

FILED MAR 07 2006

SENATE FILE 2364
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 3215)

Passed Senate, Date 3-13-06 Passed House, Date 5-1-06
Vote: Ayes 50 Nays 0 Vote: Ayes 93 Nays 0

Re-passed
5-2-06 50-0 Approved _____

A BILL FOR

1 An Act relating to various matters under the purview of the
2 insurance division of the department of commerce including the
3 securities and regulated industries bureau, insurance premium
4 taxes, the uniform securities Act, insurance division
5 procedures, regulation of insurance companies and other
6 entities including administrative penalties, motor vehicle
7 service contracts, county and state mutual insurance
8 associations, reciprocal or interinsurance insurers,
9 consolidation, merger and reinsurance contracts, insurance
10 holding company systems, and cemeteries.

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

12
13
14
15
16
17
18
19
20
21
22

SF 2364

1 Section 1. Section 11.6, subsection 1, paragraph b,
2 subparagraph (6), Code Supplement 2005, is amended to read as
3 follows:

4 (6) A joint investment trust organized pursuant to chapter
5 28E shall file the audit reports required by this chapter with
6 the administrator of the securities and regulated industries
7 bureau of the insurance division of the department of commerce
8 within ten days of receipt from the auditor. The auditor of a
9 joint investment trust shall provide written notice to the
10 administrator of the time of delivery of the reports to the
11 joint investment trust.

12 Sec. 2. Section 22.7, Code Supplement 2005, is amended by
13 adding the following new subsections:

14 NEW SUBSECTION. 52. Information obtained and prepared by
15 the commissioner of insurance pursuant to section 507.14.

16 NEW SUBSECTION. 53. Information obtained and prepared by
17 the commissioner of insurance pursuant to section 507E.5.

18 Sec. 3. Section 432.1, subsection 3, Code Supplement 2005,
19 is amended to read as follows:

20 3. The applicable percent, as provided in subsection 4, of
21 the gross amount of premiums, assessments, and fees received
22 during the preceding calendar year by every company or
23 association other than life on contracts of insurance other
24 than life for business done in this state, including all
25 insurance upon property situated in this state, after
26 deducting the amounts returned upon canceled policies,
27 certificates and rejected applications but not including the
28 gross premiums written, assessments, and fees in connection
29 with ocean marine insurance authorized in section 515.48.

30 Sec. 4. Section 432.5, Code 2005, is amended to read as
31 follows:

32 432.5 RISK RETENTION GROUPS.

33 A risk retention group organized and operating pursuant to
34 Pub. L. No. 99-563, also known as the risk retention
35 amendments of 1986, shall pay as taxes to the director of

1 revenue an amount equal to the applicable percent, as provided
2 in section 432.1, subsection 4, of the gross amount of the
3 premiums ~~received~~ written during the previous calendar year
4 for risks placed in this state. A resident or nonresident
5 producer shall report and pay the taxes on the premiums for
6 risks that the producer has placed in this state with or on
7 behalf of a risk retention group. The failure of a risk
8 retention group to pay the tax imposed in this section shall
9 result in the risk retention group being considered an
10 unauthorized insurer under chapter 507A.

11 Sec. 5. Section 502.102, subsection 5, paragraph b,
12 subparagraph (3), Code Supplement 2005, is amended to read as
13 follows:

14 (3) An industrial loan company that is not an "insured
15 depository institution" as defined in section 3(c)(2) of the
16 Federal Deposit Insurance Act, 12 U.S.C. § 1813(c)(2), or any
17 successor federal statute.

18 Sec. 6. Section 502.102, subsection 27A, Code Supplement
19 2005, is amended to read as follows:

20 27A. "Securities and regulated industries bureau" means
21 the securities and regulated industries bureau of the
22 insurance division of the department of commerce.

23 Sec. 7. Section 502.201, subsection 8A, paragraph b,
24 unnumbered paragraph 1, Code 2005, is amended to read as
25 follows:

26 A mutual or cooperative organization, including a
27 cooperative association organized in good faith under and for
28 any of the purposes enumerated in chapter 497, 498, 499, ~~or~~
29 501, or 501A, that deals in commodities or supplies goods or
30 services in transactions primarily with and for the benefit of
31 its members, if all of the following apply:

32 Sec. 8. Section 502.304, subsection 2A, Code 2005, is
33 amended to read as follows:

34 2A. REPORTS AND EXAMINATIONS. The administrator may by
35 rule or order require as a condition of registration by

1 qualification, and at the expense of the applicant or
2 registrant, that a report by an accountant, engineer,
3 appraiser, or other professional person be filed. The
4 administrator may also designate one or more employees of the
5 securities and regulated industries bureau to make an
6 examination of the business and records of an issuer of
7 securities for which a registration statement has been filed
8 by qualification, at the expense of the applicant or
9 registrant.

10 Sec. 9. Section 502.412, subsection 2, paragraph a, Code
11 Supplement 2005, is amended to read as follows:

12 a. Institute a revocation or suspension proceeding under
13 this subsection based solely on an order issued under a law of
14 another state that is reported to the administrator or a
15 designee of the administrator more than one year after the
16 date of the order on which it is based.

17 Sec. 10. Section 502.412, subsection 3, Code Supplement
18 2005, is amended to read as follows:

19 3. DISCIPLINARY PENALTIES -- REGISTRANTS. If the
20 administrator finds that the order is in the public interest
21 and subsection 4, paragraphs "a" through "f", "h", "i", "j",
22 or "l", and or "m", authorizes the action, an order under this
23 chapter may censure, impose a bar, or impose a civil penalty
24 in an amount not to exceed a maximum of five thousand dollars
25 for a single violation or five hundred thousand dollars for
26 more than one violation, on a registrant, and, if the
27 registrant is a broker-dealer or investment adviser, a
28 partner, officer, director, or person having a similar status
29 or performing similar functions, or a person directly or
30 indirectly in control, of the broker-dealer or investment
31 adviser.

32 Sec. 11. Section 502.510, subsection 1, paragraph e, Code
33 2005, is amended to read as follows:

34 e. If the basis for relief under this section may have
35 been a violation of section 502.509, subsection 3 5, an offer

1 to reimburse in cash the consideration paid for the advice and
2 interest at the legal rate from the date of payment.

3 Sec. 12. Section 502.601, subsection 1, Code Supplement
4 2005, is amended to read as follows:

5 1. ADMINISTRATION. This chapter shall be administered by
6 the commissioner of insurance of this state. The
7 administrator shall appoint a deputy administrator who shall
8 be exempt from the merit system provisions of chapter 8A,
9 subchapter IV. The deputy administrator is the principal
10 operations officer of the securities and regulated industries
11 bureau of the insurance division of the department of
12 commerce. The deputy administrator is responsible to the
13 administrator for the routine administration of this chapter
14 and the management of the securities and regulated industries
15 bureau. In the absence of the administrator, whether because
16 of vacancy in the office, by reason of absence, physical
17 disability, or other cause, the deputy administrator shall be
18 the acting administrator and shall, for that period, have and
19 exercise the authority conferred upon the administrator. The
20 administrator may by order delegate to the deputy
21 administrator any or all of the functions assigned to the
22 administrator under this chapter. The administrator shall
23 employ officers, attorneys, accountants, and other employees
24 as needed for the administration of this chapter.

25 Sec. 13. Section 502A.1, subsection 1, Code 2005, is
26 amended to read as follows:

27 1. "Administrator" means the administrator of the
28 securities and regulated industries bureau of the insurance
29 division of the department of commerce.

30 Sec. 14. Section 502A.15, subsection 1, Code 2005, is
31 amended to read as follows:

32 1. This chapter shall be administered by the administrator
33 of the securities and regulated industries bureau of the
34 insurance division of the department of commerce.

35 Sec. 15. Section 505.16, subsection 2, Code 2005, is

1 amended to read as follows:

2 2. The insurance commissioner shall approve rules for
3 carrying out this section including rules relating to the
4 preparation of information to be provided before and after a
5 test and the protection of confidentiality of personal and
6 medical records of insurance applicants and policyholders.
7 The rules shall require a person engaged in the business of
8 insurance who receives results of a positive human
9 immunodeficiency virus test of an insurance applicant or
10 policyholder to report those results to a physician or
11 alternative testing site of the applicant's or policyholder's
12 choice, or if the applicant or policyholder does not choose a
13 physician or alternative testing site to receive the results,
14 to the Iowa department of public health.

15 Sec. 16. NEW SECTION. 505.27 CONSENT TO JURISDICTION.

16 A person committing any act governed by chapter 502, 502A,
17 505 through 523G, or 523I constitutes consent by that person
18 to the jurisdiction of the commissioner of insurance and the
19 district courts of this state.

20 Sec. 17. NEW SECTION. 505.28 ADMINISTRATIVE HEARINGS.

21 The commissioner of insurance shall have the authority to
22 appoint as a hearing officer a designee or an independent
23 administrative law judge. Duties of a hearing officer shall
24 include hearing contested cases arising from conduct governed
25 by chapters 502, 502A, 505 through 523G, and 523I. Sections
26 10A.801 and 17A.11 do not apply to the appointment of a
27 designee or an administrative law judge pursuant to this
28 section.

29 Sec. 18. Section 507.10, subsection 5, paragraph b, Code
30 2005, is amended to read as follows:

31 b. The commissioner is not prevented from disclosing the
32 content of an examination report, preliminary examination
33 report or results, or any matter relating to the report, to an
34 insurance department of any other state or country, to the
35 national association of insurance commissioners, or to law

1 enforcement officials of this or any other state or an agency
2 of the federal government at any time, so long as such agency
3 or office receiving the report, or matters relating to the
4 report, agrees in writing to maintain the confidentiality of
5 the report or such matters in a manner consistent with this
6 chapter.

7 Sec. 19. Section 507.14, Code 2005, is amended to read as
8 follows:

9 507.14 CONFIDENTIAL DOCUMENTS -- EXCEPTIONS.

10 1. A preliminary report of an examination of a domestic or
11 foreign insurer, and all notes, work papers, or other
12 documents related to an examination of an insurer are ~~not~~
13 ~~public~~ confidential records under chapter 22 except when
14 sought by the insurer to whom they relate, an insurance
15 regulator of another state, or the national association of
16 insurance commissioners, and shall be privileged and
17 confidential in any judicial or administrative proceeding
18 except any of the following:

19 ~~1-~~ a. An action commenced by the commissioner under
20 chapter 507C.

21 ~~2-~~ b. An administrative proceeding brought by the
22 insurance division under chapter 17A.

23 ~~3-~~ c. A judicial review proceeding under chapter 17A
24 brought by an insurer to whom the records relate.

25 ~~4-~~ d. An action or proceeding which arises out of the
26 criminal provisions of the laws of this state or the United
27 States.

28 ~~5-~~ e. An action brought in a shareholders' derivative
29 suit against an insurer.

30 ~~6-~~ f. An action brought to recover moneys or to recover
31 upon an indemnity bond for embezzlement, misappropriation, or
32 misuse of insurer funds.

33 2. A report of an examination of a domestic or foreign
34 insurer which is preliminary under the rules of the division
35 is ~~not-a-public~~ a confidential record under chapter 22 except

1 when sought by the insurer to which the report relates or an
2 insurance regulator of another state, and is privileged and
3 confidential in any judicial or administrative proceeding.

4 3. All work papers, notes, recorded information,
5 documents, market conduct annual statements, and copies
6 thereof that are produced or obtained by or disclosed to the
7 commissioner or any other person in the course of analysis by
8 the commissioner of the financial condition or market conduct
9 of an insurer are confidential records under chapter 22 and
10 shall be privileged and confidential in any judicial or
11 administrative proceeding except any of the following:

12 a. An action commenced by the commissioner under chapter
13 507C.

14 b. An administrative proceeding brought by the insurance
15 division under chapter 17A.

16 c. A judicial review proceeding under chapter 17A brought
17 by an insurer to whom the records relate.

18 d. An action or proceeding which arises out of the
19 criminal provisions of the laws of this state or the United
20 States.

21 4. Confidential documents, materials, information,
22 administrative or judicial orders, or other actions may be
23 disclosed to a regulatory official of any state, federal
24 agency, or foreign country provided that the recipients are
25 required, under their law, to maintain their confidentiality.
26 Confidential records may be disclosed to the national
27 association of insurance commissioners provided that the
28 association certifies by written statement that the
29 confidentiality of the records will be maintained.

30 5. A financial statement filed by an employer self-
31 insuring workers' compensation liability pursuant to section
32 87.11, or the working papers of an examiner or the division in
33 connection with calculating appropriate security and reserves
34 for the self-insured employer are ~~not-public~~ confidential
35 records under chapter 22 except when sought by the employer to

1 which the financial statement or working papers relate or an
2 insurance or workers' compensation self-insurance regulator of
3 another state, and are privileged and confidential in any
4 judicial or administrative proceeding. The financial
5 information of a nonpublicly traded employer which self-
6 insures for workers' compensation liability pursuant to
7 section 87.11 is protected as proprietary trade secrets to the
8 extent consistent with the commissioner's duties to oversee
9 the security of self-insured workers' compensation liability.

10 6. Analysis notes, work papers, or other documents related
11 to the analysis of an insurer are ~~not-public~~ confidential
12 records under chapter 22.

13 Sec. 20. Section 507A.4, Code 2005, is amended by adding
14 the following new subsection:

15 NEW SUBSECTION. 10. a. A self-funded health benefit plan
16 sponsored by an employer in this state under the federal
17 Employee Retirement Income Security Act of 1974, as codified
18 in 29 U.S.C. § 1169, which provides health benefits to
19 independent contractors of the employer and to spouses and
20 dependents of the independent contractors, if the plan is
21 granted a waiver from the provisions of this chapter by the
22 commissioner and meets all of the following conditions:

23 (1) There is a written contract between the sponsor of the
24 health benefit plan and the independent contractor which
25 establishes the relationship between the parties to the
26 contract and provides for the personal services to be provided
27 by the independent contractor to the sponsor of the health
28 benefit plan pursuant to the contract.

29 (2) The personal services to be provided by the
30 independent contractor pursuant to the contract are directly
31 related to the principal business of the sponsor of the health
32 benefit plan.

33 (3) The contract provides that the independent contractor
34 will provide services to the sponsor of the health benefit
35 plan on an exclusive basis.

1 (4) The inclusion of the independent contractor in the
2 sponsor's health benefit plan is incidental to the contractual
3 relationship between the sponsor of the health benefit plan
4 and the independent contractor.

5 (5) Independent contractors and their spouses and
6 dependents included in an employer-sponsored health benefit
7 plan do not in total equal more than one-third of the total
8 persons covered by the health benefit plan.

9 (6) The health benefit plan is administered by an
10 authorized insurer or an authorized third-party administrator.

11 b. The sponsor of the health benefit plan shall file an
12 application for waiver from the provisions of this chapter
13 with the commissioner as prescribed by the commissioner and
14 shall file periodic statements and information as required by
15 the commissioner. The commissioner shall adopt rules pursuant
16 to chapter 17A implementing this subsection. All statements
17 and information filed with or disclosed to the commissioner
18 pursuant to this subsection are confidential records pursuant
19 to chapter 22.

20 c. If at any time the commissioner determines that a
21 health benefit plan for which a waiver has been granted does
22 not meet all of the conditions of paragraph "a", and the rules
23 adopted by the commissioner under paragraph "b", the
24 commissioner may terminate the waiver granted to the health
25 benefit plan.

26 d. A self-funded employer-sponsored health benefit plan
27 which has a valid waiver from the provisions of this chapter
28 shall not be considered any of the following:

29 (1) An insurance company or association of any kind or
30 character under section 432.1.

31 (2) A member insurer of the Iowa life and health insurance
32 guaranty association as defined in section 508C.5, subsection
33 8.

34 (3) A carrier under chapter 513B.

35 (4) A member of the Iowa individual health benefit

1 reinsurance association under section 513C.10.

2 (5) An entity subject to chapter 514C.

3 (6) A multiple employer welfare arrangement as defined in
4 subsection 9.

5 e. A self-funded employer-sponsored health benefit plan
6 which has received a waiver from the provisions of this
7 chapter shall be considered to be a self-funded employer-
8 sponsored health benefit plan under the federal Employee
9 Retirement Income Security Act of 1974, as codified in 29
10 U.S.C. § 1169, and not subject to this title so long as the
11 waiver is in effect.

12 f. The provision of health benefits to an independent
13 contract or by a self-funded employer-sponsored health benefit
14 plan which meets all of the conditions of paragraph "a" shall
15 not in and of itself create an employer-employee relationship
16 between the independent contractor and the sponsor of the
17 health benefit plan.

18 Sec. 21. Section 507A.7, subsection 3, Code 2005, is
19 amended to read as follows:

20 3. Nothing in subsection 1 of this section shall be
21 construed to prevent an unauthorized person or foreign or
22 alien insurer from filing a motion to quash a writ or to set
23 aside service thereof made in the manner provided in ~~sections~~
24 ~~507A-5-and~~ section 507A.6, on the ground that such
25 unauthorized person or insurer has not done any of the acts
26 enumerated in section 507A.3.

27 Sec. 22. Section 507A.9, subsection 1, Code 2005, is
28 amended to read as follows:

29 1. ~~Effective-with~~ For all premiums collected during the
30 calendar year ~~1967~~, except premiums on lawfully procured
31 surplus lines insurance, every unauthorized insurer shall pay
32 to the commissioner of insurance before March 1, next
33 succeeding the calendar year in which the insurance was so
34 effectuated, continued, or renewed a premium tax ~~of-two~~
35 ~~percent-of~~ on gross premiums charged for such insurance on

1 subjects resident, located, or to be performed in this state
2 equal to the applicable percent, as provided in section 432.1.
3 Such insurance whether procured through negotiation or an
4 application, in whole or in part occurring or made within or
5 outside of this state, or for which premiums in whole or in
6 part are remitted directly or indirectly from within or
7 outside of this state, shall be deemed to be insurance
8 procured or continued in this state. The term "premium"
9 includes all premiums, membership fees, assessments, dues, and
10 any other consideration for insurance. If the tax prescribed
11 by this section is not paid within the time stated, the tax
12 shall be increased by a penalty of twenty-five percent and by
13 the amount of an additional penalty computed at the rate of
14 one percent per month or any part thereof from the date such
15 payment was due to the date paid.

16 Sec. 23. Section 507B.4, Code 2005, is amended by adding
17 the following new subsections:

18 NEW SUBSECTION. 9A. USE OF INQUIRIES. Considering either
19 of the following events for purposes of surcharging,
20 declining, nonrenewing, or canceling personal lines property
21 and casualty insurance coverage or a binder for personal lines
22 property and casualty insurance coverage:

23 a. An applicant's or insured's inquiry into the type or
24 level of coverage of a policy, or an inquiry into whether a
25 policy will cover a loss.

26 b. An insured's inquiry regarding coverage of a policy for
27 a loss if the insured does not file a claim.

28 NEW SUBSECTION. 9B. HISTORY OF A PROPERTY. Declining to
29 insure a property not previously owned by an applicant for
30 personal lines property and casualty insurance, based solely
31 on the loss history of a previous owner of the property,
32 unless the insurer can provide evidence that the previous
33 owner did not repair damage to the property.

34 NEW SUBSECTION. 9C. DISCLOSURE OF USE OF CLAIMS HISTORY.
35 Failing to inform an applicant at the time that an application

1 for personal lines property and casualty insurance is made, in
2 writing or in the same medium as the application is made, that
3 the insurer will consider the applicant's or insured's claims
4 history in determining whether to decline, cancel, nonrenew,
5 or surcharge such a policy, and that a claim made by an
6 insured will be reported to an insurance support organization.

7 NEW SUBSECTION. 15. REQUIRED DISCLOSURES. Failing to
8 inform a prospective purchaser of insurance that an insurance
9 producer is acting as a licensed insurance producer, or
10 failing to disclose the full name of the insurance company
11 which the insurance producer will represent in the insurance
12 sales presentation. In sales presentations where an insurance
13 producer is not involved, an insurer shall disclose the full
14 name of the insurer to a prospective purchaser.

15 NEW SUBSECTION. 16. INFORMATION. Failing or refusing to
16 furnish any policyholder or applicant, upon reasonable
17 request, information to which that individual is entitled.

18 Sec. 24. Section 507B.4, Code 2005, is amended by adding
19 the following new unnumbered paragraph:

20 NEW UNNUMBERED PARAGRAPH. For purposes of subsections 9A,
21 9B, and 9C, "personal lines property and casualty insurance"
22 means insurance sold to individuals and families primarily for
23 noncommercial purposes as provided in chapter 522B.

24 Sec. 25. NEW SECTION. 507B.4B SUITABILITY.

25 1. A person shall not recommend to any individual the
26 purchase, sale, or exchange of any annuity contract, or any
27 rider, endorsement, or amendment thereto, unless the person
28 has reasonable grounds to believe that the recommendation is
29 suitable for the individual based on a reasonable inquiry into
30 the individual's financial status, investment objectives, and
31 other relevant information.

32 2. A person engaged in the business of annuities shall
33 establish and maintain a system to monitor recommendations
34 made, that is reasonably designed to achieve compliance with
35 subsection 1.

1 3. The commissioner shall adopt rules pursuant to chapter
2 17A establishing procedures and standards for implementation
3 of the suitability requirements of subsection 1.

4 Sec. 26. NEW SECTION. 507B.15 ADMINISTRATIVE HEARINGS.

5 Section 505.28 is applicable to hearings required by
6 sections 507B.6, 507B.6A, and 507B.7.

7 Sec. 27. Section 507C.2, subsection 13, Code Supplement
8 2005, is amended by adding the following new unnumbered
9 paragraph:

10 NEW UNNUMBERED PARAGRAPH. "General assets" does not
11 include that portion of the assets of the insurer allocated to
12 and accumulated in a separate account established pursuant to
13 section 508A.1, unless otherwise provided by the applicable
14 policy, annuity, agreement, instrument, or contract. However,
15 if any assets allocated to and accumulated in a separate
16 account, after the satisfaction of any liabilities with regard
17 to the operation of the separate account, are in excess of an
18 amount equal to the reserves and other liabilities with
19 respect to the separate account, the excess shall be treated
20 as part of the general assets of the insurer.

21 Sec. 28. Section 507C.42, unnumbered paragraph 1, Code
22 2005, is amended to read as follows:

23 The priority of distribution of claims from the insurer's
24 estate shall be in accordance with the order in which each
25 class of claims is set forth. Claims in each class shall be
26 paid in full or adequate funds retained for the payment before
27 the members of the next class receive any payment. Subclasses
28 shall not be established within a class. As used in this
29 section, "insurer's estate" means the general assets of the
30 insurer. The order of distribution of claims is:

31 Sec. 29. Section 507C.42, subsection 2, Code 2005, is
32 amended to read as follows:

33 2. CLASS 2. Claims under policies, including claims of
34 the federal or any state or local government, for losses
35 incurred, including third-party claims, claims against the

1 insurer for liability for bodily injury or for injury to or
2 destruction of tangible property which are not under policies,
3 claims of a guaranty association or foreign guaranty
4 association, claims under funding agreements as provided in
5 section 508.31A, subsection 3, claims for an insufficiency in
6 the assets allocated to and accumulated in a separate account
7 as provided in section 508A.1, subsection 8, and claims for
8 unearned premium. Claims under life insurance and annuity
9 policies, whether for death proceeds, annuity proceeds, or
10 investment values, shall be treated as loss claims. That
11 portion of a loss, indemnification for which is provided by
12 other benefits or advantages recovered by the claimant, shall
13 not be included in this class, other than benefits or
14 advantages recovered or recoverable in discharge of familial
15 obligations of support or by way of succession at death or as
16 proceeds of life insurance, or as gratuities. A payment by an
17 employer to an employee is not a gratuity.

18 Sec. 30. Section 507E.5, Code 2005, is amended by striking
19 the section and inserting in lieu thereof the following:

20 507E.5 CONFIDENTIALITY.

21 1. All investigation files, investigation reports, and all
22 other investigative information in the possession of the
23 bureau are confidential records under chapter 22 except as
24 specifically provided in this section and are not subject to
25 discovery, subpoena, or other means of legal compulsion for
26 their release until opened for public inspection by the
27 bureau, or upon the consent of the bureau, or until a court of
28 competent jurisdiction determines, after notice to the bureau
29 and hearing, that the bureau will not be unnecessarily
30 hindered in accomplishing the purposes of this chapter by
31 their opening for public inspection. However, investigative
32 information in the possession of the bureau may be disclosed,
33 in the commissioner's discretion, to appropriate licensing
34 authorities within this state, another state or the District
35 of Columbia, or a territory or country in which a licensee is

1 licensed or has applied for a license.

2 2. The commissioner may share documents, materials, or
3 other information, including confidential and privileged
4 documents, materials, or other information, with other state,
5 federal, and international regulatory agencies, with the
6 national association of insurance commissioners and its
7 affiliates or subsidiaries, and with state, federal, and
8 international law enforcement authorities, provided that the
9 recipient agrees to maintain the confidential and privileged
10 status of the document, material, or other information,
11 pursuant to Iowa law.

12 3. The commissioner may receive documents, materials, or
13 other information, including otherwise confidential and
14 privileged documents, materials, or other information, from
15 other local, state, federal, and international regulatory
16 agencies, the national association of insurance commissioners
17 and its affiliates or subsidiaries, and local, state, federal,
18 and international law enforcement authorities, and shall
19 maintain as confidential and privileged any document,
20 material, or other information received with notice or the
21 understanding that it is confidential or privileged under the
22 laws of the jurisdiction that is the source of the document,
23 material, or other information.

24 4. The commissioner may enter into agreements governing
25 the sharing and use of documents, materials, or other
26 information consistent with this section.

27 5. An investigator or other staff member of the bureau is
28 not subject to subpoena in a civil action concerning any
29 matter of which the investigator or other staff member has
30 knowledge pursuant to a pending or continuing investigation
31 being conducted by the bureau pursuant to this chapter.

32 Sec. 31. Section 508.13, Code 2005, is amended to read as
33 follows:

34 508.13 ANNUAL CERTIFICATE OF AUTHORITY.

35 1. On receipt of an application for a certificate of

1 authority or renewal of a certificate of authority, fees, the
2 deposit provided in section 511.8, subsection 16, and the
3 statement, and the statement and evidence of investment of
4 foreign companies, all-of-which-shall-be-renewed-annually, by
5 the-first-day-of-March, the commissioner of insurance shall
6 issue a certificate or a renewal of a certificate setting
7 forth the corporate name of the company, its home office, that
8 it has fully complied with the laws of the state and is
9 authorized to transact the business of life insurance for the
10 ensuing year, which certificate shall expire on the first day
11 of June of the ensuing year, or sooner upon thirty days'
12 notice given by the commissioner, of the next annual valuation
13 of its policies. Such-certificate-shall-be-renewed-annually,
14 upon-the-renewal-of-the-deposit-and-statement-by-a-domestic
15 company, or-of-the-statement-and-evidence-of-investment-by-a
16 foreign-company, and-compliance-with-the-conditions-above
17 required, and-be-subject-to-revocation-as-the-original
18 certificate.

19 2. A company shall submit annually on or before March 1 a
20 completed application for renewal of its certificate of
21 authority. A certificate of authority shall expire on the
22 first day of June next succeeding its issue and shall be
23 renewed annually so long as the company transacts business in
24 accordance with all legal requirements of the state.

25 3. A company that fails to timely file an application for
26 renewal of its certificate of authority shall pay an
27 administrative penalty of five hundred dollars to the
28 treasurer of state for deposit in the general fund of the
29 state as provided in section 505.7.

30 4. A copy of a certificate of authority, when certified by
31 the commissioner, shall be admissible in evidence for or
32 against a company, with the same effect as the original.

33 Sec. 32. Section 508A.1, Code 2005, is amended by adding
34 the following new subsection:

35 NEW SUBSECTION. 8. If the assets of an insurer allocated

1 to and accumulated in a separate account in connection with
2 any policy, annuity, agreement, instrument, or contract, after
3 the satisfaction of any liabilities with regard to the
4 operation of the separate account, are insufficient to fully
5 satisfy the insurer's express obligations under the policy,
6 annuity, agreement, instrument, or contract, then claims for
7 the unsatisfied portions of the insurer's obligations shall be
8 class 2 claims under section 507C.42, subsection 2.

9 Sec. 33. Section 509.1, subsection 1, paragraph b, Code
10 2005, is amended to read as follows:

11 b. The premium for the group life policy shall be paid by
12 the policyholder, either wholly from the employer's funds or
13 funds contributed by ~~the employer, or partly from such funds~~
14 ~~and partly from funds contributed by the insured employees, or~~
15 from both. No A policy, except of group accident and health,
16 ~~may be issued on which the entire premium is to be derived~~
17 ~~from funds contributed by the insured employees. A policy~~
18 insurance on which part of the premium is to be derived from
19 funds contributed by the insured employees may be placed in
20 force only if at least seventy-five percent of the then
21 eligible employees, excluding any as to whom evidence of
22 individual insurability is not satisfactory to the insurer,
23 elect to make the required contributions. A policy on which
24 no part of the premium is to be derived from funds contributed
25 by the insured employees must insure all eligible employees,
26 or all except any as to whom evidence of individual
27 insurability is not satisfactory to the insurer. As used in
28 this paragraph, "accident and health insurance" does not
29 include disability income insurance.

30 Sec. 34. Section 509A.15, subsection 1, paragraph d, Code
31 2005 is amended to read as follows:

32 d. That the governing body has contracted or otherwise
33 arranged with a third-party administrator who holds a current
34 certificate of registration issued by the commissioner
35 pursuant to section 510.21, or with a person not required to

1 obtain the certificate as ~~an~~ a third-party administrator as
2 defined in section 510.11, subsection 1.

3 Sec. 35. Section 509A.15, subsection 4, Code 2005, is
4 amended to read as follows:

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

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

21 Sec. 36. Section 509B.1, subsection 4, Code 2005, is
22 amended by striking the subsection.

23 Sec. 37. Section 509B.5, subsection 1, Code 2005, is
24 amended to read as follows:

25 1. Employers or group policyholders shall notify all
26 employees or members of their continuation ~~and-conversion~~
27 rights within ten days of termination of employment or
28 membership. The notice shall be in writing and delivered in
29 person or mailed to the person's last known address. However,
30 continuation ~~and-conversion~~ rights shall not be denied because
31 of failure to provide proper notice. After receiving proper
32 notice the employee or member may request and shall receive
33 continuation ~~or-conversion~~ coverage in accordance with this
34 chapter within ten days of the request, notwithstanding any
35 other time limitation provided by this chapter. Notification

1 as provided in this section supersedes section 515.80 as that
2 section relates to accident and health insurance.

3 Sec. 38. Section 510.11, Code 2005, is amended by striking
4 the section and inserting in lieu thereof the following:

5 510.11 DEFINITIONS.

6 1. "Life or health insurance" includes but is not limited
7 to the following:

8 a. Individual or group accident and sickness insurance
9 providing coverage on an expense-incurred basis.

10 b. An individual or group hospital or medical service
11 contract issued pursuant to chapter 509, 514, or 514A.

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

14 d. An individual or group Medicare supplemental policy.

15 e. A long-term care policy.

16 f. An individual or group life insurance policy or annuity
17 issued pursuant to chapter 508, 508A, or 509A.

18 2. "Third-party administrator" means a person who collects
19 charges or premiums from, or who adjusts or settles claims on,
20 residents of this state in connection with life or health
21 insurance coverage or annuities other than any of the
22 following:

23 a. A union or association on behalf of its members.

24 b. An insurance company which is either licensed in this
25 state or acting as an insurer with respect to a policy
26 lawfully issued and delivered by it in and pursuant to the
27 laws of a state in which the insurer was authorized to do
28 insurance business.

29 c. An entity licensed under chapter 514, including its
30 sales representatives licensed in this state when engaged in
31 the performance of their duties as sales representatives.

32 d. A life or health agent or broker licensed in this
33 state, whose activities are limited exclusively to the sale of
34 insurance.

35 e. A creditor on behalf of its debtors with respect to

1 insurance covering a debt between the creditor and its
2 debtors.

3 f. A trust, its trustees, agents, and employees acting
4 under the trust, established in conformity with 29 U.S.C. §
5 186.

6 g. A trust exempt from taxation under section 501(a) of
7 the Internal Revenue Code, its trustees, and employees acting
8 under the trust.

9 h. A custodian, its agents, and employees acting pursuant
10 to a custodial account which meets the requirements of section
11 401(f) of the Internal Revenue Code.

12 i. A bank, credit union, or other financial institution
13 which is subject to supervision or examination by federal or
14 state banking authorities.

15 j. A credit card-issuing company which advances for and
16 collects premiums or charges from its credit card holders who
17 have authorized it to do so, if the company does not adjust or
18 settle claims.

19 k. A person who adjusts or settles claims in the normal
20 course of the person's practice or employment as an attorney,
21 and who does not collect charges or premiums in connection
22 with life or health insurance coverage or annuities.

23 Sec. 39. Section 510.12, Code 2005, is amended to read as
24 follows:

25 510.12 WRITTEN AGREEMENT NECESSARY.

26 A person shall not act as an a third-party administrator
27 without a written agreement between the third-party
28 administrator and the insurer, and the written agreement shall
29 be retained as part of the official records of both the
30 insurer and the third-party administrator for the duration of
31 the agreement plus five years. The written agreement shall
32 contain provisions which include the requirements of sections
33 510.11 through 510.16, except insofar as those requirements do
34 not apply to the functions performed by the third-party
35 administrator.

1 When a policy is issued to a trustee, a copy of the trust
2 agreement and any amendments to the trust agreement shall be
3 furnished to the insurer by the third-party administrator and
4 shall be retained as part of the official records of both the
5 insurer and the third-party administrator for the duration of
6 the policy plus five years.

7 Sec. 40. Section 510.13, Code 2005, is amended to read as
8 follows:

9 510.13 PAYMENT TO THIRD-PARTY ADMINISTRATOR.

10 If an insurer uses the services of ~~an~~ a third-party
11 administrator under the terms of a written contract as
12 required in section 510.12, payment to the third-party
13 administrator of any premiums or charges for insurance by or
14 on behalf of the insured shall be deemed to have been received
15 by the insurer, and the payment of return premiums or claims
16 by the insurer to the third-party administrator shall not be
17 deemed payment to the insured or claimant until the payments
18 are received by the insured or claimant. This section does
19 not limit any right of the insurer against the third-party
20 administrator resulting from the third-party administrator's
21 failure to make payments to the insurer, insureds, or
22 claimants.

23 Sec. 41. Section 510.14, Code 2005, is amended to read as
24 follows:

25 510.14 MAINTENANCE OF INFORMATION.

26 ~~An~~ A third-party administrator shall maintain at its
27 principal administrative office for the duration of the
28 written agreement referred to in section 510.12 plus five
29 years, adequate books and records of all transactions between
30 it, insurers, and insured persons. The third-party
31 administrator's books and records shall be maintained in
32 accordance with prudent standards of insurance recordkeeping.
33 The commissioner shall have access to such books and records
34 for the purpose of examination, audit, and inspection. Trade
35 secrets contained in ~~an~~ a third-party administrator's books

1 and records, including but not limited to the identity and
2 addresses of policyholders and certificate holders, shall be
3 confidential, except the commissioner may use trade secret
4 information in any proceeding instituted against the third-
5 party administrator. The insurer retains the right to
6 continuing access to the third-party administrator's books and
7 records sufficient to permit the insurer to fulfill all of its
8 contractual obligations to insured persons, subject to any
9 restrictions in the written agreement between the insurer and
10 third-party administrator on the proprietary rights of the
11 parties in the third-party administrator's books and records.

12 Sec. 42. Section 510.15, Code 2005, is amended to read as
13 follows:

14 510.15 APPROVAL OF ADVERTISING.

15 An A third-party administrator may use only such
16 advertising pertaining to the business underwritten by an
17 insurer as has been approved by the insurer in advance of its
18 use.

19 Sec. 43. Section 510.17, Code 2005, is amended to read as
20 follows:

21 510.17 PREMIUM COLLECTION.

22 1. All insurance charges or premiums collected by an a
23 third-party administrator on behalf of or for an insurer, and
24 return premiums received from the insurer, shall be held by
25 the third-party administrator in a fiduciary capacity. Such
26 funds shall be immediately remitted to the person or persons
27 entitled to them, or shall be deposited promptly in a
28 fiduciary bank account established and maintained by the
29 third-party administrator. If charges or premiums so
30 deposited have been collected on behalf of or for more than
31 one insurer, the third-party administrator shall cause the
32 bank in which the fiduciary account is maintained to keep
33 records clearly recording the deposits in and withdrawals from
34 the account on behalf of or for each insurer. The third-party
35 administrator shall promptly obtain and keep copies of all

1 such records and, upon request of an insurer, shall furnish
2 the insurer with copies of the records pertaining to deposits
3 and withdrawals on behalf of or for that insurer.

4 2. The third-party administrator shall not pay a claim by
5 withdrawal from the fiduciary account. Withdrawals from the
6 fiduciary account shall be made, as provided in the written
7 agreement between the third-party administrator and the
8 insurer, for any of the following:

9 a. Remittance to an insurer entitled thereto.

10 b. Deposit in an account maintained in the name of the
11 insurer.

12 c. Transfer to and deposit in a claims-paying account,
13 with claims to be paid as provided in section 510.18.

14 d. Payment to a group policyholder for remittance to the
15 insurer entitled thereto.

16 e. Payment to the third-party administrator of its
17 commission, fees, or charges.

18 f. Remittance of return premiums to the persons entitled
19 thereto.

20 Sec. 44. Section 510.18, Code 2005, is amended to read as
21 follows:

22 510.18 PAYMENT OF CLAIMS.

23 A claim paid by the third-party administrator from funds
24 collected on behalf of the insurer shall be paid only on a
25 draft, check, or by electronic funds transfer as authorized by
26 the insurer.

27 Sec. 45. Section 510.19, Code 2005, is amended to read as
28 follows:

29 510.19 CLAIM ADJUSTMENT AND SETTLEMENT.

30 The compensation paid to ~~an~~ a third-party administrator
31 shall not be contingent on claim experience on policies for
32 which the third-party administrator adjusts or settles claims.
33 This section does not prevent the compensation of ~~an~~ a third-
34 party administrator from being based on premiums or charges
35 collected or number of claims paid or processed.

1 Sec. 46. Section 510.20, Code 2005, is amended to read as
2 follows:

3 510.20 NOTIFICATION REQUIRED.

4 When the services of an a third-party administrator are
5 used, the third-party administrator shall provide a written
6 notice, approved by the insurer, to insured individuals,
7 advising them of the identity of and relationship among the
8 third-party administrator, the policyholder, and the insurer.
9 When an a third-party administrator collects funds, it ~~must~~
10 shall identify and state separately in writing to the person
11 paying to the third-party administrator any charge or premium
12 for insurance coverage the amount of any such charge or
13 premium specified by the insurer for such insurance coverage.

14 Sec. 47. Section 510.21, Code 2005, is amended to read as
15 follows:

16 510.21 CERTIFICATE OF REGISTRATION REQUIRED.

17 A person shall not act as or represent oneself to be an a
18 third-party administrator in this state, other than an
19 adjuster licensed in this state for the kinds of business for
20 which the person is acting as an a third-party administrator,
21 unless the person holds a current certificate of registration
22 as an a third-party administrator issued by the commissioner
23 of insurance. A certificate of registration as an a third-
24 party administrator is renewable every three years. Failure
25 to hold a certificate subjects the third-party administrator
26 to the sanctions set out in section 507B.7. The certificate
27 shall be issued by the commissioner to an a third-party
28 administrator unless the commissioner, after due notice and
29 hearing, determines that the third-party administrator is not
30 competent, trustworthy, financially responsible, or of good
31 personal and business reputation, or has had a previous
32 application for an insurance license denied for cause within
33 the preceding five years.

34 An application for registration shall be accompanied by a
35 filing fee of one hundred dollars. After notice and hearing,

1 the commissioner may impose any or all of the sanctions set
2 out in section 507B.7, upon finding that either the third-
3 party administrator violated any of the requirements of
4 section 515.134 and sections 510.1A through 510.20 and this
5 section, or the third-party administrator is not competent,
6 trustworthy, financially responsible, or of good personal and
7 business reputation.

8 Sec. 48. Section 510.22, subsections 1 and 3, Code 2005,
9 are amended to read as follows:

10 1. The person acting as an a third-party administrator is
11 primarily in a business other than that of a third-party
12 administrator.

13 3. The regular duties being performed as an a third-party
14 administrator are such that the covered persons are not likely
15 to be injured by a waiver of such requirements.

16 Sec. 49. Section 510.23, Code 2005, is amended to read as
17 follows:

18 510.23 UNFAIR COMPETITION OR UNFAIR AND DECEPTIVE ACTS OR
19 PRACTICES PROHIBITED.

20 An A third-party administrator is subject to chapter 507B
21 relating to unfair insurance trade practices.

22 Sec. 50. Section 511.8, subsection 1, paragraph b, Code
23 2005, is amended to read as follows:

24 b. Bonds or other evidences of indebtedness issued,
25 assumed, or guaranteed by the United States of America, or by
26 any agency or instrumentality of the United States of America
27 include investments in an open-end management investment
28 company registered with the federal securities and exchange
29 commission under the federal Investment Company Act of 1940,
30 15 U.S.C. § ~~80(a)~~ 80a-1 et seq., and operated in accordance
31 with 17 C.F.R. § 270.2a-7, the portfolio of which is limited
32 to the United States government obligations described in
33 paragraph "a", and which are included in the national
34 association of insurance commissioners' securities valuation
35 office's United States direct obligations--full faith and

1 credit exempt list.

2 Sec. 51. Section 511.8, subsection 18, Code 2005, is
3 amended by adding the following new paragraph:

4 NEW PARAGRAPH c. Common stocks or shares issued by any
5 federal home loan bank under the Federal Home Loan Bank Act,
6 12 U.S.C. § 1421 et seq., and the Acts amendatory thereof, are
7 eligible if the total investment in those stocks or shares
8 does not exceed one-half of one percent of the legal reserve.

9 Sec. 52. Section 511.8, subsection 22, paragraph b, Code
10 2005, is amended by striking the paragraph and inserting in
11 lieu thereof the following:

12 b. To be eligible as investments, financial instruments
13 used in hedging transactions shall be either of the following:

14 (1) Be between an insurer and a counterparty that meets
15 the qualifications established in subsection 5 for an issuer,
16 obligor, or guarantor of bonds or other evidences of
17 indebtedness issued, assumed, or guaranteed by a corporation
18 incorporated under the laws of the United States or of any
19 state, district, or insular or territorial possession thereof,
20 or Canada, or that meets the qualifications established in
21 subsection 19 for an issuer, obligor, or guarantor of bonds or
22 other evidences of indebtedness issued, assumed, or guaranteed
23 by a corporation incorporated under the laws of a foreign
24 government other than Canada.

25 (2) Be between an insurer and a conduit and be
26 collateralized by cash or obligations which are eligible under
27 subsection 1, 2, 3, 5, 19, or 24, are deposited with a
28 custodian bank as defined in subsection 21, and are held under
29 a written agreement with the custodian bank that complies with
30 subsection 21 and provides for the proceeds of the collateral,
31 subject to the terms and conditions of the applicable
32 collateral or other credit support agreement, to be remitted
33 to the legal reserve deposit of the company or association and
34 to vest in the state in accordance with section 508.18
35 whenever proceedings under that section are instituted.

1 Paragraphs "c", "d", and "e" of this subsection are not
2 applicable to investments in financial instruments used in
3 hedging transactions eligible pursuant to this subparagraph.
4 As used in this subparagraph, "conduit" means a person within
5 an insurer's insurance holding company system, as defined in
6 section 521A.1, subsection 5, which aggregates hedging
7 transactions by other persons within the insurance holding
8 company system and replicates them with counterparties.

9 (a) Financial instruments used in hedging transactions
10 between an insurer and a conduit which are collateralized by
11 obligations eligible under subsection 5, 19, or 24 are
12 eligible only to the extent that such securities deposited as
13 collateral are not in excess of two percent of the legal
14 reserve in the securities of any one corporation, less any
15 securities of that corporation owned by the insurer or which
16 are the subject of hedging transactions by the insurer, that
17 are included in the insurer's legal reserve.

18 (b) Financial instruments used in hedging transactions
19 between an insurer and a conduit which are collateralized by
20 obligations eligible under subsection 5 or by cash equivalents
21 eligible under subsection 24, other than a class one money
22 market fund, are eligible only to the extent that such
23 securities deposited as collateral are not in excess of ten
24 percent of the legal reserve, less any obligations eligible
25 under subsection 5 or cash equivalents eligible under
26 subsection 24, other than a class one money market fund, owned
27 by the insurer or which are the subject of hedging
28 transactions by the insurer, that are included in the
29 insurer's legal reserve.

30 (c) Financial instruments used in hedging transactions
31 between an insurer and a conduit which are collateralized by
32 obligations eligible under subsection 19 are eligible only to
33 the extent that such securities deposited as collateral are
34 not in excess of twenty percent of the legal reserve, less any
35 securities eligible under subsection 19 owned by the insurer

1 or which are the subject of hedging transactions by the
2 insurer, that are included in the insurer's legal reserve.

3 (3) Financial instruments used in hedging transactions
4 shall be eligible only as provided by this paragraph "b" and
5 rules adopted by the commission pursuant to chapter 17A
6 setting standards for hedging transactions between an insurer
7 and a conduit as authorized under section 521A.5, subsection
8 1, paragraph "b".

9 Sec. 53. Section 511.8, subsection 22, paragraph e, Code
10 2005, is amended to read as follows:

11 e. Investments in financial instruments of foreign
12 governments or foreign corporate obligations, other than
13 Canada, ~~used in hedging transactions are not eligible in~~
14 excess of shall be included in the limitation contained in
15 subsection 19 that allows only twenty percent of the legal
16 reserve, less any foreign investment authorized by subsection
17 19 owned by the company or association and in which its legal
18 reserve is invested of the company or association to be
19 invested in such foreign investments, except insofar as the
20 financial instruments are collateralized by cash or United
21 States government obligations as authorized by subsection 1
22 deposited with a custodian bank as defined in subsection 21,
23 and held under a written agreement with the custodian bank
24 that complies with subsection 21 and provides for the proceeds
25 of the collateral, subject to the terms and conditions of the
26 applicable collateral or other credit support agreement, to be
27 remitted to the legal reserve deposit of the company or
28 association and to vest in the state in accordance with
29 section 508.18 whenever proceedings under that section are
30 instituted.

31 This paragraph "e" does not authorize the inclusion of
32 financial instruments used in hedging transactions in an
33 insurer's legal reserve that are in excess of the eligibility
34 limitation provided in paragraph "d" unless the financial
35 instruments are collateralized as provided in this paragraph

1 "e".

2 Sec. 54. Section 511.8, Code 2005, is amended by adding
3 the following new subsection:

4 NEW SUBSECTION. 24. CASH EQUIVALENTS.

5 a. As used in this subsection, unless the context
6 otherwise requires:

7 (1) "Cash equivalents" means highly liquid investments
8 with an original term to maturity of ninety days or less that
9 are all of the following:

10 (a) Readily convertible to a known amount of cash without
11 penalty.

12 (b) So near maturity that the investment presents an
13 insignificant risk of change in value.

14 (c) Rated any of the following:

15 (i) "P-1" by Moody's investors services, inc.

16 (ii) "A-1" by Standard and Poor's division of McGraw-Hill
17 companies, inc., or by the national association of insurance
18 commissioners' securities valuation office.

19 (iii) Equivalent by a nationally recognized statistical
20 rating organization that is recognized by the national
21 association of insurance commissioners' securities valuation
22 office.

23 (2) "Class one money market fund" means investments in an
24 open-end management investment company registered with the
25 federal securities and exchange commission under the federal
26 Investment Company Act of 1940, 15 U.S.C. § 80a-1 et seq., and
27 operated in accordance with 17 C.F.R. § 270.2a-7, that
28 qualifies for investment using the bond class one reserve
29 factor under the purposes and procedures of the national
30 association of insurance commissioners' securities valuation
31 office.

32 b. Cash equivalents include a class one money market fund.

33 c. Cash equivalents, other than a class one money market
34 fund, are not eligible in excess of two percent of the legal
35 reserve in the obligations of any one corporation, and are not

1 eligible in excess of ten percent of the legal reserve.

2 Sec. 55. Section 512B.25, Code 2005, is amended to read as
3 follows:

4 512B.25 ANNUAL LICENSE -- RENEWAL.

5 ~~A society which is authorized to transact business in this~~
6 ~~state on January 1, 1991, and a society licensed on or after~~
7 ~~January 1, 1991, may continue in business until June 1, 1991.~~
8 The authority of the a society to transact business in this
9 state may thereafter be renewed annually. A license
10 terminates on the succeeding June 1. ~~However, a license~~
11 ~~issued shall continue in full force and effect until a new~~
12 ~~license is issued or specifically refused.~~ A society shall
13 submit annually on or before March 1 a completed application
14 for renewal of its license. For each license or renewal the
15 society shall pay the commissioner a fee of fifty dollars. A
16 society that fails to timely file an application for renewal
17 shall pay an administrative penalty of five hundred dollars to
18 the treasurer of state for deposit in the general fund of the
19 state as provided in section 505.7. A duly certified copy or
20 duplicate of the license is prima facie evidence that the
21 licensee is a fraternal benefit society within the meaning of
22 this chapter.

23 Sec. 56. Section 512B.27, subsection 3, Code 2005, is
24 amended by striking the subsection.

25 Sec. 57. Section 513C.9, subsection 1, Code 2005, is
26 amended by striking the subsection.

27 Sec. 58. NEW SECTION. 514.9A CERTIFICATE OF AUTHORITY --
28 RENEWAL.

29 A certificate of authority of a corporation formed under
30 this chapter expires on June 1 succeeding its issue and shall
31 be renewed annually so long as the corporation transacts its
32 business in accordance with all legal requirements. A
33 corporation shall submit annually, on or before March 1, a
34 completed application for renewal of its certificate of
35 authority. A corporation that fails to timely file an

1 application for renewal shall pay an administrative penalty of
2 five hundred dollars to the treasurer of state for deposit in
3 the general fund of the state as provided in section 505.7. A
4 duly certified copy or duplicate of the certificate is
5 admissible in evidence for or against the corporation with the
6 same effect as the original.

7 Sec. 59. Section 514B.3, subsection 10, Code 2005, is
8 amended by striking the subsection.

9 Sec. 60. NEW SECTION. 514B.3B CERTIFICATE OF AUTHORITY
10 -- RENEWAL.

11 A certificate of authority of a health maintenance
12 organization formed under this chapter expires on June 1
13 succeeding its issue and shall be renewed annually so long as
14 the organization transacts its business in accordance with all
15 legal requirements. A health maintenance organization shall
16 submit annually, on or before March 1, a completed application
17 for renewal of its certificate of authority. A health
18 maintenance organization that fails to timely file an
19 application for renewal shall pay an administrative penalty of
20 five hundred dollars to the treasurer of state for deposit in
21 the general fund of the state as provided in section 505.7. A
22 duly certified copy or duplicate of the certificate is
23 admissible in evidence for or against the organization with
24 the same effect as the original.

25 Sec. 61. Section 514B.12, Code 2005, is amended to read as
26 follows:

27 514B.12 ANNUAL REPORT.

28 1. A health maintenance organization shall annually on or
29 before the first day of March file with the commissioner or a
30 depository designated by the commissioner a report verified by
31 at least two of the principal officers of the health
32 maintenance organization and covering the preceding calendar
33 year. The report shall be on forms prescribed by the
34 commissioner and shall include:

35 1- a. Financial statements of the organization including

1 a balance sheet as of the end of the preceding calendar year
2 and statement of profit and loss for the year then ended,
3 certified by a certified public accountant or an independent
4 public accountant.

5 2- b. Any material changes in the information submitted
6 pursuant to section 514B.3.

7 3- c. The number of persons enrolled during the year, the
8 number of enrollees as of the end of the year and the number
9 of enrollments terminated during the year.

10 4- d. Other information relating to the performance of
11 the health maintenance organization as is necessary to enable
12 the commissioner to carry out the commissioner's duties under
13 this chapter.

14 2. The commissioner shall refuse to renew a certificate of
15 authority of a health maintenance organization that fails to
16 comply with the provisions of this section and the
17 organization's right to transact new business in this state
18 shall immediately cease until the organization has so
19 complied.

20 3. A health maintenance organization that fails to timely
21 file the report required under subsection 1 is in violation of
22 this section and shall pay an administrative penalty of five
23 hundred dollars to the treasurer of state for deposit in the
24 general fund of the state as provided in section 505.7.

25 4. The commissioner may give notice to a health
26 maintenance organization that the organization has not timely
27 filed the report required under subsection 1 and is in
28 violation of this section. If the organization fails to file
29 the required report and comply with this section within ten
30 days of the date of the notice, the organization shall pay an
31 additional administrative penalty of one hundred dollars for
32 each day that the failure continues to the treasurer of state
33 for deposit in the general fund of the state as provided in
34 section 505.7.

35 Sec. 62. Section 514B.22, Code 2005, is amended by

1 striking the section and inserting in lieu thereof the
2 following:

3 514B.22 FEES.

4 When not otherwise provided, a foreign or domestic health
5 maintenance organization doing business in this state shall
6 pay the commissioner of insurance the fees as required in
7 section 511.24.

8 Sec. 63. Section 514B.33, Code 2005, is amended by adding
9 the following new subsection:

10 NEW SUBSECTION. 3A. Sections 514B.3B and 514B.12 apply to
11 all foreign and domestic limited service organizations
12 authorized to do business in this state.

13 Sec. 64. Section 514C.1, Code 2005, is amended to read as
14 follows:

15 514C.1 SUPPLEMENTAL COVERAGE FOR ADOPTED OR NEWLY BORN
16 CHILDREN.

17 1. Any policy of individual or group accident and sickness
18 insurance providing coverage on an expense incurred basis, and
19 any individual or group hospital or medical service contracts
20 issued pursuant to chapters 509, 514, and 514A, which provide
21 coverage for a family member of the insured or subscriber
22 shall also provide that the health insurance benefits
23 applicable for children shall, subject to the enrollment
24 requirements of this section, be payable with respect to a
25 newly born child of the insured or subscriber from the moment
26 of birth, or, in the situation of a newly adopted child of a
27 covered person, such child shall be covered from the earlier
28 of any of the following:

29 a. The date of placement of the child for the purpose of
30 adoption and continuing in the same manner as for other
31 dependents of the covered person, unless the placement is
32 disrupted prior to legal adoption and the child is removed
33 from placement.

34 b. The date of entry of an order granting the covered
35 person custody of the child for purposes of adoption.

1 c. The effective date of adoption.

2 2. The coverage for adopted or newly born children shall
3 consist of coverage for injury or sickness including the
4 necessary care and treatment of medically diagnosed congenital
5 defects and birth abnormalities and is not subject to any
6 preexisting condition exclusion.

