

Senate Study Bill 3215

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:

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

1 4 (6) A joint investment trust organized pursuant to chapter
1 5 28E shall file the audit reports required by this chapter with
1 6 the administrator of the securities and regulated industries
1 7 bureau of the insurance division of the department of commerce
1 8 within ten days of receipt from the auditor. The auditor of a
1 9 joint investment trust shall provide written notice to the
1 10 administrator of the time of delivery of the reports to the
1 11 joint investment trust.

1 12 Sec. 2. Section 22.7, Code Supplement 2005, is amended by
1 13 adding the following new subsections:

1 14 NEW SUBSECTION. 52. Information obtained and prepared by
1 15 the commissioner of insurance pursuant to section 507.14.

1 16 NEW SUBSECTION. 53. Information obtained and prepared by
1 17 the commissioner of insurance pursuant to section 507E.5.

1 18 Sec. 3. Section 432.1, subsection 3, Code Supplement 2005,
1 19 is amended to read as follows:

1 20 3. The applicable percent, as provided in subsection 4, of
1 21 the gross amount of premiums, assessments, and fees received
1 22 during the preceding calendar year by every company or
1 23 association other than life on contracts of insurance other
1 24 than life for business done in this state, including all
1 25 insurance upon property situated in this state, after
1 26 deducting the amounts returned upon canceled policies,
1 27 certificates and rejected applications but not including the
1 28 gross premiums written, assessments, and fees in connection
1 29 with ocean marine insurance authorized in section 515.48.

1 30 Sec. 4. Section 432.5, Code 2005, is amended to read as
1 31 follows:

1 32 432.5 RISK RETENTION GROUPS.

1 33 A risk retention group organized and operating pursuant to
1 34 Pub. L. No. 99=563, also known as the risk retention
1 35 amendments of 1986, shall pay as taxes to the director of
2 1 revenue an amount equal to the applicable percent, as provided
2 2 in section 432.1, subsection 4, of the gross amount of the
2 3 premiums ~~received~~ written during the previous calendar year
2 4 for risks placed in this state. A resident or nonresident
2 5 producer shall report and pay the taxes on the premiums for
2 6 risks that the producer has placed in this state with or on
2 7 behalf of a risk retention group. The failure of a risk
2 8 retention group to pay the tax imposed in this section shall

2 9 result in the risk retention group being considered an
2 10 unauthorized insurer under chapter 507A.

2 11 Sec. 5. Section 502.102, subsection 5, paragraph b,
2 12 subparagraph (3), Code Supplement 2005, is amended to read as
2 13 follows:

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

2 18 Sec. 6. Section 502.102, subsection 27A, Code Supplement
2 19 2005, is amended to read as follows:

2 20 27A. "Securities and regulated industries bureau" means
2 21 the securities and regulated industries bureau of the
2 22 insurance division of the department of commerce.

2 23 Sec. 7. Section 502.201, subsection 8A, paragraph b,
2 24 unnumbered paragraph 1, Code 2005, is amended to read as
2 25 follows:

2 26 A mutual or cooperative organization, including a
2 27 cooperative association organized in good faith under and for
2 28 any of the purposes enumerated in chapter 497, 498, 499, ~~or~~
2 29 501, or 501A, that deals in commodities or supplies goods or
2 30 services in transactions primarily with and for the benefit of
2 31 its members, if all of the following apply:

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

2 34 2A. REPORTS AND EXAMINATIONS. The administrator may by
2 35 rule or order require as a condition of registration by
3 1 qualification, and at the expense of the applicant or
3 2 registrant, that a report by an accountant, engineer,
3 3 appraiser, or other professional person be filed. The
3 4 administrator may also designate one or more employees of the
3 5 securities and regulated industries bureau to make an
3 6 examination of the business and records of an issuer of
3 7 securities for which a registration statement has been filed
3 8 by qualification, at the expense of the applicant or
3 9 registrant.

3 10 Sec. 9. Section 502.412, subsection 2, paragraph a, Code
3 11 Supplement 2005, is amended to read as follows:

3 12 a. Institute a revocation or suspension proceeding under
3 13 this subsection based solely on an order issued under a law of
3 14 another state that is reported to the administrator or a
3 15 designee of the administrator more than one year after the
3 16 date of the order on which it is based.

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

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

3 32 Sec. 11. Section 502.510, subsection 1, paragraph e, Code
3 33 2005, is amended to read as follows:

3 34 e. If the basis for relief under this section may have
3 35 been a violation of section 502.509, subsection ~~3~~ 5, an offer
4 1 to reimburse in cash the consideration paid for the advice and
4 2 interest at the legal rate from the date of payment.

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

4 5 1. ADMINISTRATION. This chapter shall be administered by
4 6 the commissioner of insurance of this state. The
4 7 administrator shall appoint a deputy administrator who shall
4 8 be exempt from the merit system provisions of chapter 8A,
4 9 subchapter IV. The deputy administrator is the principal
4 10 operations officer of the securities and regulated industries
4 11 bureau of the insurance division of the department of
4 12 commerce. The deputy administrator is responsible to the
4 13 administrator for the routine administration of this chapter
4 14 and the management of the securities and regulated industries
4 15 bureau. In the absence of the administrator, whether because
4 16 of vacancy in the office, by reason of absence, physical
4 17 disability, or other cause, the deputy administrator shall be
4 18 the acting administrator and shall, for that period, have and
4 19 exercise the authority conferred upon the administrator. The

4 20 administrator may by order delegate to the deputy
4 21 administrator any or all of the functions assigned to the
4 22 administrator under this chapter. The administrator shall
4 23 employ officers, attorneys, accountants, and other employees
4 24 as needed for the administration of this chapter.

4 25 Sec. 13. Section 502A.1, subsection 1, Code 2005, is
4 26 amended to read as follows:

4 27 1. "Administrator" means the administrator of the
4 28 securities and regulated industries bureau of the insurance
4 29 division of the department of commerce.

4 30 Sec. 14. Section 502A.15, subsection 1, Code 2005, is
4 31 amended to read as follows:

4 32 1. This chapter shall be administered by the administrator
4 33 of the securities and regulated industries bureau of the
4 34 insurance division of the department of commerce.

4 35 Sec. 15. Section 505.16, subsection 2, Code 2005, is
5 1 amended to read as follows:

5 2 2. The insurance commissioner shall approve rules for
5 3 carrying out this section including rules relating to the
5 4 preparation of information to be provided before and after a
5 5 test and the protection of confidentiality of personal and
5 6 medical records of insurance applicants and policyholders.

5 7 The rules shall require a person engaged in the business of
5 8 insurance who receives results of a positive human
5 9 immunodeficiency virus test of an insurance applicant or
5 10 policyholder to report those results to a physician or
5 11 alternative testing site of the applicant's or policyholder's
5 12 choice, or if the applicant or policyholder does not choose a
5 13 physician or alternative testing site to receive the results,
5 14 to the Iowa department of public health.

5 15 Sec. 16. NEW SECTION. 505.27 CONSENT TO JURISDICTION.
5 16 A person committing any act governed by chapter 502, 502A,
5 17 505 through 523G, or 523I constitutes consent by that person
5 18 to the jurisdiction of the commissioner of insurance and the
5 19 district courts of this state.

5 20 Sec. 17. NEW SECTION. 505.28 ADMINISTRATIVE HEARINGS.
5 21 The commissioner of insurance shall have the authority to
5 22 appoint as a hearing officer a designee or an independent
5 23 administrative law judge. Duties of a hearing officer shall
5 24 include hearing contested cases arising from conduct governed
5 25 by chapters 502, 502A, 505 through 523G, and 523I. Sections
5 26 10A.801 and 17A.11 do not apply to the appointment of a
5 27 designee or an administrative law judge pursuant to this
5 28 section.

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

5 31 b. The commissioner is not prevented from disclosing the
5 32 content of an examination report, preliminary examination
5 33 report or results, or any matter relating to the report, to an
5 34 insurance department of any other state or country, to the
5 35 national association of insurance commissioners, or to law

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

6 7 Sec. 19. Section 507.14, Code 2005, is amended to read as
6 8 follows:

6 9 507.14 CONFIDENTIAL DOCUMENTS == EXCEPTIONS.

6 10 1. A preliminary report of an examination of a domestic or
6 11 foreign insurer, and all notes, work papers, or other
6 12 documents related to an examination of an insurer are ~~not~~
6 13 ~~public confidential~~ records under chapter 22 except when
6 14 sought by the insurer to whom they relate, an insurance
6 15 regulator of another state, or the national association of
6 16 insurance commissioners, and shall be privileged and
6 17 confidential in any judicial or administrative proceeding
6 18 except any of the following:

6 19 ~~1-~~ a. An action commenced by the commissioner under
6 20 chapter 507C.

6 21 ~~2-~~ b. An administrative proceeding brought by the
6 22 insurance division under chapter 17A.

6 23 ~~3-~~ c. A judicial review proceeding under chapter 17A
6 24 brought by an insurer to whom the records relate.

6 25 ~~4-~~ d. An action or proceeding which arises out of the
6 26 criminal provisions of the laws of this state or the United
6 27 States.

6 28 ~~5-~~ e. An action brought in a shareholders' derivative
6 29 suit against an insurer.

6 30 ~~6-~~ f. An action brought to recover moneys or to recover

6 31 upon an indemnity bond for embezzlement, misappropriation, or
6 32 misuse of insurer funds.

6 33 2. A report of an examination of a domestic or foreign
6 34 insurer which is preliminary under the rules of the division
6 35 is ~~not a public~~ a confidential record under chapter 22 except
7 1 when sought by the insurer to which the report relates or an
7 2 insurance regulator of another state, and is privileged and
7 3 confidential in any judicial or administrative proceeding.

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

7 12 a. An action commenced by the commissioner under chapter
7 13 507C.

7 14 b. An administrative proceeding brought by the insurance
7 15 division under chapter 17A.

7 16 c. A judicial review proceeding under chapter 17A brought
7 17 by an insurer to whom the records relate.

7 18 d. An action or proceeding which arises out of the
7 19 criminal provisions of the laws of this state or the United
7 20 States.

7 21 4. Confidential documents, materials, information,
7 22 administrative or judicial orders, or other actions may be
7 23 disclosed to a regulatory official of any state, federal
7 24 agency, or foreign country provided that the recipients are
7 25 required, under their law, to maintain their confidentiality.

7 26 Confidential records may be disclosed to the national
7 27 association of insurance commissioners provided that the
7 28 association certifies by written statement that the
7 29 confidentiality of the records will be maintained.

7 30 5. A financial statement filed by an employer self=
7 31 insuring workers' compensation liability pursuant to section
7 32 87.11, or the working papers of an examiner or the division in
7 33 connection with calculating appropriate security and reserves
7 34 for the self-insured employer are ~~not public~~ confidential
7 35 records under chapter 22 except when sought by the employer to
8 1 which the financial statement or working papers relate or an
8 2 insurance or workers' compensation self-insurance regulator of
8 3 another state, and are privileged and confidential in any
8 4 judicial or administrative proceeding. The financial
8 5 information of a nonpublicly traded employer which self=
8 6 insures for workers' compensation liability pursuant to
8 7 section 87.11 is protected as proprietary trade secrets to the
8 8 extent consistent with the commissioner's duties to oversee
8 9 the security of self-insured workers' compensation liability.

8 10 6. Analysis notes, work papers, or other documents related
8 11 to the analysis of an insurer are ~~not public~~ confidential
8 12 records under chapter 22.

8 13 Sec. 20. Section 507A.4, Code 2005, is amended by adding
8 14 the following new subsection:

8 15 NEW SUBSECTION. 10. a. A self-funded health benefit plan
8 16 sponsored by an employer in this state under the federal
8 17 Employee Retirement Income Security Act of 1974, as codified
8 18 in 29 U.S.C. } 1169, which provides health benefits to
8 19 independent contractors of the employer and to spouses and
8 20 dependents of the independent contractors, if the plan is
8 21 granted a waiver from the provisions of this chapter by the
8 22 commissioner and meets all of the following conditions:

8 23 (1) There is a written contract between the sponsor of the
8 24 health benefit plan and the independent contractor which
8 25 establishes the relationship between the parties to the
8 26 contract and provides for the personal services to be provided
8 27 by the independent contractor to the sponsor of the health
8 28 benefit plan pursuant to the contract.

8 29 (2) The personal services to be provided by the
8 30 independent contractor pursuant to the contract are directly
8 31 related to the principal business of the sponsor of the health
8 32 benefit plan.

8 33 (3) The contract provides that the independent contractor
8 34 will provide services to the sponsor of the health benefit
8 35 plan on an exclusive basis.

9 1 (4) The inclusion of the independent contractor in the
9 2 sponsor's health benefit plan is incidental to the contractual
9 3 relationship between the sponsor of the health benefit plan
9 4 and the independent contractor.

9 5 (5) Independent contractors and their spouses and
9 6 dependents included in an employer-sponsored health benefit

9 7 plan do not in total equal more than one-third of the total
9 8 persons covered by the health benefit plan.

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

9 11 b. The sponsor of the health benefit plan shall file an
9 12 application for waiver from the provisions of this chapter
9 13 with the commissioner as prescribed by the commissioner and
9 14 shall file periodic statements and information as required by
9 15 the commissioner. The commissioner shall adopt rules pursuant
9 16 to chapter 17A implementing this subsection. All statements
9 17 and information filed with or disclosed to the commissioner
9 18 pursuant to this subsection are confidential records pursuant
9 19 to chapter 22.

9 20 c. If at any time the commissioner determines that a
9 21 health benefit plan for which a waiver has been granted does
9 22 not meet all of the conditions of paragraph "a", and the rules
9 23 adopted by the commissioner under paragraph "b", the
9 24 commissioner may terminate the waiver granted to the health
9 25 benefit plan.

9 26 d. A self-funded employer-sponsored health benefit plan
9 27 which has a valid waiver from the provisions of this chapter
9 28 shall not be considered any of the following:

9 29 (1) An insurance company or association of any kind or
9 30 character under section 432.1.

9 31 (2) A member insurer of the Iowa life and health insurance
9 32 guaranty association as defined in section 508C.5, subsection
9 33 8.

9 34 (3) A carrier under chapter 513B.

9 35 (4) A member of the Iowa individual health benefit
10 1 reinsurance association under section 513C.10.

10 2 (5) An entity subject to chapter 514C.

10 3 (6) A multiple employer welfare arrangement as defined in
10 4 subsection 9.

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

10 12 f. The provision of health benefits to an independent
10 13 contract or by a self-funded employer-sponsored health benefit
10 14 plan which meets all of the conditions of paragraph "a" shall
10 15 not in and of itself create an employer-employee relationship
10 16 between the independent contractor and the sponsor of the
10 17 health benefit plan.

10 18 Sec. 21. Section 507A.7, subsection 3, Code 2005, is
10 19 amended to read as follows:

10 20 3. Nothing in subsection 1 of this section shall be
10 21 construed to prevent an unauthorized person or foreign or
10 22 alien insurer from filing a motion to quash a writ or to set
10 23 aside service thereof made in the manner provided in ~~sections~~
~~10 24 507A.5 and section 507A.6~~, on the ground that such
10 25 unauthorized person or insurer has not done any of the acts
10 26 enumerated in section 507A.3.

10 27 Sec. 22. Section 507A.9, subsection 1, Code 2005, is
10 28 amended to read as follows:

10 29 1. ~~Effective with For~~ all premiums collected during the
10 30 calendar year ~~1967~~, except premiums on lawfully procured
10 31 surplus lines insurance, every unauthorized insurer shall pay
10 32 to the commissioner of insurance before March 1, next
10 33 succeeding the calendar year in which the insurance was so
10 34 effectuated, continued, or renewed a premium tax ~~of two~~
~~10 35 percent of~~ on gross premiums charged for such insurance on
11 1 subjects resident, located, or to be performed in this state
11 2 equal to the applicable percent, as provided in section 432.1.

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

11 16 Sec. 23. Section 507B.4, Code 2005, is amended by adding
11 17 the following new subsections:

11 18 NEW SUBSECTION. 9A. USE OF INQUIRIES. Considering either
11 19 of the following events for purposes of surcharging,
11 20 declining, nonrenewing, or canceling personal lines property
11 21 and casualty insurance coverage or a binder for personal lines
11 22 property and casualty insurance coverage:
11 23 a. An applicant's or insured's inquiry into the type or
11 24 level of coverage of a policy, or an inquiry into whether a
11 25 policy will cover a loss.
11 26 b. An insured's inquiry regarding coverage of a policy for
11 27 a loss if the insured does not file a claim.

11 28 NEW SUBSECTION. 9B. HISTORY OF A PROPERTY. Declining to
11 29 insure a property not previously owned by an applicant for
11 30 personal lines property and casualty insurance, based solely
11 31 on the loss history of a previous owner of the property,
11 32 unless the insurer can provide evidence that the previous
11 33 owner did not repair damage to the property.

11 34 NEW SUBSECTION. 9C. DISCLOSURE OF USE OF CLAIMS HISTORY.
11 35 Failing to inform an applicant at the time that an application
12 1 for personal lines property and casualty insurance is made, in
12 2 writing or in the same medium as the application is made, that
12 3 the insurer will consider the applicant's or insured's claims
12 4 history in determining whether to decline, cancel, nonrenew,
12 5 or surcharge such a policy, and that a claim made by an
12 6 insured will be reported to an insurance support organization.

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

12 15 NEW SUBSECTION. 16. INFORMATION. Failing or refusing to
12 16 furnish any individual, upon reasonable request, information
12 17 to which that individual is entitled, or to respond to a
12 18 formal written request or complaint from any individual.

12 19 NEW SUBSECTION. 17. PROHIBITED TRANSACTIONS. Executing
12 20 an insurance transaction with an individual without the
12 21 individual's consent, or selling an insurance policy or rider
12 22 to an individual that is a duplication of a policy or rider
12 23 that the individual already owns or for which the individual
12 24 has already applied at the time of the sale.

12 25 Sec. 24. Section 507B.4, Code 2005, is amended by adding
12 26 the following new unnumbered paragraph:
12 27 NEW UNNUMBERED PARAGRAPH. For purposes of subsections 9A,
12 28 9B, and 9C, "personal lines property and casualty insurance"
12 29 means insurance sold to individuals and families primarily for
12 30 noncommercial purposes as provided in chapter 522B.

12 31 Sec. 25. NEW SECTION. 507B.4B SUITABILITY.
12 32 1. A person shall not recommend to any individual the
12 33 purchase, sale, or exchange of any life insurance policy or
12 34 annuity, or any rider, endorsement, or amendment thereto,
12 35 unless the person has reasonable grounds to believe that the
13 1 recommendation is suitable for the individual based on a
13 2 reasonable inquiry into the individual's financial status,
13 3 investment objectives, and other relevant information.

13 4 2. A person engaged in the business of life insurance and
13 5 annuities shall establish and maintain a system to monitor
13 6 recommendations made, that is reasonably designed to achieve
13 7 compliance with subsection 1.

13 8 3. The commissioner shall adopt rules pursuant to chapter
13 9 17A establishing procedures and standards for implementation
13 10 of the suitability requirements of subsection 1.

13 11 Sec. 26. NEW SECTION. 507B.15 ADMINISTRATIVE HEARINGS.
13 12 Section 505.28 is applicable to hearings required by
13 13 sections 507B.6, 507B.6A, and 507B.7.

13 14 Sec. 27. Section 507C.2, subsection 13, Code Supplement
13 15 2005, is amended by adding the following new unnumbered
13 16 paragraph:
13 17 NEW UNNUMBERED PARAGRAPH. "General assets" does not
13 18 include that portion of the assets of the insurer allocated to
13 19 and accumulated in a separate account established pursuant to
13 20 section 508A.1, unless otherwise provided by the applicable
13 21 policy, annuity, agreement, instrument, or contract. However,
13 22 if any assets allocated to and accumulated in a separate
13 23 account, after the satisfaction of any liabilities with regard
13 24 to the operation of the separate account, are in excess of an
13 25 amount equal to the reserves and other liabilities with
13 26 respect to the separate account, the excess shall be treated
13 27 as part of the general assets of the insurer.

13 28 Sec. 28. Section 507C.42, unnumbered paragraph 1, Code

13 29 2005, is amended to read as follows:

13 30 The priority of distribution of claims from the insurer's
13 31 estate shall be in accordance with the order in which each
13 32 class of claims is set forth. Claims in each class shall be
13 33 paid in full or adequate funds retained for the payment before
13 34 the members of the next class receive any payment. Subclasses
13 35 shall not be established within a class. As used in this

14 1 section, "insurer's estate" means the general assets of the
14 2 insurer. The order of distribution of claims is:

14 3 Sec. 29. Section 507C.42, subsection 2, Code 2005, is
14 4 amended to read as follows:

14 5 2. CLASS 2. Claims under policies, including claims of
14 6 the federal or any state or local government, for losses
14 7 incurred, including third-party claims, claims against the
14 8 insurer for liability for bodily injury or for injury to or
14 9 destruction of tangible property which are not under policies,
14 10 claims of a guaranty association or foreign guaranty
14 11 association, claims under funding agreements as provided in
14 12 section 508.31A, subsection 3, claims for an insufficiency in

14 13 the assets allocated to and accumulated in a separate account
14 14 as provided in section 508A.1, subsection 8, and claims for

14 15 unearned premium. Claims under life insurance and annuity
14 16 policies, whether for death proceeds, annuity proceeds, or
14 17 investment values, shall be treated as loss claims. That
14 18 portion of a loss, indemnification for which is provided by
14 19 other benefits or advantages recovered by the claimant, shall
14 20 not be included in this class, other than benefits or
14 21 advantages recovered or recoverable in discharge of familial
14 22 obligations of support or by way of succession at death or as
14 23 proceeds of life insurance, or as gratuities. A payment by an
14 24 employer to an employee is not a gratuity.

