional limits imposed on the legislature of any
15 compacting state, the obligations, duties, powers, or
16 jurisdiction sought to be conferred by that provision upon the
17 commission shall be ineffective as to that compacting state,
18 and those obligations, duties, powers, or jurisdiction shall
19 remain in the compacting state and shall be exercised by the
20 agency thereof to which those obligations, duties, powers, or
21 jurisdiction are delegated by law in effect at the time this
22 compact becomes effective.

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SF 0647

HSB 196

COMMERCE, REGULATION & LABOR
SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
COMMERCE/DIVISION OF
INSURANCE BILL)

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

A BILL FOR

1 An Act relating to insurance, including various filing and
2 information privacy requirements throughout the insurance
3 code, calculation of assessments by the Iowa individual health
4 benefit reinsurance association, payment of certain insurance
5 fees, certain self-funded insurance plans by school
6 corporations or political subdivisions, designation of the
7 commissioner of insurance as process agent for various
8 entities conducting insurance business in this state,
9 notification provisions relating to the effective date of
10 cancellation of insurance, beneficial stock ownership filings,
11 funding agreements, creating an insurable interest in active
12 or retired employee lives for the benefit of an employer,
13 providing for an interstate insurance product regulation
14 compact, and providing for retroactive applicability and an
15 effective date.

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

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23

DIVISION I

1
2 Section 1. Section 505.8, subsection 6, Code 2003, is
3 amended to read as follows:

4 6. a. Notwithstanding chapter 22, the commissioner shall
5 keep confidential both information obtained in the course of
6 an investigation and information submitted to the insurance
7 division pursuant to chapters 514J and 515D.

8 b. The commissioner shall adopt rules protecting the
9 privacy of information held by an insurer or an agent
10 consistent with the federal Gramm-Leach-Bliley Act, Pub. L.
11 No. 106-102.

12 c. However, notwithstanding paragraphs "a" and "b", if the
13 commissioner determines that it is necessary or appropriate in
14 the public interest or for the protection of the public, the
15 commissioner may share information with other regulatory
16 authorities or governmental agencies or may publish
17 information concerning a violation of this chapter or a rule
18 or order under this chapter. Such information may be redacted
19 so that personally identifiable information is not made
20 available.

21 d. The commissioner may adopt rules protecting the privacy
22 of information submitted to the insurance division consistent
23 with this section.

24 Sec. 2. NEW SECTION. 505.24 SALE OF POLICY TERM
25 INFORMATION BY CONSUMER REPORTING AGENCY.

26 1. For purposes of this section, unless the context
27 otherwise requires, "consumer reporting agency" means any
28 person that for monetary fees, dues, or on a cooperative
29 nonprofit basis regularly engages in whole or in part in the
30 practice of assembling or evaluating consumer credit
31 information or other information on consumers for the purpose
32 of furnishing consumer reports to third parties and that uses
33 any means or facility of interstate commerce for the purpose
34 of preparing or furnishing consumer reports.

35 2. A consumer reporting agency shall not provide or sell

1 data or lists that include any information that in whole or in
2 part was submitted in conjunction with an insurance inquiry
3 about a consumer's credit information or a request for a
4 credit report or insurance score. Information submitted in
5 conjunction with an insurance inquiry about a consumer
6 includes, but is not limited to, the expiration dates of an
7 insurance policy or any other information that may identify
8 time periods during which a consumer's insurance may expire
9 and the terms and conditions of the consumer's insurance
10 coverage.

11 3. The restrictions provided in subsection 2 do not apply
12 to data or lists supplied by a consumer reporting agency to an
13 insurance producer from whom information was received, the
14 insurer on whose behalf such producer acted, or such insurer's
15 affiliates or holding companies.

16 4. This section shall not be construed to restrict any
17 insurer from being able to obtain a claims history report or a
18 motor vehicle report.

19 Sec. 3. Section 507A.4, subsection 9, Code 2003, is
20 amended by adding the following new paragraph:

21 NEW PARAGRAPH. e. When not otherwise provided, a foreign
22 or domestic multiple employee welfare arrangement doing
23 business in this state shall pay to the commissioner of
24 insurance the fees as required in section 511.24.

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

27 507B.3 UNFAIR COMPETITION OR UNFAIR AND DECEPTIVE ACTS OR
28 PRACTICES PROHIBITED.

29 1. A person shall not engage in this state in any trade
30 practice which is defined in this chapter as, or determined
31 pursuant to section 507B.6 to be, an unfair method of
32 competition, or an unfair or deceptive act or practice in the
33 business of insurance. The issuance of a qualified charitable
34 gift annuity as provided in chapter 508F does not constitute a
35 trade practice in violation of this chapter.

1 2. The commissioner shall have power to examine and
2 investigate into the affairs of every person engaged in the
3 business of insurance in this state in order to determine
4 whether such person has been or is engaged in any unfair
5 method of competition or in any unfair or deceptive act or
6 practice prohibited by this section. The commissioner shall
7 keep confidential the information submitted to the insurance
8 division, or obtained by the insurance division in the course
9 of an investigation pursuant to section 505.8, subsection 6.

10 Sec. 5. Section 508.11, unnumbered paragraph 1, Code 2003,
11 is amended to read as follows:

12 The president or vice president and secretary or actuary,
13 or a majority of the directors of each company organized under
14 this chapter, shall annually, by on or before the first day of
15 March, prepare under oath and file in the office of the
16 commissioner of insurance or a depository designated by the
17 commissioner a statement of its affairs for the year
18 terminating on the thirty-first day of December preceding,
19 showing:

20 Sec. 6. Section 508.31A, Code 2003, is amended to read as
21 follows:

22 508.31A FUNDING AGREEMENTS.

23 1. A life insurance company organized under this chapter
24 may issue funding agreements. The issuance of a funding
25 agreement under this section is deemed to be doing insurance
26 business. For purposes of this section, "funding agreement"
27 means an agreement for an insurer to accept and accumulate
28 funds and to make one or more payments at future dates in
29 amounts that are not based on mortality or morbidity
30 contingencies of the person to whom the funding agreement is
31 issued. A funding agreement does not constitute life
32 insurance, an annuity, or other insurance authorized by
33 section 508.29, and does not constitute a security as defined
34 in section 502.102.

35 2. a. Funding agreements may be issued to the following:

1 (1) A person authorized by a state or foreign country to
2 engage in an insurance business or a subsidiary of such
3 business.

4 (2) A person for the purpose of funding any of the
5 following:

6 (a) Benefits under an employee benefit plan as defined in
7 the federal Employee Retirement Income Security Act of 1974,
8 29 U.S.C. § 1001 et seq., maintained in the United States or
9 in a foreign country.

10 (b) Activities of an organization exempt from taxation
11 pursuant to section 501c of the Internal Revenue Code, or any
12 similar organization in any foreign country.

13 (c) A program of the United States government, another
14 state government or political subdivision of such state, or of
15 a foreign country, or any agency or instrumentality of any
16 such government, political subdivision, or foreign country.

17 (d) An agreement providing for periodic payments in
18 satisfaction of a claim.

19 (e) A program of an institution which has assets in excess
20 of twenty-five million dollars.

21 (3) A person other than a natural person that has assets
22 of at least twenty-five million dollars.

23 (4) A person other than a natural person for the purpose
24 of providing collateral security for securities issued by such
25 person and registered with the federal securities and exchange
26 commission.

27 b. A funding agreement issued pursuant to subparagraph
28 (1), (2), or (3) shall be for a total amount of not less than
29 one million dollars.

30 c. An amount under a funding agreement shall not be
31 guaranteed or credited except upon reasonable assumptions as
32 to investment income and expenses and on a basis equitable to
33 all holders of funding agreements of a given class. Such
34 funding agreements shall not provide for payments to ~~or~~-by the
35 insurer based on mortality or morbidity contingencies.

1 d. Amounts paid to the insurer pursuant to a funding
2 agreement, and proceeds applied under optional modes of
3 settlement, may be allocated by the insurer to one or more
4 separate accounts pursuant to section 508A.1.

5 3. A funding agreement is a class 2 claim under section
6 507C.42, subsection 2.

7 4. The commissioner may adopt rules to implement funding
8 agreements.

9 Sec. 7. Section 509A.15, subsection 4, Code 2003, is
10 amended by striking the subsection and inserting in lieu
11 thereof the following:

12 4. One or more political subdivisions of the state or one
13 or more school corporations maintaining self-insured plans
14 with yearly claims that do not exceed one percent of each
15 entity's general fund budget shall be exempt from the
16 requirements of this section where the plan insures employees
17 for all or part of a deductible, coinsurance payments, drug
18 costs, short-term disability benefits, vision benefits, or
19 dental benefits.

20 The yearly claim amount shall be determined annually on the
21 policy renewal date, or an alternative date established by
22 rule, by a plan administrator or political subdivision or
23 school corporation employee to be designated by the plan
24 administrator. The exemption shall not apply for the year
25 following a year in which yearly claims are determined to
26 exceed one percent of the political subdivision's or school
27 corporation's general fund budget.

28 Sec. 8. Section 510A.2, subsections 3, 4, and 5, Code
29 2003, are amended to read as follows:

30 3. "Controlled insurer" means a licensed insurer ~~which~~
31 that is controlled, directly or indirectly, by a an insurance
32 producer.

33 4. "Controlling producer" means a an insurance producer
34 who, directly or indirectly, controls an insurer.

35 5. "Independent casualty actuary" means a casualty actuary

1 who is a member of the American academy of actuaries and who
2 is not an employee, principal, the direct or indirect owner
3 of, affiliated with, or in any way controlled by the insurer
4 or insurance producer.

5 Sec. 9. Section 510A.2, Code 2003, is amended by adding
6 the following new subsection:

7 NEW SUBSECTION. 5A. "Insurance producer" means a person
8 required to be licensed under the laws of this state to sell,
9 solicit, or negotiate insurance.

10 Sec. 10. Section 510A.2, subsection 7, Code 2003, is
11 amended by striking the subsection.

12 Sec. 11. Section 510A.4, subsection 1, paragraph b,
13 subparagraph (2), Code 2003 is amended to read as follows:

14 (2) The controlled insurer, except for insurance business
15 written through a residual market facility, accepts insurance
16 business only from the controlling producer, a producer
17 controlled by the controlled insurer, or a an insurance
18 producer that is a subsidiary of the controlled insurer.

19 Sec. 12. Section 510A.4, subsection 2, paragraph g, Code
20 2003, is amended to read as follows:

21 g. The controlled insurer shall provide the controlling
22 producer with its underwriting standards, rules, and
23 procedures manuals setting forth the rates to be charged, and
24 the conditions for the acceptance or rejection of risks. The
25 controlling producer shall adhere to the standards, rules,
26 procedures, rates, and conditions. The standards, rules,
27 procedures, rates, and conditions shall be the same as those
28 applicable to comparable business placed with the controlled
29 insurer by a an insurance producer other than the controlling
30 producer.

31 Sec. 13. Section 510A.4, subsection 4, Code 2003, is
32 amended to read as follows:

33 4. REPORTING REQUIREMENTS.

34 a. In addition to any other required loss reserve
35 certification, the controlled insurer shall annually, on April

1 1 of each year, file with the commissioner an opinion of an
2 independent casualty actuary, or another independent loss
3 reserve specialist acceptable to the commissioner, reporting
4 loss ratios for each line of business written and attesting to
5 the adequacy of loss reserves established for losses incurred
6 and outstanding as of year-end on business placed by the
7 insurance producer, including incurred but not reported
8 losses.

9 b. The controlled insurer shall annually report to the
10 commissioner the amount of commissions paid to the insurance
11 producer, the percentage such amount represents of the net
12 premiums written, and comparable amounts and percentage paid
13 to noncontrolling producers for placements of the same kinds
14 of insurance.

15 Sec. 14. Section 510A.5, Code 2003, is amended to read as
16 follows:

17 510A.5 DISCLOSURE.

18 The insurance producer, prior to the effective date of the
19 policy, shall deliver written notice to the prospective
20 insured disclosing the relationship between the insurance
21 producer and the controlled insurer; except that, if the
22 business is placed through a subproducer who is not a
23 controlling producer, the controlling producer shall retain in
24 the producer's records a signed commitment from the
25 subproducer that the subproducer is aware of the relationship
26 between the insurer and the insurance producer and that the
27 subproducer has notified or will notify the insured.

28 Sec. 15. Section 511.8, subsection 20, Code 2003, is
29 amended by adding the following new unnumbered paragraph:

30 NEW UNNUMBERED PARAGRAPH. "Venture capital fund" includes
31 an equity interest in the Iowa fund of funds as defined in
32 section 15E.62.

33 Sec. 16. Section 511.27, Code 2003, is amended to read as
34 follows:

35 511.27 COMMISSIONER AS PROCESS AGENT.

1 Every life insurance company and association organized
2 ~~under-the-laws-of-another-state-or-country~~ shall, before
3 receiving a certificate to do business in this state or any
4 renewal thereof of a certificate to do business in this state,
5 file in the office of the commissioner of insurance a power of
6 attorney and an agreement in writing that ~~thereafter~~ service
7 of notice or process of any kind may be made on the
8 commissioner, ~~and-when-so-made~~ that shall be as valid,
9 binding, and effective for all purposes as if served upon the
10 company according to the laws of this or any other state, and
11 waiving all claim or right of error ~~by-reason-of-such~~
12 acknowledgment-of-service due to the filing of the power of
13 attorney and the agreement regarding service of notice or
14 process.

15 Sec. 17. NEW SECTION. 511.40 EMPLOYER -- INSURABLE
16 INTEREST.

17 1. As used in this section, "employees" includes officers,
18 managers, and directors of an employer, and the shareholders,
19 partners, members, proprietors, or other owners of the
20 employer.

21 2. An employer and a trust established by the employer for
22 the benefit of the employer or for the benefit of the
23 employer's active or retired employees has an insurable
24 interest in each of the lives of the employer's active or
25 retired employees and may insure their lives on an individual
26 or group basis.

27 3. The amount of coverage on the lives of nonmanagement or
28 nonkey employees shall be reasonably related to the benefit
29 provided to the employees.

30 4. On and after July 1, 2003, an employer or trust shall
31 obtain the written consent of each employee being insured by
32 an employer and trust pursuant to this section before insuring
33 the employee's life. The consent shall include an
34 acknowledgment by the employee that the employer or trust may
35 maintain the life insurance after the employee is no longer

1 employed by the employer. An employer shall not retaliate in
2 any manner against an employee who refuses to consent.

3 Sec. 18. Section 512B.33, Code 2003, is amended to read as
4 follows:

5 512B.33 SERVICE OF PROCESS.

6 1. A ~~foreign-or-alien~~ society authorized to do business in
7 this state shall ~~appoint-in-writing~~ file in the office of the
8 commissioner ~~to-be-its-true-and-lawful~~ a power of attorney
9 ~~upon-whom-all-lawful~~ and an agreement in writing that service
10 of process in any action or proceeding against it-shall-be
11 ~~served,-and-shall-agree-in-the-written-consent-to-process-that~~
12 ~~any-lawful-process-against-it-which-is~~ the society may be
13 served on the commissioner and shall be of the same legal
14 force and validity as if served upon the society, and that the
15 authority shall continue in force so long as any liability
16 remains outstanding in this state. Copies of the ~~appointment~~
17 power of attorney, certified by the commissioner, shall be
18 deemed sufficient evidence of the appointment and shall be
19 admitted in evidence with the same force and effect as the
20 original ~~may-be-admitted~~.

21 2. Service of process shall only be made upon the
22 commissioner, or if absent, upon the person in charge of the
23 commissioner's office. Service shall be made in ~~duplicate~~
24 triplicate and shall constitute sufficient service upon the
25 society. When legal process against a society is served upon
26 the commissioner, the commissioner shall ~~forthwith~~ promptly
27 forward one of the duplicate copies by registered mail,
28 prepaid, directed to the secretary or corresponding officer of
29 the society. ~~Service-shall-not-require-a~~ A society shall not
30 be required to file its answer, pleading, or defense in less
31 than thirty days from the date of mailing the copy of the
32 service to a society. Legal process shall not be served upon
33 a society except in the manner provided in this section.

34 Sec. 19. Section 513C.7, subsection 4, paragraph b, Code
35 2003, is amended to read as follows:

1 b. A carrier or an organized delivery system shall waive
2 any time period applicable to a preexisting condition
3 exclusion or limitation period with respect to particular
4 services in an individual health benefit plan for the period
5 of time an individual was previously covered by qualifying
6 previous coverage that provided benefits with respect to such
7 services, provided that the qualifying previous coverage was
8 continuous to a date not more than sixty-three days prior to
9 the effective date of the new coverage. For purposes of this
10 section, periods of coverage under medical assistance provided
11 pursuant to chapter 249A or 514I, or Medicare coverage
12 provided pursuant to Title XVIII of the federal Social
13 Security Act shall not be counted with respect to the sixty-
14 three day requirement.

15 Sec. 20. Section 513C.10, subsection 1, paragraph a, Code
16 2003, is amended to read as follows:

17 a. All persons that provide health benefit plans in this
18 state including insurers providing accident and sickness
19 insurance under chapter 509, 514, or 514A, whether on an
20 individual or group basis; fraternal benefit societies
21 providing hospital, medical, or nursing benefits under chapter
22 512B; and health maintenance organizations, organized delivery
23 systems, and all other entities providing health insurance or
24 health benefits subject to state insurance regulation shall be
25 members of the association.

26 Sec. 21. Section 513C.10, subsection 6, Code 2003, is
27 amended to read as follows:

28 6. The assessable loss plus necessary operating expenses
29 for the association, plus any additional expenses as provided
30 by law, shall be assessed by the association to all members in
31 proportion to their respective shares of total health
32 insurance premiums or payments for subscriber contracts
33 received in Iowa during the second preceding calendar year, or
34 with paid losses in the year, coinciding with or ending during
35 the calendar year, or on any other equitable basis as provided

1 in the plan of operation. In sharing losses, the association
2 may abate or defer any part of the assessment of a member, if,
3 in the opinion of the board, payment of the assessment would
4 endanger the ability of the member to fulfill its contractual
5 obligations. The association may also provide for an initial
6 or interim assessment against the members of the association
7 to meet the operating expenses of the association until the
8 next calendar year is completed. For purposes of this
9 subsection, "total health insurance premiums" and "payments
10 for subscriber contracts" include, without limitation,
11 premiums or other amounts paid to or received by a member for
12 individual and group health plan care coverage provided under
13 any chapter of the Code or Acts, and "paid losses" includes,
14 without limitation, claims paid by a member operating on a
15 self-funded basis for individual and group health plan care
16 coverage provided under any chapter of the Code or Acts. For
17 purposes of calculating and conducting the assessment, the
18 association shall have the express authority to require
19 members to report on an annual basis each member's total
20 health insurance premiums and payments for subscriber
21 contracts. A member is liable for its share of the assessment
22 calculated in accordance with this section regardless of
23 whether it participates in the individual insurance market.