7 3. If payment of a specific premium or subscription fee is
8 required to provide coverage for a newly born child, the
9 policy or contract may require that notification of birth of a
10 newly born child and payment of the required premium or fees
11 must be furnished to the insurer or nonprofit service or
12 indemnity corporation within ~~thirty-one~~ sixty days after the
13 date of birth ~~in order to have coverage continue beyond such~~
14 ~~thirty-one-day period.~~

15 4. If payment of a specific premium or subscription fee is
16 not required to provide coverage for a newly born child, the
17 policy or contract may require that notification of birth of a
18 newly born child must be furnished to the insurer or nonprofit
19 service or indemnity corporation within sixty days after the
20 date of birth in order for coverage to be provided for the
21 child from the date of birth.

22 5. a. If payment of a specific premium or subscription
23 fee is required to provide coverage for a newly adopted child
24 or child placed for adoption, the policy or contract may
25 require that notification of the adoption or placement for
26 adoption and payment of the required premium or fees must be
27 furnished to the insurer or nonprofit service or indemnity
28 corporation within sixty days after the coverage is required
29 to begin under this section.

30 b. If payment of a specific premium or subscription fee is
31 not required to provide coverage for a newly adopted child or
32 child placed for adoption, the policy or contract may require
33 that notification of the adoption or placement for adoption
34 must be furnished to the insurer or nonprofit service or
35 indemnity corporation within sixty days after the coverage is

1 required to begin under this section.

2 c. If a covered person fails to provide the required
3 notice or to make payment of premium or subscription fees
4 within the sixty-day period required in this subsection, the
5 newly adopted child or child placed for adoption shall be
6 treated no less favorably by a health carrier than other
7 dependents of the covered person, other than newly born
8 children, who seek coverage under a policy or contract at a
9 time other than the time when the dependent is first eligible
10 to apply for coverage.

11 Sec. 65. Section 514C.3, Code 2005, is amended to read as
12 follows:

13 514C.3 DENTIST'S SERVICES UNDER ACCIDENT AND SICKNESS
14 INSURANCE POLICIES.

15 A policy of accident and sickness insurance issued in this
16 state which provides payment or reimbursement for any service
17 which is within the lawful scope of practice of a licensed
18 dentist shall provide benefits for the service whether the
19 service is performed by a licensed physician or a licensed
20 dentist. As used in this section, "licensed physician"
21 includes persons licensed under chapter 148, 150, or 150A and
22 "policy of accident and sickness insurance" includes
23 individual policies or contracts issued pursuant to chapter
24 514, 514A, or 514B, and group policies as defined in section
25 509B.1, subsections subsection 3 and-4.

26 Sec. 66. Section 514E.7, Code Supplement 2005, is amended
27 by adding the following new subsection:

28 NEW SUBSECTION. 6. The association is not required to
29 make plan coverage available to an individual who is covered
30 or is eligible for any continued group coverage under Internal
31 Revenue Code § 4980B, the federal Employee Retirement Income
32 Security Act of 1974, codified at 29 U.S.C. § 1001 et seq.,
33 the federal Public Health Service Act of July 1, 1944,
34 codified at 42 U.S.C. § 201 et seq., or any continued group
35 coverage required by the state. For purposes of this

1 subsection, an individual who would have been eligible for
2 such continuation of group coverage, but is not eligible
3 solely because the individual or other responsible party
4 failed to make the required election of coverage during the
5 applicable time period, or terminated such coverage prior to
6 the end of such applicable time period, shall be deemed to be
7 eligible for such group coverage until the date on which the
8 individual's continuing group coverage would have expired had
9 an election been made or a termination not occurred.

10 Sec. 67. Section 514J.7, Code 2005, is amended by adding
11 the following new subsections:

12 NEW SUBSECTION. 9. If an enrollee dies before the
13 completion of the external review process, the process shall
14 continue to completion if there is potential liability of a
15 carrier or organized delivery system to the estate of the
16 enrollee.

17 NEW SUBSECTION. 10. a. If an enrollee who has already
18 received a service or treatment under a plan requests external
19 review of the plan's coverage decision and changes to another
20 plan before the external review process is completed, the
21 carrier or organized delivery system whose coverage was in
22 effect at the time the service or treatment was received is
23 responsible for completing the external review process.

24 b. If an enrollee who has not yet received service or
25 treatment requests external review of a plan's coverage
26 decision and then changes to another plan prior to receipt of
27 the service or treatment and completion of the external review
28 process, the external review process shall begin anew with the
29 enrollee's current carrier or organized delivery system. In
30 this instance, the external review process shall be conducted
31 in an expedited manner.

32 Sec. 68. Section 515.24, Code 2005, is amended to read as
33 follows:

34 515.24 TAX -- COMPUTATION.

35 For the purpose of determining the basis of any tax upon

1 the "gross amount of premiums", or "gross receipts from
2 premiums, assessments, fees, and promissory obligations", now
3 or hereafter imposed upon any fire or casualty insurance
4 company under any law of this state, such gross amount or
5 gross receipts shall consist of the gross written premiums or
6 receipts for direct insurance, without including or deducting
7 any amounts received or paid for reinsurance except that any
8 company reinsuring windstorm or hail risks written by county
9 mutual insurance associations shall be required to pay ~~a-two~~
10 percent-tax-on as a tax, the applicable percent provided in
11 section 432.1, calculated upon the gross amount of reinsurance
12 premiums received upon such risks, but with such other
13 deductions as provided by law, and in addition deducting any
14 so-called dividend or return of savings or gains to
15 policyholders; provided that as to any deposits or deposit
16 premiums received by any such company, the taxable premiums
17 shall be the portion of such deposits or deposit premiums
18 earned during the year with such deductions therefrom as
19 provided by law.

20 Sec. 69. Section 515.42, Code 2005, is amended to read as
21 follows:

22 515.42 TENURE OF CERTIFICATE -- RENEWAL -- EVIDENCE.

23 Such A certificate of authority shall expire on the first
24 day of June next succeeding its issue, and shall be renewed
25 annually so long as such company shall transact business in
26 accordance with the requirements of law; a copy of which
27 certificate, when certified to by the commissioner of
28 insurance, shall be admissible in evidence for or against a
29 company with the same effect as the original. A company shall
30 submit annually, on or before March 1, a completed application
31 for renewal of its certificate of authority. A company that
32 fails to timely file an application for renewal shall pay an
33 administrative penalty of five hundred dollars to the
34 treasurer of state for deposit in the general fund of the
35 state as provided in section 505.7.

1 Sec. 70. NEW SECTION. 515.147A ADMINISTRATIVE PENALTY.

2 1. An excess and surplus lines insurance agent that fails
3 to timely file the report required in section 515.147 is in
4 violation of this section and shall pay an administrative
5 penalty of five hundred dollars to the treasurer of state for
6 deposit in the general fund of the state as provided in
7 section 505.7.

8 2. The commissioner shall refuse to renew the license of
9 an agent that fails to comply with the provisions of section
10 515.147 and this section and the agent's right to transact new
11 business in this state shall immediately cease until the agent
12 has so complied.

13 3. The commissioner may give notice to an agent that the
14 agent has not timely filed the report required under section
15 515.147 and is in violation of this section. If the agent
16 fails to file the required report within ten days of the date
17 of the notice, the agent shall pay an additional
18 administrative penalty of one hundred dollars for each day
19 that the failure continues to the treasurer of state for
20 deposit in the general fund of the state as provided in
21 section 505.7.

22 Sec. 71. Section 515A.6, subsection 1, Code 2005, is
23 amended to read as follows:

24 1. a. A corporation, an unincorporated association, a
25 partnership or an individual, whether located within or
26 outside this state, may make application to the commissioner
27 for license as a rating organization for such kinds of
28 insurance, or subdivision or class of risk or a part or
29 combination thereof as are specified in its application and
30 shall file ~~therewith-(a)-a~~ with the application all of the
31 following:

32 (1) A copy of its constitution, its articles of agreement
33 or association or its certificate of incorporation, and of its
34 bylaws, rules and regulations governing the conduct of its
35 business, ~~-(b)-a.~~

1 (2) A list of its members and subscribers, ~~(c) the.~~

2 (3) The name and address of a resident of this state upon
3 whom notices or orders of the commissioner ~~or process~~
4 affecting such rating organization may be served ~~and (d) a.~~

5 (4) A statement of its qualifications as a rating
6 organization.

7 b. If the commissioner finds that the applicant is
8 competent, trustworthy, and otherwise qualified to act as a
9 rating organization and that its constitution, articles of
10 agreement or association or certificate of incorporation, and
11 its bylaws, rules and regulations governing the conduct of its
12 business conform to the requirements of law, the commissioner
13 shall issue a license specifying the kinds of insurance, or
14 subdivisions or classes of risks or parts or combinations
15 thereof for which the applicant is authorized to act as a
16 rating organization. Every such application shall be granted
17 or denied in whole or in part by the commissioner within sixty
18 days of the date of its filing with the commissioner.

19 c. Licenses issued pursuant to this section shall remain
20 in effect for three years unless sooner suspended or revoked
21 by the commissioner. The fee for said license shall be
22 twenty-five dollars.

23 d. Licenses issued pursuant to this section may be
24 suspended or revoked by the commissioner, after hearing upon
25 notice, in the event the rating organization ceases to meet
26 the requirements of this subsection.

27 e. Every rating organization shall notify the commissioner
28 promptly of every change in ~~(a) its~~ any of the following:

29 (1) Its constitution, its articles of agreement or
30 association, or its certificate of incorporation, and its
31 bylaws, rules and regulations governing the conduct of its
32 business, ~~(b) its.~~

33 (2) Its list of members and subscribers ~~and (c) the.~~

34 (3) The name and address of the resident of this state
35 designated by it upon whom notices or orders of the

1 commissioner ~~or-process~~ affecting such rating organization may
2 be served.

3 Sec. 72. Section 515A.9, Code 2005, is amended to read as
4 follows:

5 515A.9 INFORMATION TO BE FURNISHED INSUREDS -- HEARINGS
6 AND APPEALS OF INSUREDS.

7 Every rating organization and every insurer which makes its
8 own rate shall, within a reasonable time after receiving
9 written request therefor and upon payment of such reasonable
10 charge as it may make, furnish to any insured affected by a
11 rate made by it, or to the authorized representative of such
12 insured, all pertinent information as to such rate. Every
13 rating organization and every insurer which makes its own
14 rates shall provide within this state reasonable means whereby
15 any person aggrieved by the application of its rating system
16 may be heard, in person or by the person's authorized
17 representative, on the person's written request to review the
18 manner in which such rating system has been applied in
19 connection with the insurance afforded the person. Such
20 review of the manner in which a rating system has been applied
21 is not a contested case under chapter 17A. If the rating
22 organization or insurer fails to grant or reject such request
23 within thirty days after it is made, applicant may proceed in
24 the same manner as if the application had been rejected. Any
25 party affected by the action of such rating organization or
26 such insurer on such request may, within thirty days after
27 written notice of such action, appeal to the commissioner,
28 who, after a hearing held upon not less than ten days' written
29 notice to the appellant and to such rating organization or
30 insurer, may affirm or reverse such action. Such appeal to
31 the commissioner of the manner in which a rating system has
32 been applied is not a contested case under chapter 17A.

33 Sec. 73. Section 515A.10, subsection 2, Code 2005, is
34 amended to read as follows:

35 2. Every advisory organization shall file with the

1 commissioner ~~(a)~~-a all of the following:

2 a. A copy of its constitution, its articles of agreement
3 or association or its certificate of incorporation and of its
4 bylaws, rules and regulations governing its activities, ~~(b)~~-a.

5 b. A list of its members, ~~(c)~~-the.

6 c. The name and address of a resident of this state upon
7 whom notices or orders of the commissioner or process issued
8 at the commissioner's direction may be served, ~~and (d)~~-an.

9 d. An agreement that the commissioner may examine such
10 advisory organization in accordance with the provisions of
11 section 515A.12.

12 Sec. 74. Section 515B.16, Code 2005, is amended to read as
13 follows:

14 515B.16 ACTIONS AGAINST THE ASSOCIATION.

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

26 Sec. 75. Section 515E.3, unnumbered paragraph 2, Code
27 2005, is amended by striking the unnumbered paragraph.

28 Sec. 76. NEW SECTION. 515E.3A FOREIGN RISK RETENTION
29 GROUP MAY BECOME DOMESTIC.

30 1. A risk retention group that is organized under the laws
31 of any other state for the purpose of writing insurance, as
32 authorized by this chapter, may redomesticate to this state by
33 doing all of the following:

34 a. Complying with section 490.902.

35 b. Complying with all of the requirements of law relative

1 to the organization and licensing of a domestic risk retention
2 group and the capital and surplus requirement set forth in
3 subsection 4.

4 c. Designating its principal place of business in this
5 state.

6 2. A risk retention group that meets the requirements of
7 subsection 1 shall be entitled to a certificate of its
8 corporate existence and a license to transact business in this
9 state, and be subject in all respects to the authority and
10 jurisdiction of this state.

11 3. The certificate of authority, producer appointments and
12 licenses, rates, and other items which are in existence at the
13 time a risk retention group transfers its corporate domicile
14 to this state pursuant to this section shall continue in full
15 force and effect upon such transfer. For purposes of existing
16 authorizations and all other corporate purposes, the risk
17 retention group is deemed to be the same entity as it was
18 prior to the transfer of its domicile. All outstanding
19 policies of any transferring risk retention group shall remain
20 in full force and effect.

21 4. A risk retention group redomesticating to this state
22 pursuant to this chapter shall comply with the minimum capital
23 and surplus requirements of chapter 521E or five million
24 dollars, whichever is greater. If the risk retention group's
25 prior domestic regulator allowed the use of letters of credit
26 to meet that regulator's surplus requirements, the risk
27 retention group may continue to use the letters of credit to
28 meet this state's minimum surplus requirements for up to five
29 years from the date of redomestication in this state. The
30 risk retention group shall eliminate a minimum of twenty
31 percent of the letters of credit being used each year based
32 upon the aggregate amount of letters of credit being used to
33 meet surplus requirements at the time of redomestication in
34 this state.

35 5. Letters of credit used by a risk retention group to

1 meet surplus requirements shall be clean, irrevocable, and
2 unconditionally issued or confirmed by a qualified United
3 States financial institution as defined in section 521B.4,
4 subsection 2. The beneficiary of each letter of credit being
5 used shall be the commissioner.

6 6. If a risk retention group redomesticating to this state
7 fails to comply with the provisions of this section, the
8 commissioner shall take action as prescribed in chapter 507C.

9 7. The commissioner shall adopt rules pursuant to chapter
10 17A to implement this section.

11 Sec. 77. Section 515E.4, subsection 1, unnumbered
12 paragraph 1, Code 2005, is amended to read as follows:

13 Notice of operations ~~and-designation-of-commissioner-as~~
14 agent. Before offering insurance in this state, a risk
15 retention group shall submit to the commissioner all of the
16 following:

17 Sec. 78. Section 515E.4, subsection 1, paragraph c, Code
18 2005, is amended by striking the paragraph.

19 Sec. 79. Section 515E.8, subsection 3, Code 2005, is
20 amended by striking the subsection.

21 Sec. 80. Section 515F.4, subsection 5, Code 2005, is
22 amended to read as follows:

23 5. The rates may contain a provision for contingencies and
24 an allowance permitting a reasonable profit. In determining
25 the reasonableness of the profit, consideration shall be given
26 to investment income attributable to unearned premium and loss
27 reserves. ~~Income-from-other-sources-shall-not-be-considered.~~

28 Sec. 81. Section 515F.8, subsection 3, paragraph a,
29 subparagraph (3), Code 2005, is amended to read as follows:

30 (3) The name and address of one or more residents of this
31 state upon whom notices, ~~process-affecting-it,~~ or orders of
32 the commissioner may be served.

33 Sec. 82. Section 515F.13, subsection 2, paragraph c, Code
34 2005, is amended to read as follows:

35 c. A pool shall file with the commissioner a copy of its

1 constitution; its articles of incorporation, agreement, or
2 association; its bylaws, rules, and regulations governing its
3 activities; its members; the name and address of a resident of
4 this state upon whom notices or orders of the commissioner or
5 process may be served; and any changes in amendments or
6 changes in the foregoing.

7 Sec. 83. Section 515G.1, Code 2005, is amended by adding
8 the following new subsections:

9 NEW SUBSECTION. 2A. "Eligible policyholder" means a
10 policyholder who had a policy in force with a mutual insurer
11 at any time during the three-year period immediately preceding
12 the date of the adoption of a plan of conversion by the mutual
13 insurer's board of directors, including the date of adoption
14 of the plan of conversion, and who, therefore, is eligible to
15 receive an equitable share of the remaining statutory surplus
16 of the mutual insurer, after provision for the base value for
17 voting policyholders, as a result of the conversion.

18 NEW SUBSECTION. 5. "Voting policyholder" means a
19 policyholder who had a policy in force as provided in section
20 515G.4.

21 Sec. 84. Section 515G.2, Code 2005, is amended to read as
22 follows:

23 515G.2 MUTUAL INSURER BECOMING STOCK COMPANY --
24 AUTHORIZATION.

25 1. A mutual insurer may become a stock insurance company
26 pursuant to a plan of conversion established and approved in
27 the manner provided by this chapter. The plan of conversion
28 shall be adopted by the board of directors of the insurer to
29 become effective on a future stated date.

30 2. A plan of conversion may provide that a mutual
31 insurance company may convert into a domestic stock insurance
32 company, convert and merge, or convert and consolidate with a
33 domestic stock insurance company, as provided in chapter 490
34 or chapter 491, whichever is applicable. However, a mutual
35 insurance company is not required to comply with sections

1 490.1102 and 490.1104 or sections 491.102 through 491.105
2 relating to approval of merger or consolidation plans by
3 boards of directors and shareholders.

4 3. If conversion from a mutual insurer to a stock company
5 is to be undertaken by a transaction which would be governed
6 by chapter 521 or 521A, but the plan of conversion adopted by
7 the board of directors of the insurer includes approval of an
8 acquisition of control, merger, consolidation, or reinsurance,
9 then chapter 521 or 521A shall not be applicable to the
10 transaction. However, in that case, the commissioner may
11 require any information from the person or persons acquiring
12 control of the insurer as could be required under chapter 521
13 or 521A, and may disapprove the transaction on any basis on
14 which it could be disapproved under chapter 521 or 521A.

15 Sec. 85. Section 515G.3, subsection 3, Code 2005, is
16 amended to read as follows:

17 3. The manner and basis of exchanging the equitable-share
18 ~~of each mutual policyholder with a policy in force as provided~~
19 ~~in section 515G.4 for securities or other consideration, or~~
20 ~~both, of the stock corporation or an affiliate into which the~~
21 ~~mutual insurer is to be converted and the disposition of any~~
22 ~~unclaimed shares. The plan shall also provide that each~~
23 ~~person who had a policy of insurance in effect on the date of~~
24 ~~adoption of the plan is entitled to receive in exchange for an~~
25 ~~equitable share, without additional payment, consideration~~
26 ~~payable in voting common shares of the insurer, or other~~
27 ~~consideration, or both. The equitable share of the~~
28 ~~policyholder in the mutual insurer may include a rights of~~
29 each voting policyholder and each eligible policyholder of the
30 mutual insurer to be converted to a stock company pursuant to
31 this chapter. Such exchange may include a base value for each
32 voting policyholder in recognition of the voting
33 policyholder's voting rights as a mutual policyholder as well
34 as consideration to be provided to each eligible policyholder
35 in exchange for the eligible policyholder's rights as a mutual

1 policyholder of the mutual insurer to be converted. After
2 determining the base value for to be provided to each voting
3 policyholder in recognition of the voting rights of the voting
4 policyholder and-the-balance-of-such, the equitable share of
5 its each eligible policyholder in the remaining statutory
6 surplus of the mutual insurer, plus any adjustments for
7 nonadmitted assets or additional value permitted by the
8 commissioner, to be provided to each eligible policyholder
9 shall be determined by the ratio which the net earned premiums
10 the eligible policyholder has properly and timely paid to the
11 mutual insurer on insurance policies in effect during the
12 three-years three-year period immediately preceding the
13 adoption of the plan of conversion, including the date of the
14 adoption of the plan of conversion, bears to the total net
15 earned premiums received by the mutual insurer from all
16 eligible policyholders during that three-year period. The
17 base value to be provided to each voting policyholder in
18 recognition of voting rights and the equitable share of each
19 eligible policyholder may be exchanged, without additional
20 payment, for securities or other consideration, or both, of
21 the stock corporation or an affiliate into which the mutual
22 insurer is to be converted. If the base value for each voting
23 policyholder or the equitable share of the each eligible
24 policyholder entitles the policyholder to the purchase of a
25 fractional share of stock, the policyholder has the option to
26 receive the value of the fractional share in cash or purchase
27 a full share by paying the balance in cash. However,
28 policyholders due a de minimus amount, as established by the
29 commissioner, need not be offered the value of the fractional
30 share or the option to purchase a full share. The plan shall
31 also provide for the disposition of any unclaimed shares.

32 Sec. 86. Section 516E.1, Code Supplement 2005, is amended
33 by adding the following new subsections:

34 NEW SUBSECTION. 2A. "Financial institution" means an
35 institution that is all of the following:

1 a. Organized or, in the case of the office of a foreign
2 banking organization located in the United States, licensed,
3 under the laws of the United States or any state, and granted
4 authority to operate with fiduciary powers.

5 b. Regulated, supervised, and examined by federal or state
6 authorities empowered to regulate banks and trust companies.

7 NEW SUBSECTION. 5A. "Premium" means the consideration
8 paid to an insurer for a reimbursement insurance policy.

9 NEW SUBSECTION. 9A. "Service company fee" means the
10 consideration paid for a service contract.

11 Sec. 87. Section 516E.1, subsection 8, Code Supplement
12 2005, is amended to read as follows:

13 8. "Reimbursement insurance policy" means a contractual
14 liability insurance policy of insurance issued to a service
15 ~~company and-pursuant-to-which-the-insurer-agrees,-for-the~~
16 ~~benefit-of-the-service-contract-holders,-to-discharge-all-of~~
17 ~~the-obligations-and-liabilities-of-the-service-company-under~~
18 ~~the-terms-of-service-contracts-issued-by-the-service-company~~
19 ~~in-the-event-of-nonperformance-by-the-service-company.--For~~
20 ~~the-purposes-of-this-definition,-"all-obligations-and~~
21 ~~liabilities"-include,-but-are-not-limited-to,-failure-of-the~~
22 ~~service-company-to-perform-under-the-service-contract-and-the~~
23 ~~return-of-the-unearned-service-company-fee-in-the-event-of-the~~
24 ~~service-company's-unwillingness-or-inability-to-reimburse-the~~
25 ~~unearned-service-company-fee-in-the-event-of-termination-of-a~~
26 service contract that either provides reimbursement to a
27 service company under the terms of insured service contracts
28 issued or sold by the service company, or, in the event of
29 nonperformance by the service company, pays, on behalf of the
30 service company, all covered contractual obligations incurred
31 by the service company under the terms of the insured service
32 contracts issued or sold by the service company.

33 Sec. 88. Section 516E.2, subsection 3, Code Supplement
34 2005, is amended to read as follows:

35 3. In order to assure the faithful performance of a

1 service company's obligations to its service contract holders,
2 ~~the administrator may by rule require~~ service contracts shall
3 be secured by a reimbursement insurance policy in compliance
4 with the requirements set forth in section 516E.4 or the
5 service company shall comply with the financial responsibility
6 and security standards set forth in section 516E.21.

7 Sec. 89. Section 516E.2, subsection 4, paragraph f, Code
8 Supplement 2005, is amended by striking the paragraph.

9 Sec. 90. Section 516E.3, Code Supplement 2005, is amended
10 to read as follows:

11 516E.3 FILING AND FEE REQUIREMENTS.

12 1. SERVICE COMPANIES.

13 a. A service contract shall not be issued, sold, or
14 offered for sale in this state unless a true and correct copy
15 of the service contract, and the service company's
16 reimbursement insurance policy, if applicable, have been filed
17 with the commissioner by the service company.

18 b. A service company shall file ~~a consent to service of~~
19 ~~process on the commissioner,~~ and such other information as the
20 commissioner requires, annually with the commissioner no later
21 than the first day of August. If the first day of August
22 falls on a weekend or a holiday, the date for filing shall be
23 the next business day. In addition to the annual filing, the
24 service company shall promptly file copies of any amended
25 documents if material amendments have been made in the
26 materials on file with the commissioner. If an annual filing
27 is made after the first of August and sales have occurred
28 during the period when the service company was in
29 noncompliance with this section, the commissioner shall assess
30 an additional filing fee that is two times the amount normally
31 required for an annual filing. A fee shall not be charged for
32 interim filings made to keep the materials filed with the
33 division current and accurate. The annual filing shall be
34 accompanied by a filing fee determined by the commissioner
35 which shall be sufficient to defray the costs of administering

1 this chapter.

2 c. A service company shall promptly file the following
3 information with the commissioner:

4 (1) A change in the name or ownership of the service
5 company.

6 (2) The termination of the service company's business.
7 The service company is not required to submit a fee as part
8 of this filing.

9 2. PROVIDERS.

10 ~~a.---A-service-contract-shall-not-be-sold-or-offered-for~~
11 ~~sale-in-this-state-unless-a-true-and-correct-copy-of-the~~
12 ~~service-contract-has-been-filed-with-the-commissioner-by-the~~
13 ~~provider.~~

14 b. a. A provider shall file ~~a-consent-to-service-of~~
15 ~~process-on-the-commissioner,~~ a notice with the name and
16 ownership of the provider, and such other information as the
17 commissioner requires, annually with the commissioner no later
18 than August 1. If August 1 falls on a weekend or a holiday,
19 the date for filing shall be the next business day. In
20 addition to the annual filing, the provider shall promptly
21 file copies of any amended documents if material amendments
22 have been made in the materials on file with the commissioner.
23 If an annual filing is made after August 1 and sales have
24 occurred during the period when the provider was in
25 noncompliance with this section, the commissioner shall assess
26 an additional filing fee that is two times the amount normally
27 required for an annual filing. A fee shall not be charged for
28 interim filings made to keep the materials filed with the
29 division current and accurate. The annual filing shall be
30 accompanied by a filing fee in the amount of one hundred
31 dollars.

32 c. b. A provider shall promptly file the following
33 information with the commissioner:

34 (1) A change in the name or ownership of the provider.

35 (2) The termination of the provider's business.

1 A provider is not required to submit a fee as part of this
2 filing.

3 Sec. 91. Section 516E.4, subsection 1, Code Supplement
4 2005, is amended by striking the subsection and inserting in
5 lieu thereof the following:

6 1. REQUIREMENTS. A reimbursement insurance policy
7 insuring a service contract issued, sold, or offered for sale
8 in this state shall provide for all of the following:

9 a. The reimbursement insurance policy shall, in the event
10 of the service company's failure to perform under the service
11 contract or otherwise, either reimburse or pay on behalf of
12 the service company any covered amounts that the service
13 company is legally obligated to pay under the service
14 contract, including the return of any unearned service company
15 fee owed by the service company to the service contract
16 holder.

17 b. An insurer that issues a reimbursement insurance policy
18 shall assume full responsibility for the administration of
19 claims made pursuant to a service contract in the event that
20 the service company is unable to do so.

21 c. If a service covered under a service contract is not
22 provided by the service company within sixty days of proof of
23 loss by the service contract holder, the service contract
24 holder is entitled to apply directly against the reimbursement
25 insurance policy of the service company.

26 Sec. 92. Section 516E.4, Code Supplement 2005, is amended
27 by adding the following new subsections:

28 NEW SUBSECTION. 4. OBLIGATIONS INSURED. If a service
29 company secures its service contracts with a reimbursement
30 insurance policy, the reimbursement insurance policy shall
31 insure one hundred percent of the obligations of all service
32 contracts sold by the service company.

33 NEW SUBSECTION. 5. QUALIFICATIONS OF INSURER. An insurer
34 issuing a reimbursement insurance policy under this chapter
35 shall be authorized, registered, or otherwise permitted to

1 transact business in this state, or shall be an excess and
2 surplus lines insurer authorized, registered, or otherwise
3 permitted to transact business in this state, and shall meet
4 one of the following requirements:

5 a. At the time the policy is filed with the commissioner,
6 and continuously thereafter, the insurer maintains surplus as
7 to policyholders and paid-in capital of at least fifteen
8 million dollars and annually files copies of the insurer's
9 financial statements, national association of insurance
10 commissioners annual statement, and actuarial certification,
11 if required and filed in the insurer's state of domicile.

12 b. At the time the policy is filed with the commissioner
13 and continuously thereafter, the insurer does all of the
14 following:

15 (1) Maintains surplus as to policyholders and paid-in
16 capital of less than fifteen million dollars but at least ten
17 million dollars.

18 (2) Demonstrates to the satisfaction of the commissioner
19 that the insurer maintains a ratio of net written premiums,
20 wherever written, to surplus as to policyholders and paid-in
21 capital of not greater than three to one.

22 (3) Files copies annually of the insurer's financial
23 statements, national association of insurance commissioners
24 annual statement, and actuarial certification, if required and
25 filed in the insurer's state of domicile.

26 Sec. 93. Section 516E.5, subsection 1, Code Supplement
27 2005, is amended to read as follows:

28 1. a. A service contract insured by a reimbursement
29 insurance policy shall not be issued, sold, or offered for
30 sale in this state unless the contract conspicuously states
31 that the obligations of the service company to the service
32 contract holder are guaranteed under a reimbursement insurance
33 policy, including a statement in substantially the following
34 form:

35 "Obligations of the service company under this service

1 contract are guaranteed under a reimbursement insurance
2 policy. If the service company fails to pay or provide
3 service on a claim within sixty days after proof of loss has
4 been filed with the service company, the service contract
5 holder is entitled to make a claim directly against the
6 reimbursement insurance policy."

7 b. A claim against a reimbursement insurance policy shall
8 also include a claim for return of the unearned consideration
9 service company fee paid for the service contract in-excess-of
10 the-premium-paid. A service contract shall conspicuously
11 state the name and address of the issuer of the reimbursement
12 insurance policy for that service contract.

13 c. A service contract issued, sold, or offered for sale in
14 this state that is not insured under a reimbursement insurance
15 policy shall contain a statement in substantially the
16 following form:

17 "Obligations of the service company under this service
18 contract are backed by the full faith and credit of the
19 service company."

20 Sec. 94. Section 516E.5, subsection 2, paragraphs a and b,
21 Code Supplement 2005, are amended to read as follows:

22 a. Clearly and conspicuously states the name and address
23 of the service company, and describes the service company's
24 obligations to perform services or to arrange for the
25 performance of services under the service contract, ~~and states~~
26 ~~that the obligations of the service company to the service~~
27 ~~contract holder are guaranteed under a reimbursement insurance~~
28 ~~policy.~~

29 b. Clearly and conspicuously states the name and address
30 of the issuer of the reimbursement insurance policy, if
31 applicable.

32 Sec. 95. Section 516E.9, Code Supplement 2005, is amended
33 to read as follows:

34 516E.9 MISREPRESENTATIONS OF STATE APPROVAL.

35 A service company shall not represent or imply in any

1 manner that the service company has been sponsored,
2 recommended, or approved or that the service company's
3 abilities or qualifications have in any respect been passed
4 upon by the state of Iowa, including the commissioner, the
5 insurance division, or the division's securities and regulated
6 industries bureau.

7 Sec. 96. Section 516E.15, subsection 1, paragraph b, Code
8 Supplement 2005, is amended to read as follows:

9 b. A provider, or service company, ~~or third-party~~
10 ~~administrator~~ that fails to file documents and information
11 with the commissioner as required pursuant to section 516E.3
12 may be subject to a civil penalty. The amount of the civil
13 penalty shall not be more than four hundred dollars plus two
14 dollars for each service contract that the person executed
15 prior to satisfying the filing requirement. However, a person
16 who fails to file information regarding a change in the name
17 or the termination of the business of a provider, or service
18 company, ~~or third-party administrator~~ as required pursuant to
19 section 516E.3 is subject to a civil penalty of not more than
20 five hundred dollars.

21 Sec. 97. NEW SECTION. 516E.20 APPLICATION OF INSURANCE
22 LAWS.

23 The sale of a service contract under this chapter shall not
24 be deemed to include the sale of insurance. Unless a service
25 company, third-party administrator, or provider is otherwise
26 engaged in the sale of insurance, the insurance laws of this
27 state are not applicable to the service company, third party
28 administrator, or provider of such a service contract.

29 Sec. 98. NEW SECTION. 516E.21 FINANCIAL RESPONSIBILITY
30 AND SECURITY REQUIREMENTS IN LIEU OF REIMBURSEMENT INSURANCE
31 POLICY.

32 1. In lieu of obtaining a reimbursement insurance policy
33 as provided in section 516E.2, subsection 3, a service company
34 may secure its service contracts by maintaining a funded
35 reserve account which complies with all of the following:

1 a. The reserve account shall be in a custodial account at
2 a financial institution that is dedicated to the service
3 company's outstanding obligations under service contracts
4 issued and outstanding in this state.

5 b. The reserve account shall comply with rules adopted by
6 the commissioner pursuant to chapter 17A establishing
7 requirements for reserve accounts, reserve account agreements,
8 or the method of valuing marketable securities as necessary to
9 protect holders of service contracts issued and outstanding in
10 this state. The commissioner may require amendments to
11 reserve account agreements that are not in compliance with the
12 provisions of this section.

13 c. The reserve account shall not be an amount that is less
14 than forty percent of the gross consideration received, less
15 claims paid, on the sale of service contracts issued and
16 outstanding by the service company in this state.

17 d. The reserve account shall be subject to examination and
18 review by the commissioner or a designee on the premises of
19 the financial institution where the account is located and the
20 financial institution shall, upon request, produce documents
21 or records as necessary to allow the commissioner or a
22 designee to verify the value and safety of the assets of the
23 reserve account.

24 2. The service company shall annually provide the
25 commissioner with one of the following:

26 a. A copy of the service company's financial statements.

27 b. If the service company's financial statements are
28 consolidated with those of its parent company, a copy of the
29 parent company's most recent form 10-K or form 20-F filed with
30 the federal securities and exchange commission within the last
31 calendar year, or if the parent company does not file with the
32 federal securities and exchange commission, a copy of the
33 parent company's audited financial statements showing a net
34 worth of at least one hundred million dollars. If the service
35 company's financial statements are consolidated with those of

1 its parent company, the service company shall also provide a
2 copy of a written agreement by the parent company guaranteeing
3 the obligations of the service company under service contracts
4 issued and outstanding by the service company in this state.

5 3. If a service contract company secures its contracts by
6 maintaining a funded reserve account as provided in subsection
7 1 but does not have or maintain a minimum net worth or
8 stockholders equity of one hundred million dollars or more,
9 the service company shall also meet one of the following
10 requirements:

11 a. Maintain a security deposit trust fund which complies
12 with all of the following:

13 (1) The security deposit trust fund shall be in an account
14 at a financial institution.

15 (2) The security deposit trust fund shall be held,
16 invested, and administered for the benefit and protection of
17 service contract holders in this state in the event of
18 nonperformance of the service contract by the service company.

19 (3) The security deposit trust fund shall comply with
20 rules adopted by the commissioner pursuant to chapter 17A,
21 establishing the form, terms, and conditions of security
22 deposit trust fund agreements established pursuant to this
23 paragraph "a".

24 (4) The security deposit trust fund shall be subject to
25 recovery by any service contract holder sustaining actionable
26 injury due to the failure of the service company to perform
27 its obligations under the service contract. A holder of a
28 service contract issued in this state may, in the event of
29 nonperformance by the service company, maintain an action and
30 file a claim against the security deposit trust fund
31 maintained by the service company.

32 (5) The security deposit trust fund shall not be
33 commingled with other funds of the service company.

34 (6) The security deposit trust fund shall have a value of
35 not less than five percent of the gross consideration received

1 by the service company, less claims paid, for the sale of all
2 service contracts issued and in force in this state, but not
3 less than twenty-five thousand dollars, and consists of one or
4 more of the following:

5 (a) Cash.

6 (b) Securities of the type eligible for deposit by
7 insurers authorized to transact business in this state.

8 (c) Certificates of deposit.

9 (d) Another form of security as prescribed by the
10 commissioner by rule.

11 b. File a surety bond with the commissioner that is issued
12 by a surety company authorized to do business in this state,
13 and that complies with all of the following:

14 (1) The surety bond is conditioned upon the service
15 company's faithful performance of service contracts subject to
16 this chapter.

17 (2) The surety bond is for the benefit of and subject to
18 recovery by any service contract holder sustaining actionable
19 injury due to the failure of the service company to perform
20 its obligations under a service contract. The surety's
21 liability shall extend to all service contracts issued by the
22 service company and outstanding in this state. A holder of a
23 service contract issued in this state may, in the event of
24 nonperformance of the contract by the service company,
25 maintain an action and file a claim against the surety bond
26 filed by the service company.

27 (3) The surety bond is for an amount that is not less than
28 five percent of the gross consideration received by the
29 service company, less claims paid, for the sale of all service
30 contracts issued and in force in this state, but not less than
31 twenty-five thousand dollars.

32 (4) The surety bond cannot be canceled by the surety
33 except upon written notice of cancellation by the surety to
34 the commissioner by restricted certified mail, and not prior
35 to the expiration of sixty days after receipt of the notice by

1 the commissioner.

2 Sec. 99. Section 518.15, Code 2005, is amended to read as
3 follows:

4 518.15 REPORTS, AND EXAMINATIONS, AND RENEWALS.

5 1. The president or the vice president and secretary of
6 each association authorized to do business under this chapter
7 shall annually before the first day of March prepare under
8 oath and file with the commissioner of insurance a full, true
9 and complete statement of the condition of such association on
10 the last day of the preceding year. The commissioner of
11 insurance shall prescribe the report forms and shall determine
12 the information and data to be reported.

13 2. Such associations shall pay the same expenses of any
14 examination made or ordered to be made by the commissioner of
15 insurance and the same fees for the annual reports and annual
16 certificates of authority as are required to be paid by
17 domestic companies organized and doing business under chapter
18 ~~5157-which-certificates-shall-expire-June-1-of-the-year~~
19 ~~following-the-date-of-issue.~~

20 3. A certificate of authority of an association formed
21 under this chapter expires on June 1 succeeding its issue and
22 shall be renewed annually so long as the association transacts
23 its business in accordance with all legal requirements. An
24 association shall submit annually, on or before March 1, a
25 completed application for renewal of its certificate of
26 authority.

27 4. The commissioner shall refuse to renew the certificate
28 of authority of an association that fails to comply with the
29 provisions of this chapter.

30 5. An association formed under this chapter that fails to
31 timely file the statement required under subsection 1 or the
32 application for renewal required under subsection 3 is in
33 violation of this section and shall pay an administrative
34 penalty of five hundred dollars to the treasurer of state for
35 deposit in the general fund of the state as provided in

1 section 505.7. The association's right to transact new
2 business in this state shall immediately cease until the
3 association has fully complied with this chapter.

4 6. The commissioner may give notice to an association that
5 the association has not timely filed the statement required
6 under subsection 1 or an application for renewal under
7 subsection 3 and is in violation of this section. If the
8 association fails to file the required statement or
9 application and comply with this section within ten days of
10 the date of the notice, the association shall pay an
11 additional administrative penalty of one hundred dollars for
12 each day that the failure continues to the treasurer of state
13 for deposit in the general fund of the state as provided in
14 section 505.7.

15 Sec. 100. Section 518A.18, Code 2005, is amended to read
16 as follows:

17 518A.18 ANNUAL REPORT -- PENALTIES.

18 1. An association doing business under this chapter, on or
19 before March 1 of each year, shall prepare under oath and file
20 with the commissioner of insurance an accurate and complete
21 statement of the condition of the association as of the last
22 day of the preceding calendar year. The statement shall
23 conform to the annual statement blank prepared pursuant to
24 instructions prescribed by the commissioner. All financial
25 information reflected in the annual report shall be kept and
26 prepared pursuant to accounting practices and procedures
27 prescribed by the commissioner. Statements filed with the
28 commissioner pursuant to this section shall be tabulated and
29 published by the commissioner of insurance in the annual
30 report of insurance.

31 2. An association that fails to timely file the statement
32 required under subsection 1 is in violation of this section
33 and shall pay an administrative penalty of five hundred
34 dollars for each violation to the treasurer of state for
35 deposit in the general fund of the state as provided in

1 section 505.7.

2 3. The commissioner may give notice to an association that
3 the association has not timely filed the statement required
4 under subsection 1 and is in violation of this section. If
5 the association fails to file the required statement and
6 comply with this section within ten days of the date of the
7 notice, the association shall pay an additional administrative
8 penalty of one hundred dollars for each day that each failure
9 continues to the treasurer of state for deposit in the general
10 fund of the state as provided in section 505.7.

11 4. The association's right to transact new business in
12 this state shall immediately cease until the association has
13 fully complied with this chapter.

14 Sec. 101. Section 518A.35, subsection 1, Code 2005, is
15 amended to read as follows:

16 1. A state mutual insurance association doing business
17 under this chapter shall on or before the first day of March,
18 each year, pay to the director of revenue, or a depository
19 designated by the director, a sum equivalent to the applicable
20 percent of the gross receipts from premiums and fees for
21 business done within the state, including all insurance upon
22 property situated in the state without including or deducting
23 any amounts received or paid for reinsurance. However, a
24 company reinsuring windstorm or hail risks written by county
25 mutual insurance associations is required to pay the
26 applicable percent tax on the gross amount of reinsurance
27 premiums received written upon such risks, but after deducting
28 the amount returned upon canceled policies and rejected
29 applications covering property situated within the state, and
30 dividends returned to policyholders on property situated
31 within the state. For purposes of this section, "applicable
32 percent" means the same as specified in section 432.1,
33 subsection 4.

34 Sec. 102. Section 518A.40, Code 2005, is amended to read
35 as follows:

1 518A.40 ANNUAL FEES -- RENEWALS -- PENALTIES.

2 1. Such associations shall pay the same fees for annual
3 reports and annual certificates of authority as are required
4 to be paid by domestic companies organized and doing business
5 under chapter 515, which certificates shall expire May 1 of
6 the year following the date of issue.

7 2. A certificate of authority of an association formed
8 under this chapter shall be renewed annually so long as the
9 organization transacts its business in accordance with all
10 legal requirements. Such an association shall submit
11 annually, on or before March 1, a completed application for
12 renewal of its certificate of authority.

13 3. The commissioner shall refuse to renew the certificate
14 of authority of a state mutual insurance association that
15 fails to comply with the provisions of this chapter and the
16 association's right to transact new business in this state
17 shall immediately cease until the association has so complied.

18 4. An association that fails to timely file the
19 application for renewal required under subsection 2 is in
20 violation of this section and shall pay an administrative
21 penalty of five hundred dollars to the treasurer of state for
22 deposit in the general fund of the state as provided in
23 section 505.7.

24 Sec. 103. Section 518C.17, Code 2005, is amended to read
25 as follows:

26 518C.17 ACTIONS AGAINST THE ASSOCIATION.

27 An action against the association shall be brought against
28 it in the association's own name and only in the Polk county
29 district court. Service of original notice in an action
30 against the association may shall be made on any officer of
31 the association ~~or upon the commissioner of insurance on its~~
32 ~~behalf. The commissioner shall promptly transmit any notice~~
33 ~~served upon the commissioner to the association.~~

34 Sec. 104. Section 520.4, subsection 9, Code 2005, is
35 amended by striking the subsection.

1 Sec. 105. Section 520.5, Code 2005, is amended to read as
2 follows:

3 520.5 ACTIONS -- VENUE ---~~COMMISSIONER-AS-PROCESS-AGENT.~~

4 Concurrently with the filing of the declaration provided
5 for by the terms of section 520.4, the attorney shall file
6 with the commissioner of insurance, an instrument in writing
7 executed by the attorney for said subscribers, conditioned
8 that, upon the issuance of certificate of authority provided
9 for in this chapter, action may be brought in the county in
10 which the property or person insured thereunder is located,
11 and that service of process shall be had upon ~~the commissioner~~
12 ~~of insurance or upon~~ the attorney in fact in all suits in this
13 state, whether arising out of such policies, contracts,
14 agreements or otherwise, which service shall be valid and
15 binding upon all subscribers exchanging at any time reciprocal
16 or interinsurance contracts through such attorney. All suits
17 of every kind and description brought against such reciprocal
18 exchange or the subscribers thereto on account of their
19 connection therewith, must be brought against the attorney in
20 fact therefor or the exchange as such, and shall not be
21 brought against any of the subscribers thereto individually on
22 account of their connection with or membership in such
23 reciprocal exchange, and must be brought in the manner and
24 method above provided.

25 Sec. 106. Section 520.7, Code 2005, is amended to read as
26 follows:

27 520.7 JUDGMENT -- SATISFACTION.

28 A judgment rendered in any such case where service of
29 process has been so had upon the ~~commissioner of insurance,~~
30 attorney in fact shall be valid and binding against any and
31 all such subscribers as their interests appear and such
32 judgment may be satisfied out of the funds in the possession
33 of the attorney belonging to such subscribers.

34 Sec. 107. Section 520.10, Code 2005, is amended to read as
35 follows:

1 520.10 ANNUAL REPORT -- EXAMINATION -- PENALTIES.

2 1. Such attorney shall, within the time limited for filing
3 the annual statement by insurance companies transacting the
4 same kind of business, make a report, under oath, to the
5 commissioner of insurance for each calendar year, showing the
6 financial condition of affairs at the office where such
7 contracts are issued and shall, at any and all times, furnish
8 such additional information and reports as may be required;
9 provided, however, that the attorney shall not be required to
10 furnish the names and addresses of any subscribers except in
11 case of an unpaid final judgment. The business affairs,
12 records, and assets of any such organization shall be subject
13 to examination by the commissioner of insurance at any
14 reasonable time, and such examination shall be at the expense
15 of the organization examined.

16 2. A certificate of authority of a reciprocal or
17 interinsurance insurer authorized under this chapter shall be
18 renewed annually in accordance with section 520.12 so long as
19 the insurer transacts its business in accordance with all
20 legal requirements.

21 3. The commissioner shall refuse to renew the certificate
22 of authority of a reciprocal or interinsurance insurer that
23 fails to comply with the provisions of this chapter and the
24 insurer's right to transact new business in this state shall
25 immediately cease until the insurer has so complied.

26 4. A reciprocal or interinsurance insurer that fails to
27 timely file the report required under subsection 1 is in
28 violation of this section and shall pay an administrative
29 penalty of five hundred dollars to the treasurer of state for
30 deposit in the general fund of the state as provided in
31 section 505.7.

32 5. The commissioner may give notice to a reciprocal or
33 interinsurance insurer that the insurer has not timely filed
34 the report required under subsection 1 and is in violation of
35 this section. If the insurer fails to file the required

1 report and comply with this section within ten days of the
2 date of the notice, the insurer shall pay an additional
3 administrative penalty of one hundred dollars for each day
4 that the failure continues to the treasurer of state for
5 deposit in the general fund of the state as provided in
6 section 505.7.

7 Sec. 108. Section 520.12, Code 2005, is amended to read as
8 follows:

9 520.12 CERTIFICATE OF AUTHORITY -- RENEWAL -- PENALTIES.

10 1. Upon compliance with the requirements of this chapter,
11 the commissioner of insurance shall issue a certificate of
12 authority or a license to the attorney, authorizing the
13 attorney to make such contracts of insurance, which license
14 shall specify the kind or kinds of insurance and shall contain
15 the name of the attorney, the location of the principal office
16 and the name or designation under which such contracts of
17 insurance are issued. The certificate of authority shall
18 expire on the first day of June next succeeding its issue, and
19 shall be renewed annually as long as the company transacts
20 business in accordance with the requirements of law. A copy
21 of the certificate, when certified by the commissioner of
22 insurance, shall be admissible in evidence for or against a
23 company with the same effect as the original.

24 2. A reciprocal or interinsurance insurer shall submit
25 annually, on or before March 1, a completed application for
26 renewal of the insurer's certificate of authority. An insurer
27 that fails to timely file an application for renewal shall pay
28 an administrative fee of five hundred dollars to the treasurer
29 of state for deposit in the general fund of the state as
30 provided in section 505.7.

31 Sec. 109. Section 521.1, Code 2005, is amended to read as
32 follows:

33 521.1 DEFINITIONS.

34 For the purposes of this chapter:

35 1. "Affected company" or "affected mutual company" means

1 the company being merged with and into the surviving company.

2 2. "Commission" means the commission created in section
3 521.5.

4 3. "Commissioner" means the commissioner of insurance.

5 4. "Company" or "companies" when used in this chapter
6 means a company or association organized under chapter 508,
7 511, 515, 518, 518A, or 520, and includes a mutual insurance
8 holding company organized pursuant to section 521A.14.

9 Sec. 110. Section 521.2, Code 2005, is amended to read as
10 follows:

11 521.2 LIFE-COMPANIES--- CONSOLIDATION, MERGER, AND
12 REINSURANCE.

13 1. One or more domestic mutual insurance companies
14 organized under chapter 491 may merge or consolidate with a
15 domestic or foreign mutual insurance company as provided in
16 this chapter. Sections 491.101 through 491.105 shall not be
17 applicable to a merger or consolidation of a domestic mutual
18 insurance company pursuant to this chapter.

19 2. One or more domestic insurance companies organized
20 under chapter 490 may merge with a domestic or foreign
21 insurance company as provided in chapter 490 with the approval
22 of the commission pursuant to this chapter.

23 3. The provisions of this chapter shall not be applicable
24 to the merger or consolidation of a domestic mutual company
25 with a stock company pursuant to chapter 508B or chapter 515G.

26 4. A domestic mutual insurance company organized under the
27 laws of this state to do the business of life insurance,
28 either on the stock, mutual, stipulated premium, or assessment
29 plan, shall not consolidate with any other company or reinsure
30 its risks, or any part of such risks, with any other company,
31 or assume or reinsure the whole or any part of the risks of
32 any other company, except as provided in this chapter.

33 However, this chapter shall not be construed to prevent any
34 company, as defined in section 521.1, from reinsuring a
35 fractional part of any single risk.

1 Sec. 111. Section 521.3, Code 2005, is amended by striking
2 the section and inserting in lieu thereof the following:

3 521.3 SUBMISSION OF PLAN AND APPLICATION TO COMMISSIONER
4 OF INSURANCE.

5 Any company proposing to consolidate, merge, or enter into
6 any reinsurance contract with another company shall file a
7 plan and an application in support of the plan with the
8 commissioner. The plan shall set forth the terms of the
9 proposed contract of consolidation, merger, or reinsurance,
10 along with any other information requested by the
11 commissioner.

12 Sec. 112. Section 521.4, Code 2005, is amended by striking
13 the section and inserting in lieu thereof the following:

14 521.4 PROCEDURE -- NOTICE.

15 The commission may hear and determine an application, and
16 approve, disapprove, or require modification of a plan
17 submitted under section 521.3 without notice and without
18 public hearing. The commission may require a public hearing
19 when necessary to conserve the interests of the members,
20 policyholders, or shareholders of the affected company. In
21 such cases the commission shall require the affected company
22 to mail to all of its members, policyholders, or shareholders
23 written notice of the public hearing stating that an
24 application and plan have been filed with the commission, the
25 nature of the plan, and the date, time, and place of the
26 public hearing on the application and plan. The commission
27 shall determine the number of days prior to the public hearing
28 that notice is required to be given to the members or
29 shareholders, which shall be no fewer than ten nor more than
30 sixty days.

31 Sec. 113. Section 521.5, Code 2005, is amended to read as
32 follows:

33 521.5 COMMISSION TO HEAR PETITION CREATED.

34 ~~For the purpose of hearing and determining such petition, a~~
35 A commission consisting of the commissioner of insurance and

1 the attorney general is hereby created to hear and determine
2 the application and to approve, disapprove, or require
3 modification of the plan prior to approval.

4 Sec. 114. Section 521.6, Code 2005, is amended to read as
5 follows:

6 521.6 EXAMINATION.

7 The commission may ~~make-such-examination-into~~ examine the
8 affairs and condition of any company ~~or-companies~~ as it may
9 ~~deem~~ deems proper, and shall have the power to summon and
10 compel the attendance and testimony of witnesses, and the
11 production of books and papers before ~~said~~ the commission and
12 may administer oaths.

13 Sec. 115. Section 521.7, Code 2005, is amended to read as
14 follows:

15 521.7 APPEARANCE BY MEMBERS, POLICYHOLDERS, OR
16 SHAREHOLDERS.

17 When notice ~~shall-have-been~~ is given as above provided in
18 section 521.4, any member, policyholder, or stockholder
19 shareholder of ~~said~~ the affected company ~~or-companies~~ shall
20 have the right to appear before ~~said~~ the commission and be
21 heard ~~with-reference-to-said-petition~~ regarding the
22 application and plan.

23 Sec. 116. Section 521.8, Code 2005, is amended to read as
24 follows:

25 521.8 AUTHORIZATION.

26 ~~Said~~ The commission, if satisfied that the interests of the
27 members, policyholders, or shareholders of ~~said~~ the affected
28 company ~~or-companies~~ are properly protected and no reasonable
29 objection to ~~said-petition~~ the application and plan exists,
30 may authorize approve, disapprove, or require modification of
31 the proposed plan of consolidation, merger, or reinsurance ~~or~~
32 ~~may-direct-such-modification-thereof-as-may-seem-to-it-best~~
33 ~~for-the-interests-of-the-policyholders,-and-said~~ prior to
34 approval. The commission may make such order and disposition
35 of the assets of any such company thereafter remaining as

1 shall be just and equitable.

2 Sec. 117. Section 521.10, Code 2005, is amended by
3 striking the section and inserting in lieu thereof the
4 following:

5 521.10 ELECTION CALLED.

6 1. The commission may require an affected company to
7 submit the plan of consolidation, merger, or reinsurance to a
8 vote by its members. The plan shall be submitted at a meeting
9 called for that purpose, upon not less than thirty days'
10 notice. Member approval of the plan requires the affirmative
11 vote of two-thirds of all members voting in person, by ballot,
12 or by proxy.

13 2. Approval by the members of a mutual company of a plan
14 of merger or reinsurance is not required if all of the
15 following conditions are satisfied:

16 a. The company will survive the merger or is the
17 reinsurer.

18 b. At the time of the merger or reinsurance, the number of
19 members of the surviving company is greater than the number of
20 members of the affected company.

21 c. At the time of the merger or reinsurance, the surplus
22 of the surviving company is greater than the surplus of the
23 affected company.

24 Sec. 118. Section 521.13, Code 2005, is amended by
25 striking the section and inserting in lieu thereof the
26 following:

27 521.13 REINSURANCE TRANSACTIONS -- EXEMPTION.

28 Reinsurance as provided in sections 515.49, 518.17,
29 518A.44, and 520.21 is exempt from the requirements of this
30 chapter.

31 Sec. 119. Section 521.14, Code 2005, is amended to read as
32 follows:

33 521.14 EXPENSES AND COSTS -- HOW PAID.

34 All expenses and costs incident to proceedings under the
35 ~~provisions of~~ this chapter, shall be paid by the company or

1 companies-bringing filing the petition application and plan.

2 Sec. 120. Section 521.16, Code 2005, is amended to read as
3 follows:

4 521.16 APPLICABILITY OF CHAPTER SECTION 521A.3.