14 25 Sec. 30. Section 507E.5, Code 2005, is amended by striking
14 26 the section and inserting in lieu thereof the following:

14 27 507E.5 CONFIDENTIALITY.

14 28 1. All investigation files, investigation reports, and all
14 29 other investigative information in the possession of the
14 30 bureau are confidential records under chapter 22 except as
14 31 specifically provided in this section and are not subject to
14 32 discovery, subpoena, or other means of legal compulsion for
14 33 their release until opened for public inspection by the
14 34 bureau, or upon the consent of the bureau, or until a court of
14 35 competent jurisdiction determines, after notice to the bureau
15 1 and hearing, that the bureau will not be unnecessarily
15 2 hindered in accomplishing the purposes of this chapter by
15 3 their opening for public inspection. However, investigative
15 4 information in the possession of the bureau may be disclosed,
15 5 in the commissioner's discretion, to appropriate licensing
15 6 authorities within this state, another state or the District
15 7 of Columbia, or a territory or country in which a licensee is
15 8 licensed or has applied for a license.

15 9 2. The commissioner may share documents, materials, or
15 10 other information, including confidential and privileged
15 11 documents, materials, or other information, with other state,
15 12 federal, and international regulatory agencies, with the
15 13 national association of insurance commissioners and its
15 14 affiliates or subsidiaries, and with state, federal, and
15 15 international law enforcement authorities, provided that the
15 16 recipient agrees to maintain the confidential and privileged
15 17 status of the document, material, or other information,
15 18 pursuant to Iowa law.

15 19 3. The commissioner may receive documents, materials, or
15 20 other information, including otherwise confidential and
15 21 privileged documents, materials, or other information, from
15 22 other local, state, federal, and international regulatory
15 23 agencies, the national association of insurance commissioners
15 24 and its affiliates or subsidiaries, and local, state, federal,
15 25 and international law enforcement authorities, and shall
15 26 maintain as confidential and privileged any document,
15 27 material, or other information received with notice or the
15 28 understanding that it is confidential or privileged under the
15 29 laws of the jurisdiction that is the source of the document,
15 30 material, or other information.

15 31 4. The commissioner may enter into agreements governing
15 32 the sharing and use of documents, materials, or other
15 33 information consistent with this section.

15 34 5. An investigator or other staff member of the bureau is
15 35 not subject to subpoena in a civil action concerning any
16 1 matter of which the investigator or other staff member has
16 2 knowledge pursuant to a pending or continuing investigation
16 3 being conducted by the bureau pursuant to this chapter.

16 4 Sec. 31. Section 508.13, Code 2005, is amended to read as

16 5 follows:

16 6 508.13 ANNUAL CERTIFICATE OF AUTHORITY.

16 7 1. On receipt of an application for a certificate of
16 8 authority or renewal of a certificate of authority, fees, the
16 9 deposit provided in section 511.8, subsection 16, and the
16 10 statement, and the statement and evidence of investment of
16 11 foreign companies, all of which shall be renewed annually, by
16 12 the first day of March, the commissioner of insurance shall
16 13 issue a certificate or a renewal of a certificate setting
16 14 forth the corporate name of the company, its home office, that
16 15 it has fully complied with the laws of the state and is
16 16 authorized to transact the business of life insurance for the
16 17 ensuing year, which certificate shall expire on the first day
16 18 of June of the ensuing year, or sooner upon thirty days'
16 19 notice given by the commissioner, of the next annual valuation
16 20 of its policies. Such certificate shall be renewed annually,
16 21 upon the renewal of the deposit and statement by a domestic
16 22 company, or of the statement and evidence of investment by a
16 23 foreign company, and compliance with the conditions above
16 24 required, and be subject to revocation as the original
16 25 certificate.

16 26 2. A company shall submit annually on or before March 1 a
16 27 completed application for renewal of its certificate of
16 28 authority. A certificate of authority shall expire on the
16 29 first day of June next succeeding its issue and shall be
16 30 renewed annually so long as the company transacts business in
16 31 accordance with all legal requirements of the state.

16 32 3. A company that fails to timely file an application for
16 33 renewal of its certificate of authority shall pay an
16 34 administrative penalty of five hundred dollars to the
16 35 treasurer of state for deposit in the general fund of the
17 1 state as provided in section 505.7.

17 2 4. A copy of a certificate of authority, when certified by
17 3 the commissioner, shall be admissible in evidence for or
17 4 against a company, with the same effect as the original.

17 5 Sec. 32. Section 508A.1, Code 2005, is amended by adding
17 6 the following new subsection:

17 7 NEW SUBSECTION. 8. If the assets of an insurer allocated
17 8 to and accumulated in a separate account in connection with
17 9 any policy, annuity, agreement, instrument, or contract, after
17 10 the satisfaction of any liabilities with regard to the
17 11 operation of the separate account, are insufficient to fully
17 12 satisfy the insurer's express obligations under the policy,
17 13 annuity, agreement, instrument, or contract, then claims for
17 14 the unsatisfied portions of the insurer's obligations shall be
17 15 class 2 claims under section 507C.42, subsection 2.

17 16 Sec. 33. Section 509.1, subsection 1, paragraph b, Code
17 17 2005, is amended to read as follows:

17 18 b. The premium for the group ~~life~~ policy shall be paid by
17 19 the policyholder, either ~~wholly~~ from the employer's funds or
17 20 funds contributed by the employer, ~~or partly from such funds~~
17 21 ~~and partly from funds contributed by the insured employees, or~~
17 22 ~~from both. No A policy, except of group accident and health,~~
17 23 ~~may be issued on which the entire premium is to be derived~~
17 24 ~~from funds contributed by the insured employees. A policy~~
17 25 insurance on which part of the premium is to be derived from
17 26 funds contributed by the insured employees may be placed in
17 27 force only if at least seventy-five percent of the then
17 28 eligible employees, excluding any as to whom evidence of
17 29 individual insurability is not satisfactory to the insurer,
17 30 elect to make the required contributions. A policy on which
17 31 no part of the premium is to be derived from funds contributed
17 32 by the insured employees must insure all eligible employees,
17 33 or all except any as to whom evidence of individual
17 34 insurability is not satisfactory to the insurer. As used in
17 35 this paragraph, "accident and health insurance" does not
18 1 include disability income insurance.

18 2 Sec. 34. Section 509A.15, subsection 1, paragraph d, Code
18 3 2005 is amended to read as follows:

18 4 d. That the governing body has contracted or otherwise
18 5 arranged with a third-party administrator who holds a current
18 6 certificate of registration issued by the commissioner
18 7 pursuant to section 510.21, or with a person not required to
18 8 obtain the certificate as ~~an a third-party~~ administrator as
18 9 defined in section 510.11, subsection 1.

18 10 Sec. 35. Section 509A.15, subsection 4, Code 2005, is
18 11 amended to read as follows:

18 12 4. One or more political subdivisions of the state or one
18 13 or more school corporations maintaining self-insured plans
18 14 with yearly claims that do not exceed ~~one~~ two percent of each
18 15 entity's general fund budget shall be exempt from the

18 16 requirements of this section where the plan insures employees
18 17 for all or part of a deductible, coinsurance payments, drug
18 18 costs, short-term disability benefits, vision benefits, or
18 19 dental benefits.

18 20 The yearly claim amount shall be determined annually on the
18 21 policy renewal date, or an alternative date established by
18 22 rule, by a plan administrator or political subdivision or
18 23 school corporation employee to be designated by the plan
18 24 administrator. The exemption shall not apply for the year
18 25 following a year in which yearly claims are determined to
18 26 exceed ~~one~~ two percent of the political subdivision's or
18 27 school corporation's general fund budget.

18 28 Sec. 36. Section 509B.1, subsection 4, Code 2005, is
18 29 stricken.

18 30 Sec. 37. Section 509B.5, subsection 1, Code 2005, is
18 31 amended to read as follows:

18 32 1. Employers or group policyholders shall notify all
18 33 employees or members of their continuation ~~and conversion~~
18 34 rights within ten days of termination of employment or
18 35 membership. The notice shall be in writing and delivered in
19 1 person or mailed to the person's last known address. However,
19 2 continuation ~~and conversion~~ rights shall not be denied because
19 3 of failure to provide proper notice. After receiving proper
19 4 notice the employee or member may request and shall receive
19 5 continuation ~~or conversion~~ coverage in accordance with this
19 6 chapter within ten days of the request, notwithstanding any
19 7 other time limitation provided by this chapter. Notification
19 8 as provided in this section supersedes section 515.80 as that
19 9 section relates to accident and health insurance.

19 10 Sec. 38. Section 510.11, Code 2005, is amended by striking
19 11 the section and inserting in lieu thereof the following:

19 12 510.11 DEFINITIONS.

19 13 1. "Life or health insurance" includes but is not limited
19 14 to the following:

- 19 15 a. Individual or group accident and sickness insurance
19 16 providing coverage on an expense-incurred basis.
- 19 17 b. An individual or group hospital or medical service
19 18 contract issued pursuant to chapter 509, 514, or 514A.
- 19 19 c. An individual or group health maintenance organization
19 20 contract regulated under chapter 514B.
- 19 21 d. An individual or group Medicare supplemental policy.
- 19 22 e. A long-term care policy.
- 19 23 f. An individual or group life insurance policy or annuity
19 24 issued pursuant to chapter 508, 508A, or 509A.

19 25 2. "Third-party administrator" means a person who collects
19 26 charges or premiums from, or who adjusts or settles claims on,
19 27 residents of this state in connection with life or health
19 28 insurance coverage or annuities other than any of the
19 29 following:

- 19 30 a. A union or association on behalf of its members.
- 19 31 b. An insurance company which is either licensed in this
19 32 state or acting as an insurer with respect to a policy
19 33 lawfully issued and delivered by it in and pursuant to the
19 34 laws of a state in which the insurer was authorized to do an
19 35 insurance business.
- 20 1 c. An entity licensed under chapter 514, including its
20 2 sales representatives licensed in this state when engaged in
20 3 the performance of their duties as sales representatives.
- 20 4 d. A life or health agent or broker licensed in this
20 5 state, whose activities are limited exclusively to the sale of
20 6 insurance.
- 20 7 e. A creditor on behalf of its debtors with respect to
20 8 insurance covering a debt between the creditor and its
20 9 debtors.
- 20 10 f. A trust, its trustees, agents, and employees acting
20 11 under the trust, established in conformity with 29 U.S.C. }
20 12 186.
- 20 13 g. A trust exempt from taxation under section 501(a) of
20 14 the Internal Revenue Code, its trustees, and employees acting
20 15 under the trust.
- 20 16 h. A custodian, its agents, and employees acting pursuant
20 17 to a custodial account which meets the requirements of section
20 18 401(f) of the Internal Revenue Code.
- 20 19 i. A bank, credit union, or other financial institution
20 20 which is subject to supervision or examination by federal or
20 21 state banking authorities.
- 20 22 j. A credit card-issuing company which advances for and
20 23 collects premiums or charges from its credit card holders who
20 24 have authorized it to do so, if the company does not adjust or
20 25 settle claims.
- 20 26 k. A person who adjusts or settles claims in the normal

20 27 course of the person's practice or employment as an attorney,
20 28 and who does not collect charges or premiums in connection
20 29 with life or health insurance coverage or annuities.

20 30 Sec. 39. Section 510.12, Code 2005, is amended to read as
20 31 follows:

20 32 510.12 WRITTEN AGREEMENT NECESSARY.

20 33 A person shall not act as ~~an~~ a third-party administrator
20 34 without a written agreement between the third-party
20 35 administrator and the insurer, and the written agreement shall
21 1 be retained as part of the official records of both the
21 2 insurer and the third-party administrator for the duration of
21 3 the agreement plus five years. The written agreement shall
21 4 contain provisions which include the requirements of sections
21 5 510.11 through 510.16, except insofar as those requirements do
21 6 not apply to the functions performed by the third-party
21 7 administrator.

21 8 When a policy is issued to a trustee, a copy of the trust
21 9 agreement and any amendments to the trust agreement shall be
21 10 furnished to the insurer by the third-party administrator and
21 11 shall be retained as part of the official records of both the
21 12 insurer and the third-party administrator for the duration of
21 13 the policy plus five years.

21 14 Sec. 40. Section 510.13, Code 2005, is amended to read as
21 15 follows:

21 16 510.13 PAYMENT TO THIRD-PARTY ADMINISTRATOR.

21 17 If an insurer uses the services of ~~an~~ a third-party
21 18 administrator under the terms of a written contract as
21 19 required in section 510.12, payment to the third-party
21 20 administrator of any premiums or charges for insurance by or
21 21 on behalf of the insured shall be deemed to have been received
21 22 by the insurer, and the payment of return premiums or claims
21 23 by the insurer to the third-party administrator shall not be
21 24 deemed payment to the insured or claimant until the payments
21 25 are received by the insured or claimant. This section does
21 26 not limit any right of the insurer against the third-party
21 27 administrator resulting from the third-party administrator's
21 28 failure to make payments to the insurer, insureds, or
21 29 claimants.

21 30 Sec. 41. Section 510.14, Code 2005, is amended to read as
21 31 follows:

21 32 510.14 MAINTENANCE OF INFORMATION.

21 33 ~~An~~ A third-party administrator shall maintain at its
21 34 principal administrative office for the duration of the
21 35 written agreement referred to in section 510.12 plus five
22 1 years, adequate books and records of all transactions between
22 2 it, insurers, and insured persons. The third-party
22 3 administrator's books and records shall be maintained in
22 4 accordance with prudent standards of insurance recordkeeping.
22 5 The commissioner shall have access to such books and records
22 6 for the purpose of examination, audit, and inspection. Trade
22 7 secrets contained in ~~an~~ a third-party administrator's books
22 8 and records, including but not limited to the identity and
22 9 addresses of policyholders and certificate holders, shall be
22 10 confidential, except the commissioner may use trade secret
22 11 information in any proceeding instituted against the third-
22 12 party administrator. The insurer retains the right to
22 13 continuing access to the third-party administrator's books and
22 14 records sufficient to permit the insurer to fulfill all of its
22 15 contractual obligations to insured persons, subject to any
22 16 restrictions in the written agreement between the insurer and
22 17 third-party administrator on the proprietary rights of the
22 18 parties in the third-party administrator's books and records.

22 19 Sec. 42. Section 510.15, Code 2005, is amended to read as
22 20 follows:

22 21 510.15 APPROVAL OF ADVERTISING.

22 22 ~~An~~ A third-party administrator may use only such
22 23 advertising pertaining to the business underwritten by an
22 24 insurer as has been approved by the insurer in advance of its
22 25 use.

22 26 Sec. 43. Section 510.17, Code 2005, is amended to read as
22 27 follows:

22 28 510.17 PREMIUM COLLECTION.

22 29 1. All insurance charges or premiums collected by ~~an~~ a
22 30 third-party administrator on behalf of or for an insurer, and
22 31 return premiums received from the insurer, shall be held by
22 32 the third-party administrator in a fiduciary capacity. Such
22 33 funds shall be immediately remitted to the person or persons
22 34 entitled to them, or shall be deposited promptly in a
22 35 fiduciary bank account established and maintained by the
23 1 third-party administrator. If charges or premiums so
23 2 deposited have been collected on behalf of or for more than

23 3 one insurer, the third-party administrator shall cause the
23 4 bank in which the fiduciary account is maintained to keep
23 5 records clearly recording the deposits in and withdrawals from
23 6 the account on behalf of or for each insurer. The third-party
23 7 administrator shall promptly obtain and keep copies of all
23 8 such records and, upon request of an insurer, shall furnish
23 9 the insurer with copies of the records pertaining to deposits
23 10 and withdrawals on behalf of or for that insurer.

23 11 2. The third-party administrator shall not pay a claim by
23 12 withdrawal from the fiduciary account. Withdrawals from the
23 13 fiduciary account shall be made, as provided in the written
23 14 agreement between the third-party administrator and the
23 15 insurer, for any of the following:

- 23 16 a. Remittance to an insurer entitled thereto.
- 23 17 b. Deposit in an account maintained in the name of the
23 18 insurer.
- 23 19 c. Transfer to and deposit in a claims-paying account,
23 20 with claims to be paid as provided in section 510.18.
- 23 21 d. Payment to a group policyholder for remittance to the
23 22 insurer entitled thereto.
- 23 23 e. Payment to the third-party administrator of its
23 24 commission, fees, or charges.
- 23 25 f. Remittance of return premiums to the persons entitled
23 26 thereto.

23 27 Sec. 44. Section 510.18, Code 2005, is amended to read as
23 28 follows:

23 29 510.18 PAYMENT OF CLAIMS.

23 30 A claim paid by the third-party administrator from funds
23 31 collected on behalf of the insurer shall be paid only on a
23 32 draft, check, or by electronic funds transfer as authorized by
23 33 the insurer.

23 34 Sec. 45. Section 510.19, Code 2005, is amended to read as
23 35 follows:

24 1 510.19 CLAIM ADJUSTMENT AND SETTLEMENT.

24 2 The compensation paid to ~~an a~~ third-party administrator
24 3 shall not be contingent on claim experience on policies for
24 4 which the third-party administrator adjusts or settles claims.
24 5 This section does not prevent the compensation of ~~an a~~ third-
24 6 party administrator from being based on premiums or charges
24 7 collected or number of claims paid or processed.

24 8 Sec. 46. Section 510.20, Code 2005, is amended to read as
24 9 follows:

24 10 510.20 NOTIFICATION REQUIRED.

24 11 When the services of ~~an a~~ third-party administrator are
24 12 used, the third-party administrator shall provide a written
24 13 notice, approved by the insurer, to insured individuals,
24 14 advising them of the identity of and relationship among the
24 15 third-party administrator, the policyholder, and the insurer.
24 16 When ~~an a~~ third-party administrator collects funds, it ~~must~~
24 17 shall identify and state separately in writing to the person
24 18 paying to the third-party administrator any charge or premium
24 19 for insurance coverage the amount of any such charge or
24 20 premium specified by the insurer for such insurance coverage.

24 21 Sec. 47. Section 510.21, Code 2005, is amended to read as
24 22 follows:

24 23 510.21 CERTIFICATE OF REGISTRATION REQUIRED.

24 24 A person shall not act as or represent oneself to be ~~an a~~ a
24 25 third-party administrator in this state, other than an
24 26 adjuster licensed in this state for the kinds of business for
24 27 which the person is acting as ~~an a~~ third-party administrator,
24 28 unless the person holds a current certificate of registration
24 29 as ~~an a~~ third-party administrator issued by the commissioner
24 30 of insurance. A certificate of registration as ~~an a~~ third-
24 31 party administrator is renewable every three years. Failure
24 32 to hold a certificate subjects the third-party administrator
24 33 to the sanctions set out in section 507B.7. The certificate
24 34 shall be issued by the commissioner to ~~an a~~ third-party
24 35 administrator unless the commissioner, after due notice and
25 1 hearing, determines that the third-party administrator is not
25 2 competent, trustworthy, financially responsible, or of good
25 3 personal and business reputation, or has had a previous
25 4 application for an insurance license denied for cause within
25 5 the preceding five years.

25 6 An application for registration shall be accompanied by a
25 7 filing fee of one hundred dollars. After notice and hearing,
25 8 the commissioner may impose any or all of the sanctions set
25 9 out in section 507B.7, upon finding that either the third-
25 10 party administrator violated any of the requirements of
25 11 section 515.134 and sections 510.1A through 510.20 and this
25 12 section, or the third-party administrator is not competent,
25 13 trustworthy, financially responsible, or of good personal and

25 14 business reputation.

25 15 Sec. 48. Section 510.22, subsections 1 and 3, Code 2005,
25 16 are amended to read as follows:

25 17 1. The person acting as ~~an~~ a third-party administrator is
25 18 primarily in a business other than that of a third-party
25 19 administrator.

25 20 3. The regular duties being performed as ~~an~~ a third-party
25 21 administrator are such that the covered persons are not likely
25 22 to be injured by a waiver of such requirements.

25 23 Sec. 49. Section 510.23, Code 2005, is amended to read as
25 24 follows:

25 25 510.23 UNFAIR COMPETITION OR UNFAIR AND DECEPTIVE ACTS OR
25 26 PRACTICES PROHIBITED.

25 27 ~~An~~ A third-party administrator is subject to chapter 507B
25 28 relating to unfair insurance trade practices.