24 Sec. 22. NEW SECTION. 514.2A SERVICE OF PROCESS.
25 A nonprofit health service corporation authorized to do
26 business in this state shall file in the office of the
27 commissioner a power of attorney and an agreement in writing
28 that service of process in any action or proceeding against
29 the corporation may be served on the commissioner and shall be
30 of the same legal force and validity as if served upon the
31 corporation, and that the authority shall continue in force so
32 long as any liability remains outstanding in this state.
33 Copies of the power of attorney, certified by the
34 commissioner, shall be deemed sufficient evidence of the
35 appointment and shall be admitted in evidence with the same

1 force and effect as the original.

2 Sec. 23. Section 514B.3, subsection 10, Code 2003, is
3 amended to read as follows:

4 10. A power of attorney executed by any applicant who-is
5 ~~not-domiciled-in-this-state~~ appointing the commissioner, the
6 commissioner's successors in office, and deputies ~~as-the-true~~
7 ~~and-lawful-attorney-of-the-applicant-for-this-state-upon-whom~~
8 ~~all-lawful~~ to receive process in any legal action or
9 proceeding against the health maintenance organization on a
10 cause of action arising in this state ~~may-be-served~~.

11 Sec. 24. Section 514B.12, unnumbered paragraph 1, Code
12 2003, is amended to read as follows:

13 A health maintenance organization shall annually on or
14 before the first day of March file with the commissioner or a
15 depository designated by the commissioner a report verified by
16 at least two of its principal officers and covering the
17 preceding calendar year. The report shall be on forms
18 prescribed by the commissioner and shall include:

19 Sec. 25. Section 514B.33, Code 2003, is amended by adding
20 the following new subsection:

21 NEW SUBSECTION. 1A. When not otherwise provided, a
22 foreign or domestic limited service organization doing
23 business in this state shall pay the commissioner the fees as
24 required in section 511.24.

25 Sec. 26. Section 514J.7, subsection 8, Code 2003, is
26 amended to read as follows:

27 8. The confidentiality of any medical records submitted
28 shall be maintained pursuant to applicable state and federal
29 laws. Other than the sharing of information required by this
30 chapter and the rules adopted pursuant to this chapter, the
31 commissioner shall keep confidential the information obtained
32 in the external review process pursuant to section 505.8,
33 subsection 6.

34 Sec. 27. Section 514J.10, Code 2003, is amended to read as
35 follows:

1 514J.10 REPORTING.

2 ~~Each carrier and organized delivery system shall file~~ The
3 commissioner shall prepare an annual report with the
4 commissioner containing all of the following:

5 1. The number of external reviews requested.

6 2. The number of the external reviews certified by the
7 commissioner.

8 3. The number of coverage decisions which were upheld by
9 an independent review entity.

10 The commissioner shall prepare a the report by January 31
11 of each year.

12 Sec. 28. Section 514J.13, Code 2003, is amended to read as
13 follows:

14 514J.13 EFFECT OF EXTERNAL REVIEW DECISION.

15 1. The review decision by the independent review entity
16 conducting the review is binding upon the carrier or organized
17 delivery system.

18 2. The enrollee or the enrollee's treating health care
19 provider acting on behalf of the enrollee may appeal the
20 review decision by the independent review entity conducting
21 the review by filing a petition for judicial review either in
22 Polk county district court or in the district court in the
23 county in which the enrollee resides. The petition for
24 judicial review must be filed within fifteen business days
25 after the issuance of the review decision. The commissioner
26 shall not be named as a defendant in a petition for judicial
27 review of an independent review decision, unless the
28 petitioner alleges that the commissioner's actions in the
29 external review process fall within those actions permitted by
30 section 17A.19, subsection 10. Allegations against the
31 commissioner under section 17A.19, subsection 10, must be
32 stated with particularity. The findings of fact by the
33 independent review entity conducting the review are conclusive
34 and binding on appeal.

35 3. The carrier or organized delivery system shall follow

1 and comply with the review decision of the independent review
2 entity conducting the review, or the decision of the court on
3 appeal. The carrier or organized delivery system and the
4 enrollee's treating health care provider shall not be subject
5 to any penalties, sanctions, or award of damages for following
6 and complying in good faith with the review decision of the
7 independent review entity conducting the review or decision of
8 the court on appeal.

9 4. The enrollee or the enrollee's treating health care
10 provider may bring an action in Polk county district court or
11 in the district court in the county in which the enrollee
12 resides to enforce the review decision of the independent
13 review entity conducting the review or the decision of the
14 court on appeal.

15 Sec. 29. Section 515.35, subsection 4, paragraph m, Code
16 2003, is amended by adding the following new unnumbered
17 paragraph:

18 NEW UNNUMBERED PARAGRAPH. "Venture capital fund" includes
19 an equity interest in the Iowa fund of funds as defined in
20 section 15E.62.

21 Sec. 30. Section 515.63, unnumbered paragraph 1, Code
22 2003, is amended to read as follows:

23 The president or the vice president and secretary of each
24 company organized or authorized to do business in the state
25 shall annually on or before the first day of March of each
26 year prepare under oath and file with the commissioner of
27 insurance or a depository designated by the commissioner a
28 full, true, and complete statement of the condition of such
29 company on the last day of the preceding year, which shall
30 exhibit the following items and facts:

31 Sec. 31. Section 515.73, Code 2003, is amended to read as
32 follows:

33 515.73 COMMISSIONER AS PROCESS AGENT.

34 Any ~~foreign~~ company desiring to transact the business of
35 insurance under this chapter, ~~by an agent or agents in the~~

1 state, shall file with the commissioner of insurance a power
2 of attorney and a signed written instrument, ~~duly signed and~~
3 ~~sealed,~~ authorizing such the commissioner to acknowledge
4 accept service of notice or process ~~for and in~~ on behalf of
5 such company ~~in this state, and consenting that service of~~
6 ~~notice or process may be made upon the said commissioner, and~~
7 ~~when so made~~ that shall be ~~taken and held~~ as valid as if
8 served upon the company according to the laws of this or any
9 other state, and waiving all claim, or right, of error, ~~by~~
10 ~~reason of such acknowledgment of service~~ due to the filing of
11 the power of attorney and the agreement regarding service of
12 notice or process.

13 Sec. 32. Section 515.92, Code 2003, is amended to read as
14 follows:

15 515.92 STATEMENT OF CAPITAL AND SURPLUS.

16 1. Every advertisement or public announcement, and every
17 sign, circular, or card issued or published by a foreign
18 company transacting the business of casualty insurance in the
19 state, or by an officer, agent, or representative ~~thereof,~~
20 that purports to disclose the company's financial standing,
21 shall exhibit the capital actually paid in in cash, and the
22 amount of net surplus of assets over all its liabilities
23 actually held and available for the payment of losses by fire
24 and for the protection of holders of fire policies, and shall
25 also exhibit the amount of net surplus of assets over all
26 liabilities in the United States actually available for the
27 payment of losses by fire and held in the United States for
28 the protection of holders of fire policies in the United
29 States, including in such liabilities the fund reserved for
30 reinsurance of outstanding risks, ~~and the same.~~ The amounts
31 stated for capital and net surplus shall correspond with the
32 latest verified statement made by the company or association
33 to the commissioner of insurance.

34 2. The company shall not write, place, or cause to be
35 written or placed, a policy or contract for insurance upon

1 property situated or located in this state except through its
2 ~~resident-agent-or-agents~~ a licensed producer authorized to do
3 business in this state.

4 Sec. 33. Section 515.133, Code 2003, is amended to read as
5 follows:

6 515.133 EXAMINATION OF OFFICERS AND EMPLOYEES.

7 1. The commissioner of insurance is authorized to ~~summon~~
8 ~~before-the-commissioner,~~ issue a subpoena for examination
9 under oath, any officer, agent, or employee of any such
10 company suspected of violating any of the provisions of
11 section 515.131~~7-and7-on.~~

12 2. Upon the filing of a written, verified complaint to
13 with the commissioner in-writing by two or more residents of
14 this state ~~charging-such~~ alleging that a company under-oath
15 ~~upon-their-knowledge-or-belief-with-violating-the-provisions~~
16 ~~of-said~~ has violated section 515.131, the commissioner shall
17 summon issue a subpoena for examination under oath to any
18 officer, agent, or employee of ~~said the~~ company ~~before-the~~
19 ~~commissioner-for-examination-under-oath.~~

20 Sec. 34. Section 515.134, Code 2003, is amended to read as
21 follows:

22 515.134 REVOCATION OF AUTHORITY.

23 If upon such examination, and that of any other witness
24 produced and examined, the commissioner ~~shall-determine~~
25 determines that such a company is-guilty-of-a-violation-of-any
26 ~~of-the-provisions-of~~ has violated section 515.131, or if any
27 such officer, agent, or employee ~~after-being-duly-summoned~~
28 ~~shall-fail~~ fails to appear or submit to examination after
29 receiving a subpoena, the commissioner shall ~~forthwith~~
30 promptly issue an order revoking the authority of ~~such the~~
31 company to transact business within this state, and ~~it the~~
32 company shall not ~~thereafter~~ be permitted to do the business
33 of fire insurance in this state ~~at-any-time-within~~ for one
34 year ~~therefrom.~~

35 Sec. 35. Section 515B.2, subsection 2, Code 2003, is

1 amended to read as follows:

2 2. "Claimant" means an insured making a first party claim
3 or any person instituting a liability claim against the
4 insured of an insolvent insurer. "Claimant" does not include
5 a person who is an affiliate of an insolvent insurer.

6 Sec. 36. Section 515B.8, subsection 1, Code 2003, is
7 amended to read as follows:

8 1. Any person recovering under this chapter shall be
9 deemed to have assigned the person's rights under the policy
10 to the association to the extent of the person's recovery from
11 the association. Every insured or claimant seeking the
12 protection of this chapter shall co-operate with the
13 association to the same extent as such person would have been
14 required to co-operate with the insolvent insurer. The
15 association shall have no cause of action against the insured
16 of the insolvent insurer for any sums it has paid out except
17 causes of action the insolvent insurer would have had if the
18 sums had been paid by the insolvent insurer.

19 Sec. 37. Section 515B.9, subsection 1, Code 2003, is
20 amended by striking the subsection and inserting in lieu
21 thereof the following:

22 1. Any person having a claim under an insurance policy,
23 and the claim under such other policy alleges the same damages
24 or arises from the same facts, injury, or loss that gives rise
25 to a covered claim against the association, shall be required
26 to first exhaust all coverage provided by that policy, whether
27 such coverage is on a primary, excess, or pro rata basis and
28 any obligation of the association shall not be considered
29 other insurance.

30 Any amount payable on a covered claim shall be reduced by
31 the full applicable limits of such other insurance policy and
32 the association shall receive full credit for such limits or
33 where there are no applicable limits, the claim shall be
34 reduced by the total recovery.

35 a. A policy providing liability coverage to a person who

1 may be jointly and severally liable with, or a joint
2 tortfeasor with, the person covered under the policy of the
3 insolvent insurer shall be first exhausted before any claim is
4 made against the association and the association shall receive
5 credit for the same as provided above.

6 b. For purposes of this section, an insurance policy means
7 a policy issued by an insurance company, whether or not a
8 member insurer, which policy insures any of the types of risks
9 insured by an insurance company authorized to write insurance
10 under chapter 515, 516A, or 520, or comparable statutes of
11 another state, except those types of risks set forth in
12 chapters 508 and 514.

13 Sec. 38. Section 515B.16, Code 2003, is amended to read as
14 follows:

15 515B.16 ACTIONS AGAINST THE ASSOCIATION.

16 Any action against the association shall be brought against
17 the association in the association's own name. The Polk
18 county district court shall have exclusive jurisdiction and
19 venue of such actions. Service of the original notice in
20 actions against the association may be made on any officer of
21 the association or upon the commissioner of insurance on
22 behalf of the association. The commissioner shall promptly
23 transmit any notice so served upon the commissioner to the
24 association. Any action against the association shall be
25 commenced within three years after the date of the order of
26 liquidation.

27 Sec. 39. Section 515D.5, subsection 1, unnumbered
28 paragraph 1, Code 2003, is amended to read as follows:

29 Notwithstanding the provisions of sections 515.80 through
30 515.81A, a notice of cancellation of a policy shall not be
31 effective unless mailed or delivered by the insurer to the
32 named insured at least twenty thirty days prior to the
33 effective date of cancellation, or, where the cancellation is
34 for nonpayment of premium notwithstanding the provisions of
35 sections 515.80 and 515.81A at least ten days prior to the

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

11 Sec. 40. Section 515D.10, Code 2003, is amended to read as
12 follows:

13 515D.10 HEARING BEFORE COMMISSIONER.

14 Any named insured who has received a statement of reason
15 for cancellation, or of reason for an insurer's intent not to
16 renew a policy, may, within fifteen days of the receipt or
17 delivery of a statement of reason, request a hearing before
18 the commissioner of insurance. The purpose of this hearing
19 shall be limited to establishing the existence of the proof or
20 evidence used by the insurer in its reason for cancellation or
21 intent not to renew. The burden of proof of the reason for
22 cancellation or intent not to renew shall be upon the insurer.
23 Other than the sharing of information required by this chapter
24 and the rules adopted pursuant to the provisions of this
25 chapter, the commissioner shall keep confidential the
26 information obtained from the insured or in the hearing
27 process, pursuant to section 505.8, subsection 6. The
28 commissioner of insurance shall adopt rules for carrying out
29 the provisions of this section.

30 Sec. 41. Section 515E.3, Code 2003, is amended by adding
31 the following new unnumbered paragraph:

32 NEW UNNUMBERED PARAGRAPH. A risk retention group organized
33 in this state shall file in the office of the commissioner a
34 power of attorney and an agreement in writing that service of
35 process in any action or proceeding against the society may be

1 served on the commissioner and shall be of the same legal
2 force and validity as if served upon the society, and that the
3 authority shall continue in force so long as any liability
4 remains outstanding in this state. Copies of the power of
5 attorney, certified by the commissioner, shall be deemed
6 sufficient evidence of the appointment and shall be admitted
7 in evidence with the same force and effect as the original.

8 Sec. 42. Section 518.15, unnumbered paragraph 1, Code
9 2003, is amended to read as follows:

10 The president or the vice president and secretary of each
11 association authorized to do business under this chapter shall
12 annually on or before the first day of March prepare under
13 oath and file with the commissioner of insurance or a
14 depository designated by the commissioner a full, true and
15 complete statement of the condition of such association on the
16 last day of the preceding year. The commissioner of insurance
17 shall prescribe the report forms and shall determine the
18 information and data to be reported.

19 Sec. 43. Section 518.23, subsection 2, paragraph a, Code
20 2003, is amended to read as follows:

21 a. Except as provided in paragraph "b", notice of
22 cancellation is not effective unless mailed or delivered by
23 the association to the named insured at least twenty thirty
24 days before the effective date of cancellation.

25 Sec. 44. Section 518A.29, subsection 2, paragraph a, Code
26 2003, is amended to read as follows:

27 a. Except as provided in paragraph "b", notice of
28 cancellation is not effective unless mailed or delivered by
29 the association to the named insured at least twenty thirty
30 days before the effective date of cancellation.

31 Sec. 45. Section 521C.3, subsection 4, paragraph b, Code
32 2003, is amended to read as follows:

33 ~~b. If-the-applicant-for-a~~ A reinsurance intermediary
34 ~~license is-a-nonresident,~~ such applicant, as a condition
35 precedent to receiving or holding a license, shall designate

1 the commissioner as agent for service of process, and also
2 shall furnish the commissioner with the name and address of a
3 resident of this state upon whom notices or orders of the
4 commissioner or process affecting such nonresident reinsurance
5 intermediary may be served. The licensee shall promptly
6 notify the commissioner in writing of a change of the
7 designated agent for service of process, and the change
8 becomes effective upon acknowledgment by the commissioner.

9 Sec. 46. Section 523.7, Code 2003, is amended to read as
10 follows:

11 523.7 STATEMENT OF STOCK OWNERSHIP FILED WITH
12 COMMISSIONER.

13 1. Every person who is directly or indirectly the
14 beneficial owner of more than ten percent of any class of any
15 equity security of a domestic stock insurance company, or who
16 is a director or an officer of such company, shall file in the
17 office of the commissioner of insurance ~~within-ten-days-after~~
18 ~~the-person-becomes-such-beneficial-owner,7-director-or-officer~~
19 as prescribed by rule a statement, in such a form as the
20 commissioner may prescribe, of the amount of all equity
21 securities of such the company of which the person is the
22 beneficial owner, ~~7-and-within-ten-days-after-the-close-of-each~~
23 ~~calendar-month-thereafter~~

24 2. Within the time frame prescribed by rule, if there has
25 been a change in such the ownership during such-month a time
26 period prescribed by rule, a person who is directly or
27 indirectly the beneficial owner of more than ten percent of
28 any class of any equity security of a domestic stock insurance
29 company, or who is a director or an officer of such company,
30 shall file in the office of the commissioner a statement, in
31 such a form as the commissioner may prescribe, indicating the
32 person's ownership at the close of the calendar-month time
33 period prescribed by rule and such any changes in the person's
34 ownership as have occurred during such-calendar-month the time
35 period prescribed by rule.

1 Sec. 47. Sections 511.30, 515.78, and 518A.43, Code 2003,
2 are repealed.

3 Sec. 48. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY.
4 This section and the sections of this Act amending sections
5 513C.10, subsection 1, paragraph "a", and subsection 6, being
6 deemed of immediate importance, take effect upon enactment,
7 and apply retroactively to July 1, 1995.