5 ~~Chapter-521A-is~~ The provisions of section 521A.3 shall also
6 be applicable to a merger or consolidation made-pursuant
7 subject to this chapter,~~-and-the-provisions-of-chapter-521A~~
8 ~~and-this-chapter-shall-apply-exclusively-with-respect-to-such~~
9 ~~merger-or-consolidation.~~

10 Sec. 121. NEW SECTION. 521.17 ADDITIONAL FILING
11 REQUIREMENTS -- PLANS AND ARTICLES OF MERGER OR CONSOLIDATION.

12 A company filing a plan to merge or consolidate shall, in
13 addition to and after meeting the requirements of this
14 chapter, make all appropriate filings with and pay appropriate
15 fees to the secretary of state required under chapter 490 or
16 491.

17 Sec. 122. NEW SECTION. 521.18 ARTICLES OF MERGER OR
18 CONSOLIDATION -- FILING FEES AND APPROVAL.

19 A company filing a plan to merge or consolidate under the
20 provisions of this chapter shall file its articles of merger
21 or consolidation with the commission for its approval. The
22 fee for filing articles of merger or consolidation with the
23 commission is fifty dollars.

24 Sec. 123. Section 521A.1, subsection 6, Code 2005, is
25 amended to read as follows:

26 6. "Insurer" means a company qualified and licensed by the
27 insurance division to transact the business of insurance in
28 this state by certificate issued pursuant to chapters 508,
29 512B, 514, 514B, 515, 515E, and 520, except that it shall not
30 include:

31 ~~a.--Agencies~~ agencies, authorities, or instrumentalities of
32 the United States, its possessions and territories, the
33 commonwealth of Puerto Rico, the District of Columbia, or a
34 state or political subdivision of a state.

35 ~~b.--Fraternal-benefit-societies.~~

1 ~~c.--Nonprofit-medical,-hospital-or-dental-service~~
2 ~~associations-~~

3 Sec. 124. Section 521A.2, subsection 1, paragraph c, Code
4 2005, is amended to read as follows:

5 c. Investing, reinvesting, or trading in securities and
6 financial instruments as defined in section 511.8, subsection
7 22, for its own account, that of its parent, any subsidiary of
8 its parent, or any affiliate or subsidiary.

9 Sec. 125. Section 521A.2, subsection 3, Code 2005, is
10 amended by adding the following new paragraph:

11 NEW PARAGRAPH. d. Invest, reinvest, and trade in
12 financial instruments as defined in section 511.8, subsection
13 22, for its own account, that of its parent, any subsidiary of
14 its parent, or any affiliate or subsidiary.

15 Sec. 126. Section 521A.3, subsection 7, Code 2005, is
16 amended to read as follows:

17 7. JURISDICTION ~~---CONSENT-TO-SERVICE-OF-PROCESS.~~ The
18 district court is hereby vested with jurisdiction over every
19 person not resident, domiciled, or authorized to do business
20 in this state who files a statement with the commissioner
21 under this section, and over all actions involving such person
22 arising out of violations of this section, ~~and each such~~
23 ~~person shall be deemed to have performed acts equivalent to~~
24 ~~and constituting an appointment by such a person of the~~
25 ~~commissioner to be the person's true and lawful attorney upon~~
26 ~~whom may be served all lawful process, notice or demand in any~~
27 ~~action, suit or proceeding arising out of violations of this~~
28 ~~section. Copies of all such lawful process, notice or demand~~
29 ~~shall be served on the commissioner and transmitted by~~
30 ~~registered or certified mail by the commissioner to such~~
31 ~~person at the person's last known address.~~

32 Sec. 127. Section 521B.2, subsection 6, paragraph a,
33 subparagraph (2), Code 2005, is amended to read as follows:

34 (2) That ~~the commissioner or~~ an attorney designated in the
35 agreement is the true and lawful attorney of the assuming

1 insurer upon whom may be served any lawful process in any
2 action, suit, or proceeding instituted by or on behalf of the
3 ceding company.

4 Sec. 128. Section 521C.3, subsection 4, paragraph b, Code
5 2005, is amended to read as follows:

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

17 Sec. 129. NEW SECTION. 522B.16B WRITTEN CONSENT TO
18 ENGAGE OR PARTICIPATE IN BUSINESS OF INSURANCE.

19 1. A person who is prohibited by 18 U.S.C. § 1033 from
20 engaging or participating in the business of insurance because
21 that person has been convicted of a crime under that statute
22 or of a felony involving dishonesty or breach of trust may
23 apply to the commissioner for written consent to engage or
24 participate in the business of insurance in this state.

25 2. The commissioner, by rule, shall establish a procedure
26 and standards for issuing such a written consent.

27 3. The commissioner shall not issue an insurance producer
28 license to an applicant who has been convicted of a crime as
29 set forth in subsection 1 unless the applicant has first
30 obtained a written consent from the commissioner to engage or
31 participate in the business of insurance in this state.

32 4. The commissioner shall not renew or issue an insurance
33 producer license to an insurance producer licensee who has
34 been convicted of a crime as set forth in subsection 1, unless
35 that licensee has first obtained a written consent from the

1 commissioner to engage or participate in the business of
2 insurance in this state.

3 Sec. 130. Section 523A.601, subsection 1, paragraph i,
4 Code 2005, is amended to read as follows:

5 i. Include an explanation of regulatory oversight by the
6 insurance division in twelve point boldface type, in
7 substantially the following language:

8 THIS AGREEMENT IS SUBJECT TO RULES ADMINISTERED BY THE IOWA
9 INSURANCE DIVISION. YOU MAY CALL THE INSURANCE DIVISION AT
10 ~~(515) 281-4441~~ (515)281-4441. WRITTEN INQUIRIES OR COMPLAINTS
11 SHOULD BE MAILED TO THE IOWA SECURITIES AND REGULATED
12 INDUSTRIES BUREAU, ~~(STREET-ADDRESS)~~ 330 MAPLE STREET,
13 ~~DES MOINES, IOWA (ZIP-CODE)~~ 50319.

14 Sec. 131. Section 523A.602, subsection 2, paragraph b,
15 Code 2005, is amended by adding the following new
16 subparagraph:

17 NEW SUBPARAGRAPH. (1A) If a purchase agreement is
18 canceled before the purchase price is paid in full, a
19 purchaser requests a transfer of the trust assets upon
20 cancellation of a purchase agreement before the purchase price
21 is paid in full, or another establishment provides cemetery
22 merchandise, funeral merchandise, funeral services, or a
23 combination thereof, designated in a purchase agreement before
24 the purchase price is paid in full, the seller shall refund or
25 transfer within thirty days of receiving a written demand no
26 less than the amount paid by the purchaser, less any actual
27 expenses incurred by the seller pursuant to the purchase
28 agreement as set forth in the purchase agreement under section
29 523A.601, subsection 1, paragraph "f". The amount of the
30 actual expenses deducted by the seller shall not exceed ten
31 percent of the total original purchase price of the applicable
32 cemetery merchandise, funeral merchandise, funeral services,
33 or a combination thereof. The seller may also deduct the
34 value of the cemetery merchandise, funeral merchandise, and
35 funeral services already received by, delivered to, or

1 warehoused for the purchaser.

2 Sec. 132. Section 523I.102, Code Supplement 2005, is
3 amended by adding the following new subsections:

4 NEW SUBSECTION. 0A. "Abandoned cemetery" means a cemetery
5 that is not operating on a regular basis, is not offering to
6 sell or provide interments or other services reasonably
7 necessary for interments, and is not providing or permitting
8 reasonable ingress or egress to the cemetery for the purpose
9 of visiting interment spaces.

10 NEW SUBSECTION. 49. "Veterans cemetery" means a cemetery
11 that is owned or operated by the state of Iowa or by the
12 United States for the burial of veterans.

13 Sec. 133. Section 523I.103, subsection 1, paragraph a,
14 Code Supplement 2005, is amended to read as follows:

15 a. All cemeteries, except religious cemeteries that
16 commenced business prior to July 1, 2005, and veterans
17 cemeteries.

18 Sec. 134. Section 523I.201, subsection 1, Code Supplement
19 2005, is amended to read as follows:

20 1. This chapter shall be administered by the commissioner.
21 The deputy administrator appointed pursuant to section
22 ~~523A-801~~ 502.601 shall be the principal operations officer
23 responsible to the commissioner for the routine administration
24 of this chapter and management of the administrative staff.
25 In the absence of the commissioner, whether because of vacancy
26 in the office due to absence, physical disability, or other
27 cause, the deputy administrator shall, for the time being,
28 have and exercise the authority conferred upon the
29 commissioner. The commissioner may by order from time to time
30 delegate to the deputy administrator any or all of the
31 functions assigned to the commissioner in this chapter. The
32 deputy administrator shall employ officers, attorneys,
33 accountants, and other employees as needed for administering
34 this chapter.

35 Sec. 135. Section 523I.309, subsection 1, Code Supplement

1 2005, is amended to read as follows:

2 1. Any available member of the following classes of
3 persons, in the priority listed, shall have the right to
4 control the interment, relocation, or disinterment of a
5 decedent's remains within or from a cemetery:

6 ~~a. The attorney-in-fact-of-the-decedent-pursuant-to-a~~
7 ~~durable-power-of-attorney-for-health-care.~~

8 b. a. The surviving spouse of the decedent, if not
9 legally separated from the decedent.

10 c. b. The decedent's surviving adult children. If there
11 is more than one surviving adult child, any adult child who
12 can confirm, in writing, that all other adult children have
13 been notified of the proposed interment, relocation, or
14 disinterment may authorize the interment, relocation, or
15 disinterment, unless the cemetery receives an objection to
16 such action from another adult child of the decedent.
17 Alternatively, a majority of the surviving adult children of
18 the decedent whose whereabouts are reasonably ascertainable
19 shall have such right to control.

20 d. c. A The surviving parent parents of the decedent
21 whose whereabouts are reasonably ascertainable.

22 d. A surviving adult grandchild of the decedent. If there
23 is more than one surviving adult grandchild, any adult
24 grandchild who can confirm, in writing, that all other adult
25 grandchildren have been notified of the proposed interment,
26 relocation, or disinterment may authorize the interment,
27 relocation, or disinterment, unless the cemetery receives an
28 objection to such action from another adult grandchild of the
29 decedent. Alternatively, a majority of the surviving adult
30 grandchildren of the decedent whose whereabouts are reasonably
31 ascertainable shall have such right to control.

32 e. A surviving adult sibling of the decedent. If there is
33 more than one surviving adult sibling, any adult sibling who
34 can confirm, in writing, that all other adult siblings have
35 been notified of the proposed interment, relocation, or

1 disinterment may authorize the interment, relocation, or
2 disinterment, unless the cemetery receives an objection to
3 such action from another adult sibling of the decedent.
4 Alternatively, a majority of the surviving adult siblings of
5 the decedent whose whereabouts are reasonably ascertainable
6 shall have such right to control.

7 f. A surviving grandparent of the decedent. If there is
8 more than one surviving grandparent, any grandparent who can
9 confirm, in writing, that all other grandparents have been
10 notified of the proposed interment, relocation, or
11 disinterment may authorize the interment, relocation, or
12 disinterment, unless the cemetery receives an objection to
13 such action from another grandparent of the decedent.
14 Alternatively, a majority of the surviving grandparents of the
15 decedent whose whereabouts are reasonably ascertainable shall
16 have such right to control.

17 g. ~~The legal guardian of the decedent at the time of the~~
18 ~~decedent's death.~~ An adult person in the next degree of
19 kinship to the decedent in the order named by law to inherit
20 the estate of the decedent under the rules of inheritance for
21 intestate succession.

22 h. The county medical examiner, if responsible for the
23 decedent's remains.

24 A cemetery may await a court order before proceeding with
25 the interment, relocation, or disinterment of a decedent's
26 remains within or from a cemetery if the cemetery is aware of
27 a dispute between an authorized person under this section and
28 the executor named in the decedent's will or a personal
29 representative appointed by a court, or is aware of a dispute
30 among authorized persons with the same priority under this
31 subsection.

32 Sec. 136. Section 523I.312, subsection 2, paragraph n,
33 Code Supplement 2005, is amended by striking the paragraph and
34 inserting in lieu thereof the following:

35 n. Include an explanation of regulatory oversight by the

1 insurance division in twelve point boldface type, in
2 substantially the following language:

3 THIS AGREEMENT IS SUBJECT TO RULES ADMINISTERED BY THE IOWA
4 INSURANCE DIVISION. YOU MAY CALL THE INSURANCE DIVISION WITH
5 INQUIRIES OR COMPLAINTS AT (515)281-4441. WRITTEN INQUIRIES
6 OR COMPLAINTS SHOULD BE MAILED TO: IOWA SECURITIES AND
7 REGULATED INDUSTRIES BUREAU, 330 MAPLE STREET, DES MOINES,
8 IOWA 50319.

9 Sec. 137. Section 523I.316, subsection 3, Code Supplement
10 2005, is amended to read as follows:

11 3. DUTY TO PRESERVE AND PROTECT.

12 a. A governmental subdivision having a cemetery, or a
13 burial site that is not located within a dedicated cemetery,
14 within its jurisdiction, for which preservation is not
15 otherwise provided, shall preserve and protect the cemetery or
16 burial site as necessary to restore or maintain its physical
17 integrity as a cemetery or burial site. The governmental
18 subdivision may enter into an agreement to delegate the
19 responsibility for the preservation and protection of the
20 cemetery or burial site to a private organization interested
21 in historical preservation.

22 b. A governmental subdivision is authorized to expend
23 public funds, in any manner authorized by law, in connection
24 with such a cemetery or burial site.

25 c. As used in this subsection, "preserve and protect"
26 means to keep the cemetery or burial site and any records
27 thereof safe from destruction, peril, or other adversity, and
28 includes the placement of signs, markers, fencing, or other
29 appropriate features identifying the site as a cemetery or
30 burial site.

31 Sec. 138. NEW SECTION. 523I.317 DUTY TO PROVIDE PUBLIC
32 ACCESS.

33 A cemetery shall provide or permit public access to the
34 cemetery, at reasonable times and subject to reasonable
35 regulations, so that owners of interment rights and other

1 members of the public have reasonable ingress and egress to
2 the cemetery.

3 Sec. 139. NEW SECTION. 523I.403 ACQUISITION OF ABANDONED
4 CEMETERIES -- GOVERNMENTAL SUBDIVISIONS.

5 1. A governmental subdivision may acquire an abandoned
6 cemetery, including ownership of any unsold interment spaces
7 in the cemetery. A governmental subdivision that acquires a
8 cemetery under this section shall have legal title to the
9 cemetery and is authorized to acquire land for use of the
10 cemetery, receive gifts, and receive and administer endowments
11 for the care of the cemetery or any part thereof.

12 2. A governmental subdivision shall use due diligence in
13 identifying the owners of an abandoned cemetery and shall
14 provide notice of its intent to acquire the cemetery as
15 provided in this section. If the governmental subdivision is
16 unable to locate the owner of the abandoned cemetery, the
17 governmental subdivision shall publish notice of its intent to
18 acquire the cemetery for three successive weeks in a newspaper
19 of general circulation in the county in which the cemetery is
20 located.

21 3. A cemetery's owner may object to the acquisition of a
22 cemetery by a governmental subdivision. In order to reassert
23 ownership rights to the cemetery, the owner shall provide or
24 permit public access to the cemetery, at reasonable times and
25 subject to reasonable regulations, so that owners of interment
26 rights and other members of the public have reasonable ingress
27 and egress to the cemetery. If the cemetery's owner provides
28 or permits such public access within twenty-four months after
29 receiving notice of the governmental subdivision's intent to
30 acquire the cemetery, the governmental subdivision shall not
31 proceed with its action to acquire the cemetery.

32 Sec. 140. NEW SECTION. 523I.404 ACQUISITION OF ABANDONED
33 CEMETERIES -- CEMETERY ASSOCIATIONS.

34 1. Any person who has a relative interred in an abandoned
35 cemetery or who owns interment rights in an abandoned cemetery

1 may organize a cemetery association for the cemetery. The
2 cemetery association shall be incorporated as a nonprofit
3 corporation pursuant to chapter 504A. A corporation formed in
4 this manner may acquire legal title to the cemetery if an
5 owner cannot be located.

6 2. A cemetery association shall use due diligence in
7 identifying the owner of an abandoned cemetery and shall
8 provide notice of the association's intent to acquire the
9 cemetery as provided in this section. If the cemetery
10 association is unable to locate the owner of the abandoned
11 cemetery, the cemetery association shall publish notice of
12 intent to acquire the cemetery for three successive weeks in a
13 newspaper of general circulation in the county in which the
14 cemetery is located.

15 3. A cemetery's owner may object to the acquisition of a
16 cemetery by a cemetery association. In order to reassert
17 ownership rights to the cemetery, the owner shall provide or
18 permit public access to the cemetery, at reasonable times and
19 subject to reasonable regulations, so that members of the
20 cemetery association and other members of the public have
21 reasonable ingress and egress to the cemetery. If the
22 cemetery's owner provides or permits such public access within
23 twenty-four months after receiving notice of the interested
24 person's intent to acquire the cemetery, the cemetery
25 association shall not proceed with its action to acquire the
26 cemetery.

27 Sec. 141. Section 523I.508, subsection 4, Code Supplement
28 2005, is amended to read as follows:

29 4. DELEGATES TO CONVENTIONS. A township having one or
30 more cemeteries under its control may designate ~~not up to~~
31 ~~exceed~~ two ~~officials~~ from each cemetery as delegates to
32 attend meetings of cemetery officials, and certain expenses
33 ~~including-association-dues~~, of the delegates not to exceed
34 exceeding twenty-five dollars for each delegate, ~~of-the~~
35 delegates including association dues, may be paid out of the

1 cemetery fund of the township.

2 Sec. 142. Section 636.20, Code 2005, is amended to read as
3 follows:

4 636.20 SUIT ON BOND -- SERVICE.

5 Whenever suit is required to be brought on any bond given
6 by such company, service shall be had upon any agent of such
7 company in this state, and if there is no agent in the state,
8 then service may be had ~~by serving the commissioner of~~
9 insurance in any manner now or hereinafter permitted by law
10 fifteen days before the term of court in which the suit is
11 sought to be brought.

12 Sec. 143. Sections 507A.5, 509B.4, 511.27, 511.28, 511.29,
13 512B.33, 514.2A, 515.73, 515.74, 520.6, 521.9, 521.11, 521.12,
14 523C.20, 523C.21, and 636.21, Code 2005, are repealed.

15 Sec. 144. Sections 516E.12 and 516E.17, Code Supplement
16 2005, are repealed.

17 EXPLANATION

18 This bill relates to various matters under the purview of
19 the insurance division of the department of commerce,
20 including the securities and regulated industries bureau,
21 insurance premium taxes, the uniform securities Act, insurance
22 division procedures, regulation of insurance companies and
23 other entities including administrative penalties, motor
24 vehicle service contracts, county and state mutual insurance
25 associations, reciprocal or interinsurance insurers,
26 consolidation, merger, and reinsurance contracts, insurance
27 holding company systems, and cemeteries.

28 SECURITIES AND REGULATED INDUSTRIES BUREAU -- The bill
29 amends numerous references to the securities bureau of the
30 division of insurance of the department of commerce in the
31 Code to refer to the new name of the bureau, which is the
32 securities and regulated industries bureau.

33 PREMIUM TAXES -- Code section 432.1 is amended to provide
34 that premium taxes paid by insurance companies are computed on
35 gross premiums written. Code section 432.5 is amended to

1 provide that premium taxes paid by risk retention groups are
2 computed on gross premiums written.

3 UNIFORM SECURITIES ACT AMENDMENTS -- Code section

4 502.102(5)(b)(3) of the state uniform securities Act is
5 amended to specify that an industrial loan company that is not
6 an "insured depository institution" as defined under federal
7 law is not a "depository institution" for purposes of the Act.

8 Code section 502.201(8A)(b), unnumbered paragraph 1, is
9 amended to provide that securities issued by a mutual or
10 cooperative association organized under Code chapter 501A are
11 exempt from certain provisions of Code chapter 502.

12 Code section 502.412(2)(a) is amended to provide that an
13 administrative action for revocation or cancellation of the
14 registration cannot be started against a person registered
15 under the state uniform securities Act based solely on an
16 order issued by another state more than one year after the
17 date of that order.

18 Code section 502.412(3) is amended to provide that if any
19 one of the specified provisions authorizes an administrative
20 action, a disciplinary order may be issued.

21 Code section 502.510(1)(e) is amended to change a cross-
22 reference from Code section 502.509(3) to Code section
23 502.509(5) as a basis for civil liability, since Code section
24 502.510(1)(c) already refers to Code section 502.509(3).

25 INSURANCE DIVISION PROCEDURES -- Code section 505.16(2) is
26 amended to require the insurance commissioner to adopt rules
27 concerning applications for insurance that require persons
28 engaged in the insurance business who receive positive HIV
29 tests of an applicant or policyholder to report those results
30 to a physician or alternative testing site of the applicant's
31 or policyholder's choice or to the Iowa department of public
32 health.

33 New Code section 505.27 provides that commission of any act
34 by a person under Code chapter 502, 502A, chapters 505 through
35 523G, or chapter 523I constitutes consent by that person to

1 the jurisdiction of the commissioner of insurance and the
2 district courts of this state.

3 New Code section 505.28 provides that the commissioner of
4 insurance has the authority to appoint a designee or an
5 independent administrative law judge to hear contested cases
6 arising from conduct regulated by the insurance commission.

7 Code section 507.10(5)(b) is amended to provide that the
8 commissioner of insurance can disclose certain information
9 obtained during examination of insurance companies to the
10 national association of insurance commissioners.

11 Code section 507.14 is amended to provide that certain
12 specified information produced, obtained by, or disclosed to
13 the commissioner in the course of analysis of the financial
14 condition or market conduct of an insurer is a confidential
15 record under Code chapter 22 and is privileged and
16 confidential except under specified circumstances. Code
17 section 22.7 is also amended to specify that information
18 obtained pursuant to Code section 507.14 is a confidential
19 public record.

20 Code section 507A.4 is amended by adding a new subsection
21 providing that self-funded health benefit plans sponsored by
22 an employer in this state which provide health benefits to
23 independent contractors of such an employer, and their
24 dependents, are granted a waiver from the requirements of Code
25 chapter 507A pertaining to unauthorized insurers, if the plans
26 meet specified conditions.

27 Code section 507A.9(1) is amended to provide that premium
28 taxes on unauthorized insurers shall be computed on gross
29 premiums charged equal to the applicable percent under Code
30 section 432.1 instead of on 2 percent of gross premiums
31 charged.

32 Code section 507B.4 is amended to provide that the
33 following constitute unfair or deceptive insurance trade
34 practices: improper use of inquiries by an applicant or
35 insured about coverage or loss, improper use of loss history

1 of a property, failure to disclose use of claims history,
2 failure to disclose the full name of the insurance company,
3 and failure to produce information to which a policyholder or
4 applicant is entitled.

5 Code section 507B.4 is amended to define "personal lines
6 property and casualty insurance" as insurance sold to
7 individuals and families primarily for noncommercial purposes
8 as provided in Code chapter 522B.

9 New Code section 507B.4B provides that a person shall not
10 recommend an annuity contract to any individual unless the
11 person has reasonable grounds to believe that the annuity is
12 suitable for that individual and shall establish and maintain
13 a system to monitor recommendations made, that is reasonably
14 designed to achieve compliance with the suitability
15 requirements of the section. The bill also requires the
16 commissioner to adopt rules pursuant to Code chapter 17A
17 establishing standards for implementation of the suitability
18 requirements of the section.

19 New Code section 507B.15 provides that new Code section
20 505.28 allowing the commissioner to appoint a designee or an
21 independent administrative law judge to hear contested cases
22 is applicable to hearings required under Code sections 507B.6,
23 507B.6A, and 507B.7 concerning regulation of insurance trade
24 practices.

25 Code section 507C.2 is amended to provide that general
26 assets of an insurer for purposes of supervision,
27 rehabilitation, and liquidation provisions of the chapter do
28 not include that portion of assets of the insurer allocated
29 and accumulated in a separate account providing for life
30 insurance or annuities, depending on the amounts contained in
31 such separate accounts.

32 Code section 507C.42 is amended to specify that claims
33 considered "class 2" for purposes of establishing a priority
34 of distribution of claims from an insurer's estate under the
35 supervision, rehabilitation, and liquidation provisions of the

1 chapter include claims under funding agreements under Code
2 section 508.31A, and claims for an insufficiency in the assets
3 allocated and accumulated in a separate account under Code
4 section 508A.1.

5 Code section 507C.42 is also amended to provide that for
6 purposes of the section, "insurer's estate" means the general
7 assets of the insurer.

8 Code section 507E.5 is stricken and rewritten to provide
9 that specified information obtained by the insurance
10 commission during the course of an insurance fraud
11 investigation is a confidential record except as specified in
12 this section. Code section 22.7 is also amended to provide
13 that such information is a confidential record.

14 INSURANCE COMPANIES AND OTHER ENTITIES -- Code section
15 508.13 is amended to clarify the process for life insurance
16 companies to renew their certificates of authority annually.
17 Failure to timely file an application for renewal is
18 punishable by an administrative penalty of \$500.

19 Code section 508A.1 is amended to correspond to the changes
20 to Code section 507C.42 by providing that insufficiencies in
21 assets allocated and accumulated in separate accounts
22 providing for life insurance or annuities are class 2 claims
23 under Code chapter 507C.

24 Code section 509.1(1)(b) is amended to provide that
25 premiums for group life, accident, or health insurance can be
26 paid by the policyholder from funds of the employer, the
27 insured employee, or both. The section is also amended to
28 provide that accident and health insurance does not include
29 disability income insurance.

30 Code section 509A.15(1) is amended to provide that the
31 governing body of a self-insurance plan of a political
32 subdivision or school corporation must certify that the plan
33 has a contract or other arrangement with a currently
34 registered third-party administrator.

35 Code section 509A.15(4) is amended to provide that a self-

1 insurance plan of a political subdivision or school
2 corporation is exempt from the certification requirements of
3 the section if yearly claims do not exceed 2 percent, instead
4 of 1 percent, of the entity's general fund budget.

5 Code chapter 509B is amended to eliminate the requirement
6 that group accident or health insurance policies provide
7 individual or converted policies for an employee or member
8 whose coverage under the group policy has been terminated.
9 Code section 514C.3 is amended to remove a cross-reference to
10 Code chapter 509B that is stricken by the bill.

11 Code chapter 510, beginning with Code section 510.11
12 concerning administrators of health or life insurance
13 coverage, is amended by changing the term "administrator" to
14 "third-party administrator" wherever it appears in that
15 chapter.

16 Code section 511.8(1)(b), concerning investment of funds by
17 life insurance companies and associations, is amended to
18 correct a citation to the federal Investment Company Act of
19 1940.

20 Code section 511.8(18) is amended to specify that the
21 allowable limit of certain common stocks or shares in which a
22 life insurance company or association may invest is not more
23 than one-half of 1 percent of the legal reserve.

24 Code section 511.8(22)(b), concerning requirements for
25 financial instruments used in hedging transactions by life
26 insurance companies, is stricken and rewritten to allow
27 certain financial instruments between an insurer and a
28 qualified corporation or a "conduit" to be eligible for
29 inclusion in the legal reserve of the insurer. If the
30 financial instrument is with a conduit that is not a qualified
31 counterparty, the obligation of the financial instrument must
32 be secured by cash; United States government obligations;
33 state, District of Columbia, territorial, or municipal
34 obligations; Canadian government, provincial, or municipal
35 obligations; qualified United States and Canadian corporate

1 obligations; qualified foreign government or corporate
2 obligations; and cash equivalents. For purposes of the bill,
3 a "conduit" means a person within an insurer's insurance
4 holding company system, which aggregates hedging transactions
5 by other persons within the insurance holding company system
6 and replicates them with counterparts.

7 Code section 511.8(22)(e) is amended to require that
8 financial instruments used in hedging transactions that are
9 secured by foreign government or corporate obligations are
10 included in the limitation that only 20 percent of the legal
11 reserve of an insurer can be invested in such foreign
12 investments unless such financial instruments are secured as
13 specified.

14 Code section 511.8 is also amended by adding a new
15 definition for "cash equivalents" and specifying the
16 permissible use of such investments as part of life insurance
17 company or association assets.

18 Code section 512B.25 is amended to provide an
19 administrative penalty of \$500 for a fraternal benefit society
20 that fails to timely file its annual application for renewal
21 of the society's license.

22 New Code section 514.9A provides an administrative penalty
23 of \$500 for a carrier or organized delivery system issuing
24 individual health care benefits that fails to timely file an
25 annual application for renewal of its certificate of
26 authority.

27 New Code section 514.3B provides an administrative penalty
28 of \$500 for a health maintenance organization that fails to
29 timely file an annual application for renewal of its
30 certificate of authority.

31 Code section 514B.12 is amended to provide an
32 administrative penalty of \$500 for a health maintenance
33 organization that fails to timely file its annual report and
34 an additional administrative penalty of \$100 for each day that
35 the failure continues after the organization has received

1 notice of the failure from the commissioner.

2 Code section 514B.22 is amended to provide that a foreign
3 or domestic health maintenance organization doing business in
4 this state is required to pay fees to cover the costs of
5 examinations of the organization by the commissioner.

6 Code section 514B.33 is amended to provide that limited
7 service organizations doing business in this state are
8 required to timely file an application for renewal of their
9 authority and an annual report and are subject to
10 administrative penalties for failure to do so.

11 Code section 514C.1 is amended to expand requirements for
12 supplemental coverage of newly born children to include
13 adopted children of an insured under certain policies of
14 individual or group accident and health insurance and to
15 further specify requirements applicable to newly born and
16 adopted children of an insured.

17 Code section 514C.3 is amended to specify that a "policy of
18 accident and sickness insurance" for purposes of paying for a
19 dentist's services includes an individual policy or contract
20 issued pursuant to Code chapter 514, 514A, or 514B.

21 Code section 514E.7 is amended by adding a new subsection
22 6, allowing certain persons to remain eligible for coverage
23 under the Iowa comprehensive health insurance association in
24 the event of a voluntary termination of such coverage.

25 Code section 514J.7, concerning the external review process
26 for appeal of a denial of health care coverage, is amended to
27 provide that an uncompleted review will continue if the
28 enrollee dies or changes to another health care plan before
29 the review is completed.

30 Code section 515.24 is amended to provide that premium
31 taxes for insurance companies other than life are computed on
32 gross written premiums, except that premium taxes on windstorm
33 and hail risk reinsurance are computed according to the
34 applicable percent provided in Code section 432.1 upon the
35 gross amount of premiums received.

1 Code section 515.42 is amended to provide an administrative
2 penalty of \$500 for an insurance company other than life that
3 fails to timely file the annual application for renewal of its
4 certificate of authority.

5 New Code section 515.147A provides an administrative
6 penalty of \$500 and nonrenewal of the license of an excess and
7 surplus lines insurance agent that fails to timely file the
8 annual business activity report required under Code section
9 515.147. The new section provides for an additional
10 administrative penalty of \$100 for each day that the failure
11 continues after the agent receives notice of the failure from
12 the commissioner.

13 Code section 515A.9 is amended to provide that a request of
14 a person to a rating organization or an insurer for review of
15 the manner in which the organization's or insurer's rating
16 system has been applied to that person is not a contested case
17 under Code chapter 17A, nor is an appeal to the commissioner
18 of insurance from such a review by an organization or insurer.

19 New Code section 515E.3A provides procedures and criteria
20 for allowing a foreign risk retention group to become a
21 domestic insurer in this state.

22 Code section 515F.4(5) is amended to provide that in
23 determining what is a reasonable profit during the ratemaking
24 process, the commissioner may consider income from sources
25 other than investment income attributable to unearned premium
26 and loss reserves.

27 Code section 515G.1 is amended to define who is an
28 "eligible policyholder" and a "voting policyholder" for the
29 purposes of mutual insurance company conversions.

30 Code sections 515G.2 and 515G.3 are amended to specify
31 requirements for carrying out the conversion of a mutual
32 insurance company into a stock domestic insurance company,
33 including the exchange and valuation of rights of
34 policyholders of the mutual insurer.

35 MOTOR VEHICLE SERVICE CONTRACTS -- Code section 516E.1(8)

1 is amended to redefine a "reimbursement insurance policy" as a
2 contractual liability policy that provides reimbursement to a
3 service company for services provided under a service
4 contract, or pays for service obligations incurred under a
5 service contract in the event of nonperformance by the service
6 company.

7 Code section 516E.1 is also amended to define "financial
8 institution", "premium", and "service company fee" as used in
9 the context of motor vehicle service contracts.

10 Code section 516E.2(3) is amended to require that service
11 contracts be secured by a reimbursement insurance policy in
12 compliance with Code section 516E.4 or the service company
13 must comply with financial responsibility standards
14 established for service companies in new Code section 516E.21.

15 Code section 516E.2(4)(e) is amended by striking the
16 requirement that a service company not issue or offer a
17 service contract until the proper filing fee has been paid.

18 Code section 516E.3 is amended to reflect that not all
19 service companies are required to have reimbursement
20 insurance.

21 Code section 516E.4(1) is amended to provide specific
22 requirements for reimbursement insurance policies insuring
23 motor vehicle service contracts.

24 Code section 516E.5(1) is amended to require the disclosure
25 in a service contract of whether or not the service contract
26 is insured by reimbursement insurance. Code section 516E.5(2)
27 is amended to coordinate with the change in subsection 1.

28 Code section 516E.15(1)(b) is amended to provide that a
29 service contract provider or service company, but not a third-
30 party administrator, may be penalized and subject to
31 injunctive relief for failure to file documents and
32 information required in Code section 516E.3.

33 New Code section 516E.20 provides that the sale of a motor
34 vehicle service contract under Code chapter 516E does not
35 constitute the sale of insurance unless a service company,

1 provider, or third-party administrator is otherwise engaged in
2 the sale of insurance, and the insurance laws of this state
3 are not applicable to the service company, provider, or third-
4 party administrator of a service contract.

5 New Code section 516E.21 sets forth specific statutory
6 financial responsibility and security requirements for motor
7 vehicle service companies that choose to maintain a funded
8 reserve account instead of obtaining a reimbursement insurance
9 policy as provided in Code section 516E.2.

10 COUNTY AND STATE MUTUAL INSURANCE ASSOCIATIONS -- Code
11 section 518.15 provides an administrative penalty of \$500 for
12 a county mutual insurance association that fails to timely
13 file an annual application for renewal of its certificate of
14 authority or an annual condition statement. There is an
15 additional administrative penalty of \$100 for each day that
16 the failure continues after the association is notified of the
17 failure by the commissioner.

18 Code section 518A.18 provides an administrative penalty of
19 \$500 for a state mutual association that fails to timely file
20 an annual condition statement. The bill also provides an
21 administrative penalty of \$100 for each day that the failure
22 to file continues after the association receives notice of the
23 failure from the commissioner.

24 Code section 518A.35(1) is amended to provide that premium
25 taxes on windstorm and hail risk reinsurance issued by state
26 mutual insurance associations are computed on the gross amount
27 of reinsurance premiums written instead of received.

28 Code section 518A.40 is amended to provide an
29 administrative penalty of \$500 for a state mutual insurance
30 association that fails to timely file an annual application
31 for renewal of its certificate of authority.

32 RECIPROCAL OR INTERINSURANCE INSURERS -- Code section
33 520.10 is amended to provide for an administrative penalty of
34 \$500 for the failure of a reciprocal or interinsurance insurer
35 to timely file an annual financial report and an additional

1 penalty of \$100 for each day that the failure continues after
2 the insurer receives notice of the failure from the
3 commissioner.

4 Code section 520.12 is amended to provide an administrative
5 penalty of \$500 for the failure of a reciprocal or
6 interinsurance insurer to timely file an annual application
7 for renewal of the insurer's certificate of authority.

8 CONSOLIDATION, MERGER, AND REINSURANCE -- Code section
9 521.1 is amended to include definitions for "affected
10 company", meaning a company being merged with a surviving
11 company; "commission", meaning the commission created in Code
12 chapter 521; and "commissioner", meaning the commissioner of
13 insurance.

14 Code section 521.2 is amended to apply to the consolidation
15 or merger of a domestic insurance company organized under Code
16 chapter 490 or 491 with a domestic or foreign mutual insurance
17 company. Code chapter 521 is not applicable to mergers or
18 consolidations of domestic mutual companies with stock
19 companies pursuant to Code chapter 508B or 515G. Code chapter
20 521 is also applicable to a domestic company that assumes or
21 reinsures the risks of any other company.

22 Code section 521.3 is stricken and rewritten to provide
23 that a company proposing to consolidate, merge, or enter into
24 a reinsurance contract submit an application and plan with the
25 commissioner setting forth the terms of the proposal.

26 Code section 521.4 is stricken and rewritten to provide the
27 procedure by which a commission consisting of the attorney
28 general and the commissioner of insurance may hear and
29 determine whether to approve, disapprove, or require
30 modification of a plan to consolidate, merge, or reinsure.

31 The bill allows the commission to proceed without notice or a
32 public hearing or to require notice and public hearing when it
33 deems necessary to conserve the interests of members,
34 policyholders, or shareholders of the affected company.

35 Code section 521.5 is amended to empower the commission to

1 hear and determine the application, and to approve,
2 disapprove, or require modification of the plan of
3 consolidation, merger, or reinsurance prior to approval.

4 Code section 521.6 is amended to modernize the language
5 used.

6 Code section 521.7 is amended to require that notice of
7 hearing on an application and plan of consolidation, merger,
8 or reinsurance shall be given to members, policyholders, or
9 shareholders of an affected company.

10 Code sections 521.9, 521.11, and 521.12 are redundant and
11 unnecessary as a result of the other amendments to Code
12 chapter 521 and are repealed.

13 Code section 521.10 is stricken and rewritten to provide
14 procedures for submission of a plan to members of an affected
15 company for approval by a two-thirds vote of all members
16 voting in person, by ballot, or by proxy and specify those
17 cases where approval by members is not required.

18 Code section 521.13 is amended to provide that certain
19 companies that purchase reinsurance are exempt from the
20 requirements of Code chapter 521.

21 Code section 521.14 is amended to provide that the expenses
22 and costs incident to proceeding under Code chapter 521 must
23 be paid by the company filing an application and plan under
24 the chapter.

25 Code section 521.16 is amended to provide that the
26 provisions of Code section 521A.3 concerning acquisition of
27 control of or merger with domestic insurers are applicable to
28 mergers or consolidations subject to Code chapter 521.

29 New Code section 521.17 provides that a company filing a
30 plan to merge and consolidate under Code chapter 521 is
31 required to make all appropriate filings and pay all
32 appropriate fees required under Code chapter 490 or 491, as
33 applicable.

34 New Code section 521.18 requires a company filing a plan to
35 merge or consolidate under Code chapter 521 to file its

1 articles of merger or consolidation with the commission for
2 its approval and pay a filing fee of \$50.

3 INSURANCE HOLDING COMPANY SYSTEMS -- Code section 521A.1(6)
4 is amended to remove the exemption from regulation under Code
5 chapter 521A of a company licensed under Code chapter 512B
6 (fraternal benefit society) and Code chapter 514 (nonprofit
7 health service corporations).

8 Code section 521A.2, subsections 1 and 3, are amended to
9 allow an insurer to invest in financial instruments used in
10 hedging transactions for its own account, that of its parent,
11 a subsidiary of its parent, or any affiliate or subsidiary.

12 MISCELLANEOUS PROVISIONS -- New Code section 522B.16B
13 establishes a procedure by which a person who is prohibited by
14 federal law from engaging or participating in the business of
15 insurance because of conviction of a crime under federal law
16 or a felony involving dishonesty or breach of trust may apply
17 to the commissioner of insurance for written consent to engage
18 or participate in insurance business in this state.

19 CEMETERY PROVISIONS -- Code section 523A.602(2)(b) is
20 amended to provide for cancellation and refund rights under a
21 purchase agreement for cemetery merchandise, funeral
22 merchandise, funeral services, or a combination thereof, when
23 the purchase agreement is canceled before the purchase price
24 is paid in full or another establishment provides the
25 merchandise or services before the purchase price is paid in
26 full.

27 Code section 523I.102 is amended by adding definitions for
28 "abandoned cemetery" and "veterans cemetery".

29 Code section 523I.103(1)(a) is amended to exempt veterans
30 cemeteries from the provisions of Code chapter 523I.

31 Code section 523I.201(1) is amended so that the cross-
32 reference in the subsection is consistent with that contained
33 in Code section 523A.801 naming as the deputy administrator of
34 the chapter the principal operations officer of the securities
35 and regulated industries bureau of the insurance division of

1 the department of commerce.

2 Code section 523I.309(1) is amended to establish a priority
3 for the right to control interment, relocation, or
4 disinterment of remains of a deceased person and a procedure
5 to determine the right to control when there are multiple
6 members of a class or there is disagreement among the members
7 of a class.

8 Code section 523I.316(3) is amended to authorize a
9 governmental subdivision to expend public funds to preserve
10 and protect a cemetery or burial site in its jurisdiction that
11 is not located within a dedicated cemetery.

12 New Code section 523I.317 provides that a cemetery must
13 provide or permit access to the cemetery to members of the
14 public and owners of interment rights, at reasonable times and
15 subject to reasonable regulations.

16 New Code section 523I.403 provides that a governmental
17 subdivision may acquire an abandoned cemetery after attempting
18 to notify the cemetery's owners and providing notice of its
19 intent to acquire the cemetery. The section also provides for
20 objection to such acquisition by a cemetery's owners but
21 requires the owners to provide public access to the cemetery
22 within 24 months of receiving notice of the proposed
23 acquisition in order to stop the acquisition.

24 New Code section 523I.404 provides for the acquisition of
25 an abandoned cemetery by a person who has a relative interred
26 in the cemetery or who owns interment rights in the cemetery.
27 The section requires such a person to organize a cemetery
28 association incorporated as a nonprofit corporation under Code
29 chapter 504A and attempt to identify the cemetery's owners and
30 give the owners notice of the proposed acquisition. The
31 section provides for objection by a cemetery's owners but
32 requires the owners to provide public access to the cemetery
33 within 24 months of receiving notice of the proposed
34 acquisition in order to stop the acquisition.

35 Code section 523I.508(4) is amended to provide that the

1 expenses of county officials who attend meetings of cemetery
2 officials as delegates may be paid out of the cemetery fund of
3 the township in an amount not exceeding \$25 for each delegate,
4 including association dues.

5 ELIMINATION OF COMMISSIONER OF INSURANCE SERVING AS AGENT
6 FOR SERVICE OF PROCESS -- Code sections 507A.5, 511.27,
7 511.28, 511.29, 512B.33, 514.2A, 515.73, 515.74, 520.6,
8 521.11, 521.12, 523C.20, 523C.21, and 636.21, Code 2005, are
9 repealed to eliminate the requirement that the commissioner of
10 insurance serve as an agent to receive service of process.
11 Code section 516E.12, Code Supplement 2005, is repealed to
12 eliminate the requirement that the commissioner of insurance
13 serve as an agent to receive service of process.

14 Code sections 507A.7(3), 514B.3(10), 515A.6(1), 515A.10,
15 515B.16, 515E.3, 515E.4, 515E.8, 515F.8(3)(a)(3),
16 515F.13(2)(c), 518C.17, 520.4(9), 520.5, 520.7, 521A.3(7),
17 521B.2(6)(a)(2), and 521C.3(4)(b), Code 2005, are amended to
18 eliminate the requirement that the commissioner serve as an
19 agent to receive service of process. Code section 516E.3,
20 Code Supplement 2005, is amended to eliminate the requirement
21 that the commissioner serve as an agent to receive service of
22 process.

23
24
25
26
27
28
29
30
31
32
33
34
35

SENATE FILE 2364

H-8376

1 Amend Senate File 2364, as passed by the Senate, as
2 follows:

3 1. Page 10, line 13, by striking the words
4 "contract or" and inserting the following:
5 "contractor".

6 2. Page 12, by striking lines 7 through 14.

7 3. Page 12, line 15, by striking the figure "16."
8 and inserting the following: "15."

9 4. Page 78, by inserting after line 1, the
10 following:

11 "Sec. ____ . Section 616.15, Code 2005, is amended
12 to read as follows:

13 616.15 SURETY COMPANIES.

14 1. Suit may be brought against any company or
15 corporation furnishing or pretending to furnish
16 surety, fidelity, or other bonds in this state, in any
17 county in which the principal place of business of
18 such company or corporation is maintained in this
19 state, or in any county wherein is maintained its
20 general office for the transaction of its Iowa
21 business, or in the county where the principal resides
22 at the time of bringing suit, or in the county where
23 the principal did reside at the time the bond or other
24 undertaking was executed; and in the case of bonds
25 furnished by any such company or corporation for any
26 building or improvement, either public or private,
27 action may be brought in the county wherein said
28 building or improvement, or any part thereof is
29 located.

30 2. The secretary of state shall serve as the agent
31 for service of process for the purposes of 31 U.S.C. §
32 9306, of any surety company or corporation for a
33 surety bond written by that surety company or
34 corporation for the federal government and issued in
35 this state as required or permitted under federal law,
36 if the surety company or corporation is licensed in
37 this state and cannot be otherwise served with
38 process. Notwithstanding section 507.14, upon request
39 of the secretary of state, the commissioner of
40 insurance shall provide the secretary of state with
41 the name and address of the person designated for
42 consent to service of process by the surety company or
43 corporation which is on file with the commissioner."

44 5. By renumbering as necessary.

COMMITTEE ON COMMERCE,

REGULATION AND LABOR

JENKINS of Black Hawk, Chairperson

H-8376 FILED MARCH 23, 2006

SENATE FILE 2364

H-8441

1 Amend Senate File 2364, as passed by the Senate, as
2 follows:

3 1. Page 10, line 13, by striking the words
4 "contract or" and inserting the following:
5 "contractor".

By STRUYK of Pottawattamie
KURTENBACH of Story

H-8441 FILED MARCH 30, 2006

SENATE FILE 2364

H-8505

- 1 Amend Senate File 2364, as passed by the Senate, as
2 follows:
3 1. Page 72, by striking lines 2 through 17.
4 2. Page 75, by striking lines 25 through 30.
5 3. By striking page 76, line 3, through page 77,
6 line 26.
7 4. By renumbering as necessary.

By KURTENBACH of Story

H-8505 FILED APRIL 5, 2006

SENATE FILE 2364

H-8504

- 1 Amend the amendment, H-8467, to Senate File 2364,
2 as passed by the Senate, as follows:
3 1. Page 1, by striking lines 9 and 10 and
4 inserting the following:
5 "___ . Page 75, line 20, by striking the word "a"
6 and inserting the following: "a the owner of the
7 property on which the cemetery or burial site is
8 located or to a public or".
9 ___ . Page 75, line 21, by inserting after the
10 word "preservation." the following: "The governmental
11 subdivision shall not enter into an agreement with a
12 public or private organization to preserve and protect
13 the cemetery or burial site unless the property owner
14 has been offered the opportunity to enter into such an
15 agreement and has declined to do so."
16 2. By renumbering as necessary.

By KURTENBACH of Story

H-8504 FILED APRIL 5, 2006

SENATE FILE 2364

H-8513

- 1 Amend the amendment, H-8505, to Senate File 2364,
2 as passed by the Senate, as follows:
3 1. Page 1, by inserting after line 2 the
4 following:
5 "___ . Page 72, line 3, by striking the word
6 "subsections" and inserting the following:
7 "subsection".
8 2. Page 1, by striking line 3 and inserting the
9 following:
10 "___ . Page 72, by striking lines 4 through 9."
11 3. By renumbering as necessary.

By KURTENBACH of Story

H-8513 FILED APRIL 6, 2006

OUT OF ORDER

SENATE FILE 2364

H-8467

1 Amend Senate File 2364, as passed by the Senate, as
2 follows:

3 1. Page 72, line 3, by striking the word
4 "subsections" and inserting the following:
5 "subsection".

6 2. Page 72, by striking lines 4 through 9.

7 3. Page 75, line 18, by striking the word "an"
8 and inserting the following: "~~an~~ a written".

9 4. Page 75, line 20, by inserting after the word
10 "a" the following: "public or".

11 5. Page 75, by striking lines 25 through 30 and
12 inserting the following:

13 "c. If a governmental subdivision proposes to
14 enter into an agreement with a public or private
15 organization pursuant to this subsection to preserve
16 and protect a cemetery or burial site that is located
17 on property owned by another person within the
18 jurisdiction of the governmental subdivision, the
19 proposed agreement shall be written, and the
20 governmental subdivision shall provide written notice
21 by ordinary mail of the proposed agreement to the
22 property owner at least fourteen days prior to the
23 date of the meeting at which such proposed agreement
24 will be authorized. The notice shall include the
25 location of the cemetery or burial site and a copy of
26 the proposed agreement, and explain that the property
27 owner is required to permit members of the public or
28 private organization reasonable ingress and egress for
29 the purposes of preserving and protecting the cemetery
30 or burial site pursuant to the proposed agreement.
31 The notice shall also include the date, time, and
32 place of the meeting and a statement that the property
33 owner has a right to attend the meeting and to comment
34 regarding the proposed agreement.

35 d. Subject to chapter 670, a governmental
36 subdivision that enters into an agreement with a
37 public or private organization pursuant to this
38 subsection is liable for any personal injury or
39 property damage that occurs in connection with the
40 preservation or protection of the cemetery or burial
41 site or access to the cemetery or burial site by the
42 governmental subdivision or the public or private
43 organization.

44 For the purposes of this paragraph, "liable" means
45 liability for every civil wrong which results in
46 wrongful death or injury to a person or injury to
47 property or injury to personal or property rights and
48 includes but is not restricted to actions based upon
49 negligence; error or omission; nuisance; breach of
50 duty, whether statutory or other duty; or denial or

H-8467

1 impairment of any right under any constitutional
 2 provision, statute, or rule of law.
 3 e. A property owner who is required to permit
 4 members of a public or private organization reasonable
 5 ingress and egress for the purpose or preserving or
 6 protecting a cemetery or burial site on that owner's
 7 property and who acts in good faith and in a
 8 reasonable manner pursuant to this subsection is not
 9 liable for any personal injury or property damage that
 10 occurs in connection with the preservation or
 11 protection of the cemetery or burial site or access to
 12 the cemetery or burial site.

13 f. For the purposes of this subsection, reasonable
 14 ingress and egress to a cemetery or burial site shall
 15 include the following:

16 (1) A member of a public or private organization
 17 that has entered into a written agreement with the
 18 governmental subdivision who desires to visit such a
 19 cemetery or burial site shall give the property owner
 20 at least ten days' written notice of the intended
 21 visit.

22 (2) If the property owner cannot provide
 23 reasonable access to the cemetery or burial site on
 24 the desired date, the property owner shall provide
 25 reasonable alternative dates when the property owner
 26 can provide access to the member.

27 (3) A property owner is not required to make any
 28 improvements to that person's property to satisfy the
 29 requirement to provide reasonable access to a cemetery
 30 or burial site pursuant to this subsection."

31 6. By striking page 76, line 3, through page 77,
 32 line 26.

33 7. By renumbering as necessary.

By HUSER of Polk	SWAIM of Davis
KAUFMANN of Cedar	SCHUELLER of Jackson
LALK of Fayette	

H-8467 FILED APRIL 4, 2006

SENATE FILE 2364

H-8530

1 Amend Senate File 2364, as passed by the Senate, as
 2 follows:

3 1. Page 9, line 7, by striking the word "one-
 4 third" and inserting the following: "forty-nine
 5 percent".

By STRUYK of Pottawattamie

H-8530 FILED APRIL 10, 2006

SENATE FILE 2364

H-8564

1 Amend Senate File 2364, as passed by the Senate, as
2 follows:

3 1. Page 1, by inserting after line 11 the
4 following:

5 Sec. _____. Section 15G.111, subsection 1, paragraph
6 a, Code Supplement 2005, is amended to read as
7 follows:

8 a. For the fiscal period beginning July 1, 2005
9 2006, and ending June 30, 2015, there is appropriated
10 each fiscal year from the grow Iowa values fund
11 created in section 15G.108, to the department of
12 economic development ~~thirty-five~~ thirty million
13 dollars for programs administered by the department of
14 economic development.

15 Sec. _____. Section 15G.111, Code Supplement 2005,
16 is amended by adding the following new subsection:

17 NEW SUBSECTION. 1A. For the fiscal period
18 beginning July 1, 2006, and ending June 30, 2015,
19 there is appropriated each fiscal year from the grow
20 Iowa values fund created in section 15G.108 to the
21 insurance division of the department of commerce five
22 million dollars for deposit in the small employer
23 health care reinsurance fund created in section
24 513B.13A for the purpose of administering the small
25 employer health care reinsurance program and fund
26 pursuant to section 513B.13A."

27 2. Page 30, by inserting after line 24 the
28 following:

29 "Sec. _____. NEW SECTION. 513B.13A SMALL EMPLOYER
30 HEALTH CARE REINSURANCE PROGRAM.

31 1. DEFINITIONS.

32 As used in this section, unless the context
33 otherwise requires:

34 a. "Fund" means the small employer health care
35 reinsurance fund.

36 b. "Qualified carrier" means a carrier, as defined
37 in section 513B.2.

38 c. "Small employer group health insurance plan"
39 means a group health insurance plan that provides
40 health insurance coverage for employees of a small
41 employer.

42 2. REINSURANCE FUND.

43 a. A small employer health care reinsurance fund
44 is created as a separate fund in the state treasury
45 under the control of the commissioner of insurance.

46 b. The treasurer of state shall act as custodian
47 of the fund and shall disburse amounts contained in
48 the fund as directed by the commissioner.

49 c. The commissioner shall keep accounts in
50 relation to the appropriation of moneys to the fund

H-8564

1 and all amounts of approved vouchers for
2 reimbursements to qualified carriers chargeable to the
3 fund.

4 d. Notwithstanding section 12C.7, subsection 2,
5 interest or earnings on moneys deposited in the small
6 employer health care reinsurance fund shall be
7 credited to the small employer health care reinsurance
8 fund. Notwithstanding section 8.33, moneys credited
9 to the small employer health care reinsurance fund
10 shall not revert to the general fund of the state at
11 the close of a fiscal year.

12 3. REINSURANCE PROGRAM.

13 a. A reinsurance program is created in the
14 insurance division of the department of commerce to
15 administer the fund and to make expenditures from the
16 fund pursuant to this section.

17 b. Moneys in the fund shall be used to reimburse a
18 qualified carrier that offers a small employer group
19 health insurance plan in which at least eighty-five
20 percent of the eligible employees of the small
21 employer participate, for certain claims paid by the
22 qualified carrier. The amount of reimbursement shall
23 be fifty percent of the cost of each claim that
24 amounts to at least fifty thousand dollars that is
25 paid by a qualified carrier under such a plan in a
26 year.

27 c. The commissioner shall submit an annual report
28 not later than January 1 to the governor, the general
29 assembly, and the legislative services agency
30 evaluating the fund and reinsurance program, including
31 but not limited to consideration of the factors
32 contained in subsection 5, paragraph "b", summarizing
33 the status of the fund and reinsurance program, and
34 proposing modifications to or suspension of the
35 operation of the fund and reinsurance program as
36 deemed necessary by the commissioner.