25 29 Sec. 50. Section 511.8, subsection 1, paragraph b, Code
25 30 2005, is amended to read as follows:

25 31 b. Bonds or other evidences of indebtedness issued,
25 32 assumed, or guaranteed by the United States of America, or by
25 33 any agency or instrumentality of the United States of America
25 34 include investments in an open-end management investment
25 35 company registered with the federal securities and exchange
26 1 commission under the federal Investment Company Act of 1940,
26 2 15 U.S.C. } ~~80(a)~~ 80a-1 et seq., and operated in accordance
26 3 with 17 C.F.R. } 270.2a-7, the portfolio of which is limited
26 4 to the United States government obligations described in
26 5 paragraph "a", and which are included in the national
26 6 association of insurance commissioners' securities valuation
26 7 office's United States direct obligations==full faith and
26 8 credit exempt list.

26 9 Sec. 51. Section 511.8, subsection 18, Code 2005, is
26 10 amended by adding the following new paragraph:

26 11 NEW PARAGRAPH c. Common stocks or shares issued by any
26 12 federal home loan bank under the Federal Home Loan Bank Act,
26 13 12 U.S.C. } 1421 et seq., and the Acts amendatory thereof, are
26 14 eligible if the total investment in those stocks or shares
26 15 does not exceed one-half of one percent of the legal reserve.

26 16 Sec. 52. Section 511.8, subsection 22, paragraph b, Code
26 17 2005, is amended by striking the paragraph and inserting in
26 18 lieu thereof the following:

26 19 b. To be eligible as investments, financial instruments
26 20 used in hedging transactions shall be either of the following:

26 21 (1) Be between an insurer and a counterparty that meets
26 22 the qualifications established in subsection 5 for an issuer,
26 23 obligor, or guarantor of bonds or other evidences of
26 24 indebtedness issued, assumed, or guaranteed by a corporation
26 25 incorporated under the laws of the United States or of any
26 26 state, district, or insular or territorial possession thereof,
26 27 or Canada, or that meets the qualifications established in
26 28 subsection 19 for an issuer, obligor, or guarantor of bonds or
26 29 other evidences of indebtedness issued, assumed, or guaranteed
26 30 by a corporation incorporated under the laws of a foreign
26 31 government other than Canada.

26 32 (2) Be between an insurer and a conduit and be
26 33 collateralized by cash or obligations which are eligible under
26 34 subsection 1, 2, 3, 5, 19, or 24, are deposited with a
26 35 custodian bank as defined in subsection 21, and are held under
27 1 a written agreement with the custodian bank that complies with
27 2 subsection 21 and provides for the proceeds of the collateral,
27 3 subject to the terms and conditions of the applicable
27 4 collateral or other credit support agreement, to be remitted
27 5 to the legal reserve deposit of the company or association and
27 6 to vest in the state in accordance with section 508.18
27 7 whenever proceedings under that section are instituted.

27 8 Paragraphs "c", "d", and "e" of this subsection are not
27 9 applicable to investments in financial instruments used in
27 10 hedging transactions eligible pursuant to this subparagraph.
27 11 As used in this subparagraph, "conduit" means a person within
27 12 an insurer's insurance holding company system, as defined in
27 13 section 521A.1, subsection 5, which aggregates hedging
27 14 transactions by other persons within the insurance holding
27 15 company system and replicates them with counterparties.

27 16 (a) Financial instruments used in hedging transactions
27 17 between an insurer and a conduit which are collateralized by
27 18 obligations eligible under subsection 5, 19, or 24 are
27 19 eligible only to the extent that such securities deposited as
27 20 collateral are not in excess of two percent of the legal
27 21 reserve in the securities of any one corporation, less any
27 22 securities of that corporation owned by the insurer or which
27 23 are the subject of hedging transactions by the insurer, that
27 24 are included in the insurer's legal reserve.

27 25 (b) Financial instruments used in hedging transactions
27 26 between an insurer and a conduit which are collateralized by
27 27 obligations eligible under subsection 5 or by cash equivalents
27 28 eligible under subsection 24, other than a class one money
27 29 market fund, are eligible only to the extent that such
27 30 securities deposited as collateral are not in excess of ten
27 31 percent of the legal reserve, less any obligations eligible
27 32 under subsection 5 or cash equivalents eligible under
27 33 subsection 24, other than a class one money market fund, owned
27 34 by the insurer or which are the subject of hedging
27 35 transactions by the insurer, that are included in the
28 1 insurer's legal reserve.

28 2 (c) Financial instruments used in hedging transactions
28 3 between an insurer and a conduit which are collateralized by
28 4 obligations eligible under subsection 19 are eligible only to
28 5 the extent that such securities deposited as collateral are
28 6 not in excess of twenty percent of the legal reserve, less any
28 7 securities eligible under subsection 19 owned by the insurer
28 8 or which are the subject of hedging transactions by the
28 9 insurer, that are included in the insurer's legal reserve.

28 10 (3) Financial instruments used in hedging transactions
28 11 shall be eligible only as provided by this paragraph "b" and
28 12 rules adopted by the commission pursuant to chapter 17A
28 13 setting standards for hedging transactions between an insurer
28 14 and a conduit as authorized under section 521A.5, subsection
28 15 1, paragraph "b".

28 16 Sec. 53. Section 511.8, subsection 22, paragraph e, Code
28 17 2005, is amended to read as follows:

28 18 e. Investments in financial instruments of foreign
28 19 governments or foreign corporate obligations, other than
28 20 Canada, used in hedging transactions ~~are not eligible in~~
~~28 21 excess of shall be included in the limitation contained in~~
~~28 22 subsection 19 that allows only twenty percent of the legal~~
~~28 23 reserve, less any foreign investment authorized by subsection~~
~~28 24 19 owned by the company or association and in which its legal~~
~~28 25 reserve is invested of the company or association to be~~
~~28 26 invested in such foreign investments, except insofar as the~~
28 27 financial instruments are collateralized by cash or United
28 28 States government obligations as authorized by subsection 1
28 29 deposited with a custodian bank as defined in subsection 21,
28 30 and held under a written agreement with the custodian bank
28 31 that complies with subsection 21 and provides for the proceeds
28 32 of the collateral, subject to the terms and conditions of the
28 33 applicable collateral or other credit support agreement, to be
28 34 remitted to the legal reserve deposit of the company or
28 35 association and to vest in the state in accordance with
29 1 section 508.18 whenever proceedings under that section are
29 2 instituted.

29 3 This paragraph "e" does not authorize the inclusion of
29 4 financial instruments used in hedging transactions in an
29 5 insurer's legal reserve that are in excess of the eligibility
29 6 limitation provided in paragraph "d" unless the financial
29 7 instruments are collateralized as provided in this paragraph
29 8 "e".

29 9 Sec. 54. Section 511.8, Code 2005, is amended by adding
29 10 the following new subsection:

29 11 **NEW SUBSECTION. 24. CASH EQUIVALENTS.**

29 12 a. As used in this subsection, unless the context
29 13 otherwise requires:

29 14 (1) "Cash equivalents" means highly liquid investments
29 15 with an original term to maturity of ninety days or less that
29 16 are all of the following:

29 17 (a) Readily convertible to a known amount of cash without
29 18 penalty.

29 19 (b) So near maturity that the investment presents an
29 20 insignificant risk of change in value.

29 21 (c) Rated any of the following:

29 22 (i) "P=1" by Moody's investors services, inc.

29 23 (ii) "A=1" by Standard and Poor's division of McGraw-Hill
29 24 companies, inc., or by the national association of insurance
29 25 commissioners' securities valuation office.

29 26 (iii) Equivalent by a nationally recognized statistical
29 27 rating organization that is recognized by the national
29 28 association of insurance commissioners' securities valuation
29 29 office.

29 30 (2) "Class one money market fund" means investments in an
29 31 open-end management investment company registered with the
29 32 federal securities and exchange commission under the federal
29 33 Investment Company Act of 1940, 15 U.S.C. } 80a-1 et seq., and
29 34 operated in accordance with 17 C.F.R. } 270.2a-7, that
29 35 qualifies for investment using the bond class one reserve

30 1 factor under the purposes and procedures of the national
30 2 association of insurance commissioners' securities valuation
30 3 office.
30 4 b. Cash equivalents include a class one money market fund.
30 5 c. Cash equivalents, other than a class one money market
30 6 fund, are not eligible in excess of two percent of the legal
30 7 reserve in the obligations of any one corporation, and are not
30 8 eligible in excess of ten percent of the legal reserve.

30 9 Sec. 55. Section 512B.25, Code 2005, is amended to read as
30 10 follows:

30 11 512B.25 ANNUAL LICENSE == RENEWAL.

~~30 12 A society which is authorized to transact business in this
30 13 state on January 1, 1991, and a society licensed on or after
30 14 January 1, 1991, may continue in business until June 1, 1991.
30 15 The authority of the a society to transact business in this
30 16 state may thereafter be renewed annually. A license
30 17 terminates on the succeeding June 1. However, a license
30 18 issued shall continue in full force and effect until a new
30 19 license is issued or specifically refused. A society shall
30 20 submit annually on or before March 1 a completed application
30 21 for renewal of its license. For each license or renewal the
30 22 society shall pay the commissioner a fee of fifty dollars. A
30 23 society that fails to timely file an application for renewal
30 24 shall pay an administrative penalty of five hundred dollars to
30 25 the treasurer of state for deposit in the general fund of the
30 26 state as provided in section 505.7. A duly certified copy or
30 27 duplicate of the license is prima facie evidence that the
30 28 licensee is a fraternal benefit society within the meaning of
30 29 this chapter.~~

30 30 Sec. 56. Section 512B.27, subsection 3, Code 2005, is
30 31 amended by striking the subsection.

30 32 Sec. 57. Section 513C.9, subsection 1, Code 2005, is
30 33 amended by striking the subsection.

30 34 Sec. 58. NEW SECTION. 514.9A CERTIFICATE OF AUTHORITY ==
30 35 RENEWAL.

31 1 A certificate of authority of a corporation formed under
31 2 this chapter expires on June 1 succeeding its issue and shall
31 3 be renewed annually so long as the corporation transacts its
31 4 business in accordance with all legal requirements. A
31 5 corporation shall submit annually, on or before March 1, a
31 6 completed application for renewal of its certificate of
31 7 authority. A corporation that fails to timely file an
31 8 application for renewal shall pay an administrative penalty of
31 9 five hundred dollars to the treasurer of state for deposit in
31 10 the general fund of the state as provided in section 505.7. A
31 11 duly certified copy or duplicate of the certificate is
31 12 admissible in evidence for or against the corporation with the
31 13 same effect as the original.

31 14 Sec. 59. Section 514B.3, subsection 10, Code 2005, is
31 15 amended by striking the subsection.

31 16 Sec. 60. NEW SECTION. 514B.3B CERTIFICATE OF AUTHORITY
31 17 == RENEWAL.

31 18 A certificate of authority of a health maintenance
31 19 organization formed under this chapter expires on June 1
31 20 succeeding its issue and shall be renewed annually so long as
31 21 the organization transacts its business in accordance with all
31 22 legal requirements. A health maintenance organization shall
31 23 submit annually, on or before March 1, a completed application
31 24 for renewal of its certificate of authority. A health
31 25 maintenance organization that fails to timely file an
31 26 application for renewal shall pay an administrative penalty of
31 27 five hundred dollars to the treasurer of state for deposit in
31 28 the general fund of the state as provided in section 505.7. A
31 29 duly certified copy or duplicate of the certificate is
31 30 admissible in evidence for or against the organization with
31 31 the same effect as the original.

31 32 Sec. 61. Section 514B.12, Code 2005, is amended to read as
31 33 follows:

31 34 514B.12 ANNUAL REPORT.

31 35 1. A health maintenance organization shall annually on or
32 1 before the first day of March file with the commissioner or a
32 2 depository designated by the commissioner a report verified by
32 3 at least two of the principal officers of the health
32 4 maintenance organization and covering the preceding calendar
32 5 year. The report shall be on forms prescribed by the
32 6 commissioner and shall include:

32 7 1. a. Financial statements of the organization including
32 8 a balance sheet as of the end of the preceding calendar year
32 9 and statement of profit and loss for the year then ended,
32 10 certified by a certified public accountant or an independent
32 11 public accountant.

32 12 ~~2-~~ b. Any material changes in the information submitted
32 13 pursuant to section 514B.3.
32 14 ~~3-~~ c. The number of persons enrolled during the year, the
32 15 number of enrollees as of the end of the year and the number
32 16 of enrollments terminated during the year.
32 17 ~~4-~~ d. Other information relating to the performance of
32 18 the health maintenance organization as is necessary to enable
32 19 the commissioner to carry out the commissioner's duties under
32 20 this chapter.

32 21 2. The commissioner shall refuse to renew a certificate of
32 22 authority of a health maintenance organization that fails to
32 23 comply with the provisions of this section and the
32 24 organization's right to transact new business in this state
32 25 shall immediately cease until the organization has so
32 26 complied.

32 27 3. A health maintenance organization that fails to timely
32 28 file the report required under subsection 1 is in violation of
32 29 this section and shall pay an administrative penalty of five
32 30 hundred dollars to the treasurer of state for deposit in the
32 31 general fund of the state as provided in section 505.7.

32 32 4. The commissioner may give notice to a health
32 33 maintenance organization that the organization has not timely
32 34 filed the report required under subsection 1 and is in
32 35 violation of this section. If the organization fails to file
33 1 the required report and comply with this section within ten
33 2 days of the date of the notice, the organization shall pay an
33 3 additional administrative penalty of one hundred dollars for
33 4 each day that the failure continues to the treasurer of state
33 5 for deposit in the general fund of the state as provided in
33 6 section 505.7.

33 7 Sec. 62. Section 514B.22, Code 2005, is amended by
33 8 striking the section and inserting in lieu thereof the
33 9 following:

33 10 514B.22 FEES.

33 11 When not otherwise provided, a foreign or domestic health
33 12 maintenance organization doing business in this state shall
33 13 pay the commissioner of insurance the fees as required in
33 14 section 511.24.

33 15 Sec. 63. Section 514B.33, Code 2005, is amended by adding
33 16 the following new subsection:

33 17 NEW SUBSECTION. 3A. Sections 514B.3B and 514B.12 apply to
33 18 all foreign and domestic limited service organizations
33 19 authorized to do business in this state.

33 20 Sec. 64. Section 514C.1, Code 2005, is amended to read as
33 21 follows:

33 22 514C.1 SUPPLEMENTAL COVERAGE FOR ADOPTED OR NEWLY BORN
33 23 CHILDREN.

33 24 1. Any policy of individual or group accident and sickness
33 25 insurance providing coverage on an expense incurred basis, and
33 26 any individual or group hospital or medical service contracts
33 27 issued pursuant to chapters 509, 514, and 514A, which provide
33 28 coverage for a family member of the insured or subscriber
33 29 shall also provide that the health insurance benefits
33 30 applicable for children shall, subject to the enrollment
33 31 requirements of this section, be payable with respect to a
33 32 newly born child of the insured or subscriber from the moment
33 33 of birth, or, in the situation of a newly adopted child of a
33 34 covered person, such child shall be covered from the earlier
33 35 of any of the following:

34 1 a. The date of placement of the child for the purpose of
34 2 adoption and continuing in the same manner as for other
34 3 dependents of the covered person, unless the placement is
34 4 disrupted prior to legal adoption and the child is removed
34 5 from placement.

34 6 b. The date of entry of an order granting the covered
34 7 person custody of the child for purposes of adoption.

34 8 c. The effective date of adoption.

34 9 2. The coverage for adopted or newly born children shall
34 10 consist of coverage for injury or sickness including the
34 11 necessary care and treatment of medically diagnosed congenital
34 12 defects and birth abnormalities and is not subject to any
34 13 preexisting condition exclusion.

34 14 3. If payment of a specific premium or subscription fee is
34 15 required to provide coverage for a newly born child, the
34 16 policy or contract may require that notification of birth of a
34 17 newly born child and payment of the required premium or fees
34 18 must be furnished to the insurer or nonprofit service or
34 19 indemnity corporation within ~~thirty-one~~ sixty days after the
34 20 date of birth ~~in order to have coverage continue beyond such~~
34 21 ~~thirty-one day period.~~

34 22 4. If payment of a specific premium or subscription fee is

34 23 not required to provide coverage for a newly born child, the
34 24 policy or contract may require that notification of birth of a
34 25 newly born child must be furnished to the insurer or nonprofit
34 26 service or indemnity corporation within sixty days after the
34 27 date of birth in order for coverage to be provided for the
34 28 child from the date of birth.

34 29 5. a. If payment of a specific premium or subscription
34 30 fee is required to provide coverage for a newly adopted child
34 31 or child placed for adoption, the policy or contract may
34 32 require that notification of the adoption or placement for
34 33 adoption and payment of the required premium or fees must be
34 34 furnished to the insurer or nonprofit service or indemnity
34 35 corporation within sixty days after the coverage is required
35 1 to begin under this section.

35 2 b. If payment of a specific premium or subscription fee is
35 3 not required to provide coverage for a newly adopted child or
35 4 child placed for adoption, the policy or contract may require
35 5 that notification of the adoption or placement for adoption
35 6 must be furnished to the insurer or nonprofit service or
35 7 indemnity corporation within sixty days after the coverage is
35 8 required to begin under this section.

35 9 c. If a covered person fails to provide the required
35 10 notice or to make payment of premium or subscription fees
35 11 within the sixty-day period required in this subsection, the
35 12 newly adopted child or child placed for adoption shall be
35 13 treated no less favorably by a health carrier than other
35 14 dependents of the covered person, other than newly born
35 15 children, who seek coverage under a policy or contract at a
35 16 time other than the time when the dependent is first eligible
35 17 to apply for coverage.

35 18 Sec. 65. Section 514C.3, Code 2005, is amended to read as
35 19 follows:

35 20 514C.3 DENTIST'S SERVICES UNDER ACCIDENT AND SICKNESS
35 21 INSURANCE POLICIES.

35 22 A policy of accident and sickness insurance issued in this
35 23 state which provides payment or reimbursement for any service
35 24 which is within the lawful scope of practice of a licensed
35 25 dentist shall provide benefits for the service whether the
35 26 service is performed by a licensed physician or a licensed
35 27 dentist. As used in this section, "licensed physician"
35 28 includes persons licensed under chapter 148, 150, or 150A and
35 29 "policy of accident and sickness insurance" includes
35 30 individual or group policies as defined in section 509B.1,
35 31 ~~subsections subsection 3 and 4.~~

35 32 Sec. 66. Section 514E.7, Code Supplement 2005, is amended
35 33 by adding the following new subsection:

35 34 NEW SUBSECTION. 6. The association is not required to
35 35 make plan coverage available to an individual who is covered
36 1 or is eligible for any continued group coverage under Internal
36 2 Revenue Code } 4980B, the federal Employee Retirement Income
36 3 Security Act of 1974, codified at 29 U.S.C. } 1001 et seq.,
36 4 the federal Public Health Service Act of July 1, 1944,
36 5 codified at 42 U.S.C. } 201 et seq., or any continued group
36 6 coverage required by the state. For purposes of this
36 7 subsection, an individual who would have been eligible for
36 8 such continuation of group coverage, but is not eligible
36 9 solely because the individual or other responsible party
36 10 failed to make the required election of coverage during the
36 11 applicable time period, or terminated such coverage prior to
36 12 the end of such applicable time period, shall be deemed to be
36 13 eligible for such group coverage until the date on which the
36 14 individual's continuing group coverage would have expired had
36 15 an election been made or a termination not occurred.

36 16 Sec. 67. Section 514J.7, Code 2005, is amended by adding
36 17 the following new subsections:

36 18 NEW SUBSECTION. 9. If an enrollee dies before the
36 19 completion of the external review process, the process shall
36 20 continue to completion if there is potential liability of a
36 21 carrier or organized delivery system to the estate of the
36 22 enrollee.

36 23 NEW SUBSECTION. 10. a. If an enrollee who has already
36 24 received a service or treatment under a plan requests external
36 25 review of the plan's coverage decision and changes to another
36 26 plan before the external review process is completed, the
36 27 carrier or organized delivery system whose coverage was in
36 28 effect at the time the service or treatment was received is
36 29 responsible for completing the external review process.

36 30 b. If an enrollee who has not yet received service or
36 31 treatment requests external review of a plan's coverage
36 32 decision and then changes to another plan prior to receipt of
36 33 the service or treatment and completion of the external review

36 34 process, the external review process shall begin anew with the
36 35 enrollee's current carrier or organized delivery system. In
37 1 this instance, the external review process shall be conducted
37 2 in an expedited manner.

37 3 Sec. 68. Section 515.24, Code 2005, is amended to read as
37 4 follows:

37 5 515.24 TAX == COMPUTATION.

37 6 For the purpose of determining the basis of any tax upon
37 7 the "gross amount of premiums", or "gross receipts from
37 8 premiums, assessments, fees, and promissory obligations", now
37 9 or hereafter imposed upon any fire or casualty insurance
37 10 company under any law of this state, such gross amount or
37 11 gross receipts shall consist of the gross written premiums or
37 12 receipts for direct insurance, without including or deducting
37 13 any amounts received or paid for reinsurance except that any
37 14 company reinsuring windstorm or hail risks written by county
37 15 mutual insurance associations shall be required to pay ~~a two~~
~~37 16 percent tax on as a tax, the applicable percent provided in~~
~~37 17 section 432.1, calculated upon~~ the gross amount of reinsurance
37 18 premiums received upon such risks, but with such other
37 19 deductions as provided by law, and in addition deducting any
37 20 so-called dividend or return of savings or gains to
37 21 policyholders; provided that as to any deposits or deposit
37 22 premiums received by any such company, the taxable premiums
37 23 shall be the portion of such deposits or deposit premiums
37 24 earned during the year with such deductions therefrom as
37 25 provided by law.