8 DIVISION II

9 Sec. 49. NEW SECTION. 505A.1 INTERSTATE INSURANCE
10 PRODUCT REGULATION COMPACT.

11 The interstate insurance product regulation compact is
12 hereby entered into and enacted into law with all
13 jurisdictions legally joining therein, in the form
14 substantially as follows:

15 ARTICLE I -- PURPOSES

16 The purposes of this compact are, through means of joint
17 and cooperative action among the compacting states:

18 1. To promote and protect the interest of consumers of
19 individual and group annuity, life insurance, disability
20 income and long-term care insurance products.

21 2. To develop uniform standards for insurance products
22 covered under this compact.

23 3. To establish a central clearinghouse to receive and
24 provide prompt review of insurance products covered under the
25 compact and, in certain cases, advertisements related thereto,
26 submitted by insurers authorized to do business in one or more
27 compacting states.

28 4. To give appropriate regulatory approval to those
29 product filings and advertisements satisfying the applicable
30 uniform standard.

31 5. To improve coordination of regulatory resources and
32 expertise between state insurance departments regarding the
33 setting of uniform standards and review of insurance products
34 covered under this compact.

35 6. To create the interstate insurance product regulation

1 commission.

2 7. To perform these and such other related functions as
3 may be consistent with the state regulation of the business of
4 insurance.

5 ARTICLE II -- DEFINITIONS

6 For purposes of this compact, unless the context otherwise
7 requires:

8 1. "Advertisement" means any material designed to create
9 public interest in a product, or induce the public to
10 purchase, increase, modify, reinstate, borrow on, surrender,
11 replace or retain a policy, as more specifically defined in
12 the rules and operating procedures of the commission.

13 2. "Bylaws" means those bylaws established by the
14 commission for its governance, or for directing or controlling
15 the commission's actions or conduct.

16 3. "Commission" means the interstate insurance product
17 regulation commission established by this compact.

18 4. "Commissioner" means the chief insurance regulatory
19 official of a state including, but not limited to,
20 commissioner, superintendent, director, or administrator.

21 5. "Compacting state" means any state that has enacted
22 this compact legislation and that has not withdrawn pursuant
23 to article XIV, section 1, or been terminated pursuant to
24 article XIV, section 2.

25 6. "Domiciliary state" means the state in which an insurer
26 is incorporated or organized, or, in the case of an alien
27 insurer, its state of entry.

28 7. "Insurer" means any entity licensed by a state to issue
29 contracts of insurance for any of the lines of insurance
30 covered by this compact.

31 8. "Member" means the person chosen by a compacting state
32 as its representative to the commission, or the person's
33 designee.

34 9. "Noncompacting state" means any state which is not at
35 the time a compacting state.

1 10. "Operating procedures" means procedures promulgated by
2 the commission implementing a rule, uniform standard, or a
3 provision of this compact.

4 11. "Product" means the form of a policy or contract,
5 including any application, endorsement, or related form which
6 is attached to and made a part of the policy or contract, and
7 any evidence of coverage or certificate, for an individual or
8 group annuity, life insurance, disability income, or long-term
9 care insurance product that an insurer is authorized to issue.

10 12. "Rule" means a statement of general or particular
11 applicability and future effect promulgated by the commission,
12 including a uniform standard developed pursuant to article
13 VII, designed to implement, interpret, or prescribe law or
14 policy, or describing the organization, procedure, or practice
15 requirements of the commission, which shall have the force and
16 effect of law in the compacting states.

17 13. "State" means any state, district, or territory of the
18 United States of America.

19 14. "Third-party filer" means an entity that submits a
20 product filing to the commission on behalf of an insurer.

21 15. "Uniform standard" means a standard adopted by the
22 commission for a product line, pursuant to article VII, and
23 shall include all of the product requirements in aggregate,
24 provided that each uniform standard shall be construed,
25 whether express or implied, to prohibit the use of any
26 inconsistent, misleading, or ambiguous provisions in a
27 product, and the form of the product made available to the
28 public shall not be unfair, inequitable, or against public
29 policy as determined by the commission.

30 ARTICLE III -- ESTABLISHMENT OF THE COMMISSION AND VENUE

31 1. The compacting states hereby create and establish an
32 entity known as the interstate insurance product regulation
33 commission. Pursuant to article IV, the commission has the
34 power to develop uniform standards for product lines, receive
35 and provide prompt review of products filed therewith, and

1 give approval to those product filings satisfying applicable
2 uniform standards, provided it is not intended for the
3 commission to be the exclusive entity for receipt and review
4 of insurance product filings. Nothing herein shall prohibit
5 any insurer from filing its product in any state wherein the
6 insurer is licensed to conduct the business of insurance, and
7 any such filing shall be subject to the laws of the state
8 where filed.

9 2. The commission is a body corporate comprising each
10 compacting state.

11 3. The commission is a not-for-profit entity, separate and
12 distinct from the individual compacting states.

13 4. The commission is solely responsible for its
14 liabilities except as otherwise specifically provided in this
15 compact.

16 5. Venue is proper and judicial proceedings by or against
17 the commission shall be brought solely and exclusively in a
18 court of competent jurisdiction where the principal office of
19 the commission is located.

20 ARTICLE IV -- POWERS OF THE COMMISSION

21 The commission shall have the following powers:

22 1. To promulgate rules, pursuant to article VII, which
23 shall have the force and effect of law and shall be binding in
24 the compacting states to the extent and in the manner provided
25 in this compact.

26 2. To exercise its rulemaking authority and establish
27 reasonable uniform standards for products covered under this
28 compact, and advertisement related thereto, which shall have
29 the force and effect of law and shall be binding in the
30 compacting states, but only for those products filed with the
31 commission, provided that a compacting state shall have the
32 right to opt out of such uniform standard pursuant to article
33 VII, to the extent and in the manner provided in this compact,
34 and, provided further, that any uniform standard established
35 by the commission for long-term care insurance products may

1 provide the same or greater protections for consumers as, but
2 shall not provide less than, those protections set forth in
3 the national association of insurance commissioners' long-term
4 care insurance model act and long-term care insurance model
5 regulation, respectively, adopted as of 2001. The commission
6 shall consider whether any subsequent amendments to the long-
7 term care insurance model act or long-term care insurance
8 model regulation adopted by the national association of
9 insurance commissioners require amending of the uniform
10 standards established by the commission for long-term care
11 insurance products.

12 3. To receive and review in an expeditious manner products
13 filed with the commission, and rate filings for disability
14 income and long-term care insurance products, and give
15 approval of those products and rate filings that satisfy the
16 applicable uniform standard, where such approval shall have
17 the force and effect of law, and be binding on the compacting
18 states to the extent and in the manner provided in the
19 compact.

20 4. To receive and review in an expeditious manner
21 advertisement relating to long-term care insurance products
22 for which uniform standards have been adopted by the
23 commission, and give approval to all advertisement that
24 satisfies the applicable uniform standard. For any product
25 covered under this compact, other than long-term care
26 insurance products, the commission shall have the authority to
27 require an insurer to submit all or any part of its
28 advertisement with respect to that product for review or
29 approval prior to use, if the commission determines that the
30 nature of the product is such that an advertisement of the
31 product could have the capacity or tendency to mislead the
32 public. The actions of the commission as provided in this
33 article shall have the force and effect of law and shall be
34 binding in the compacting states to the extent and in the
35 manner provided in this compact.

1 5. To exercise its rulemaking authority and designate
2 products and advertisement that may be subject to a self-
3 certification process without the need for prior approval by
4 the commission.

5 6. To promulgate operating procedures, pursuant to article
6 VII, which shall be binding in the compacting states to the
7 extent and in the manner provided in this compact.

8 7. To bring and prosecute legal proceedings or actions in
9 its name as the commission, provided that the standing of any
10 state insurance department to sue or be sued under applicable
11 law shall not be affected.

12 8. To issue subpoenas requiring the attendance and
13 testimony of witnesses and the production of evidence.

14 9. To establish and maintain offices.

15 10. To purchase and maintain insurance and bonds.

16 11. To borrow, accept, or contract for services of
17 personnel, including, but not limited to, employees of a
18 compacting state.

19 12. To hire employees, professionals, or specialists, and
20 elect or appoint officers, and to fix their compensation,
21 define their duties, and give them appropriate authority to
22 carry out the purposes of this compact, and determine their
23 qualifications, and to establish the commission's personnel
24 policies and programs relating to, among other things,
25 conflicts of interest, rates of compensation, and
26 qualifications of personnel.

27 13. To accept any and all appropriate donations and grants
28 of money, equipment, supplies, materials, and services, and to
29 receive, utilize, and dispose of the same, provided that at
30 all times the commission shall strive to avoid any appearance
31 of impropriety.

32 14. To lease, purchase, accept appropriate gifts or
33 donations of, or otherwise to own, hold, improve, or use, any
34 property, real, personal, or mixed, provided that at all times
35 the commission shall strive to avoid any appearance of

1 impropriety.

2 15. To sell, convey, mortgage, pledge, lease, exchange,
3 abandon, or otherwise dispose of any property, real, personal,
4 or mixed.

5 16. To remit filing fees to compacting states as may be
6 set forth in the bylaws, rules, or operating procedures.

7 17. To enforce compliance by compacting states with rules,
8 uniform standards, operating procedures, and bylaws.

9 18. To provide for dispute resolution among compacting
10 states.

11 19. To advise compacting states on issues relating to
12 insurers domiciled or doing business in noncompacting
13 jurisdictions, consistent with the purposes of this compact.

14 20. To provide advice and training to those personnel in
15 state insurance departments responsible for product review,
16 and to be a resource for state insurance departments.

17 21. To establish a budget and make expenditures.

18 22. To borrow money.

19 23. To appoint committees, including advisory committees
20 comprising members, state insurance regulators, state
21 legislators or their representatives, insurance industry and
22 consumer representatives, and such other interested persons as
23 may be designated in the bylaws.

24 24. To provide and receive information from, and to
25 cooperate with, law enforcement agencies.

26 25. To adopt and use a corporate seal.

27 26. To perform such other functions as may be necessary or
28 appropriate to achieve the purposes of this compact consistent
29 with the state regulation of the business of insurance.

30 ARTICLE V -- ORGANIZATION OF THE COMMISSION

31 1. MEMBERSHIP, VOTING, AND BYLAWS.

32 a. Each compacting state shall have and be limited to one
33 member. Each member shall be qualified to serve in that
34 capacity pursuant to applicable law of the compacting state.

35 Any member may be removed or suspended from office as provided

1 by the law of the state from which the member is appointed.

2 Any vacancy occurring in the commission shall be filled in
3 accordance with the laws of the compacting state wherein the
4 vacancy exists. Nothing herein shall be construed to affect
5 the manner in which a compacting state determines the election
6 or appointment and qualification of its own commissioner.

7 b. Each member shall be entitled to one vote and shall
8 have an opportunity to participate in the governance of the
9 commission in accordance with the bylaws. Notwithstanding any
10 provision herein to the contrary, no action of the commission
11 with respect to the promulgation of a uniform standard shall
12 be effective unless two-thirds of the members vote in favor
13 thereof.

14 c. The commission shall, by a majority of the members,
15 prescribe bylaws to govern its conduct as may be necessary or
16 appropriate to carry out the purposes, and exercise the
17 powers, of the compact, including, but not limited to:

18 (1) Establishing the fiscal year of the commission.

19 (2) Providing reasonable procedures for appointing and
20 electing members, as well as holding meetings, of the
21 management committee.

22 (3) Providing reasonable standards and procedures:

23 (a) For the establishment of other committees.

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

26 (4) Providing reasonable procedures for calling and
27 conducting meetings of the commission, and ensuring reasonable
28 notice of each such meeting.

29 (5) Establishing the titles, duties, and authority, and
30 reasonable procedures for the election of the officers of the
31 commission.

32 (6) Providing reasonable standards and procedures for the
33 establishment of the personnel policies and programs of the
34 commission. Notwithstanding any civil service or other
35 similar laws of any compacting state, the bylaws shall

1 exclusively govern the personnel policies and programs of the
2 commission.

3 (7) Providing a mechanism for winding up the operations of
4 the commission and the equitable disposition of any surplus
5 funds that may exist after the termination of this compact
6 after the payment or reserving of all of its debts and
7 obligations.

8 2. MANAGEMENT COMMITTEE, OFFICERS, AND PERSONNEL.

9 a. A management committee comprising no more than fourteen
10 members shall be established as follows:

11 (1) One member from each of the six compacting states with
12 the largest premium volume for individual and group annuities,
13 life, disability income, and long-term care insurance
14 products, determined from the records of the national
15 association of insurance commissioners for the prior year.

16 (2) Four members from those compacting states with at
17 least two percent of the market based on the premium volume
18 described in subparagraph (1), other than the six compacting
19 states with the largest premium volume, selected on a rotating
20 basis as provided in the bylaws.

21 (3) Four members from those compacting states with less
22 than two percent of the market, based on the premium volume
23 described subparagraph (1), with one selected from each of the
24 four zone regions of the national association of insurance
25 commissioners as provided in the bylaws.

26 b. The management committee shall have such authority and
27 duties as may be set forth in the bylaws, including but not
28 limited to:

29 (1) Managing the affairs of the commission in a manner
30 consistent with the bylaws and purposes of the commission.

31 (2) Establishing and overseeing an organizational
32 structure within, and appropriate procedures for, the
33 commission to provide for the creation of uniform standards
34 and other rules, receipt and review of product filings,
35 administrative and technical support functions, review of

1 decisions regarding the disapproval of a product filing, and
2 the review of elections made by a compacting state to opt out
3 of a uniform standard, provided that a uniform standard shall
4 not be submitted to the compacting states for adoption unless
5 approved by two-thirds of the members of the management
6 committee.

7 (3) Overseeing the offices of the commission.

8 (4) Planning, implementing, and coordinating
9 communications and activities with other state, federal, and
10 local government organizations in order to advance the goals
11 of the commission.

12 c. The commission shall elect annually officers from the
13 management committee, with each having such authority and
14 duties, as may be specified in the bylaws.

15 d. The management committee may, subject to the approval
16 of the commission, appoint or retain an executive director for
17 such period, upon such terms and conditions and for such
18 compensation as the commission may deem appropriate. The
19 executive director shall serve as secretary to the commission,
20 but shall not be a member of the commission. The executive
21 director shall hire and supervise such other staff as may be
22 authorized by the commission.

23 3. LEGISLATIVE AND ADVISORY COMMITTEES.

24 a. A legislative committee comprising state legislators or
25 their designees shall be established to monitor the operations
26 of, and make recommendations to, the commission, including the
27 management committee, provided that the manner of selection
28 and term of any legislative committee member shall be as set
29 forth in the bylaws. Prior to the adoption by the commission
30 of any uniform standard, revision to the bylaws, annual
31 budget, or other significant matter as may be provided in the
32 bylaws, the management committee shall consult with and report
33 to the legislative committee.

34 b. The commission shall establish two advisory committees,
35 one of which shall comprise consumer representatives

1 independent of the insurance industry, and the other
2 comprising insurance industry representatives.

3 c. The commission may establish additional advisory
4 committees as its bylaws may provide for the carrying out of
5 its functions.

6 4. CORPORATE RECORDS OF THE COMMISSION. The commission
7 shall maintain its corporate books and records in accordance
8 with the bylaws.

9 5. QUALIFIED IMMUNITY, DEFENSE, AND INDEMNIFICATION.

10 a. The members, officers, executive director, employees,
11 and representatives of the commission shall be immune from
12 suit and liability, either personally or in their official
13 capacity, for any claim for damage to, or loss of, property,
14 personal injury, or other civil liability caused by or arising
15 out of any actual or alleged act, error, or omission that
16 occurred, or that the person against whom the claim is made
17 had a reasonable basis for believing occurred, within the
18 scope of commission employment, duties, or responsibilities,
19 provided that nothing in this paragraph shall be construed to
20 protect any such person from suit or liability for any damage,
21 loss, injury, or liability caused by the intentional or
22 willful and wanton misconduct of that person.

23 b. The commission shall defend any member, officer,
24 executive director, employee, or representative of the
25 commission in any civil action seeking to impose liability
26 arising out of any actual or alleged act, error, or omission
27 that occurred within the scope of commission employment,
28 duties, or responsibilities, or that the person against whom
29 the claim is made had a reasonable basis for believing
30 occurred within the scope of commission employment, duties, or
31 responsibilities, provided that nothing herein shall be
32 construed to prohibit that person from retaining the person's
33 own counsel; and, provided further, that the actual or alleged
34 act, error, or omission did not result from that person's
35 intentional or willful and wanton misconduct.

1 c. The commission shall indemnify and hold harmless any
2 member, officer, executive director, employee, or
3 representative of the commission for the amount of any
4 settlement or judgment obtained against that person arising
5 out of any actual or alleged act, error, or omission that
6 occurred within the scope of commission employment, duties, or
7 responsibilities, or that such person had a reasonable basis
8 for believing occurred within the scope of commission
9 employment, duties, or responsibilities, provided that the
10 actual or alleged act, error, or omission did not result from
11 the intentional or willful and wanton misconduct of that
12 person.

13 ARTICLE VI -- MEETINGS AND ACTS OF THE COMMISSION

14 1. The commission shall meet and take such actions as are
15 consistent with the provisions of this compact and the bylaws.

16 2. Each member of the commission shall have the right and
17 power to cast a vote to which that compacting state is
18 entitled and to participate in the business and affairs of the
19 commission. A member shall vote in person or by such other
20 means as provided in the bylaws. The bylaws may provide for
21 members' participation in meetings by telephone or other means
22 of communication.

23 3. The commission shall meet at least once during each
24 calendar year. Additional meetings shall be held as set forth
25 in the bylaws.

26 ARTICLE VII -- RULES AND OPERATING PROCEDURES --

27 RULEMAKING FUNCTIONS OF THE COMMISSION AND

28 OPTING OUT OF UNIFORM STANDARDS

29 1. RULEMAKING AUTHORITY. The commission shall promulgate
30 reasonable rules, including uniform standards and operating
31 procedures, in order to effectively and efficiently achieve
32 the purposes of this compact. Notwithstanding the foregoing,
33 in the event the commission exercises its rulemaking authority
34 in a manner that is beyond the scope of the purposes of this
35 compact, or the powers granted hereunder, such an action by

1 the commission shall be invalid and have no force and effect.