37 4. QUALIFIED CARRIERS.

38 a. In order to qualify for participation in the
39 reinsurance program for the first time, a carrier
40 shall certify to the commissioner that the carrier
41 will immediately reduce its base premium rates or
42 otherwise demonstrate to the commissioner that the
43 carrier will immediately effectively reduce premiums,
44 according to accepted actuarial guidelines adopted by
45 the commissioner by rule under chapter 17A, for all
46 small employer group health insurance plans offered by
47 the carrier for the plan benefit year in an amount
48 that reflects the estimated reimbursement the carrier
49 will receive from participating in the reinsurance
50 program during that plan benefit year, as determined

1 by the commissioner according to accepted actuarial
2 guidelines adopted by rule under chapter 17A.
3 b. In order to qualify for continued participation
4 in the reinsurance program, a carrier shall certify to
5 the commissioner that for the plan benefit year for
6 which reimbursement from the fund is claimed, the
7 carrier reduced its base premium rates or otherwise
8 demonstrate to the commissioner that the carrier
9 effectively reduced premiums, according to accepted
10 actuarial guidelines adopted by the commissioner by
11 rule under chapter 17A, for all small employer group
12 health insurance plans offered by the carrier for that
13 plan benefit year.

14 c. A qualified carrier may claim reimbursement
15 from the fund for the cost of eligible claims
16 annually, by filing, with the commissioner, a claim in
17 a form prescribed by the commissioner by rule.

18 5. MONITORING AND EVALUATION.

19 a. The commissioner shall develop and implement
20 criteria to monitor and evaluate the fund and
21 reinsurance program on an ongoing basis and may make
22 recommendations to the general assembly, including
23 proposed modifications to or suspension of the
24 operation of the fund and reinsurance program.

25 b. In monitoring and evaluating the reinsurance
26 program, the commissioner shall consider such factors
27 as the population whose claims are being reimbursed by
28 the reinsurance program, the number and percentage of
29 qualified carriers electing to utilize the reinsurance
30 program, health care reform measures implemented in
31 the state, premium costs of small employer group
32 health insurance plans offered by qualified carriers
33 that participate in the reinsurance program compared
34 to carriers that do not, and other factors deemed
35 relevant by the commissioner."

36 3. Title page, line 10, by inserting after the
37 word "cemeteries" the following: ", and creating a
38 small employer health care reinsurance program and
39 fund, and providing an appropriation".

By KAUFMANN of Cedar

SENATE FILE 2364

H-8583

1 Amend Senate File 2364, as passed by the Senate, as
2 follows:

- 3 1. Page 10, by striking lines 18 through 26.
- 4 2. Page 30, by striking lines 23 and 24.
- 5 3. Page 39, line 3, by striking the words "~~or~~
6 ~~process~~" and inserting the following: "or process".
- 7 4. Page 40, line 1, by striking the words "~~or~~
8 ~~process~~" and inserting the following: "or process".
- 9 5. Page 41, by striking lines 12 through 25.
- 10 6. Page 43, by striking lines 11 through 20.
- 11 7. By striking page 43, line 33, through page 44,
12 line 6.
- 13 8. By striking page 48, line 9, through page 50,
14 line 2, and inserting the following:

15 "Sec. _____. Section 516E.3, subsection 1, paragraph
16 a, Code Supplement 2005, is amended to read as
17 follows:

18 a. A service contract shall not be issued, sold,
19 or offered for sale in this state unless a true and
20 correct copy of the service contract, and the service
21 company's reimbursement insurance policy, if
22 applicable, have been filed with the commissioner by
23 the service company.

24 Sec. _____. Section 516E.3, subsection 2, paragraph
25 b, Code Supplement 2005, is amended to read as
26 follows:

27 b. A provider shall file a consent to service of
28 process on the commissioner, a notice with the name
29 and ownership of the provider, and such other
30 information as the commissioner requires, annually
31 with the commissioner no later than August 1. If
32 August 1 falls on a weekend or a holiday, the date for
33 filing shall be the next business day. In addition to
34 the annual filing, the provider shall promptly file
35 copies of any amended documents if material amendments
36 have been made in the materials on file with the
37 commissioner. If an annual filing is made after
38 August 1 and sales have occurred during the period
39 when the provider was in noncompliance with this
40 section, the commissioner shall assess an additional
41 filing fee that is two times the amount normally
42 required for an annual filing. A fee shall not be
43 charged for interim filings made to keep the materials
44 filed with the division current and accurate. The
45 annual filing shall be accompanied by a filing fee in
46 the amount of one hundred dollars."

47 9. Page 60, by striking lines 31 through 33 and
48 inserting the following: "the association or upon the
49 commissioner of insurance on its behalf. The
50 commissioner shall promptly transmit any notice served

H-8583

H-8583

Page 2

1 upon the commissioner to the association."

2 10. By striking page 60, line 34, through page
3 61, line 33.

4 11. By striking page 69, line 15, through page
5 70, line 16.

6 12. Page 78, by striking lines 2 through 16.

By ANDERSON of Page

R. OLSON of Polk

SWAIM of Davis

HUSER of Polk

H-8583 FILED APRIL 25, 2006

SENATE FILE 2364

H-8588

1 Amend the amendment, H-8583, to Senate File 2364,
2 as passed by the Senate, as follows:

3 1. Page 2, line 6, by striking the figure "16."
4 and inserting the following: "16, and inserting the
5 following:

6 "Sec. _____. Sections 509B.4, 521.9, 521.11, and
7 521.12, Code 2005, are repealed.

8 Sec. _____. Section 516E.17, Code Supplement 2005,
9 is repealed.""

By SWAIM of Davis

H-8588 FILED APRIL 27, 2006

SENATE FILE 2364

H-8597

1 Amend Senate File 2364, as passed by the Senate, as
2 follows:

3 1. Page 5, by inserting after line 28 the
4 following:

5 "Sec. ____ . NEW SECTION. 505.29 SERVICE OF
6 PROCESS -- FEE.

7 The commissioner of insurance, pursuant to rules
8 adopted pursuant to chapter 17A, may collect a
9 reasonable fee each time process is served on the
10 commissioner as allowed by law. Fees collected by the
11 commissioner under this section shall be used and are
12 appropriated to the insurance division to offset the
13 costs of receiving such service of process. The party
14 to a proceeding causing service of process is entitled
15 to recover this fee as costs if the party prevails in
16 the proceeding."

17 2. Page 10, by striking lines 18 through 26.

18 3. Page 30, by striking lines 23 and 24.

19 4. Page 31, by striking lines 7 and 8.

20 5. Page 39, line 3, by striking the words "~~or~~
21 ~~process~~" and inserting the following: "or process".

22 6. Page 40, line 1, by striking the words "~~or~~
23 ~~process~~" and inserting the following: "or process".

24 7. Page 41, by striking lines 12 through 27.

25 8. Page 43, by striking lines 11 through 20.

26 9. By striking page 43, line 28, through page 44,
27 line 6.

28 10. By striking page 48, line 9, through page 50,
29 line 2, and inserting the following:

30 "Sec. ____ . Section 516E.3, subsection 1, paragraph
31 a, Code Supplement 2005, is amended to read as
32 follows:

33 a. A service contract shall not be issued, sold,
34 or offered for sale in this state unless a true and
35 correct copy of the service contract, and the service
36 company's reimbursement insurance policy, if
37 applicable, have been filed with the commissioner by
38 the service company.

39 Sec. ____ . Section 516E.3, subsection 2, paragraph
40 b, Code Supplement 2005, is amended to read as
41 follows:

42 b. A provider shall file a consent to service of
43 process on the commissioner, a notice with the name
44 and ownership of the provider, and such other
45 information as the commissioner requires, annually
46 with the commissioner no later than August 1. If
47 August 1 falls on a weekend or a holiday, the date for
48 filing shall be the next business day. In addition to
49 the annual filing, the provider shall promptly file
50 copies of any amended documents if material amendments

H-8597

1 have been made in the materials on file with the
2 commissioner. If an annual filing is made after
3 August 1 and sales have occurred during the period
4 when the provider was in noncompliance with this
5 section, the commissioner shall assess an additional
6 filing fee that is two times the amount normally
7 required for an annual filing. A fee shall not be
8 charged for interim filings made to keep the materials
9 filed with the division current and accurate. The
10 annual filing shall be accompanied by a filing fee in
11 the amount of one hundred dollars."

12 11. Page 60, by striking lines 31 through 33 and
13 inserting the following: "the association or upon the
14 commissioner of insurance on its behalf. The
15 commissioner shall promptly transmit any notice served
16 upon the commissioner to the association."

17 12. By striking page 60, line 34, through page
18 61, line 33.

19 13. By striking page 69, line 15, through page
20 70, line 16.

21 14. Page 78, by striking lines 2 through 16 and
22 inserting the following:

23 "Sec. _____. Sections 509B.4, 521.9, 521.11, and
24 521.12, Code 2005, are repealed.

25 Sec. _____. Section 516E.17, Code Supplement 2005,
26 is repealed."

27 15. Title page, line 5, by inserting after the
28 word "procedures" the following: "including fees and
29 an appropriation".

30 16. By renumbering as necessary.

By HOFFMAN of Crawford
ANDERSON of Page
SWAIM of Davis

SENATE FILE 2364

H-8591

1 Amend Senate File 2364, as passed by the Senate, as
2 follows:

3 1. By striking page 75, line 9, through page 77,
4 line 26.

5 2. Page 78, by inserting after line 16 the
6 following:

7 "Sec. ____ . PUBLIC ACCESS TO CEMETERIES OR BURIAL
8 SITES -- STUDY. The commissioner of insurance shall
9 study the legal ramifications of acquiring property
10 rights or rights of access through private property to
11 a cemetery or burial site that is not located within a
12 dedicated cemetery, for the purpose of preserving and
13 protecting the cemetery or burial site; the
14 appropriate size and location of such access rights;
15 and any other issues related to expanding access to
16 such a cemetery or burial site.

17 The commissioner shall submit a report of the
18 results of the study to the general assembly and to
19 the governor no later than December 15, 2006."

20 3. By renumbering as necessary.

By EICHHORN of Hamilton

H-8591 FILED MAY 1, 2006

WITHDRAWN

SENATE FILE 2364

H-8597

1 Amend Senate File 2364, as passed by the Senate, as
2 follows:

3 1. Page 5, by inserting after line 28 the
4 following:

5 "Sec. ____ . NEW SECTION. 505.29 SERVICE OF
6 PROCESS -- FEE.

7 The commissioner of insurance, pursuant to rules
8 adopted pursuant to chapter 17A, may collect a
9 reasonable fee each time process is served on the
10 commissioner as allowed by law. Fees collected by the
11 commissioner under this section shall be used and are
12 appropriated to the insurance division to offset the
13 costs of receiving such service of process. The party
14 to a proceeding causing service of process is entitled
15 to recover this fee as costs if the party prevails in
16 the proceeding."

17 2. Page 10, by striking lines 18 through 26.

18 3. Page 30, by striking lines 23 and 24.

19 4. Page 31, by striking lines 7 and 8.

20 5. Page 39, line 3, by striking the words "~~or~~
21 ~~process~~" and inserting the following: "or process".

22 6. Page 40, line 1, by striking the words "~~or~~
23 ~~process~~" and inserting the following: "or process".

24 7. Page 41, by striking lines 12 through 27.

25 8. Page 43, by striking lines 11 through 20.

26 9. By striking page 43, line 28, through page 44,
27 line 6.

28 10. By striking page 48, line 9, through page 50,
29 line 2, and inserting the following:

30 "Sec. ____ . Section 516E.3, subsection 1, paragraph
31 a, Code Supplement 2005, is amended to read as

32 follows:

33 a. A service contract shall not be issued, sold,
34 or offered for sale in this state unless a true and
35 correct copy of the service contract, and the service
36 company's reimbursement insurance policy, if
37 applicable, have been filed with the commissioner by
38 the service company.

39 Sec. ____ . Section 516E.3, subsection 2, paragraph
40 b, Code Supplement 2005, is amended to read as
41 follows:

42 b. A provider shall file a consent to service of
43 process on the commissioner, a notice with the name
44 and ownership of the provider, and such other
45 information as the commissioner requires, annually
46 with the commissioner no later than August 1. If
47 August 1 falls on a weekend or a holiday, the date for
48 filing shall be the next business day. In addition to
49 the annual filing, the provider shall promptly file
50 copies of any amended documents if material amendments

H-8597

HOUSE AMENDMENT TO
SENATE FILE 2364

S-5242

1 Amend Senate File 2364, as passed by the Senate, as
2 follows:

3 1. Page 5, by inserting after line 28 the
4 following:

5 "Sec. ____ . NEW SECTION. 505.29 SERVICE OF
6 PROCESS -- FEE.

7 The commissioner of insurance, pursuant to rules
8 adopted pursuant to chapter 17A, may collect a
9 reasonable fee each time process is served on the
10 commissioner as allowed by law. Fees collected by the
11 commissioner under this section shall be used and are
12 appropriated to the insurance division to offset the
13 costs of receiving such service of process. The party
14 to a proceeding causing service of process is entitled
15 to recover this fee as costs if the party prevails in
16 the proceeding."

17 2. Page 9, line 7, by striking the word "one-
18 third" and inserting the following: "forty-nine
19 percent".

20 3. Page 10, line 13, by striking the words
21 "contract or" and inserting the following:
22 "contractor".

23 4. Page 10, by striking lines 18 through 26.

24 5. Page 12, by striking lines 7 through 14.

25 6. Page 12, line 15, by striking the figure "16."
26 and inserting the following: "15."

27 7. Page 30, by striking lines 23 and 24.

28 8. Page 31, by striking lines 7 and 8.

29 9. Page 39, line 3, by striking the words "~~or~~
30 ~~process~~" and inserting the following: "or process".

31 10. Page 40, line 1, by striking the words "~~or~~
32 ~~process~~" and inserting the following: "or process".

33 11. Page 41, by striking lines 12 through 27.

34 12. Page 43, by striking lines 11 through 20.

35 13. By striking page 43, line 28, through page
36 44, line 6.

37 14. By striking page 48, line 9, through page 50,
38 line 2, and inserting the following:

39 "Sec. ____ . Section 516E.3, subsection 1, paragraph
40 a, Code Supplement 2005, is amended to read as
41 follows:

42 a. A service contract shall not be issued, sold,
43 or offered for sale in this state unless a true and
44 correct copy of the service contract, and the service
45 company's reimbursement insurance policy, if
46 applicable, have been filed with the commissioner by
47 the service company.

48 Sec. ____ . Section 516E.3, subsection 2, paragraph
49 b, Code Supplement 2005, is amended to read as
50 follows:

S-5242

1 b. A provider shall file a consent to service of
2 process on the commissioner, a notice with the name
3 and ownership of the provider, and such other
4 information as the commissioner requires, annually
5 with the commissioner no later than August 1. If
6 August 1 falls on a weekend or a holiday, the date for
7 filing shall be the next business day. In addition to
8 the annual filing, the provider shall promptly file
9 copies of any amended documents if material amendments
10 have been made in the materials on file with the
11 commissioner. If an annual filing is made after
12 August 1 and sales have occurred during the period
13 when the provider was in noncompliance with this
14 section, the commissioner shall assess an additional
15 filing fee that is two times the amount normally
16 required for an annual filing. A fee shall not be
17 charged for interim filings made to keep the materials
18 filed with the division current and accurate. The
19 annual filing shall be accompanied by a filing fee in
20 the amount of one hundred dollars."

21 15. Page 60, by striking lines 31 through 33 and
22 inserting the following: "the association or upon the
23 commissioner of insurance on its behalf. The
24 commissioner shall promptly transmit any notice served
25 upon the commissioner to the association."

26 16. By striking page 60, line 34, through page
27 61, line 33.

28 17. By striking page 69, line 15, through page
29 70, line 16.

30 18. Page 72, line 3, by striking the word
31 "subsections" and inserting the following:
32 "subsection".

33 19. Page 72, by striking lines 4 through 9.

34 20. Page 75, line 18, by striking the word "an"
35 and inserting the following: "~~an~~ a written".

36 21. Page 75, line 20, by striking the word "a"
37 and inserting the following: "a the owner of the
38 property on which the cemetery or burial site is
39 located or to a public or".

40 22. Page 75, line 21, by inserting after the word
41 "preservation." the following: "The governmental
42 subdivision shall not enter into an agreement with a
43 public or private organization to preserve and protect
44 the cemetery or burial site unless the property owner
45 has been offered the opportunity to enter into such an
46 agreement and has declined to do so."

47 23. Page 75, by striking lines 25 through 30 and
48 inserting the following:

49 "c. If a governmental subdivision proposes to
50 enter into an agreement with a public or private

1 organization pursuant to this subsection to preserve
2 and protect a cemetery or burial site that is located
3 on property owned by another person within the
4 jurisdiction of the governmental subdivision, the
5 proposed agreement shall be written, and the
6 governmental subdivision shall provide written notice
7 by ordinary mail of the proposed agreement to the
8 property owner at least fourteen days prior to the
9 date of the meeting at which such proposed agreement
10 will be authorized. The notice shall include the
11 location of the cemetery or burial site and a copy of
12 the proposed agreement, and explain that the property
13 owner is required to permit members of the public or
14 private organization reasonable ingress and egress for
15 the purposes of preserving and protecting the cemetery
16 or burial site pursuant to the proposed agreement.
17 The notice shall also include the date, time, and
18 place of the meeting and a statement that the property
19 owner has a right to attend the meeting and to comment
20 regarding the proposed agreement.

21 d. Subject to chapter 670, a governmental
22 subdivision that enters into an agreement with a
23 public or private organization pursuant to this
24 subsection is liable for any personal injury or
25 property damage that occurs in connection with the
26 preservation or protection of the cemetery or burial
27 site or access to the cemetery or burial site by the
28 governmental subdivision or the public or private
29 organization.

30 For the purposes of this paragraph, "liable" means
31 liability for every civil wrong which results in
32 wrongful death or injury to a person or injury to
33 property or injury to personal or property rights and
34 includes but is not restricted to actions based upon
35 negligence; error or omission; nuisance; breach of
36 duty, whether statutory or other duty; or denial or
37 impairment of any right under any constitutional
38 provision, statute, or rule of law.

39 e. A property owner who is required to permit
40 members of a public or private organization reasonable
41 ingress and egress for the purpose of preserving or
42 protecting a cemetery or burial site on that owner's
43 property and who acts in good faith and in a
44 reasonable manner pursuant to this subsection is not
45 liable for any personal injury or property damage that
46 occurs in connection with the preservation or
47 protection of the cemetery or burial site or access to
48 the cemetery or burial site.

49 f. For the purposes of this subsection, reasonable
50 ingress and egress to a cemetery or burial site shall

1 include the following:

2 (1) A member of a public or private organization
3 that has entered into a written agreement with the
4 governmental subdivision who desires to visit such a
5 cemetery or burial site shall give the property owner
6 at least ten days' written notice of the intended
7 visit.

8 (2) If the property owner cannot provide
9 reasonable access to the cemetery or burial site on
10 the desired date, the property owner shall provide
11 reasonable alternative dates when the property owner
12 can provide access to the member.

13 (3) A property owner is not required to make any
14 improvements to that person's property to satisfy the
15 requirement to provide reasonable access to a cemetery
16 or burial site pursuant to this subsection."

17 24. By striking page 76, line 3, through page 77,
18 line 26.

19 25. Page 78, by inserting after line 1, the
20 following:

21 "Sec. ____ . Section 616.15, Code 2005, is amended
22 to read as follows:

23 616.15 SURETY COMPANIES.

24 1. Suit may be brought against any company or
25 corporation furnishing or pretending to furnish
26 surety, fidelity, or other bonds in this state, in any
27 county in which the principal place of business of
28 such company or corporation is maintained in this
29 state, or in any county wherein is maintained its
30 general office for the transaction of its Iowa
31 business, or in the county where the principal resides
32 at the time of bringing suit, or in the county where
33 the principal did reside at the time the bond or other
34 undertaking was executed; and in the case of bonds
35 furnished by any such company or corporation for any
36 building or improvement, either public or private,
37 action may be brought in the county wherein said
38 building or improvement, or any part thereof is
39 located.

40 2. The secretary of state shall serve as the agent
41 for service of process for the purposes of 31 U.S.C. §
42 9306, of any surety company or corporation for a
43 surety bond written by that surety company or
44 corporation for the federal government and issued in
45 this state as required or permitted under federal law,
46 if the surety company or corporation is licensed in
47 this state and cannot be otherwise served with
48 process. Notwithstanding section 507.14, upon request
49 of the secretary of state, the commissioner of
50 insurance shall provide the secretary of state with

S-5242

Page 5

1 the name and address of the person designated for
2 consent to service of process by the surety company or
3 corporation which is on file with the commissioner."

4 26. Page 78, by striking lines 2 through 16 and
5 inserting the following:

6 "Sec. _____. Sections 509B.4, 521.9, 521.11, and
7 521.12, Code 2005, are repealed.

8 Sec. _____. Section 516E.17, Code Supplement 2005,
9 is repealed."

10 27. Title page, line 5, by inserting after the
11 word "procedures" the following: "including fees and
12 an appropriation".

13 28. By renumbering, relettering, or redesignating
14 and correcting internal references as necessary.

RECEIVED FROM THE HOUSE

S-5242 FILED MAY 2, 2006

CONCURRED

McCoy CO-Chair
Wieck CO-Chair
Rielly
Ziemann

Succeeded By
SF / HF 2364

SSB# 3215
Commerce

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
COMMERCE/INSURANCE DIVISION
BILL)

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

A BILL FOR

1 An Act relating to various matters under the purview of the
2 insurance division of the department of commerce including the
3 securities and regulated industries bureau, insurance premium
4 taxes, the uniform securities Act, insurance division
5 procedures, regulation of insurance companies and other
6 entities including administrative penalties, motor vehicle
7 service contracts, county and state mutual insurance
8 associations, reciprocal or interinsurance insurers,
9 consolidation, merger and reinsurance contracts, insurance
10 holding company systems, and cemeteries.

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

12
13
14
15
16
17
18
19
20
21
22

1 Section 1. Section 11.6, subsection 1, paragraph b,
2 subparagraph (6), Code Supplement 2005, is amended to read as
3 follows:

4 (6) A joint investment trust organized pursuant to chapter
5 28E shall file the audit reports required by this chapter with
6 the administrator of the securities and regulated industries
7 bureau of the insurance division of the department of commerce
8 within ten days of receipt from the auditor. The auditor of a
9 joint investment trust shall provide written notice to the
10 administrator of the time of delivery of the reports to the
11 joint investment trust.

12 Sec. 2. Section 22.7, Code Supplement 2005, is amended by
13 adding the following new subsections:

14 NEW SUBSECTION. 52. Information obtained and prepared by
15 the commissioner of insurance pursuant to section 507.14.

16 NEW SUBSECTION. 53. Information obtained and prepared by
17 the commissioner of insurance pursuant to section 507E.5.

18 Sec. 3. Section 432.1, subsection 3, Code Supplement 2005,
19 is amended to read as follows:

20 3. The applicable percent, as provided in subsection 4, of
21 the gross amount of premiums, assessments, and fees received
22 during the preceding calendar year by every company or
23 association other than life on contracts of insurance other
24 than life for business done in this state, including all
25 insurance upon property situated in this state, after
26 deducting the amounts returned upon canceled policies,
27 certificates and rejected applications but not including the
28 gross premiums written, assessments, and fees in connection
29 with ocean marine insurance authorized in section 515.48.

30 Sec. 4. Section 432.5, Code 2005, is amended to read as
31 follows:

32 432.5 RISK RETENTION GROUPS.

33 A risk retention group organized and operating pursuant to
34 Pub. L. No. 99-563, also known as the risk retention
35 amendments of 1986, shall pay as taxes to the director of

3215

1 revenue an amount equal to the applicable percent, as provided
2 in section 432.1, subsection 4, of the gross amount of the
3 premiums received written during the previous calendar year
4 for risks placed in this state. A resident or nonresident
5 producer shall report and pay the taxes on the premiums for
6 risks that the producer has placed in this state with or on
7 behalf of a risk retention group. The failure of a risk
8 retention group to pay the tax imposed in this section shall
9 result in the risk retention group being considered an
10 unauthorized insurer under chapter 507A.

11 Sec. 5. Section 502.102, subsection 5, paragraph b,
12 subparagraph (3), Code Supplement 2005, is amended to read as
13 follows:

14 (3) An industrial loan company that is not an "insured
15 depository institution" as defined in section 3(c)(2) of the
16 Federal Deposit Insurance Act, 12 U.S.C. § 1813(c)(2), or any
17 successor federal statute.

18 Sec. 6. Section 502.102, subsection 27A, Code Supplement
19 2005, is amended to read as follows:

20 27A. "Securities and regulated industries bureau" means
21 the securities and regulated industries bureau of the
22 insurance division of the department of commerce.

23 Sec. 7. Section 502.201, subsection 8A, paragraph b,
24 unnumbered paragraph 1, Code 2005, is amended to read as
25 follows:

26 A mutual or cooperative organization, including a
27 cooperative association organized in good faith under and for
28 any of the purposes enumerated in chapter 497, 498, 499, or
29 501, or 501A, that deals in commodities or supplies goods or
30 services in transactions primarily with and for the benefit of
31 its members, if all of the following apply:

32 Sec. 8. Section 502.304, subsection 2A, Code 2005, is
33 amended to read as follows:

34 2A. REPORTS AND EXAMINATIONS. The administrator may by
35 rule or order require as a condition of registration by

1 qualification, and at the expense of the applicant or
2 registrant, that a report by an accountant, engineer,
3 appraiser, or other professional person be filed. The
4 administrator may also designate one or more employees of the
5 securities and regulated industries bureau to make an
6 examination of the business and records of an issuer of
7 securities for which a registration statement has been filed
8 by qualification, at the expense of the applicant or
9 registrant.

10 Sec. 9. Section 502.412, subsection 2, paragraph a, Code
11 Supplement 2005, is amended to read as follows:

12 a. Institute a revocation or suspension proceeding under
13 this subsection based solely on an order issued under a law of
14 another state that is reported to the administrator or a
15 designee of the administrator more than one year after the
16 date of the order on which it is based.

17 Sec. 10. Section 502.412, subsection 3, Code Supplement
18 2005, is amended to read as follows:

19 3. DISCIPLINARY PENALTIES -- REGISTRANTS. If the
20 administrator finds that the order is in the public interest
21 and subsection 4, paragraphs "a" through "f", "h", "i", "j",
22 or "l", and or "m", authorizes the action, an order under this
23 chapter may censure, impose a bar, or impose a civil penalty
24 in an amount not to exceed a maximum of five thousand dollars
25 for a single violation or five hundred thousand dollars for
26 more than one violation, on a registrant, and, if the
27 registrant is a broker-dealer or investment adviser, a
28 partner, officer, director, or person having a similar status
29 or performing similar functions, or a person directly or
30 indirectly in control, of the broker-dealer or investment
31 adviser.

32 Sec. 11. Section 502.510, subsection 1, paragraph e, Code
33 2005, is amended to read as follows:

34 e. If the basis for relief under this section may have
35 been a violation of section 502.509, subsection 3 5, an offer

1 to reimburse in cash the consideration paid for the advice and
2 interest at the legal rate from the date of payment.

3 Sec. 12. Section 502.601, subsection 1, Code Supplement
4 2005, is amended to read as follows:

5 1. ADMINISTRATION. This chapter shall be administered by
6 the commissioner of insurance of this state. The
7 administrator shall appoint a deputy administrator who shall
8 be exempt from the merit system provisions of chapter 8A,
9 subchapter IV. The deputy administrator is the principal
10 operations officer of the securities and regulated industries
11 bureau of the insurance division of the department of
12 commerce. The deputy administrator is responsible to the
13 administrator for the routine administration of this chapter
14 and the management of the securities and regulated industries
15 bureau. In the absence of the administrator, whether because
16 of vacancy in the office, by reason of absence, physical
17 disability, or other cause, the deputy administrator shall be
18 the acting administrator and shall, for that period, have and
19 exercise the authority conferred upon the administrator. The
20 administrator may by order delegate to the deputy
21 administrator any or all of the functions assigned to the
22 administrator under this chapter. The administrator shall
23 employ officers, attorneys, accountants, and other employees
24 as needed for the administration of this chapter.

25 Sec. 13. Section 502A.1, subsection 1, Code 2005, is
26 amended to read as follows:

27 1. "Administrator" means the administrator of the
28 securities and regulated industries bureau of the insurance
29 division of the department of commerce.

30 Sec. 14. Section 502A.15, subsection 1, Code 2005, is
31 amended to read as follows:

32 1. This chapter shall be administered by the administrator
33 of the securities and regulated industries bureau of the
34 insurance division of the department of commerce.

35 Sec. 15. Section 505.16, subsection 2, Code 2005, is

1 amended to read as follows:

2 2. The insurance commissioner shall approve rules for
3 carrying out this section including rules relating to the
4 preparation of information to be provided before and after a
5 test and the protection of confidentiality of personal and
6 medical records of insurance applicants and policyholders.
7 The rules shall require a person engaged in the business of
8 insurance who receives results of a positive human
9 immunodeficiency virus test of an insurance applicant or
10 policyholder to report those results to a physician or
11 alternative testing site of the applicant's or policyholder's
12 choice, or if the applicant or policyholder does not choose a
13 physician or alternative testing site to receive the results,
14 to the Iowa department of public health.

15 Sec. 16. NEW SECTION. 505.27 CONSENT TO JURISDICTION.

16 A person committing any act governed by chapter 502, 502A,
17 505 through 523G, or 523I constitutes consent by that person
18 to the jurisdiction of the commissioner of insurance and the
19 district courts of this state.

20 Sec. 17. NEW SECTION. 505.28 ADMINISTRATIVE HEARINGS.

21 The commissioner of insurance shall have the authority to
22 appoint as a hearing officer a designee or an independent
23 administrative law judge. Duties of a hearing officer shall
24 include hearing contested cases arising from conduct governed
25 by chapters 502, 502A, 505 through 523G, and 523I. Sections
26 10A.801 and 17A.11 do not apply to the appointment of a
27 designee or an administrative law judge pursuant to this
28 section.

29 Sec. 18. Section 507.10, subsection 5, paragraph b, Code
30 2005, is amended to read as follows:

31 b. The commissioner is not prevented from disclosing the
32 content of an examination report, preliminary examination
33 report or results, or any matter relating to the report, to an
34 insurance department of any other state or country, to the
35 national association of insurance commissioners, or to law

3215

1 enforcement officials of this or any other state or an agency
2 of the federal government at any time, so long as such agency
3 or office receiving the report, or matters relating to the
4 report, agrees in writing to maintain the confidentiality of
5 the report or such matters in a manner consistent with this
6 chapter.

7 Sec. 19. Section 507.14, Code 2005, is amended to read as
8 follows:

9 507.14 CONFIDENTIAL DOCUMENTS -- EXCEPTIONS.

10 1. A preliminary report of an examination of a domestic or
11 foreign insurer, and all notes, work papers, or other
12 documents related to an examination of an insurer are not
13 public confidential records under chapter 22 except when
14 sought by the insurer to whom they relate, an insurance
15 regulator of another state, or the national association of
16 insurance commissioners, and shall be privileged and
17 confidential in any judicial or administrative proceeding
18 except any of the following:

- 19 1- a. An action commenced by the commissioner under
20 chapter 507C.
- 21 2- b. An administrative proceeding brought by the
22 insurance division under chapter 17A.
- 23 3- c. A judicial review proceeding under chapter 17A
24 brought by an insurer to whom the records relate.
- 25 4- d. An action or proceeding which arises out of the
26 criminal provisions of the laws of this state or the United
27 States.
- 28 5- e. An action brought in a shareholders' derivative
29 suit against an insurer.
- 30 6- f. An action brought to recover moneys or to recover
31 upon an indemnity bond for embezzlement, misappropriation, or
32 misuse of insurer funds.

33 2. A report of an examination of a domestic or foreign
34 insurer which is preliminary under the rules of the division
35 is not-a-public a confidential record under chapter 22 except

1 when sought by the insurer to which the report relates or an
2 insurance regulator of another state, and is privileged and
3 confidential in any judicial or administrative proceeding.

4 3. All work papers, notes, recorded information,
5 documents, market conduct annual statements, and copies
6 thereof that are produced or obtained by or disclosed to the
7 commissioner or any other person in the course of analysis by
8 the commissioner of the financial condition or market conduct
9 of an insurer are confidential records under chapter 22 and
10 shall be privileged and confidential in any judicial or
11 administrative proceeding except any of the following:

12 a. An action commenced by the commissioner under chapter
13 507C.

14 b. An administrative proceeding brought by the insurance
15 division under chapter 17A.

16 c. A judicial review proceeding under chapter 17A brought
17 by an insurer to whom the records relate.

18 d. An action or proceeding which arises out of the
19 criminal provisions of the laws of this state or the United
20 States.

21 4. Confidential documents, materials, information,
22 administrative or judicial orders, or other actions may be
23 disclosed to a regulatory official of any state, federal
24 agency, or foreign country provided that the recipients are
25 required, under their law, to maintain their confidentiality.
26 Confidential records may be disclosed to the national
27 association of insurance commissioners provided that the
28 association certifies by written statement that the
29 confidentiality of the records will be maintained.

30 5. A financial statement filed by an employer self-
31 insuring workers' compensation liability pursuant to section
32 87.11, or the working papers of an examiner or the division in
33 connection with calculating appropriate security and reserves
34 for the self-insured employer are not-public confidential
35 records under chapter 22 except when sought by the employer to

3215

1 which the financial statement or working papers relate or an
2 insurance or workers' compensation self-insurance regulator of
3 another state, and are privileged and confidential in any
4 judicial or administrative proceeding. The financial
5 information of a nonpublicly traded employer which self-
6 insures for workers' compensation liability pursuant to
7 section 87.11 is protected as proprietary trade secrets to the
8 extent consistent with the commissioner's duties to oversee
9 the security of self-insured workers' compensation liability.

10 6. Analysis notes, work papers, or other documents related
11 to the analysis of an insurer are ~~not-public~~ confidential
12 records under chapter 22.

13 Sec. 20. Section 507A.4, Code 2005, is amended by adding
14 the following new subsection:

15 NEW SUBSECTION. 10. a. A self-funded health benefit plan
16 sponsored by an employer in this state under the federal
17 Employee Retirement Income Security Act of 1974, as codified
18 in 29 U.S.C. § 1169, which provides health benefits to
19 independent contractors of the employer and to spouses and
20 dependents of the independent contractors, if the plan is
21 granted a waiver from the provisions of this chapter by the
22 commissioner and meets all of the following conditions:

23 (1) There is a written contract between the sponsor of the
24 health benefit plan and the independent contractor which
25 establishes the relationship between the parties to the
26 contract and provides for the personal services to be provided
27 by the independent contractor to the sponsor of the health
28 benefit plan pursuant to the contract.

29 (2) The personal services to be provided by the
30 independent contractor pursuant to the contract are directly
31 related to the principal business of the sponsor of the health
32 benefit plan.

33 (3) The contract provides that the independent contractor
34 will provide services to the sponsor of the health benefit
35 plan on an exclusive basis.

1 (4) The inclusion of the independent contractor in the
2 sponsor's health benefit plan is incidental to the contractual
3 relationship between the sponsor of the health benefit plan
4 and the independent contractor.

5 (5) Independent contractors and their spouses and
6 dependents included in an employer-sponsored health benefit
7 plan do not in total equal more than one-third of the total
8 persons covered by the health benefit plan.

9 (6) The health benefit plan is administered by an
10 authorized insurer or an authorized third-party administrator.

11 b. The sponsor of the health benefit plan shall file an
12 application for waiver from the provisions of this chapter
13 with the commissioner as prescribed by the commissioner and
14 shall file periodic statements and information as required by
15 the commissioner. The commissioner shall adopt rules pursuant
16 to chapter 17A implementing this subsection. All statements
17 and information filed with or disclosed to the commissioner
18 pursuant to this subsection are confidential records pursuant
19 to chapter 22.

20 c. If at any time the commissioner determines that a
21 health benefit plan for which a waiver has been granted does
22 not meet all of the conditions of paragraph "a", and the rules
23 adopted by the commissioner under paragraph "b", the
24 commissioner may terminate the waiver granted to the health
25 benefit plan.

26 d. A self-funded employer-sponsored health benefit plan
27 which has a valid waiver from the provisions of this chapter
28 shall not be considered any of the following:

29 (1) An insurance company or association of any kind or
30 character under section 432.1.

31 (2) A member insurer of the Iowa life and health insurance
32 guaranty association as defined in section 508C.5, subsection
33 8.

34 (3) A carrier under chapter 513B.

35 (4) A member of the Iowa individual health benefit

1 reinsurance association under section 513C.10.

2 (5) An entity subject to chapter 514C.

3 (6) A multiple employer welfare arrangement as defined in
4 subsection 9.

5 e. A self-funded employer-sponsored health benefit plan
6 which has received a waiver from the provisions of this
7 chapter shall be considered to be a self-funded employer-
8 sponsored health plan under the federal Employee Retirement
9 Income Security Act of 1974, as codified in 29 U.S.C. § 1169,
10 and not subject to this title so long as the waiver is in
11 effect.

12 f. The provision of health benefits to an independent
13 contract or by a self-funded employer-sponsored health benefit
14 plan which meets all of the conditions of paragraph "a" shall
15 not in and of itself create an employer-employee relationship
16 between the independent contractor and the sponsor of the
17 health benefit plan.

18 Sec. 21. Section 507A.7, subsection 3, Code 2005, is
19 amended to read as follows:

20 3. Nothing in subsection 1 of this section shall be
21 construed to prevent an unauthorized person or foreign or
22 alien insurer from filing a motion to quash a writ or to set
23 aside service thereof made in the manner provided in ~~sections~~
24 ~~507A-5-and~~ section 507A.6, on the ground that such
25 unauthorized person or insurer has not done any of the acts
26 enumerated in section 507A.3.

27 Sec. 22. Section 507A.9, subsection 1, Code 2005, is
28 amended to read as follows:

29 1. ~~Effective-with~~ For all premiums collected during the
30 calendar year ~~1967~~, except premiums on lawfully procured
31 surplus lines insurance, every unauthorized insurer shall pay
32 to the commissioner of insurance before March 1, next
33 succeeding the calendar year in which the insurance was so
34 effectuated, continued, or renewed a premium tax ~~of-two~~
35 ~~percent-of~~ on gross premiums charged for such insurance on

1 subjects resident, located, or to be performed in this state
2 equal to the applicable percent, as provided in section 432.1.
3 Such insurance whether procured through negotiation or an
4 application, in whole or in part occurring or made within or
5 outside of this state, or for which premiums in whole or in
6 part are remitted directly or indirectly from within or
7 outside of this state, shall be deemed to be insurance
8 procured or continued in this state. The term "premium"
9 includes all premiums, membership fees, assessments, dues, and
10 any other consideration for insurance. If the tax prescribed
11 by this section is not paid within the time stated, the tax
12 shall be increased by a penalty of twenty-five percent and by
13 the amount of an additional penalty computed at the rate of
14 one percent per month or any part thereof from the date such
15 payment was due to the date paid.

16 Sec. 23. Section 507B.4, Code 2005, is amended by adding
17 the following new subsections:

18 NEW SUBSECTION. 9A. USE OF INQUIRIES. Considering either
19 of the following events for purposes of surcharging,
20 declining, nonrenewing, or canceling personal lines property
21 and casualty insurance coverage or a binder for personal lines
22 property and casualty insurance coverage:

23 a. An applicant's or insured's inquiry into the type or
24 level of coverage of a policy, or an inquiry into whether a
25 policy will cover a loss.

26 b. An insured's inquiry regarding coverage of a policy for
27 a loss if the insured does not file a claim.

28 NEW SUBSECTION. 9B. HISTORY OF A PROPERTY. Declining to
29 insure a property not previously owned by an applicant for
30 personal lines property and casualty insurance, based solely
31 on the loss history of a previous owner of the property,
32 unless the insurer can provide evidence that the previous
33 owner did not repair damage to the property.

34 NEW SUBSECTION. 9C. DISCLOSURE OF USE OF CLAIMS HISTORY.
35 Failing to inform an applicant at the time that an application

1 for personal lines property and casualty insurance is made, in
2 writing or in the same medium as the application is made, that
3 the insurer will consider the applicant's or insured's claims
4 history in determining whether to decline, cancel, nonrenew,
5 or surcharge such a policy, and that a claim made by an
6 insured will be reported to an insurance support organization.

7 NEW SUBSECTION. 15. REQUIRED DISCLOSURES. Failing to
8 inform a prospective purchaser of insurance that an insurance
9 producer is acting as a licensed insurance producer, or
10 failing to disclose the full name of the insurance company
11 which the insurance producer will represent in the insurance
12 sales presentation. In sales presentations where an insurance
13 producer is not involved, an insurer shall disclose the full
14 name of the insurer to a prospective purchaser.

15 NEW SUBSECTION. 16. INFORMATION. Failing or refusing to
16 furnish any individual, upon reasonable request, information
17 to which that individual is entitled, or to respond to a
18 formal written request or complaint from any individual.

19 NEW SUBSECTION. 17. PROHIBITED TRANSACTIONS. Executing
20 an insurance transaction with an individual without the
21 individual's consent, or selling an insurance policy or rider
22 to an individual that is a duplication of a policy or rider
23 that the individual already owns or for which the individual
24 has already applied at the time of the sale.

25 Sec. 24. Section 507B.4, Code 2005, is amended by adding
26 the following new unnumbered paragraph:

27 NEW UNNUMBERED PARAGRAPH. For purposes of subsections 9A,
28 9B, and 9C, "personal lines property and casualty insurance"
29 means insurance sold to individuals and families primarily for
30 noncommercial purposes as provided in chapter 522B.

31 Sec. 25. NEW SECTION. 507B.4B SUITABILITY.

32 1. A person shall not recommend to any individual the
33 purchase, sale, or exchange of any life insurance policy or
34 annuity, or any rider, endorsement, or amendment thereto,
35 unless the person has reasonable grounds to believe that the

1 recommendation is suitable for the individual based on a
2 reasonable inquiry into the individual's financial status,
3 investment objectives, and other relevant information.

4 2. A person engaged in the business of life insurance and
5 annuities shall establish and maintain a system to monitor
6 recommendations made, that is reasonably designed to achieve
7 compliance with subsection 1.

8 3. The commissioner shall adopt rules pursuant to chapter
9 17A establishing procedures and standards for implementation
10 of the suitability requirements of subsection 1.

11 Sec. 26. NEW SECTION. 507B.15 ADMINISTRATIVE HEARINGS.

12 Section 505.28 is applicable to hearings required by
13 sections 507B.6, 507B.6A, and 507B.7.

14 Sec. 27. Section 507C.2, subsection 13, Code Supplement
15 2005, is amended by adding the following new unnumbered
16 paragraph:

17 NEW UNNUMBERED PARAGRAPH. "General assets" does not
18 include that portion of the assets of the insurer allocated to
19 and accumulated in a separate account established pursuant to
20 section 508A.1, unless otherwise provided by the applicable
21 policy, annuity, agreement, instrument, or contract. However,
22 if any assets allocated to and accumulated in a separate
23 account, after the satisfaction of any liabilities with regard
24 to the operation of the separate account, are in excess of an
25 amount equal to the reserves and other liabilities with
26 respect to the separate account, the excess shall be treated
27 as part of the general assets of the insurer.

28 Sec. 28. Section 507C.42, unnumbered paragraph 1, Code
29 2005, is amended to read as follows:

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

3215

1 section, "insurer's estate" means the general assets of the
2 insurer. The order of distribution of claims is:

3 Sec. 29. Section 507C.42, subsection 2, Code 2005, is
4 amended to read as follows:

5 2. CLASS 2. Claims under policies, including claims of
6 the federal or any state or local government, for losses
7 incurred, including third-party claims, claims against the
8 insurer for liability for bodily injury or for injury to or
9 destruction of tangible property which are not under policies,
10 claims of a guaranty association or foreign guaranty
11 association, claims under funding agreements as provided in
12 section 508.31A, subsection 3, claims for an insufficiency in
13 the assets allocated to and accumulated in a separate account
14 as provided in section 508A.1, subsection 8, and claims for
15 unearned premium. Claims under life insurance and annuity
16 policies, whether for death proceeds, annuity proceeds, or
17 investment values, shall be treated as loss claims. That
18 portion of a loss, indemnification for which is provided by
19 other benefits or advantages recovered by the claimant, shall
20 not be included in this class, other than benefits or
21 advantages recovered or recoverable in discharge of familial
22 obligations of support or by way of succession at death or as
23 proceeds of life insurance, or as gratuities. A payment by an
24 employer to an employee is not a gratuity.

25 Sec. 30. Section 507E.5, Code 2005, is amended by striking
26 the section and inserting in lieu thereof the following:

27 507E.5 CONFIDENTIALITY.

28 1. All investigation files, investigation reports, and all
29 other investigative information in the possession of the
30 bureau are confidential records under chapter 22 except as
31 specifically provided in this section and are not subject to
32 discovery, subpoena, or other means of legal compulsion for
33 their release until opened for public inspection by the
34 bureau, or upon the consent of the bureau, or until a court of
35 competent jurisdiction determines, after notice to the bureau

1 and hearing, that the bureau will not be unnecessarily
2 hindered in accomplishing the purposes of this chapter by
3 their opening for public inspection. However, investigative
4 information in the possession of the bureau may be disclosed,
5 in the commissioner's discretion, to appropriate licensing
6 authorities within this state, another state or the District
7 of Columbia, or a territory or country in which a licensee is
8 licensed or has applied for a license.

9 2. The commissioner may share documents, materials, or
10 other information, including confidential and privileged
11 documents, materials, or other information, with other state,
12 federal, and international regulatory agencies, with the
13 national association of insurance commissioners and its
14 affiliates or subsidiaries, and with state, federal, and
15 international law enforcement authorities, provided that the
16 recipient agrees to maintain the confidential and privileged
17 status of the document, material, or other information,
18 pursuant to Iowa law.

19 3. The commissioner may receive documents, materials, or
20 other information, including otherwise confidential and
21 privileged documents, materials, or other information, from
22 other local, state, federal, and international regulatory
23 agencies, the national association of insurance commissioners
24 and its affiliates or subsidiaries, and local, state, federal,
25 and international law enforcement authorities, and shall
26 maintain as confidential and privileged any document,
27 material, or other information received with notice or the
28 understanding that it is confidential or privileged under the
29 laws of the jurisdiction that is the source of the document,
30 material, or other information.

31 4. The commissioner may enter into agreements governing
32 the sharing and use of documents, materials, or other
33 information consistent with this section.

34 5. An investigator or other staff member of the bureau is
35 not subject to subpoena in a civil action concerning any

2B64
3215

1 matter of which the investigator or other staff member has
2 knowledge pursuant to a pending or continuing investigation
3 being conducted by the bureau pursuant to this chapter.

4 Sec. 31. Section 508.13, Code 2005, is amended to read as
5 follows:

6 508.13 ANNUAL CERTIFICATE OF AUTHORITY.

7 1. On receipt of an application for a certificate of
8 authority or renewal of a certificate of authority, fees, the
9 deposit provided in section 511.8, subsection 16; and the
10 statement, and the statement and evidence of investment of
11 foreign companies, ~~all of which shall be renewed annually, by~~
12 ~~the first day of March,~~ the commissioner of insurance shall
13 issue a certificate or a renewal of a certificate setting
14 forth the corporate name of the company, its home office, that
15 it has fully complied with the laws of the state and is
16 authorized to transact the business of life insurance for the
17 ensuing year, which certificate shall expire on the first day
18 of June of the ensuing year, or sooner upon thirty days'
19 notice given by the commissioner, of the next annual valuation
20 of its policies. ~~Such certificate shall be renewed annually,~~
21 ~~upon the renewal of the deposit and statement by a domestic~~
22 ~~company, or of the statement and evidence of investment by a~~
23 ~~foreign company, and compliance with the conditions above~~
24 ~~required, and be subject to revocation as the original~~
25 ~~certificate.~~

26 2. A company shall submit annually on or before March 1 a
27 completed application for renewal of its certificate of
28 authority. A certificate of authority shall expire on the
29 first day of June next succeeding its issue and shall be
30 renewed annually so long as the company transacts business in
31 accordance with all legal requirements of the state.

32 3. A company that fails to timely file an application for
33 renewal of its certificate of authority shall pay an
34 administrative penalty of five hundred dollars to the
35 treasurer of state for deposit in the general fund of the

1 state as provided in section 505.7.

2 4. A copy of a certificate of authority, when certified by
3 the commissioner, shall be admissible in evidence for or
4 against a company, with the same effect as the original.

5 Sec. 32. Section 508A.1, Code 2005, is amended by adding
6 the following new subsection:

7 NEW SUBSECTION. 8. If the assets of an insurer allocated
8 to and accumulated in a separate account in connection with
9 any policy, annuity, agreement, instrument, or contract, after
10 the satisfaction of any liabilities with regard to the
11 operation of the separate account, are insufficient to fully
12 satisfy the insurer's express obligations under the policy,
13 annuity, agreement, instrument, or contract, then claims for
14 the unsatisfied portions of the insurer's obligations shall be
15 class 2 claims under section 507C.42, subsection 2.

16 Sec. 33. Section 509.1, subsection 1, paragraph b, Code
17 2005, is amended to read as follows:

18 b. The premium for the group life policy shall be paid by
19 the policyholder, either wholly from the employer's funds or
20 funds contributed by ~~the employer, or partly from such funds~~
21 ~~and partly from funds contributed by~~ the insured employees, or
22 from both. No A policy, ~~except of group~~ accident and health,
23 ~~may be issued on which the entire premium is to be derived~~
24 ~~from funds contributed by the insured employees.--A policy~~
25 insurance on which part of the premium is to be derived from
26 funds contributed by the insured employees may be placed in
27 force only if at least seventy-five percent of the then
28 eligible employees, excluding any as to whom evidence of
29 individual insurability is not satisfactory to the insurer,
30 elect to make the required contributions. A policy on which
31 no part of the premium is to be derived from funds contributed
32 by the insured employees must insure all eligible employees,
33 or all except any as to whom evidence of individual
34 insurability is not satisfactory to the insurer. As used in
35 this paragraph, "accident and health insurance" does not

1 include disability income insurance.

2 Sec. 34. Section 509A.15, subsection 1, paragraph d, Code
3 2005 is amended to read as follows:

4 d. That the governing body has contracted or otherwise
5 arranged with a third-party administrator who holds a current
6 certificate of registration issued by the commissioner
7 pursuant to section 510.21, or with a person not required to
8 obtain the certificate as an a third-party administrator as
9 defined in section 510.11, subsection 1.

10 Sec. 35. Section 509A.15, subsection 4, Code 2005, is
11 amended to read as follows:

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 two 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 two percent of the political subdivision's or
27 school corporation's general fund budget.

28 Sec. 36. Section 509B.1, subsection 4, Code 2005, is
29 stricken.

30 Sec. 37. Section 509B.5, subsection 1, Code 2005, is
31 amended to read as follows:

32 1. Employers or group policyholders shall notify all
33 employees or members of their continuation ~~and-conversion~~
34 rights within ten days of termination of employment or
35 membership. The notice shall be in writing and delivered in

1 person or mailed to the person's last known address. However,
2 continuation ~~and-conversion~~ rights shall not be denied because
3 of failure to provide proper notice. After receiving proper
4 notice the employee or member may request and shall receive
5 continuation ~~or-conversion~~ coverage in accordance with this
6 chapter within ten days of the request, notwithstanding any
7 other time limitation provided by this chapter. Notification
8 as provided in this section supersedes section 515.80 as that
9 section relates to accident and health insurance.

10 Sec. 38. Section 510.11, Code 2005, is amended by striking
11 the section and inserting in lieu thereof the following:

12 510.11 DEFINITIONS.

13 1. "Life or health insurance" includes but is not limited
14 to the following:

15 a. Individual or group accident and sickness insurance
16 providing coverage on an expense-incurred basis.

17 b. An individual or group hospital or medical service
18 contract issued pursuant to chapter 509, 514, or 514A.

19 c. An individual or group health maintenance organization
20 contract regulated under chapter 514B.

21 d. An individual or group Medicare supplemental policy.

22 e. A long-term care policy.

23 f. An individual or group life insurance policy or annuity
24 issued pursuant to chapter 508, 508A, or 509A.

25 2. "Third-party administrator" means a person who collects
26 charges or premiums from, or who adjusts or settles claims on,
27 residents of this state in connection with life or health
28 insurance coverage or annuities other than any of the
29 following:

30 a. A union or association on behalf of its members.

31 b. An insurance company which is either licensed in this
32 state or acting as an insurer with respect to a policy
33 lawfully issued and delivered by it in and pursuant to the
34 laws of a state in which the insurer was authorized to do an
35 insurance business.

28641
3215

1 c. An entity licensed under chapter 514, including its
2 sales representatives licensed in this state when engaged in
3 the performance of their duties as sales representatives.

4 d. A life or health agent or broker licensed in this
5 state, whose activities are limited exclusively to the sale of
6 insurance.

7 e. A creditor on behalf of its debtors with respect to
8 insurance covering a debt between the creditor and its
9 debtors.

10 f. A trust, its trustees, agents, and employees acting
11 under the trust, established in conformity with 29 U.S.C. §
12 186.

13 g. A trust exempt from taxation under section 501(a) of
14 the Internal Revenue Code, its trustees, and employees acting
15 under the trust.

16 h. A custodian, its agents, and employees acting pursuant
17 to a custodial account which meets the requirements of section
18 401(f) of the Internal Revenue Code.

19 i. A bank, credit union, or other financial institution
20 which is subject to supervision or examination by federal or
21 state banking authorities.

22 j. A credit card-issuing company which advances for and
23 collects premiums or charges from its credit card holders who
24 have authorized it to do so, if the company does not adjust or
25 settle claims.

26 k. A person who adjusts or settles claims in the normal
27 course of the person's practice or employment as an attorney,
28 and who does not collect charges or premiums in connection
29 with life or health insurance coverage or annuities.

30 Sec. 39. Section 510.12, Code 2005, is amended to read as
31 follows:

32 510.12 WRITTEN AGREEMENT NECESSARY.

33 A person shall not act as an a third-party administrator
34 without a written agreement between the third-party
35 administrator and the insurer, and the written agreement shall

1 be retained as part of the official records of both the
2 insurer and the third-party administrator for the duration of
3 the agreement plus five years. The written agreement shall
4 contain provisions which include the requirements of sections
5 510.11 through 510.16, except insofar as those requirements do
6 not apply to the functions performed by the third-party
7 administrator.

8 When a policy is issued to a trustee, a copy of the trust
9 agreement and any amendments to the trust agreement shall be
10 furnished to the insurer by the third-party administrator and
11 shall be retained as part of the official records of both the
12 insurer and the third-party administrator for the duration of
13 the policy plus five years.

14 Sec. 40. Section 510.13, Code 2005, is amended to read as
15 follows:

16 510.13 PAYMENT TO THIRD-PARTY ADMINISTRATOR.