37 26 Sec. 69. Section 515.42, Code 2005, is amended to read as
37 27 follows:

37 28 515.42 TENURE OF CERTIFICATE == RENEWAL == EVIDENCE.

37 29 ~~Such A~~ certificate of authority shall expire on the first
37 30 day of June next succeeding its issue, and shall be renewed
37 31 annually so long as such company shall transact business in
37 32 accordance with the requirements of law; a copy of which
37 33 certificate, when certified to by the commissioner of
37 34 insurance, shall be admissible in evidence for or against a
37 35 company with the same effect as the original. A company shall
~~38 1 submit annually, on or before March 1, a completed application~~
~~38 2 for renewal of its certificate of authority. A company that~~
~~38 3 fails to timely file an application for renewal shall pay an~~
~~38 4 administrative penalty of five hundred dollars to the~~
~~38 5 treasurer of state for deposit in the general fund of the~~
~~38 6 state as provided in section 505.7.~~

38 7 Sec. 70. NEW SECTION. 515.147A ADMINISTRATIVE PENALTY.

38 8 1. An excess and surplus lines insurance agent that fails
38 9 to timely file the report required in section 515.147 is in
38 10 violation of this section and shall pay an administrative
38 11 penalty of five hundred dollars to the treasurer of state for
38 12 deposit in the general fund of the state as provided in
38 13 section 505.7.

38 14 2. The commissioner shall refuse to renew the license of
38 15 an agent that fails to comply with the provisions of section
38 16 515.147 and this section and the agent's right to transact new
38 17 business in this state shall immediately cease until the agent
38 18 has so complied.

38 19 3. The commissioner may give notice to an agent that the
38 20 agent has not timely filed the report required under section
38 21 515.147 and is in violation of this section. If the agent
38 22 fails to file the required report within ten days of the date
38 23 of the notice, the agent shall pay an additional
38 24 administrative penalty of one hundred dollars for each day
38 25 that the failure continues to the treasurer of state for
38 26 deposit in the general fund of the state as provided in
38 27 section 505.7.

38 28 Sec. 71. Section 515A.6, subsection 1, Code 2005, is
38 29 amended to read as follows:

38 30 1. a. A corporation, an unincorporated association, a
38 31 partnership or an individual, whether located within or
38 32 outside this state, may make application to the commissioner
38 33 for license as a rating organization for such kinds of
38 34 insurance, or subdivision or class of risk or a part or
38 35 combination thereof as are specified in its application and
39 1 shall file ~~therewith (a) a~~ with the application all of the
~~39 2 following:~~

39 3 (1) A copy of its constitution, its articles of agreement
39 4 or association or its certificate of incorporation, and of its
39 5 bylaws, rules and regulations governing the conduct of its
39 6 business, ~~(b) a.~~

39 7 (2) A list of its members and subscribers, ~~(c) the.~~

39 8 (3) The name and address of a resident of this state upon
39 9 whom notices or orders of the commissioner ~~or process~~

39 10 affecting such rating organization may be served ~~and (d) a.~~
39 11 (4) A statement of its qualifications as a rating
39 12 organization.

39 13 b. If the commissioner finds that the applicant is
39 14 competent, trustworthy, and otherwise qualified to act as a
39 15 rating organization and that its constitution, articles of
39 16 agreement or association or certificate of incorporation, and
39 17 its bylaws, rules and regulations governing the conduct of its
39 18 business conform to the requirements of law, the commissioner
39 19 shall issue a license specifying the kinds of insurance, or
39 20 subdivisions or classes of risks or parts or combinations
39 21 thereof for which the applicant is authorized to act as a
39 22 rating organization. Every such application shall be granted
39 23 or denied in whole or in part by the commissioner within sixty
39 24 days of the date of its filing with the commissioner.

39 25 c. Licenses issued pursuant to this section shall remain
39 26 in effect for three years unless sooner suspended or revoked
39 27 by the commissioner. The fee for said license shall be
39 28 twenty-five dollars.

39 29 d. Licenses issued pursuant to this section may be
39 30 suspended or revoked by the commissioner, after hearing upon
39 31 notice, in the event the rating organization ceases to meet
39 32 the requirements of this subsection.

39 33 e. Every rating organization shall notify the commissioner
39 34 promptly of every change in ~~(a) its~~ any of the following:

39 35 (1) Its constitution, its articles of agreement or
40 1 association, or its certificate of incorporation, and its
40 2 bylaws, rules and regulations governing the conduct of its
40 3 business, ~~(b) its.~~

40 4 (2) Its list of members and subscribers ~~and (c) the.~~

40 5 (3) The name and address of the resident of this state
40 6 designated by it upon whom notices or orders of the
40 7 commissioner ~~or process~~ affecting such rating organization may
40 8 be served.

40 9 Sec. 72. Section 515A.9, Code 2005, is amended to read as
40 10 follows:

40 11 515A.9 INFORMATION TO BE FURNISHED INSUREDS == HEARINGS
40 12 AND APPEALS OF INSUREDS.

40 13 Every rating organization and every insurer which makes its
40 14 own rate shall, within a reasonable time after receiving
40 15 written request therefor and upon payment of such reasonable
40 16 charge as it may make, furnish to any insured affected by a
40 17 rate made by it, or to the authorized representative of such
40 18 insured, all pertinent information as to such rate. Every
40 19 rating organization and every insurer which makes its own
40 20 rates shall provide within this state reasonable means whereby
40 21 any person aggrieved by the application of its rating system
40 22 may be heard, in person or by the person's authorized
40 23 representative, on the person's written request to review the
40 24 manner in which such rating system has been applied in
40 25 connection with the insurance afforded the person. Such
40 26 review of the manner in which a rating system has been applied

40 27 is not a contested case under chapter 17A. If the rating
40 28 organization or insurer fails to grant or reject such request
40 29 within thirty days after it is made, applicant may proceed in
40 30 the same manner as if the application had been rejected. Any
40 31 party affected by the action of such rating organization or
40 32 such insurer on such request may, within thirty days after
40 33 written notice of such action, appeal to the commissioner,
40 34 who, after a hearing held upon not less than ten days' written
40 35 notice to the appellant and to such rating organization or
41 1 insurer, may affirm or reverse such action. Such appeal to
41 2 the commissioner of the manner in which a rating system has
41 3 been applied is not a contested case under chapter 17A.

41 4 Sec. 73. Section 515A.10, subsection 2, Code 2005, is
41 5 amended to read as follows:

41 6 2. Every advisory organization shall file with the
41 7 commissioner ~~(a) a~~ all of the following:

41 8 a. A copy of its constitution, its articles of agreement
41 9 or association or its certificate of incorporation and of its
41 10 bylaws, rules and regulations governing its activities, ~~(b) a.~~

41 11 b. A list of its members, ~~(c) the.~~

41 12 c. The name and address of a resident of this state upon
41 13 whom notices or orders of the commissioner or process issued
41 14 at the commissioner's direction may be served, ~~and (d) an.~~

41 15 d. An agreement that the commissioner may examine such
41 16 advisory organization in accordance with the provisions of
41 17 section 515A.12.

41 18 Sec. 74. Section 515B.16, Code 2005, is amended to read as
41 19 follows:

41 20 515B.16 ACTIONS AGAINST THE ASSOCIATION.

41 21 Any action against the association shall be brought against
41 22 the association in the association's own name. The Polk
41 23 county district court shall have exclusive jurisdiction and
41 24 venue of such actions. Service of the original notice in
41 25 actions against the association may be made on any officer of
41 26 the association ~~or upon the commissioner of insurance on~~
~~41 27 behalf of the association. The commissioner shall promptly~~
~~41 28 transmit any notice so served upon the commissioner to the~~
~~41 29 association.~~ Any action against the association shall be
41 30 commenced within three years after the date of the order of
41 31 liquidation.

41 32 Sec. 75. Section 515E.3, unnumbered paragraph 2, Code
41 33 2005, is amended by striking the unnumbered paragraph.

41 34 Sec. 76. NEW SECTION. 515E.3A FOREIGN RISK RETENTION
41 35 GROUP MAY BECOME DOMESTIC.

42 1 1. A risk retention group that is organized under the laws
42 2 of any other state for the purpose of writing insurance, as
42 3 authorized by this chapter, may redomesticate to this state by
42 4 doing all of the following:

42 5 a. Complying with section 490.902.

42 6 b. Complying with all of the requirements of law relative
42 7 to the organization and licensing of a domestic risk retention
42 8 group and the capital and surplus requirement set forth in
42 9 subsection 4.

42 10 c. Designating its principal place of business in this
42 11 state.

42 12 2. A risk retention group that meets the requirements of
42 13 subsection 1 shall be entitled to a certificate of its
42 14 corporate existence and a license to transact business in this
42 15 state, and be subject in all respects to the authority and
42 16 jurisdiction of this state.

42 17 3. The certificate of authority, producer appointments and
42 18 licenses, rates, and other items which are in existence at the
42 19 time a risk retention group transfers its corporate domicile
42 20 to this state pursuant to this section shall continue in full
42 21 force and effect upon such transfer. For purposes of existing
42 22 authorizations and all other corporate purposes, the risk
42 23 retention group is deemed to be the same entity as it was
42 24 prior to the transfer of its domicile. All outstanding
42 25 policies of any transferring risk retention group shall remain
42 26 in full force and effect.

42 27 4. A risk retention group redomesticating to this state
42 28 pursuant to this chapter shall comply with the minimum capital
42 29 and surplus requirements of chapter 521E or five million
42 30 dollars, whichever is greater. If the risk retention group's
42 31 prior domestic regulator allowed the use of letters of credit
42 32 to meet that regulator's surplus requirements, the risk
42 33 retention group may continue to use the letters of credit to
42 34 meet this state's minimum surplus requirements for up to five
42 35 years from the date of redomestication in this state. The
43 1 risk retention group shall eliminate a minimum of twenty
43 2 percent of the letters of credit being used each year based
43 3 upon the aggregate amount of letters of credit being used to
43 4 meet surplus requirements at the time of redomestication in
43 5 this state.

43 6 5. Letters of credit used by a risk retention group to
43 7 meet surplus requirements shall be clean, irrevocable, and
43 8 unconditionally issued or confirmed by a qualified United
43 9 States financial institution as defined in section 521B.4,
43 10 subsection 2. The beneficiary of each letter of credit being
43 11 used shall be the commissioner.

43 12 6. If a risk retention group redomesticating to this state
43 13 fails to comply with the provisions of this section, the
43 14 commissioner shall take action as prescribed in chapter 507C.

43 15 7. The commissioner shall adopt rules pursuant to chapter
43 16 17A to implement this section.

43 17 Sec. 77. Section 515E.4, subsection 1, unnumbered
43 18 paragraph 1, Code 2005, is amended to read as follows:

~~43 19 Notice of operations and designation of commissioner as~~
~~43 20 agent.~~ Before offering insurance in this state, a risk
43 21 retention group shall submit to the commissioner all of the
43 22 following:

43 23 Sec. 78. Section 515E.4, subsection 1, paragraph c, Code
43 24 2005, is amended by striking the paragraph.

43 25 Sec. 79. Section 515E.8, subsection 3, Code 2005, is
43 26 amended by striking the subsection.

43 27 Sec. 80. Section 515F.4, subsection 5, Code 2005, is
43 28 amended to read as follows:

43 29 5. The rates may contain a provision for contingencies and
43 30 an allowance permitting a reasonable profit. In determining
43 31 the reasonableness of the profit, consideration shall be given

43 32 to investment income attributable to unearned premium and loss
43 33 reserves. ~~Income from other sources shall not be considered.~~

43 34 Sec. 81. Section 515F.8, subsection 3, paragraph a,
43 35 subparagraph (3), Code 2005, is amended to read as follows:

44 1 (3) The name and address of one or more residents of this
44 2 state upon whom notices, ~~process affecting it,~~ or orders of
44 3 the commissioner may be served.

44 4 Sec. 82. Section 515F.13, subsection 2, paragraph c, Code
44 5 2005, is amended to read as follows:

44 6 c. A pool shall file with the commissioner a copy of its
44 7 constitution; its articles of incorporation, agreement, or
44 8 association; its bylaws, rules, and regulations governing its
44 9 activities; its members; the name and address of a resident of
44 10 this state upon whom notices or orders of the commissioner ~~or~~
~~44 11 process~~ may be served; and any changes in amendments or
44 12 changes in the foregoing.

44 13 Sec. 83. Section 515G.1, Code 2005, is amended by adding
44 14 the following new subsections:

44 15 NEW SUBSECTION. 2A. "Eligible policyholder" means a
44 16 policyholder who had a policy in force with a mutual insurer
44 17 at any time during the three-year period immediately preceding
44 18 the date of the adoption of a plan of conversion by the mutual
44 19 insurer's board of directors, including the date of adoption
44 20 of the plan of conversion, and who, therefore, is eligible to
44 21 receive an equitable share of the remaining statutory surplus
44 22 of the mutual insurer, after provision for the base value for
44 23 voting policyholders, as a result of the conversion.

44 24 NEW SUBSECTION. 5. "Voting policyholder" means a
44 25 policyholder who had a policy in force as provided in section
44 26 515G.4.

44 27 Sec. 84. Section 515G.2, Code 2005, is amended to read as
44 28 follows:

44 29 515G.2 MUTUAL INSURER BECOMING STOCK COMPANY ==
44 30 AUTHORIZATION.

44 31 1. A mutual insurer may become a stock insurance company
44 32 pursuant to a plan of conversion established and approved in
44 33 the manner provided by this chapter. The plan of conversion
44 34 shall be adopted by the board of directors of the insurer to
44 35 become effective on a future stated date.

45 1 2. A plan of conversion may provide that a mutual
45 2 insurance company may convert into a domestic stock insurance
45 3 company, convert and merge, or convert and consolidate with a
45 4 domestic stock insurance company, as provided in chapter 490
45 5 or chapter 491, whichever is applicable. However, a mutual
45 6 insurance company is not required to comply with sections
45 7 490.1102 and 490.1104 or sections 491.102 through 491.105
45 8 relating to approval of merger or consolidation plans by
45 9 boards of directors and shareholders.

45 10 3. If conversion from a mutual insurer to a stock company
45 11 is to be undertaken by a transaction which would be governed
45 12 by chapter 521 or 521A, but the plan of conversion adopted by
45 13 the board of directors of the insurer includes approval of an
45 14 acquisition of control, merger, consolidation, or reinsurance,
45 15 then chapter 521 or 521A shall not be applicable to the
45 16 transaction. However, in that case, the commissioner may
45 17 require any information from the person or persons acquiring
45 18 control of the insurer as could be required under chapter 521
45 19 or 521A, and may disapprove the transaction on any basis on
45 20 which it could be disapproved under chapter 521 or 521A.

45 21 Sec. 85. Section 515G.3, subsection 3, Code 2005, is
45 22 amended to read as follows:

45 23 3. The manner and basis of exchanging the ~~equitable share~~
~~45 24 of each mutual policyholder with a policy in force as provided~~
~~45 25 in section 515G.4 for securities or other consideration, or~~
~~45 26 both, of the stock corporation or an affiliate into which the~~
~~45 27 mutual insurer is to be converted and the disposition of any~~
~~45 28 unclaimed shares. The plan shall also provide that each~~
~~45 29 person who had a policy of insurance in effect on the date of~~
~~45 30 adoption of the plan is entitled to receive in exchange for an~~
~~45 31 equitable share, without additional payment, consideration~~
~~45 32 payable in voting common shares of the insurer, or other~~
~~45 33 consideration, or both. The equitable share of the~~
~~45 34 policyholder in the mutual insurer may include a rights of~~
~~45 35 each voting policyholder and each eligible policyholder of the~~
46 1 mutual insurer to be converted to a stock company pursuant to
46 2 this chapter. Such exchange may include a base value for each
46 3 voting policyholder in recognition of the voting
46 4 policyholder's voting rights as a mutual policyholder as well
46 5 as consideration to be provided to each eligible policyholder
46 6 in exchange for the eligible policyholder's rights as a mutual
46 7 policyholder of the mutual insurer to be converted. After

46 8 ~~determining the base value for to be provided to each voting~~
46 9 ~~policyholder in recognition of the voting rights of the voting~~
46 10 ~~policyholder and the balance of such, the equitable share of~~
46 11 ~~its each eligible policyholder in the remaining statutory~~
46 12 ~~surplus of the mutual insurer, plus any adjustments for~~
46 13 ~~nonadmitted assets or additional value permitted by the~~
46 14 ~~commissioner, to be provided to each eligible policyholder~~
46 15 ~~shall be determined by the ratio which the net earned premiums~~
46 16 ~~the eligible policyholder has properly and timely paid to the~~
46 17 ~~mutual insurer on insurance policies in effect during the~~
46 18 ~~three years three-year period immediately preceding the~~
46 19 ~~adoption of the plan of conversion, including the date of the~~
46 20 ~~adoption of the plan of conversion, bears to the total net~~
46 21 ~~earned premiums received by the mutual insurer from all~~
46 22 ~~eligible policyholders during that three-year period. The~~
46 23 ~~base value to be provided to each voting policyholder in~~
46 24 ~~recognition of voting rights and the equitable share of each~~
46 25 ~~eligible policyholder may be exchanged, without additional~~
46 26 ~~payment, for securities or other consideration, or both, of~~
46 27 ~~the stock corporation or an affiliate into which the mutual~~
46 28 ~~insurer is to be converted. If the base value for each voting~~
46 29 ~~policyholder or the equitable share of the each eligible~~
46 30 ~~policyholder entitles the policyholder to the purchase of a~~
46 31 ~~fractional share of stock, the policyholder has the option to~~
46 32 ~~receive the value of the fractional share in cash or purchase~~
46 33 ~~a full share by paying the balance in cash. However,~~
46 34 ~~policyholders due a de minimus amount, as established by the~~
46 35 ~~commissioner, need not be offered the value of the fractional~~
47 1 ~~share or the option to purchase a full share. The plan shall~~
47 2 ~~also provide for the disposition of any unclaimed shares.~~

47 3 Sec. 86. Section 516E.1, Code Supplement 2005, is amended
47 4 by adding the following new subsections:

47 5 NEW SUBSECTION. 2A. "Financial institution" means an
47 6 institution that is all of the following:
47 7 a. Organized or, in the case of the office of a foreign
47 8 banking organization located in the United States, licensed,
47 9 under the laws of the United States or any state, and granted
47 10 authority to operate with fiduciary powers.

47 11 b. Regulated, supervised, and examined by federal or state
47 12 authorities empowered to regulate banks and trust companies.

47 13 NEW SUBSECTION. 5A. "Premium" means the consideration
47 14 paid to an insurer for a reimbursement insurance policy.

47 15 NEW SUBSECTION. 9A. "Service company fee" means the
47 16 consideration paid for a service contract.

47 17 Sec. 87. Section 516E.1, subsection 8, Code Supplement
47 18 2005, is amended to read as follows:

47 19 8. "Reimbursement insurance policy" means a contractual
47 20 ~~liability insurance policy of insurance~~ issued to a service
47 21 ~~company and pursuant to which the insurer agrees, for the~~
47 22 ~~benefit of the service contract holders, to discharge all of~~
47 23 ~~the obligations and liabilities of the service company under~~
47 24 ~~the terms of service contracts issued by the service company~~
47 25 ~~in the event of nonperformance by the service company. For~~
47 26 ~~the purposes of this definition, "all obligations and~~
47 27 ~~liabilities" include, but are not limited to, failure of the~~
47 28 ~~service company to perform under the service contract and the~~
47 29 ~~return of the unearned service company fee in the event of the~~
47 30 ~~service company's unwillingness or inability to reimburse the~~
47 31 ~~unearned service company fee in the event of termination of a~~
47 32 ~~service contract that either provides reimbursement to a~~
47 33 ~~service company under the terms of insured service contracts~~
47 34 ~~issued or sold by the service company, or, in the event of~~
47 35 ~~nonperformance by the service company, pays, on behalf of the~~
48 1 ~~service company, all covered contractual obligations incurred~~
48 2 ~~by the service company under the terms of the insured service~~
48 3 ~~contracts issued or sold by the service company.~~

48 4 Sec. 88. Section 516E.2, subsection 3, Code Supplement
48 5 2005, is amended to read as follows:

48 6 3. In order to assure the faithful performance of a
48 7 service company's obligations to its service contract holders,
48 8 ~~the administrator may by rule require service contracts shall~~
48 9 ~~be secured by a reimbursement insurance policy in compliance~~
48 10 ~~with the requirements set forth in section 516E.4 or the~~
48 11 ~~service company shall comply with the financial responsibility~~
48 12 ~~and security standards set forth in section 516E.21.~~

48 13 Sec. 89. Section 516E.2, subsection 4, paragraph f, Code
48 14 Supplement 2005, is amended by striking the paragraph.