2 2. RULEMAKING PROCEDURE. Rules and operating procedures
3 shall be made pursuant to a rulemaking process that conforms
4 to the model state administrative procedure act, as may be
5 appropriate to the operations of the commission. Before the
6 commission adopts a uniform standard, the commission shall
7 give written notice to the relevant state legislative
8 committee or committees in each compacting state responsible
9 for insurance issues of its intention to adopt the uniform
10 standard.

11 3. EFFECTIVE DATE AND OPT OUT OF A UNIFORM STANDARD. A
12 uniform standard shall become effective ninety days after its
13 promulgation by the commission or such later date as the
14 commission may determine, provided, however, that a compacting
15 state may opt out of a uniform standard as provided in this
16 article. "Opt out" means any action by a compacting state to
17 decline to adopt or participate in a promulgated uniform
18 standard. All other rules and operating procedures, and
19 amendments thereto, shall become effective as of the date
20 specified in each rule, operating procedure, or amendment.

21 4. OPT-OUT PROCEDURE. A compacting state may opt out of a
22 uniform standard, either by legislation or regulation duly
23 promulgated by the insurance department under the compacting
24 state's administrative procedure act. If a compacting state
25 elects to opt out of a uniform standard by regulation, it must
26 do all of the following:

27 a. Give written notice to the commission no later than ten
28 business days after the uniform standard is promulgated, or at
29 the time the state becomes a compacting state.

30 b. Find that the uniform standard does not provide
31 reasonable protections to the citizens of the state, given the
32 conditions in the state.

33 The commissioner shall make specific findings of fact and
34 conclusions of law, based on a preponderance of the evidence,
35 detailing the conditions in the state which warrant a

1 departure from the uniform standard and determining that the
2 uniform standard would not reasonably protect the citizens of
3 the state. The commissioner must consider and balance the
4 following factors and find that the conditions in the state
5 and needs of the citizens of the state outweigh both of the
6 following:

7 (1) The intent of the legislature to participate in, and
8 the benefits of, an interstate agreement to establish national
9 uniform consumer protections for the products subject to this
10 compact.

11 (2) The presumption that a uniform standard adopted by the
12 commission provides reasonable protections to consumers of the
13 relevant product.

14 Notwithstanding the foregoing, a compacting state may, at
15 the time of its enactment of this compact, prospectively opt
16 out of all uniform standards involving long-term care
17 insurance products by expressly providing for such opt out in
18 the enacted compact, and such an opt out shall not be treated
19 as a material variance in the offer or acceptance of any state
20 to participate in this compact. Such an opt out shall be
21 effective at the time of enactment of this compact by the
22 compacting state and shall apply to all existing uniform
23 standards involving long-term care insurance products and
24 those subsequently promulgated.

25 5. EFFECT OF OPT OUT. If a compacting state elects to opt
26 out of a uniform standard, the uniform standard shall remain
27 applicable in the compacting state electing to opt out until
28 such time the opt-out legislation is enacted into law or the
29 regulation opting out becomes effective.

30 Once the opt out of a uniform standard by a compacting
31 state becomes effective, as provided under the laws of that
32 state, the uniform standard shall have no further force and
33 effect in that state unless and until the legislation or
34 regulation implementing the opt out is repealed or otherwise
35 becomes ineffective under the laws of the state. If a

1 compacting state opts out of a uniform standard after the
2 uniform standard has been made effective in that state, the
3 opt out shall have the same prospective effect as provided
4 under article XIV for withdrawals.

5 ARTICLE VIII -- COMMISSION RECORDS AND ENFORCEMENT

6 1. The commission shall promulgate rules to establish
7 conditions and procedures under which the commission shall
8 make its information and official records available to the
9 public for inspection or copying. The commission may
10 promulgate additional rules under which it may make available
11 to federal and state agencies, including law enforcement
12 agencies, records, and information otherwise exempt from
13 disclosure, and may enter into agreements with such agencies
14 to receive or exchange information or records subject to
15 nondisclosure and confidentiality provisions.

16 2. Except as to privileged records, data, and information,
17 the laws of any compacting state pertaining to confidentiality
18 or nondisclosure shall not relieve any compacting state
19 commissioner of the duty to disclose any relevant records,
20 data, or information to the commission, provided that
21 disclosure to the commission shall not be deemed to waive or
22 otherwise affect any confidentiality requirement, and further
23 provided that, except as otherwise expressly provided in this
24 compact, the commission shall not be subject to the compacting
25 state's laws pertaining to confidentiality and nondisclosure
26 with respect to records, data, and information in its
27 possession. Confidential information of the commission shall
28 remain confidential after such information is provided to any
29 commissioner.

30 3. The commission shall monitor compacting states for
31 compliance with duly adopted bylaws, rules, including uniform
32 standards, and operating procedures. The commission shall
33 notify any noncomplying compacting state in writing of its
34 noncompliance with commission bylaws, rules, or operating
35 procedures. If a noncomplying compacting state fails to

1 remedy its noncompliance within the time specified in the
2 notice of noncompliance, the compacting state shall be deemed
3 to be in default as set forth in article XIV.

4 4. The commissioner of any state in which an insurer is
5 authorized to do business, or is conducting the business of
6 insurance, shall continue to exercise the commissioner's
7 authority to oversee the market regulation of the activities
8 of the insurer in accordance with the provisions of the
9 state's law. The commissioner's enforcement of compliance
10 with the compact is governed by the following provisions:

11 a. With respect to the commissioner's market regulation of
12 a product or advertisement that is approved or certified to
13 the commission, no activity of an insurer shall constitute a
14 violation of the provisions, standards, or requirements of
15 this compact except upon a final order of the commission,
16 issued at the request of a commissioner after prior notice to
17 the insurer and an opportunity for hearing before the
18 commission.

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

28 5. STAY OF UNIFORM STANDARD. If a compacting state has
29 formally initiated the process of opting out of a uniform
30 standard by regulation, and while the regulatory opt out is
31 pending, the compacting state may petition the commission, at
32 least fifteen days before the effective date of the uniform
33 standard, to stay the effectiveness of the uniform standard in
34 that state. The commission may grant a stay if it determines
35 the regulatory opt out is being pursued in a reasonable manner

1 and there is a likelihood of success. If a stay is granted or
2 extended by the commission, the stay or extension thereof may
3 postpone the effective date by up to ninety days, unless
4 affirmatively extended by the commission, provided a stay may
5 not be permitted to remain in effect for more than one year
6 unless the compacting state can show extraordinary
7 circumstances which warrant a continuance of the stay,
8 including, but not limited to, the existence of a legal
9 challenge which prevents the compacting state from opting out.
10 A stay may be terminated by the commission upon notice that
11 the rulemaking process has been terminated.

12 6. Not later than thirty days after a rule or operating
13 procedure is adopted, any person may file a petition for
14 judicial review of the rule or operating procedure, provided
15 that the filing of such a petition shall not stay or otherwise
16 prevent the rule or operating procedure from becoming
17 effective unless the court finds that the petitioner has a
18 substantial likelihood of success. The court shall give
19 deference to the actions of the commission consistent with
20 applicable law and shall not find the rule or operating
21 procedure to be unlawful if the rule or operating procedure
22 represents a reasonable exercise of the commission's
23 authority.

24 ARTICLE IX -- DISPUTE RESOLUTION

25 The commission shall attempt, upon the request of a member,
26 to resolve any disputes or other issues which are subject to
27 this compact and which may arise between two or more
28 compacting states, or between compacting states and
29 noncompacting states, and the commission shall promulgate an
30 operating procedure providing for resolution of such disputes.

31 ARTICLE X -- PRODUCT FILING AND APPROVAL

32 1. Insurers and third-party filers seeking to have a
33 product approved by the commission shall file the product
34 with, and pay applicable filing fees to, the commission.
35 Nothing in this compact shall be construed to restrict or

1 otherwise prevent an insurer from filing its product with the
2 insurance department in any state wherein the insurer is
3 licensed to conduct the business of insurance, and such filing
4 shall be subject to the laws of the states where filed.

5 2. The commission shall establish appropriate filing and
6 review processes and procedures pursuant to commission rules
7 and operating procedures. Notwithstanding any provision
8 herein to the contrary, the commission shall promulgate rules
9 to establish conditions and procedures under which the
10 commission will provide public access to product filing
11 information. In establishing such rules, the commission shall
12 consider the interests of the public in having access to such
13 information, as well as protection of personal medical and
14 financial information and trade secrets, that may be contained
15 in a product filing or supporting information.

16 3. Any product approved by the commission may be sold or
17 otherwise issued in those compacting states in which the
18 insurer is legally authorized to do business.

19 ARTICLE XI -- REVIEW OF COMMISSION DECISIONS

20 REGARDING FILINGS

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

1 2. The commission shall have authority to monitor, review,
2 and reconsider products and advertisement subsequent to their
3 filing or approval upon a finding that the product does not
4 meet the relevant uniform standard. Where appropriate, the
5 commission may withdraw or modify its approval after proper
6 notice and hearing, subject to the appeal process in section
7 1.

8

ARTICLE XII -- FINANCE

9 1. The commission shall pay or provide for the payment of
10 the reasonable expenses of its establishment and organization.
11 To fund the cost of its initial operations, the commission may
12 accept contributions and other forms of funding from the
13 national association of insurance commissioners, compacting
14 states, and other sources. Contributions and other forms of
15 funding from other sources shall be of such a nature that the
16 independence of the commission concerning the performance of
17 its duties shall not be compromised.

18 2. The commission shall collect a filing fee from each
19 insurer and third-party filer filing a product with the
20 commission to cover the cost of the operations and activities
21 of the commission and its staff in a total amount sufficient
22 to cover the commission's annual budget.

23 3. The commission's budget for a fiscal year shall not be
24 approved until it has been subject to notice and comment as
25 set forth in article VII.

26 4. The commission shall be exempt from all taxation in and
27 by the compacting states.

28 5. The commission shall not pledge the credit of any
29 compacting state, except by and with the appropriate legal
30 authority of that compacting state.

31 6. The commission shall keep complete and accurate
32 accounts of all its internal receipts, including grants and
33 donations, and disbursements of all funds under its control.
34 The internal financial accounts of the commission shall be
35 subject to the accounting procedures established under its

1. bylaws. The financial accounts and reports, including the
2 system of internal controls and procedures of the commission,
3 shall be audited annually by an independent certified public
4 accountant. Upon the determination of the commission, but no
5 less frequently than every three years, the review of the
6 independent auditor shall include a management and performance
7 audit of the commission. The commission shall make an annual
8 report to the governor and legislature of the compacting
9 states, which shall include a report of the independent audit.
10 The commission's internal accounts, any work papers related to
11 any internal audit, and any work papers related to the
12 independent audit, shall be confidential, provided that such
13 materials may be shared with the commissioner of any
14 compacting state and shall remain confidential pursuant to
15 article VII.

16 7. A compacting state shall not have any claim to or
17 ownership of any property held by or vested in the commission
18 or to any commission funds held pursuant to the provisions of
19 this compact.

20 ARTICLE XIII -- COMPACTING STATES,

21 EFFECTIVE DATE, AND AMENDMENT

22 1. Any state is eligible to become a compacting state.
23 2. This compact shall become effective and binding upon
24 legislative enactment of this compact into law by two
25 compacting states, provided the commission shall become
26 effective for purposes of adopting uniform standards for
27 reviewing, and giving approval or disapproval of, products
28 filed with the commission that satisfy applicable uniform
29 standards only after twenty-six states are compacting states
30 or, alternatively, by states representing greater than forty
31 percent of the premium volume for life insurance, annuity,
32 disability income, and long-term care insurance products,
33 based on records of the national association of insurance
34 commissioners for the prior year. Thereafter, it shall become
35 effective and binding as to any other compacting state upon

1 enactment of this compact into law by that state.

2 3. Amendments to this compact may be proposed by the
3 commission for enactment by the compacting states. An
4 amendment shall not become effective and binding upon the
5 commission and the compacting states unless and until all
6 compacting states enact the amendment into law.

7 ARTICLE XIV -- WITHDRAWAL, DEFAULT, AND TERMINATION

8 1. WITHDRAWAL.

9 a. Once effective, this compact shall continue in force
10 and remain binding upon each and every compacting state,
11 provided that a compacting state may withdraw from this
12 compact by enacting a statute specifically repealing the
13 statute which enacted the compact into law.

14 b. The effective date of withdrawal is the effective date
15 of the repealing statute. However, the withdrawal shall not
16 apply to any product filings approved or self-certified, or
17 any advertisement of such products, on the date the repealing
18 statute becomes effective, except by mutual agreement of the
19 commission and the withdrawing state unless the approval is
20 rescinded by the withdrawing state as provided in paragraph
21 "e".

22 c. The commissioner of the withdrawing state shall
23 immediately notify the management committee in writing upon
24 the introduction of legislation repealing this compact in the
25 withdrawing state.

26 d. The commission shall notify the other compacting states
27 of the introduction of such legislation within ten days after
28 its receipt of notice.

29 e. The withdrawing state is responsible for all
30 obligations, duties, and liabilities incurred through the
31 effective date of withdrawal, including any obligations, the
32 performance of which extend beyond the effective date of
33 withdrawal, except to the extent those obligations may have
34 been released or relinquished by mutual agreement of the
35 commission and the withdrawing state. The commission's

1 approval of products and advertisement prior to the effective
2 date of withdrawal shall continue to be effective and be given
3 full force and effect in the withdrawing state, unless
4 formally rescinded by the withdrawing state in the same manner
5 as provided by the laws of the withdrawing state for the
6 prospective disapproval of products or advertisement
7 previously approved under state law.

8 f. Reinstatement following withdrawal of any compacting
9 state shall occur upon the effective date of the withdrawing
10 state reenacting the compact.

11 2. DEFAULT.

12 a. If the commission determines that any compacting state
13 has at any time defaulted in the performance of any of its
14 obligations or responsibilities under this compact, the bylaws
15 or duly promulgated rules or operating procedures, then, after
16 notice and hearing as set forth in the bylaws, all rights,
17 privileges, and benefits conferred by this compact on the
18 defaulting state shall be suspended from the effective date of
19 default as fixed by the commission. The grounds for default
20 include, but are not limited to, failure of a compacting state
21 to perform its obligations or responsibilities, and any other
22 grounds designated in commission rules. The commission shall
23 immediately notify the defaulting state in writing of the
24 defaulting state's suspension, pending a cure of the default.
25 The commission shall stipulate the conditions and the time
26 period within which the defaulting state must cure its
27 default. If the defaulting state fails to cure the default
28 within the time period specified by the commission, the
29 defaulting state shall be terminated from this compact and all
30 rights, privileges, and benefits conferred by this compact
31 shall be terminated from the effective date of termination.

32 b. Product approvals by the commission or product self-
33 certifications, or any advertisement in connection with such
34 product, that are in force on the effective date of
35 termination shall remain in force in the defaulting state in

1 the same manner as if the defaulting state had withdrawn
2 voluntarily pursuant to section 1.

3 c. Reinstatement following termination of any compacting
4 state requires a reenactment of this compact.

5 3. DISSOLUTION OF COMPACT.

6 a. This compact dissolves effective upon the date of the
7 withdrawal or default of the compacting state which reduces
8 membership in this compact to one compacting state.

9 b. Upon the dissolution of this compact, this compact
10 becomes null and void and shall be of no further force or
11 effect, and the business and affairs of the commission shall
12 be wound up and any surplus funds shall be distributed in
13 accordance with the bylaws.

14 ARTICLE XV -- SEVERABILITY AND CONSTRUCTION

15 1. The provisions of this compact shall be severable, and
16 if any phrase, clause, sentence, or provision is deemed
17 unenforceable, the remaining provisions of this compact shall
18 be enforceable.

19 2. The provisions of this compact shall be liberally
20 construed to effectuate its purposes.

21 ARTICLE XVI -- BINDING EFFECT OF COMPACT AND OTHER LAWS

22 1. OTHER LAWS.

23 a. Nothing herein prevents the enforcement of any other
24 law of a compacting state, except as provided in paragraph
25 "b".

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

1 action taken by the commission shall not abrogate or restrict:

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

4 (2) Remedies available under state law related to breach
5 of contract, tort, or other laws not specifically directed to
6 the content of the product.

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

9 c. All insurance products filed with individual states
10 shall be subject to the laws of those states.

11 2. BINDING EFFECT OF THIS COMPACT.

12 a. All lawful actions of the commission, including all
13 rules and operating procedures adopted by the commission, are
14 binding upon the compacting states.

15 b. All agreements between the commission and the
16 compacting states are binding in accordance with their terms.

17 c. Upon the request of a party to a conflict over the
18 meaning or interpretation of commission actions, and upon a
19 majority vote of the compacting states, the commission may
20 issue advisory opinions regarding the meaning or
21 interpretation in dispute.

22 d. In the event any provision of this compact exceeds the
23 constitutional limits imposed on the legislature of any
24 compacting state, the obligations, duties, powers, or
25 jurisdiction sought to be conferred by that provision upon the
26 commission shall be ineffective as to that compacting state,
27 and those obligations, duties, powers, or jurisdiction shall
28 remain in the compacting state and shall be exercised by the
29 agency thereof to which those obligations, duties, powers, or
30 jurisdiction are delegated by law in effect at the time this
31 compact becomes effective.

32

EXPLANATION

33 This bill makes numerous changes throughout the various
34 Code chapters that comprise the insurance code.

35 The bill amends Code sections 505.8, 507B.3, 514J.7, and

1 515D.10 to require the commissioner to keep information
2 obtained through investigations and hearings confidential.
3 However, Code section 505.8 permits the commissioner to share
4 information with other regulatory or governmental agencies, or
5 to publish information regarding statutory, rule, or order
6 violations. The commissioner may also adopt rules to protect
7 the privacy of information submitted to the insurance
8 division.

9 The bill adds new Code section 505.24 to restrict certain
10 actions by a consumer reporting agency regarding the reuse or
11 sale of information about a consumer the agency has obtained
12 in the course of an insurance inquiry about the consumer.