17 If an insurer uses the services of an a third-party
18 administrator under the terms of a written contract as
19 required in section 510.12, payment to the third-party
20 administrator of any premiums or charges for insurance by or
21 on behalf of the insured shall be deemed to have been received
22 by the insurer, and the payment of return premiums or claims
23 by the insurer to the third-party administrator shall not be
24 deemed payment to the insured or claimant until the payments
25 are received by the insured or claimant. This section does
26 not limit any right of the insurer against the third-party
27 administrator resulting from the third-party administrator's
28 failure to make payments to the insurer, insureds, or
29 claimants.

30 Sec. 41. Section 510.14, Code 2005, is amended to read as
31 follows:

32 510.14 MAINTENANCE OF INFORMATION.

33 An A third-party administrator shall maintain at its
34 principal administrative office for the duration of the
35 written agreement referred to in section 510.12 plus five

1 years, adequate books and records of all transactions between
2 it, insurers, and insured persons. The third-party
3 administrator's books and records shall be maintained in
4 accordance with prudent standards of insurance recordkeeping.
5 The commissioner shall have access to such books and records
6 for the purpose of examination, audit, and inspection. Trade
7 secrets contained in an a third-party administrator's books
8 and records, including but not limited to the identity and
9 addresses of policyholders and certificate holders, shall be
10 confidential, except the commissioner may use trade secret
11 information in any proceeding instituted against the third-
12 party administrator. The insurer retains the right to
13 continuing access to the third-party administrator's books and
14 records sufficient to permit the insurer to fulfill all of its
15 contractual obligations to insured persons, subject to any
16 restrictions in the written agreement between the insurer and
17 third-party administrator on the proprietary rights of the
18 parties in the third-party administrator's books and records.

19 Sec. 42. Section 510.15, Code 2005, is amended to read as
20 follows:

21 510.15 APPROVAL OF ADVERTISING.

22 An A third-party administrator may use only such
23 advertising pertaining to the business underwritten by an
24 insurer as has been approved by the insurer in advance of its
25 use.

26 Sec. 43. Section 510.17, Code 2005, is amended to read as
27 follows:

28 510.17 PREMIUM COLLECTION.

29 1. All insurance charges or premiums collected by an a
30 third-party administrator on behalf of or for an insurer, and
31 return premiums received from the insurer, shall be held by
32 the third-party administrator in a fiduciary capacity. Such
33 funds shall be immediately remitted to the person or persons
34 entitled to them, or shall be deposited promptly in a
35 fiduciary bank account established and maintained by the

1 third-party administrator. If charges or premiums so
2 deposited have been collected on behalf of or for more than
3 one insurer, the third-party administrator shall cause the
4 bank in which the fiduciary account is maintained to keep
5 records clearly recording the deposits in and withdrawals from
6 the account on behalf of or for each insurer. The third-party
7 administrator shall promptly obtain and keep copies of all
8 such records and, upon request of an insurer, shall furnish
9 the insurer with copies of the records pertaining to deposits
10 and withdrawals on behalf of or for that insurer.

11 2. The third-party administrator shall not pay a claim by
12 withdrawal from the fiduciary account. Withdrawals from the
13 fiduciary account shall be made, as provided in the written
14 agreement between the third-party administrator and the
15 insurer, for any of the following:

16 a. Remittance to an insurer entitled thereto.

17 b. Deposit in an account maintained in the name of the
18 insurer.

19 c. Transfer to and deposit in a claims-paying account,
20 with claims to be paid as provided in section 510.18.

21 d. Payment to a group policyholder for remittance to the
22 insurer entitled thereto.

23 e. Payment to the third-party administrator of its
24 commission, fees, or charges.

25 f. Remittance of return premiums to the persons entitled
26 thereto.

27 Sec. 44. Section 510.18, Code 2005, is amended to read as
28 follows:

29 510.18 PAYMENT OF CLAIMS.

30 A claim paid by the third-party administrator from funds
31 collected on behalf of the insurer shall be paid only on a
32 draft, check, or by electronic funds transfer as authorized by
33 the insurer.

34 Sec. 45. Section 510.19, Code 2005, is amended to read as
35 follows:

3215

1 510.19 CLAIM ADJUSTMENT AND SETTLEMENT.

2 The compensation paid to an a third-party administrator
3 shall not be contingent on claim experience on policies for
4 which the third-party administrator adjusts or settles claims.
5 This section does not prevent the compensation of an a third-
6 party administrator from being based on premiums or charges
7 collected or number of claims paid or processed.

8 Sec. 46. Section 510.20, Code 2005, is amended to read as
9 follows:

10 510.20 NOTIFICATION REQUIRED.

11 When the services of an a third-party administrator are
12 used, the third-party administrator shall provide a written
13 notice, approved by the insurer, to insured individuals,
14 advising them of the identity of and relationship among the
15 third-party administrator, the policyholder, and the insurer.
16 When an a third-party administrator collects funds, it must
17 shall identify and state separately in writing to the person
18 paying to the third-party administrator any charge or premium
19 for insurance coverage the amount of any such charge or
20 premium specified by the insurer for such insurance coverage.

21 Sec. 47. Section 510.21, Code 2005, is amended to read as
22 follows:

23 510.21 CERTIFICATE OF REGISTRATION REQUIRED.

24 A person shall not act as or represent oneself to be an a
25 third-party administrator in this state, other than an
26 adjuster licensed in this state for the kinds of business for
27 which the person is acting as an a third-party administrator,
28 unless the person holds a current certificate of registration
29 as an a third-party administrator issued by the commissioner
30 of insurance. A certificate of registration as an a third-
31 party administrator is renewable every three years. Failure
32 to hold a certificate subjects the third-party administrator
33 to the sanctions set out in section 507B.7. The certificate
34 shall be issued by the commissioner to an a third-party
35 administrator unless the commissioner, after due notice and

1 hearing, determines that the third-party administrator is not
2 competent, trustworthy, financially responsible, or of good
3 personal and business reputation, or has had a previous
4 application for an insurance license denied for cause within
5 the preceding five years.

6 An application for registration shall be accompanied by a
7 filing fee of one hundred dollars. After notice and hearing,
8 the commissioner may impose any or all of the sanctions set
9 out in section 507B.7, upon finding that either the third-
10 party administrator violated any of the requirements of
11 section 515.134 and sections 510.1A through 510.20 and this
12 section, or the third-party administrator is not competent,
13 trustworthy, financially responsible, or of good personal and
14 business reputation.

15 Sec. 48. Section 510.22, subsections 1 and 3, Code 2005,
16 are amended to read as follows:

17 1. The person acting as an a third-party administrator is
18 primarily in a business other than that of a third-party
19 administrator.

20 3. The regular duties being performed as an a third-party
21 administrator are such that the covered persons are not likely
22 to be injured by a waiver of such requirements.

23 Sec. 49. Section 510.23, Code 2005, is amended to read as
24 follows:

25 510.23 UNFAIR COMPETITION OR UNFAIR AND DECEPTIVE ACTS OR
26 PRACTICES PROHIBITED.

27 An A third-party administrator is subject to chapter 507B
28 relating to unfair insurance trade practices.

29 Sec. 50. Section 511.8, subsection 1, paragraph b, Code
30 2005, is amended to read as follows:

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

1 commission under the federal Investment Company Act of 1940,
2 15 U.S.C. § ~~80(a)~~ 80a-1 et seq., and operated in accordance
3 with 17 C.F.R. § 270.2a-7, the portfolio of which is limited
4 to the United States government obligations described in
5 paragraph "a", and which are included in the national
6 association of insurance commissioners' securities valuation
7 office's United States direct obligations--full faith and
8 credit exempt list.

9 Sec. 51. Section 511.8, subsection 18, Code 2005, is
10 amended by adding the following new paragraph:

11 NEW PARAGRAPH c. Common stocks or shares issued by any
12 federal home loan bank under the Federal Home Loan Bank Act,
13 12 U.S.C. § 1421 et seq., and the Acts amendatory thereof, are
14 eligible if the total investment in those stocks or shares
15 does not exceed one-half of one percent of the legal reserve.

16 Sec. 52. Section 511.8, subsection 22, paragraph b, Code
17 2005, is amended by striking the paragraph and inserting in
18 lieu thereof the following:

19 b. To be eligible as investments, financial instruments
20 used in hedging transactions shall be either of the following:

21 (1) Be between an insurer and a counterparty that meets
22 the qualifications established in subsection 5 for an issuer,
23 obligor, or guarantor of bonds or other evidences of
24 indebtedness issued, assumed, or guaranteed by a corporation
25 incorporated under the laws of the United States or of any
26 state, district, or insular or territorial possession thereof,
27 or Canada, or that meets the qualifications established in
28 subsection 19 for an issuer, obligor, or guarantor of bonds or
29 other evidences of indebtedness issued, assumed, or guaranteed
30 by a corporation incorporated under the laws of a foreign
31 government other than Canada.

32 (2) Be between an insurer and a conduit and be
33 collateralized by cash or obligations which are eligible under
34 subsection 1, 2, 3, 5, 19, or 24, are deposited with a
35 custodian bank as defined in subsection 21, and are held under

1 a written agreement with the custodian bank that complies with
2 subsection 21 and provides for the proceeds of the collateral,
3 subject to the terms and conditions of the applicable
4 collateral or other credit support agreement, to be remitted
5 to the legal reserve deposit of the company or association and
6 to vest in the state in accordance with section 508.18
7 whenever proceedings under that section are instituted.
8 Paragraphs "c", "d", and "e" of this subsection are not
9 applicable to investments in financial instruments used in
10 hedging transactions eligible pursuant to this subparagraph.
11 As used in this subparagraph, "conduit" means a person within
12 an insurer's insurance holding company system, as defined in
13 section 521A.1, subsection 5, which aggregates hedging
14 transactions by other persons within the insurance holding
15 company system and replicates them with counterparties.

16 (a) Financial instruments used in hedging transactions
17 between an insurer and a conduit which are collateralized by
18 obligations eligible under subsection 5, 19, or 24 are
19 eligible only to the extent that such securities deposited as
20 collateral are not in excess of two percent of the legal
21 reserve in the securities of any one corporation, less any
22 securities of that corporation owned by the insurer or which
23 are the subject of hedging transactions by the insurer, that
24 are included in the insurer's legal reserve.

25 (b) Financial instruments used in hedging transactions
26 between an insurer and a conduit which are collateralized by
27 obligations eligible under subsection 5 or by cash equivalents
28 eligible under subsection 24, other than a class one money
29 market fund, are eligible only to the extent that such
30 securities deposited as collateral are not in excess of ten
31 percent of the legal reserve, less any obligations eligible
32 under subsection 5 or cash equivalents eligible under
33 subsection 24, other than a class one money market fund, owned
34 by the insurer or which are the subject of hedging
35 transactions by the insurer, that are included in the

1 insurer's legal reserve.

2 (c) Financial instruments used in hedging transactions
3 between an insurer and a conduit which are collateralized by
4 obligations eligible under subsection 19 are eligible only to
5 the extent that such securities deposited as collateral are
6 not in excess of twenty percent of the legal reserve, less any
7 securities eligible under subsection 19 owned by the insurer
8 or which are the subject of hedging transactions by the
9 insurer, that are included in the insurer's legal reserve.

10 (3) Financial instruments used in hedging transactions
11 shall be eligible only as provided by this paragraph "b" and
12 rules adopted by the commission pursuant to chapter 17A
13 setting standards for hedging transactions between an insurer
14 and a conduit as authorized under section 521A.5, subsection
15 1, paragraph "b".

16 Sec. 53. Section 511.8, subsection 22, paragraph e, Code
17 2005, is amended to read as follows:

18 e. Investments in financial instruments of foreign
19 governments or foreign corporate obligations, other than
20 Canada, used in hedging transactions ~~are not eligible in~~
21 excess of shall be included in the limitation contained in
22 subsection 19 that allows only twenty percent of the legal
23 reserve, less any foreign investment authorized by subsection
24 19 owned by the company or association and in which its legal
25 reserve is invested of the company or association to be
26 invested in such foreign investments, except insofar as the
27 financial instruments are collateralized by cash or United
28 States government obligations as authorized by subsection 1
29 deposited with a custodian bank as defined in subsection 21,
30 and held under a written agreement with the custodian bank
31 that complies with subsection 21 and provides for the proceeds
32 of the collateral, subject to the terms and conditions of the
33 applicable collateral or other credit support agreement, to be
34 remitted to the legal reserve deposit of the company or
35 association and to vest in the state in accordance with

1 section 508.18 whenever proceedings under that section are
2 instituted.

3 This paragraph "e" does not authorize the inclusion of
4 financial instruments used in hedging transactions in an
5 insurer's legal reserve that are in excess of the eligibility
6 limitation provided in paragraph "d" unless the financial
7 instruments are collateralized as provided in this paragraph
8 "e".

9 Sec. 54. Section 511.8, Code 2005, is amended by adding
10 the following new subsection:

11 NEW SUBSECTION. 24. CASH EQUIVALENTS.

12 a. As used in this subsection, unless the context
13 otherwise requires:

14 (1) "Cash equivalents" means highly liquid investments
15 with an original term to maturity of ninety days or less that
16 are all of the following:

17 (a) Readily convertible to a known amount of cash without
18 penalty.

19 (b) So near maturity that the investment presents an
20 insignificant risk of change in value.

21 (c) Rated any of the following:

22 (i) "P-1" by Moody's investors services, inc.

23 (ii) "A-1" by Standard and Poor's division of McGraw-Hill
24 companies, inc., or by the national association of insurance
25 commissioners' securities valuation office.

26 (iii) Equivalent by a nationally recognized statistical
27 rating organization that is recognized by the national
28 association of insurance commissioners' securities valuation
29 office.

30 (2) "Class one money market fund" means investments in an
31 open-end management investment company registered with the
32 federal securities and exchange commission under the federal
33 Investment Company Act of 1940, 15 U.S.C. § 80a-1 et seq., and
34 operated in accordance with 17 C.F.R. § 270.2a-7, that
35 qualifies for investment using the bond class one reserve

1 factor under the purposes and procedures of the national
2 association of insurance commissioners' securities valuation
3 office.

4 b. Cash equivalents include a class one money market fund.

5 c. Cash equivalents, other than a class one money market
6 fund, are not eligible in excess of two percent of the legal
7 reserve in the obligations of any one corporation, and are not
8 eligible in excess of ten percent of the legal reserve.

9 Sec. 55. Section 512B.25, Code 2005, is amended to read as
10 follows:

11 512B.25 ANNUAL LICENSE -- RENEWAL.

12 ~~A society which is authorized to transact business in this~~
13 ~~state on January 1, 1991, and a society licensed on or after~~
14 ~~January 1, 1991, may continue in business until June 1, 1991.~~
15 The authority of the a society to transact business in this
16 state may thereafter be renewed annually. A license
17 terminates on the succeeding June 1. However, a license
18 issued shall continue in full force and effect until a new
19 license is issued or specifically refused. A society shall
20 submit annually on or before March 1 a completed application
21 for renewal of its license. For each license or renewal the
22 society shall pay the commissioner a fee of fifty dollars. A
23 society that fails to timely file an application for renewal
24 shall pay an administrative penalty of five hundred dollars to
25 the treasurer of state for deposit in the general fund of the
26 state as provided in section 505.7. A duly certified copy or
27 duplicate of the license is prima facie evidence that the
28 licensee is a fraternal benefit society within the meaning of
29 this chapter.

30 Sec. 56. Section 512B.27, subsection 3, Code 2005, is
31 amended by striking the subsection.

32 Sec. 57. Section 513C.9, subsection 1, Code 2005, is
33 amended by striking the subsection.

34 Sec. 58. NEW SECTION. 514.9A CERTIFICATE OF AUTHORITY --
35 RENEWAL.

1 A certificate of authority of a corporation formed under
2 this chapter expires on June 1 succeeding its issue and shall
3 be renewed annually so long as the corporation transacts its
4 business in accordance with all legal requirements. A
5 corporation shall submit annually, on or before March 1, a
6 completed application for renewal of its certificate of
7 authority. A corporation that fails to timely file an
8 application for renewal shall pay an administrative penalty of
9 five hundred dollars to the treasurer of state for deposit in
10 the general fund of the state as provided in section 505.7. A
11 duly certified copy or duplicate of the certificate is
12 admissible in evidence for or against the corporation with the
13 same effect as the original.

14 Sec. 59. Section 514B.3, subsection 10, Code 2005, is
15 amended by striking the subsection.

16 Sec. 60. NEW SECTION. 514B.3B CERTIFICATE OF AUTHORITY
17 -- RENEWAL.

18 A certificate of authority of a health maintenance
19 organization formed under this chapter expires on June 1
20 succeeding its issue and shall be renewed annually so long as
21 the organization transacts its business in accordance with all
22 legal requirements. A health maintenance organization shall
23 submit annually, on or before March 1, a completed application
24 for renewal of its certificate of authority. A health
25 maintenance organization that fails to timely file an
26 application for renewal shall pay an administrative penalty of
27 five hundred dollars to the treasurer of state for deposit in
28 the general fund of the state as provided in section 505.7. A
29 duly certified copy or duplicate of the certificate is
30 admissible in evidence for or against the organization with
31 the same effect as the original.

32 Sec. 61. Section 514B.12, Code 2005, is amended to read as
33 follows:

34 514B.12 ANNUAL REPORT.

35 1. A health maintenance organization shall annually on or

1 before the first day of March file with the commissioner or a
2 depository designated by the commissioner a report verified by
3 at least two of the principal officers of the health
4 maintenance organization and covering the preceding calendar
5 year. The report shall be on forms prescribed by the
6 commissioner and shall include:

7 ~~1-~~ a. Financial statements of the organization including
8 a balance sheet as of the end of the preceding calendar year
9 and statement of profit and loss for the year then ended,
10 certified by a certified public accountant or an independent
11 public accountant.

12 ~~2-~~ b. Any material changes in the information submitted
13 pursuant to section 514B.3.

14 ~~3-~~ c. The number of persons enrolled during the year, the
15 number of enrollees as of the end of the year and the number
16 of enrollments terminated during the year.

17 ~~4-~~ d. Other information relating to the performance of
18 the health maintenance organization as is necessary to enable
19 the commissioner to carry out the commissioner's duties under
20 this chapter.

21 2. The commissioner shall refuse to renew a certificate of
22 authority of a health maintenance organization that fails to
23 comply with the provisions of this section and the
24 organization's right to transact new business in this state
25 shall immediately cease until the organization has so
26 complied.

27 3. A health maintenance organization that fails to timely
28 file the report required under subsection 1 is in violation of
29 this section and shall pay an administrative penalty of five
30 hundred dollars to the treasurer of state for deposit in the
31 general fund of the state as provided in section 505.7.

32 4. The commissioner may give notice to a health
33 maintenance organization that the organization has not timely
34 filed the report required under subsection 1 and is in
35 violation of this section. If the organization fails to file

1 the required report and comply with this section within ten
2 days of the date of the notice, the organization shall pay an
3 additional administrative penalty of one hundred dollars for
4 each day that the failure continues to the treasurer of state
5 for deposit in the general fund of the state as provided in
6 section 505.7.

7 Sec. 62. Section 514B.22, Code 2005, is amended by
8 striking the section and inserting in lieu thereof the
9 following:

10 514B.22 FEES.

11 When not otherwise provided, a foreign or domestic health
12 maintenance organization doing business in this state shall
13 pay the commissioner of insurance the fees as required in
14 section 511.24.

15 Sec. 63. Section 514B.33, Code 2005, is amended by adding
16 the following new subsection:

17 NEW SUBSECTION. 3A. Sections 514B.3B and 514B.12 apply to
18 all foreign and domestic limited service organizations
19 authorized to do business in this state.

20 Sec. 64. Section 514C.1, Code 2005, is amended to read as
21 follows:

22 514C.1 SUPPLEMENTAL COVERAGE FOR ADOPTED OR NEWLY BORN
23 CHILDREN.

24 1. Any policy of individual or group accident and sickness
25 insurance providing coverage on an expense incurred basis, and
26 any individual or group hospital or medical service contracts
27 issued pursuant to chapters 509, 514, and 514A, which provide
28 coverage for a family member of the insured or subscriber
29 shall also provide that the health insurance benefits
30 applicable for children shall, subject to the enrollment
31 requirements of this section, be payable with respect to a
32 newly born child of the insured or subscriber from the moment
33 of birth, or, in the situation of a newly adopted child of a
34 covered person, such child shall be covered from the earlier
35 of any of the following:

2369
3215

1 a. The date of placement of the child for the purpose of
2 adoption and continuing in the same manner as for other
3 dependents of the covered person, unless the placement is
4 disrupted prior to legal adoption and the child is removed
5 from placement.

6 b. The date of entry of an order granting the covered
7 person custody of the child for purposes of adoption.

8 c. The effective date of adoption.

9 2. The coverage for adopted or newly born children shall
10 consist of coverage for injury or sickness including the
11 necessary care and treatment of medically diagnosed congenital
12 defects and birth abnormalities and is not subject to any
13 preexisting condition exclusion.

14 3. If payment of a specific premium or subscription fee is
15 required to provide coverage for a newly born child, the
16 policy or contract may require that notification of birth of a
17 newly born child and payment of the required premium or fees
18 must be furnished to the insurer or nonprofit service or
19 indemnity corporation within thirty-one sixty days after the
20 date of birth in-order-to-have-coverage-continue-beyond-such
21 thirty-one-day-period.

22 4. If payment of a specific premium or subscription fee is
23 not required to provide coverage for a newly born child, the
24 policy or contract may require that notification of birth of a
25 newly born child must be furnished to the insurer or nonprofit
26 service or indemnity corporation within sixty days after the
27 date of birth in order for coverage to be provided for the
28 child from the date of birth.

29 5. a. If payment of a specific premium or subscription
30 fee is required to provide coverage for a newly adopted child
31 or child placed for adoption, the policy or contract may
32 require that notification of the adoption or placement for
33 adoption and payment of the required premium or fees must be
34 furnished to the insurer or nonprofit service or indemnity
35 corporation within sixty days after the coverage is required

1 to begin under this section.

2 b. If payment of a specific premium or subscription fee is
3 not required to provide coverage for a newly adopted child or
4 child placed for adoption, the policy or contract may require
5 that notification of the adoption or placement for adoption
6 must be furnished to the insurer or nonprofit service or
7 indemnity corporation within sixty days after the coverage is
8 required to begin under this section.

9 c. If a covered person fails to provide the required
10 notice or to make payment of premium or subscription fees
11 within the sixty-day period required in this subsection, the
12 newly adopted child or child placed for adoption shall be
13 treated no less favorably by a health carrier than other
14 dependents of the covered person, other than newly born
15 children, who seek coverage under a policy or contract at a
16 time other than the time when the dependent is first eligible
17 to apply for coverage.

18 Sec. 65. Section 514C.3, Code 2005, is amended to read as
19 follows:

20 514C.3 DENTIST'S SERVICES UNDER ACCIDENT AND SICKNESS
21 INSURANCE POLICIES.

22 A policy of accident and sickness insurance issued in this
23 state which provides payment or reimbursement for any service
24 which is within the lawful scope of practice of a licensed
25 dentist shall provide benefits for the service whether the
26 service is performed by a licensed physician or a licensed
27 dentist. As used in this section, "licensed physician"
28 includes persons licensed under chapter 148, 150, or 150A and
29 "policy of accident and sickness insurance" includes
30 ~~individual~~-or group policies as defined in section 509B.1,
31 subsections subsection 3 and-4.

32 Sec. 66. Section 514E.7, Code Supplement 2005, is amended
33 by adding the following new subsection:

34 NEW SUBSECTION. 6. The association is not required to
35 make plan coverage available to an individual who is covered

1 or is eligible for any continued group coverage under Internal
2 Revenue Code § 4980B, the federal Employee Retirement Income
3 Security Act of 1974, codified at 29 U.S.C. § 1001 et seq.,
4 the federal Public Health Service Act of July 1, 1944,
5 codified at 42 U.S.C. § 201 et seq., or any continued group
6 coverage required by the state. For purposes of this
7 subsection, an individual who would have been eligible for
8 such continuation of group coverage, but is not eligible
9 solely because the individual or other responsible party
10 failed to make the required election of coverage during the
11 applicable time period, or terminated such coverage prior to
12 the end of such applicable time period, shall be deemed to be
13 eligible for such group coverage until the date on which the
14 individual's continuing group coverage would have expired had
15 an election been made or a termination not occurred.

16 Sec. 67. Section 514J.7, Code 2005, is amended by adding
17 the following new subsections:

18 NEW SUBSECTION. 9. If an enrollee dies before the
19 completion of the external review process, the process shall
20 continue to completion if there is potential liability of a
21 carrier or organized delivery system to the estate of the
22 enrollee.

23 NEW SUBSECTION. 10. a. If an enrollee who has already
24 received a service or treatment under a plan requests external
25 review of the plan's coverage decision and changes to another
26 plan before the external review process is completed, the
27 carrier or organized delivery system whose coverage was in
28 effect at the time the service or treatment was received is
29 responsible for completing the external review process.

30 b. If an enrollee who has not yet received service or
31 treatment requests external review of a plan's coverage
32 decision and then changes to another plan prior to receipt of
33 the service or treatment and completion of the external review
34 process, the external review process shall begin anew with the
35 enrollee's current carrier or organized delivery system. In

1 this instance, the external review process shall be conducted
2 in an expedited manner.

3 Sec. 68. Section 515.24, Code 2005, is amended to read as
4 follows:

5 515.24 TAX -- COMPUTATION.

6 For the purpose of determining the basis of any tax upon
7 the "gross amount of premiums", or "gross receipts from
8 premiums, assessments, fees, and promissory obligations", now
9 or hereafter imposed upon any fire or casualty insurance
10 company under any law of this state, such gross amount or
11 gross receipts shall consist of the gross written premiums or
12 receipts for direct insurance, without including or deducting
13 any amounts received or paid for reinsurance except that any
14 company reinsuring windstorm or hail risks written by county
15 mutual insurance associations shall be required to pay ~~a two~~
16 ~~percent-tax-on~~ as a tax, the applicable percent provided in
17 section 432.1, calculated upon the gross amount of reinsurance
18 premiums received upon such risks, but with such other
19 deductions as provided by law, and in addition deducting any
20 so-called dividend or return of savings or gains to
21 policyholders; provided that as to any deposits or deposit
22 premiums received by any such company, the taxable premiums
23 shall be the portion of such deposits or deposit premiums
24 earned during the year with such deductions therefrom as
25 provided by law.

26 Sec. 69. Section 515.42, Code 2005, is amended to read as
27 follows:

28 515.42 TENURE OF CERTIFICATE -- RENEWAL -- EVIDENCE.

29 Such A certificate of authority shall expire on the first
30 day of June next succeeding its issue, and shall be renewed
31 annually so long as such company shall transact business in
32 accordance with the requirements of law; a copy of which
33 certificate, when certified to by the commissioner of
34 insurance, shall be admissible in evidence for or against a
35 company with the same effect as the original. A company shall

3215

1 submit annually, on or before March 1, a completed application
2 for renewal of its certificate of authority. A company that
3 fails to timely file an application for renewal shall pay an
4 administrative penalty of five hundred dollars to the
5 treasurer of state for deposit in the general fund of the
6 state as provided in section 505.7.

7 Sec. 70. NEW SECTION. 515.147A ADMINISTRATIVE PENALTY.

8 1. An excess and surplus lines insurance agent that fails
9 to timely file the report required in section 515.147 is in
10 violation of this section and shall pay an administrative
11 penalty of five hundred dollars to the treasurer of state for
12 deposit in the general fund of the state as provided in
13 section 505.7.

14 2. The commissioner shall refuse to renew the license of
15 an agent that fails to comply with the provisions of section
16 515.147 and this section and the agent's right to transact new
17 business in this state shall immediately cease until the agent
18 has so complied.

19 3. The commissioner may give notice to an agent that the
20 agent has not timely filed the report required under section
21 515.147 and is in violation of this section. If the agent
22 fails to file the required report within ten days of the date
23 of the notice, the agent shall pay an additional
24 administrative penalty of one hundred dollars for each day
25 that the failure continues to the treasurer of state for
26 deposit in the general fund of the state as provided in
27 section 505.7.

28 Sec. 71. Section 515A.6, subsection 1, Code 2005, is
29 amended to read as follows:

30 1. a. A corporation, an unincorporated association, a
31 partnership or an individual, whether located within or
32 outside this state, may make application to the commissioner
33 for license as a rating organization for such kinds of
34 insurance, or subdivision or class of risk or a part or
35 combination thereof as are specified in its application and

1 shall file therewith-~~(a)~~-a with the application all of the
2 following:

3 (1) A copy of its constitution, its articles of agreement
4 or association or its certificate of incorporation, and of its
5 bylaws, rules and regulations governing the conduct of its
6 business~~7-(b)-a.~~

7 (2) A list of its members and subscribers~~7-(c)-the.~~

8 (3) The name and address of a resident of this state upon
9 whom notices or orders of the commissioner ~~or-process~~
10 affecting such rating organization may be served ~~and-(d)-a.~~

11 (4) A statement of its qualifications as a rating
12 organization.

13 b. If the commissioner finds that the applicant is
14 competent, trustworthy, and otherwise qualified to act as a
15 rating organization and that its constitution, articles of
16 agreement or association or certificate of incorporation, and
17 its bylaws, rules and regulations governing the conduct of its
18 business conform to the requirements of law, the commissioner
19 shall issue a license specifying the kinds of insurance, or
20 subdivisions or classes of risks or parts or combinations
21 thereof for which the applicant is authorized to act as a
22 rating organization. Every such application shall be granted
23 or denied in whole or in part by the commissioner within sixty
24 days of the date of its filing with the commissioner.

25 c. Licenses issued pursuant to this section shall remain
26 in effect for three years unless sooner suspended or revoked
27 by the commissioner. The fee for said license shall be
28 twenty-five dollars.

29 d. Licenses issued pursuant to this section may be
30 suspended or revoked by the commissioner, after hearing upon
31 notice, in the event the rating organization ceases to meet
32 the requirements of this subsection.

33 e. Every rating organization shall notify the commissioner
34 promptly of every change in ~~(a)~~-its any of the following:

35 (1) Its constitution, its articles of agreement or

1 association, or its certificate of incorporation, and its
2 bylaws, rules and regulations governing the conduct of its
3 business, ~~(b)-its.~~

4 (2) Its list of members and subscribers ~~and-(c)-the.~~

5 (3) The name and address of the resident of this state
6 designated by it upon whom notices or orders of the
7 commissioner ~~or-process~~ affecting such rating organization may
8 be served.

9 Sec. 72. Section 515A.9, Code 2005, is amended to read as
10 follows:

11 515A.9 INFORMATION TO BE FURNISHED INSUREDS -- HEARINGS
12 AND APPEALS OF INSUREDS.

13 Every rating organization and every insurer which makes its
14 own rate shall, within a reasonable time after receiving
15 written request therefor and upon payment of such reasonable
16 charge as it may make, furnish to any insured affected by a
17 rate made by it, or to the authorized representative of such
18 insured, all pertinent information as to such rate. Every
19 rating organization and every insurer which makes its own
20 rates shall provide within this state reasonable means whereby
21 any person aggrieved by the application of its rating system
22 may be heard, in person or by the person's authorized
23 representative, on the person's written request to review the
24 manner in which such rating system has been applied in
25 connection with the insurance afforded the person. Such
26 review of the manner in which a rating system has been applied
27 is not a contested case under chapter 17A. If the rating
28 organization or insurer fails to grant or reject such request
29 within thirty days after it is made, applicant may proceed in
30 the same manner as if the application had been rejected. Any
31 party affected by the action of such rating organization or
32 such insurer on such request may, within thirty days after
33 written notice of such action, appeal to the commissioner,
34 who, after a hearing held upon not less than ten days' written
35 notice to the appellant and to such rating organization or

1 insurer, may affirm or reverse such action. Such appeal to
2 the commissioner of the manner in which a rating system has
3 been applied is not a contested case under chapter 17A.

4 Sec. 73. Section 515A.10, subsection 2, Code 2005, is
5 amended to read as follows:

6 2. Every advisory organization shall file with the
7 commissioner ~~(a)~~-a all of the following:

8 a. A copy of its constitution, its articles of agreement
9 or association or its certificate of incorporation and of its
10 bylaws, rules and regulations governing its activities~~7-(b)-a.~~

11 b. A list of its members~~7-(c)-the.~~

12 c. The name and address of a resident of this state upon
13 whom notices or orders of the commissioner or process issued
14 at the commissioner's direction may be served~~7-and-(d)-an.~~

15 d. An agreement that the commissioner may examine such
16 advisory organization in accordance with the provisions of
17 section 515A.12.

18 Sec. 74. Section 515B.16, Code 2005, 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. 75. Section 515E.3, unnumbered paragraph 2, Code
33 2005, is amended by striking the unnumbered paragraph.

34 Sec. 76. NEW SECTION. 515E.3A FOREIGN RISK RETENTION
35 GROUP MAY BECOME DOMESTIC.

3215

1 1. A risk retention group that is organized under the laws
2 of any other state for the purpose of writing insurance, as
3 authorized by this chapter, may redomesticate to this state by
4 doing all of the following:

5 a. Complying with section 490.902.

6 b. Complying with all of the requirements of law relative
7 to the organization and licensing of a domestic risk retention
8 group and the capital and surplus requirement set forth in
9 subsection 4.

10 c. Designating its principal place of business in this
11 state.

12 2. A risk retention group that meets the requirements of
13 subsection 1 shall be entitled to a certificate of its
14 corporate existence and a license to transact business in this
15 state, and be subject in all respects to the authority and
16 jurisdiction of this state.

17 3. The certificate of authority, producer appointments and
18 licenses, rates, and other items which are in existence at the
19 time a risk retention group transfers its corporate domicile
20 to this state pursuant to this section shall continue in full
21 force and effect upon such transfer. For purposes of existing
22 authorizations and all other corporate purposes, the risk
23 retention group is deemed to be the same entity as it was
24 prior to the transfer of its domicile. All outstanding
25 policies of any transferring risk retention group shall remain
26 in full force and effect.

27 4. A risk retention group redomesticating to this state
28 pursuant to this chapter shall comply with the minimum capital
29 and surplus requirements of chapter 521E or five million
30 dollars, whichever is greater. If the risk retention group's
31 prior domestic regulator allowed the use of letters of credit
32 to meet that regulator's surplus requirements, the risk
33 retention group may continue to use the letters of credit to
34 meet this state's minimum surplus requirements for up to five
35 years from the date of redomestication in this state. The

1 risk retention group shall eliminate a minimum of twenty
2 percent of the letters of credit being used each year based
3 upon the aggregate amount of letters of credit being used to
4 meet surplus requirements at the time of redomestication in
5 this state.

6 5. Letters of credit used by a risk retention group to
7 meet surplus requirements shall be clean, irrevocable, and
8 unconditionally issued or confirmed by a qualified United
9 States financial institution as defined in section 521B.4,
10 subsection 2. The beneficiary of each letter of credit being
11 used shall be the commissioner.

12 6. If a risk retention group redomesticating to this state
13 fails to comply with the provisions of this section, the
14 commissioner shall take action as prescribed in chapter 507C.

15 7. The commissioner shall adopt rules pursuant to chapter
16 17A to implement this section.

17 Sec. 77. Section 515E.4, subsection 1, unnumbered
18 paragraph 1, Code 2005, is amended to read as follows:

19 Notice of operations ~~and designation of commissioner as~~
20 agent. Before offering insurance in this state, a risk
21 retention group shall submit to the commissioner all of the
22 following:

23 Sec. 78. Section 515E.4, subsection 1, paragraph c, Code
24 2005, is amended by striking the paragraph.

25 Sec. 79. Section 515E.8, subsection 3, Code 2005, is
26 amended by striking the subsection.

27 Sec. 80. Section 515F.4, subsection 5, Code 2005, is
28 amended to read as follows:

29 5. The rates may contain a provision for contingencies and
30 an allowance permitting a reasonable profit. In determining
31 the reasonableness of the profit, consideration shall be given
32 to investment income attributable to unearned premium and loss
33 reserves. ~~Income from other sources shall not be considered.~~

34 Sec. 81. Section 515F.8, subsection 3, paragraph a,
35 subparagraph (3), Code 2005, is amended to read as follows:

2364
3215

1 (3) The name and address of one or more residents of this
2 state upon whom notices, ~~process-affecting-it~~, or orders of
3 the commissioner may be served.

4 Sec. 82. Section 515F.13, subsection 2, paragraph c, Code
5 2005, is amended to read as follows:

6 c. A pool shall file with the commissioner a copy of its
7 constitution; its articles of incorporation, agreement, or
8 association; its bylaws, rules, and regulations governing its
9 activities; its members; the name and address of a resident of
10 this state upon whom notices or orders of the commissioner or
11 ~~process~~ may be served; and any changes in amendments or
12 changes in the foregoing.

13 Sec. 83. Section 515G.1, Code 2005, is amended by adding
14 the following new subsections:

15 NEW SUBSECTION. 2A. "Eligible policyholder" means a
16 policyholder who had a policy in force with a mutual insurer
17 at any time during the three-year period immediately preceding
18 the date of the adoption of a plan of conversion by the mutual
19 insurer's board of directors, including the date of adoption
20 of the plan of conversion, and who, therefore, is eligible to
21 receive an equitable share of the remaining statutory surplus
22 of the mutual insurer, after provision for the base value for
23 voting policyholders, as a result of the conversion.

24 NEW SUBSECTION. 5. "Voting policyholder" means a
25 policyholder who had a policy in force as provided in section
26 515G.4.

27 Sec. 84. Section 515G.2, Code 2005, is amended to read as
28 follows:

29 515G.2 MUTUAL INSURER BECOMING STOCK COMPANY --
30 AUTHORIZATION.

31 1. A mutual insurer may become a stock insurance company
32 pursuant to a plan of conversion established and approved in
33 the manner provided by this chapter. The plan of conversion
34 shall be adopted by the board of directors of the insurer to
35 become effective on a future stated date.

1 2. A plan of conversion may provide that a mutual
2 insurance company may convert into a domestic stock insurance
3 company, convert and merge, or convert and consolidate with a
4 domestic stock insurance company, as provided in chapter 490
5 or chapter 491, whichever is applicable. However, a mutual
6 insurance company is not required to comply with sections
7 490.1102 and 490.1104 or sections 491.102 through 491.105
8 relating to approval of merger or consolidation plans by
9 boards of directors and shareholders.

10 3. If conversion from a mutual insurer to a stock company
11 is to be undertaken by a transaction which would be governed
12 by chapter 521 or 521A, but the plan of conversion adopted by
13 the board of directors of the insurer includes approval of an
14 acquisition of control, merger, consolidation, or reinsurance,
15 then chapter 521 or 521A shall not be applicable to the
16 transaction. However, in that case, the commissioner may
17 require any information from the person or persons acquiring
18 control of the insurer as could be required under chapter 521
19 or 521A, and may disapprove the transaction on any basis on
20 which it could be disapproved under chapter 521 or 521A.

21 Sec. 85. Section 515G.3, subsection 3, Code 2005, is
22 amended to read as follows:

23 3. The manner and basis of exchanging the equitable-share
24 of each mutual policyholder with a policy in force as provided
25 in section 515G.4 for securities or other consideration, or
26 both, of the stock corporation or an affiliate into which the
27 mutual insurer is to be converted and the disposition of any
28 unclaimed shares. The plan shall also provide that each
29 person who had a policy of insurance in effect on the date of
30 adoption of the plan is entitled to receive in exchange for an
31 equitable share, without additional payment, consideration
32 payable in voting common shares of the insurer, or other
33 consideration, or both. The equitable share of the
34 policyholder in the mutual insurer may include a rights of
35 each voting policyholder and each eligible policyholder of the

3215

S.F. _____ H.F. _____

1 mutual insurer to be converted to a stock company pursuant to
2 this chapter. Such exchange may include a base value for each
3 voting policyholder in recognition of the voting
4 policyholder's voting rights as a mutual policyholder as well
5 as consideration to be provided to each eligible policyholder
6 in exchange for the eligible policyholder's rights as a mutual
7 policyholder of the mutual insurer to be converted. After
8 determining the base value for to be provided to each voting
9 policyholder in recognition of the voting rights of the voting
10 policyholder and-the-balance-of-such, the equitable share of
11 its each eligible policyholder in the remaining statutory
12 surplus of the mutual insurer, plus any adjustments for
13 nonadmitted assets or additional value permitted by the
14 commissioner, to be provided to each eligible policyholder
15 shall be determined by the ratio which the net earned premiums
16 the eligible policyholder has properly and timely paid to the
17 mutual insurer on insurance policies in effect during the
18 three-years three-year period immediately preceding the
19 adoption of the plan of conversion, including the date of the
20 adoption of the plan of conversion, bears to the total net
21 earned premiums received by the mutual insurer from all
22 eligible policyholders during that three-year period. The
23 base value to be provided to each voting policyholder in
24 recognition of voting rights and the equitable share of each
25 eligible policyholder may be exchanged, without additional
26 payment, for securities or other consideration, or both, of
27 the stock corporation or an affiliate into which the mutual
28 insurer is to be converted. If the base value for each voting
29 policyholder or the equitable share of the each eligible
30 policyholder entitles the policyholder to the purchase of a
31 fractional share of stock, the policyholder has the option to
32 receive the value of the fractional share in cash or purchase
33 a full share by paying the balance in cash. However,
34 policyholders due a de minimus amount, as established by the
35 commissioner, need not be offered the value of the fractional

1 share or the option to purchase a full share. The plan shall
2 also provide for the disposition of any unclaimed shares.

3 Sec. 86. Section 516E.1, Code Supplement 2005, is amended
4 by adding the following new subsections:

5 NEW SUBSECTION. 2A. "Financial institution" means an
6 institution that is all of the following:

7 a. Organized or, in the case of the office of a foreign
8 banking organization located in the United States, licensed,
9 under the laws of the United States or any state, and granted
10 authority to operate with fiduciary powers.

11 b. Regulated, supervised, and examined by federal or state
12 authorities empowered to regulate banks and trust companies.

13 NEW SUBSECTION. 5A. "Premium" means the consideration
14 paid to an insurer for a reimbursement insurance policy.

15 NEW SUBSECTION. 9A. "Service company fee" means the
16 consideration paid for a service contract.

17 Sec. 87. Section 516E.1, subsection 8, Code Supplement
18 2005, is amended to read as follows:

19 8. "Reimbursement insurance policy" means a contractual
20 liability insurance policy of insurance issued to a service
21 ~~company and-pursuant-to-which-the-insurer-agrees,-for-the~~
22 ~~benefit-of-the-service-contract-holders,-to-discharge-all-of~~
23 ~~the-obligations-and-liabilities-of-the-service-company-under~~
24 ~~the-terms-of-service-contracts-issued-by-the-service-company~~
25 ~~in-the-event-of-nonperformance-by-the-service-company,--For~~
26 ~~the-purposes-of-this-definition,-"all-obligations-and~~
27 ~~liabilities"-include,-but-are-not-limited-to,-failure-of-the~~
28 ~~service-company-to-perform-under-the-service-contract-and-the~~
29 ~~return-of-the-unearned-service-company-fee-in-the-event-of-the~~
30 ~~service-company's-unwillingness-or-inability-to-reimburse-the~~
31 ~~unearned-service-company-fee-in-the-event-of-termination-of-a~~
32 service contract that either provides reimbursement to a
33 service company under the terms of insured service contracts
34 issued or sold by the service company, or, in the event of
35 nonperformance by the service company, pays, on behalf of the

1 service company, all covered contractual obligations incurred
2 by the service company under the terms of the insured service
3 contracts issued or sold by the service company.

4 Sec. 88. Section 516E.2, subsection 3, Code Supplement
5 2005, is amended to read as follows:

6 3. In order to assure the faithful performance of a
7 service company's obligations to its service contract holders,
8 ~~the administrator may by rule require~~ service contracts shall
9 be secured by a reimbursement insurance policy in compliance
10 with the requirements set forth in section 516E.4 or the
11 service company shall comply with the financial responsibility
12 and security standards set forth in section 516E.21.

13 Sec. 89. Section 516E.2, subsection 4, paragraph f, Code
14 Supplement 2005, is amended by striking the paragraph.

15 Sec. 90. Section 516E.3, Code Supplement 2005, is amended
16 to read as follows:

17 516E.3 FILING AND FEE REQUIREMENTS.

18 1. SERVICE COMPANIES.

19 a. A service contract shall not be issued, sold, or
20 offered for sale in this state unless a true and correct copy
21 of the service contract, and the service company's
22 reimbursement insurance policy, if applicable, have been filed
23 with the commissioner by the service company.

24 b. A service company shall file ~~a consent to service of~~
25 ~~process on the commissioner,~~ and such other information as the
26 commissioner requires, annually with the commissioner no later
27 than the first day of August. If the first day of August
28 falls on a weekend or a holiday, the date for filing shall be
29 the next business day. In addition to the annual filing, the
30 service company shall promptly file copies of any amended
31 documents if material amendments have been made in the
32 materials on file with the commissioner. If an annual filing
33 is made after the first of August and sales have occurred
34 during the period when the service company was in
35 noncompliance with this section, the commissioner shall assess

1 an additional filing fee that is two times the amount normally
2 required for an annual filing. A fee shall not be charged for
3 interim filings made to keep the materials filed with the
4 division current and accurate. The annual filing shall be
5 accompanied by a filing fee determined by the commissioner
6 which shall be sufficient to defray the costs of administering
7 this chapter.

8 c. A service company shall promptly file the following
9 information with the commissioner:

10 (1) A change in the name or ownership of the service
11 company.

12 (2) The termination of the service company's business.

13 The service company is not required to submit a fee as part
14 of this filing.

15 2. PROVIDERS.

16 ~~a. A service contract shall not be sold or offered for~~
17 ~~sale in this state unless a true and correct copy of the~~
18 ~~service contract has been filed with the commissioner by the~~
19 ~~provider.~~

20 b. a. A provider shall file ~~a consent to service of~~
21 ~~process on the commissioner,~~ a notice with the name and
22 ownership of the provider, and such other information as the
23 commissioner requires, annually with the commissioner no later
24 than August 1. If August 1 falls on a weekend or a holiday,
25 the date for filing shall be the next business day. In
26 addition to the annual filing, the provider shall promptly
27 file copies of any amended documents if material amendments
28 have been made in the materials on file with the commissioner.
29 If an annual filing is made after August 1 and sales have
30 occurred during the period when the provider was in
31 noncompliance with this section, the commissioner shall assess
32 an additional filing fee that is two times the amount normally
33 required for an annual filing. A fee shall not be charged for
34 interim filings made to keep the materials filed with the
35 division current and accurate. The annual filing shall be

1 accompanied by a filing fee in the amount of one hundred
2 dollars.

3 ~~c.~~ b. A provider shall promptly file the following
4 information with the commissioner:

5 (1) A change in the name or ownership of the provider.

6 (2) The termination of the provider's business.

7 A provider is not required to submit a fee as part of this
8 filing.

9 Sec. 91. Section 516E.4, subsection 1, Code Supplement
10 2005, is amended by striking the subsection and inserting in
11 lieu thereof the following:

12 1. REQUIREMENTS. A reimbursement insurance policy
13 insuring a service contract issued, sold, or offered for sale
14 in this state shall provide for all of the following:

15 a. The reimbursement insurance policy shall, in the event
16 of the service company's failure to perform under the service
17 contract or otherwise, either reimburse or pay on behalf of
18 the service company any covered amounts that the service
19 company is legally obligated to pay under the service
20 contract, including the return of any unearned service company
21 fee owed by the service company to the service contract
22 holder.

23 b. An insurer that issues a reimbursement insurance policy
24 shall assume full responsibility for the administration of
25 claims made pursuant to a service contract in the event that
26 the service company is unable to do so.

27 c. If a service covered under a service contract is not
28 provided by the service company within sixty days of proof of
29 loss by the service contract holder, the service contract
30 holder is entitled to apply directly against the reimbursement
31 insurance policy of the service company.

32 Sec. 92. Section 516E.4, Code Supplement 2005, is amended
33 by adding the following new subsections:

34 NEW SUBSECTION. 4. OBLIGATIONS INSURED. If a service
35 company secures its service contracts with a reimbursement

1 insurance policy, the reimbursement insurance policy shall
2 insure one hundred percent of the obligations of all service
3 contracts sold by the service company.

4 NEW SUBSECTION. 5. QUALIFICATIONS OF INSURER. An insurer
5 issuing a reimbursement insurance policy under this chapter
6 shall be authorized, registered, or otherwise permitted to
7 transact business in this state, or shall be an excess and
8 surplus lines insurer authorized, registered, or otherwise
9 permitted to transact business in this state, and shall meet
10 one of the following requirements:

11 a. At the time the policy is filed with the commissioner,
12 and continuously thereafter, the insurer maintains surplus as
13 to policyholders and paid-in capital of at least fifteen
14 million dollars and annually files copies of the insurer's
15 financial statements, national association of insurance
16 commissioners annual statement, and actuarial certification,
17 if required and filed in the insurer's state of domicile.

18 b. At the time the policy is filed with the commissioner
19 and continuously thereafter, the insurer does all of the
20 following:

21 (1) Maintains surplus as to policyholders and paid-in
22 capital of less than fifteen million dollars but at least ten
23 million dollars.

24 (2) Demonstrates to the satisfaction of the commissioner
25 that the insurer maintains a ratio of net written premiums,
26 wherever written, to surplus as to policyholders and paid-in
27 capital of not greater than three to one.

28 (3) Files copies annually of the insurer's financial
29 statements, national association of insurance commissioners
30 annual statement, and actuarial certification, if required and
31 filed in the insurer's state of domicile.

32 Sec. 93. Section 516E.5, subsection 1, Code Supplement
33 2005, is amended to read as follows:

34 1. a. A service contract insured by a reimbursement
35 insurance policy shall not be issued, sold, or offered for

1 sale in this state unless the contract conspicuously states
2 that the obligations of the service company to the service
3 contract holder are guaranteed under a reimbursement insurance
4 policy, including a statement in substantially the following
5 form:

6 "Obligations of the service company under this service
7 contract are guaranteed under a reimbursement insurance
8 policy. If the service company fails to pay or provide
9 service on a claim within sixty days after proof of loss has
10 been filed with the service company, the service contract
11 holder is entitled to make a claim directly against the
12 reimbursement insurance policy."

13 b. A claim against a reimbursement insurance policy shall
14 also include a claim for return of the unearned consideration
15 service company fee paid for the service contract in-excess-of
16 the-premium-paid. A service contract shall conspicuously
17 state the name and address of the issuer of the reimbursement
18 insurance policy for that service contract.

19 c. A service contract issued, sold, or offered for sale in
20 this state that is not insured under a reimbursement insurance
21 policy shall contain a statement in substantially the
22 following form:

23 "Obligations of the service company under this service
24 contract are backed by the full faith and credit of the
25 service company."

26 Sec. 94. Section 516E.5, subsection 2, paragraphs a and b,
27 Code Supplement 2005, are amended to read as follows:

28 a. Clearly and conspicuously states the name and address
29 of the service company, and describes the service company's
30 obligations to perform services or to arrange for the
31 performance of services under the service contract, ~~and-states~~
32 ~~that-the-obligations-of-the-service-company-to-the-service~~
33 ~~contract-holder-are-guaranteed-under-a-reimbursement-insurance~~
34 ~~policy.~~

35 b. Clearly and conspicuously states the name and address

1 of the issuer of the reimbursement insurance policy, if
2 applicable.

3 Sec. 95. Section 516E.9, Code Supplement 2005, is amended
4 to read as follows:

5 516E.9 MISREPRESENTATIONS OF STATE APPROVAL.

6 A service company shall not represent or imply in any
7 manner that the service company has been sponsored,
8 recommended, or approved or that the service company's
9 abilities or qualifications have in any respect been passed
10 upon by the state of Iowa, including the commissioner, the
11 insurance division, or the division's securities and regulated
12 industries bureau.

13 Sec. 96. Section 516E.15, subsection 1, paragraph b, Code
14 Supplement 2005, is amended to read as follows:

15 b. A provider, or service company, ~~or third-party~~
16 ~~administrator~~ that fails to file documents and information
17 with the commissioner as required pursuant to section 516E.3
18 may be subject to a civil penalty. The amount of the civil
19 penalty shall not be more than four hundred dollars plus two
20 dollars for each service contract that the person executed
21 prior to satisfying the filing requirement. However, a person
22 who fails to file information regarding a change in the name
23 or the termination of the business of a provider, or service
24 company, ~~or third-party administrator~~ as required pursuant to
25 section 516E.3 is subject to a civil penalty of not more than
26 five hundred dollars.

27 Sec. 97. NEW SECTION. 516E.20 APPLICATION OF INSURANCE
28 LAWS.

29 The sale of a service contract under this chapter shall not
30 be deemed to include the sale of insurance. Unless a service
31 company, third-party administrator, or provider is otherwise
32 engaged in the sale of insurance, the insurance laws of this
33 state are not applicable to the service company, third party
34 administrator, or provider of such a service contract.

35 Sec. 98. NEW SECTION. 516E.21 FINANCIAL RESPONSIBILITY

1 AND SECURITY REQUIREMENTS IN LIEU OF REIMBURSEMENT INSURANCE
2 POLICY.

3 1. In lieu of obtaining a reimbursement insurance policy
4 as provided in section 516E.2, subsection 3, a service company
5 may secure its service contracts by maintaining a funded
6 reserve account which complies with all of the following:

7 a. The reserve account shall be in a custodial account at
8 a financial institution that is dedicated to the service
9 company's outstanding obligations under service contracts
10 issued and outstanding in this state.

11 b. The reserve account shall comply with rules adopted by
12 the commissioner pursuant to chapter 17A establishing
13 requirements for reserve accounts, reserve account agreements,
14 or the method of valuing marketable securities as necessary to
15 protect holders of service contracts issued and outstanding in
16 this state. The commissioner may require amendments to
17 reserve account agreements that are not in compliance with the
18 provisions of this section.

19 c. The reserve account shall not be an amount that is less
20 than forty percent of the gross consideration received, less
21 claims paid, on the sale of service contracts issued and
22 outstanding by the service company in this state.

23 d. The reserve account shall be subject to examination and
24 review by the commissioner or a designee on the premises of
25 the financial institution where the account is located and the
26 financial institution shall, upon request, produce documents
27 or records as necessary to allow the commissioner or a
28 designee to verify the value and safety of the assets of the
29 reserve account.

30 2. The service company shall annually provide the
31 commissioner with one of the following:

32 a. A copy of the service company's financial statements.

33 b. If the service company's financial statements are
34 consolidated with those of its parent company, a copy of the
35 parent company's most recent form 10-K or form 20-F filed with

1 the federal securities and exchange commission within the last
2 calendar year, or if the parent company does not file with the
3 federal securities and exchange commission, a copy of the
4 parent company's audited financial statements showing a net
5 worth of at least one hundred million dollars. If the service
6 company's financial statements are consolidated with those of
7 its parent company, the service company shall also provide a
8 copy of a written agreement by the parent company guaranteeing
9 the obligations of the service company under service contracts
10 issued and outstanding by the service company in this state.