48 15 Sec. 90. Section 516E.3, Code Supplement 2005, is amended
48 16 to read as follows:

48 17 516E.3 FILING AND FEE REQUIREMENTS.
48 18 1. SERVICE COMPANIES.

48 19 a. A service contract shall not be issued, sold, or
48 20 offered for sale in this state unless a true and correct copy
48 21 of the service contract, and the service company's
48 22 reimbursement insurance policy, if applicable, have been filed
48 23 with the commissioner by the service company.

48 24 b. ~~A service company shall file a consent to service of~~
~~48 25 process on the commissioner, and such other information as the~~
48 26 commissioner requires, annually with the commissioner no later
48 27 than the first day of August. If the first day of August
48 28 falls on a weekend or a holiday, the date for filing shall be
48 29 the next business day. In addition to the annual filing, the
48 30 service company shall promptly file copies of any amended
48 31 documents if material amendments have been made in the
48 32 materials on file with the commissioner. If an annual filing
48 33 is made after the first of August and sales have occurred
48 34 during the period when the service company was in
48 35 noncompliance with this section, the commissioner shall assess
49 1 an additional filing fee that is two times the amount normally
49 2 required for an annual filing. A fee shall not be charged for
49 3 interim filings made to keep the materials filed with the
49 4 division current and accurate. The annual filing shall be
49 5 accompanied by a filing fee determined by the commissioner
49 6 which shall be sufficient to defray the costs of administering
49 7 this chapter.

49 8 c. A service company shall promptly file the following
49 9 information with the commissioner:

49 10 (1) A change in the name or ownership of the service
49 11 company.

49 12 (2) The termination of the service company's business.

49 13 The service company is not required to submit a fee as part
49 14 of this filing.

49 15 2. PROVIDERS.

~~49 16 a. A service contract shall not be sold or offered for~~
~~49 17 sale in this state unless a true and correct copy of the~~
~~49 18 service contract has been filed with the commissioner by the~~
~~49 19 provider.~~

~~49 20 b. a. A provider shall file a consent to service of~~
~~49 21 process on the commissioner, a notice with the name and~~
~~49 22 ownership of the provider, and such other information as the~~
49 23 commissioner requires, annually with the commissioner no later
49 24 than August 1. If August 1 falls on a weekend or a holiday,
49 25 the date for filing shall be the next business day. In
49 26 addition to the annual filing, the provider shall promptly
49 27 file copies of any amended documents if material amendments
49 28 have been made in the materials on file with the commissioner.
49 29 If an annual filing is made after August 1 and sales have
49 30 occurred during the period when the provider was in
49 31 noncompliance with this section, the commissioner shall assess
49 32 an additional filing fee that is two times the amount normally
49 33 required for an annual filing. A fee shall not be charged for
49 34 interim filings made to keep the materials filed with the
49 35 division current and accurate. The annual filing shall be
50 1 accompanied by a filing fee in the amount of one hundred
50 2 dollars.

50 3 ~~c. b.~~ A provider shall promptly file the following
50 4 information with the commissioner:

50 5 (1) A change in the name or ownership of the provider.

50 6 (2) The termination of the provider's business.

50 7 A provider is not required to submit a fee as part of this
50 8 filing.

50 9 Sec. 91. Section 516E.4, subsection 1, Code Supplement
50 10 2005, is amended by striking the subsection and inserting in
50 11 lieu thereof the following:

50 12 1. REQUIREMENTS. A reimbursement insurance policy
50 13 insuring a service contract issued, sold, or offered for sale
50 14 in this state shall provide for all of the following:

50 15 a. The reimbursement insurance policy shall, in the event
50 16 of the service company's failure to perform under the service
50 17 contract or otherwise, either reimburse or pay on behalf of
50 18 the service company any covered amounts that the service
50 19 company is legally obligated to pay under the service
50 20 contract, including the return of any unearned service company
50 21 fee owed by the service company to the service contract
50 22 holder.

50 23 b. An insurer that issues a reimbursement insurance policy
50 24 shall assume full responsibility for the administration of
50 25 claims made pursuant to a service contract in the event that
50 26 the service company is unable to do so.

50 27 c. If a service covered under a service contract is not
50 28 provided by the service company within sixty days of proof of
50 29 loss by the service contract holder, the service contract

50 30 holder is entitled to apply directly against the reimbursement
50 31 insurance policy of the service company.

50 32 Sec. 92. Section 516E.4, Code Supplement 2005, is amended
50 33 by adding the following new subsections:

50 34 NEW SUBSECTION. 4. OBLIGATIONS INSURED. If a service
50 35 company secures its service contracts with a reimbursement
51 1 insurance policy, the reimbursement insurance policy shall
51 2 insure one hundred percent of the obligations of all service
51 3 contracts sold by the service company.

51 4 NEW SUBSECTION. 5. QUALIFICATIONS OF INSURER. An insurer
51 5 issuing a reimbursement insurance policy under this chapter
51 6 shall be authorized, registered, or otherwise permitted to
51 7 transact business in this state, or shall be an excess and
51 8 surplus lines insurer authorized, registered, or otherwise
51 9 permitted to transact business in this state, and shall meet
51 10 one of the following requirements:

51 11 a. At the time the policy is filed with the commissioner,
51 12 and continuously thereafter, the insurer maintains surplus as
51 13 to policyholders and paid-in capital of at least fifteen
51 14 million dollars and annually files copies of the insurer's
51 15 financial statements, national association of insurance
51 16 commissioners annual statement, and actuarial certification,
51 17 if required and filed in the insurer's state of domicile.

51 18 b. At the time the policy is filed with the commissioner
51 19 and continuously thereafter, the insurer does all of the
51 20 following:

51 21 (1) Maintains surplus as to policyholders and paid-in
51 22 capital of less than fifteen million dollars but at least ten
51 23 million dollars.

51 24 (2) Demonstrates to the satisfaction of the commissioner
51 25 that the insurer maintains a ratio of net written premiums,
51 26 wherever written, to surplus as to policyholders and paid-in
51 27 capital of not greater than three to one.

51 28 (3) Files copies annually of the insurer's financial
51 29 statements, national association of insurance commissioners
51 30 annual statement, and actuarial certification, if required and
51 31 filed in the insurer's state of domicile.

51 32 Sec. 93. Section 516E.5, subsection 1, Code Supplement
51 33 2005, is amended to read as follows:

51 34 1. a. A service contract insured by a reimbursement
51 35 insurance policy shall not be issued, sold, or offered for
52 1 sale in this state unless the contract conspicuously states
52 2 that the obligations of the service company to the service
52 3 contract holder are guaranteed under a reimbursement insurance
52 4 policy, including a statement in substantially the following
52 5 form:

52 6 "Obligations of the service company under this service
52 7 contract are guaranteed under a reimbursement insurance
52 8 policy. If the service company fails to pay or provide
52 9 service on a claim within sixty days after proof of loss has
52 10 been filed with the service company, the service contract
52 11 holder is entitled to make a claim directly against the
52 12 reimbursement insurance policy."

52 13 b. A claim against a reimbursement insurance policy shall
52 14 also include a claim for return of the unearned ~~consideration~~
52 15 ~~service company fee paid for the service contract in excess of~~
52 16 ~~the premium paid.~~ A service contract shall conspicuously
52 17 state the name and address of the issuer of the reimbursement
52 18 insurance policy for that service contract.

52 19 c. A service contract issued, sold, or offered for sale in
52 20 this state that is not insured under a reimbursement insurance
52 21 policy shall contain a statement in substantially the
52 22 following form:

52 23 "Obligations of the service company under this service
52 24 contract are backed by the full faith and credit of the
52 25 service company."

52 26 Sec. 94. Section 516E.5, subsection 2, paragraphs a and b,
52 27 Code Supplement 2005, are amended to read as follows:

52 28 a. Clearly and conspicuously states the name and address
52 29 of the service company, and describes the service company's
52 30 obligations to perform services or to arrange for the
52 31 performance of services under the service contract, and states
52 32 that the obligations of the service company to the service
52 33 contract holder are guaranteed under a reimbursement insurance
52 34 policy.

52 35 b. Clearly and conspicuously states the name and address
53 1 of the issuer of the reimbursement insurance policy, if
53 2 applicable.

53 3 Sec. 95. Section 516E.9, Code Supplement 2005, is amended
53 4 to read as follows:

53 5 516E.9 MISREPRESENTATIONS OF STATE APPROVAL.

53 6 A service company shall not represent or imply in any
53 7 manner that the service company has been sponsored,
53 8 recommended, or approved or that the service company's
53 9 abilities or qualifications have in any respect been passed
53 10 upon by the state of Iowa, including the commissioner, the
53 11 insurance division, or the division's securities and regulated
53 12 industries bureau.

53 13 Sec. 96. Section 516E.15, subsection 1, paragraph b, Code
53 14 Supplement 2005, is amended to read as follows:

53 15 b. A provider, ~~or service company, or third-party~~
53 16 ~~administrator~~ that fails to file documents and information
53 17 with the commissioner as required pursuant to section 516E.3
53 18 may be subject to a civil penalty. The amount of the civil
53 19 penalty shall not be more than four hundred dollars plus two
53 20 dollars for each service contract that the person executed
53 21 prior to satisfying the filing requirement. However, a person
53 22 who fails to file information regarding a change in the name
53 23 or the termination of the business of a provider, ~~or service~~
53 24 ~~company, or third-party administrator~~ as required pursuant to
53 25 section 516E.3 is subject to a civil penalty of not more than
53 26 five hundred dollars.

53 27 Sec. 97. NEW SECTION. 516E.20 APPLICATION OF INSURANCE
53 28 LAWS.

53 29 The sale of a service contract under this chapter shall not
53 30 be deemed to include the sale of insurance. Unless a service
53 31 company, third-party administrator, or provider is otherwise
53 32 engaged in the sale of insurance, the insurance laws of this
53 33 state are not applicable to the service company, third party
53 34 administrator, or provider of such a service contract.

53 35 Sec. 98. NEW SECTION. 516E.21 FINANCIAL RESPONSIBILITY
54 1 AND SECURITY REQUIREMENTS IN LIEU OF REIMBURSEMENT INSURANCE
54 2 POLICY.

54 3 1. In lieu of obtaining a reimbursement insurance policy
54 4 as provided in section 516E.2, subsection 3, a service company
54 5 may secure its service contracts by maintaining a funded
54 6 reserve account which complies with all of the following:

54 7 a. The reserve account shall be in a custodial account at
54 8 a financial institution that is dedicated to the service
54 9 company's outstanding obligations under service contracts
54 10 issued and outstanding in this state.

54 11 b. The reserve account shall comply with rules adopted by
54 12 the commissioner pursuant to chapter 17A establishing
54 13 requirements for reserve accounts, reserve account agreements,
54 14 or the method of valuing marketable securities as necessary to
54 15 protect holders of service contracts issued and outstanding in
54 16 this state. The commissioner may require amendments to
54 17 reserve account agreements that are not in compliance with the
54 18 provisions of this section.

54 19 c. The reserve account shall not be an amount that is less
54 20 than forty percent of the gross consideration received, less
54 21 claims paid, on the sale of service contracts issued and
54 22 outstanding by the service company in this state.

54 23 d. The reserve account shall be subject to examination and
54 24 review by the commissioner or a designee on the premises of
54 25 the financial institution where the account is located and the
54 26 financial institution shall, upon request, produce documents
54 27 or records as necessary to allow the commissioner or a
54 28 designee to verify the value and safety of the assets of the
54 29 reserve account.

54 30 2. The service company shall annually provide the
54 31 commissioner with one of the following:

54 32 a. A copy of the service company's financial statements.

54 33 b. If the service company's financial statements are
54 34 consolidated with those of its parent company, a copy of the
54 35 parent company's most recent form 10-K or form 20-F filed with
55 1 the federal securities and exchange commission within the last
55 2 calendar year, or if the parent company does not file with the
55 3 federal securities and exchange commission, a copy of the
55 4 parent company's audited financial statements showing a net
55 5 worth of at least one hundred million dollars. If the service
55 6 company's financial statements are consolidated with those of
55 7 its parent company, the service company shall also provide a
55 8 copy of a written agreement by the parent company guaranteeing
55 9 the obligations of the service company under service contracts
55 10 issued and outstanding by the service company in this state.

55 11 3. If a service contract company secures its contracts by
55 12 maintaining a funded reserve account as provided in subsection
55 13 1 but does not have or maintain a minimum net worth or
55 14 stockholders equity of one hundred million dollars or more,
55 15 the service company shall also meet one of the following
55 16 requirements:

55 17 a. Maintain a security deposit trust fund which complies
55 18 with all of the following:
55 19 (1) The security deposit trust fund shall be in an account
55 20 at a financial institution.
55 21 (2) The security deposit trust fund shall be held,
55 22 invested, and administered for the benefit and protection of
55 23 service contract holders in this state in the event of
55 24 nonperformance of the service contract by the service company.
55 25 (3) The security deposit trust fund shall comply with
55 26 rules adopted by the commissioner pursuant to chapter 17A,
55 27 establishing the form, terms, and conditions of security
55 28 deposit trust fund agreements established pursuant to this
55 29 paragraph "a".

55 30 (4) The security deposit trust fund shall be subject to
55 31 recovery by any service contract holder sustaining actionable
55 32 injury due to the failure of the service company to perform
55 33 its obligations under the service contract. A holder of a
55 34 service contract issued in this state may, in the event of
55 35 nonperformance by the service company, maintain an action and
56 1 file a claim against the security deposit trust fund
56 2 maintained by the service company.

56 3 (5) The security deposit trust fund shall not be
56 4 commingled with other funds of the service company.

56 5 (6) The security deposit trust fund shall have a value of
56 6 not less than five percent of the gross consideration received
56 7 by the service company, less claims paid, for the sale of all
56 8 service contracts issued and in force in this state, but not
56 9 less than twenty-five thousand dollars, and consists of one or
56 10 more of the following:

56 11 (a) Cash.

56 12 (b) Securities of the type eligible for deposit by
56 13 insurers authorized to transact business in this state.

56 14 (c) Certificates of deposit.

56 15 (d) Another form of security as prescribed by the
56 16 commissioner by rule.

56 17 b. File a surety bond with the commissioner that is issued
56 18 by a surety company authorized to do business in this state,
56 19 and that complies with all of the following:

56 20 (1) The surety bond is conditioned upon the service
56 21 company's faithful performance of service contracts subject to
56 22 this chapter.

56 23 (2) The surety bond is for the benefit of and subject to
56 24 recovery by any service contract holder sustaining actionable
56 25 injury due to the failure of the service company to perform
56 26 its obligations under a service contract. The surety's
56 27 liability shall extend to all service contracts issued by the
56 28 service company and outstanding in this state. A holder of a
56 29 service contract issued in this state may, in the event of
56 30 nonperformance of the contract by the service company,
56 31 maintain an action and file a claim against the surety bond
56 32 filed by the service company.

56 33 (3) The surety bond is for an amount that is not less than
56 34 five percent of the gross consideration received by the
56 35 service company, less claims paid, for the sale of all service
57 1 contracts issued and in force in this state, but not less than
57 2 twenty-five thousand dollars.

57 3 (4) The surety bond cannot be canceled by the surety
57 4 except upon written notice of cancellation by the surety to
57 5 the commissioner by restricted certified mail, and not prior
57 6 to the expiration of sixty days after receipt of the notice by
57 7 the commissioner.

57 8 Sec. 99. Section 518.15, Code 2005, is amended to read as
57 9 follows:

57 10 518.15 REPORTS, AND EXAMINATIONS, AND RENEWALS.

57 11 1. The president or the vice president and secretary of
57 12 each association authorized to do business under this chapter
57 13 shall annually before the first day of March prepare under
57 14 oath and file with the commissioner of insurance a full, true
57 15 and complete statement of the condition of such association on
57 16 the last day of the preceding year. The commissioner of
57 17 insurance shall prescribe the report forms and shall determine
57 18 the information and data to be reported.

57 19 2. Such associations shall pay the same expenses of any
57 20 examination made or ordered to be made by the commissioner of
57 21 insurance and the same fees for the annual reports and annual
57 22 certificates of authority as are required to be paid by
57 23 domestic companies organized and doing business under chapter
57 24 515, ~~which certificates shall expire June 1 of the year~~
57 25 ~~following the date of issue.~~

57 26 3. A certificate of authority of an association formed
57 27 under this chapter expires on June 1 succeeding its issue and

57 28 shall be renewed annually so long as the association transacts
57 29 its business in accordance with all legal requirements. An
57 30 association shall submit annually, on or before March 1, a
57 31 completed application for renewal of its certificate of
57 32 authority.

57 33 4. The commissioner shall refuse to renew the certificate
57 34 of authority of an association that fails to comply with the
57 35 provisions of this chapter.

58 1 5. An association formed under this chapter that fails to
58 2 timely file the statement required under subsection 1 or the
58 3 application for renewal required under subsection 3 is in
58 4 violation of this section and shall pay an administrative
58 5 penalty of five hundred dollars to the treasurer of state for
58 6 deposit in the general fund of the state as provided in
58 7 section 505.7. The association's right to transact new
58 8 business in this state shall immediately cease until the
58 9 association has fully complied with this chapter.

58 10 6. The commissioner may give notice to an association that
58 11 the association has not timely filed the statement required
58 12 under subsection 1 or an application for renewal under
58 13 subsection 3 and is in violation of this section. If the
58 14 association fails to file the required statement or
58 15 application and comply with this section within ten days of
58 16 the date of the notice, the association shall pay an
58 17 additional administrative penalty of one hundred dollars for
58 18 each day that the failure continues to the treasurer of state
58 19 for deposit in the general fund of the state as provided in
58 20 section 505.7.

58 21 Sec. 100. Section 518A.18, Code 2005, is amended to read
58 22 as follows:

58 23 518A.18 ANNUAL REPORT == PENALTIES.

58 24 1. An association doing business under this chapter, on or
58 25 before March 1 of each year, shall prepare under oath and file
58 26 with the commissioner of insurance an accurate and complete
58 27 statement of the condition of the association as of the last
58 28 day of the preceding calendar year. The statement shall
58 29 conform to the annual statement blank prepared pursuant to
58 30 instructions prescribed by the commissioner. All financial
58 31 information reflected in the annual report shall be kept and
58 32 prepared pursuant to accounting practices and procedures
58 33 prescribed by the commissioner. Statements filed with the
58 34 commissioner pursuant to this section shall be tabulated and
58 35 published by the commissioner of insurance in the annual
59 1 report of insurance.

59 2 2. An association that fails to timely file the statement
59 3 required under subsection 1 is in violation of this section
59 4 and shall pay an administrative penalty of five hundred
59 5 dollars for each violation to the treasurer of state for
59 6 deposit in the general fund of the state as provided in
59 7 section 505.7.

59 8 3. The commissioner may give notice to an association that
59 9 the association has not timely filed the statement required
59 10 under subsection 1 and is in violation of this section. If
59 11 the association fails to file the required statement and
59 12 comply with this section within ten days of the date of the
59 13 notice, the association shall pay an additional administrative
59 14 penalty of one hundred dollars for each day that each failure
59 15 continues to the treasurer of state for deposit in the general
59 16 fund of the state as provided in section 505.7.

59 17 4. The association's right to transact new business in
59 18 this state shall immediately cease until the association has
59 19 fully complied with this chapter.

59 20 Sec. 101. Section 518A.35, subsection 1, Code 2005, is
59 21 amended to read as follows:

59 22 1. A state mutual insurance association doing business
59 23 under this chapter shall on or before the first day of March,
59 24 each year, pay to the director of revenue, or a depository
59 25 designated by the director, a sum equivalent to the applicable
59 26 percent of the gross receipts from premiums and fees for
59 27 business done within the state, including all insurance upon
59 28 property situated in the state without including or deducting
59 29 any amounts received or paid for reinsurance. However, a
59 30 company reinsuring windstorm or hail risks written by county
59 31 mutual insurance associations is required to pay the
59 32 applicable percent tax on the gross amount of reinsurance
59 33 premiums received written upon such risks, but after deducting
59 34 the amount returned upon canceled policies and rejected
59 35 applications covering property situated within the state, and
60 1 dividends returned to policyholders on property situated
60 2 within the state. For purposes of this section, "applicable
60 3 percent" means the same as specified in section 432.1,

60 4 subsection 4.

60 5 Sec. 102. Section 518A.40, Code 2005, is amended to read
60 6 as follows:

60 7 518A.40 ANNUAL FEES == RENEWALS == PENALTIES.

60 8 1. Such associations shall pay the same fees for annual
60 9 reports and annual certificates of authority as are required
60 10 to be paid by domestic companies organized and doing business
60 11 under chapter 515, which certificates shall expire May 1 of
60 12 the year following the date of issue.

60 13 2. A certificate of authority of an association formed
60 14 under this chapter shall be renewed annually so long as the
60 15 organization transacts its business in accordance with all
60 16 legal requirements. Such an association shall submit
60 17 annually, on or before March 1, a completed application for
60 18 renewal of its certificate of authority.

60 19 3. The commissioner shall refuse to renew the certificate
60 20 of authority of a state mutual insurance association that
60 21 fails to comply with the provisions of this chapter and the
60 22 association's right to transact new business in this state
60 23 shall immediately cease until the association has so complied.