13 New paragraphs are added to Code sections 507A.4 and
14 514B.33 to provide that foreign or domestic multiple employee
15 welfare arrangements, more commonly known as MEWAs and limited
16 service organizations doing business in Iowa shall pay fees
17 under the schedule in Code section 511.24.

18 Code language regarding annual filing requirements for
19 financial statements in Code sections 508.11, 514B.12, 515.63,
20 and 518.15 is amended to provide that the filing is due on or
21 before the first day of March, rather than by the first day of
22 March, and also allows the commissioner to designate a
23 depository for filing other than the commissioner's office.

24 The bill adds a new provision to Code section 508.31A
25 regarding funding agreements for payments to be made at future
26 dates. Specifically, the new provision permits such
27 agreements to be issued to a person other than a natural
28 person for the purpose of providing collateral security for
29 registered securities issued by that person.

30 A new subsection is added to Code section 509A.15 that
31 grants an exemption from the requirements of that Code section
32 to certain self-insured plans by political subdivisions or
33 school corporations.

34 Code section 510A.2, regarding the definitions for the Code
35 chapter for property and casualty insurance, is amended by

1 striking the definition of "producer" and adding a definition
2 of "insurance producer". Related changes are made in other
3 sections of Code chapter 510A.

4 New paragraphs are added to Code section 511.8, subsection
5 20, and section 515.35, subsection 4, paragraph "m", to refer
6 to the definition of "venture capital fund" in Code chapter
7 15E.

8 Code sections 511.27, 512B.33, 514B.3, 515.73, 515E.3, and
9 521C.3 are amended pertaining to agreements to the
10 commissioner's status as the registered agent for service of
11 process for various foreign and domestic companies doing
12 insurance business in the state. Code section 514.2A adds a
13 new section requiring such an agreement for nonprofit health
14 service corporations. In some instances, the changes expand
15 the scope of the Code language to require such agreements by
16 domestic entities as well as foreign entities. In most
17 instances, the changes also update existing Code language.

18 New Code section 511.40 creates an insurable interest in
19 the lives of active or retired employees for an employer and a
20 trust established by the employer for the benefit of the
21 employer or for the benefit of the active and retired
22 employees. The employees may be insured on an individual or
23 group basis. An employer must obtain consent from the
24 employee prior to obtaining insurance, including an
25 acknowledgement that the coverage may continue even after the
26 employee is no longer employed by the employer. "Employee"
27 includes officers, managers, directors, shareholders,
28 partners, members, proprietors, or other owners, but for the
29 nonmanagement employees, the amount of coverage must be
30 reasonably related to the benefit provided.

31 The bill amends Code section 513C.7 to reference expressly
32 medical assistance provided under Code chapter 514I.

33 The bill amends Code section 513C.10 regarding calculation
34 of assessments for the Iowa individual health benefit
35 reinsurance association, and also addresses which insurers are

1 members of the association.

2 The bill revises Code section 514J.10, relating to external
3 review of health care decisions, to provide that the
4 commissioner shall prepare an annual report with summary
5 information, rather than requiring each carrier to file a
6 report.

7 The bill provides, in Code section 514J.13, that the
8 commissioner shall not be named as a defendant in petitions
9 filed for judicial review of an independent review decision
10 unless the petition alleges the actions in the external review
11 process fall within those permitted by Code section 17A.19,
12 subsection 10. The bill also divides the existing language in
13 Code section 514J.13 into subsections.

14 The bill provides, in Code section 515.92, that a company
15 may only write or place a policy or contract for insurance
16 upon property located in this state through a licensed
17 producer authorized to do business in this state. The bill
18 also makes grammatical changes, and divides the existing
19 language in Code section 515.92 into subsections.

20 The bill updates existing Code language in Code sections
21 515.133 and 515.134, makes grammatical changes, and divides
22 the existing language in Code section 515.133 into
23 subsections.

24 The bill amends the definition of "claimant" in Code
25 section 515B.2 to include the claims against the insured of an
26 insolvent insurer.

27 An exception is added to Code section 515B.8 regarding
28 certain causes of action the insolvent insurer would have had.

29 Code section 515B.9, regarding nonduplication of recovery
30 in claims covered by the insurance guaranty association, is
31 rewritten to exclude consideration of any obligation of the
32 insurance guaranty association as other insurance, when a
33 claim under another policy alleges the same damages. The Code
34 section now also expressly addresses policies that provide
35 coverage for joint and several liability.

1 A three-year statute of limitations following the date of
2 the order of liquidation is added to Code section 515B.16
3 regarding claims brought against the insurance guaranty
4 association.

5 Twenty-day notice provisions regarding mailings prior to an
6 effective date of cancellation are changed to 30 days in Code
7 sections 515D.5, 518.23, and 518A.29.

8 A filing requirement in Code section 523.7 for beneficial
9 ownership is replaced with the commissioner's authority to
10 prescribe the filing requirements by rule. Grammatical
11 changes are also made to the existing Code language, and it is
12 also divided into subsections.

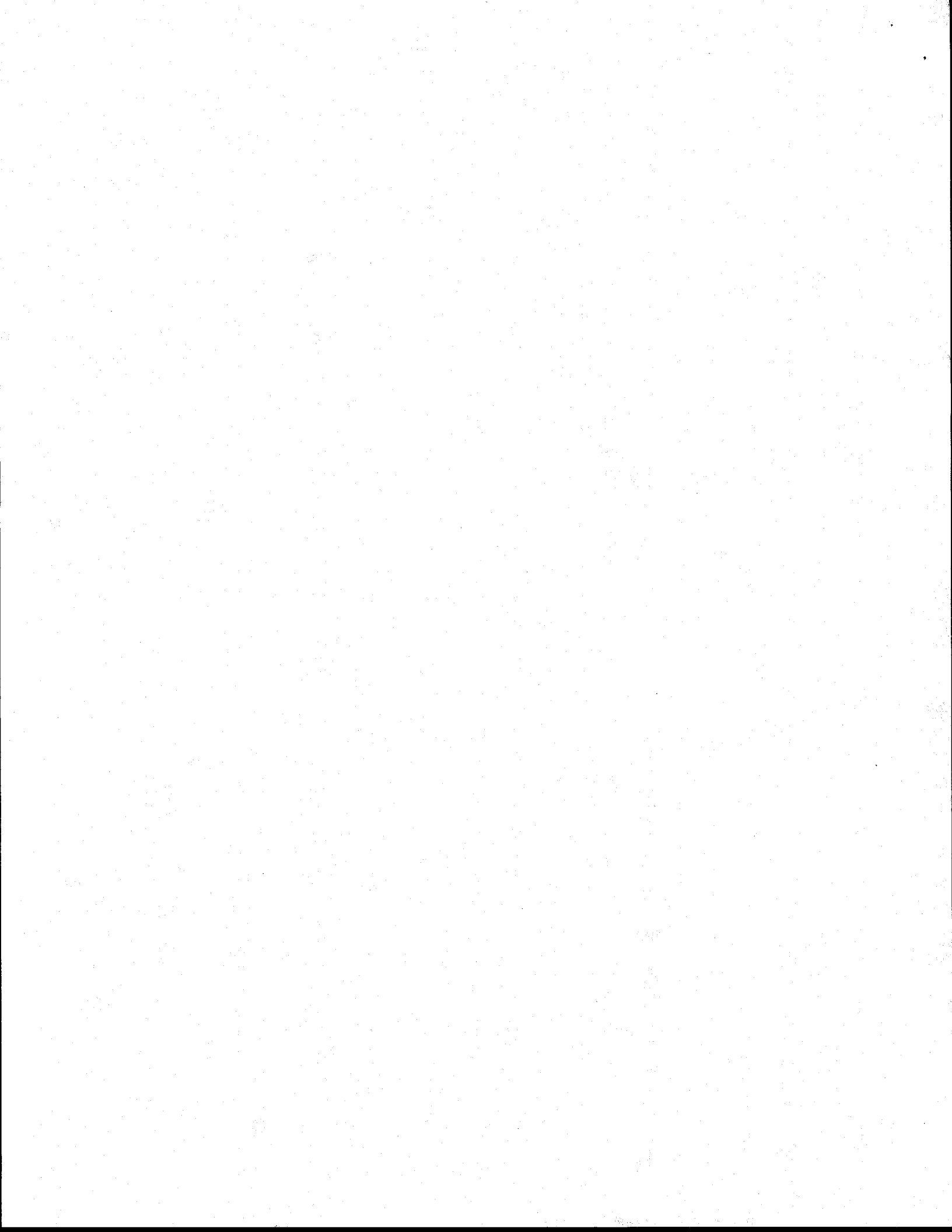
13 In division II, the bill adds the interstate insurance
14 product regulation compact as new Code chapter 505A. The
15 compact is intended, in part, to create the nonprofit
16 interstate insurance product regulation commission and to
17 develop uniform standards for certain insurance products.
18 Each compacting state is entitled to one member on the
19 commission. Procedures are set forth for filing insurance
20 products with the commission and obtaining commission
21 approval. The compact becomes effective and binding upon
22 legislative enactment by two states; the approval process for
23 insurance products, however, requires 26 compacting states as
24 members representing greater than 40 percent of the premium
25 volume for life insurance, annuity, disability income, and
26 long-term care insurance products.

27 The bill repeals Code sections 511.30, 515.78, and 518A.43.
28 Code section 511.30 relates to the use of intoxication as a
29 defense in an action on an insurance policy. Code section
30 515.78 relates to an agent's certificate of authority. Code
31 section 518A.43 relates to the cancellation of an insurance
32 producer's license.

33 The bill contains a provision regarding retroactive
34 applicability to July 1, 1995, with respect to the amendments
35 to Code section 513C.10, regarding the Iowa individual health

1 benefit reinsurance association. Those provisions and the
2 retroactive applicability provision are also subject to an
3 immediate effective date provision.

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HOUSE FILE 647

AN ACT

RELATING TO INSURANCE, INCLUDING VARIOUS FILING AND INFORMATION
PRIVACY REQUIREMENTS THROUGHOUT THE INSURANCE CODE,
CALCULATION OF ASSESSMENTS BY THE IOWA INDIVIDUAL
HEALTH BENEFIT REINSURANCE ASSOCIATION, PAYMENT OF CERTAIN
INSURANCE FEES, CERTAIN SELF-FUNDED INSURANCE PLANS BY SCHOOL
CORPORATIONS OR POLITICAL SUBDIVISIONS, DESIGNATION OF THE
COMMISSIONER OF INSURANCE AS PROCESS AGENT FOR VARIOUS
ENTITIES CONDUCTING INSURANCE BUSINESS IN THIS STATE,
NOTIFICATION PROVISIONS RELATING TO THE EFFECTIVE DATE OF
CANCELLATION OF INSURANCE, BENEFICIAL STOCK OWNERSHIP
FILINGS, FUNDING AGREEMENTS, CREATING AN INSURABLE INTEREST
IN ACTIVE OR RETIRED EMPLOYEE LIVES FOR THE BENEFIT OF AN
EMPLOYER, PROVIDING FOR AN INTERSTATE INSURANCE PRODUCT REGU-
LATION COMPACT, AND PROVIDING FOR RETROACTIVE APPLICABILITY
AND AN EFFECTIVE DATE.

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

DIVISION I

Section 1. Section 29A.43, Code 2003, is amended to read
as follows:

29A.43 DISCRIMINATION PROHIBITED -- LEAVE OF ABSENCE --
CONTINUATION OF HEALTH COVERAGE.

1. A person shall not discriminate against any officer or
enlisted person of the national guard or organized reserves of

the armed forces of the United States because of that
membership. An employer, or agent of an employer, shall not
discharge a person from employment because of being an officer
or enlisted person of the military forces of the state, or
hinder or prevent the officer or enlisted person from
performing any military service the person is called upon to
perform by proper authority. A member of the national guard
or organized reserves of the armed forces of the United States
ordered to temporary duty, as defined in section 29A.1,
subsection 1, 3, or 11, for any purpose is entitled to a leave
of absence during the period of the duty or service, from the
member's private employment, other than employment of a
temporary nature, and upon completion of the duty or service
the employer shall restore the person to the position held
prior to the leave of absence, or employ the person in a
similar position. However, the person shall give evidence to
the employer of satisfactory completion of the training or
duty, and that the person is still qualified to perform the
duties of the position. The period of absence shall be
construed as an absence with leave, and shall in no way affect
the employee's rights to vacation, sick leave, bonus, or other
employment benefits relating to the employee's particular
employment. A person violating a provision of this section is
guilty of a simple misdemeanor.

2. An officer or enlisted person of the national guard or
organized reserves of the armed forces of the United States
who is insured as a dependent under a group policy for
accident or health insurance as a full-time student less than
twenty-five years of age, whose coverage under the group
policy would otherwise terminate while the officer or enlisted
person was on a leave of absence during a period of temporary
duty or service, as defined for members of the national guard
in section 29A.1, subsection 1, 3, or 11, or as a member of
the organized reserves called to active duty from a reserve
component status, shall be considered to have been
continuously insured under the group policy for the purpose of

returning to the insured dependent status as a full-time student who is less than twenty-five years of age. This subsection does not apply to coverage of an injury suffered or a disease contracted by a member of the national guard or organized reserves of the armed forces of the United States in the line of duty.

Sec. 2. Section 505.8, subsection 6, Code 2003, is amended to read as follows:

6. a. Notwithstanding chapter 22, the commissioner shall keep confidential both information obtained in the course of an investigation and information submitted to the insurance division pursuant to chapters 514J and 515D.

b. The commissioner shall adopt rules protecting the privacy of information held by an insurer or an agent consistent with the federal Gramm-Leach-Bliley Act, Pub. L. No. 106-102.

c. However, notwithstanding paragraphs "a" and "b", if the commissioner determines that it is necessary or appropriate in the public interest or for the protection of the public, the commissioner may share information with other regulatory authorities or governmental agencies or may publish information concerning a violation of this chapter or a rule or order under this chapter. Such information may be redacted so that personally identifiable information is not made available.

d. The commissioner may adopt rules protecting the privacy of information submitted to the insurance division consistent with this section.

Sec. 3. NEW SECTION. 505.24 SALE OF POLICY TERM INFORMATION BY CONSUMER REPORTING AGENCY.

1. For purposes of this section, unless the context otherwise requires, "consumer reporting agency" means any person that for monetary fees, dues, or on a cooperative nonprofit basis regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose

of furnishing consumer reports to third parties and that uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

2. A consumer reporting agency shall not provide or sell data or lists that include any information that in whole or in part was submitted in conjunction with an insurance inquiry about a consumer's credit information or a request for a credit report or insurance score. Information submitted in conjunction with an insurance inquiry about a consumer includes, but is not limited to, the expiration dates of an insurance policy or any other information that may identify time periods during which a consumer's insurance may expire and the terms and conditions of the consumer's insurance coverage.

3. The restrictions provided in subsection 2 do not apply to data or lists supplied by a consumer reporting agency to an insurance producer from whom information was received, the insurer on whose behalf such producer acted, or such insurer's affiliates or holding companies.

4. This section shall not be construed to restrict any insurer from being able to obtain a claims history report or a motor vehicle report.

Sec. 4. Section 507A.4, subsection 9, Code 2003, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. When not otherwise provided, a foreign or domestic multiple employee welfare arrangement doing business in this state shall pay to the commissioner of insurance the fees as required in section 511.24.

Sec. 5. Section 507B.3, Code 2003, is amended to read as follows:

507B.3 UNFAIR COMPETITION OR UNFAIR AND DECEPTIVE ACTS OR PRACTICES PROHIBITED.

1. A person shall not engage in this state in any trade practice which is defined in this chapter as, or determined pursuant to section 507B.6 to be, an unfair method of competition, or an unfair or deceptive act or practice in the

business of insurance. The issuance of a qualified charitable gift annuity as provided in chapter 508F does not constitute a trade practice in violation of this chapter.

2. The commissioner shall have power to examine and investigate into the affairs of every person engaged in the business of insurance in this state in order to determine whether such person has been or is engaged in any unfair method of competition or in any unfair or deceptive act or practice prohibited by this section. The commissioner shall keep confidential the information submitted to the insurance division, or obtained by the insurance division in the course of an investigation pursuant to section 505.8, subsection 6.

Sec. 6. Section 508.11, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The president or vice president and secretary or actuary, or a majority of the directors of each company organized under this chapter, shall annually, by on or before the first day of March, prepare under oath and file in the office of the commissioner of insurance or a depository designated by the commissioner a statement of its affairs for the year terminating on the thirty-first day of December preceding, showing:

Sec. 7. Section 508.31A, Code 2003, is amended to read as follows:

508.31A FUNDING AGREEMENTS.

1. A life insurance company organized under this chapter may issue funding agreements. The issuance of a funding agreement under this section is deemed to be doing insurance business. For purposes of this section, "funding agreement" means an agreement for an insurer to accept and accumulate funds and to make one or more payments at future dates in amounts that are not based on mortality or morbidity contingencies of the person to whom the funding agreement is issued. A funding agreement does not constitute life insurance, an annuity, or other insurance authorized by section 508.29, and does not constitute a security as defined in section 502.102.

2. a. Funding agreements may be issued to the following:

(1) A person authorized by a state or foreign country to engage in an insurance business or a subsidiary of such business.

(2) A person for the purpose of funding any of the following:

(a) Benefits under an employee benefit plan as defined in the federal Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001 et seq., maintained in the United States or in a foreign country.

(b) Activities of an organization exempt from taxation pursuant to section 501c of the Internal Revenue Code, or any similar organization in any foreign country.

(c) A program of the United States government, another state government or political subdivision of such state, or of a foreign country, or any agency or instrumentality of any such government, political subdivision, or foreign country.

(d) An agreement providing for periodic payments in satisfaction of a claim.

(e) A program of an institution which has assets in excess of twenty-five million dollars.

(3) A person other than a natural person that has assets of at least twenty-five million dollars.

(4) A person other than a natural person for the purpose of providing collateral security for securities issued by such person and registered with the federal securities and exchange commission.

b. A funding agreement issued pursuant to subparagraph (1), (2), or (3) shall be for a total amount of not less than one million dollars.

c. An amount under a funding agreement shall not be guaranteed or credited except upon reasonable assumptions as to investment income and expenses and on a basis equitable to all holders of funding agreements of a given class. Such funding agreements shall not provide for payments to or by the insurer based on mortality or morbidity contingencies.

d. Amounts paid to the insurer pursuant to a funding agreement, and proceeds applied under optional modes of settlement, may be allocated by the insurer to one or more separate accounts pursuant to section 508A.1.