11 3. If a service contract company secures its contracts by
12 maintaining a funded reserve account as provided in subsection
13 1 but does not have or maintain a minimum net worth or
14 stockholders equity of one hundred million dollars or more,
15 the service company shall also meet one of the following
16 requirements:

17 a. Maintain a security deposit trust fund which complies
18 with all of the following:

19 (1) The security deposit trust fund shall be in an account
20 at a financial institution.

21 (2) The security deposit trust fund shall be held,
22 invested, and administered for the benefit and protection of
23 service contract holders in this state in the event of
24 nonperformance of the service contract by the service company.

25 (3) The security deposit trust fund shall comply with
26 rules adopted by the commissioner pursuant to chapter 17A,
27 establishing the form, terms, and conditions of security
28 deposit trust fund agreements established pursuant to this
29 paragraph "a".

30 (4) The security deposit trust fund shall be subject to
31 recovery by any service contract holder sustaining actionable
32 injury due to the failure of the service company to perform
33 its obligations under the service contract. A holder of a
34 service contract issued in this state may, in the event of
35 nonperformance by the service company, maintain an action and

1 file a claim against the security deposit trust fund
2 maintained by the service company.

3 (5) The security deposit trust fund shall not be
4 commingled with other funds of the service company.

5 (6) The security deposit trust fund shall have a value of
6 not less than five percent of the gross consideration received
7 by the service company, less claims paid, for the sale of all
8 service contracts issued and in force in this state, but not
9 less than twenty-five thousand dollars, and consists of one or
10 more of the following:

11 (a) Cash.

12 (b) Securities of the type eligible for deposit by
13 insurers authorized to transact business in this state.

14 (c) Certificates of deposit.

15 (d) Another form of security as prescribed by the
16 commissioner by rule.

17 b. File a surety bond with the commissioner that is issued
18 by a surety company authorized to do business in this state,
19 and that complies with all of the following:

20 (1) The surety bond is conditioned upon the service
21 company's faithful performance of service contracts subject to
22 this chapter.

23 (2) The surety bond is for the benefit of and subject to
24 recovery by any service contract holder sustaining actionable
25 injury due to the failure of the service company to perform
26 its obligations under a service contract. The surety's
27 liability shall extend to all service contracts issued by the
28 service company and outstanding in this state. A holder of a
29 service contract issued in this state may, in the event of
30 nonperformance of the contract by the service company,
31 maintain an action and file a claim against the surety bond
32 filed by the service company.

33 (3) The surety bond is for an amount that is not less than
34 five percent of the gross consideration received by the
35 service company, less claims paid, for the sale of all service

1 contracts issued and in force in this state, but not less than
2 twenty-five thousand dollars.

3 (4) The surety bond cannot be canceled by the surety
4 except upon written notice of cancellation by the surety to
5 the commissioner by restricted certified mail, and not prior
6 to the expiration of sixty days after receipt of the notice by
7 the commissioner.

8 Sec. 99. Section 518.15, Code 2005, is amended to read as
9 follows:

10 518.15 REPORTS, AND EXAMINATIONS, AND RENEWALS.

11 1. The president or the vice president and secretary of
12 each association authorized to do business under this chapter
13 shall annually before the first day of March prepare under
14 oath and file with the commissioner of insurance a full, true
15 and complete statement of the condition of such association on
16 the last day of the preceding year. The commissioner of
17 insurance shall prescribe the report forms and shall determine
18 the information and data to be reported.

19 2. Such associations shall pay the same expenses of any
20 examination made or ordered to be made by the commissioner of
21 insurance and the same fees for the annual reports and annual
22 certificates of authority as are required to be paid by
23 domestic companies organized and doing business under chapter
24 ~~5157-which-certificates-shall-expire-June-1-of-the-year~~
25 ~~following-the-date-of-issue.~~

26 3. A certificate of authority of an association formed
27 under this chapter expires on June 1 succeeding its issue and
28 shall be renewed annually so long as the association transacts
29 its business in accordance with all legal requirements. An
30 association shall submit annually, on or before March 1, a
31 completed application for renewal of its certificate of
32 authority.

33 4. The commissioner shall refuse to renew the certificate
34 of authority of an association that fails to comply with the
35 provisions of this chapter.

2864
3215

1 5. An association formed under this chapter that fails to
2 timely file the statement required under subsection 1 or the
3 application for renewal required under subsection 3 is in
4 violation of this section and shall pay an administrative
5 penalty of five hundred dollars to the treasurer of state for
6 deposit in the general fund of the state as provided in
7 section 505.7. The association's right to transact new
8 business in this state shall immediately cease until the
9 association has fully complied with this chapter.

10 6. The commissioner may give notice to an association that
11 the association has not timely filed the statement required
12 under subsection 1 or an application for renewal under
13 subsection 3 and is in violation of this section. If the
14 association fails to file the required statement or
15 application and comply with this section within ten days of
16 the date of the notice, the association shall pay an
17 additional administrative penalty of one hundred dollars for
18 each day that the failure continues to the treasurer of state
19 for deposit in the general fund of the state as provided in
20 section 505.7.

21 Sec. 100. Section 518A.18, Code 2005, is amended to read
22 as follows:

23 **518A.18 ANNUAL REPORT -- PENALTIES.**

24 1. An association doing business under this chapter, on or
25 before March 1 of each year, shall prepare under oath and file
26 with the commissioner of insurance an accurate and complete
27 statement of the condition of the association as of the last
28 day of the preceding calendar year. The statement shall
29 conform to the annual statement blank prepared pursuant to
30 instructions prescribed by the commissioner. All financial
31 information reflected in the annual report shall be kept and
32 prepared pursuant to accounting practices and procedures
33 prescribed by the commissioner. Statements filed with the
34 commissioner pursuant to this section shall be tabulated and
35 published by the commissioner of insurance in the annual

1 report of insurance.

2 2. An association that fails to timely file the statement
3 required under subsection 1 is in violation of this section
4 and shall pay an administrative penalty of five hundred
5 dollars for each violation to the treasurer of state for
6 deposit in the general fund of the state as provided in
7 section 505.7.

8 3. The commissioner may give notice to an association that
9 the association has not timely filed the statement required
10 under subsection 1 and is in violation of this section. If
11 the association fails to file the required statement and
12 comply with this section within ten days of the date of the
13 notice, the association shall pay an additional administrative
14 penalty of one hundred dollars for each day that each failure
15 continues to the treasurer of state for deposit in the general
16 fund of the state as provided in section 505.7.

17 4. The association's right to transact new business in
18 this state shall immediately cease until the association has
19 fully complied with this chapter.

20 Sec. 101. Section 518A.35, subsection 1, Code 2005, is
21 amended to read as follows:

22 1. A state mutual insurance association doing business
23 under this chapter shall on or before the first day of March,
24 each year, pay to the director of revenue, or a depository
25 designated by the director, a sum equivalent to the applicable
26 percent of the gross receipts from premiums and fees for
27 business done within the state, including all insurance upon
28 property situated in the state without including or deducting
29 any amounts received or paid for reinsurance. However, a
30 company reinsuring windstorm or hail risks written by county
31 mutual insurance associations is required to pay the
32 applicable percent tax on the gross amount of reinsurance
33 premiums received written upon such risks, but after deducting
34 the amount returned upon canceled policies and rejected
35 applications covering property situated within the state, and

1 dividends returned to policyholders on property situated
2 within the state. For purposes of this section, "applicable
3 percent" means the same as specified in section 432.1,
4 subsection 4.

5 Sec. 102. Section 518A.40, Code 2005, is amended to read
6 as follows:

7 518A.40 ANNUAL FEES -- RENEWALS -- PENALTIES.

8 1. Such associations shall pay the same fees for annual
9 reports and annual certificates of authority as are required
10 to be paid by domestic companies organized and doing business
11 under chapter 515, which certificates shall expire May 1 of
12 the year following the date of issue.

13 2. A certificate of authority of an association formed
14 under this chapter shall be renewed annually so long as the
15 organization transacts its business in accordance with all
16 legal requirements. Such an association shall submit
17 annually, on or before March 1, a completed application for
18 renewal of its certificate of authority.

19 3. The commissioner shall refuse to renew the certificate
20 of authority of a state mutual insurance association that
21 fails to comply with the provisions of this chapter and the
22 association's right to transact new business in this state
23 shall immediately cease until the association has so complied.

24 4. An association that fails to timely file the
25 application for renewal required under subsection 2 is in
26 violation of this section and shall pay an administrative
27 penalty of five hundred dollars to the treasurer of state for
28 deposit in the general fund of the state as provided in
29 section 505.7.

30 Sec. 103. Section 518C.17, Code 2005, is amended to read
31 as follows:

32 518C.17 ACTIONS AGAINST THE ASSOCIATION.

33 An action against the association shall be brought against
34 it in the association's own name and only in the Polk county
35 district court. Service of original notice in an action

1 against the association may shall be made on any officer of
2 the association ~~or-upon-the-commissioner-of-insurance-on-its~~
3 ~~behalf. The-commissioner-shall-promptly-transmit-any-notice~~
4 ~~served-upon-the-commissioner-to-the-association.~~

5 Sec. 104. Section 520.4, subsection 9, Code 2005, is
6 amended by striking the subsection.

7 Sec. 105. Section 520.5, Code 2005, is amended to read as
8 follows:

9 520.5 ACTIONS -- VENUE ---~~COMMISSIONER-AS-PROCESS-AGENT.~~

10 Concurrently with the filing of the declaration provided
11 for by the terms of section 520.4, the attorney shall file
12 with the commissioner of insurance, an instrument in writing
13 executed by the attorney for said subscribers, conditioned
14 that, upon the issuance of certificate of authority provided
15 for in this chapter, action may be brought in the county in
16 which the property or person insured thereunder is located,
17 and that service of process shall be had upon ~~the-commissioner~~
18 ~~of-insurance-or-upon~~ the attorney in fact in all suits in this
19 state, whether arising out of such policies, contracts,
20 agreements or otherwise, which service shall be valid and
21 binding upon all subscribers exchanging at any time reciprocal
22 or interinsurance contracts through such attorney. All suits
23 of every kind and description brought against such reciprocal
24 exchange or the subscribers thereto on account of their
25 connection therewith, must be brought against the attorney in
26 fact therefor or the exchange as such, and shall not be
27 brought against any of the subscribers thereto individually on
28 account of their connection with or membership in such
29 reciprocal exchange, and must be brought in the manner and
30 method above provided.

31 Sec. 106. Section 520.7, Code 2005, is amended to read as
32 follows:

33 520.7 JUDGMENT -- SATISFACTION.

34 A judgment rendered in any such case where service of
35 process has been so had upon the ~~commissioner-of-insurance,~~

1 attorney in fact shall be valid and binding against any and
2 all such subscribers as their interests appear and such
3 judgment may be satisfied out of the funds in the possession
4 of the attorney belonging to such subscribers.

5 Sec. 107. Section 520.10, Code 2005, is amended to read as
6 follows:

7 520.10 ANNUAL REPORT -- EXAMINATION -- PENALTIES.

8 1. Such attorney shall, within the time limited for filing
9 the annual statement by insurance companies transacting the
10 same kind of business, make a report, under oath, to the
11 commissioner of insurance for each calendar year, showing the
12 financial condition of affairs at the office where such
13 contracts are issued and shall, at any and all times, furnish
14 such additional information and reports as may be required;
15 provided, however, that the attorney shall not be required to
16 furnish the names and addresses of any subscribers except in
17 case of an unpaid final judgment. The business affairs,
18 records, and assets of any such organization shall be subject
19 to examination by the commissioner of insurance at any
20 reasonable time, and such examination shall be at the expense
21 of the organization examined.

22 2. A certificate of authority of a reciprocal or
23 interinsurance insurer authorized under this chapter shall be
24 renewed annually in accordance with section 520.12 so long as
25 the insurer transacts its business in accordance with all
26 legal requirements.

27 3. The commissioner shall refuse to renew the certificate
28 of authority of a reciprocal or interinsurance insurer that
29 fails to comply with the provisions of this chapter and the
30 insurer's right to transact new business in this state shall
31 immediately cease until the insurer has so complied.

32 4. A reciprocal or interinsurance insurer that fails to
33 timely file the report required under subsection 1 is in
34 violation of this section and shall pay an administrative
35 penalty of five hundred dollars to the treasurer of state for

1 deposit in the general fund of the state as provided in
2 section 505.7.

3 5. The commissioner may give notice to a reciprocal or
4 interinsurance insurer that the insurer has not timely filed
5 the report required under subsection 1 and is in violation of
6 this section. If the insurer fails to file the required
7 report and comply with this section within ten days of the
8 date of the notice, the insurer shall pay an additional
9 administrative penalty of one hundred dollars for each day
10 that the failure continues to the treasurer of state for
11 deposit in the general fund of the state as provided in
12 section 505.7.

13 Sec. 108. Section 520.12, Code 2005, is amended to read as
14 follows:

15 520.12 CERTIFICATE OF AUTHORITY -- RENEWAL -- PENALTIES.

16 1. Upon compliance with the requirements of this chapter,
17 the commissioner of insurance shall issue a certificate of
18 authority or a license to the attorney, authorizing the
19 attorney to make such contracts of insurance, which license
20 shall specify the kind or kinds of insurance and shall contain
21 the name of the attorney, the location of the principal office
22 and the name or designation under which such contracts of
23 insurance are issued. The certificate of authority shall
24 expire on the first day of June next succeeding its issue, and
25 shall be renewed annually as long as the company transacts
26 business in accordance with the requirements of law. A copy
27 of the certificate, when certified by the commissioner of
28 insurance, shall be admissible in evidence for or against a
29 company with the same effect as the original.

30 2. A reciprocal or interinsurance insurer shall submit
31 annually, on or before March 1, a completed application for
32 renewal of the insurer's certificate of authority. An insurer
33 that fails to timely file an application for renewal shall pay
34 an administrative fee of five hundred dollars to the treasurer
35 of state for deposit in the general fund of the state as

1 provided in section 505.7.

2 Sec. 109. Section 521.1, Code 2005, is amended to read as
3 follows:

4 521.1 DEFINITIONS.

5 For the purposes of this chapter:

6 1. "Affected company" or "affected mutual company" means
7 the company being merged with and into the surviving company.

8 2. "Commission" means the commission created in section
9 521.5.

10 3. "Commissioner" means the commissioner of insurance.

11 4. "Company" or "companies" when used in this chapter
12 means a company or association organized under chapter 508,
13 511, 515, 518, 518A, or 520, and includes a mutual insurance
14 holding company organized pursuant to section 521A.14.

15 Sec. 110. Section 521.2, Code 2005, is amended to read as
16 follows:

17 521.2 ~~LIFE-COMPANIES---~~ CONSOLIDATION, MERGER, AND
18 REINSURANCE.

19 1. One or more domestic mutual insurance companies
20 organized under chapter 491 may merge or consolidate with a
21 domestic or foreign mutual insurance company as provided in
22 this chapter. Sections 491.101 through 491.105 shall not be
23 applicable to a merger or consolidation of a domestic mutual
24 insurance company pursuant to this chapter.

25 2. One or more domestic insurance companies organized
26 under chapter 490 may merge with a domestic or foreign
27 insurance company as provided in chapter 490 with the approval
28 of the commission pursuant to this chapter.

29 3. The provisions of this chapter shall not be applicable
30 to the merger or consolidation of a domestic mutual company
31 with a stock company pursuant to chapter 508B or chapter 515G.

32 4. A domestic mutual insurance company organized under the
33 laws of this state to do the business of life insurance,
34 either on the stock, mutual, stipulated premium, or assessment
35 plan, shall not consolidate with any other company or reinsure

1 ~~its risks, or any part of such risks, with any other company,~~
2 or assume or reinsure the whole or any part of the risks of
3 any other company, except as provided in this chapter.
4 However, this chapter shall not be construed to prevent any
5 company, as defined in section 521.1, from reinsuring a
6 fractional part of any single risk.

7 Sec. 111. Section 521.3, Code 2005, is amended by striking
8 the section and inserting in lieu thereof the following:

9 521.3 SUBMISSION OF PLAN AND APPLICATION TO COMMISSIONER
10 OF INSURANCE.

11 Any company proposing to consolidate, merge, or enter into
12 any reinsurance contract with another company shall file a
13 plan and an application in support of the plan with the
14 commissioner. The plan shall set forth the terms of the
15 proposed contract of consolidation, merger, or reinsurance,
16 along with any other information requested by the
17 commissioner.

18 Sec. 112. Section 521.4, Code 2005, is amended by striking
19 the section and inserting in lieu thereof the following:

20 521.4 PROCEDURE -- NOTICE.

21 The commission may hear and determine an application, and
22 approve, disapprove, or require modification of a plan
23 submitted under section 521.3 without notice and without
24 public hearing. The commission may require a public hearing
25 when necessary to conserve the interests of the members,
26 policyholders, or shareholders of the affected company. In
27 such cases the commission shall require the affected company
28 to mail to all of its members, policyholders, or shareholders
29 written notice of the public hearing stating that an
30 application and plan have been filed with the commission, the
31 nature of the plan, and the date, time, and place of the
32 public hearing on the application and plan. The commission
33 shall determine the number of days prior to the public hearing
34 that notice is required to be given to the members or
35 shareholders, which shall be no fewer than ten nor more than

1 sixty days.

2 Sec. 113. Section 521.5, Code 2005, is amended to read as
3 follows:

4 521.5 COMMISSION ~~TO HEAR PETITION~~ CREATED.

5 ~~For the purpose of hearing and determining such petition,~~
6 A commission consisting of the commissioner of insurance and
7 the attorney general is hereby created to hear and determine
8 the application and to approve, disapprove, or require
9 modification of the plan prior to approval.

10 Sec. 114. Section 521.6, Code 2005, is amended to read as
11 follows:

12 521.6 EXAMINATION.

13 The commission may ~~make such examination into~~ examine the
14 affairs and condition of any company ~~or companies~~ as it may
15 ~~deem~~ deems proper, and shall have the power to summon and
16 compel the attendance and testimony of witnesses, and the
17 production of books and papers before ~~said~~ the commission and
18 may administer oaths.

19 Sec. 115. Section 521.7, Code 2005, is amended to read as
20 follows:

21 521.7 APPEARANCE BY MEMBERS, POLICYHOLDERS, OR
22 SHAREHOLDERS.

23 When notice ~~shall have been~~ is given as above provided in
24 section 521.4, any member, policyholder, or stockholder
25 shareholder of ~~said~~ the affected company ~~or companies~~ shall
26 have the right to appear before ~~said~~ the commission and be
27 heard ~~with reference to said petition~~ regarding the
28 application and plan.

29 Sec. 116. Section 521.8, Code 2005, is amended to read as
30 follows:

31 521.8 AUTHORIZATION.

32 ~~Said~~ The commission, if satisfied that the interests of the
33 members, policyholders, or shareholders of ~~said~~ the affected
34 company ~~or companies~~ are properly protected and no reasonable
35 objection to ~~said petition~~ the application and plan exists,

1 may authorize approve, disapprove, or require modification of
2 the proposed plan of consolidation, merger, or reinsurance or
3 ~~may-direct-such-modification-thereof-as-may-seem-to-it-best~~
4 ~~for-the-interests-of-the-policyholders,-and-said~~ prior to
5 approval. The commission may make such order and disposition
6 of the assets of any such company thereafter remaining as
7 shall be just and equitable.

8 Sec. 117. Section 521.10, Code 2005, is amended by
9 striking the section and inserting in lieu thereof the
10 following:

11 521.10 ELECTION CALLED.

12 1. The commission may require an affected company to
13 submit the plan of consolidation, merger, or reinsurance to a
14 vote by its members. The plan shall be submitted at a meeting
15 called for that purpose, upon not less than thirty days'
16 notice. Member approval of the plan requires the affirmative
17 vote of two-thirds of all members voting in person, by ballot,
18 or by proxy.

19 2. Approval by the members of a mutual company of a plan
20 of merger or reinsurance is not required if all of the
21 following conditions are satisfied:

22 a. The company will survive the merger or is the
23 reinsurer.

24 b. At the time of the merger or reinsurance, the number of
25 members of the surviving company is greater than the number of
26 members of the affected company.

27 c. At the time of the merger or reinsurance, the surplus
28 of the surviving company is greater than the surplus of the
29 affected company.

30 Sec. 118. Section 521.13, Code 2005, is amended by
31 striking the section and inserting in lieu thereof the
32 following:

33 521.13 REINSURANCE TRANSACTIONS -- EXEMPTION.

34 Reinsurance as provided in sections 515.49, 518.17,
35 518A.44, and 520.21 is exempt from the requirements of this

1 chapter.

2 Sec. 119. Section 521.14, Code 2005, is amended to read as
3 follows:

4 521.14 EXPENSES AND COSTS -- HOW PAID.

5 All expenses and costs incident to proceedings under the
6 ~~provisions of~~ this chapter, shall be paid by the company or
7 ~~companies bringing~~ filing the petition application and plan.

8 Sec. 120. Section 521.16, Code 2005, is amended to read as
9 follows:

10 521.16 APPLICABILITY OF CHAPTER SECTION 521A.3.

11 ~~Chapter 521A is~~ The provisions of section 521A.3 shall also
12 be applicable to a merger or consolidation made pursuant
13 subject to this chapter,~~and the provisions of chapter 521A~~
14 ~~and this chapter shall apply exclusively with respect to such~~
15 ~~merger or consolidation.~~

16 Sec. 121. NEW SECTION. 521.17 ADDITIONAL FILING
17 REQUIREMENTS -- PLANS AND ARTICLES OF MERGER OR CONSOLIDATION.

18 A company filing a plan to merge or consolidate shall, in
19 addition to and after meeting the requirements of this
20 chapter, make all appropriate filings with and pay appropriate
21 fees to the secretary of state required under chapter 490 or
22 491.

23 Sec. 122. NEW SECTION. 521.18 ARTICLES OF MERGER OR
24 CONSOLIDATION -- FILING FEES AND APPROVAL.

25 A company filing a plan to merge or consolidate under the
26 provisions of this chapter shall file its articles of merger
27 or consolidation with the commission for its approval. The
28 fee for filing articles of merger or consolidation with the
29 commission is fifty dollars.

30 Sec. 123. Section 521A.1, subsection 6, Code 2005, is
31 amended to read as follows:

32 6. "Insurer" means a company qualified and licensed by the
33 insurance division to transact the business of insurance in
34 this state by certificate issued pursuant to chapters 508,
35 512B, 514, 514B, 515, 515E, and 520, except that it shall not

1 include:

2 a. ~~Agencies~~ agencies, authorities, or instrumentalities of
3 the United States, its possessions and territories, the
4 commonwealth of Puerto Rico, the District of Columbia, or a
5 state or political subdivision of a state.

6 ~~b. Fraternal-benefit-societies.~~

7 ~~c. Nonprofit-medical, hospital-or-dental-service~~
8 ~~associations.~~

9 Sec. 124. Section 521A.2, subsection 1, paragraph c, Code
10 2005, is amended to read as follows:

11 c. Investing, reinvesting, or trading in securities and
12 financial instruments as defined in section 511.8, subsection
13 22, for its own account, that of its parent, any subsidiary of
14 its parent, or any affiliate or subsidiary.

15 Sec. 125. Section 521A.2, subsection 3, Code 2005, is
16 amended by adding the following new paragraph:

17 NEW PARAGRAPH. d. Invest, reinvest, and trade in
18 financial instruments as defined in section 511.8, subsection
19 22, for its own account, that of its parent, any subsidiary of
20 its parent, or any affiliate or subsidiary.

21 Sec. 126. Section 521A.3, subsection 7, Code 2005, is
22 amended to read as follows:

23 7. JURISDICTION ~~---CONSENT-TO-SERVICE-OF-PROCESS.~~ The
24 district court is hereby vested with jurisdiction over every
25 person not resident, domiciled, or authorized to do business
26 in this state who files a statement with the commissioner
27 under this section, and over all actions involving such person
28 arising out of violations of this section, ~~and each such~~
29 ~~person shall be deemed to have performed acts equivalent to~~
30 ~~and constituting an appointment by such a person of the~~
31 ~~commissioner to be the person's true and lawful attorney upon~~
32 ~~whom may be served all lawful process, notice or demand in any~~
33 ~~action, suit or proceeding arising out of violations of this~~
34 ~~section. Copies of all such lawful process, notice or demand~~
35 ~~shall be served on the commissioner and transmitted by~~

1 ~~registered or certified mail by the commissioner to such~~
2 ~~person at the person's last known address.~~

3 Sec. 127. Section 521B.2, subsection 6, paragraph a,
4 subparagraph (2), Code 2005, is amended to read as follows:

5 (2) That ~~the commissioner or~~ an attorney designated in the
6 agreement is the true and lawful attorney of the assuming
7 insurer upon whom may be served any lawful process in any
8 action, suit, or proceeding instituted by or on behalf of the
9 ceding company.

10 Sec. 128. Section 521C.3, subsection 4, paragraph b, Code
11 2005, is amended to read as follows:

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

23 Sec. 129. Section 522B.5, subsection 1, paragraph c, Code
24 2005, is amended to read as follows:

25 c. The individual has paid the license fee of fifty thirty
26 dollars.

27 Sec. 130. Section 522B.6, subsection 1, Code 2005, is
28 amended to read as follows:

29 1. A person who meets the requirements of sections 522B.4
30 and 522B.5, unless otherwise denied licensure pursuant to
31 section 522B.11, shall be issued an insurance producer
32 license. An insurance producer license is valid for three two
33 years.

34 Sec. 131. NEW SECTION. 522B.16B WRITTEN CONSENT TO
35 ENGAGE OR PARTICIPATE IN BUSINESS OF INSURANCE.

1 1. A person who is prohibited by 18 U.S.C. § 1033 from
2 engaging or participating in the business of insurance because
3 that person has been convicted of a crime under that statute
4 or of a felony involving dishonesty or breach of trust may
5 apply to the commissioner for written consent to engage or
6 participate in the business of insurance in this state.

7 2. The commissioner, by rule, shall establish a procedure
8 and standards for issuing such a written consent.

9 3. The commissioner shall not issue an insurance producer
10 license to an applicant who has been convicted of a crime as
11 set forth in subsection 1 unless the applicant has first
12 obtained a written consent from the commissioner to engage or
13 participate in the business of insurance in this state.

14 4. If an insurance producer licensee is convicted of a
15 crime as set forth in subsection 1, the commissioner shall
16 revoke, suspend, or refuse to renew the licensee's insurance
17 producer license. The commissioner shall not renew or issue
18 an insurance producer license to that person unless the person
19 has first obtained a written consent from the commissioner to
20 engage or participate in the business of insurance in this
21 state.

22 Sec. 132. Section 523A.601, subsection 1, paragraph i,
23 Code 2005, is amended to read as follows:

24 i. Include an explanation of regulatory oversight by the
25 insurance division in twelve point boldface type, in
26 substantially the following language:

27 THIS AGREEMENT IS SUBJECT TO RULES ADMINISTERED BY THE IOWA
28 INSURANCE DIVISION. YOU MAY CALL THE INSURANCE DIVISION AT
29 ~~(515) 281-4441~~ (515)281-4441. WRITTEN INQUIRIES OR COMPLAINTS
30 SHOULD BE MAILED TO THE IOWA SECURITIES AND REGULATED
31 INDUSTRIES BUREAU, {STREET-ADDRESS}7-{CITY} 330 MAPLE STREET,
32 DES MOINES, IOWA {ZIP-CODE} 50319.

33 Sec. 133. Section 523A.602, subsection 2, paragraph b,
34 Code 2005, is amended by adding the following new
35 subparagraph:

1 NEW SUBPARAGRAPH. (1A) If a purchase agreement is
2 canceled before the purchase price is paid in full, a
3 purchaser requests a transfer of the trust assets upon
4 cancellation of a purchase agreement before the purchase price
5 is paid in full, or another establishment provides cemetery
6 merchandise, funeral merchandise, funeral services, or a
7 combination thereof, designated in a purchase agreement before
8 the purchase price is paid in full, the seller shall refund or
9 transfer within thirty days of receiving a written demand no
10 less than the amount paid by the purchaser, less any actual
11 expenses incurred by the seller pursuant to the purchase
12 agreement as set forth in the purchase agreement under section
13 523A.601, subsection 1, paragraph "f". The amount of the
14 actual expenses deducted by the seller shall not exceed ten
15 percent of the total original purchase price of the applicable
16 cemetery merchandise, funeral merchandise, funeral services,
17 or a combination thereof. The seller may also deduct the
18 value of the cemetery merchandise, funeral merchandise, and
19 funeral services already received by, delivered to, or
20 warehoused for the purchaser.

21 Sec. 134. Section 523I.102, Code Supplement 2005, is
22 amended by adding the following new subsections:

23 NEW SUBSECTION. 0A. "Abandoned cemetery" means a cemetery
24 that is not operating on a regular basis, is not offering to
25 sell or provide interments or other services reasonably
26 necessary for interments, and is not providing or permitting
27 reasonable ingress or egress to the cemetery for the purpose
28 of visiting interment spaces.

29 NEW SUBSECTION. 49. "Veterans cemetery" means a cemetery
30 that is owned or operated by the state of Iowa or by the
31 United States for the burial of veterans.

32 Sec. 135. Section 523I.103, subsection 1, paragraph a,
33 Code Supplement 2005, is amended to read as follows:

34 a. All cemeteries, except religious cemeteries that
35 commenced business prior to July 1, 2005, and veterans

1 cemeteries.

2 Sec. 136. Section 523I.201, subsection 1, Code Supplement
3 2005, is amended to read as follows:

4 1. This chapter shall be administered by the commissioner.
5 The deputy administrator appointed pursuant to section
6 ~~523A-801~~ 502.601 shall be the principal operations officer
7 responsible to the commissioner for the routine administration
8 of this chapter and management of the administrative staff.
9 In the absence of the commissioner, whether because of vacancy
10 in the office due to absence, physical disability, or other
11 cause, the deputy administrator shall, for the time being,
12 have and exercise the authority conferred upon the
13 commissioner. The commissioner may by order from time to time
14 delegate to the deputy administrator any or all of the
15 functions assigned to the commissioner in this chapter. The
16 deputy administrator shall employ officers, attorneys,
17 accountants, and other employees as needed for administering
18 this chapter.

19 Sec. 137. Section 523I.309, subsection 1, Code Supplement
20 2005, is amended to read as follows:

21 1. Any available member of the following classes of
22 persons, in the priority listed, shall have the right to
23 control the interment, relocation, or disinterment of a
24 decedent's remains within or from a cemetery:

25 ~~a. The attorney-in-fact-of-the-decedent-pursuant-to-a~~
26 ~~durable-power-of-attorney-for-health-care.~~

27 ~~b. a.~~ a. The surviving spouse of the decedent, if not
28 legally separated from the decedent.

29 ~~c. b.~~ b. The decedent's surviving adult children. If there
30 is more than one surviving adult child, any adult child who
31 can confirm, in writing, that all other adult children have
32 been notified of the proposed interment, relocation, or
33 disinterment may authorize the interment, relocation, or
34 disinterment, unless the cemetery receives an objection to
35 such action from another adult child of the decedent.

1 Alternatively, a majority of the surviving adult children of
2 the decedent whose whereabouts are reasonably ascertainable
3 shall have such right to control.

4 d. c. A The surviving parent parents of the decedent
5 whose whereabouts are reasonably ascertainable.

6 d. A surviving adult grandchild of the decedent. If there
7 is more than one surviving adult grandchild, any adult
8 grandchild who can confirm, in writing, that all other adult
9 grandchildren have been notified of the proposed interment,
10 relocation, or disinterment may authorize the interment,
11 relocation, or disinterment, unless the cemetery receives an
12 objection to such action from another adult grandchild of the
13 decedent. Alternatively, a majority of the surviving adult
14 grandchildren of the decedent whose whereabouts are reasonably
15 ascertainable shall have such right to control.

16 e. A surviving adult sibling of the decedent. If there is
17 more than one surviving adult sibling, any adult sibling who
18 can confirm, in writing, that all other adult siblings have
19 been notified of the proposed interment, relocation, or
20 disinterment may authorize the interment, relocation, or
21 disinterment, unless the cemetery receives an objection to
22 such action from another adult sibling of the decedent.
23 Alternatively, a majority of the surviving adult siblings of
24 the decedent whose whereabouts are reasonably ascertainable
25 shall have such right to control.

26 f. A surviving grandparent of the decedent. If there is
27 more than one surviving grandparent, any grandparent who can
28 confirm, in writing, that all other grandparents have been
29 notified of the proposed interment, relocation, or
30 disinterment may authorize the interment, relocation, or
31 disinterment, unless the cemetery receives an objection to
32 such action from another grandparent of the decedent.
33 Alternatively, a majority of the surviving grandparents of the
34 decedent whose whereabouts are reasonably ascertainable shall
35 have such right to control.

1 g. ~~The legal guardian of the decedent at the time of the~~
2 ~~decedent's death.~~ An adult person in the next degree of
3 kinship to the decedent in the order named by law to inherit
4 the estate of the decedent under the rules of inheritance for
5 intestate succession.

6 h. The county medical examiner, if responsible for the
7 decedent's remains.

8 A cemetery may await a court order before proceeding with
9 the interment, relocation, or disinterment of a decedent's
10 remains within or from a cemetery if the cemetery is aware of
11 a dispute between an authorized person under this section and
12 the executor named in the decedent's will or a personal
13 representative appointed by a court, or is aware of a dispute
14 among authorized persons with the same priority under this
15 subsection.

16 Sec. 138. Section 523I.312, subsection 2, paragraph n,
17 Code Supplement 2005, is amended by striking the paragraph and
18 inserting in lieu thereof the following:

19 n. Include an explanation of regulatory oversight by the
20 insurance division in twelve point boldface type, in
21 substantially the following language:

22 THIS AGREEMENT IS SUBJECT TO RULES ADMINISTERED BY THE IOWA
23 INSURANCE DIVISION. YOU MAY CALL THE INSURANCE DIVISION WITH
24 INQUIRIES OR COMPLAINTS AT (515)281-4441. WRITTEN INQUIRIES
25 OR COMPLAINTS SHOULD BE MAILED TO: IOWA SECURITIES AND
26 REGULATED INDUSTRIES BUREAU, 330 MAPLE STREET, DES MOINES,
27 IOWA 50319.

28 Sec. 139. Section 523I.316, subsection 3, Code Supplement
29 2005, is amended to read as follows:

30 3. DUTY TO PRESERVE AND PROTECT.

31 a. A governmental subdivision having a cemetery, or a
32 burial site that is not located within a dedicated cemetery,
33 within its jurisdiction, for which preservation is not
34 otherwise provided, shall preserve and protect the cemetery or
35 burial site as necessary to restore or maintain its physical

1 integrity as a cemetery or burial site. The governmental
2 subdivision may enter into an agreement to delegate the
3 responsibility for the preservation and protection of the
4 cemetery or burial site to a private organization interested
5 in historical preservation.

6 b. A governmental subdivision is authorized to expend
7 public funds, in any manner authorized by law, in connection
8 with such a cemetery or burial site.

9 c. As used in this subsection, "preserve and protect"
10 means to keep the cemetery or burial site and any records
11 thereof safe from destruction, peril, or other adversity, and
12 includes the placement of signs, markers, fencing, or other
13 appropriate features identifying the site as a cemetery or
14 burial site.

15 Sec. 140. NEW SECTION. 523I.317 DUTY TO PROVIDE PUBLIC
16 ACCESS.

17 A cemetery shall provide or permit public access to the
18 cemetery, at reasonable times and subject to reasonable
19 regulations, so that owners of interment rights and other
20 members of the public have reasonable ingress and egress to
21 the cemetery.

22 Sec. 141. NEW SECTION. 523I.403 ACQUISITION OF ABANDONED
23 CEMETERIES -- GOVERNMENTAL SUBDIVISIONS.

24 1. A governmental subdivision may acquire an abandoned
25 cemetery, including ownership of any unsold interment spaces
26 in the cemetery. A governmental subdivision that acquires a
27 cemetery under this section shall have legal title to the
28 cemetery and is authorized to acquire land for use of the
29 cemetery, receive gifts, and receive and administer endowments
30 for the care of the cemetery or any part thereof.

31 2. A governmental subdivision shall use due diligence in
32 identifying the owners of an abandoned cemetery and shall
33 provide notice of its intent to acquire the cemetery as
34 provided in this section. If the governmental subdivision is
35 unable to locate the owner of the abandoned cemetery, the

1 governmental subdivision shall publish notice of its intent to
2 acquire the cemetery for three successive weeks in a newspaper
3 of general circulation in the county in which the cemetery is
4 located.

5 3. A cemetery's owner may object to the acquisition of a
6 cemetery by a governmental subdivision. In order to reassert
7 ownership rights to the cemetery, the owner shall provide or
8 permit public access to the cemetery, at reasonable times and
9 subject to reasonable regulations, so that owners of interment
10 rights and other members of the public have reasonable ingress
11 and egress to the cemetery. If the cemetery's owner provides
12 or permits such public access within twenty-four months after
13 receiving notice of the governmental subdivision's intent to
14 acquire the cemetery, the governmental subdivision shall not
15 proceed with its action to acquire the cemetery.

16 Sec. 142. NEW SECTION. 523I.404 ACQUISITION OF ABANDONED
17 CEMETERIES -- CEMETERY ASSOCIATIONS.

18 1. Any person who has a relative interred in an abandoned
19 cemetery or who owns interment rights in an abandoned cemetery
20 may organize a cemetery association for the cemetery. The
21 cemetery association shall be incorporated as a nonprofit
22 corporation pursuant to chapter 504A. A corporation formed in
23 this manner may acquire legal title to the cemetery if an
24 owner cannot be located.

25 2. A cemetery association shall use due diligence in
26 identifying the owner of an abandoned cemetery and shall
27 provide notice of the association's intent to acquire the
28 cemetery as provided in this section. If the cemetery
29 association is unable to locate the owner of the abandoned
30 cemetery, the cemetery association shall publish notice of
31 intent to acquire the cemetery for three successive weeks in a
32 newspaper of general circulation in the county in which the
33 cemetery is located.

34 3. A cemetery's owner may object to the acquisition of a
35 cemetery by a cemetery association. In order to reassert

1 ownership rights to the cemetery, the owner shall provide or
2 permit public access to the cemetery, at reasonable times and
3 subject to reasonable regulations, so that members of the
4 cemetery association and other members of the public have
5 reasonable ingress and egress to the cemetery. If the
6 cemetery's owner provides or permits such public access within
7 twenty-four months after receiving notice of the interested
8 person's intent to acquire the cemetery, the cemetery
9 association shall not proceed with its action to acquire the
10 cemetery.

11 Sec. 143. Section 523I.508, subsection 4, Code Supplement
12 2005, is amended to read as follows:

13 4. DELEGATES TO CONVENTIONS. A township having one or
14 more cemeteries under its control may designate ~~not up to~~
15 ~~exceed two~~ officials from each cemetery as delegates to
16 attend meetings of cemetery officials, and certain expenses,
17 ~~including association dues~~, of the delegates not to exceed
18 exceeding twenty-five dollars for each delegate, ~~of the~~
19 ~~delegates including association dues~~, may be paid out of the
20 cemetery fund of the township.

21 Sec. 144. Section 636.20, Code 2005, is amended to read as
22 follows:

23 636.20 SUIT ON BOND -- SERVICE.

24 Whenever suit is required to be brought on any bond given
25 by such company, service shall be had upon any agent of such
26 company in this state, and if there is no agent in the state,
27 then service may be had ~~by serving the commissioner of~~
28 insurance in any manner now or hereinafter permitted by law
29 fifteen days before the term of court in which the suit is
30 sought to be brought.

31 Sec. 145. Sections 507A.5, 511.27, 511.28, 511.29,
32 512B.33, 514.2A, 515.73, 515.74, 520.6, 521.9, 521.11, 521.12,
33 523C.20, 523C.21, and 636.21, Code 2005, are repealed.

34 Sec. 146. Sections 509B.4, 516E.12, and 516E.17, Code
35 Supplement 2005, are repealed.

EXPLANATION

1
2 This bill relates to various matters under the purview of
3 the insurance division of the department of commerce,
4 including the securities and regulated industries bureau,
5 insurance premium taxes, the uniform securities Act, insurance
6 division procedures, regulation of insurance companies and
7 other entities including administrative penalties, motor
8 vehicle service contracts, county and state mutual insurance
9 associations, reciprocal or interinsurance insurers,
10 consolidation, merger, and reinsurance contracts, insurance
11 holding company systems, and cemeteries.

12 SECURITIES AND REGULATED INDUSTRIES BUREAU -- The bill
13 amends numerous references to the securities bureau of the
14 division of insurance of the department of commerce in the
15 Code to refer to the new name of the bureau, which is the
16 securities and regulated industries bureau.

17 PREMIUM TAXES -- Code section 432.1 is amended to provide
18 that premium taxes paid by insurance companies are computed on
19 gross premiums written. Code section 432.5 is amended to
20 provide that premium taxes paid by risk retention groups are
21 computed on gross premiums written.

22 UNIFORM SECURITIES ACT AMENDMENTS -- Code section
23 502.102(5)(b)(3) of the state uniform securities Act is
24 amended to specify that an industrial loan company that is not
25 an "insured depository institution" as defined under federal
26 law is not a "depository institution" for purposes of the Act.

27 Code section 502.201(8A)(b), unnumbered paragraph 1, is
28 amended to provide that securities issued by a mutual or
29 cooperative association organized under Code chapter 501A are
30 exempt from certain provisions of Code chapter 502.

31 Code section 502.412(2)(a) is amended to provide that an
32 administrative action for revocation or cancellation of the
33 registration cannot be started against a person registered
34 under the state uniform securities Act based solely on an
35 order issued by another state more than one year after the

3215

1 date of that order.

2 Code section 502.412(3) is amended to provide that if any
3 one of the specified provisions authorizes an administrative
4 action, a disciplinary order may be issued.

5 Code section 502.510(1)(e) is amended to change a cross-
6 reference from Code section 502.509(3) to Code section
7 502.509(5) as a basis for civil liability, since Code section
8 502.510(1)(c) already refers to Code section 502.509(3).

9 INSURANCE DIVISION PROCEDURES -- Code section 505.16(2) is
10 amended to require the insurance commissioner to adopt rules
11 concerning applications for insurance that require persons
12 engaged in the insurance business who receive positive HIV
13 tests of an applicant or policyholder to report those results
14 to a physician or alternative testing site of the applicant's
15 or policyholder's choice or to the Iowa department of public
16 health.

17 New Code section 505.27 provides that commission of any act
18 by a person under Code chapter 502, 502A, chapters 505 through
19 523G, or chapter 523I constitutes consent by that person to
20 the jurisdiction of the commissioner of insurance and the
21 district courts of this state.

22 New Code section 505.28 provides that the commissioner of
23 insurance has the authority to appoint a designee or an
24 independent administrative law judge to hear contested cases
25 arising from conduct regulated by the insurance commission.

26 Code section 507.10(5)(b) is amended to provide that the
27 commissioner of insurance can disclose certain information
28 obtained during examination of insurance companies to the
29 national association of insurance commissioners.

30 Code section 507.14 is amended to provide that certain
31 specified information produced, obtained by, or disclosed to
32 the commissioner in the course of analysis of the financial
33 condition or market conduct of an insurer is a confidential
34 record under Code chapter 22 and is privileged and
35 confidential except under specified circumstances. Code

1 section 22.7 is also amended to specify that information
2 obtained pursuant to Code section 507.14 is a confidential
3 public record.

4 Code section 507A.4 is amended by adding a new subsection
5 providing that self-funded health benefit plans sponsored by
6 an employer in this state which provide health benefits to
7 independent contractors of such an employer, and their
8 dependents, are granted a waiver from the requirements of Code
9 chapter 507A pertaining to unauthorized insurers; if the plans
10 meet specified conditions.

11 Code section 507A.9(1) is amended to provide that premium
12 taxes on unauthorized insurers shall be computed on gross
13 premiums charged equal to the applicable percent under Code
14 section 432.1 instead of on 2 percent of gross premiums
15 charged.

16 Code section 507B.4 is amended to provide that the
17 following constitute unfair or deceptive insurance trade
18 practices: improper use of inquiries by an applicant or
19 insured about coverage or loss, improper use of loss history
20 of a property, failure to disclose use of claims history,
21 failure to disclose the full name of the insurance company,
22 failure to produce information to which an individual is
23 entitled, and conducting prohibited insurance transactions.

24 Code section 507B.4 is amended to define "personal lines
25 property and casualty insurance" as insurance sold to
26 individuals and families primarily for noncommercial purposes
27 as provided in Code chapter 522B.

28 New Code section 507B.4B provides that a person shall not
29 recommend a life insurance product to any individual unless
30 the person has reasonable grounds to believe that the product
31 is suitable for that individual and shall establish and
32 maintain a system to monitor recommendations made, that is
33 reasonably designed to achieve compliance with the suitability
34 requirements of the section. The bill also requires the
35 commissioner to adopt rules pursuant to Code chapter 17A

1 establishing standards for implementation of the suitability
2 requirements of the section.

3 New Code section 507B.15 provides that new Code section
4 505.28 allowing the commissioner to appoint a designee or an
5 independent administrative law judge to hear contested cases
6 is applicable to hearings required under Code sections 507B.6,
7 507B.6A, and 507B.7 concerning regulation of insurance trade
8 practices.

9 Code section 507C.2 is amended to provide that general
10 assets of an insurer for purposes of supervision,
11 rehabilitation, and liquidation provisions of the chapter do
12 not include that portion of assets of the insurer allocated
13 and accumulated in a separate account providing for life
14 insurance or annuities, depending on the amounts contained in
15 such separate accounts.

16 Code section 507C.42 is amended to specify that claims
17 considered "class 2" for purposes of establishing a priority
18 of distribution of claims from an insurer's estate under the
19 supervision, rehabilitation, and liquidation provisions of the
20 chapter include claims under funding agreements under Code
21 section 508.31A, and claims for an insufficiency in the assets
22 allocated and accumulated in a separate account under Code
23 section 508A.1.

24 Code section 507C.42 is also amended to provide that for
25 purposes of the section, "insurer's estate" means the general
26 assets of the insurer.

27 Code section 507E.5 is stricken and rewritten to provide
28 that specified information obtained by the insurance
29 commission during the course of an insurance fraud
30 investigation is a confidential record except as specified in
31 this section. Code section 22.7 is also amended to provide
32 that such information is a confidential record.

33 INSURANCE COMPANIES AND OTHER ENTITIES -- Code section
34 508.13 is amended to clarify the process for life insurance
35 companies to renew their certificates of authority annually.

1 Failure to timely file an application for renewal is
2 punishable by an administrative penalty of \$500.

3 Code section 508A.1 is amended to correspond to the changes
4 to Code section 507C.42 by providing that insufficiencies in
5 assets allocated and accumulated in separate accounts
6 providing for life insurance or annuities are class 2 claims
7 under Code chapter 507C.

8 Code section 509.1(1)(b) is amended to provide that
9 premiums for group life, accident, or health insurance can be
10 paid by the policyholder from funds of the employer, the
11 insured employee, or both. The section is also amended to
12 provide that accident and health insurance does not include
13 disability income insurance.

14 Code section 509A.15(1) is amended to provide that the
15 governing body of a self-insurance plan of a political
16 subdivision or school corporation must certify that the plan
17 has a contract or other arrangement with a currently
18 registered third-party administrator.

19 Code section 509A.15(4) is amended to provide that a self-
20 insurance plan of a political subdivision or school
21 corporation is exempt from the certification requirements of
22 the section if yearly claims do not exceed 2 percent, instead
23 of 1 percent, of the entity's general fund budget.

24 Code chapter 509B is amended to eliminate the requirement
25 that group accident or health insurance policies provide
26 individual or converted policies for an employee or member
27 whose coverage under the group policy has been terminated.
28 Code section 514C.3 is amended to remove a cross-reference to
29 Code chapter 509B that is stricken by the bill.

30 Code chapter 510, beginning with Code section 510.11
31 concerning administrators of health or life insurance
32 coverage, is amended by changing the term "administrator" to
33 "third-party administrator" wherever it appears in that
34 chapter.

35 Code section 511.8(1)(b), concerning investment of funds by

1 life insurance companies and associations, is amended to
2 correct a citation to the federal Investment Company Act of
3 1940.

4 Code section 511.8(18) is amended to specify that the
5 allowable limit of certain common stocks or shares in which a
6 life insurance company or association may invest is not more
7 than one-half of 1 percent of the legal reserve.

8 Code section 511.8(22)(b), concerning requirements for
9 financial instruments used in hedging transactions by life
10 insurance companies, is stricken and rewritten to allow
11 certain financial instruments between an insurer and a
12 qualified corporation or a "conduit" to be eligible for
13 inclusion in the legal reserve of the insurer. If the
14 financial instrument is with a conduit that is not a qualified
15 counterparty, the obligation of the financial instrument must
16 be secured by cash; United States government obligations;
17 state, District of Columbia, territorial, or municipal
18 obligations; Canadian government, provincial, or municipal
19 obligations; qualified United States and Canadian corporate
20 obligations; qualified foreign government or corporate
21 obligations; and cash equivalents. For purposes of the bill,
22 a "conduit" means a person within an insurer's insurance
23 holding company system, which aggregates hedging transactions
24 by other persons within the insurance holding company system
25 and replicates them with counterparts.

26 Code section 511.8(22)(e) is amended to require that
27 financial instruments used in hedging transactions that are
28 secured by foreign government or corporate obligations are
29 included in the limitation that only 20 percent of the legal
30 reserve of an insurer can be invested in such foreign
31 investments unless such financial instruments are secured as
32 specified.

33 Code section 511.8 is also amended by adding a new
34 definition for "cash equivalents" and specifying the
35 permissible use of such investments as part of life insurance

1 company or association assets.

2 Code section 512B.25 is amended to provide an
3 administrative penalty of \$500 for a fraternal benefit society
4 that fails to timely file its annual application for renewal
5 of the society's license.

6 New Code section 514.9A provides an administrative penalty
7 of \$500 for a carrier or organized delivery system issuing
8 individual health care benefits that fails to timely file an
9 annual application for renewal of its certificate of
10 authority.

11 New Code section 514.3B provides an administrative penalty
12 of \$500 for a health maintenance organization that fails to
13 timely file an annual application for renewal of its
14 certificate of authority.

15 Code section 514B.12 is amended to provide an
16 administrative penalty of \$500 for a health maintenance
17 organization that fails to timely file its annual report and
18 an additional administrative penalty of \$100 for each day that
19 the failure continues after the organization has received
20 notice of the failure from the commissioner.

21 Code section 514B.22 is amended to provide that a foreign
22 or domestic health maintenance organization doing business in
23 this state is required to pay fees to cover the costs of
24 examinations of the organization by the commissioner.

25 Code section 514B.33 is amended to provide that limited
26 service organizations doing business in this state are
27 required to timely file an application for renewal of their
28 authority and an annual report and are subject to
29 administrative penalties for failure to do so.

30 Code section 514C.1 is amended to expand requirements for
31 supplemental coverage of newly born children to include
32 adopted children of an insured under certain policies of
33 individual or group accident and health insurance and to
34 further specify requirements applicable to newly born and
35 adopted children of an insured.

1 Code section 514E.7 is amended by adding a new subsection
2 6, allowing certain persons to remain eligible for coverage
3 under the Iowa comprehensive health insurance association in
4 the event of a voluntary termination of such coverage.

5 Code section 514J.7, concerning the external review process
6 for appeal of a denial of health care coverage, is amended to
7 provide that an uncompleted review will continue if the
8 enrollee dies or changes to another health care plan before
9 the review is completed.

10 Code section 515.24 is amended to provide that premium
11 taxes for insurance companies other than life are computed on
12 gross written premiums, except that premium taxes on windstorm
13 and hail risk reinsurance are computed according to the
14 applicable percent provided in Code section 432.1 upon the
15 gross amount of premiums received.

16 Code section 515.42 is amended to provide an administrative
17 penalty of \$500 for an insurance company other than life that
18 fails to timely file the annual application for renewal of its
19 certificate of authority.

20 New Code section 515.147A provides an administrative
21 penalty of \$500 and nonrenewal of the license of an excess and
22 surplus lines insurance agent that fails to timely file the
23 annual business activity report required under Code section
24 515.147. The new section provides for an additional
25 administrative penalty of \$100 for each day that the failure
26 continues after the agent receives notice of the failure from
27 the commissioner.

28 Code section 515A.9 is amended to provide that a request of
29 a person to a rating organization or an insurer for review of
30 the manner in which the organization's or insurer's rating
31 system has been applied to that person is not a contested case
32 under Code chapter 17A, nor is an appeal to the commissioner
33 of insurance from such a review by an organization or insurer.

34 New Code section 515E.3A provides procedures and criteria
35 for allowing a foreign risk retention group to become a

1 domestic insurer in this state.

2 Code section 515F.4(5) is amended to provide that in
3 determining what is a reasonable profit during the ratemaking
4 process, the commissioner may consider income from sources
5 other than investment income attributable to unearned premium
6 and loss reserves.

7 Code section 515G.1 is amended to define who is an
8 "eligible policyholder" and a "voting policyholder" for the
9 purposes of mutual insurance company conversions.

10 Code sections 515G.2 and 515G.3 are amended to specify
11 requirements for carrying out the conversion of a mutual
12 insurance company into a stock domestic insurance company,
13 including the exchange and valuation of rights of
14 policyholders of the mutual insurer.

15 MOTOR VEHICLE SERVICE CONTRACTS -- Code section 516E.1(8)
16 is amended to redefine a "reimbursement insurance policy" as a
17 contractual liability policy that provides reimbursement to a
18 service company for services provided under a service
19 contract, or pays for service obligations incurred under a
20 service contract in the event of nonperformance by the service
21 company.

22 Code section 516E.1 is also amended to define "financial
23 institution", "premium", and "service company fee" as used in
24 the context of motor vehicle service contracts.

25 Code section 516E.2(3) is amended to require that service
26 contracts be secured by a reimbursement insurance policy in
27 compliance with Code section 516E.4 or the service company
28 must comply with financial responsibility standards
29 established for service companies in new Code section 516E.21.

30 Code section 516E.2(4)(e) is amended by striking the
31 requirement that a service company not issue or offer a
32 service contract until the proper filing fee has been paid.

33 Code section 516E.3 is amended to reflect that not all
34 service companies are required to have reimbursement
35 insurance.

1 Code section 516E.4(1) is amended to provide specific
2 requirements for reimbursement insurance policies insuring
3 motor vehicle service contracts.

4 Code section 516E.5(1) is amended to require the disclosure
5 in a service contract of whether or not the service contract
6 is insured by reimbursement insurance. Code section 516E.5(2)
7 is amended to coordinate with the change in subsection 1.

8 Code section 516E.15(1)(b) is amended to provide that a
9 service contract provider or service company, but not a third-
10 party administrator, may be penalized and subject to
11 injunctive relief for failure to file documents and
12 information required in Code section 516E.3.

13 New Code section 516E.20 provides that the sale of a motor
14 vehicle service contract under Code chapter 516E does not
15 constitute the sale of insurance unless a service company,
16 provider, or third-party administrator is otherwise engaged in
17 the sale of insurance, and the insurance laws of this state
18 are not applicable to the service company, provider, or third-
19 party administrator of a service contract.