60 24 4. An association that fails to timely file the
60 25 application for renewal required under subsection 2 is in
60 26 violation of this section and shall pay an administrative
60 27 penalty of five hundred dollars to the treasurer of state for
60 28 deposit in the general fund of the state as provided in
60 29 section 505.7.

60 30 Sec. 103. Section 518C.17, Code 2005, is amended to read
60 31 as follows:

60 32 518C.17 ACTIONS AGAINST THE ASSOCIATION.

60 33 An action against the association shall be brought against
60 34 it in the association's own name and only in the Polk county
60 35 district court. Service of original notice in an action
61 1 against the association ~~may~~ shall be made on any officer of
61 2 the association ~~or upon the commissioner of insurance on its~~
61 3 ~~behalf. The commissioner shall promptly transmit any notice~~
61 4 ~~served upon the commissioner to the association.~~

61 5 Sec. 104. Section 520.4, subsection 9, Code 2005, is
61 6 amended by striking the subsection.

61 7 Sec. 105. Section 520.5, Code 2005, is amended to read as
61 8 follows:

61 9 520.5 ACTIONS == VENUE ~~== COMMISSIONER AS PROCESS AGENT.~~

61 10 Concurrently with the filing of the declaration provided
61 11 for by the terms of section 520.4, the attorney shall file
61 12 with the commissioner of insurance, an instrument in writing
61 13 executed by the attorney for said subscribers, conditioned
61 14 that, upon the issuance of certificate of authority provided
61 15 for in this chapter, action may be brought in the county in
61 16 which the property or person insured thereunder is located,
61 17 and that service of process shall be had upon ~~the commissioner~~
61 18 ~~of insurance or upon~~ the attorney in fact in all suits in this
61 19 state, whether arising out of such policies, contracts,
61 20 agreements or otherwise, which service shall be valid and
61 21 binding upon all subscribers exchanging at any time reciprocal
61 22 or interinsurance contracts through such attorney. All suits
61 23 of every kind and description brought against such reciprocal
61 24 exchange or the subscribers thereto on account of their
61 25 connection therewith, must be brought against the attorney in
61 26 fact therefor or the exchange as such, and shall not be
61 27 brought against any of the subscribers thereto individually on
61 28 account of their connection with or membership in such
61 29 reciprocal exchange, and must be brought in the manner and
61 30 method above provided.

61 31 Sec. 106. Section 520.7, Code 2005, is amended to read as
61 32 follows:

61 33 520.7 JUDGMENT == SATISFACTION.

61 34 A judgment rendered in any such case where service of
61 35 process has been so had upon the ~~commissioner of insurance,~~
62 1 attorney in fact shall be valid and binding against any and
62 2 all such subscribers as their interests appear and such
62 3 judgment may be satisfied out of the funds in the possession
62 4 of the attorney belonging to such subscribers.

62 5 Sec. 107. Section 520.10, Code 2005, is amended to read as
62 6 follows:

62 7 520.10 ANNUAL REPORT == EXAMINATION == PENALTIES.

62 8 1. Such attorney shall, within the time limited for filing
62 9 the annual statement by insurance companies transacting the
62 10 same kind of business, make a report, under oath, to the
62 11 commissioner of insurance for each calendar year, showing the
62 12 financial condition of affairs at the office where such
62 13 contracts are issued and shall, at any and all times, furnish
62 14 such additional information and reports as may be required;

62 15 provided, however, that the attorney shall not be required to
62 16 furnish the names and addresses of any subscribers except in
62 17 case of an unpaid final judgment. The business affairs,
62 18 records, and assets of any such organization shall be subject
62 19 to examination by the commissioner of insurance at any
62 20 reasonable time, and such examination shall be at the expense
62 21 of the organization examined.

62 22 2. A certificate of authority of a reciprocal or
62 23 interinsurance insurer authorized under this chapter shall be
62 24 renewed annually in accordance with section 520.12 so long as
62 25 the insurer transacts its business in accordance with all
62 26 legal requirements.

62 27 3. The commissioner shall refuse to renew the certificate
62 28 of authority of a reciprocal or interinsurance insurer that
62 29 fails to comply with the provisions of this chapter and the
62 30 insurer's right to transact new business in this state shall
62 31 immediately cease until the insurer has so complied.

62 32 4. A reciprocal or interinsurance insurer that fails to
62 33 timely file the report required under subsection 1 is in
62 34 violation of this section and shall pay an administrative
62 35 penalty of five hundred dollars to the treasurer of state for
63 1 deposit in the general fund of the state as provided in
63 2 section 505.7.

63 3 5. The commissioner may give notice to a reciprocal or
63 4 interinsurance insurer that the insurer has not timely filed
63 5 the report required under subsection 1 and is in violation of
63 6 this section. If the insurer fails to file the required
63 7 report and comply with this section within ten days of the
63 8 date of the notice, the insurer shall pay an additional
63 9 administrative penalty of one hundred dollars for each day
63 10 that the failure continues to the treasurer of state for
63 11 deposit in the general fund of the state as provided in
63 12 section 505.7.

63 13 Sec. 108. Section 520.12, Code 2005, is amended to read as
63 14 follows:

63 15 520.12 CERTIFICATE OF AUTHORITY == RENEWAL == PENALTIES.

63 16 1. Upon compliance with the requirements of this chapter,
63 17 the commissioner of insurance shall issue a certificate of
63 18 authority or a license to the attorney, authorizing the
63 19 attorney to make such contracts of insurance, which license
63 20 shall specify the kind or kinds of insurance and shall contain
63 21 the name of the attorney, the location of the principal office
63 22 and the name or designation under which such contracts of
63 23 insurance are issued. The certificate of authority shall
63 24 expire on the first day of June next succeeding its issue, and
63 25 shall be renewed annually as long as the company transacts
63 26 business in accordance with the requirements of law. A copy
63 27 of the certificate, when certified by the commissioner of
63 28 insurance, shall be admissible in evidence for or against a
63 29 company with the same effect as the original.

63 30 2. A reciprocal or interinsurance insurer shall submit
63 31 annually, on or before March 1, a completed application for
63 32 renewal of the insurer's certificate of authority. An insurer
63 33 that fails to timely file an application for renewal shall pay
63 34 an administrative fee of five hundred dollars to the treasurer
63 35 of state for deposit in the general fund of the state as
64 1 provided in section 505.7.

64 2 Sec. 109. Section 521.1, Code 2005, is amended to read as
64 3 follows:

64 4 521.1 DEFINITIONS.

64 5 For the purposes of this chapter:

64 6 1. "Affected company" or "affected mutual company" means
64 7 the company being merged with and into the surviving company.

64 8 2. "Commission" means the commission created in section
64 9 521.5.

64 10 3. "Commissioner" means the commissioner of insurance.

64 11 4. "Company" or "companies" when used in this chapter
64 12 means a company or association organized under chapter 508,
64 13 511, 515, 518, 518A, or 520, and includes a mutual insurance
64 14 holding company organized pursuant to section 521A.14.

64 15 Sec. 110. Section 521.2, Code 2005, is amended to read as
64 16 follows:

64 17 521.2 ~~LIFE COMPANIES~~ == CONSOLIDATION, MERGER, AND
64 18 REINSURANCE.

64 19 1. One or more domestic mutual insurance companies
64 20 organized under chapter 491 may merge or consolidate with a
64 21 domestic or foreign mutual insurance company as provided in
64 22 this chapter. Sections 491.101 through 491.105 shall not be
64 23 applicable to a merger or consolidation of a domestic mutual
64 24 insurance company pursuant to this chapter.

64 25 2. One or more domestic insurance companies organized

64 26 under chapter 490 may merge with a domestic or foreign
64 27 insurance company as provided in chapter 490 with the approval
64 28 of the commission pursuant to this chapter.

64 29 3. The provisions of this chapter shall not be applicable
64 30 to the merger or consolidation of a domestic mutual company
64 31 with a stock company pursuant to chapter 508B or chapter 515G.

64 32 4. A domestic mutual insurance company organized under the
64 33 laws of this state to do the business of life insurance,
64 34 either on the stock, mutual, stipulated premium, or assessment
64 35 plan, shall not consolidate with any other company or reinsure
65 1 its risks, or any part of such risks, with any other company,
65 2 or assume or reinsure the whole or any part of the risks of
65 3 any other company, except as provided in this chapter.
65 4 However, this chapter shall not be construed to prevent any
65 5 company, as defined in section 521.1, from reinsuring a
65 6 fractional part of any ~~single~~ risk.

65 7 Sec. 111. Section 521.3, Code 2005, is amended by striking
65 8 the section and inserting in lieu thereof the following:

65 9 521.3 SUBMISSION OF PLAN AND APPLICATION TO COMMISSIONER
65 10 OF INSURANCE.

65 11 Any company proposing to consolidate, merge, or enter into
65 12 any reinsurance contract with another company shall file a
65 13 plan and an application in support of the plan with the
65 14 commissioner. The plan shall set forth the terms of the
65 15 proposed contract of consolidation, merger, or reinsurance,
65 16 along with any other information requested by the
65 17 commissioner.

65 18 Sec. 112. Section 521.4, Code 2005, is amended by striking
65 19 the section and inserting in lieu thereof the following:

65 20 521.4 PROCEDURE == NOTICE.

65 21 The commission may hear and determine an application, and
65 22 approve, disapprove, or require modification of a plan
65 23 submitted under section 521.3 without notice and without
65 24 public hearing. The commission may require a public hearing
65 25 when necessary to conserve the interests of the members,
65 26 policyholders, or shareholders of the affected company. In
65 27 such cases the commission shall require the affected company
65 28 to mail to all of its members, policyholders, or shareholders
65 29 written notice of the public hearing stating that an
65 30 application and plan have been filed with the commission, the
65 31 nature of the plan, and the date, time, and place of the
65 32 public hearing on the application and plan. The commission
65 33 shall determine the number of days prior to the public hearing
65 34 that notice is required to be given to the members or
65 35 shareholders, which shall be no fewer than ten nor more than
66 1 sixty days.

66 2 Sec. 113. Section 521.5, Code 2005, is amended to read as
66 3 follows:

66 4 521.5 COMMISSION TO HEAR PETITION CREATED.

66 5 ~~For the purpose of hearing and determining such petition, a~~
66 6 A commission consisting of the commissioner of insurance and
66 7 the attorney general is hereby created to hear and determine
66 8 the application and to approve, disapprove, or require
66 9 modification of the plan prior to approval.

66 10 Sec. 114. Section 521.6, Code 2005, is amended to read as
66 11 follows:

66 12 521.6 EXAMINATION.

66 13 The commission may ~~make such examination into~~ examine the
66 14 affairs and condition of any company ~~or companies~~ as it ~~may~~
66 15 ~~deem~~ deems proper, and shall have the power to summon and
66 16 compel the attendance and testimony of witnesses, and the
66 17 production of books and papers before ~~said the~~ commission and
66 18 may administer oaths.

66 19 Sec. 115. Section 521.7, Code 2005, is amended to read as
66 20 follows:

66 21 521.7 APPEARANCE BY MEMBERS, POLICYHOLDERS, OR
66 22 SHAREHOLDERS.

66 23 When notice ~~shall have been~~ is given as ~~above~~ provided in
66 24 section 521.4, any member, policyholder, or stockholder
66 25 shareholder of said the affected company or companies shall
66 26 have the right to appear before said the commission and be
66 27 heard with reference to said petition regarding the
66 28 application and plan.

66 29 Sec. 116. Section 521.8, Code 2005, is amended to read as
66 30 follows:

66 31 521.8 AUTHORIZATION.

66 32 ~~Said The~~ The commission, if satisfied that the interests of the
66 33 members, policyholders, or shareholders of said the affected
66 34 company or companies are properly protected and no reasonable
66 35 objection to said petition the application and plan exists,
67 1 may authorize approve, disapprove, or require modification of

67 2 the proposed plan of consolidation, merger, or reinsurance ~~or~~
67 3 ~~may direct such modification thereof as may seem to it best~~
67 4 ~~for the interests of the policyholders; and said prior to~~
67 5 ~~approval. The commission may make such order and disposition~~
67 6 of the assets of any such company thereafter remaining as
67 7 shall be just and equitable.

67 8 Sec. 117. Section 521.10, Code 2005, is amended by
67 9 striking the section and inserting in lieu thereof the
67 10 following:

67 11 521.10 ELECTION CALLED.

67 12 1. The commission may require an affected company to
67 13 submit the plan of consolidation, merger, or reinsurance to a
67 14 vote by its members. The plan shall be submitted at a meeting
67 15 called for that purpose, upon not less than thirty days'
67 16 notice. Member approval of the plan requires the affirmative
67 17 vote of two-thirds of all members voting in person, by ballot,
67 18 or by proxy.

67 19 2. Approval by the members of a mutual company of a plan
67 20 of merger or reinsurance is not required if all of the
67 21 following conditions are satisfied:

67 22 a. The company will survive the merger or is the
67 23 reinsurer.

67 24 b. At the time of the merger or reinsurance, the number of
67 25 members of the surviving company is greater than the number of
67 26 members of the affected company.

67 27 c. At the time of the merger or reinsurance, the surplus
67 28 of the surviving company is greater than the surplus of the
67 29 affected company.

67 30 Sec. 118. Section 521.13, Code 2005, is amended by
67 31 striking the section and inserting in lieu thereof the
67 32 following:

67 33 521.13 REINSURANCE TRANSACTIONS == EXEMPTION.

67 34 Reinsurance as provided in sections 515.49, 518.17,
67 35 518A.44, and 520.21 is exempt from the requirements of this
68 1 chapter.

68 2 Sec. 119. Section 521.14, Code 2005, is amended to read as
68 3 follows:

68 4 521.14 EXPENSES AND COSTS == HOW PAID.

68 5 All expenses and costs incident to proceedings under ~~the~~
68 6 ~~provisions of this chapter,~~ shall be paid by the company ~~or~~
68 7 ~~companies bringing filing the petition application and plan.~~

68 8 Sec. 120. Section 521.16, Code 2005, is amended to read as
68 9 follows:

68 10 521.16 APPLICABILITY OF ~~CHAPTER SECTION 521A.3.~~

68 11 ~~Chapter 521A is The provisions of section 521A.3 shall also~~
68 12 ~~be applicable to a merger or consolidation made pursuant~~
68 13 ~~subject to this chapter, and the provisions of chapter 521A~~
68 14 ~~and this chapter shall apply exclusively with respect to such~~
68 15 ~~merger or consolidation.~~

68 16 Sec. 121. NEW SECTION. 521.17 ADDITIONAL FILING
68 17 REQUIREMENTS == PLANS AND ARTICLES OF MERGER OR CONSOLIDATION.

68 18 A company filing a plan to merge or consolidate shall, in
68 19 addition to and after meeting the requirements of this
68 20 chapter, make all appropriate filings with and pay appropriate
68 21 fees to the secretary of state required under chapter 490 or
68 22 491.

68 23 Sec. 122. NEW SECTION. 521.18 ARTICLES OF MERGER OR
68 24 CONSOLIDATION == FILING FEES AND APPROVAL.

68 25 A company filing a plan to merge or consolidate under the
68 26 provisions of this chapter shall file its articles of merger
68 27 or consolidation with the commission for its approval. The
68 28 fee for filing articles of merger or consolidation with the
68 29 commission is fifty dollars.

68 30 Sec. 123. Section 521A.1, subsection 6, Code 2005, is
68 31 amended to read as follows:

68 32 6. "Insurer" means a company qualified and licensed by the
68 33 insurance division to transact the business of insurance in
68 34 this state by certificate issued pursuant to chapters 508,
68 35 ~~512B, 514,~~ 514B, 515, 515E, and 520, except that it shall not
69 1 include+

69 2 ~~a. Agencies agencies, authorities, or instrumentalities of~~
69 3 ~~the United States, its possessions and territories, the~~
69 4 ~~commonwealth of Puerto Rico, the District of Columbia, or a~~
69 5 ~~state or political subdivision of a state.~~

69 6 ~~b. Fraternal benefit societies.~~

69 7 ~~c. Nonprofit medical, hospital or dental service~~
69 8 ~~associations.~~

69 9 Sec. 124. Section 521A.2, subsection 1, paragraph c, Code
69 10 2005, is amended to read as follows:

69 11 c. Investing, reinvesting, or trading in securities and
69 12 financial instruments as defined in section 511.8, subsection

69 13 22. for its own account, that of its parent, any subsidiary of
69 14 its parent, or any affiliate or subsidiary.

69 15 Sec. 125. Section 521A.2, subsection 3, Code 2005, is
69 16 amended by adding the following new paragraph:

69 17 NEW PARAGRAPH. d. Invest, reinvest, and trade in
69 18 financial instruments as defined in section 511.8, subsection
69 19 22, for its own account, that of its parent, any subsidiary of
69 20 its parent, or any affiliate or subsidiary.

69 21 Sec. 126. Section 521A.3, subsection 7, Code 2005, is
69 22 amended to read as follows:

69 23 7. JURISDICTION -- ~~CONSENT TO SERVICE OF PROCESS~~. The
69 24 district court is hereby vested with jurisdiction over every
69 25 person not resident, domiciled, or authorized to do business
69 26 in this state who files a statement with the commissioner
69 27 under this section, and over all actions involving such person
69 28 arising out of violations of this section, ~~and each such~~
~~69 29 person shall be deemed to have performed acts equivalent to~~
~~69 30 and constituting an appointment by such a person of the~~
~~69 31 commissioner to be the person's true and lawful attorney upon~~
~~69 32 whom may be served all lawful process, notice or demand in any~~
~~69 33 action, suit or proceeding arising out of violations of this~~
~~69 34 section. Copies of all such lawful process, notice or demand~~
~~69 35 shall be served on the commissioner and transmitted by~~
70 1 registered or certified mail by the commissioner to such
70 2 person at the person's last known address.

70 3 Sec. 127. Section 521B.2, subsection 6, paragraph a,
70 4 subparagraph (2), Code 2005, is amended to read as follows:

70 5 (2) That ~~the commissioner or an attorney designated in the~~
70 6 agreement is the true and lawful attorney of the assuming
70 7 insurer upon whom may be served any lawful process in any
70 8 action, suit, or proceeding instituted by or on behalf of the
70 9 ceding company.

70 10 Sec. 128. Section 521C.3, subsection 4, paragraph b, Code
70 11 2005, is amended to read as follows:

70 12 b. A reinsurance intermediary license applicant, as a
70 13 condition precedent to receiving or holding a license, shall
70 14 ~~designate the commissioner as agent for service of process,~~
~~70 15 and also shall~~ furnish the commissioner with the name and
70 16 address of a resident of this state upon whom notices or
70 17 orders of the commissioner or process affecting such
70 18 nonresident reinsurance intermediary may be served. ~~The~~
~~70 19 licensee shall promptly notify the commissioner in writing of~~
~~70 20 a change of the designated agent for service of process, and~~
~~70 21 the change becomes effective upon acknowledgment by the~~
~~70 22 commissioner.~~

70 23 Sec. 129. Section 522B.5, subsection 1, paragraph c, Code
70 24 2005, is amended to read as follows:

70 25 c. The individual has paid the license fee of ~~fifty~~ thirty
70 26 dollars.

70 27 Sec. 130. Section 522B.6, subsection 1, Code 2005, is
70 28 amended to read as follows:

70 29 1. A person who meets the requirements of sections 522B.4
70 30 and 522B.5, unless otherwise denied licensure pursuant to
70 31 section 522B.11, shall be issued an insurance producer
70 32 license. An insurance producer license is valid for ~~three~~ two
70 33 years.

70 34 Sec. 131. NEW SECTION. 522B.16B WRITTEN CONSENT TO
70 35 ENGAGE OR PARTICIPATE IN BUSINESS OF INSURANCE.

71 1 1. A person who is prohibited by 18 U.S.C. } 1033 from
71 2 engaging or participating in the business of insurance because
71 3 that person has been convicted of a crime under that statute
71 4 or of a felony involving dishonesty or breach of trust may
71 5 apply to the commissioner for written consent to engage or
71 6 participate in the business of insurance in this state.

71 7 2. The commissioner, by rule, shall establish a procedure
71 8 and standards for issuing such a written consent.

71 9 3. The commissioner shall not issue an insurance producer
71 10 license to an applicant who has been convicted of a crime as
71 11 set forth in subsection 1 unless the applicant has first
71 12 obtained a written consent from the commissioner to engage or
71 13 participate in the business of insurance in this state.

71 14 4. If an insurance producer licensee is convicted of a
71 15 crime as set forth in subsection 1, the commissioner shall
71 16 revoke, suspend, or refuse to renew the licensee's insurance
71 17 producer license. The commissioner shall not renew or issue
71 18 an insurance producer license to that person unless the person
71 19 has first obtained a written consent from the commissioner to
71 20 engage or participate in the business of insurance in this
71 21 state.