3. A funding agreement is a class 2 claim under section 507C.42, subsection 2.

4. The commissioner may adopt rules to implement funding agreements.

Sec. 8. Section 508.38, subsection 2, unnumbered paragraph 1, Code 2003, is amended by striking the unnumbered paragraph and inserting in lieu thereof the following:

In the case of contracts issued on or after the operative date of this section as defined in subsection 11, no contract of annuity, except as stated in subsection 1, shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions that in the opinion of the commissioner are at least as favorable to the contract holder, upon cessation of payment of considerations under the contract:

Sec. 9. Section 508.38, subsection 2, paragraphs a and b, Code 2003, are amended by striking the paragraphs and inserting in lieu thereof the following:

a. That upon cessation of payment of considerations under a contract or upon the written request of the contract owner, the company shall grant a paid-up annuity benefit on a plan stipulated in the contract of such value as is specified in subsections 4, 5, 6, 7, and 9.

b. If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company shall pay in lieu of a paid-up annuity benefit a cash surrender benefit of such amount as is specified in subsections 4, 5, 7, and 9. The company may reserve the right to defer the payment of such cash surrender benefit for a period not to exceed six months after demand

therefore with surrender of the contract after making written request and receiving written approval of the commissioner. The request shall address the necessity and equitability to all policyholders of the deferral.

Sec. 10. Section 508.38, subsections 3 and 11, Code 2003, are amended by striking the subsections and inserting in lieu thereof the following:

3. The minimum values as specified in subsections 4, 5, 6, 7, and 9 of any paid-up annuity, cash surrender, or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this section.

a. The minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at rates of interest as indicated in paragraph "b" of the net considerations (as hereinafter defined) paid prior to such time, decreased by the sum of all of the following:

(1) Any prior withdrawals from or partial surrenders of the contract accumulated at rates of interest as indicated in paragraph "b".

(2) An annual contract charge of fifty dollars, accumulated at rates of interest as indicated in paragraph "b".

(3) The amount of any indebtedness to the company on the contract, including interest due and accrued.

The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount equal to eighty-seven and one-half percent of the gross considerations credited to the contract during the contract year.

b. The interest rate used in determining minimum nonforfeiture amounts shall be an annual rate of interest determined as the lesser of three percent per annum and all of the following, which shall be specified in the contract if the interest rate will be reset:

(1) The five-year constant maturity treasury rate reported by the federal reserve as of a date, or average over a period, rounded to the nearest one-twentieth of one percent, specified in the contract no longer than fifteen months prior to the contract issue date or redetermination date under subparagraph (4).

(2) The result of subparagraph (1) shall be reduced by one hundred twenty-five basis points.

(3) The resulting interest guarantee shall not be less than one percent.

(4) The interest rate shall apply for an initial period and may be redetermined for additional periods. The redetermination date, basis, and period, if any, shall be stated in the contract. The basis is the date or average over a specified period that produces the value of the five-year constant maturity treasury rate to be used at each redetermination date.

During the period or term that a contract provides substantive participation in an equity indexed benefit, it may increase the reduction described in subparagraph (2), by up to an additional one hundred basis points to reflect the value of the equity index benefit. The present value at the contract issue date and at each redetermination date thereafter of the additional reduction shall not exceed the market value of the benefit. The commissioner may require a demonstration that the present value of the reduction does not exceed the market value of the benefit. Lacking such a demonstration that is acceptable to the commissioner, the commissioner may disallow or limit the additional reduction.

The commissioner may adopt rules to implement the provisions of subparagraph (4), and to provide for further adjustments to the calculation of minimum nonforfeiture amounts for contracts that provide substantive participation in an equity index benefit and for other contracts that the commissioner determines adjustments are justified.

11. After the effective date of this Act, a company may elect either to apply the provisions of this section as it existed prior to the effective date of this Act or to apply the provisions of this section as enacted by this Act to annuity contracts on a contract form-by-form basis before the second anniversary of the effective date of this Act. In all other instances, this section shall become operative with respect to annuity contracts issued by the company two years after the effective date of this Act.

Sec. 11. Section 509.19, subsection 1, paragraphs a and c, Code 2003, are amended to read as follows:

a. A person issuing a policy or contract providing group health benefit coverages to a group of fifty-one or more eligible employees as defined in chapter 513B shall provide to the policyholder, contract holder, or sponsor of the group health benefit plan, upon request, annually, but not more than three months prior to the policy renewal date, the total amount of actual claims identified as paid or incurred and paid, and the total amount of premiums by line of coverage. If premiums are not billed for each line of coverage, it is not necessary to artificially separate premiums for each line of coverage and will be acceptable to supply total premiums for the period.

c. The information required by paragraph "a" shall be provided by the carrier separately for the-current-policy year-to-date-and-for-the-prior-policy-year two separate years, either policy years or rolling twelve-month periods.

Sec. 12. Section 509A.15, subsection 4, Code 2003, is amended by striking the subsection and inserting in lieu thereof the following:

4. One or more political subdivisions of the state or one or more school corporations maintaining self-insured plans with yearly claims that do not exceed one percent of each entity's general fund budget shall be exempt from the requirements of this section where the plan insures employees for all or part of a deductible, coinsurance payments, drug

costs, short-term disability benefits, vision benefits, or dental benefits.

The yearly claim amount shall be determined annually on the policy renewal date, or an alternative date established by rule, by a plan administrator or political subdivision or school corporation employee to be designated by the plan administrator. The exemption shall not apply for the year following a year in which yearly claims are determined to exceed one percent of the political subdivision's or school corporation's general fund budget.

Sec. 13. Section 510A.2, subsections 3, 4, and 5, Code 2003, are amended to read as follows:

3. "Controlled insurer" means a licensed insurer which that is controlled, directly or indirectly, by a an insurance producer.

4. "Controlling producer" means a an insurance producer who, directly or indirectly, controls an insurer.

5. "Independent casualty actuary" means a casualty actuary who is a member of the American academy of actuaries and who is not an employee, principal, the direct or indirect owner of, affiliated with, or in any way controlled by the insurer or insurance producer.

Sec. 14. Section 510A.2, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. "Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance.

Sec. 15. Section 510A.2, subsection 7, Code 2003, is amended by striking the subsection.

Sec. 16. Section 510A.4, subsection 1, paragraph b, subparagraph (2), Code 2003, is amended to read as follows:

(2) The controlled insurer, except for insurance business written through a residual market facility, accepts insurance business only from the controlling producer, a producer controlled by the controlled insurer, or a an insurance producer that is a subsidiary of the controlled insurer.

Sec. 17. Section 510A.4, subsection 2, paragraph g, Code 2003, is amended to read as follows:

g. The controlled insurer shall provide the controlling producer with its underwriting standards, rules, and procedures manuals setting forth the rates to be charged, and the conditions for the acceptance or rejection of risks. The controlling producer shall adhere to the standards, rules, procedures, rates, and conditions. The standards, rules, procedures, rates, and conditions shall be the same as those applicable to comparable business placed with the controlled insurer by a an insurance producer other than the controlling producer.

Sec. 18. Section 510A.4, subsection 4, Code 2003, is amended to read as follows:

4. REPORTING REQUIREMENTS.

a. In addition to any other required loss reserve certification, the controlled insurer shall annually, on April 1 of each year, file with the commissioner an opinion of an independent casualty actuary, or another independent loss reserve specialist acceptable to the commissioner, reporting loss ratios for each line of business written and attesting to the adequacy of loss reserves established for losses incurred and outstanding as of year-end on business placed by the insurance producer, including incurred but not reported losses.

b. The controlled insurer shall annually report to the commissioner the amount of commissions paid to the insurance producer, the percentage such amount represents of the net premiums written, and comparable amounts and percentage paid to noncontrolling producers for placements of the same kinds of insurance.

Sec. 19. Section 510A.5, Code 2003, is amended to read as follows:

510A.5 DISCLOSURE.

The insurance producer, prior to the effective date of the policy, shall deliver written notice to the prospective

insured disclosing the relationship between the insurance producer and the controlled insurer; except that, if the business is placed through a subproducer who is not a controlling producer, the controlling producer shall retain in the producer's records a signed commitment from the subproducer that the subproducer is aware of the relationship between the insurer and the insurance producer and that the subproducer has notified or will notify the insured.

Sec. 20. Section 511.8, subsection 20, Code 2003, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. "Venture capital fund" includes an equity interest in the Iowa fund of funds as defined in section 15E.62.

Sec. 21. Section 511.27, Code 2003, is amended to read as follows:

511.27 COMMISSIONER AS PROCESS AGENT.

Every life insurance company and association organized ~~under the laws of another state or country~~ shall, before receiving a certificate to do business in this state or any renewal thereof of a certificate to do business in this state, file in the office of the commissioner of insurance a power of attorney and an agreement in writing that thereafter service of notice or process of any kind may be made on the commissioner, and when so made that shall be as valid, binding, and effective for all purposes as if served upon the company according to the laws of this or any other state, and waiving all claim or right of error ~~by reason of such acknowledgment of service due to the filing of the power of attorney and the agreement regarding service of notice or process.~~

Sec. 22. NEW SECTION. 511.40 EMPLOYER -- INSURABLE INTEREST.

1. As used in this section, "employees" includes officers, managers, and directors of an employer, and the shareholders, partners, members, proprietors, or other owners of the employer.

2. An employer and a trust established by the employer for the benefit of the employer or for the benefit of the employer's active or retired employees has an insurable interest in each of the lives of the employer's active or retired employees and may insure their lives on an individual or group basis.

3. The amount of coverage on the lives of nonmanagement or nonkey employees shall be reasonably related to the benefit provided to the employees.

4. On and after July 1, 2003, an employer or trust shall obtain the written consent of each employee being insured by an employer and trust pursuant to this section before insuring the employee's life. The consent shall include an acknowledgment by the employee that the employer or trust may maintain the life insurance after the employee is no longer employed by the employer. An employer shall not retaliate in any manner against an employee who refuses to consent.

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

512B.33 SERVICE OF PROCESS.

1. A ~~foreign or alien~~ society authorized to do business in this state shall ~~appoint in writing~~ file in the office of the commissioner to be its true and lawful a power of attorney upon whom all lawful and an agreement in writing that service of process in any action or proceeding against it shall be served, and shall agree in the written consent to process that any lawful process against it which is the society may be served on the commissioner and shall be of the same legal force and validity as if served upon the society, and that the authority shall continue in force so long as any liability remains outstanding in this state. Copies of the appointment power of attorney, certified by the commissioner, shall be deemed sufficient evidence of the appointment and shall be admitted in evidence with the same force and effect as the original may be admitted.

2. Service of process shall only be made upon the commissioner, or if absent, upon the person in charge of the commissioner's office. Service shall be made in duplicate triplicate and shall constitute sufficient service upon the society. When legal process against a society is served upon the commissioner, the commissioner shall forthwith promptly forward one of the duplicate copies by registered mail, prepaid, directed to the secretary or corresponding officer of the society. ~~Service shall not require a~~ A society shall not be required to file its answer, pleading, or defense in less than thirty days from the date of mailing the copy of the service to a society. Legal process shall not be served upon a society except in the manner provided in this section.

Sec. 24. Section 513C.7, subsection 4, paragraph b, Code 2003, is amended to read as follows:

b. A carrier or an organized delivery system shall waive any time period applicable to a preexisting condition exclusion or limitation period with respect to particular services in an individual health benefit plan for the period of time an individual was previously covered by qualifying previous coverage that provided benefits with respect to such services, provided that the qualifying previous coverage was continuous to a date not more than sixty-three days prior to the effective date of the new coverage. For purposes of this section, periods of coverage under medical assistance provided pursuant to chapter 249A or 514I, or Medicare coverage provided pursuant to Title XVIII of the federal Social Security Act shall not be counted with respect to the sixty-three day requirement.

Sec. 25. Section 513C.10, subsection 1, paragraph a, Code 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 shall be members of the association.

Sec. 26. Section 513C.10, subsection 6, Code 2003, is amended to read as follows:

6. The assessable loss plus necessary operating expenses for the association, plus any additional expenses as provided by law, shall be assessed by the association to all members in proportion to their respective shares of total health insurance premiums or payments for subscriber contracts received in Iowa during the second preceding calendar year, or with paid losses in the year, coinciding with or ending during the calendar year, or on any other equitable basis as provided in the plan of operation. In sharing losses, the association may abate or defer any part of the assessment of a member, if, in the opinion of the board, payment of the assessment would endanger the ability of the member to fulfill its contractual obligations. The association may also provide for an initial or interim assessment against the members of the association to meet the operating expenses of the association until the next calendar year is completed. For purposes of this subsection, "total health insurance premiums" and "payments for subscriber contracts" include, without limitation, premiums or other amounts paid to or received by a member for individual and group health plan care coverage provided under any chapter of the Code or Acts, and "paid losses" includes, without limitation, claims paid by a member operating on a self-funded basis for individual and group health plan care coverage provided under any chapter of the Code or Acts. For purposes of calculating and conducting the assessment, the association shall have the express authority to require members to report on an annual basis each member's total health insurance premiums and payments for subscriber contracts and paid losses. A member is liable for its share of the assessment calculated in accordance with this section

regardless of whether it participates in the individual insurance market.

Sec. 27. NEW SECTION. 514.2A SERVICE OF PROCESS.

A nonprofit health service corporation authorized to do business in this state shall file in the office of the commissioner a power of attorney and an agreement in writing that service of process in any action or proceeding against the corporation may be served on the commissioner and shall be of the same legal force and validity as if served upon the corporation, and that the authority shall continue in force so long as any liability remains outstanding in this state. Copies of the power of attorney, certified by the commissioner, shall be deemed sufficient evidence of the appointment and shall be admitted in evidence with the same force and effect as the original.

Sec. 28. Section 514B.3, subsection 10, Code 2003, is amended to read as follows:

10. A power of attorney executed by any applicant ~~who is not domiciled in this state~~ appointing the commissioner, the commissioner's successors in office, and deputies ~~as the true and lawful attorney of the applicant for this state upon whom all lawful~~ to receive process in any legal action or proceeding against the health maintenance organization on a cause of action arising in this state ~~may be served.~~

Sec. 29. Section 514B.12, unnumbered paragraph 1, Code 2003, is amended to read as follows:

A health maintenance organization shall annually on or before the first day of March file with the commissioner or a depository designated by the commissioner a report verified by at least two of its principal officers and covering the preceding calendar year. The report shall be on forms prescribed by the commissioner and shall include:

Sec. 30. Section 514B.33, Code 2003, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. When not otherwise provided, a foreign or domestic limited service organization doing

business in this state shall pay the commissioner the fees as required in section 511.24.

Sec. 31. Section 514J.7, subsection 8, Code 2003, is amended to read as follows:

8. The confidentiality of any medical records submitted shall be maintained pursuant to applicable state and federal laws. Other than the sharing of information required by this chapter and the rules adopted pursuant to this chapter, the commissioner shall keep confidential the information obtained in the external review process pursuant to section 505.8, subsection 6.

Sec. 32. Section 514J.10, Code 2003, is amended to read as follows:

514J.10 REPORTING.

~~Each carrier and organized delivery system shall file~~ The commissioner shall prepare an annual report with the commissioner containing all of the following:

1. The number of external reviews requested.
2. The number of the external reviews certified by the commissioner.
3. The number of coverage decisions which were upheld by an independent review entity.

The commissioner shall prepare a the report by January 31 of each year.

Sec. 33. Section 514J.13, Code 2003, is amended to read as follows:

514J.13 EFFECT OF EXTERNAL REVIEW DECISION.

1. The review decision by the independent review entity conducting the review is binding upon the carrier or organized delivery system. The external review process shall not be considered a contested case under chapter 17A, the Iowa administrative procedure Act.

2. The enrollee or the enrollee's treating health care provider acting on behalf of the enrollee may appeal the review decision by the independent review entity conducting the review by filing a petition for judicial review either in

Polk county district court or in the district court in the county in which the enrollee resides. The petition for judicial review must be filed within fifteen business days after the issuance of the review decision. The petition shall name the enrollee or the enrollee's treating health care provider as the petitioner. The respondent shall be the carrier or the organized delivery system. The petition shall not name the independent review entity as a party. The commissioner shall not be named as a respondent unless the petitioner alleges action or inaction by the commissioner under the standards articulated in section 17A.19, subsection 10. Allegations against the commissioner under section 17A.19, subsection 10, must be stated with particularity. The commissioner may, upon motion, intervene in the judicial review proceeding. The findings of fact by the independent review entity conducting the review are conclusive and binding on appeal.

3. The carrier or organized delivery system shall follow and comply with the review decision of the independent review entity conducting the review, or the decision of the court on appeal. The carrier or organized delivery system and the enrollee's treating health care provider shall not be subject to any penalties, sanctions, or award of damages for following and complying in good faith with the review decision of the independent review entity conducting the review or decision of the court on appeal.

4. The enrollee or the enrollee's treating health care provider may bring an action in Polk county district court or in the district court in the county in which the enrollee resides to enforce the review decision of the independent review entity conducting the review or the decision of the court on appeal.

Sec. 34. Section 515.35, subsection 4, paragraph m, Code 2003, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. "Venture capital fund" includes an equity interest in the Iowa fund of funds as defined in section 15E.62.