20 New Code section 516E.21 sets forth specific statutory
21 financial responsibility and security requirements for motor
22 vehicle service companies that choose to maintain a funded
23 reserve account instead of obtaining a reimbursement insurance
24 policy as provided in Code section 516E.2.

25 COUNTY AND STATE MUTUAL INSURANCE ASSOCIATIONS -- Code
26 section 518.15 provides an administrative penalty of \$500 for
27 a county mutual insurance association that fails to timely
28 file an annual application for renewal of its certificate of
29 authority or an annual condition statement. There is an
30 additional administrative penalty of \$100 for each day that
31 the failure continues after the association is notified of the
32 failure by the commissioner.

33 Code section 518A.18 provides an administrative penalty of
34 \$500 for a state mutual association that fails to timely file
35 an annual condition statement. The bill also provides an

1 administrative penalty of \$100 for each day that the failure
2 to file continues after the association receives notice of the
3 failure from the commissioner.

4 Code section 518A.35(1) is amended to provide that premium
5 taxes on windstorm and hail risk reinsurance issued by state
6 mutual insurance associations are computed on the gross amount
7 of reinsurance premiums written instead of received.

8 Code section 518A.40 is amended to provide an
9 administrative penalty of \$500 for a state mutual insurance
10 association that fails to timely file an annual application
11 for renewal of its certificate of authority.

12 RECIPROCAL OR INTERINSURANCE INSURERS -- Code section
13 520.10 is amended to provide for an administrative penalty of
14 \$500 for the failure of a reciprocal or interinsurance insurer
15 to timely file an annual financial report and an additional
16 penalty of \$100 for each day that the failure continues after
17 the insurer receives notice of the failure from the
18 commissioner.

19 Code section 520.12 is amended to provide an administrative
20 penalty of \$500 for the failure of a reciprocal or
21 interinsurance insurer to timely file an annual application
22 for renewal of the insurer's certificate of authority.

23 CONSOLIDATION, MERGER, AND REINSURANCE -- Code section
24 521.1 is amended to include definitions for "affected
25 company", meaning a company being merged with a surviving
26 company; "commission", meaning the commission created in Code
27 chapter 521; and "commissioner", meaning the commissioner of
28 insurance.

29 Code section 521.2 is amended to apply to the consolidation
30 or merger of a domestic insurance company organized under Code
31 chapter 490 or 491 with a domestic or foreign mutual insurance
32 company. Code chapter 521 is not applicable to mergers or
33 consolidations of domestic mutual companies with stock
34 companies pursuant to Code chapter 508B or 515G. Code chapter
35 521 is also applicable to a domestic company that assumes or

3215

1 reinsures the risks of any other company.
2 Code section 521.3 is stricken and rewritten to provide
3 that a company proposing to consolidate, merge, or enter into
4 a reinsurance contract submit an application and plan with the
5 commissioner setting forth the terms of the proposal.
6 Code section 521.4 is stricken and rewritten to provide the
7 procedure by which a commission consisting of the attorney
8 general and the commissioner of insurance may hear and
9 determine whether to approve, disapprove, or require
10 modification of a plan to consolidate, merge, or reinsure.
11 The bill allows the commission to proceed without notice or a
12 public hearing or to require notice and public hearing when it
13 deems necessary to conserve the interests of members,
14 policyholders, or shareholders of the affected company.
15 Code section 521.5 is amended to empower the commission to
16 hear and determine the application, and to approve,
17 disapprove, or require modification of the plan of
18 consolidation, merger, or reinsurance prior to approval.
19 Code section 521.6 is amended to modernize the language
20 used.
21 Code section 521.7 is amended to require that notice of
22 hearing on an application and plan of consolidation, merger,
23 or reinsurance shall be given to members, policyholders, or
24 shareholders of an affected company.
25 Code sections 521.9, 521.11, and 521.12 are redundant and
26 unnecessary as a result of the other amendments to Code
27 chapter 521 and are repealed.
28 Code section 521.10 is stricken and rewritten to provide
29 procedures for submission of a plan to members of an affected
30 company for approval by a two-thirds vote of all members
31 voting in person, by ballot, or by proxy and specify those
32 cases where approval by members is not required.
33 Code section 521.13 is amended to provide that certain
34 companies that purchase reinsurance are exempt from the
35 requirements of Code chapter 521.

1 Code section 521.14 is amended to provide that the expenses
2 and costs incident to proceeding under Code chapter 521 must
3 be paid by the company filing an application and plan under
4 the chapter.

5 Code section 521.16 is amended to provide that the
6 provisions of Code section 521A.3 concerning acquisition of
7 control of or merger with domestic insurers are applicable to
8 mergers or consolidations subject to Code chapter 521.

9 New Code section 521.17 provides that a company filing a
10 plan to merge and consolidate under Code chapter 521 is
11 required to make all appropriate filings and pay all
12 appropriate fees required under Code chapter 490 or 491, as
13 applicable.

14 New Code section 521.18 requires a company filing a plan to
15 merge or consolidate under Code chapter 521 to file its
16 articles of merger or consolidation with the commission for
17 its approval and pay a filing fee of \$50.

18 INSURANCE HOLDING COMPANY SYSTEMS -- Code section 521A.1(6)
19 is amended to remove the exemption from regulation under Code
20 chapter 521A of a company licensed under Code chapter 512B
21 (fraternal benefit society) and Code chapter 514 (nonprofit
22 health service corporations).

23 Code section 521A.2, subsections 1 and 3, are amended to
24 allow an insurer to invest in financial instruments used in
25 hedging transactions for its own account, that of its parent,
26 a subsidiary of its parent, or any affiliate or subsidiary.

27 MISCELLANEOUS PROVISIONS -- Code section 522B.6 is amended
28 to change the duration of an insurance producer license from
29 three to two years and Code section 522B.5 is amended to
30 change the fee for an insurance producer license from \$50 to
31 \$30 to reflect the reduced term of the license.

32 New Code section 522B.16B establishes a procedure by which
33 a person who is prohibited by federal law from engaging or
34 participating in the business of insurance because of
35 conviction of a crime under federal law or a felony involving

1 dishonesty or breach of trust may apply to the commissioner of
2 insurance for written consent to engage or participate in
3 insurance business in this state.

4 CEMETERY PROVISIONS -- Code section 523A.602(2)(b) is
5 amended to provide for cancellation and refund rights under a
6 purchase agreement for cemetery merchandise, funeral
7 merchandise, funeral services, or a combination thereof, when
8 the purchase agreement is canceled before the purchase price
9 is paid in full or another establishment provides the
10 merchandise or services before the purchase agreement is paid
11 in full.

12 Code section 523I.102 is amended by adding definitions for
13 "abandoned cemetery" and "veteran cemetery".

14 Code section 523I.103(1)(a) is amended to exempt veterans
15 cemeteries from the provisions of Code chapter 523I.

16 Code section 523I.201(1) is amended so that the cross-
17 reference in the subsection is consistent with that contained
18 in Code section 523A.801 naming as the deputy administrator of
19 the chapter the principal operations officer of the securities
20 and regulated industries bureau of the insurance division of
21 the department of commerce.

22 Code section 523I.309(1) is amended to establish a priority
23 for the right to control interment, relocation, or
24 disinterment of remains of a deceased person and a procedure
25 to determine the right to control when there are multiple
26 members of a class or there is disagreement among the members
27 of a class.

28 Code section 523I.316(3) is amended to authorize a
29 governmental subdivision to expend public funds to preserve
30 and protect a cemetery or burial site in its jurisdiction that
31 is not located within a dedicated cemetery.

32 New Code section 523I.317 provides that a cemetery must
33 provide or permit access to the cemetery to members of the
34 public and owners of interment rights, at reasonable times and
35 subject to reasonable regulations.

1 New Code section 523I.403 provides that a governmental
2 subdivision may acquire an abandoned cemetery after attempting
3 to notify the cemetery's owners and providing notice of its
4 intent to acquire the cemetery. The section also provides for
5 objection to such acquisition by a cemetery's owners but
6 requires the owners to provide public access to the cemetery
7 within 24 months of receiving notice of the proposed
8 acquisition in order to stop the acquisition.

9 New Code section 523I.404 provides for the acquisition of
10 an abandoned cemetery by a person who has a relative interred
11 in the cemetery or who owns interment rights in the cemetery.
12 The section requires such a person to organize a cemetery
13 association incorporated as a nonprofit corporation under Code
14 chapter 504A and attempt to identify the cemetery's owners and
15 give the owners notice of the proposed acquisition. The
16 section provides for objection by a cemetery's owners but
17 requires the owners to provide public access to the cemetery
18 within 24 months of receiving notice of the proposed
19 acquisition in order to stop the acquisition.

20 Code section 523I.508(4) is amended to provide that the
21 expenses of county officials who attend meetings of cemetery
22 officials as delegates may be paid out of the cemetery fund of
23 the township in an amount not exceeding \$25 for each delegate,
24 including association dues.

25 **ELIMINATION OF COMMISSIONER OF INSURANCE SERVING AS AGENT**
26 **FOR SERVICE OF PROCESS --** Code sections 507A.5, 511.27,
27 511.28, 511.29, 512B.33, 514.2A, 515.73, 515.74, 520.6,
28 521.11, 521.12, 523C.20, 523C.21, and 636.21, Code 2005, are
29 repealed to eliminate the requirement that the commissioner of
30 insurance serve as an agent to receive service of process.
31 Code section 516E.12, Code Supplement 2005, is repealed to
32 eliminate the requirement that the commissioner of insurance
33 serve as an agent to receive service of process.

34 Code sections 507A.7(3), 514B.3(10), 515A.6(1), 515A.10,
35 515B.16, 515E.3, 515E.4, 515E.8, 515F.8(3)(a)(3),

2366
3215

S.F. _____ H.F. _____

1 515F.13(2)(c), 518C.17, 520.4(9), 520.5, 520.7, 521A.3(7),
2 521B.2(6)(a)(2), and 521C.3(4)(b), Code 2005, are amended to
3 eliminate the requirement that the commissioner serve as an
4 agent to receive service of process. Code section 516E.3,
5 Code Supplement 2005, is amended to eliminate the requirement
6 that the commissioner serve as an agent to receive service of
7 process.

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

SENATE FILE 2364

AN ACT

RELATING TO VARIOUS MATTERS UNDER THE PURVIEW OF THE INSURANCE DIVISION OF THE DEPARTMENT OF COMMERCE INCLUDING THE SECURITIES AND REGULATED INDUSTRIES BUREAU, INSURANCE PREMIUM TAXES, THE UNIFORM SECURITIES ACT, INSURANCE DIVISION PROCEDURES INCLUDING FEES AND AN APPROPRIATION, REGULATION OF INSURANCE COMPANIES AND OTHER ENTITIES INCLUDING ADMINISTRATIVE PENALTIES, MOTOR VEHICLE SERVICE CONTRACTS, COUNTY AND STATE MUTUAL INSURANCE ASSOCIATIONS, RECIPROCAL OR INTERINSURANCE INSURERS, CONSOLIDATION, MERGER AND REINSURANCE CONTRACTS, INSURANCE HOLDING COMPANY SYSTEMS, AND CEMETERIES.

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

Section 1. Section 11.6, subsection 1, paragraph b, subparagraph (6), Code Supplement 2005, is amended to read as follows:

(6) A joint investment trust organized pursuant to chapter 28E shall file the audit reports required by this chapter with the administrator of the securities and regulated industries bureau of the insurance division of the department of commerce within ten days of receipt from the auditor. The auditor of a

joint investment trust shall provide written notice to the administrator of the time of delivery of the reports to the joint investment trust.

Sec. 2. Section 22.7, Code Supplement 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 52. Information obtained and prepared by the commissioner of insurance pursuant to section 507.14.

NEW SUBSECTION. 53. Information obtained and prepared by the commissioner of insurance pursuant to section 507E.5.

Sec. 3. Section 432.1, subsection 3, Code Supplement 2005, is amended to read as follows:

3. The applicable percent, as provided in subsection 4, of the gross amount of premiums, assessments, and fees received during the preceding calendar year by every company or association other than life on contracts of insurance other than life for business done in this state, including all insurance upon property situated in this state, after deducting the amounts returned upon canceled policies, certificates and rejected applications but not including the gross premiums written, assessments, and fees in connection with ocean marine insurance authorized in section 515.48.

Sec. 4. Section 432.5, Code 2005, is amended to read as follows:

432.5 RISK RETENTION GROUPS.

A risk retention group organized and operating pursuant to Pub. L. No. 99-563, also known as the risk retention amendments of 1986, shall pay as taxes to the director of revenue an amount equal to the applicable percent, as provided in section 432.1, subsection 4, of the gross amount of the premiums received written during the previous calendar year for risks placed in this state. A resident or nonresident producer shall report and pay the taxes on the premiums for risks that the producer has placed in this state with or on behalf of a risk retention group. The failure of a risk retention group to pay the tax imposed in this section shall result in the risk retention group being considered an unauthorized insurer under chapter 507A.

Sec. 5. Section 502.102, subsection 5, paragraph b, subparagraph (3), Code Supplement 2005, is amended to read as follows:

(3) An industrial loan company that is not an "insured depository institution" as defined in section 3(c)(2) of the Federal Deposit Insurance Act, 12 U.S.C. § 1813(c)(2), or any successor federal statute.

Sec. 6. Section 502.102, subsection 27A, Code Supplement 2005, is amended to read as follows:

27A. "Securities and regulated industries bureau" means the securities and regulated industries bureau of the insurance division of the department of commerce.

Sec. 7. Section 502.201, subsection 8A, paragraph b, unnumbered paragraph 1, Code 2005, is amended to read as follows:

A mutual or cooperative organization, including a cooperative association organized in good faith under and for any of the purposes enumerated in chapter 497, 498, 499, or 501, or 501A, that deals in commodities or supplies goods or services in transactions primarily with and for the benefit of its members, if all of the following apply:

Sec. 8. Section 502.304, subsection 2A, Code 2005, is amended to read as follows:

2A. REPORTS AND EXAMINATIONS. The administrator may by rule or order require as a condition of registration by qualification, and at the expense of the applicant or registrant, that a report by an accountant, engineer, appraiser, or other professional person be filed. The administrator may also designate one or more employees of the securities and regulated industries bureau to make an examination of the business and records of an issuer of securities for which a registration statement has been filed by qualification, at the expense of the applicant or registrant.

Sec. 9. Section 502.412, subsection 2, paragraph a, Code Supplement 2005, is amended to read as follows:

a. Institute a revocation or suspension proceeding under this subsection based solely on an order issued under a law of another state that is reported to the administrator or a designee of the administrator more than one year after the date of the order on which it is based.

Sec. 10. Section 502.412, subsection 3, Code Supplement 2005, is amended to read as follows:

3. DISCIPLINARY PENALTIES -- REGISTRANTS. If the administrator finds that the order is in the public interest and subsection 4, paragraphs "a" through "f", "h", "i", "j", or "l", and or "m", authorizes the action, an order under this chapter may censure, impose a bar, or impose a civil penalty in an amount not to exceed a maximum of five thousand dollars for a single violation or five hundred thousand dollars for more than one violation, on a registrant, and, if the registrant is a broker-dealer or investment adviser, a partner, officer, director, or person having a similar status or performing similar functions, or a person directly or indirectly in control, of the broker-dealer or investment adviser.

Sec. 11. Section 502.510, subsection 1, paragraph e, Code 2005, is amended to read as follows:

e. If the basis for relief under this section may have been a violation of section 502.509, subsection 3 5, an offer to reimburse in cash the consideration paid for the advice and interest at the legal rate from the date of payment.

Sec. 12. Section 502.601, subsection 1, Code Supplement 2005, is amended to read as follows:

1. ADMINISTRATION. This chapter shall be administered by the commissioner of insurance of this state. The administrator shall appoint a deputy administrator who shall be exempt from the merit system provisions of chapter 8A, subchapter IV. The deputy administrator is the principal operations officer of the securities and regulated industries bureau of the insurance division of the department of commerce. The deputy administrator is responsible to the administrator for the routine administration of this chapter

and the management of the securities and regulated industries bureau. In the absence of the administrator, whether because of vacancy in the office, by reason of absence, physical disability, or other cause, the deputy administrator shall be the acting administrator and shall, for that period, have and exercise the authority conferred upon the administrator. The administrator may by order delegate to the deputy administrator any or all of the functions assigned to the administrator under this chapter. The administrator shall employ officers, attorneys, accountants, and other employees as needed for the administration of this chapter.

Sec. 13. Section 502A.1, subsection 1, Code 2005, is amended to read as follows:

1. "Administrator" means the administrator of the securities and regulated industries bureau of the insurance division of the department of commerce.

Sec. 14. Section 502A.15, subsection 1, Code 2005, is amended to read as follows:

1. This chapter shall be administered by the administrator of the securities and regulated industries bureau of the insurance division of the department of commerce.

Sec. 15. Section 505.16, subsection 2, Code 2005, is amended to read as follows:

2. The insurance commissioner shall approve rules for carrying out this section including rules relating to the preparation of information to be provided before and after a test and the protection of confidentiality of personal and medical records of insurance applicants and policyholders. The rules shall require a person engaged in the business of insurance who receives results of a positive human immunodeficiency virus test of an insurance applicant or policyholder to report those results to a physician or alternative testing site of the applicant's or policyholder's choice, or if the applicant or policyholder does not choose a physician or alternative testing site to receive the results, to the Iowa department of public health.

Sec. 16. NEW SECTION. 505.27 CONSENT TO JURISDICTION.

A person committing any act governed by chapter 502, 502A, 505 through 523G, or 523I constitutes consent by that person to the jurisdiction of the commissioner of insurance and the district courts of this state.

Sec. 17. NEW SECTION. 505.28 ADMINISTRATIVE HEARINGS.

The commissioner of insurance shall have the authority to appoint as a hearing officer a designee or an independent administrative law judge. Duties of a hearing officer shall include hearing contested cases arising from conduct governed by chapters 502, 502A, 505 through 523G, and 523I. Sections 10A.801 and 17A.11 do not apply to the appointment of a designee or an administrative law judge pursuant to this section.

Sec. 18. NEW SECTION. 505.29 SERVICE OF PROCESS -- FEE.

The commissioner of insurance, pursuant to rules adopted pursuant to chapter 17A, may collect a reasonable fee each time process is served on the commissioner as allowed by law. Fees collected by the commissioner under this section shall be used and are appropriated to the insurance division to offset the costs of receiving such service of process. The party to a proceeding causing service of process is entitled to recover this fee as costs if the party prevails in the proceeding.

Sec. 19. Section 507.10, subsection 5, paragraph b, Code 2005, is amended to read as follows:

b. The commissioner is not prevented from disclosing the content of an examination report, preliminary examination report or results, or any matter relating to the report, to an insurance department of any other state or country, to the national association of insurance commissioners, or to law enforcement officials of this or any other state or an agency of the federal government at any time, so long as such agency or office receiving the report, or matters relating to the report, agrees in writing to maintain the confidentiality of the report or such matters in a manner consistent with this chapter.

Sec. 20. Section 507.14, Code 2005, is amended to read as follows:

507.14 CONFIDENTIAL DOCUMENTS -- EXCEPTIONS.

1. A preliminary report of an examination of a domestic or foreign insurer, and all notes, work papers, or other documents related to an examination of an insurer are ~~not public~~ confidential records under chapter 22 except when sought by the insurer to whom they relate, an insurance regulator of another state, or the national association of insurance commissioners, and shall be privileged and confidential in any judicial or administrative proceeding except any of the following:

- 1- a. An action commenced by the commissioner under chapter 507C.
- 2- b. An administrative proceeding brought by the insurance division under chapter 17A.
- 3- c. A judicial review proceeding under chapter 17A brought by an insurer to whom the records relate.
- 4- d. An action or proceeding which arises out of the criminal provisions of the laws of this state or the United States.
- 5- e. An action brought in a shareholders' derivative suit against an insurer.
- 6- f. An action brought to recover moneys or to recover upon an indemnity bond for embezzlement, misappropriation, or misuse of insurer funds.

2. A report of an examination of a domestic or foreign insurer which is preliminary under the rules of the division is ~~not-a-public~~ a confidential record under chapter 22 except when sought by the insurer to which the report relates or an insurance regulator of another state, and is privileged and confidential in any judicial or administrative proceeding.

3. All work papers, notes, recorded information, documents, market conduct annual statements, and copies thereof that are produced or obtained by or disclosed to the commissioner or any other person in the course of analysis by the commissioner of the financial condition or market conduct

of an insurer are confidential records under chapter 22 and shall be privileged and confidential in any judicial or administrative proceeding except any of the following:

- a. An action commenced by the commissioner under chapter 507C.
- b. An administrative proceeding brought by the insurance division under chapter 17A.
- c. A judicial review proceeding under chapter 17A brought by an insurer to whom the records relate.
- d. An action or proceeding which arises out of the criminal provisions of the laws of this state or the United States.
4. Confidential documents, materials, information, administrative or judicial orders, or other actions may be disclosed to a regulatory official of any state, federal agency, or foreign country provided that the recipients are required, under their law, to maintain their confidentiality. Confidential records may be disclosed to the national association of insurance commissioners provided that the association certifies by written statement that the confidentiality of the records will be maintained.

5. A financial statement filed by an employer self-insuring workers' compensation liability pursuant to section 87.11, or the working papers of an examiner or the division in connection with calculating appropriate security and reserves for the self-insured employer are ~~not-public~~ confidential records under chapter 22 except when sought by the employer to which the financial statement or working papers relate or an insurance or workers' compensation self-insurance regulator of another state, and are privileged and confidential in any judicial or administrative proceeding. The financial information of a nonpublicly traded employer which self-insures for workers' compensation liability pursuant to section 87.11 is protected as proprietary trade secrets to the extent consistent with the commissioner's duties to oversee the security of self-insured workers' compensation liability.

6. Analysis notes, work papers, or other documents related to the analysis of an insurer are ~~not-public~~ confidential records under chapter 22.

Sec. 21. Section 507A.4, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 10. a. A self-funded health benefit plan sponsored by an employer in this state under the federal Employee Retirement Income Security Act of 1974, as codified in 29 U.S.C. § 1169, which provides health benefits to independent contractors of the employer and to spouses and dependents of the independent contractors, if the plan is granted a waiver from the provisions of this chapter by the commissioner and meets all of the following conditions:

(1) There is a written contract between the sponsor of the health benefit plan and the independent contractor which establishes the relationship between the parties to the contract and provides for the personal services to be provided by the independent contractor to the sponsor of the health benefit plan pursuant to the contract.

(2) The personal services to be provided by the independent contractor pursuant to the contract are directly related to the principal business of the sponsor of the health benefit plan.

(3) The contract provides that the independent contractor will provide services to the sponsor of the health benefit plan on an exclusive basis.

(4) The inclusion of the independent contractor in the sponsor's health benefit plan is incidental to the contractual relationship between the sponsor of the health benefit plan and the independent contractor.

(5) Independent contractors and their spouses and dependents included in an employer-sponsored health benefit plan do not in total equal more than forty-nine percent of the total persons covered by the health benefit plan.

(6) The health benefit plan is administered by an authorized insurer or an authorized third-party administrator.

b. The sponsor of the health benefit plan shall file an application for waiver from the provisions of this chapter with the commissioner as prescribed by the commissioner and shall file periodic statements and information as required by the commissioner. The commissioner shall adopt rules pursuant to chapter 17A implementing this subsection. All statements and information filed with or disclosed to the commissioner pursuant to this subsection are confidential records pursuant to chapter 22.

c. If at any time the commissioner determines that a health benefit plan for which a waiver has been granted does not meet all of the conditions of paragraph "a", and the rules adopted by the commissioner under paragraph "b", the commissioner may terminate the waiver granted to the health benefit plan.

d. A self-funded employer-sponsored health benefit plan which has a valid waiver from the provisions of this chapter shall not be considered any of the following:

(1) An insurance company or association of any kind or character under section 432.1.

(2) A member insurer of the Iowa life and health insurance guaranty association as defined in section 508C.5, subsection 8.

(3) A carrier under chapter 513B.

(4) A member of the Iowa individual health benefit reinsurance association under section 513C.10.

(5) An entity subject to chapter 514C.

(6) A multiple employer welfare arrangement as defined in subsection 9.

e. A self-funded employer-sponsored health benefit plan which has received a waiver from the provisions of this chapter shall be considered to be a self-funded employer-sponsored health benefit plan under the federal Employee Retirement Income Security Act of 1974, as codified in 29 U.S.C. § 1169, and not subject to this title so long as the waiver is in effect.

f. The provision of health benefits to an independent contractor by a self-funded employer-sponsored health benefit plan which meets all of the conditions of paragraph "a" shall not in and of itself create an employer-employee relationship between the independent contractor and the sponsor of the health benefit plan.

Sec. 22. Section 507A.9, subsection 1, Code 2005, is amended to read as follows:

1. Effective-with For all premiums collected during the calendar year 1967, except premiums on lawfully procured surplus lines insurance, every unauthorized insurer shall pay to the commissioner of insurance before March 1, next succeeding the calendar year in which the insurance was so effectuated, continued, or renewed a premium tax ~~of two percent of~~ on gross premiums charged for such insurance on subjects resident, located, or to be performed in this state equal to the applicable percent, as provided in section 432.1. Such insurance whether procured through negotiation or an application, in whole or in part occurring or made within or outside of this state, or for which premiums in whole or in part are remitted directly or indirectly from within or outside of this state, shall be deemed to be insurance procured or continued in this state. The term "premium" includes all premiums, membership fees, assessments, dues, and any other consideration for insurance. If the tax prescribed by this section is not paid within the time stated, the tax shall be increased by a penalty of twenty-five percent and by the amount of an additional penalty computed at the rate of one percent per month or any part thereof from the date such payment was due to the date paid.

Sec. 23. Section 507B.4, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 9A. USE OF INQUIRIES. Considering either of the following events for purposes of surcharging, declining, nonrenewing, or canceling personal lines property and casualty insurance coverage or a binder for personal lines property and casualty insurance coverage:

a. An applicant's or insured's inquiry into the type or level of coverage of a policy, or an inquiry into whether a policy will cover a loss.

b. An insured's inquiry regarding coverage of a policy for a loss if the insured does not file a claim.

NEW SUBSECTION. 9B. HISTORY OF A PROPERTY. Declining to insure a property not previously owned by an applicant for personal lines property and casualty insurance, based solely on the loss history of a previous owner of the property, unless the insurer can provide evidence that the previous owner did not repair damage to the property.

NEW SUBSECTION. 9C. DISCLOSURE OF USE OF CLAIMS HISTORY. Failing to inform an applicant at the time that an application for personal lines property and casualty insurance is made, in writing or in the same medium as the application is made, that the insurer will consider the applicant's or insured's claims history in determining whether to decline, cancel, nonrenew, or surcharge such a policy, and that a claim made by an insured will be reported to an insurance support organization.

NEW SUBSECTION. 15. INFORMATION. Failing or refusing to furnish any policyholder or applicant, upon reasonable request, information to which that individual is entitled.

Sec. 24. Section 507B.4, Code 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For purposes of subsections 9A, 9B, and 9C, "personal lines property and casualty insurance" means insurance sold to individuals and families primarily for noncommercial purposes as provided in chapter 522B.

Sec. 25. NEW SECTION. 507B.4B SUITABILITY.

1. A person shall not recommend to any individual the purchase, sale, or exchange of any annuity contract, or any rider, endorsement, or amendment thereto, unless the person has reasonable grounds to believe that the recommendation is suitable for the individual based on a reasonable inquiry into the individual's financial status, investment objectives, and other relevant information.

2. A person engaged in the business of annuities shall establish and maintain a system to monitor recommendations made, that is reasonably designed to achieve compliance with subsection 1.

3. The commissioner shall adopt rules pursuant to chapter 17A establishing procedures and standards for implementation of the suitability requirements of subsection 1.

Sec. 26. NEW SECTION. 507B.15 ADMINISTRATIVE HEARINGS.

Section 505.28 is applicable to hearings required by sections 507B.6, 507B.6A, and 507B.7.

Sec. 27. Section 507C.2, subsection 13, Code Supplement 2005, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. "General assets" does not include that portion of the assets of the insurer allocated to and accumulated in a separate account established pursuant to section 508A.1, unless otherwise provided by the applicable policy, annuity, agreement, instrument, or contract. However, if any assets allocated to and accumulated in a separate account, after the satisfaction of any liabilities with regard to the operation of the separate account, are in excess of an amount equal to the reserves and other liabilities with respect to the separate account, the excess shall be treated as part of the general assets of the insurer.

Sec. 28. Section 507C.42, unnumbered paragraph 1, Code 2005, is amended to read as follows:

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

Sec. 29. Section 507C.42, subsection 2, Code 2005, is amended to read as follows:

2. CLASS 2. Claims under policies, including claims of the federal or any state or local government, for losses incurred, including third-party claims, claims against the insurer for liability for bodily injury or for injury to or destruction of tangible property which are not under policies, claims of a guaranty association or foreign guaranty association, claims under funding agreements as provided in section 508.31A, subsection 3, claims for an insufficiency in the assets allocated to and accumulated in a separate account as provided in section 508A.1, subsection 8, and claims for unearned premium. Claims under life insurance and annuity policies, whether for death proceeds, annuity proceeds, or investment values, shall be treated as loss claims. That portion of a loss, indemnification for which is provided by other benefits or advantages recovered by the claimant, shall not be included in this class, other than benefits or advantages recovered or recoverable in discharge of familial obligations of support or by way of succession at death or as proceeds of life insurance, or as gratuities. A payment by an employer to an employee is not a gratuity.

Sec. 30. Section 507E.5, Code 2005, is amended by striking the section and inserting in lieu thereof the following:
507E.5 CONFIDENTIALITY.

1. All investigation files, investigation reports, and all other investigative information in the possession of the bureau are confidential records under chapter 22 except as specifically provided in this section and are not subject to discovery, subpoena, or other means of legal compulsion for their release until opened for public inspection by the bureau, or upon the consent of the bureau, or until a court of competent jurisdiction determines, after notice to the bureau and hearing, that the bureau will not be unnecessarily hindered in accomplishing the purposes of this chapter by their opening for public inspection. However, investigative information in the possession of the bureau may be disclosed, in the commissioner's discretion, to appropriate licensing authorities within this state, another state or the District

of Columbia, or a territory or country in which a licensee is licensed or has applied for a license.

2. The commissioner may share documents, materials, or other information, including confidential and privileged documents, materials, or other information, with other state, federal, and international regulatory agencies, with the national association of insurance commissioners and its affiliates or subsidiaries, and with state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidential and privileged status of the document, material, or other information, pursuant to Iowa law.

3. The commissioner may receive documents, materials, or other information, including otherwise confidential and privileged documents, materials, or other information, from other local, state, federal, and international regulatory agencies, the national association of insurance commissioners and its affiliates or subsidiaries, and local, state, federal, and international law enforcement authorities, and shall maintain as confidential and privileged any document, material, or other information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or other information.

4. The commissioner may enter into agreements governing the sharing and use of documents, materials, or other information consistent with this section.

5. An investigator or other staff member of the bureau is not subject to subpoena in a civil action concerning any matter of which the investigator or other staff member has knowledge pursuant to a pending or continuing investigation being conducted by the bureau pursuant to this chapter.

Sec. 31. Section 508.13, Code 2005, is amended to read as follows:

508.13 ANNUAL CERTIFICATE OF AUTHORITY.

1. On receipt of an application for a certificate of authority or renewal of a certificate of authority, fees, the

deposit provided in section 511.8, subsection 16, and the statement, and the statement and evidence of investment of foreign companies, ~~all of which shall be renewed annually, by the first day of March,~~ the commissioner of insurance shall issue a certificate or a renewal of a certificate setting forth the corporate name of the company, its home office, that it has fully complied with the laws of the state and is authorized to transact the business of life insurance for the ensuing year, which certificate shall expire on the first day of June of the ensuing year, or sooner upon thirty days' notice given by the commissioner, of the next annual valuation of its policies. ~~Such certificate shall be renewed annually, upon the renewal of the deposit and statement by a domestic company, or of the statement and evidence of investment by a foreign company, and compliance with the conditions above required, and be subject to revocation as the original certificate.~~

2. A company shall submit annually on or before March 1 a completed application for renewal of its certificate of authority. A certificate of authority shall expire on the first day of June next succeeding its issue and shall be renewed annually so long as the company transacts business in accordance with all legal requirements of the state.

3. A company that fails to timely file an application for renewal of its certificate of authority shall pay an administrative penalty of five hundred dollars to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

4. A copy of a certificate of authority, when certified by the commissioner, shall be admissible in evidence for or against a company, with the same effect as the original.

Sec. 32. Section 508A.1, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 8. If the assets of an insurer allocated to and accumulated in a separate account in connection with any policy, annuity, agreement, instrument, or contract, after the satisfaction of any liabilities with regard to the

operation of the separate account, are insufficient to fully satisfy the insurer's express obligations under the policy, annuity, agreement, instrument, or contract, then claims for the unsatisfied portions of the insurer's obligations shall be class 2 claims under section 507C.42, subsection 2.

Sec. 33. Section 509.1, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. The premium for the group life policy shall be paid by the policyholder, either wholly from the employer's funds or funds contributed by ~~the employer, or partly from such funds and partly from funds contributed by~~ the insured employees, or from both. ~~No A policy, except of group accident and health, may be issued on which the entire premium is to be derived from funds contributed by the insured employees. A policy insurance~~ on which part of the premium is to be derived from funds contributed by the insured employees may be placed in force only if at least seventy-five percent of the then eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer. As used in this paragraph, "accident and health insurance" does not include disability income insurance.

Sec. 34. Section 509A.15, subsection 1, paragraph d, Code 2005, is amended to read as follows:

d. That the governing body has contracted or otherwise arranged with a third-party administrator who holds a current certificate of registration issued by the commissioner pursuant to section 510.21, or with a person not required to obtain the certificate as an a third-party administrator as defined in section 510.11, subsection 1.

Sec. 35. Section 509A.15, subsection 4, Code 2005, is amended to read as follows:

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 two 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 two percent of the political subdivision's or school corporation's general fund budget.

Sec. 36. Section 509B.1, subsection 4, Code 2005, is amended by striking the subsection.

Sec. 37. Section 509B.5, subsection 1, Code 2005, is amended to read as follows:

1. Employers or group policyholders shall notify all employees or members of their continuation ~~and-conversion~~ rights within ten days of termination of employment or membership. The notice shall be in writing and delivered in person or mailed to the person's last known address. However, continuation ~~and-conversion~~ rights shall not be denied because of failure to provide proper notice. After receiving proper notice the employee or member may request and shall receive continuation ~~or-conversion~~ coverage in accordance with this chapter within ten days of the request, notwithstanding any other time limitation provided by this chapter. Notification as provided in this section supersedes section 515.80 as that section relates to accident and health insurance.

Sec. 38. Section 510.11, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

510.11 DEFINITIONS.

1. "Life or health insurance" includes but is not limited to the following:

- a. Individual or group accident and sickness insurance providing coverage on an expense-incurred basis.
- b. An individual or group hospital or medical service contract issued pursuant to chapter 509, 514, or 514A.
- c. An individual or group health maintenance organization contract regulated under chapter 514B.
- d. An individual or group Medicare supplemental policy.
- e. A long-term care policy.
- f. An individual or group life insurance policy or annuity issued pursuant to chapter 508, 508A, or 509A.

2. "Third-party administrator" means a person who collects charges or premiums from, or who adjusts or settles claims on, residents of this state in connection with life or health insurance coverage or annuities other than any of the following:

- a. A union or association on behalf of its members.
- b. An insurance company which is either licensed in this state or acting as an insurer with respect to a policy lawfully issued and delivered by it in and pursuant to the laws of a state in which the insurer was authorized to do insurance business.
- c. An entity licensed under chapter 514, including its sales representatives licensed in this state when engaged in the performance of their duties as sales representatives.
- d. A life or health agent or broker licensed in this state, whose activities are limited exclusively to the sale of insurance.
- e. A creditor on behalf of its debtors with respect to insurance covering a debt between the creditor and its debtors.
- f. A trust, its trustees, agents, and employees acting under the trust, established in conformity with 29 U.S.C. § 186.
- g. A trust exempt from taxation under section 501(a) of the Internal Revenue Code, its trustees, and employees acting under the trust.

h. A custodian, its agents, and employees acting pursuant to a custodial account which meets the requirements of section 401(f) of the Internal Revenue Code.

i. A bank, credit union, or other financial institution which is subject to supervision or examination by federal or state banking authorities.

j. A credit card-issuing company which advances for and collects premiums or charges from its credit card holders who have authorized it to do so, if the company does not adjust or settle claims.

k. A person who adjusts or settles claims in the normal course of the person's practice or employment as an attorney, and who does not collect charges or premiums in connection with life or health insurance coverage or annuities.

Sec. 39. Section 510.12, Code 2005, is amended to read as follows:

510.12 WRITTEN AGREEMENT NECESSARY.

A person shall not act as an third-party administrator without a written agreement between the third-party administrator and the insurer, and the written agreement shall be retained as part of the official records of both the insurer and the third-party administrator for the duration of the agreement plus five years. The written agreement shall contain provisions which include the requirements of sections 510.11 through 510.16, except insofar as those requirements do not apply to the functions performed by the third-party administrator.

When a policy is issued to a trustee, a copy of the trust agreement and any amendments to the trust agreement shall be furnished to the insurer by the third-party administrator and shall be retained as part of the official records of both the insurer and the third-party administrator for the duration of the policy plus five years.

Sec. 40. Section 510.13, Code 2005, is amended to read as follows:

510.13 PAYMENT TO THIRD-PARTY ADMINISTRATOR.

If an insurer uses the services of an a third-party administrator under the terms of a written contract as required in section 510.12, payment to the third-party administrator of any premiums or charges for insurance by or on behalf of the insured shall be deemed to have been received by the insurer, and the payment of return premiums or claims by the insurer to the third-party administrator shall not be deemed payment to the insured or claimant until the payments are received by the insured or claimant. This section does not limit any right of the insurer against the third-party administrator resulting from the third-party administrator's failure to make payments to the insurer, insureds, or claimants.

Sec. 41. Section 510.14, Code 2005, is amended to read as follows:

510.14 MAINTENANCE OF INFORMATION.

An A third-party administrator shall maintain at its principal administrative office for the duration of the written agreement referred to in section 510.12 plus five years, adequate books and records of all transactions between it, insurers, and insured persons. The third-party administrator's books and records shall be maintained in accordance with prudent standards of insurance recordkeeping. The commissioner shall have access to such books and records for the purpose of examination, audit, and inspection. Trade secrets contained in an a third-party administrator's books and records, including but not limited to the identity and addresses of policyholders and certificate holders, shall be confidential, except the commissioner may use trade secret information in any proceeding instituted against the third-party administrator. The insurer retains the right to continuing access to the third-party administrator's books and records sufficient to permit the insurer to fulfill all of its contractual obligations to insured persons, subject to any restrictions in the written agreement between the insurer and third-party administrator on the proprietary rights of the parties in the third-party administrator's books and records.

Sec. 42. Section 510.15, Code 2005, is amended to read as follows:

510.15 APPROVAL OF ADVERTISING.

An A third-party administrator may use only such advertising pertaining to the business underwritten by an insurer as has been approved by the insurer in advance of its use.

Sec. 43. Section 510.17, Code 2005, is amended to read as follows:

510.17 PREMIUM COLLECTION.

1. All insurance charges or premiums collected by an a third-party administrator on behalf of or for an insurer, and return premiums received from the insurer, shall be held by the third-party administrator in a fiduciary capacity. Such funds shall be immediately remitted to the person or persons entitled to them, or shall be deposited promptly in a fiduciary bank account established and maintained by the third-party administrator. If charges or premiums so deposited have been collected on behalf of or for more than one insurer, the third-party administrator shall cause the bank in which the fiduciary account is maintained to keep records clearly recording the deposits in and withdrawals from the account on behalf of or for each insurer. The third-party administrator shall promptly obtain and keep copies of all such records and, upon request of an insurer, shall furnish the insurer with copies of the records pertaining to deposits and withdrawals on behalf of or for that insurer.

2. The third-party administrator shall not pay a claim by withdrawal from the fiduciary account. Withdrawals from the fiduciary account shall be made, as provided in the written agreement between the third-party administrator and the insurer, for any of the following:

- a. Remittance to an insurer entitled thereto.
- b. Deposit in an account maintained in the name of the insurer.
- c. Transfer to and deposit in a claims-paying account, with claims to be paid as provided in section 510.18.

d. Payment to a group policyholder for remittance to the insurer entitled thereto.

e. Payment to the third-party administrator of its commission, fees, or charges.

f. Remittance of return premiums to the persons entitled thereto.

Sec. 44. Section 510.18, Code 2005, is amended to read as follows:

510.18 PAYMENT OF CLAIMS.

A claim paid by the third-party administrator from funds collected on behalf of the insurer shall be paid only on a draft, check, or by electronic funds transfer as authorized by the insurer.

Sec. 45. Section 510.19, Code 2005, is amended to read as follows:

510.19 CLAIM ADJUSTMENT AND SETTLEMENT.

The compensation paid to an a third-party administrator shall not be contingent on claim experience on policies for which the third-party administrator adjusts or settles claims. This section does not prevent the compensation of an a third-party administrator from being based on premiums or charges collected or number of claims paid or processed.

Sec. 46. Section 510.20, Code 2005, is amended to read as follows:

510.20 NOTIFICATION REQUIRED.

When the services of an a third-party administrator are used, the third-party administrator shall provide a written notice, approved by the insurer, to insured individuals, advising them of the identity of and relationship among the third-party administrator, the policyholder, and the insurer. When an a third-party administrator collects funds, it must shall identify and state separately in writing to the person paying to the third-party administrator any charge or premium for insurance coverage the amount of any such charge or premium specified by the insurer for such insurance coverage.

Sec. 47. Section 510.21, Code 2005, is amended to read as follows:

510.21 CERTIFICATE OF REGISTRATION REQUIRED.

A person shall not act as or represent oneself to be an a third-party administrator in this state, other than an adjuster licensed in this state for the kinds of business for which the person is acting as an a third-party administrator, unless the person holds a current certificate of registration as an a third-party administrator issued by the commissioner of insurance. A certificate of registration as an a third-party administrator is renewable every three years. Failure to hold a certificate subjects the third-party administrator to the sanctions set out in section 507B.7. The certificate shall be issued by the commissioner to an a third-party administrator unless the commissioner, after due notice and hearing, determines that the third-party administrator is not competent, trustworthy, financially responsible, or of good personal and business reputation, or has had a previous application for an insurance license denied for cause within the preceding five years.

An application for registration shall be accompanied by a filing fee of one hundred dollars. After notice and hearing, the commissioner may impose any or all of the sanctions set out in section 507B.7, upon finding that either the third-party administrator violated any of the requirements of section 515.134 and sections 510.1A through 510.20 and this section, or the third-party administrator is not competent, trustworthy, financially responsible, or of good personal and business reputation.

Sec. 48. Section 510.22, subsections 1 and 3, Code 2005, are amended to read as follows:

1. The person acting as an a third-party administrator is primarily in a business other than that of a third-party administrator.

3. The regular duties being performed as an a third-party administrator are such that the covered persons are not likely to be injured by a waiver of such requirements.

Sec. 49. Section 510.23, Code 2005, is amended to read as follows:

510.23 UNFAIR COMPETITION OR UNFAIR AND DECEPTIVE ACTS OR PRACTICES PROHIBITED.

An A third-party administrator is subject to chapter 507B relating to unfair insurance trade practices.

Sec. 50. Section 511.8, subsection 1, paragraph b, Code 2005, is amended to read as follows:

b. Bonds or other evidences of indebtedness issued, assumed, or guaranteed by the United States of America, or by any agency or instrumentality of the United States of America include investments in an open-end management investment company registered with the federal securities and exchange commission under the federal Investment Company Act of 1940, 15 U.S.C. § 80(a) 80a-1 et seq., and operated in accordance with 17 C.F.R. § 270.2a-7, the portfolio of which is limited to the United States government obligations described in paragraph "a", and which are included in the national association of insurance commissioners' securities valuation office's United States direct obligations--full faith and credit exempt list.

Sec. 51. Section 511.8, subsection 18, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. Common stocks or shares issued by any federal home loan bank under the Federal Home Loan Bank Act, 12 U.S.C. § 1421 et seq., and the Acts amendatory thereof, are eligible if the total investment in those stocks or shares does not exceed one-half of one percent of the legal reserve.

Sec. 52. Section 511.8, subsection 22, paragraph b, Code 2005, is amended by striking the paragraph and inserting in lieu thereof the following:

b. To be eligible as investments, financial instruments used in hedging transactions shall be either of the following:

(1) Be between an insurer and a counterparty that meets the qualifications established in subsection 5 for an issuer, obligor, or guarantor of bonds or other evidences of indebtedness issued, assumed, or guaranteed by a corporation incorporated under the laws of the United States or of any state, district, or insular or territorial possession thereof,

or Canada, or that meets the qualifications established in subsection 19 for an issuer, obligor, or guarantor of bonds or other evidences of indebtedness issued, assumed, or guaranteed by a corporation incorporated under the laws of a foreign government other than Canada.

(2) Be between an insurer and a conduit and be collateralized by cash or obligations which are eligible under subsection 1, 2, 3, 5, 19, or 24, are deposited with a custodian bank as defined in subsection 21, and are held under a written agreement with the custodian bank that complies with subsection 21 and provides for the proceeds of the collateral, subject to the terms and conditions of the applicable collateral or other credit support agreement, to be remitted to the legal reserve deposit of the company or association and to vest in the state in accordance with section 508.18 whenever proceedings under that section are instituted. Paragraphs "c", "d", and "e" of this subsection are not applicable to investments in financial instruments used in hedging transactions eligible pursuant to this subparagraph. As used in this subparagraph, "conduit" means a person within an insurer's insurance holding company system, as defined in section 521A.1, subsection 5, which aggregates hedging transactions by other persons within the insurance holding company system and replicates them with counterparties.

(a) Financial instruments used in hedging transactions between an insurer and a conduit which are collateralized by obligations eligible under subsection 5, 19, or 24 are eligible only to the extent that such securities deposited as collateral are not in excess of two percent of the legal reserve in the securities of any one corporation, less any securities of that corporation owned by the insurer or which are the subject of hedging transactions by the insurer, that are included in the insurer's legal reserve.

(b) Financial instruments used in hedging transactions between an insurer and a conduit which are collateralized by obligations eligible under subsection 5 or by cash equivalents eligible under subsection 24, other than a class one money

market fund, are eligible only to the extent that such securities deposited as collateral are not in excess of ten percent of the legal reserve, less any obligations eligible under subsection 5 or cash equivalents eligible under subsection 24, other than a class one money market fund, owned by the insurer or which are the subject of hedging transactions by the insurer, that are included in the insurer's legal reserve.

(c) Financial instruments used in hedging transactions between an insurer and a conduit which are collateralized by obligations eligible under subsection 19 are eligible only to the extent that such securities deposited as collateral are not in excess of twenty percent of the legal reserve, less any securities eligible under subsection 19 owned by the insurer or which are the subject of hedging transactions by the insurer, that are included in the insurer's legal reserve.

(3) Financial instruments used in hedging transactions shall be eligible only as provided by this paragraph "b" and rules adopted by the commission pursuant to chapter 17A setting standards for hedging transactions between an insurer and a conduit as authorized under section 521A.5, subsection 1, paragraph "b".

Sec. 53. Section 511.8, subsection 22, paragraph e, Code 2005, is amended to read as follows:

e. Investments in financial instruments of foreign governments or foreign corporate obligations, other than Canada, used in hedging transactions ~~are not eligible in excess of~~ shall be included in the limitation contained in subsection 19 that allows only twenty percent of the legal reserve, ~~less any foreign investment authorized by subsection 19 owned by the company or association and in which its legal reserve is invested~~ of the company or association to be invested in such foreign investments, except insofar as the financial instruments are collateralized by cash or United States government obligations as authorized by subsection 1, deposited with a custodian bank as defined in subsection 21, and held under a written agreement with the custodian bank

that complies with subsection 21 and provides for the proceeds of the collateral, subject to the terms and conditions of the applicable collateral or other credit support agreement, to be remitted to the legal reserve deposit of the company or association and to vest in the state in accordance with section 508.18 whenever proceedings under that section are instituted.

This paragraph "e" does not authorize the inclusion of financial instruments used in hedging transactions in an insurer's legal reserve that are in excess of the eligibility limitation provided in paragraph "d" unless the financial instruments are collateralized as provided in this paragraph "e".

Sec. 54. Section 511.8, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 24. CASH EQUIVALENTS.

a. As used in this subsection, unless the context otherwise requires:

(1) "Cash equivalents" means highly liquid investments with an original term to maturity of ninety days or less that are all of the following:

(a) Readily convertible to a known amount of cash without penalty.

(b) So near maturity that the investment presents an insignificant risk of change in value.

(c) Rated any of the following:

(i) "P-1" by Moody's investors services, inc.

(ii) "A-1" by Standard and Poor's division of McGraw-Hill companies, inc., or by the national association of insurance commissioners' securities valuation office.

(iii) Equivalent by a nationally recognized statistical rating organization that is recognized by the national association of insurance commissioners' securities valuation office.

(2) "Class one money market fund" means investments in an open-end management investment company registered with the federal securities and exchange commission under the federal

Investment Company Act of 1940, 15 U.S.C. § 80a-1 et seq., and operated in accordance with 17 C.F.R. § 270.2a-7, that qualifies for investment using the bond class one reserve factor under the purposes and procedures of the national association of insurance commissioners' securities valuation office.

b. Cash equivalents include a class one money market fund.

c. Cash equivalents, other than a class one money market fund, are not eligible in excess of two percent of the legal reserve in the obligations of any one corporation, and are not eligible in excess of ten percent of the legal reserve.

Sec. 55. Section 512B.25, Code 2005, is amended to read as follows:

512B.25 ANNUAL LICENSE -- RENEWAL.

~~A society which is authorized to transact business in this state on January 1, 1991, and a society licensed on or after January 1, 1991, may continue in business until June 1, 1991.~~ The authority of the a society to transact business in this state may thereafter be renewed annually. A license terminates on the succeeding June 1. ~~However, a license issued shall continue in full force and effect until a new license is issued or specifically refused.~~ A society shall submit annually on or before March 1 a completed application for renewal of its license. For each license or renewal the society shall pay the commissioner a fee of fifty dollars. A society that fails to timely file an application for renewal shall pay an administrative penalty of five hundred dollars to the treasurer of state for deposit in the general fund of the state as provided in section 505.7. A duly certified copy or duplicate of the license is prima facie evidence that the licensee is a fraternal benefit society within the meaning of this chapter.

Sec. 56. Section 513C.9, subsection 1, Code 2005, is amended by striking the subsection.

Sec. 57. NEW SECTION. 514.9A CERTIFICATE OF AUTHORITY -- RENEWAL.

A certificate of authority of a corporation formed under this chapter expires on June 1 succeeding its issue and shall be renewed annually so long as the corporation transacts its business in accordance with all legal requirements. A corporation shall submit annually, on or before March 1, a completed application for renewal of its certificate of authority. A corporation that fails to timely file an application for renewal shall pay an administrative penalty of five hundred dollars to the treasurer of state for deposit in the general fund of the state as provided in section 505.7. A duly certified copy or duplicate of the certificate is admissible in evidence for or against the corporation with the same effect as the original.

Sec. 58. NEW SECTION. 514B.3B CERTIFICATE OF AUTHORITY -- RENEWAL.

A certificate of authority of a health maintenance organization formed under this chapter expires on June 1 succeeding its issue and shall be renewed annually so long as the organization transacts its business in accordance with all legal requirements. A health maintenance organization shall submit annually, on or before March 1, a completed application for renewal of its certificate of authority. A health maintenance organization that fails to timely file an application for renewal shall pay an administrative penalty of five hundred dollars to the treasurer of state for deposit in the general fund of the state as provided in section 505.7. A duly certified copy or duplicate of the certificate is admissible in evidence for or against the organization with the same effect as the original.

Sec. 59. Section 514B.12, Code 2005, is amended to read as follows:

514B.12 ANNUAL REPORT.

1. 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 the principal officers of the health maintenance organization and covering the preceding calendar

year. The report shall be on forms prescribed by the commissioner and shall include:

1- a. Financial statements of the organization including a balance sheet as of the end of the preceding calendar year and statement of profit and loss for the year then ended, certified by a certified public accountant or an independent public accountant.

2- b. Any material changes in the information submitted pursuant to section 514B.3.

3- c. The number of persons enrolled during the year, the number of enrollees as of the end of the year and the number of enrollments terminated during the year.

4- d. Other information relating to the performance of the health maintenance organization as is necessary to enable the commissioner to carry out the commissioner's duties under this chapter.

2. The commissioner shall refuse to renew a certificate of authority of a health maintenance organization that fails to comply with the provisions of this section and the organization's right to transact new business in this state shall immediately cease until the organization has so complied.

3. A health maintenance organization that fails to timely file the report required under subsection 1 is in violation of this section and shall pay an administrative penalty of five hundred dollars to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

4. The commissioner may give notice to a health maintenance organization that the organization has not timely filed the report required under subsection 1 and is in violation of this section. If the organization fails to file the required report and comply with this section within ten days of the date of the notice, the organization shall pay an additional administrative penalty of one hundred dollars for each day that the failure continues to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

Sec. 60. Section 514B.22, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

514B.22 FEES.

When not otherwise provided, a foreign or domestic health maintenance organization doing business in this state shall pay the commissioner of insurance the fees as required in section 511.24.

Sec. 61. Section 514B.33, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 3A. Sections 514B.3B and 514B.12 apply to all foreign and domestic limited service organizations authorized to do business in this state.

Sec. 62. Section 514C.1, Code 2005, is amended to read as follows:

514C.1 SUPPLEMENTAL COVERAGE FOR ADOPTED OR NEWLY BORN CHILDREN.

1. Any policy of individual or group accident and sickness insurance providing coverage on an expense incurred basis, and any individual or group hospital or medical service contracts issued pursuant to chapters 509, 514, and 514A, which provide coverage for a family member of the insured or subscriber shall also provide that the health insurance benefits applicable for children shall, subject to the enrollment requirements of this section, be payable with respect to a newly born child of the insured or subscriber from the moment of birth, or, in the situation of a newly adopted child of a covered person, such child shall be covered from the earlier of any of the following:

a. The date of placement of the child for the purpose of adoption and continuing in the same manner as for other dependents of the covered person, unless the placement is disrupted prior to legal adoption and the child is removed from placement.

b. The date of entry of an order granting the covered person custody of the child for purposes of adoption.

c. The effective date of adoption.

2. The coverage for adopted or newly born children shall consist of coverage for injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities and is not subject to any preexisting condition exclusion.

3. If payment of a specific premium or subscription fee is required to provide coverage for a newly born child, the policy or contract may require that notification of birth of a newly born child and payment of the required premium or fees must be furnished to the insurer or nonprofit service or indemnity corporation within thirty-one ~~sixty~~ days after the date of birth ~~in-order-to-have-coverage-continue-beyond-such thirty-one-day-period.~~

4. If payment of a specific premium or subscription fee is not required to provide coverage for a newly born child, the policy or contract may require that notification of birth of a newly born child must be furnished to the insurer or nonprofit service or indemnity corporation within sixty days after the date of birth in order for coverage to be provided for the child from the date of birth.