71 22 Sec. 132. Section 523A.601, subsection 1, paragraph i,
71 23 Code 2005, is amended to read as follows:

71 24 i. Include an explanation of regulatory oversight by the
71 25 insurance division in twelve point boldface type, in
71 26 substantially the following language:
71 27 THIS AGREEMENT IS SUBJECT TO RULES ADMINISTERED BY THE IOWA
71 28 INSURANCE DIVISION. YOU MAY CALL THE INSURANCE DIVISION AT
71 29 (...) ~~(515)281-4441~~. WRITTEN INQUIRIES OR COMPLAINTS
71 30 SHOULD BE MAILED TO THE IOWA SECURITIES AND REGULATED
71 31 INDUSTRIES BUREAU, ~~(STREET ADDRESS), (CITY) 330 MAPLE STREET,~~
71 32 ~~DES MOINES, IOWA (ZIP CODE) 50319.~~

71 33 Sec. 133. Section 523A.602, subsection 2, paragraph b,
71 34 Code 2005, is amended by adding the following new
71 35 subparagraph:

72 1 NEW SUBPARAGRAPH. (1A) If a purchase agreement is
72 2 canceled before the purchase price is paid in full, a
72 3 purchaser requests a transfer of the trust assets upon
72 4 cancellation of a purchase agreement before the purchase price
72 5 is paid in full, or another establishment provides cemetery
72 6 merchandise, funeral merchandise, funeral services, or a
72 7 combination thereof, designated in a purchase agreement before
72 8 the purchase price is paid in full, the seller shall refund or
72 9 transfer within thirty days of receiving a written demand no
72 10 less than the amount paid by the purchaser, less any actual
72 11 expenses incurred by the seller pursuant to the purchase
72 12 agreement as set forth in the purchase agreement under section
72 13 523A.601, subsection 1, paragraph "f". The amount of the
72 14 actual expenses deducted by the seller shall not exceed ten
72 15 percent of the total original purchase price of the applicable
72 16 cemetery merchandise, funeral merchandise, funeral services,
72 17 or a combination thereof. The seller may also deduct the
72 18 value of the cemetery merchandise, funeral merchandise, and
72 19 funeral services already received by, delivered to, or
72 20 warehoused for the purchaser.

72 21 Sec. 134. Section 523I.102, Code Supplement 2005, is
72 22 amended by adding the following new subsections:

72 23 NEW SUBSECTION. 0A. "Abandoned cemetery" means a cemetery
72 24 that is not operating on a regular basis, is not offering to
72 25 sell or provide interments or other services reasonably
72 26 necessary for interments, and is not providing or permitting
72 27 reasonable ingress or egress to the cemetery for the purpose
72 28 of visiting interment spaces.

72 29 NEW SUBSECTION. 49. "Veterans cemetery" means a cemetery
72 30 that is owned or operated by the state of Iowa or by the
72 31 United States for the burial of veterans.

72 32 Sec. 135. Section 523I.103, subsection 1, paragraph a,
72 33 Code Supplement 2005, is amended to read as follows:

72 34 a. All cemeteries, except religious cemeteries that
72 35 commenced business prior to July 1, 2005, and veterans
73 1 cemeteries.

73 2 Sec. 136. Section 523I.201, subsection 1, Code Supplement
73 3 2005, is amended to read as follows:

73 4 1. This chapter shall be administered by the commissioner.
73 5 The deputy administrator appointed pursuant to section
73 6 ~~523A.801~~ 502.601 shall be the principal operations officer
73 7 responsible to the commissioner for the routine administration
73 8 of this chapter and management of the administrative staff.
73 9 In the absence of the commissioner, whether because of vacancy
73 10 in the office due to absence, physical disability, or other
73 11 cause, the deputy administrator shall, for the time being,
73 12 have and exercise the authority conferred upon the
73 13 commissioner. The commissioner may by order from time to time
73 14 delegate to the deputy administrator any or all of the
73 15 functions assigned to the commissioner in this chapter. The
73 16 deputy administrator shall employ officers, attorneys,
73 17 accountants, and other employees as needed for administering
73 18 this chapter.

73 19 Sec. 137. Section 523I.309, subsection 1, Code Supplement
73 20 2005, is amended to read as follows:

73 21 1. Any available member of the following classes of
73 22 persons, in the priority listed, shall have the right to
73 23 control the interment, relocation, or disinterment of a
73 24 decedent's remains within or from a cemetery:

73 25 ~~a. The attorney in fact of the decedent pursuant to a~~
73 26 ~~durable power of attorney for health care.~~

73 27 ~~b. a. The surviving spouse of the decedent, if not~~
73 28 ~~legally separated from the decedent.~~

73 29 ~~c. b.~~ The decedent's surviving adult children. If there
73 30 is more than one surviving adult child, any adult child who
73 31 can confirm, in writing, that all other adult children have
73 32 been notified of the proposed interment, relocation, or
73 33 disinterment may authorize the interment, relocation, or
73 34 disinterment, unless the cemetery receives an objection to

73 35 such action from another adult child of the decedent.
74 1 Alternatively, a majority of the surviving adult children of
74 2 the decedent whose whereabouts are reasonably ascertainable
74 3 shall have such right to control.
74 4 d. c. A The surviving parent parents of the decedent
74 5 whose whereabouts are reasonably ascertainable.
74 6 d. A surviving adult grandchild of the decedent. If there
74 7 is more than one surviving adult grandchild, any adult
74 8 grandchild who can confirm, in writing, that all other adult
74 9 grandchildren have been notified of the proposed interment,
74 10 relocation, or disinterment may authorize the interment,
74 11 relocation, or disinterment, unless the cemetery receives an
74 12 objection to such action from another adult grandchild of the
74 13 decedent. Alternatively, a majority of the surviving adult
74 14 grandchildren of the decedent whose whereabouts are reasonably
74 15 ascertainable shall have such right to control.
74 16 e. A surviving adult sibling of the decedent. If there is
74 17 more than one surviving adult sibling, any adult sibling who
74 18 can confirm, in writing, that all other adult siblings have
74 19 been notified of the proposed interment, relocation, or
74 20 disinterment may authorize the interment, relocation, or
74 21 disinterment, unless the cemetery receives an objection to
74 22 such action from another adult sibling of the decedent.
74 23 Alternatively, a majority of the surviving adult siblings of
74 24 the decedent whose whereabouts are reasonably ascertainable
74 25 shall have such right to control.
74 26 f. A surviving grandparent of the decedent. If there is
74 27 more than one surviving grandparent, any grandparent who can
74 28 confirm, in writing, that all other grandparents have been
74 29 notified of the proposed interment, relocation, or
74 30 disinterment may authorize the interment, relocation, or
74 31 disinterment, unless the cemetery receives an objection to
74 32 such action from another grandparent of the decedent.
74 33 Alternatively, a majority of the surviving grandparents of the
74 34 decedent whose whereabouts are reasonably ascertainable shall
74 35 have such right to control.
75 1 g. The legal guardian of the decedent at the time of the
75 2 decedent's death. An adult person in the next degree of
75 3 kinship to the decedent in the order named by law to inherit
75 4 the estate of the decedent under the rules of inheritance for
75 5 intestate succession.
75 6 h. The county medical examiner, if responsible for the
75 7 decedent's remains.
75 8 A cemetery may await a court order before proceeding with
75 9 the interment, relocation, or disinterment of a decedent's
75 10 remains within or from a cemetery if the cemetery is aware of
75 11 a dispute between an authorized person under this section and
75 12 the executor named in the decedent's will or a personal
75 13 representative appointed by a court, or is aware of a dispute
75 14 among authorized persons with the same priority under this
75 15 subsection.
75 16 Sec. 138. Section 523I.312, subsection 2, paragraph n,
75 17 Code Supplement 2005, is amended by striking the paragraph and
75 18 inserting in lieu thereof the following:
75 19 n. Include an explanation of regulatory oversight by the
75 20 insurance division in twelve point boldface type, in
75 21 substantially the following language:
75 22 THIS AGREEMENT IS SUBJECT TO RULES ADMINISTERED BY THE IOWA
75 23 INSURANCE DIVISION. YOU MAY CALL THE INSURANCE DIVISION WITH
75 24 INQUIRIES OR COMPLAINTS AT (515)281-4441. WRITTEN INQUIRIES
75 25 OR COMPLAINTS SHOULD BE MAILED TO: IOWA SECURITIES AND
75 26 REGULATED INDUSTRIES BUREAU, 330 MAPLE STREET, DES MOINES,
75 27 IOWA 50319.
75 28 Sec. 139. Section 523I.316, subsection 3, Code Supplement
75 29 2005, is amended to read as follows:
75 30 3. DUTY TO PRESERVE AND PROTECT.
75 31 a. A governmental subdivision having a cemetery, or a
75 32 burial site that is not located within a dedicated cemetery,
75 33 within its jurisdiction, for which preservation is not
75 34 otherwise provided, shall preserve and protect the cemetery or
75 35 burial site as necessary to restore or maintain its physical
76 1 integrity as a cemetery or burial site. The governmental
76 2 subdivision may enter into an agreement to delegate the
76 3 responsibility for the preservation and protection of the
76 4 cemetery or burial site to a private organization interested
76 5 in historical preservation.
76 6 b. A governmental subdivision is authorized to expend
76 7 public funds, in any manner authorized by law, in connection
76 8 with such a cemetery or burial site.
76 9 c. As used in this subsection, "preserve and protect"
76 10 means to keep the cemetery or burial site and any records

76 11 thereof safe from destruction, peril, or other adversity, and
76 12 includes the placement of signs, markers, fencing, or other
76 13 appropriate features identifying the site as a cemetery or
76 14 burial site.

76 15 Sec. 140. NEW SECTION. 523I.317 DUTY TO PROVIDE PUBLIC
76 16 ACCESS.

76 17 A cemetery shall provide or permit public access to the
76 18 cemetery, at reasonable times and subject to reasonable
76 19 regulations, so that owners of interment rights and other
76 20 members of the public have reasonable ingress and egress to
76 21 the cemetery.

76 22 Sec. 141. NEW SECTION. 523I.403 ACQUISITION OF ABANDONED
76 23 CEMETERIES == GOVERNMENTAL SUBDIVISIONS.

76 24 1. A governmental subdivision may acquire an abandoned
76 25 cemetery, including ownership of any unsold interment spaces
76 26 in the cemetery. A governmental subdivision that acquires a
76 27 cemetery under this section shall have legal title to the
76 28 cemetery and is authorized to acquire land for use of the
76 29 cemetery, receive gifts, and receive and administer endowments
76 30 for the care of the cemetery or any part thereof.

76 31 2. A governmental subdivision shall use due diligence in
76 32 identifying the owners of an abandoned cemetery and shall
76 33 provide notice of its intent to acquire the cemetery as
76 34 provided in this section. If the governmental subdivision is
76 35 unable to locate the owner of the abandoned cemetery, the
77 1 governmental subdivision shall publish notice of its intent to
77 2 acquire the cemetery for three successive weeks in a newspaper
77 3 of general circulation in the county in which the cemetery is
77 4 located.

77 5 3. A cemetery's owner may object to the acquisition of a
77 6 cemetery by a governmental subdivision. In order to reassert
77 7 ownership rights to the cemetery, the owner shall provide or
77 8 permit public access to the cemetery, at reasonable times and
77 9 subject to reasonable regulations, so that owners of interment
77 10 rights and other members of the public have reasonable ingress
77 11 and egress to the cemetery. If the cemetery's owner provides
77 12 or permits such public access within twenty-four months after
77 13 receiving notice of the governmental subdivision's intent to
77 14 acquire the cemetery, the governmental subdivision shall not
77 15 proceed with its action to acquire the cemetery.

77 16 Sec. 142. NEW SECTION. 523I.404 ACQUISITION OF ABANDONED
77 17 CEMETERIES == CEMETERY ASSOCIATIONS.

77 18 1. Any person who has a relative interred in an abandoned
77 19 cemetery or who owns interment rights in an abandoned cemetery
77 20 may organize a cemetery association for the cemetery. The
77 21 cemetery association shall be incorporated as a nonprofit
77 22 corporation pursuant to chapter 504A. A corporation formed in
77 23 this manner may acquire legal title to the cemetery if an
77 24 owner cannot be located.

77 25 2. A cemetery association shall use due diligence in
77 26 identifying the owner of an abandoned cemetery and shall
77 27 provide notice of the association's intent to acquire the
77 28 cemetery as provided in this section. If the cemetery
77 29 association is unable to locate the owner of the abandoned
77 30 cemetery, the cemetery association shall publish notice of
77 31 intent to acquire the cemetery for three successive weeks in a
77 32 newspaper of general circulation in the county in which the
77 33 cemetery is located.

77 34 3. A cemetery's owner may object to the acquisition of a
77 35 cemetery by a cemetery association. In order to reassert
78 1 ownership rights to the cemetery, the owner shall provide or
78 2 permit public access to the cemetery, at reasonable times and
78 3 subject to reasonable regulations, so that members of the
78 4 cemetery association and other members of the public have
78 5 reasonable ingress and egress to the cemetery. If the
78 6 cemetery's owner provides or permits such public access within
78 7 twenty-four months after receiving notice of the interested
78 8 person's intent to acquire the cemetery, the cemetery
78 9 association shall not proceed with its action to acquire the
78 10 cemetery.

78 11 Sec. 143. Section 523I.508, subsection 4, Code Supplement
78 12 2005, is amended to read as follows:

78 13 4. DELEGATES TO CONVENTIONS. A township having one or
78 14 more cemeteries under its control may designate, ~~not up to~~
78 15 ~~exceed~~ two, officials from each cemetery as delegates to
78 16 attend meetings of cemetery officials, and certain expenses,
~~including association dues, of the delegates not to exceed~~
78 18 exceeding twenty-five dollars for each delegate, of the
~~delegates including association dues,~~ may be paid out of the
78 20 cemetery fund of the township.

78 21 Sec. 144. Section 636.20, Code 2005, is amended to read as

78 22 follows:

78 23 636.20 SUIT ON BOND == SERVICE.

78 24 Whenever suit is required to be brought on any bond given
78 25 by such company, service shall be had upon any agent of such
78 26 company in this state, and if there is no agent in the state,
78 27 then service may be had by ~~servicing the commissioner of~~
~~78 28 insurance in any manner now or hereinafter permitted by law~~
78 29 fifteen days before the term of court in which the suit is
78 30 sought to be brought.

78 31 Sec. 145. Sections 507A.5, 511.27, 511.28, 511.29,
78 32 512B.33, 514.2A, 515.73, 515.74, 520.6, 521.9, 521.11, 521.12,
78 33 523C.20, 523C.21, and 636.21, Code 2005, are repealed.

78 34 Sec. 146. Sections 509B.4, 516E.12, and 516E.17, Code
78 35 Supplement 2005, are repealed.

79 1 EXPLANATION

79 2 This bill relates to various matters under the purview of
79 3 the insurance division of the department of commerce,
79 4 including the securities and regulated industries bureau,
79 5 insurance premium taxes, the uniform securities Act, insurance
79 6 division procedures, regulation of insurance companies and
79 7 other entities including administrative penalties, motor
79 8 vehicle service contracts, county and state mutual insurance
79 9 associations, reciprocal or interinsurance insurers,
79 10 consolidation, merger, and reinsurance contracts, insurance
79 11 holding company systems, and cemeteries.

79 12 SECURITIES AND REGULATED INDUSTRIES BUREAU == The bill
79 13 amends numerous references to the securities bureau of the
79 14 division of insurance of the department of commerce in the
79 15 Code to refer to the new name of the bureau, which is the
79 16 securities and regulated industries bureau.

79 17 PREMIUM TAXES == Code section 432.1 is amended to provide
79 18 that premium taxes paid by insurance companies are computed on
79 19 gross premiums written. Code section 432.5 is amended to
79 20 provide that premium taxes paid by risk retention groups are
79 21 computed on gross premiums written.

79 22 UNIFORM SECURITIES ACT AMENDMENTS == Code section
79 23 502.102(5)(b)(3) of the state uniform securities Act is
79 24 amended to specify that an industrial loan company that is not
79 25 an "insured depository institution" as defined under federal
79 26 law is not a "depository institution" for purposes of the Act.

79 27 Code section 502.201(8A)(b), unnumbered paragraph 1, is
79 28 amended to provide that securities issued by a mutual or
79 29 cooperative association organized under Code chapter 501A are
79 30 exempt from certain provisions of Code chapter 502.

79 31 Code section 502.412(2)(a) is amended to provide that an
79 32 administrative action for revocation or cancellation of the
79 33 registration cannot be started against a person registered
79 34 under the state uniform securities Act based solely on an
79 35 order issued by another state more than one year after the
80 1 date of that order.

80 2 Code section 502.412(3) is amended to provide that if any
80 3 one of the specified provisions authorizes an administrative
80 4 action, a disciplinary order may be issued.

80 5 Code section 502.510(1)(e) is amended to change a cross=
80 6 reference from Code section 502.509(3) to Code section
80 7 502.509(5) as a basis for civil liability, since Code section
80 8 502.510(1)(c) already refers to Code section 502.509(3).

80 9 INSURANCE DIVISION PROCEDURES == Code section 505.16(2) is
80 10 amended to require the insurance commissioner to adopt rules
80 11 concerning applications for insurance that require persons
80 12 engaged in the insurance business who receive positive HIV
80 13 tests of an applicant or policyholder to report those results
80 14 to a physician or alternative testing site of the applicant's
80 15 or policyholder's choice or to the Iowa department of public
80 16 health.

80 17 New Code section 505.27 provides that commission of any act
80 18 by a person under Code chapter 502, 502A, chapters 505 through
80 19 523G, or chapter 523I constitutes consent by that person to
80 20 the jurisdiction of the commissioner of insurance and the
80 21 district courts of this state.

80 22 New Code section 505.28 provides that the commissioner of
80 23 insurance has the authority to appoint a designee or an
80 24 independent administrative law judge to hear contested cases
80 25 arising from conduct regulated by the insurance commission.

80 26 Code section 507.10(5)(b) is amended to provide that the
80 27 commissioner of insurance can disclose certain information
80 28 obtained during examination of insurance companies to the
80 29 national association of insurance commissioners.

80 30 Code section 507.14 is amended to provide that certain
80 31 specified information produced, obtained by, or disclosed to
80 32 the commissioner in the course of analysis of the financial

80 33 condition or market conduct of an insurer is a confidential
80 34 record under Code chapter 22 and is privileged and
80 35 confidential except under specified circumstances. Code
81 1 section 22.7 is also amended to specify that information
81 2 obtained pursuant to Code section 507.14 is a confidential
81 3 public record.
81 4 Code section 507A.4 is amended by adding a new subsection
81 5 providing that self-funded health benefit plans sponsored by
81 6 an employer in this state which provide health benefits to
81 7 independent contractors of such an employer, and their
81 8 dependents, are granted a waiver from the requirements of Code
81 9 chapter 507A pertaining to unauthorized insurers, if the plans
81 10 meet specified conditions.
81 11 Code section 507A.9(1) is amended to provide that premium
81 12 taxes on unauthorized insurers shall be computed on gross
81 13 premiums charged equal to the applicable percent under Code
81 14 section 432.1 instead of on 2 percent of gross premiums
81 15 charged.
81 16 Code section 507B.4 is amended to provide that the
81 17 following constitute unfair or deceptive insurance trade
81 18 practices: improper use of inquiries by an applicant or
81 19 insured about coverage or loss, improper use of loss history
81 20 of a property, failure to disclose use of claims history,
81 21 failure to disclose the full name of the insurance company,
81 22 failure to produce information to which an individual is
81 23 entitled, and conducting prohibited insurance transactions.
81 24 Code section 507B.4 is amended to define "personal lines
81 25 property and casualty insurance" as insurance sold to
81 26 individuals and families primarily for noncommercial purposes
81 27 as provided in Code chapter 522B.
81 28 New Code section 507B.4B provides that a person shall not
81 29 recommend a life insurance product to any individual unless
81 30 the person has reasonable grounds to believe that the product
81 31 is suitable for that individual and shall establish and
81 32 maintain a system to monitor recommendations made, that is
81 33 reasonably designed to achieve compliance with the suitability
81 34 requirements of the section. The bill also requires the
81 35 commissioner to adopt rules pursuant to Code chapter 17A
82 1 establishing standards for implementation of the suitability
82 2 requirements of the section.
82 3 New Code section 507B.15 provides that new Code section
82 4 505.28 allowing the commissioner to appoint a designee or an
82 5 independent administrative law judge to hear contested cases
82 6 is applicable to hearings required under Code sections 507B.6,
82 7 507B.6A, and 507B.7 concerning regulation of insurance trade
82 8 practices.
82 9 Code section 507C.2 is amended to provide that general
82 10 assets of an insurer for purposes of supervision,
82 11 rehabilitation, and liquidation provisions of the chapter do
82 12 not include that portion of assets of the insurer allocated
82 13 and accumulated in a separate account providing for life
82 14 insurance or annuities, depending on the amounts contained in
82 15 such separate accounts.
82 16 Code section 507C.42 is amended to specify that claims
82 17 considered "class 2" for purposes of establishing a priority
82 18 of distribution of claims from an insurer's estate under the
82 19 supervision, rehabilitation, and liquidation provisions of the
82 20 chapter include claims under funding agreements under Code
82 21 section 508.31A, and claims for an insufficiency in the assets
82 22 allocated and accumulated in a separate account under Code
82 23 section 508A.1.
82 24 Code section 507C.42 is also amended to provide that for
82 25 purposes of the section, "insurer's estate" means the general
82 26 assets of the insurer.
82 27 Code section 507E.5 is stricken and rewritten to provide
82 28 that specified information obtained by the insurance
82 29 commission during the course of an insurance fraud
82 30 investigation is a confidential record except as specified in
82 31 this section. Code section 22.7 is also amended to provide
82 32 that such information is a confidential record.
82 33 INSURANCE COMPANIES AND OTHER ENTITIES == Code section
82 34 508.13 is amended to clarify the process for life insurance
82 35 companies to renew their certificates of authority annually.
83 1 Failure to timely file an application for renewal is
83 2 punishable by an administrative penalty of \$500.
83 3 Code section 508A.1 is amended to correspond to the changes
83 4 to Code section 507C.42 by providing that insufficiencies in
83 5 assets allocated and accumulated in separate accounts
83 6 providing for life insurance or annuities are class 2 claims
83 7 under Code chapter 507C.
83 8 Code section 509.1(1)(b) is amended to provide that

83 9 premiums for group life, accident, or health insurance can be
83 10 paid by the policyholder from funds of the employer, the
83 11 insured employee, or both. The section is also amended to
83 12 provide that accident and health insurance does not include
83 13 disability income insurance.