Sec. 35. Section 515.63, unnumbered paragraph 1, Code 2003, is amended to read as follows:

The president or the vice president and secretary of each company organized or authorized to do business in the state shall annually on or before the first day of March of each year prepare under oath and file with the commissioner of insurance or a depository designated by the commissioner a full, true, and complete statement of the condition of such company on the last day of the preceding year, which shall exhibit the following items and facts:

Sec. 36. Section 515.73, Code 2003, is amended to read as follows:

515.73 COMMISSIONER AS PROCESS AGENT.

Any ~~foreign~~ company desiring to transact the business of insurance under this chapter ~~by an agent or agents in the state,~~ shall file with the commissioner of insurance a power of attorney and a signed written instrument, ~~duly signed and sealed,~~ authorizing such the commissioner to acknowledge accept service of notice or process ~~for and in on~~ behalf of such company ~~in this state, and consenting that service of notice or process may be made upon the said commissioner, and when so made that~~ shall be taken ~~and held~~ as valid as if served upon the company according to the laws of this or any other state, and waiving all claim, or right, of error, ~~by reason of such acknowledgment of service due to the filing of the power of attorney and the agreement regarding service of notice or process.~~

Sec. 37. Section 515.92, Code 2003, is amended to read as follows:

515.92 STATEMENT OF CAPITAL AND SURPLUS.

1. Every advertisement or public announcement, and every sign, circular, or card issued or published by a foreign company transacting the business of casualty insurance in the

state, or by an officer, agent, or representative thereof that purports to disclose the company's financial standing shall exhibit the capital actually paid in cash, and the amount of net surplus of assets over all its liabilities actually held and available for the payment of losses by fire and for the protection of holders of fire policies, and shall also exhibit the amount of net surplus of assets over all liabilities in the United States actually available for the payment of losses by fire and held in the United States for the protection of holders of fire policies in the United States, including in such liabilities the fund reserved for reinsurance of outstanding risks, ~~and the same.~~ The amounts stated for capital and net surplus shall correspond with the latest verified statement made by the company or association to the commissioner of insurance.

2. The company shall not write, place, or cause to be written or placed, a policy or contract for insurance upon property situated or located in this state except through ~~its resident agent or agents~~ a licensed producer authorized to do business in this state.

Sec. 38. Section 515.133, Code 2003, is amended to read as follows:

515.133 EXAMINATION OF OFFICERS AND EMPLOYEES.

1. The commissioner of insurance is authorized to ~~summon before the commissioner,~~ issue a subpoena for examination under oath, any officer, agent, or employee of any such company suspected of violating any of the provisions of section 515.131 ~~and on.~~

2. Upon the filing of a written, verified complaint to with the commissioner in writing by two or more residents of this state charging such alleging that a company under oath upon their knowledge or belief with violating the provisions of said has violated section 515.131, the commissioner shall summon issue a subpoena for examination under oath to any officer, agent, or employee of said the company before the commissioner for examination under oath.

Sec. 39. Section 515.134, Code 2003, is amended to read as follows:

515.134 REVOCATION OF AUTHORITY.

If upon such examination, and that of any other witness produced and examined, the commissioner ~~shall determine~~ determines that such a company ~~is guilty of a violation of any of the provisions of~~ has violated section 515.131, or if any such officer, agent, or employee ~~after being duly summoned shall fail~~ fails to appear or submit to examination ~~after receiving a subpoena,~~ the commissioner shall ~~forthwith~~ promptly issue an order revoking the authority of such ~~the~~ the company to transact business within this state, and ~~it the~~ the company shall not thereafter be permitted to do the business of fire insurance in this state ~~at any time within for~~ for one year therefrom.

Sec. 40. Section 515B.2, subsection 2, Code 2003, is amended to read as follows:

2. "Claimant" means an insured making a first party claim or any person instituting a liability claim against ~~the~~ the insured of an insolvent insurer. "Claimant" does not include a person who is an affiliate of an insolvent insurer.

Sec. 41. Section 515B.8, subsection 1, Code 2003, is amended to read as follows:

1. Any person recovering under this chapter shall be deemed to have assigned the person's rights under the policy to the association to the extent of the person's recovery from the association. Every insured or claimant seeking the protection of this chapter shall co-operate with the association to the same extent as such person would have been required to co-operate with the insolvent insurer. The association shall have no cause of action against the insured of the insolvent insurer for any sums it has paid out ~~except causes of action the insolvent insurer would have had if the sums had been paid by the insolvent insurer.~~

Sec. 42. Section 515B.9, subsection 1, Code 2003, is amended by striking the subsection and inserting in lieu thereof the following:

1. Any person having a claim under an insurance policy, and the claim under such other policy alleges the same damages or arises from the same facts, injury, or loss that gives rise to a covered claim against the association, shall be required to first exhaust all coverage provided by that policy, whether such coverage is on a primary, excess, or pro rata basis and any obligation of the association shall not be considered other insurance.

Any amount payable on a covered claim shall be reduced by the full applicable limits of such other insurance policy and the association shall receive full credit for such limits or where there are no applicable limits, the claim shall be reduced by the total recovery.

a. A policy providing liability coverage to a person who may be jointly and severally liable with, or a joint tortfeasor with, the person covered under the policy of the insolvent insurer shall be first exhausted before any claim is made against the association and the association shall receive credit for the same as provided above.

b. For purposes of this section, an insurance policy means a policy issued by an insurance company, whether or not a member insurer, which policy insures any of the types of risks insured by an insurance company authorized to write insurance under chapter 515, 516A, or 520, or comparable statutes of another state, except those types of risks set forth in chapters 508 and 514.

Sec. 43. Section 515B.16, Code 2003, is amended to read as follows:

515B.16 ACTIONS AGAINST THE ASSOCIATION.

Any action against the association shall be brought against the association in the association's own name. The Polk county district court shall have exclusive jurisdiction and venue of such actions. Service of the original notice in actions against the association may be made on any officer of the association or upon the commissioner of insurance on behalf of the association. The commissioner shall promptly

transmit any notice so served upon the commissioner to the association. Any action against the association shall be commenced within three years after the date of the order of liquidation.

Sec. 44. Section 515D.5, subsection 1, unnumbered paragraph 1, Code 2003, is amended to read as follows:

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

Sec. 45. Section 515D.10, Code 2003, is amended to read as follows:

515D.10 HEARING BEFORE COMMISSIONER.

Any named insured who has received a statement of reason for cancellation, or of reason for an insurer's intent not to renew a policy, may, within fifteen days of the receipt or delivery of a statement of reason, request a hearing before the commissioner of insurance. The purpose of this hearing shall be limited to establishing the existence of the proof or evidence used by the insurer in its reason for cancellation or intent not to renew. The burden of proof of the reason for cancellation or intent not to renew shall be upon the insurer. Other than the sharing of information required by this chapter

and the rules adopted pursuant to the provisions of this chapter, the commissioner shall keep confidential the information obtained from the insured or in the hearing process, pursuant to section 505.8, subsection 6. The commissioner of insurance shall adopt rules for carrying out the provisions of this section.

Sec. 46. Section 515E.3, Code 2003, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A risk retention group organized in this state shall file in the office of the commissioner a power of attorney and an agreement in writing that service of process in any action or proceeding against the society may be served on the commissioner and shall be of the same legal force and validity as if served upon the society, and that the authority shall continue in force so long as any liability remains outstanding in this state. Copies of the power of attorney, certified by the commissioner, shall be deemed sufficient evidence of the appointment and shall be admitted in evidence with the same force and effect as the original.

Sec. 47. Section 518.23, subsection 2, paragraph a, Code 2003, is amended to read as follows:

a. Except as provided in paragraph "b", notice of cancellation is not effective unless mailed or delivered by the association to the named insured at least twenty thirty days before the effective date of cancellation.

Sec. 48. Section 518A.29, subsection 2, paragraph a, Code 2003, is amended to read as follows:

a. Except as provided in paragraph "b", notice of cancellation is not effective unless mailed or delivered by the association to the named insured at least twenty thirty days before the effective date of cancellation.

Sec. 49. Section 521C.3, subsection 4, paragraph b, Code 2003, is amended to read as follows:

b. ~~If the applicant for a~~ A reinsurance intermediary license ~~is a nonresident, such applicant, as a condition precedent to receiving or holding a license, shall designate~~

the commissioner as agent for service of process, and also shall furnish the commissioner with the name and address of a resident of this state upon whom notices or orders of the commissioner or process affecting such nonresident reinsurance intermediary may be served. The licensee shall promptly notify the commissioner in writing of a change of the designated agent for service of process, and the change becomes effective upon acknowledgment by the commissioner.

Sec. 50. Section 523.7, Code 2003, is amended to read as follows:

523.7 STATEMENT OF STOCK OWNERSHIP FILED WITH COMMISSIONER.

1. Every person who is directly or indirectly the beneficial owner of more than ten percent of any class of any equity security of a domestic stock insurance company, or who is a director or an officer of such company, shall file in the office of the commissioner of insurance ~~within ten days after the person becomes such beneficial owner, director or officer as prescribed by rule~~ a statement, in such a form as the commissioner may prescribe, of the amount of all equity securities of such the company of which the person is the beneficial owner, ~~and within ten days after the close of each calendar month thereafter~~

2. Within the time frame prescribed by rule, if there has been a change in such the ownership during such month a time period prescribed by rule, a person who is directly or indirectly the beneficial owner of more than ten percent of any class of any equity security of a domestic stock insurance company, or who is a director or an officer of such company, shall file in the office of the commissioner a statement, in such a form as the commissioner may prescribe, indicating the person's ownership at the close of the calendar month time period prescribed by rule and such any changes in the person's ownership as have occurred during such calendar month the time period prescribed by rule.

Sec. 51. Sections 511.30, 515.78, and 518A.43, Code 2003, are repealed.

Sec. 52. INDIVIDUAL HEALTH INSURANCE TASK FORCE. The insurance division of the department of commerce shall establish an individual health insurance task force. The individual health insurance task force shall conduct a study to review the individual health insurance market reform under chapter 513C and the Iowa comprehensive health insurance association under chapter 514E. The study shall include review of the following:

1. The premium rating system for the guaranteed basic and standard plans regulated under chapter 513C and the comprehensive health insurance plans under chapter 514E.

2. The availability of and qualifications for coverage under the guaranteed basic and standard plans regulated under chapter 513C and the comprehensive health insurance plans under chapter 514E.

3. The cost-sharing and assessment mechanisms under sections 513C.10 and 514E.2.

4. Any other matters as agreed upon by the task force which affect the individual health insurance market.

The commissioner of insurance shall select the members of the task force which shall include representatives from the Iowa comprehensive health insurance association, the public employee governing bodies subject to chapter 509A, and other health insurance-related parties or experts as deemed appropriate by the commissioner.

The commissioner shall submit a report from the task force to the general assembly on or before January 15, 2004, regarding the task force's findings and recommendations including proposed legislation concerning individual health insurance.

Sec. 53. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY. This section and the sections of this Act amending sections 513C.10, subsection 1, paragraph "a", and subsection 6, being deemed of immediate importance, take effect upon enactment, and apply retroactively to July 1, 1995.

DIVISION II

Sec. 54. NEW SECTION. 505A.1 INTERSTATE INSURANCE PRODUCT REGULATION COMPACT.

The interstate insurance product regulation compact is hereby entered into and enacted into law with all jurisdictions legally joining therein, in the form substantially as follows:

ARTICLE I -- PURPOSES

The purposes of this compact are, through means of joint and cooperative action among the compacting states:

1. To promote and protect the interest of consumers of individual and group annuity, life insurance, disability income and long-term care insurance products.

2. To develop uniform standards for insurance products covered under this compact.

3. To establish a central clearinghouse to receive and provide prompt review of insurance products covered under the compact and, in certain cases, advertisements related thereto, submitted by insurers authorized to do business in one or more compacting states.

4. To give appropriate regulatory approval to those product filings and advertisements satisfying the applicable uniform standard.

5. To improve coordination of regulatory resources and expertise between state insurance departments regarding the setting of uniform standards and review of insurance products covered under this compact.

6. To create the interstate insurance product regulation commission.

7. To perform these and such other related functions as may be consistent with the state regulation of the business of insurance.

ARTICLE II -- DEFINITIONS

For purposes of this compact, unless the context otherwise requires:

1. "Advertisement" means any material designed to create public interest in a product, or induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace or retain a policy, as more specifically defined in the rules and operating procedures of the commission.

2. "Bylaws" means those bylaws established by the commission for its governance, or for directing or controlling the commission's actions or conduct.

3. "Commission" means the interstate insurance product regulation commission established by this compact.

4. "Commissioner" means the chief insurance regulatory official of a state including, but not limited to, commissioner, superintendent, director, or administrator.

5. "Compacting state" means any state that has enacted this compact legislation and that has not withdrawn pursuant to article XIV, section 1, or been terminated pursuant to article XIV, section 2.

6. "Domiciliary state" means the state in which an insurer is incorporated or organized, or, in the case of an alien insurer, its state of entry.

7. "Insurer" means any entity licensed by a state to issue contracts of insurance for any of the lines of insurance covered by this compact.

8. "Member" means the person chosen by a compacting state as its representative to the commission, or the person's designee.

9. "Noncompacting state" means any state which is not at the time a compacting state.

10. "Operating procedures" means procedures promulgated by the commission implementing a rule, uniform standard, or a provision of this compact.

11. "Product" means the form of a policy or contract, including any application, endorsement, or related form which is attached to and made a part of the policy or contract, and any evidence of coverage or certificate, for an individual or group annuity, life insurance, disability income, or long-term care insurance product that an insurer is authorized to issue.

12. "Rule" means a statement of general or particular applicability and future effect promulgated by the commission, including a uniform standard developed pursuant to article VII, designed to implement, interpret, or prescribe law or policy, or describing the organization, procedure, or practice requirements of the commission, which shall have the force and effect of law in the compacting states.

13. "State" means any state, district, or territory of the United States of America.

14. "Third-party filer" means an entity that submits a product filing to the commission on behalf of an insurer.

15. "Uniform standard" means a standard adopted by the commission for a product line, pursuant to article VII, and shall include all of the product requirements in aggregate, provided that each uniform standard shall be construed, whether express or implied, to prohibit the use of any inconsistent, misleading, or ambiguous provisions in a product, and the form of the product made available to the public shall not be unfair, inequitable, or against public policy as determined by the commission.

ARTICLE III -- ESTABLISHMENT OF THE COMMISSION AND VENUE

1. The compacting states hereby create and establish an entity 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 compacting state.

3. The commission is a not-for-profit entity, separate and distinct from the individual compacting states.

4. The commission is solely responsible for its liabilities except as otherwise specifically provided in this compact.

5. Venue is proper and judicial proceedings by or against the commission shall be brought solely and exclusively in a court of competent jurisdiction where the principal office of the commission is located.

ARTICLE IV -- POWERS OF THE COMMISSION

The commission shall have the following powers:

1. To promulgate rules, pursuant to article VII, which shall have the force and effect of law and shall be binding in the compacting states to the extent and in the manner provided in this compact.

2. To exercise its rulemaking authority and establish reasonable uniform standards for products covered under this compact, and advertisement related thereto, which shall have the force and effect of law and shall be binding in the compacting states, but only for those products filed with the commission, provided that a compacting state shall have the right to opt out of such uniform standard pursuant to article VII, to the extent and in the manner provided in this compact, and, provided further, that any uniform standard established by the commission for long-term care insurance products may provide the same or greater protections for consumers as, but shall not provide less than, those protections set forth in the national association of insurance commissioners' long-term care insurance model act and long-term care insurance model regulation, respectively, adopted as of 2001. The commission shall consider whether any subsequent amendments to the long-term care insurance model act or long-term care insurance model regulation adopted by the national association of insurance commissioners require amending of the uniform

standards established by the commission for long-term care insurance products.

3. To receive and review in an expeditious manner products filed with the commission, and rate filings for disability income and long-term care insurance products, and give approval of those products and rate filings that satisfy the applicable uniform standard, where such approval shall have the force and effect of law, and be binding on the compacting states to the extent and in the manner provided in the compact.

4. To receive and review in an expeditious manner advertisement relating to long-term care insurance products for which uniform standards have been adopted by the commission, and give approval to all advertisement that satisfies the applicable uniform standard. For any product covered under this compact, other than long-term care insurance products, the commission shall have the authority to require an insurer to submit all or any part of its advertisement with respect to that product for review or approval prior to use, if the commission determines that the nature of the product is such that an advertisement of the product could have the capacity or tendency to mislead the public. The actions of the commission as provided in this article shall have the force and effect of law and shall be binding in the compacting states to the extent and in the manner provided in this compact.

5. To exercise its rulemaking authority and designate products and advertisement that may be subject to a self-certification process without the need for prior approval by the commission.

6. To promulgate operating procedures, pursuant to article VII, which shall be binding in the compacting states to the extent and in the manner provided in this compact.

7. To bring and prosecute legal proceedings or actions in its name as the commission, provided that the standing of any state insurance department to sue or be sued under applicable law shall not be affected.

8. To issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence.
9. To establish and maintain offices.
10. To purchase and maintain insurance and bonds.
11. To borrow, accept, or contract for services of personnel, including, but not limited to, employees of a compacting state.
12. To hire employees, professionals, or specialists, and elect or appoint officers, and to fix their compensation, define their duties, and give them appropriate authority to carry out the purposes of this compact, and determine their qualifications, and to establish the commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel.
13. To accept any and all appropriate donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of the same, provided that at all times the commission shall strive to avoid any appearance of impropriety.
14. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve, or use, any property, real, personal, or mixed, provided that at all times the commission shall strive to avoid any appearance of impropriety.
15. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.
16. To remit filing fees to compacting states as may be set forth in the bylaws, rules, or operating procedures.
17. To enforce compliance by compacting states with rules, uniform standards, operating procedures, and bylaws.
18. To provide for dispute resolution among compacting states.
19. To advise compacting states on issues relating to insurers domiciled or doing business in noncompacting jurisdictions, consistent with the purposes of this compact.

20. To provide advice and training to those personnel in state insurance departments responsible for product review, and to be a resource for state insurance departments.
21. To establish a budget and make expenditures.
22. To borrow money.
23. To appoint committees, including advisory committees comprising members, state insurance regulators, state legislators or their representatives, insurance industry and consumer representatives, and such other interested persons as may be designated in the bylaws.
24. To provide and receive information from, and to cooperate with, law enforcement agencies.
25. To adopt and use a corporate seal.
26. To perform such other functions as may be necessary or appropriate to achieve the purposes of this compact consistent with the state regulation of the business of insurance.