5. a. If payment of a specific premium or subscription fee is required to provide coverage for a newly adopted child or child placed for adoption, the policy or contract may require that notification of the adoption or placement for adoption and payment of the required premium or fees must be furnished to the insurer or nonprofit service or indemnity corporation within sixty days after the coverage is required to begin under this section.

b. If payment of a specific premium or subscription fee is not required to provide coverage for a newly adopted child or child placed for adoption, the policy or contract may require that notification of the adoption or placement for adoption must be furnished to the insurer or nonprofit service or indemnity corporation within sixty days after the coverage is required to begin under this section.

c. If a covered person fails to provide the required notice or to make payment of premium or subscription fees within the sixty-day period required in this subsection, the newly adopted child or child placed for adoption shall be treated no less favorably by a health carrier than other dependents of the covered person, other than newly born children, who seek coverage under a policy or contract at a time other than the time when the dependent is first eligible to apply for coverage.

Sec. 63. Section 514C.3, Code 2005, is amended to read as follows:

514C.3 DENTIST'S SERVICES UNDER ACCIDENT AND SICKNESS INSURANCE POLICIES.

A policy of accident and sickness insurance issued in this state which provides payment or reimbursement for any service which is within the lawful scope of practice of a licensed dentist shall provide benefits for the service whether the service is performed by a licensed physician or a licensed dentist. As used in this section, "licensed physician" includes persons licensed under chapter 148, 150, or 150A and "policy of accident and sickness insurance" includes individual policies or contracts issued pursuant to chapter 514, 514A, or 514B, and group policies as defined in section 509B.1, subsections subsection 3 and-4.

Sec. 64. Section 514E.7, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The association is not required to make plan coverage available to an individual who is covered or is eligible for any continued group coverage under Internal Revenue Code § 4980B, the federal Employee Retirement Income Security Act of 1974, codified at 29 U.S.C. § 1001 et seq., the federal Public Health Service Act of July 1, 1944, codified at 42 U.S.C. § 201 et seq., or any continued group coverage required by the state. For purposes of this subsection, an individual who would have been eligible for such continuation of group coverage, but is not eligible solely because the individual or other responsible party

failed to make the required election of coverage during the applicable time period, or terminated such coverage prior to the end of such applicable time period, shall be deemed to be eligible for such group coverage until the date on which the individual's continuing group coverage would have expired had an election been made or a termination not occurred.

Sec. 65. Section 514J.7, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 9. If an enrollee dies before the completion of the external review process, the process shall continue to completion if there is potential liability of a carrier or organized delivery system to the estate of the enrollee.

NEW SUBSECTION. 10. a. If an enrollee who has already received a service or treatment under a plan requests external review of the plan's coverage decision and changes to another plan before the external review process is completed, the carrier or organized delivery system whose coverage was in effect at the time the service or treatment was received is responsible for completing the external review process.

b. If an enrollee who has not yet received service or treatment requests external review of a plan's coverage decision and then changes to another plan prior to receipt of the service or treatment and completion of the external review process, the external review process shall begin anew with the enrollee's current carrier or organized delivery system. In this instance, the external review process shall be conducted in an expedited manner.

Sec. 66. Section 515.24, Code 2005, is amended to read as follows:

515.24 TAX -- COMPUTATION.

For the purpose of determining the basis of any tax upon the "gross amount of premiums", or "gross receipts from premiums, assessments, fees, and promissory obligations", now or hereafter imposed upon any fire or casualty insurance company under any law of this state, such gross amount or gross receipts shall consist of the gross written premiums or

receipts for direct insurance, without including or deducting any amounts received or paid for reinsurance except that any company reinsuring windstorm or hail risks written by county mutual insurance associations shall be required to pay ~~a two percent tax on~~ as a tax, the applicable percent provided in section 432.1, calculated upon the gross amount of reinsurance premiums received upon such risks, but with such other deductions as provided by law, and in addition deducting any so-called dividend or return of savings or gains to policyholders; provided that as to any deposits or deposit premiums received by any such company, the taxable premiums shall be the portion of such deposits or deposit premiums earned during the year with such deductions therefrom as provided by law.

Sec. 67. Section 515.42, Code 2005, is amended to read as follows:

515.42 TENURE OF CERTIFICATE -- RENEWAL -- EVIDENCE.

Such A certificate of authority shall expire on the first day of June next succeeding its issue, and shall be renewed annually so long as such company shall transact business in accordance with the requirements of law; a copy of which certificate, when certified to by the commissioner of insurance, shall be admissible in evidence for or against a company with the same effect as the original. A company shall submit annually, on or before March 1, a completed application for renewal of its certificate of authority. A company that fails to timely file an application for renewal shall pay an administrative penalty of five hundred dollars to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

Sec. 68. NEW SECTION. 515.147A ADMINISTRATIVE PENALTY.

1. An excess and surplus lines insurance agent that fails to timely file the report required in section 515.147 is in violation of this section and shall pay an administrative penalty of five hundred dollars to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

2. The commissioner shall refuse to renew the license of an agent that fails to comply with the provisions of section 515.147 and this section and the agent's right to transact new business in this state shall immediately cease until the agent has so complied.

3. The commissioner may give notice to an agent that the agent has not timely filed the report required under section 515.147 and is in violation of this section. If the agent fails to file the required report within ten days of the date of the notice, the agent shall pay an additional administrative penalty of one hundred dollars for each day that the failure continues to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

Sec. 69. Section 515A.6, subsection 1, Code 2005, is amended to read as follows:

1. a. A corporation, an unincorporated association, a partnership or an individual, whether located within or outside this state, may make application to the commissioner for license as a rating organization for such kinds of insurance, or subdivision or class of risk or a part or combination thereof as are specified in its application and shall file ~~therewith-(a)-a~~ with the application all of the following:

(1) A copy of its constitution, its articles of agreement or association or its certificate of incorporation, and of its bylaws, rules and regulations governing the conduct of its business~~-(b)-a.~~

(2) A list of its members and subscribers~~-(c)-the.~~

(3) The name and address of a resident of this state upon whom notices or orders of the commissioner or process affecting such rating organization may be served ~~and-(d)-a.~~

(4) A statement of its qualifications as a rating organization.

b. If the commissioner finds that the applicant is competent, trustworthy, and otherwise qualified to act as a rating organization and that its constitution, articles of

agreement or association or certificate of incorporation, and its bylaws, rules and regulations governing the conduct of its business conform to the requirements of law, the commissioner shall issue a license specifying the kinds of insurance, or subdivisions or classes of risks or parts or combinations thereof for which the applicant is authorized to act as a rating organization. Every such application shall be granted or denied in whole or in part by the commissioner within sixty days of the date of its filing with the commissioner.

c. Licenses issued pursuant to this section shall remain in effect for three years unless sooner suspended or revoked by the commissioner. The fee for said license shall be twenty-five dollars.

d. Licenses issued pursuant to this section may be suspended or revoked by the commissioner, after hearing upon notice, in the event the rating organization ceases to meet the requirements of this subsection.

e. Every rating organization shall notify the commissioner promptly of every change in ~~(a)-its~~ any of the following:

(1) Its constitution, its articles of agreement or association, or its certificate of incorporation, and its bylaws, rules and regulations governing the conduct of its business~~-(b)-its.~~

(2) Its list of members and subscribers ~~and-(c)-the.~~

(3) The name and address of the resident of this state designated by it upon whom notices or orders of the commissioner or process affecting such rating organization may be served.

Sec. 70. Section 515A.9, Code 2005, is amended to read as follows:

515A.9 INFORMATION TO BE FURNISHED INSURED -- HEARINGS AND APPEALS OF INSURED.

Every rating organization and every insurer which makes its own rate shall, within a reasonable time after receiving written request therefor and upon payment of such reasonable charge as it may make, furnish to any insured affected by a rate made by it, or to the authorized representative of such

insured, all pertinent information as to such rate. Every rating organization and every insurer which makes its own rates shall provide within this state reasonable means whereby any person aggrieved by the application of its rating system may be heard, in person or by the person's authorized representative, on the person's written request to review the manner in which such rating system has been applied in connection with the insurance afforded the person. Such review of the manner in which a rating system has been applied is not a contested case under chapter 17A. If the rating organization or insurer fails to grant or reject such request within thirty days after it is made, applicant may proceed in the same manner as if the application had been rejected. Any party affected by the action of such rating organization or such insurer on such request may, within thirty days after written notice of such action, appeal to the commissioner, who, after a hearing held upon not less than ten days' written notice to the appellant and to such rating organization or insurer, may affirm or reverse such action. Such appeal to the commissioner of the manner in which a rating system has been applied is not a contested case under chapter 17A.

Sec. 71. Section 515A.10, subsection 2, Code 2005, is amended to read as follows:

2. Every advisory organization shall file with the commissioner ~~(a)~~ a all of the following:

- a. A copy of its constitution, its articles of agreement or association or its certificate of incorporation and of its bylaws, rules and regulations governing its activities, ~~(b)~~ a.
- b. A list of its members, ~~(c)~~ the.
- c. The name and address of a resident of this state upon whom notices or orders of the commissioner or process issued at the commissioner's direction may be served, ~~and (d)~~ an.
- d. An agreement that the commissioner may examine such advisory organization in accordance with the provisions of section 515A.12.

Sec. 72. NEW SECTION. 515E.3A FOREIGN RISK RETENTION GROUP MAY BECOME DOMESTIC.

1. A risk retention group that is organized under the laws of any other state for the purpose of writing insurance, as authorized by this chapter, may redomesticate to this state by doing all of the following:

- a. Complying with section 490.902.
- b. Complying with all of the requirements of law relative to the organization and licensing of a domestic risk retention group and the capital and surplus requirement set forth in subsection 4.
- c. Designating its principal place of business in this state.

2. A risk retention group that meets the requirements of subsection 1 shall be entitled to a certificate of its corporate existence and a license to transact business in this state, and be subject in all respects to the authority and jurisdiction of this state.

3. The certificate of authority, producer appointments and licenses, rates, and other items which are in existence at the time a risk retention group transfers its corporate domicile to this state pursuant to this section shall continue in full force and effect upon such transfer. For purposes of existing authorizations and all other corporate purposes, the risk retention group is deemed to be the same entity as it was prior to the transfer of its domicile. All outstanding policies of any transferring risk retention group shall remain in full force and effect.

4. A risk retention group redomesticating to this state pursuant to this chapter shall comply with the minimum capital and surplus requirements of chapter 521E or five million dollars, whichever is greater. If the risk retention group's prior domestic regulator allowed the use of letters of credit to meet that regulator's surplus requirements, the risk retention group may continue to use the letters of credit to meet this state's minimum surplus requirements for up to five years from the date of redomestication in this state. The risk retention group shall eliminate a minimum of twenty percent of the letters of credit being used each year based

upon the aggregate amount of letters of credit being used to meet surplus requirements at the time of redomestication in this state.

5. Letters of credit used by a risk retention group to meet surplus requirements shall be clean, irrevocable, and unconditionally issued or confirmed by a qualified United States financial institution as defined in section 521B.4, subsection 2. The beneficiary of each letter of credit being used shall be the commissioner.

6. If a risk retention group redomesticating to this state fails to comply with the provisions of this section, the commissioner shall take action as prescribed in chapter 507C.

7. The commissioner shall adopt rules pursuant to chapter 17A to implement this section.

Sec. 73. Section 515F.4, subsection 5, Code 2005, is amended to read as follows:

5. The rates may contain a provision for contingencies and an allowance permitting a reasonable profit. In determining the reasonableness of the profit, consideration shall be given to investment income attributable to unearned premium and loss reserves. ~~Income from other sources shall not be considered.~~

Sec. 74. Section 515G.1, Code 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 2A. "Eligible policyholder" means a policyholder who had a policy in force with a mutual insurer at any time during the three-year period immediately preceding the date of the adoption of a plan of conversion by the mutual insurer's board of directors, including the date of adoption of the plan of conversion, and who, therefore, is eligible to receive an equitable share of the remaining statutory surplus of the mutual insurer, after provision for the base value for voting policyholders, as a result of the conversion.

NEW SUBSECTION. 5. "Voting policyholder" means a policyholder who had a policy in force as provided in section 515G.4.

Sec. 75. Section 515G.2, Code 2005, is amended to read as follows:

515G.2 MUTUAL INSURER BECOMING STOCK COMPANY --
AUTHORIZATION.

1. A mutual insurer may become a stock insurance company pursuant to a plan of conversion established and approved in the manner provided by this chapter. The plan of conversion shall be adopted by the board of directors of the insurer to become effective on a future stated date.

2. A plan of conversion may provide that a mutual insurance company may convert into a domestic stock insurance company, convert and merge, or convert and consolidate with a domestic stock insurance company, as provided in chapter 490 or chapter 491, whichever is applicable. However, a mutual insurance company is not required to comply with sections 490.1102 and 490.1104 or sections 491.102 through 491.105 relating to approval of merger or consolidation plans by boards of directors and shareholders.

3. If conversion from a mutual insurer to a stock company is to be undertaken by a transaction which would be governed by chapter 521 or 521A, but the plan of conversion adopted by the board of directors of the insurer includes approval of an acquisition of control, merger, consolidation, or reinsurance, then chapter 521 or 521A shall not be applicable to the transaction. However, in that case, the commissioner may require any information from the person or persons acquiring control of the insurer as could be required under chapter 521 or 521A, and may disapprove the transaction on any basis on which it could be disapproved under chapter 521 or 521A.

Sec. 76. Section 515G.3, subsection 3, Code 2005, is amended to read as follows:

3. ~~The manner and basis of exchanging the equitable share of each mutual policyholder with a policy in force as provided in section 515G.4 for securities or other consideration, or both, of the stock corporation or an affiliate into which the mutual insurer is to be converted and the disposition of any unclaimed shares. The plan shall also provide that each person who had a policy of insurance in effect on the date of adoption of the plan is entitled to receive in exchange for an~~

~~equitable share, without additional payment, consideration payable in voting common shares of the insurer, or other consideration, or both. The equitable share of the policyholder in the mutual insurer may include a rights of each voting policyholder and each eligible policyholder of the mutual insurer to be converted to a stock company pursuant to this chapter. Such exchange may include a base value for each voting policyholder in recognition of the voting policyholder's voting rights as a mutual policyholder as well as consideration to be provided to each eligible policyholder in exchange for the eligible policyholder's rights as a mutual policyholder of the mutual insurer to be converted. After determining the base value for to be provided to each voting policyholder in recognition of the voting rights of the voting policyholder and the balance of such, the equitable share of its each eligible policyholder in the remaining statutory surplus of the mutual insurer, plus any adjustments for nonadmitted assets or additional value permitted by the commissioner, to be provided to each eligible policyholder shall be determined by the ratio which the net earned premiums the eligible policyholder has properly and timely paid to the mutual insurer on insurance policies in effect during the three-year three-year period immediately preceding the adoption of the plan of conversion, including the date of the adoption of the plan of conversion, bears to the total net earned premiums received by the mutual insurer from all eligible policyholders during that three-year period. The base value to be provided to each voting policyholder in recognition of voting rights and the equitable share of each eligible policyholder may be exchanged, without additional payment, for securities or other consideration, or both, of the stock corporation or an affiliate into which the mutual insurer is to be converted.~~ If the base value for each voting policyholder or the equitable share of the each eligible policyholder entitles the policyholder to the purchase of a fractional share of stock, the policyholder has the option to receive the value of the fractional share in cash or purchase

a full share by paying the balance in cash. However, policyholders due a de minimus amount, as established by the commissioner, need not be offered the value of the fractional share or the option to purchase a full share. The plan shall also provide for the disposition of any unclaimed shares.

Sec. 77. Section 516E.1, Code Supplement 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 2A. "Financial institution" means an institution that is all of the following:

a. Organized or, in the case of the office of a foreign banking organization located in the United States, licensed, under the laws of the United States or any state, and granted authority to operate with fiduciary powers.

b. Regulated, supervised, and examined by federal or state authorities empowered to regulate banks and trust companies.

NEW SUBSECTION. 5A. "Premium" means the consideration paid to an insurer for a reimbursement insurance policy.

NEW SUBSECTION. 9A. "Service company fee" means the consideration paid for a service contract.

Sec. 78. Section 516E.1, subsection 8, Code Supplement 2005, is amended to read as follows:

8. "Reimbursement insurance policy" means a contractual liability insurance policy of insurance issued to a service company and pursuant to which the insurer agrees, for the benefit of the service contract holders, to discharge all of the obligations and liabilities of the service company under the terms of service contracts issued by the service company in the event of nonperformance by the service company. For the purposes of this definition, "all obligations and liabilities" include, but are not limited to, failure of the service company to perform under the service contract and the return of the unearned service company fee in the event of the service company's unwillingness or inability to reimburse the unearned service company fee in the event of termination of a service contract that either provides reimbursement to a service company under the terms of insured service contracts issued or sold by the service company, or, in the event of

nonperformance by the service company, pays, on behalf of the service company, all covered contractual obligations incurred by the service company under the terms of the insured service contracts issued or sold by the service company.

Sec. 79. Section 516E.2, subsection 3, Code Supplement 2005, is amended to read as follows:

3. In order to assure the faithful performance of a service company's obligations to its service contract holders, ~~the administrator may by rule require~~ service contracts shall be secured by a reimbursement insurance policy in compliance with the requirements set forth in section 516E.4 or the service company shall comply with the financial responsibility and security standards set forth in section 516E.21.

Sec. 80. Section 516E.2, subsection 4, paragraph f, Code Supplement 2005, is amended by striking the paragraph.

Sec. 81. Section 516E.3, subsection 1, paragraph a, Code Supplement 2005, is amended to read as follows:

a. A service contract shall not be issued, sold, or offered for sale in this state unless a true and correct copy of the service contract, and the service company's reimbursement insurance policy, if applicable, have been filed with the commissioner by the service company.

Sec. 82. Section 516E.3, subsection 2, paragraph b, Code Supplement 2005, is amended to read as follows:

b. A provider shall file a consent to service of process on the commissioner, a notice with the name and ownership of the provider, and such other information as the commissioner requires, annually with the commissioner no later than August 1. If August 1 falls on a weekend or a holiday, the date for filing shall be the next business day. In addition to the annual filing, the provider shall promptly file copies of any amended documents if material amendments have been made in the materials on file with the commissioner. If an annual filing is made after August 1 and sales have occurred during the period when the provider was in noncompliance with this section, the commissioner shall assess an additional filing fee that is two times the amount normally required for an

annual filing. A fee shall not be charged for interim filings made to keep the materials filed with the division current and accurate. The annual filing shall be accompanied by a filing fee in the amount of one hundred dollars.

Sec. 83. Section 516E.4, subsection 1, Code Supplement 2005, is amended by striking the subsection and inserting in lieu thereof the following:

1. REQUIREMENTS. A reimbursement insurance policy insuring a service contract issued, sold, or offered for sale in this state shall provide for all of the following:

a. The reimbursement insurance policy shall, in the event of the service company's failure to perform under the service contract or otherwise, either reimburse or pay on behalf of the service company any covered amounts that the service company is legally obligated to pay under the service contract, including the return of any unearned service company fee owed by the service company to the service contract holder.

b. An insurer that issues a reimbursement insurance policy shall assume full responsibility for the administration of claims made pursuant to a service contract in the event that the service company is unable to do so.

c. If a service covered under a service contract is not provided by the service company within sixty days of proof of loss by the service contract holder, the service contract holder is entitled to apply directly against the reimbursement insurance policy of the service company.

Sec. 84. Section 516E.4, Code Supplement 2005, is amended by adding the following new subsections:

NEW SUBSECTION. 4. OBLIGATIONS INSURED. If a service company secures its service contracts with a reimbursement insurance policy, the reimbursement insurance policy shall insure one hundred percent of the obligations of all service contracts sold by the service company.

NEW SUBSECTION. 5. QUALIFICATIONS OF INSURER. An insurer issuing a reimbursement insurance policy under this chapter shall be authorized, registered, or otherwise permitted to

transact business in this state, or shall be an excess and surplus lines insurer authorized, registered, or otherwise permitted to transact business in this state, and shall meet one of the following requirements:

a. At the time the policy is filed with the commissioner, and continuously thereafter, the insurer maintains surplus as to policyholders and paid-in capital of at least fifteen million dollars and annually files copies of the insurer's financial statements, national association of insurance commissioners annual statement, and actuarial certification, if required and filed in the insurer's state of domicile.

b. At the time the policy is filed with the commissioner and continuously thereafter, the insurer does all of the following:

(1) Maintains surplus as to policyholders and paid-in capital of less than fifteen million dollars but at least ten million dollars.

(2) Demonstrates to the satisfaction of the commissioner that the insurer maintains a ratio of net written premiums, wherever written, to surplus as to policyholders and paid-in capital of not greater than three to one.

(3) Files copies annually of the insurer's financial statements, national association of insurance commissioners annual statement, and actuarial certification, if required and filed in the insurer's state of domicile.

Sec. 85. Section 516E.5, subsection 1, Code Supplement 2005, is amended to read as follows:

1. a. A service contract insured by a reimbursement insurance policy shall not be issued, sold, or offered for sale in this state unless the contract conspicuously states that the obligations of the service company to the service contract holder are guaranteed under a reimbursement insurance policy, including a statement in substantially the following form:

"Obligations of the service company under this service contract are guaranteed under a reimbursement insurance policy. If the service company fails to pay or provide

service on a claim within sixty days after proof of loss has been filed with the service company, the service contract holder is entitled to make a claim directly against the reimbursement insurance policy."

b. A claim against a reimbursement insurance policy shall also include a claim for return of the unearned consideration service company fee paid for the service contract in-excess-of the-premium-paid. A service contract shall conspicuously state the name and address of the issuer of the reimbursement insurance policy for that service contract.

c. A service contract issued, sold, or offered for sale in this state that is not insured under a reimbursement insurance policy shall contain a statement in substantially the following form:

"Obligations of the service company under this service contract are backed by the full faith and credit of the service company."

Sec. 86. Section 516E.5, subsection 2, paragraphs a and b, Code Supplement 2005, are amended to read as follows:

a. Clearly and conspicuously states the name and address of the service company, and describes the service company's obligations to perform services or to arrange for the performance of services under the service contract, ~~and states that the obligations of the service company to the service contract holder are guaranteed under a reimbursement insurance policy.~~

b. Clearly and conspicuously states the name and address of the issuer of the reimbursement insurance policy, if applicable.

Sec. 87. Section 516E.9, Code Supplement 2005, is amended to read as follows:

516E.9 MISREPRESENTATIONS OF STATE APPROVAL.

A service company shall not represent or imply in any manner that the service company has been sponsored, recommended, or approved or that the service company's abilities or qualifications have in any respect been passed upon by the state of Iowa, including the commissioner, the

insurance division, or the division's securities and regulated industries bureau.

Sec. 88. Section 516E.15, subsection 1, paragraph b, Code Supplement 2005, is amended to read as follows:

b. A provider, ~~or service company, or third-party administrator~~ that fails to file documents and information with the commissioner as required pursuant to section 516E.3 may be subject to a civil penalty. The amount of the civil penalty shall not be more than four hundred dollars plus two dollars for each service contract that the person executed prior to satisfying the filing requirement. However, a person who fails to file information regarding a change in the name or the termination of the business of a provider, ~~or service company, or third-party administrator~~ as required pursuant to section 516E.3 is subject to a civil penalty of not more than five hundred dollars.

Sec. 89. NEW SECTION. 516E.20 APPLICATION OF INSURANCE LAWS.

The sale of a service contract under this chapter shall not be deemed to include the sale of insurance. Unless a service company, third-party administrator, or provider is otherwise engaged in the sale of insurance, the insurance laws of this state are not applicable to the service company, third-party administrator, or provider of such a service contract.

Sec. 90. NEW SECTION. 516E.21 FINANCIAL RESPONSIBILITY AND SECURITY REQUIREMENTS IN LIEU OF REIMBURSEMENT INSURANCE POLICY.

1. In lieu of obtaining a reimbursement insurance policy as provided in section 516E.2, subsection 3, a service company may secure its service contracts by maintaining a funded reserve account which complies with all of the following:

a. The reserve account shall be in a custodial account at a financial institution that is dedicated to the service company's outstanding obligations under service contracts issued and outstanding in this state.

b. The reserve account shall comply with rules adopted by the commissioner pursuant to chapter 17A establishing

requirements for reserve accounts, reserve account agreements, or the method of valuing marketable securities as necessary to protect holders of service contracts issued and outstanding in this state. The commissioner may require amendments to reserve account agreements that are not in compliance with the provisions of this section.

c. The reserve account shall not be an amount that is less than forty percent of the gross consideration received, less claims paid, on the sale of service contracts issued and outstanding by the service company in this state.

d. The reserve account shall be subject to examination and review by the commissioner or a designee on the premises of the financial institution where the account is located and the financial institution shall, upon request, produce documents or records as necessary to allow the commissioner or a designee to verify the value and safety of the assets of the reserve account.

2. The service company shall annually provide the commissioner with one of the following:

a. A copy of the service company's financial statements.

b. If the service company's financial statements are consolidated with those of its parent company, a copy of the parent company's most recent form 10-K or form 20-F filed with the federal securities and exchange commission within the last calendar year, or if the parent company does not file with the federal securities and exchange commission, a copy of the parent company's audited financial statements showing a net worth of at least one hundred million dollars. If the service company's financial statements are consolidated with those of its parent company, the service company shall also provide a copy of a written agreement by the parent company guaranteeing the obligations of the service company under service contracts issued and outstanding by the service company in this state.

3. If a service contract company secures its contracts by maintaining a funded reserve account as provided in subsection 1 but does not have or maintain a minimum net worth or stockholders equity of one hundred million dollars or more,

the service company shall also meet one of the following requirements:

a. Maintain a security deposit trust fund which complies with all of the following:

(1) The security deposit trust fund shall be in an account at a financial institution.

(2) The security deposit trust fund shall be held, invested, and administered for the benefit and protection of service contract holders in this state in the event of nonperformance of the service contract by the service company.

(3) The security deposit trust fund shall comply with rules adopted by the commissioner pursuant to chapter 17A, establishing the form, terms, and conditions of security deposit trust fund agreements established pursuant to this paragraph "a".

(4) The security deposit trust fund shall be subject to recovery by any service contract holder sustaining actionable injury due to the failure of the service company to perform its obligations under the service contract. A holder of a service contract issued in this state may, in the event of nonperformance by the service company, maintain an action and file a claim against the security deposit trust fund maintained by the service company.

(5) The security deposit trust fund shall not be commingled with other funds of the service company.

(6) The security deposit trust fund shall have a value of not less than five percent of the gross consideration received by the service company, less claims paid, for the sale of all service contracts issued and in force in this state, but not less than twenty-five thousand dollars, and consists of one or more of the following:

(a) Cash.

(b) Securities of the type eligible for deposit by insurers authorized to transact business in this state.

(c) Certificates of deposit.

(d) Another form of security as prescribed by the commissioner by rule.

b. File a surety bond with the commissioner that is issued by a surety company authorized to do business in this state, and that complies with all of the following:

(1) The surety bond is conditioned upon the service company's faithful performance of service contracts subject to this chapter.

(2) The surety bond is for the benefit of and subject to recovery by any service contract holder sustaining actionable injury due to the failure of the service company to perform its obligations under a service contract. The surety's liability shall extend to all service contracts issued by the service company and outstanding in this state. A holder of a service contract issued in this state may, in the event of nonperformance of the contract by the service company, maintain an action and file a claim against the surety bond filed by the service company.

(3) The surety bond is for an amount that is not less than five percent of the gross consideration received by the service company, less claims paid, for the sale of all service contracts issued and in force in this state, but not less than twenty-five thousand dollars.

(4) The surety bond cannot be canceled by the surety except upon written notice of cancellation by the surety to the commissioner by restricted certified mail, and not prior to the expiration of sixty days after receipt of the notice by the commissioner.

Sec. 91. Section 518.15, Code 2005, is amended to read as follows:

518.15 REPORTS, AND EXAMINATIONS, AND RENEWALS.

1. The president or the vice president and secretary of each association authorized to do business under this chapter shall annually before the first day of March prepare under oath and file with the commissioner of insurance a full, true and complete statement of the condition of such association on the last day of the preceding year. The commissioner of insurance shall prescribe the report forms and shall determine the information and data to be reported.

2. Such associations shall pay the same expenses of any examination made or ordered to be made by the commissioner of insurance and the same fees for the annual reports and annual certificates of authority as are required to be paid by domestic companies organized and doing business under chapter 515; ~~which certificates shall expire June 1 of the year following the date of issue.~~

3. A certificate of authority of an association formed under this chapter expires on June 1 succeeding its issue and shall be renewed annually so long as the association transacts its business in accordance with all legal requirements. An association shall submit annually, on or before March 1, a completed application for renewal of its certificate of authority.

4. The commissioner shall refuse to renew the certificate of authority of an association that fails to comply with the provisions of this chapter.

5. An association formed under this chapter that fails to timely file the statement required under subsection 1 or the application for renewal required under subsection 3 is in violation of this section and shall pay an administrative penalty of five hundred dollars to the treasurer of state for deposit in the general fund of the state as provided in section 505.7. The association's right to transact new business in this state shall immediately cease until the association has fully complied with this chapter.

6. The commissioner may give notice to an association that the association has not timely filed the statement required under subsection 1 or an application for renewal under subsection 3 and is in violation of this section. If the association fails to file the required statement or application and comply with this section within ten days of the date of the notice, the association shall pay an additional administrative penalty of one hundred dollars for each day that the failure continues to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

Sec. 92. Section 518A.18, Code 2005, is amended to read as follows:

518A.18 ANNUAL REPORT -- PENALTIES.

1. An association doing business under this chapter, on or before March 1 of each year, shall prepare under oath and file with the commissioner of insurance an accurate and complete statement of the condition of the association as of the last day of the preceding calendar year. The statement shall conform to the annual statement blank prepared pursuant to instructions prescribed by the commissioner. All financial information reflected in the annual report shall be kept and prepared pursuant to accounting practices and procedures prescribed by the commissioner. Statements filed with the commissioner pursuant to this section shall be tabulated and published by the commissioner of insurance in the annual report of insurance.

2. An association that fails to timely file the statement required under subsection 1 is in violation of this section and shall pay an administrative penalty of five hundred dollars for each violation to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

3. The commissioner may give notice to an association that the association has not timely filed the statement required under subsection 1 and is in violation of this section. If the association fails to file the required statement and comply with this section within ten days of the date of the notice, the association shall pay an additional administrative penalty of one hundred dollars for each day that each failure continues to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

4. The association's right to transact new business in this state shall immediately cease until the association has fully complied with this chapter.

Sec. 93. Section 518A.35, subsection 1, Code 2005, is amended to read as follows:

1. A state mutual insurance association doing business under this chapter shall on or before the first day of March, each year, pay to the director of revenue, or a depository designated by the director, a sum equivalent to the applicable percent of the gross receipts from premiums and fees for business done within the state, including all insurance upon property situated in the state without including or deducting any amounts received or paid for reinsurance. However, a company reinsuring windstorm or hail risks written by county mutual insurance associations is required to pay the applicable percent tax on the gross amount of reinsurance premiums received written upon such risks, but after deducting the amount returned upon canceled policies and rejected applications covering property situated within the state, and dividends returned to policyholders on property situated within the state. For purposes of this section, "applicable percent" means the same as specified in section 432.1, subsection 4.

Sec. 94. Section 518A.40, Code 2005, is amended to read as follows:

518A.40 ANNUAL FEES -- RENEWALS -- PENALTIES.

1. Such associations shall pay the same fees for annual reports and annual certificates of authority as are required to be paid by domestic companies organized and doing business under chapter 515, which certificates shall expire May 1 of the year following the date of issue.

2. A certificate of authority of an association formed under this chapter shall be renewed annually so long as the organization transacts its business in accordance with all legal requirements. Such an association shall submit annually, on or before March 1, a completed application for renewal of its certificate of authority.

3. The commissioner shall refuse to renew the certificate of authority of a state mutual insurance association that fails to comply with the provisions of this chapter and the association's right to transact new business in this state shall immediately cease until the association has so complied.

4. An association that fails to timely file the application for renewal required under subsection 2 is in violation of this section and shall pay an administrative penalty of five hundred dollars to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

Sec. 95. Section 518C.17, Code 2005, is amended to read as follows:

518C.17 ACTIONS AGAINST THE ASSOCIATION.

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

Sec. 96. Section 520.10, Code 2005, is amended to read as follows:

520.10 ANNUAL REPORT -- EXAMINATION -- PENALTIES.

1. Such attorney shall, within the time limited for filing the annual statement by insurance companies transacting the same kind of business, make a report, under oath, to the commissioner of insurance for each calendar year, showing the financial condition of affairs at the office where such contracts are issued and shall, at any and all times, furnish such additional information and reports as may be required; provided, however, that the attorney shall not be required to furnish the names and addresses of any subscribers except in case of an unpaid final judgment. The business affairs, records, and assets of any such organization shall be subject to examination by the commissioner of insurance at any reasonable time, and such examination shall be at the expense of the organization examined.

2. A certificate of authority of a reciprocal or interinsurance insurer authorized under this chapter shall be renewed annually in accordance with section 520.12 so long as the insurer transacts its business in accordance with all legal requirements.

3. The commissioner shall refuse to renew the certificate of authority of a reciprocal or interinsurance insurer that fails to comply with the provisions of this chapter and the insurer's right to transact new business in this state shall immediately cease until the insurer has so complied.

4. A reciprocal or interinsurance insurer that fails to timely file the report required under subsection 1 is in violation of this section and shall pay an administrative penalty of five hundred dollars to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

5. The commissioner may give notice to a reciprocal or interinsurance insurer that the insurer has not timely filed the report required under subsection 1 and is in violation of this section. If the insurer fails to file the required report and comply with this section within ten days of the date of the notice, the insurer shall pay an additional administrative penalty of one hundred dollars for each day that the failure continues to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

Sec. 97. Section 520.12, Code 2005, is amended to read as follows:

520.12 CERTIFICATE OF AUTHORITY -- RENEWAL -- PENALTIES.

1. Upon compliance with the requirements of this chapter, the commissioner of insurance shall issue a certificate of authority or a license to the attorney, authorizing the attorney to make such contracts of insurance, which license shall specify the kind or kinds of insurance and shall contain the name of the attorney, the location of the principal office and the name or designation under which such contracts of insurance are issued. The certificate of authority shall expire on the first day of June next succeeding its issue, and shall be renewed annually as long as the company transacts business in accordance with the requirements of law. A copy of the certificate, when certified by the commissioner of insurance, shall be admissible in evidence for or against a company with the same effect as the original.

2. A reciprocal or interinsurance insurer shall submit annually, on or before March 1, a completed application for renewal of the insurer's certificate of authority. An insurer that fails to timely file an application for renewal shall pay an administrative fee of five hundred dollars to the treasurer of state for deposit in the general fund of the state as provided in section 505.7.

Sec. 98. Section 521.1, Code 2005, is amended to read as follows:

521.1 DEFINITIONS.

For the purposes of this chapter:

1. "Affected company" or "affected mutual company" means the company being merged with and into the surviving company.

2. "Commission" means the commission created in section 521.5.

3. "Commissioner" means the commissioner of insurance.

4. "Company" or "companies" when used in this chapter means a company or association organized under chapter 508, 511, 515, 518, 518A, or 520, and includes a mutual insurance holding company organized pursuant to section 521A.14.

Sec. 99. Section 521.2, Code 2005, is amended to read as follows:

521.2 ~~LIFE COMPANIES~~--- CONSOLIDATION, MERGER, AND REINSURANCE.

1. One or more domestic mutual insurance companies organized under chapter 491 may merge or consolidate with a domestic or foreign mutual insurance company as provided in this chapter. Sections 491.101 through 491.105 shall not be applicable to a merger or consolidation of a domestic mutual insurance company pursuant to this chapter.

2. One or more domestic insurance companies organized under chapter 490 may merge with a domestic or foreign insurance company as provided in chapter 490 with the approval of the commission pursuant to this chapter.

3. The provisions of this chapter shall not be applicable to the merger or consolidation of a domestic mutual company with a stock company pursuant to chapter 508B or chapter 515G.

~~4. A domestic mutual insurance company organized under the laws of this state to do the business of life insurance, either on the stock, mutual, stipulated premium, or assessment plan, shall not consolidate with any other company or reinsure its risks, or any part of such risks, with any other company, or assume or reinsure the whole or any part of the risks of any other company, except as provided in this chapter. However, this chapter shall not be construed to prevent any company, as defined in section 521.1, from reinsuring a fractional part of any single risk.~~

Sec. 100. Section 521.3, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

521.3 SUBMISSION OF PLAN AND APPLICATION TO COMMISSIONER OF INSURANCE.

Any company proposing to consolidate, merge, or enter into any reinsurance contract with another company shall file a plan and an application in support of the plan with the commissioner. The plan shall set forth the terms of the proposed contract of consolidation, merger, or reinsurance, along with any other information requested by the commissioner.

Sec. 101. Section 521.4, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

521.4 PROCEDURE -- NOTICE.

The commission may hear and determine an application, and approve, disapprove, or require modification of a plan submitted under section 521.3 without notice and without public hearing. The commission may require a public hearing when necessary to conserve the interests of the members, policyholders, or shareholders of the affected company. In such cases the commission shall require the affected company to mail to all of its members, policyholders, or shareholders written notice of the public hearing stating that an application and plan have been filed with the commission, the nature of the plan, and the date, time, and place of the public hearing on the application and plan. The commission shall determine the number of days prior to the public hearing

that notice is required to be given to the members or shareholders, which shall be no fewer than ten nor more than sixty days.

Sec. 102. Section 521.5, Code 2005, is amended to read as follows:

521.5 COMMISSION TO HEAR PETITION CREATED.

~~For the purpose of hearing and determining such petition, a~~ A commission consisting of the commissioner of insurance and the attorney general is hereby created to hear and determine the application and to approve, disapprove, or require modification of the plan prior to approval.

Sec. 103. Section 521.6, Code 2005, is amended to read as follows:

521.6 EXAMINATION.

The commission may ~~make such examination into~~ examine the affairs and condition of any company ~~or companies~~ as it may ~~deem deems~~ proper, and shall have the power to summon and compel the attendance and testimony of witnesses, and the production of books and papers before ~~said the~~ commission and may administer oaths.

Sec. 104. Section 521.7, Code 2005, is amended to read as follows:

521.7 APPEARANCE BY MEMBERS, POLICYHOLDERS, OR SHAREHOLDERS.

When notice ~~shall have been is~~ given as above provided in section 521.4, any member, policyholder, or stockholder shareholder of ~~said the~~ affected company ~~or companies~~ shall have the right to appear before ~~said the~~ commission and be heard ~~with reference to said petition~~ regarding the application and plan.

Sec. 105. Section 521.8, Code 2005, is amended to read as follows:

521.8 AUTHORIZATION.

~~Said The~~ commission, if satisfied that the interests of the members, policyholders, or shareholders of ~~said the affected~~ company ~~or companies~~ are properly protected and no reasonable objection to ~~said petition~~ the application and plan exists,

may ~~authorize approve, disapprove, or require modification of~~ the proposed plan of consolidation, merger, or reinsurance or may direct such modification thereof as may seem to it best for the interests of the policyholders, and said prior to approval. The commission may make such order and disposition of the assets of any such company thereafter remaining as shall be just and equitable.

Sec. 106. Section 521.10, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

521.10 ELECTION CALLED.

1. The commission may require an affected company to submit the plan of consolidation, merger, or reinsurance to a vote by its members. The plan shall be submitted at a meeting called for that purpose, upon not less than thirty days' notice. Member approval of the plan requires the affirmative vote of two-thirds of all members voting in person, by ballot, or by proxy.

2. Approval by the members of a mutual company of a plan of merger or reinsurance is not required if all of the following conditions are satisfied:

a. The company will survive the merger or is the reinsurer.

b. At the time of the merger or reinsurance, the number of members of the surviving company is greater than the number of members of the affected company.

c. At the time of the merger or reinsurance, the surplus of the surviving company is greater than the surplus of the affected company.

Sec. 107. Section 521.13, Code 2005, is amended by striking the section and inserting in lieu thereof the following:

521.13 REINSURANCE TRANSACTIONS -- EXEMPTION.

Reinsurance as provided in sections 515.49, 518.17, 518A.44, and 520.21 is exempt from the requirements of this chapter.

Sec. 108. Section 521.14, Code 2005, is amended to read as follows:

521.14 EXPENSES AND COSTS -- HOW PAID.

All expenses and costs incident to proceedings under the ~~provisions of this chapter,~~ shall be paid by the company or ~~companies bringing filing the petition application and plan.~~

Sec. 109. Section 521.16, Code 2005, is amended to read as follows:

521.16 APPLICABILITY OF CHAPTER SECTION 521A.3.

~~Chapter 521A is The provisions of section 521A.3 shall also be applicable to a merger or consolidation made pursuant subject to this chapter, and the provisions of chapter 521A and this chapter shall apply exclusively with respect to such merger or consolidation.~~

Sec. 110. NEW SECTION. 521.17 ADDITIONAL FILING REQUIREMENTS -- PLANS AND ARTICLES OF MERGER OR CONSOLIDATION.

A company filing a plan to merge or consolidate shall, in addition to and after meeting the requirements of this chapter, make all appropriate filings with and pay appropriate fees to the secretary of state required under chapter 490 or 491.

Sec. 111. NEW SECTION. 521.18 ARTICLES OF MERGER OR CONSOLIDATION -- FILING FEES AND APPROVAL.

A company filing a plan to merge or consolidate under the provisions of this chapter shall file its articles of merger or consolidation with the commission for its approval. The fee for filing articles of merger or consolidation with the commission is fifty dollars.

Sec. 112. Section 521A.1, subsection 6, Code 2005, is amended to read as follows:

6. "Insurer" means a company qualified and licensed by the insurance division to transact the business of insurance in this state by certificate issued pursuant to chapters 508, 512B, 514, 514B, 515, 515E, and 520, except that it shall not include:

~~a---~~ Agencies agencies, authorities, or instrumentalities of the United States, its possessions and territories, the

commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state.

~~b--Fraternal-benefit-societies-~~

~~c--Nonprofit-medical,-hospital-or-dental-service associations-~~

Sec. 113. Section 521A.2, subsection 1, paragraph c, Code 2005, is amended to read as follows:

c. Investing, reinvesting, or trading in securities and financial instruments as defined in section 511.8, subsection 22, for its own account, that of its parent, any subsidiary of its parent, or any affiliate or subsidiary.

Sec. 114. Section 521A.2, subsection 3, Code 2005, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Invest, reinvest, and trade in financial instruments as defined in section 511.8, subsection 22, for its own account, that of its parent, any subsidiary of its parent, or any affiliate or subsidiary.

Sec. 115. NEW SECTION. 522B.16B WRITTEN CONSENT TO ENGAGE OR PARTICIPATE IN BUSINESS OF INSURANCE.

1. A person who is prohibited by 18 U.S.C. § 1033 from engaging or participating in the business of insurance because that person has been convicted of a crime under that statute or of a felony involving dishonesty or breach of trust may apply to the commissioner for written consent to engage or participate in the business of insurance in this state.

2. The commissioner, by rule, shall establish a procedure and standards for issuing such a written consent.

3. The commissioner shall not issue an insurance producer license to an applicant who has been convicted of a crime as set forth in subsection 1 unless the applicant has first obtained a written consent from the commissioner to engage or participate in the business of insurance in this state.

4. The commissioner shall not renew or issue an insurance producer license to an insurance producer licensee who has been convicted of a crime as set forth in subsection 1, unless that licensee has first obtained a written consent from the commissioner to engage or participate in the business of insurance in this state.

Sec. 116. Section 523A.601, subsection 1, paragraph i, Code 2005, is amended to read as follows:

i. Include an explanation of regulatory oversight by the insurance division in twelve point boldface type, in substantially the following language:

THIS AGREEMENT IS SUBJECT TO RULES ADMINISTERED BY THE IOWA INSURANCE DIVISION. YOU MAY CALL THE INSURANCE DIVISION AT ~~(---)-----~~ (515)281-4441. WRITTEN INQUIRIES OR COMPLAINTS SHOULD BE MAILED TO THE IOWA SECURITIES AND REGULATED INDUSTRIES BUREAU, ~~{STREET-ADDRESS}--{CITY}~~ 330 MAPLE STREET, DES MOINES, IOWA ~~{ZIP-CODE}~~ 50319.

Sec. 117. Section 523A.602, subsection 2, paragraph b, Code 2005, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (1A) If a purchase agreement is canceled before the purchase price is paid in full, a purchaser requests a transfer of the trust assets upon cancellation of a purchase agreement before the purchase price is paid in full, or another establishment provides cemetery merchandise, funeral merchandise, funeral services, or a combination thereof, designated in a purchase agreement before the purchase price is paid in full, the seller shall refund or transfer within thirty days of receiving a written demand no less than the amount paid by the purchaser, less any actual expenses incurred by the seller pursuant to the purchase agreement as set forth in the purchase agreement under section 523A.601, subsection 1, paragraph "f". The amount of the actual expenses deducted by the seller shall not exceed ten percent of the total original purchase price of the applicable cemetery merchandise, funeral merchandise, funeral services, or a combination thereof. The seller may also deduct the value of the cemetery merchandise, funeral merchandise, and funeral services already received by, delivered to, or warehoused for the purchaser.

Sec. 118. Section 523I.102, Code Supplement 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 49. "Veterans cemetery" means a cemetery that is owned or operated by the state of Iowa or by the United States for the burial of veterans.

Sec. 119. Section 523I.103, subsection 1, paragraph a, Code Supplement 2005, is amended to read as follows:

a. All cemeteries, except religious cemeteries that commenced business prior to July 1, 2005, and veterans cemeteries.

Sec. 120. Section 523I.201, subsection 1, Code Supplement 2005, is amended to read as follows:

1. This chapter shall be administered by the commissioner. The deputy administrator appointed pursuant to section ~~523A-801~~ 502.601 shall be the principal operations officer responsible to the commissioner for the routine administration of this chapter and management of the administrative staff. In the absence of the commissioner, whether because of vacancy in the office due to absence, physical disability, or other cause, the deputy administrator shall, for the time being, have and exercise the authority conferred upon the commissioner. The commissioner may by order from time to time delegate to the deputy administrator any or all of the functions assigned to the commissioner in this chapter. The deputy administrator shall employ officers, attorneys, accountants, and other employees as needed for administering this chapter.

Sec. 121. Section 523I.309, subsection 1, Code Supplement 2005, is amended to read as follows:

1. Any available member of the following classes of persons, in the priority listed, shall have the right to control the interment, relocation, or disinterment of a decedent's remains within or from a cemetery:

~~a. The attorney-in-fact of the decedent pursuant to a durable power of attorney for health care.~~

~~b. a.~~ The surviving spouse of the decedent, if not legally separated from the decedent.

~~c. b.~~ The decedent's surviving adult children. If there is more than one surviving adult child, any adult child who

can confirm, in writing, that all other adult children have been notified of the proposed interment, relocation, or disinterment may authorize the interment, relocation, or disinterment, unless the cemetery receives an objection to such action from another adult child of the decedent.

Alternatively, a majority of the surviving adult children of the decedent whose whereabouts are reasonably ascertainable shall have such right to control.

~~d. c.~~ A The surviving parent parents of the decedent whose whereabouts are reasonably ascertainable.

d. A surviving adult grandchild of the decedent. If there is more than one surviving adult grandchild, any adult grandchild who can confirm, in writing, that all other adult grandchildren have been notified of the proposed interment, relocation, or disinterment may authorize the interment, relocation, or disinterment, unless the cemetery receives an objection to such action from another adult grandchild of the decedent. Alternatively, a majority of the surviving adult grandchildren of the decedent whose whereabouts are reasonably ascertainable shall have such right to control.

e. A surviving adult sibling of the decedent. If there is more than one surviving adult sibling, any adult sibling who can confirm, in writing, that all other adult siblings have been notified of the proposed interment, relocation, or disinterment may authorize the interment, relocation, or disinterment, unless the cemetery receives an objection to such action from another adult sibling of the decedent. Alternatively, a majority of the surviving adult siblings of the decedent whose whereabouts are reasonably ascertainable shall have such right to control.

f. A surviving grandparent of the decedent. If there is more than one surviving grandparent, any grandparent who can confirm, in writing, that all other grandparents have been notified of the proposed interment, relocation, or disinterment may authorize the interment, relocation, or disinterment, unless the cemetery receives an objection to such action from another grandparent of the decedent.

Alternatively, a majority of the surviving grandparents of the decedent whose whereabouts are reasonably ascertainable shall have such right to control.

g. The legal guardian of the decedent at the time of the decedent's death. An adult person in the next degree of kinship to the decedent in the order named by law to inherit the estate of the decedent under the rules of inheritance for intestate succession.

h. The county medical examiner, if responsible for the decedent's remains.

A cemetery may await a court order before proceeding with the interment, relocation, or disinterment of a decedent's remains within or from a cemetery if the cemetery is aware of a dispute between an authorized person under this section and the executor named in the decedent's will or a personal representative appointed by a court, or is aware of a dispute among authorized persons with the same priority under this subsection.

Sec. 122. Section 523I.312, subsection 2, paragraph n, Code Supplement 2005, is amended by striking the paragraph and inserting in lieu thereof the following:

n. Include an explanation of regulatory oversight by the insurance division in twelve point boldface type, in substantially the following language:

THIS AGREEMENT IS SUBJECT TO RULES ADMINISTERED BY THE IOWA INSURANCE DIVISION. YOU MAY CALL THE INSURANCE DIVISION WITH INQUIRIES OR COMPLAINTS AT (515)281-4441. WRITTEN INQUIRIES OR COMPLAINTS SHOULD BE MAILED TO: IOWA SECURITIES AND REGULATED INDUSTRIES BUREAU, 330 MAPLE STREET, DES MOINES, IOWA 50319.

Sec. 123. Section 523I.316, subsection 3, Code Supplement 2005, is amended to read as follows:

3. DUTY TO PRESERVE AND PROTECT.

a. A governmental subdivision having a cemetery, or a burial site that is not located within a dedicated cemetery, within its jurisdiction, for which preservation is not otherwise provided, shall preserve and protect the cemetery or

burial site as necessary to restore or maintain its physical integrity as a cemetery or burial site. The governmental subdivision may enter into an a written agreement to delegate the responsibility for the preservation and protection of the cemetery or burial site to a the owner of the property on which the cemetery or burial site is located or to a public or private organization interested in historical preservation. The governmental subdivision shall not enter into an agreement with a public or private organization to preserve and protect the cemetery or burial site unless the property owner has been offered the opportunity to enter into such an agreement and has declined to do so.

b. A governmental subdivision is authorized to expend public funds, in any manner authorized by law, in connection with such a cemetery or burial site.

c. If a governmental subdivision proposes to enter into an agreement with a public or private organization pursuant to this subsection to preserve and protect a cemetery or burial site that is located on property owned by another person within the jurisdiction of the governmental subdivision, the proposed agreement shall be written, and the governmental subdivision shall provide written notice by ordinary mail of the proposed agreement to the property owner at least fourteen days prior to the date of the meeting at which such proposed agreement will be authorized. The notice shall include the location of the cemetery or burial site and a copy of the proposed agreement, and explain that the property owner is required to permit members of the public or private organization reasonable ingress and egress for the purposes of preserving and protecting the cemetery or burial site pursuant to the proposed agreement. The notice shall also include the date, time, and place of the meeting and a statement that the property owner has a right to attend the meeting and to comment regarding the proposed agreement.

d. Subject to chapter 670, a governmental subdivision that enters into an agreement with a public or private organization pursuant to this subsection is liable for any personal injury

or property damage that occurs in connection with the preservation or protection of the cemetery or burial site or access to the cemetery or burial site by the governmental subdivision or the public or private organization.

For the purposes of this paragraph, "liable" means liability for every civil wrong which results in wrongful death or injury to a person or injury to property or injury to personal or property rights and includes but is not restricted to actions based upon negligence; error or omission; nuisance; breach of duty, whether statutory or other duty; or denial or impairment of any right under any constitutional provision, statute, or rule of law.

e. A property owner who is required to permit members of a public or private organization reasonable ingress and egress for the purpose or preserving or protecting a cemetery or burial site on that owner's property and who acts in good faith and in a reasonable manner pursuant to this subsection is not liable for any personal injury or property damage that occurs in connection with the preservation or protection of the cemetery or burial site or access to the cemetery or burial site.

f. For the purposes of this subsection, reasonable ingress and egress to a cemetery or burial site shall include the following:

(1) A member of a public or private organization that has entered into a written agreement with the governmental subdivision who desires to visit such a cemetery or burial site shall give the property owner at least ten days' written notice of the intended visit.

(2) If the property owner cannot provide reasonable access to the cemetery or burial site on the desired date, the property owner shall provide reasonable alternative dates when the property owner can provide access to the member.

(3) A property owner is not required to make any improvements to that person's property to satisfy the requirement to provide reasonable access to a cemetery or burial site pursuant to this subsection.

Sec. 124. NEW SECTION. 523I.317 DUTY TO PROVIDE PUBLIC ACCESS.

A cemetery shall provide or permit public access to the cemetery, at reasonable times and subject to reasonable regulations, so that owners of interment rights and other members of the public have reasonable ingress and egress to the cemetery.

Sec. 125. Section 523I.508, subsection 4, Code Supplement 2005, is amended to read as follows:

4. DELEGATES TO CONVENTIONS. A township having one or more cemeteries under its control may designate, not up to exceed two, officials from each cemetery as delegates to attend meetings of cemetery officials, and certain expenses, including association dues, of the delegates not to exceed exceeding twenty-five dollars for each delegate, of the delegates including association dues, may be paid out of the cemetery fund of the township.

Sec. 126. Section 616.15, Code 2005, is amended to read as follows:

616.15 SURETY COMPANIES.

1. Suit may be brought against any company or corporation furnishing or pretending to furnish surety, fidelity, or other bonds in this state, in any county in which the principal place of business of such company or corporation is maintained in this state, or in any county wherein is maintained its general office for the transaction of its Iowa business, or in the county where the principal resides at the time of bringing suit, or in the county where the principal did reside at the time the bond or other undertaking was executed; and in the case of bonds furnished by any such company or corporation for any building or improvement, either public or private, action may be brought in the county wherein said building or improvement, or any part thereof is located.

2. The secretary of state shall serve as the agent for service of process for the purposes of 31 U.S.C. § 9306, of any surety company or corporation for a surety bond written by that surety company or corporation for the federal government

and issued in this state as required or permitted under federal law, if the surety company or corporation is licensed in this state and cannot be otherwise served with process. Notwithstanding section 507.14, upon request of the secretary of state, the commissioner of insurance shall provide the secretary of state with the name and address of the person designated for consent to service of process by the surety company or corporation which is on file with the commissioner.

Sec. 127. Sections 509B.4, 521.9, 521.11, and 521.12, Code 2005, are repealed.

Sec. 128. Section 516E.17, Code Supplement 2005, is repealed.

JEFFREY M. LAMBERTI
President of the Senate

CHRISTOPHER C. RANTS
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2364, Eighty-first General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved _____, 2006

THOMAS J. VILSACK
Governor