83 14 Code section 509A.15(1) is amended to provide that the
83 15 governing body of a self-insurance plan of a political
83 16 subdivision or school corporation must certify that the plan
83 17 has a contract or other arrangement with a currently
83 18 registered third-party administrator.

83 19 Code section 509A.15(4) is amended to provide that a self=
83 20 insurance plan of a political subdivision or school
83 21 corporation is exempt from the certification requirements of
83 22 the section if yearly claims do not exceed 2 percent, instead
83 23 of 1 percent, of the entity's general fund budget.

83 24 Code chapter 509B is amended to eliminate the requirement
83 25 that group accident or health insurance policies provide
83 26 individual or converted policies for an employee or member
83 27 whose coverage under the group policy has been terminated.

83 28 Code section 514C.3 is amended to remove a cross-reference to
83 29 Code chapter 509B that is stricken by the bill.

83 30 Code chapter 510, beginning with Code section 510.11
83 31 concerning administrators of health or life insurance
83 32 coverage, is amended by changing the term "administrator" to
83 33 "third-party administrator" wherever it appears in that
83 34 chapter.

83 35 Code section 511.8(1)(b), concerning investment of funds by
84 1 life insurance companies and associations, is amended to
84 2 correct a citation to the federal Investment Company Act of
84 3 1940.

84 4 Code section 511.8(18) is amended to specify that the
84 5 allowable limit of certain common stocks or shares in which a
84 6 life insurance company or association may invest is not more
84 7 than one-half of 1 percent of the legal reserve.

84 8 Code section 511.8(22)(b), concerning requirements for
84 9 financial instruments used in hedging transactions by life
84 10 insurance companies, is stricken and rewritten to allow
84 11 certain financial instruments between an insurer and a
84 12 qualified corporation or a "conduit" to be eligible for
84 13 inclusion in the legal reserve of the insurer. If the
84 14 financial instrument is with a conduit that is not a qualified
84 15 counterparty, the obligation of the financial instrument must
84 16 be secured by cash; United States government obligations;
84 17 state, District of Columbia, territorial, or municipal
84 18 obligations; Canadian government, provincial, or municipal
84 19 obligations; qualified United States and Canadian corporate
84 20 obligations; qualified foreign government or corporate
84 21 obligations; and cash equivalents. For purposes of the bill,
84 22 a "conduit" means a person within an insurer's insurance
84 23 holding company system, which aggregates hedging transactions
84 24 by other persons within the insurance holding company system
84 25 and replicates them with counterparts.

84 26 Code section 511.8(22)(e) is amended to require that
84 27 financial instruments used in hedging transactions that are
84 28 secured by foreign government or corporate obligations are
84 29 included in the limitation that only 20 percent of the legal
84 30 reserve of an insurer can be invested in such foreign
84 31 investments unless such financial instruments are secured as
84 32 specified.

84 33 Code section 511.8 is also amended by adding a new
84 34 definition for "cash equivalents" and specifying the
84 35 permissible use of such investments as part of life insurance
85 1 company or association assets.

85 2 Code section 512B.25 is amended to provide an
85 3 administrative penalty of \$500 for a fraternal benefit society
85 4 that fails to timely file its annual application for renewal
85 5 of the society's license.

85 6 New Code section 514.9A provides an administrative penalty
85 7 of \$500 for a carrier or organized delivery system issuing
85 8 individual health care benefits that fails to timely file an
85 9 annual application for renewal of its certificate of
85 10 authority.

85 11 New Code section 514.3B provides an administrative penalty
85 12 of \$500 for a health maintenance organization that fails to
85 13 timely file an annual application for renewal of its
85 14 certificate of authority.

85 15 Code section 514B.12 is amended to provide an
85 16 administrative penalty of \$500 for a health maintenance
85 17 organization that fails to timely file its annual report and
85 18 an additional administrative penalty of \$100 for each day that
85 19 the failure continues after the organization has received

85 20 notice of the failure from the commissioner.
85 21 Code section 514B.22 is amended to provide that a foreign
85 22 or domestic health maintenance organization doing business in
85 23 this state is required to pay fees to cover the costs of
85 24 examinations of the organization by the commissioner.
85 25 Code section 514B.33 is amended to provide that limited
85 26 service organizations doing business in this state are
85 27 required to timely file an application for renewal of their
85 28 authority and an annual report and are subject to
85 29 administrative penalties for failure to do so.
85 30 Code section 514C.1 is amended to expand requirements for
85 31 supplemental coverage of newly born children to include
85 32 adopted children of an insured under certain policies of
85 33 individual or group accident and health insurance and to
85 34 further specify requirements applicable to newly born and
85 35 adopted children of an insured.
86 1 Code section 514E.7 is amended by adding a new subsection
86 2 6, allowing certain persons to remain eligible for coverage
86 3 under the Iowa comprehensive health insurance association in
86 4 the event of a voluntary termination of such coverage.
86 5 Code section 514J.7, concerning the external review process
86 6 for appeal of a denial of health care coverage, is amended to
86 7 provide that an uncompleted review will continue if the
86 8 enrollee dies or changes to another health care plan before
86 9 the review is completed.
86 10 Code section 515.24 is amended to provide that premium
86 11 taxes for insurance companies other than life are computed on
86 12 gross written premiums, except that premium taxes on windstorm
86 13 and hail risk reinsurance are computed according to the
86 14 applicable percent provided in Code section 432.1 upon the
86 15 gross amount of premiums received.
86 16 Code section 515.42 is amended to provide an administrative
86 17 penalty of \$500 for an insurance company other than life that
86 18 fails to timely file the annual application for renewal of its
86 19 certificate of authority.
86 20 New Code section 515.147A provides an administrative
86 21 penalty of \$500 and nonrenewal of the license of an excess and
86 22 surplus lines insurance agent that fails to timely file the
86 23 annual business activity report required under Code section
86 24 515.147. The new section provides for an additional
86 25 administrative penalty of \$100 for each day that the failure
86 26 continues after the agent receives notice of the failure from
86 27 the commissioner.
86 28 Code section 515A.9 is amended to provide that a request of
86 29 a person to a rating organization or an insurer for review of
86 30 the manner in which the organization's or insurer's rating
86 31 system has been applied to that person is not a contested case
86 32 under Code chapter 17A, nor is an appeal to the commissioner
86 33 of insurance from such a review by an organization or insurer.
86 34 New Code section 515E.3A provides procedures and criteria
86 35 for allowing a foreign risk retention group to become a
87 1 domestic insurer in this state.
87 2 Code section 515F.4(5) is amended to provide that in
87 3 determining what is a reasonable profit during the ratemaking
87 4 process, the commissioner may consider income from sources
87 5 other than investment income attributable to unearned premium
87 6 and loss reserves.
87 7 Code section 515G.1 is amended to define who is an
87 8 "eligible policyholder" and a "voting policyholder" for the
87 9 purposes of mutual insurance company conversions.
87 10 Code sections 515G.2 and 515G.3 are amended to specify
87 11 requirements for carrying out the conversion of a mutual
87 12 insurance company into a stock domestic insurance company,
87 13 including the exchange and valuation of rights of
87 14 policyholders of the mutual insurer.
87 15 MOTOR VEHICLE SERVICE CONTRACTS == Code section 516E.1(8)
87 16 is amended to redefine a "reimbursement insurance policy" as a
87 17 contractual liability policy that provides reimbursement to a
87 18 service company for services provided under a service
87 19 contract, or pays for service obligations incurred under a
87 20 service contract in the event of nonperformance by the service
87 21 company.
87 22 Code section 516E.1 is also amended to define "financial
87 23 institution", "premium", and "service company fee" as used in
87 24 the context of motor vehicle service contracts.
87 25 Code section 516E.2(3) is amended to require that service
87 26 contracts be secured by a reimbursement insurance policy in
87 27 compliance with Code section 516E.4 or the service company
87 28 must comply with financial responsibility standards
87 29 established for service companies in new Code section 516E.21.
87 30 Code section 516E.2(4)(e) is amended by striking the

87 31 requirement that a service company not issue or offer a
87 32 service contract until the proper filing fee has been paid.
87 33 Code section 516E.3 is amended to reflect that not all
87 34 service companies are required to have reimbursement
87 35 insurance.

88 1 Code section 516E.4(1) is amended to provide specific
88 2 requirements for reimbursement insurance policies insuring
88 3 motor vehicle service contracts.

88 4 Code section 516E.5(1) is amended to require the disclosure
88 5 in a service contract of whether or not the service contract
88 6 is insured by reimbursement insurance. Code section 516E.5(2)
88 7 is amended to coordinate with the change in subsection 1.

88 8 Code section 516E.15(1)(b) is amended to provide that a
88 9 service contract provider or service company, but not a third=
88 10 party administrator, may be penalized and subject to
88 11 injunctive relief for failure to file documents and
88 12 information required in Code section 516E.3.

88 13 New Code section 516E.20 provides that the sale of a motor
88 14 vehicle service contract under Code chapter 516E does not
88 15 constitute the sale of insurance unless a service company,
88 16 provider, or third=party administrator is otherwise engaged in
88 17 the sale of insurance, and the insurance laws of this state
88 18 are not applicable to the service company, provider, or third=
88 19 party administrator of a service contract.

88 20 New Code section 516E.21 sets forth specific statutory
88 21 financial responsibility and security requirements for motor
88 22 vehicle service companies that choose to maintain a funded
88 23 reserve account instead of obtaining a reimbursement insurance
88 24 policy as provided in Code section 516E.2.

88 25 COUNTY AND STATE MUTUAL INSURANCE ASSOCIATIONS == Code
88 26 section 518.15 provides an administrative penalty of \$500 for
88 27 a county mutual insurance association that fails to timely
88 28 file an annual application for renewal of its certificate of
88 29 authority or an annual condition statement. There is an
88 30 additional administrative penalty of \$100 for each day that
88 31 the failure continues after the association is notified of the
88 32 failure by the commissioner.

88 33 Code section 518A.18 provides an administrative penalty of
88 34 \$500 for a state mutual association that fails to timely file
88 35 an annual condition statement. The bill also provides an
89 1 administrative penalty of \$100 for each day that the failure
89 2 to file continues after the association receives notice of the
89 3 failure from the commissioner.

89 4 Code section 518A.35(1) is amended to provide that premium
89 5 taxes on windstorm and hail risk reinsurance issued by state
89 6 mutual insurance associations are computed on the gross amount
89 7 of reinsurance premiums written instead of received.

89 8 Code section 518A.40 is amended to provide an
89 9 administrative penalty of \$500 for a state mutual insurance
89 10 association that fails to timely file an annual application
89 11 for renewal of its certificate of authority.

89 12 RECIPROCAL OR INTERINSURANCE INSURERS == Code section
89 13 520.10 is amended to provide for an administrative penalty of
89 14 \$500 for the failure of a reciprocal or interinsurance insurer
89 15 to timely file an annual financial report and an additional
89 16 penalty of \$100 for each day that the failure continues after
89 17 the insurer receives notice of the failure from the
89 18 commissioner.

89 19 Code section 520.12 is amended to provide an administrative
89 20 penalty of \$500 for the failure of a reciprocal or
89 21 interinsurance insurer to timely file an annual application
89 22 for renewal of the insurer's certificate of authority.

89 23 CONSOLIDATION, MERGER, AND REINSURANCE == Code section
89 24 521.1 is amended to include definitions for "affected
89 25 company", meaning a company being merged with a surviving
89 26 company; "commission", meaning the commission created in Code
89 27 chapter 521; and "commissioner", meaning the commissioner of
89 28 insurance.

89 29 Code section 521.2 is amended to apply to the consolidation
89 30 or merger of a domestic insurance company organized under Code
89 31 chapter 490 or 491 with a domestic or foreign mutual insurance
89 32 company. Code chapter 521 is not applicable to mergers or
89 33 consolidations of domestic mutual companies with stock
89 34 companies pursuant to Code chapter 508B or 515G. Code chapter
89 35 521 is also applicable to a domestic company that assumes or
90 1 reinsures the risks of any other company.

90 2 Code section 521.3 is stricken and rewritten to provide
90 3 that a company proposing to consolidate, merge, or enter into
90 4 a reinsurance contract submit an application and plan with the
90 5 commissioner setting forth the terms of the proposal.

90 6 Code section 521.4 is stricken and rewritten to provide the

90 7 procedure by which a commission consisting of the attorney
90 8 general and the commissioner of insurance may hear and
90 9 determine whether to approve, disapprove, or require
90 10 modification of a plan to consolidate, merge, or reinsure.
90 11 The bill allows the commission to proceed without notice or a
90 12 public hearing or to require notice and public hearing when it
90 13 deems necessary to conserve the interests of members,
90 14 policyholders, or shareholders of the affected company.
90 15 Code section 521.5 is amended to empower the commission to
90 16 hear and determine the application, and to approve,
90 17 disapprove, or require modification of the plan of
90 18 consolidation, merger, or reinsurance prior to approval.
90 19 Code section 521.6 is amended to modernize the language
90 20 used.
90 21 Code section 521.7 is amended to require that notice of
90 22 hearing on an application and plan of consolidation, merger,
90 23 or reinsurance shall be given to members, policyholders, or
90 24 shareholders of an affected company.
90 25 Code sections 521.9, 521.11, and 521.12 are redundant and
90 26 unnecessary as a result of the other amendments to Code
90 27 chapter 521 and are repealed.
90 28 Code section 521.10 is stricken and rewritten to provide
90 29 procedures for submission of a plan to members of an affected
90 30 company for approval by a two-thirds vote of all members
90 31 voting in person, by ballot, or by proxy and specify those
90 32 cases where approval by members is not required.
90 33 Code section 521.13 is amended to provide that certain
90 34 companies that purchase reinsurance are exempt from the
90 35 requirements of Code chapter 521.
91 1 Code section 521.14 is amended to provide that the expenses
91 2 and costs incident to proceeding under Code chapter 521 must
91 3 be paid by the company filing an application and plan under
91 4 the chapter.
91 5 Code section 521.16 is amended to provide that the
91 6 provisions of Code section 521A.3 concerning acquisition of
91 7 control of or merger with domestic insurers are applicable to
91 8 mergers or consolidations subject to Code chapter 521.
91 9 New Code section 521.17 provides that a company filing a
91 10 plan to merge and consolidate under Code chapter 521 is
91 11 required to make all appropriate filings and pay all
91 12 appropriate fees required under Code chapter 490 or 491, as
91 13 applicable.
91 14 New Code section 521.18 requires a company filing a plan to
91 15 merge or consolidate under Code chapter 521 to file its
91 16 articles of merger or consolidation with the commission for
91 17 its approval and pay a filing fee of \$50.
91 18 INSURANCE HOLDING COMPANY SYSTEMS == Code section 521A.1(6)
91 19 is amended to remove the exemption from regulation under Code
91 20 chapter 521A of a company licensed under Code chapter 512B
91 21 (fraternal benefit society) and Code chapter 514 (nonprofit
91 22 health service corporations).
91 23 Code section 521A.2, subsections 1 and 3, are amended to
91 24 allow an insurer to invest in financial instruments used in
91 25 hedging transactions for its own account, that of its parent,
91 26 a subsidiary of its parent, or any affiliate or subsidiary.
91 27 MISCELLANEOUS PROVISIONS == Code section 522B.6 is amended
91 28 to change the duration of an insurance producer license from
91 29 three to two years and Code section 522B.5 is amended to
91 30 change the fee for an insurance producer license from \$50 to
91 31 \$30 to reflect the reduced term of the license.
91 32 New Code section 522B.16B establishes a procedure by which
91 33 a person who is prohibited by federal law from engaging or
91 34 participating in the business of insurance because of
91 35 conviction of a crime under federal law or a felony involving
92 1 dishonesty or breach of trust may apply to the commissioner of
92 2 insurance for written consent to engage or participate in
92 3 insurance business in this state.
92 4 CEMETERY PROVISIONS == Code section 523A.602(2)(b) is
92 5 amended to provide for cancellation and refund rights under a
92 6 purchase agreement for cemetery merchandise, funeral
92 7 merchandise, funeral services, or a combination thereof, when
92 8 the purchase agreement is canceled before the purchase price
92 9 is paid in full or another establishment provides the
92 10 merchandise or services before the purchase agreement is paid
92 11 in full.
92 12 Code section 523I.102 is amended by adding definitions for
92 13 "abandoned cemetery" and "veteran cemetery".
92 14 Code section 523I.103(1)(a) is amended to exempt veterans
92 15 cemeteries from the provisions of Code chapter 523I.
92 16 Code section 523I.201(1) is amended so that the cross=
92 17 reference in the subsection is consistent with that contained

92 18 in Code section 523A.801 naming as the deputy administrator of
92 19 the chapter the principal operations officer of the securities
92 20 and regulated industries bureau of the insurance division of
92 21 the department of commerce.
92 22 Code section 523I.309(1) is amended to establish a priority
92 23 for the right to control interment, relocation, or
92 24 disinterment of remains of a deceased person and a procedure
92 25 to determine the right to control when there are multiple
92 26 members of a class or there is disagreement among the members
92 27 of a class.
92 28 Code section 523I.316(3) is amended to authorize a
92 29 governmental subdivision to expend public funds to preserve
92 30 and protect a cemetery or burial site in its jurisdiction that
92 31 is not located within a dedicated cemetery.
92 32 New Code section 523I.317 provides that a cemetery must
92 33 provide or permit access to the cemetery to members of the
92 34 public and owners of interment rights, at reasonable times and
92 35 subject to reasonable regulations.
93 1 New Code section 523I.403 provides that a governmental
93 2 subdivision may acquire an abandoned cemetery after attempting
93 3 to notify the cemetery's owners and providing notice of its
93 4 intent to acquire the cemetery. The section also provides for
93 5 objection to such acquisition by a cemetery's owners but
93 6 requires the owners to provide public access to the cemetery
93 7 within 24 months of receiving notice of the proposed
93 8 acquisition in order to stop the acquisition.
93 9 New Code section 523I.404 provides for the acquisition of
93 10 an abandoned cemetery by a person who has a relative interred
93 11 in the cemetery or who owns interment rights in the cemetery.
93 12 The section requires such a person to organize a cemetery
93 13 association incorporated as a nonprofit corporation under Code
93 14 chapter 504A and attempt to identify the cemetery's owners and
93 15 give the owners notice of the proposed acquisition. The
93 16 section provides for objection by a cemetery's owners but
93 17 requires the owners to provide public access to the cemetery
93 18 within 24 months of receiving notice of the proposed
93 19 acquisition in order to stop the acquisition.
93 20 Code section 523I.508(4) is amended to provide that the
93 21 expenses of county officials who attend meetings of cemetery
93 22 officials as delegates may be paid out of the cemetery fund of
93 23 the township in an amount not exceeding \$25 for each delegate,
93 24 including association dues.
93 25 ELIMINATION OF COMMISSIONER OF INSURANCE SERVING AS AGENT
93 26 FOR SERVICE OF PROCESS == Code sections 507A.5, 511.27,
93 27 511.28, 511.29, 512B.33, 514.2A, 515.73, 515.74, 520.6,
93 28 521.11, 521.12, 523C.20, 523C.21, and 636.21, Code 2005, are
93 29 repealed to eliminate the requirement that the commissioner of
93 30 insurance serve as an agent to receive service of process.
93 31 Code section 516E.12, Code Supplement 2005, is repealed to
93 32 eliminate the requirement that the commissioner of insurance
93 33 serve as an agent to receive service of process.
93 34 Code sections 507A.7(3), 514B.3(10), 515A.6(1), 515A.10,
93 35 515B.16, 515E.3, 515E.4, 515E.8, 515F.8(3)(a)(3),
94 1 515F.13(2)(c), 518C.17, 520.4(9), 520.5, 520.7, 521A.3(7),
94 2 521B.2(6)(a)(2), and 521C.3(4)(b), Code 2005, are amended to
94 3 eliminate the requirement that the commissioner serve as an
94 4 agent to receive service of process. Code section 516E.3,
94 5 Code Supplement 2005, is amended to eliminate the requirement
94 6 that the commissioner serve as an agent to receive service of
94 7 process.
94 8 LSB 5363DP 81
94 9 av:nh/cf/24.1