ARTICLE V -- ORGANIZATION OF THE COMMISSION

1. MEMBERSHIP, VOTING, AND BYLAWS.

- a. Each compacting state shall have and be limited to one member. Each member shall be qualified to serve in that capacity pursuant to applicable law of the compacting state. Any member may be removed or suspended from office as provided by the law of the state from which the member is appointed. Any vacancy occurring in the commission shall be filled in accordance with the laws of the compacting state wherein the vacancy exists. Nothing herein shall be construed to affect the manner in which a compacting state determines the election or appointment and qualification of its own commissioner.
- b. Each member shall be entitled to one vote and shall have an opportunity to participate in the governance of the commission in accordance with the bylaws. Notwithstanding any provision herein to the contrary, no action of the commission with respect to the promulgation of a uniform standard shall be effective unless two-thirds of the members vote in favor thereof.

c. The commission shall, by a majority of the members, prescribe bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes, and exercise the powers, of the compact, including, but not limited to:

- (1) Establishing the fiscal year of the commission.
- (2) Providing reasonable procedures for appointing and electing members, as well as holding meetings, of the management committee.
- (3) Providing reasonable standards and procedures:
 - (a) For the establishment 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 ensuring reasonable notice of each such meeting.
- (5) Establishing the titles, duties, and authority, and reasonable procedures for the election of the officers of the commission.
- (6) Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the commission. Notwithstanding any civil service or other similar laws of any compacting state, the bylaws shall exclusively govern the personnel policies and programs of the commission.
- (7) Providing a mechanism for winding up the operations of the commission and the equitable disposition of any surplus funds that may exist after the termination of this compact after the payment or reserving of all of its debts and obligations.

2. MANAGEMENT COMMITTEE, OFFICERS, AND PERSONNEL.

a. A management committee comprising no more than fourteen members shall be established as follows:

- (1) One member from each of the six compacting states with the largest premium volume for individual and group annuities, life, disability income, and long-term care insurance products, determined from the records of the national association of insurance commissioners for the prior year.

(2) Four members from those compacting states with at least two percent of the market based on the premium volume described in subparagraph (1), other than the six compacting states with the largest premium volume, selected on a rotating basis as provided in the bylaws.

(3) Four members from those compacting states with less than two percent of the market, based on the premium volume described subparagraph (1), with one selected from each of the four zone regions of the national association of insurance commissioners as provided in the bylaws.

b. The management committee shall have such authority and duties as may be set forth in the bylaws, including but not limited to:

- (1) Managing the affairs of the commission in a manner consistent with the bylaws and purposes of the commission.
- (2) Establishing and overseeing an organizational structure within, and appropriate procedures for, the commission to provide for the creation of uniform standards and other rules, receipt and review of product filings, administrative and technical support functions, review of decisions regarding the disapproval of a product filing, and the review of elections made by a compacting state to opt out of a uniform standard, provided that a uniform standard shall not be submitted to the compacting states for adoption unless approved by two-thirds of the members of the management committee.
- (3) Overseeing the offices of the commission.
- (4) Planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the commission.

c. The commission shall elect annually officers from the management committee, with each having such authority and duties, as may be specified in the bylaws.

d. The management committee may, subject to the approval of the commission, appoint or retain an executive director for

such period, upon such terms and conditions and for such compensation as the commission may deem appropriate. The executive director shall serve as secretary to the commission, but shall not be a member of the commission. The executive director shall hire and supervise such other staff as may be authorized by the commission.

3. LEGISLATIVE AND ADVISORY COMMITTEES.

a. A legislative committee comprising state legislators or their designees shall be established to monitor the operations of, and make recommendations to, the commission, including the management committee, provided that the manner of selection and term of any legislative committee member shall be as set forth in the bylaws. Prior to the adoption by the commission of any uniform standard, revision to the bylaws, annual budget, or other significant matter as may be provided in the bylaws, the management committee shall consult with and report to the legislative committee.

b. The commission shall establish two advisory committees, one of which shall comprise consumer representatives independent of the insurance industry, and the other comprising insurance industry representatives.

c. The commission may establish additional advisory committees as its bylaws may provide for the carrying out of its functions.

4. CORPORATE RECORDS OF THE COMMISSION. The commission shall maintain its corporate books and records in accordance with the bylaws.

5. QUALIFIED IMMUNITY, DEFENSE, AND INDEMNIFICATION.

a. The members, officers, executive director, employees, and representatives of the commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to, or loss of, property, personal injury, or other civil liability caused by or arising out of any actual or alleged act, error, or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred, within the

scope of commission employment, duties, or responsibilities, provided that nothing in this paragraph shall be construed to protect any such person from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of that person.

b. The commission shall defend any member, officer, executive director, employee, or representative of the commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that nothing herein shall be construed to prohibit that person from retaining the person's own counsel; and, provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful and wanton misconduct.

c. The commission shall indemnify and hold harmless any member, officer, executive director, employee, or representative of the commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from the intentional or willful and wanton misconduct of that person.

ARTICLE VI -- MEETINGS AND ACTS OF THE COMMISSION

1. The commission shall meet and take such actions as are consistent with the provisions of this compact and the bylaws.

2. Each member of the commission shall have the right and power to cast a vote to which that compacting state is entitled and to participate in the business and affairs of the

commission. A member shall vote in person or by such other means as provided in the bylaws. The bylaws may provide for members' participation in meetings by telephone or other means of communication.

3. The commission shall meet at least once during each calendar year. Additional meetings shall be held as set forth in the bylaws.

ARTICLE VII -- RULES AND OPERATING PROCEDURES --
RULEMAKING FUNCTIONS OF THE COMMISSION AND
OPTING OUT OF UNIFORM STANDARDS

1. RULEMAKING AUTHORITY. The commission shall promulgate reasonable rules, including uniform standards and operating procedures, in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this compact, or the powers granted hereunder, such an action by the commission shall be invalid and have no force and effect.

2. RULEMAKING PROCEDURE. Rules and operating procedures shall be made pursuant to a rulemaking process that conforms to the model state administrative procedure act, 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.

3. EFFECTIVE DATE AND OPT OUT OF A UNIFORM STANDARD. A uniform standard shall become effective ninety days after its promulgation by the commission or such later date as the commission may determine, provided, however, that a compacting state may opt out of a uniform standard as provided in this article. "Opt out" means any action by a compacting state to decline to adopt or participate in a promulgated uniform standard. All other rules and operating procedures, and amendments thereto, shall become effective as of the date specified in each rule, operating procedure, or amendment.

4. OPT-OUT PROCEDURE. A compacting state may opt out of a uniform standard, either by legislation or regulation duly promulgated by the insurance department under the compacting state's administrative procedure act. If a compacting state elects to opt out of a uniform standard by regulation, it must do all of the following:

a. Give written notice to the commission no later than ten business days after the uniform standard is promulgated, or at the time the state becomes a compacting state.

b. Find that the uniform standard does not provide reasonable protections to the citizens of the state, given the conditions in the state.

The commissioner shall make specific findings of fact and conclusions of law, based on a preponderance of the evidence, detailing the conditions in the state which warrant a departure from the uniform standard and determining that the uniform standard would not reasonably protect the citizens of the state. The commissioner must consider and balance the following factors and find that the conditions in the state and needs of the citizens of the state outweigh both of the following:

(1) The intent of the legislature to participate in, and the benefits of, an interstate agreement to establish national uniform consumer protections for the products subject to this compact.

(2) The presumption that a uniform standard adopted by the commission provides reasonable protections to consumers of the relevant product.

Notwithstanding the foregoing, a compacting state may, at the time of its enactment of this compact, prospectively opt out of all uniform standards involving long-term care insurance products by expressly providing for such opt out in the enacted compact, and such an opt out shall not be treated as a material variance in the offer or acceptance of any state to participate in this compact. Such an opt out shall be effective at the time of enactment of this compact by the

compacting state and shall apply to all existing uniform standards involving long-term care insurance products and those subsequently promulgated.

5. EFFECT OF OPT OUT. If a compacting state elects to opt out of a uniform standard, the uniform standard shall remain applicable in the compacting state electing to opt out until such time the opt-out legislation is enacted into law or the regulation opting out becomes effective.

Once the opt out of a uniform standard by a compacting state becomes effective, as provided under the laws of that state, the uniform standard shall have no further force and effect in that state unless and until the legislation or regulation implementing the opt out is repealed or otherwise becomes ineffective under the laws of the state. If a compacting state opts out of a uniform standard after the uniform standard has been made effective in that state, the opt out shall have the same prospective effect as provided under article XIV for withdrawals.

ARTICLE VIII -- COMMISSION RECORDS AND ENFORCEMENT

1. The commission shall promulgate rules to establish conditions and procedures under which the commission shall make its information and official records available to the public for inspection or copying. 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.

2. Except as to privileged records, data, and information, the laws of any compacting state pertaining to confidentiality or nondisclosure shall not relieve any compacting state commissioner of the duty to disclose any relevant records, data, or information to the commission, provided that disclosure to the commission shall not be deemed to waive or otherwise affect any confidentiality requirement, and further

provided that, except as otherwise expressly provided in this compact, the commission shall not be subject to the compacting state's laws pertaining to confidentiality and nondisclosure with respect to records, data, and information in its possession. Confidential information of the commission shall remain confidential after such information is provided to any commissioner.

3. The commission shall monitor compacting states for compliance with duly adopted bylaws, rules, including uniform standards, and operating procedures. The commission shall notify any noncomplying compacting state in writing of its noncompliance with commission bylaws, rules, or operating procedures. If a noncomplying compacting state fails to remedy its noncompliance within the time specified in the notice of noncompliance, the compacting state shall be deemed to be in default as set forth in article XIV.

4. The commissioner of any state in which an insurer is authorized to do business, or is conducting the business of insurance, shall continue to exercise the commissioner's authority to oversee the market regulation of the activities of the insurer in accordance with the provisions of the state's law. The commissioner's enforcement of compliance with the compact is governed by the following provisions:

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 shall 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 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.

5. **STAY OF UNIFORM STANDARD.** If a compacting state has formally initiated the process of opting out of a uniform standard by regulation, and while the regulatory opt out is pending, the compacting state may petition the commission, at least fifteen days before the effective date of the uniform standard, to stay the effectiveness of the uniform standard in that state. The commission may grant a stay if it determines the regulatory opt out is being pursued in a reasonable manner and there is a likelihood of success. If a stay is granted or extended by the commission, the stay or extension thereof may postpone the effective date by up to ninety days, unless affirmatively extended by the commission, provided a stay may not be permitted to remain in effect for more than one year unless the compacting state can show extraordinary circumstances which warrant a continuance of the stay, including, but not limited to, the existence of a legal challenge which prevents the compacting state from opting out. A stay may be terminated by the commission upon notice that the rulemaking process has been terminated.

6. Not later than thirty days after a rule or operating procedure is adopted, any person may file a petition for judicial review of the rule or operating procedure, provided that the filing of such a petition shall not stay or otherwise prevent the rule or operating procedure from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the commission consistent with applicable law and shall not find the rule or operating procedure to be unlawful if the rule or operating procedure represents a reasonable exercise of the commission's authority.

ARTICLE IX -- DISPUTE RESOLUTION

The commission shall attempt, upon the request of a member, to resolve any disputes or other issues which are subject to this compact and which may arise between two or more compacting states, or between compacting states and noncompacting states, and the commission shall promulgate an operating procedure providing for resolution of such disputes.

ARTICLE X -- PRODUCT FILING AND APPROVAL

1. Insurers and third-party filers seeking to have a product approved by the commission shall file the product with, and pay applicable filing fees to, the commission. Nothing in this compact shall be construed to restrict or otherwise prevent an insurer from filing its product with the insurance department in any state wherein the insurer is licensed to conduct the business of insurance, and such filing shall be subject to the laws of the states where filed.

2. The commission shall establish appropriate filing and review processes and procedures pursuant to commission rules and operating procedures. Notwithstanding any provision herein to the contrary, the commission shall promulgate rules to establish conditions and procedures under which the commission will provide public access to product filing information. In establishing such rules, the commission shall consider the interests of the public in having access to such information, as well as protection of personal medical and financial information and trade secrets, that may be contained in a product filing or supporting information.

3. Any product approved by the commission may be sold or otherwise issued in those compacting states in which the insurer is legally authorized to do business.

ARTICLE XI -- REVIEW OF COMMISSION DECISIONS REGARDING FILINGS

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 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.

2. The commission shall have authority to monitor, review, and reconsider products and advertisement subsequent to their filing or approval upon a finding that the product does not meet the relevant uniform standard. Where appropriate, the commission may withdraw or modify its approval after proper notice and hearing, subject to the appeal process in section 1.

ARTICLE XII -- FINANCE

1. The commission shall pay or provide for the payment of the reasonable expenses of its establishment and organization. To fund the cost of its initial operations, the commission may accept contributions and other forms of funding from the national association of insurance commissioners, compacting states, and other sources. Contributions and other forms of funding from other sources shall be of such a nature that the independence of the commission concerning the performance of its duties shall not be compromised.

2. The commission shall collect a filing fee from each insurer and third-party filer filing a product with the commission to cover the cost of the operations and activities of the commission and its staff in a total amount sufficient to cover the commission's annual budget.

3. The commission's budget for a fiscal year shall not be approved until it has been subject to notice and comment as set forth in article VII.

4. The commission shall be exempt from all taxation in and by the compacting states.

5. The commission shall not pledge the credit of any compacting state, except by and with the appropriate legal authority of that compacting state.

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 be confidential, provided that such materials may be shared with the commissioner of any compacting state and shall remain confidential pursuant to article VII.

7. A compacting state shall not have any claim to or ownership of any property held by or vested in the commission or to any commission funds held pursuant to the provisions of this compact.

ARTICLE XIII -- COMPACTING STATES, EFFECTIVE DATE, AND AMENDMENT

1. Any state is eligible to become a compacting state.
2. This compact shall become effective and binding upon legislative enactment of this compact into law by two compacting states, provided the commission shall become effective for purposes of adopting uniform standards for

reviewing, and giving approval or disapproval of, products filed with the commission that satisfy applicable uniform standards only after twenty-six states are compacting states or, alternatively, by states representing greater than forty percent of the premium volume for life insurance, annuity, disability income, and long-term care insurance products, based on records of the national association of insurance commissioners for the prior year. Thereafter, it shall become effective and binding as to any other compacting state upon enactment of this compact into law by that state.

3. Amendments to this compact may be proposed by the commission for enactment by the compacting states. An amendment shall not become effective and binding upon the commission and the compacting states unless and until all compacting states enact the amendment into law.

ARTICLE XIV -- WITHDRAWAL, DEFAULT, AND TERMINATION

1. WITHDRAWAL.

a. Once effective, this compact shall continue in force and remain binding upon each and every compacting state, provided that a compacting state may withdraw from this compact by enacting a statute specifically repealing the statute which enacted the compact into law.

b. The effective date of withdrawal is the effective date of the repealing statute. However, the withdrawal shall not apply to any product filings approved or self-certified, or any advertisement of such products, on the date the repealing statute becomes effective, except by mutual agreement of the commission and the withdrawing state unless the approval is rescinded by the withdrawing state as provided in paragraph "e".

c. The commissioner of the withdrawing state shall immediately notify the management committee in writing upon the introduction of legislation repealing this compact in the withdrawing state.

d. The commission shall notify the other compacting states of the introduction of such legislation within ten days after its receipt of notice.

e. The withdrawing state is responsible for all obligations, duties, and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal, except to the extent those obligations may have been released or relinquished by mutual agreement of the commission and the withdrawing state. The commission's approval of products and advertisement prior to the effective date of withdrawal shall continue to be effective and be given full force and effect in the withdrawing state, unless formally rescinded by the withdrawing state in the same manner as provided by the laws of the withdrawing state for the prospective disapproval of products or advertisement previously approved under state law.

f. Reinstatement following withdrawal of any compacting state shall occur upon the effective date of the withdrawing state reenacting the compact.

2. DEFAULT.

a. If the commission determines that any compacting state has at any time defaulted in the performance of any of its obligations or responsibilities under this compact, the bylaws or duly promulgated rules or operating procedures, then, after notice and hearing as set forth in the bylaws, all rights, privileges, and benefits conferred by this compact on the defaulting state shall be suspended from the effective date of default as fixed by the commission. The grounds for default include, but are not limited to, failure of a compacting state to perform its obligations or responsibilities, and any other grounds designated in commission rules. The commission shall immediately notify the defaulting state in writing of the defaulting state's suspension, pending a cure of the default. The commission shall stipulate the conditions and the time period within which the defaulting state must cure its default. If the defaulting state fails to cure the default within the time period specified by the commission, the defaulting state shall be terminated from this compact and all

rights, privileges, and benefits conferred by this compact shall be terminated from the effective date of termination.

b. Product approvals by the commission or product self-certifications, or any advertisement in connection with such product, that are in force on the effective date of termination shall remain in force in the defaulting state in the same manner as if the defaulting state had withdrawn voluntarily pursuant to section 1.

c. Reinstatement following termination of any compacting state requires a reenactment of this compact.

3. DISSOLUTION OF COMPACT.

a. This compact dissolves effective upon the date of the withdrawal or default of the compacting state which reduces membership in this compact to one compacting state.

b. Upon the dissolution of this compact, this compact becomes null and void and shall be of no further force or effect, and the business and affairs of the commission shall be wound up and any surplus funds shall be distributed in accordance with the bylaws.

ARTICLE XV -- SEVERABILITY AND CONSTRUCTION

1. The provisions of this compact shall be severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of this compact shall be enforceable.

2. The provisions of this compact shall be liberally construed to effectuate its purposes.

ARTICLE XVI -- BINDING EFFECT OF COMPACT AND OTHER LAWS

1. OTHER LAWS.

a. Nothing herein prevents the enforcement of any other law of a compacting state, except as provided in paragraph "b".

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.

c. All insurance products filed with individual states shall be subject to the laws of those states.

2. BINDING EFFECT OF THIS COMPACT.

a. All lawful actions of the commission, including all rules and operating procedures adopted by the commission, are binding upon the compacting states.

b. All agreements between the commission and the compacting states are binding in accordance with their terms.

c. Upon the request of a party to a conflict over the meaning or interpretation of commission actions, and upon a majority vote of the compacting states, the commission may issue advisory opinions regarding the meaning or interpretation in dispute.

d. In the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any compacting state, the obligations, duties, powers, or jurisdiction sought to be conferred by that provision upon the commission shall be ineffective as to that compacting state, and those obligations, duties, powers, or jurisdiction shall remain in the compacting state and shall be exercised by the

agency thereof to which those obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this compact becomes effective.

CHRISTOPHER C. RANTS
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 647, Eightieth General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved _____, 2003

THOMAS J. VILSACK
Governor