

# Senate Study Bill 1155

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  
3 workers' compensation insurance, premium taxes, the uniform  
4 securities Act, powers and duties of the insurance division,  
5 regulation of insurance sales to military personnel, domestic  
6 insurance companies, examination of insurance companies, life  
7 insurance companies, nonprofit health service corporations,  
8 external review of health care coverage decisions, investment  
9 limitations on insurers other than life insurers, property and  
10 casualty insurers' reserves, motor vehicle service contracts,  
11 county and state mutual associations, reciprocal or  
12 interinsurance contracts, licensing of insurance producers and  
13 public adjusters, and life and fire insurance company boards  
14 of directors, and providing penalties.  
15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
16 TLSB 1235DP 82  
17 av/gg/14

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1 1 Section 1. Section 87.11, Code 2007, is amended to read as  
1 2 follows:  
1 3 87.11 RELIEF FROM INSURANCE == PROCEDURES UPON EMPLOYER'S  
1 4 INSOLVENCY.

1 5 1. a. When an employer coming under this chapter  
1 6 furnishes satisfactory proofs to the insurance commissioner of  
1 7 such employer's solvency and financial ability to pay the  
1 8 compensation and benefits as by law provided and to make such  
1 9 payments to the parties when entitled thereto, or when such  
1 10 employer deposits with the insurance commissioner security  
1 11 satisfactory to the insurance commissioner as guaranty for the  
1 12 payment of such compensation, such employer shall be relieved  
1 13 of the provisions of this chapter requiring insurance; but  
1 14 such employer shall, from time to time, furnish such  
1 15 additional proof of solvency and financial ability to pay as  
1 16 may be required by such insurance commissioner. Such security  
1 17 shall be held in trust for the sole purpose of paying  
1 18 compensation and benefits and is not subject to attachment,  
1 19 levy, execution, garnishment, liens, or any other form of  
1 20 encumbrance. However, the insurance commissioner shall be  
1 21 reimbursed from the security for all costs and fees incurred  
1 22 by the insurance commissioner in resolving disputes involving  
1 23 the security. A political subdivision, including a city,  
1 24 county, community college, or school corporation, that is  
1 25 self-insured for workers' compensation is not required to  
1 26 submit a plan or program to the insurance commissioner for  
1 27 review and approval.

1 28 b. If an approved self-insured employer discontinues its  
1 29 self-insured status or enters bankruptcy proceedings, the  
1 30 self-insured employer or its successor in interest, may  
1 31 petition the commissioner of insurance for release of its  
1 32 security. The commissioner shall release the security upon a  
1 33 finding of any of the following:

1 34 (1) The employer has not been self-insured pursuant to  
1 35 this chapter for at least four years.

2 1 (2) Ten years have elapsed from the date of the last open  
2 2 claim, claim activity, or claim payment involving the  
2 3 self-insured employer or its successor in interest, whichever  
2 4 is later.

2 5 (3) The self-insured employer presents acceptable  
2 6 replacement security.

2 7 2. An employer seeking relief from the insurance  
2 8 requirements of this chapter shall pay to the insurance  
2 9 division of the department of commerce the following fees:  
2 10 ~~1- a.~~ A fee of one hundred dollars, to be submitted  
2 11 annually along with an application for relief.  
2 12 ~~2- b.~~ A fee of one hundred dollars for issuance of the  
2 13 certificate relieving the employer from the insurance  
2 14 requirements of this chapter.  
2 15 ~~3- c.~~ A fee of fifty dollars, to be submitted with each  
2 16 filing required by the commissioner of insurance, including  
2 17 but not limited to the annual and quarterly financial  
2 18 statements, and material change statements.  
2 19 3. a. If an employer becomes insolvent and a debtor under  
2 20 11 U.S.C., on or after January 1, 1990, ~~this paragraph~~  
2 21 ~~applies.~~ ~~The~~ the commissioner of insurance may request of the  
2 22 workers' compensation commissioner that all future payments of  
2 23 workers' compensation weekly benefits, medical expenses, or  
2 24 other payments pursuant to chapter 85, 85A, 85B, 86, or 87, be  
2 25 commuted to a present lump sum. The workers' compensation  
2 26 commissioner shall fix the lump sum of probable future medical  
2 27 expenses and weekly compensation benefits, or other benefits  
2 28 payable pursuant to chapter 85, 85A, 85B, 86, or 87,  
2 29 capitalized at their present value upon the basis of interest  
2 30 at the rate provided in section 535.3 for court judgments and  
2 31 decrees. The commissioner of insurance shall be discharged  
2 32 from all further liability for the commuted workers'  
2 33 compensation claim upon payment of the present lump sum to  
2 34 either the claimant, or a licensed insurer for purchase of an  
2 35 annuity or other periodic payment plan for the benefit of the  
3 1 claimant.  
3 2 b. The commissioner of insurance shall not be required to  
3 3 pay more for all claims of an insolvent self-insured employer  
3 4 than is available for payment of such claims from the security  
3 5 given under this section.  
3 6 4. Notwithstanding contrary provisions of section 85.45,  
3 7 any future payment of medical expenses, weekly compensation  
3 8 benefits, or other payments by the commissioner of insurance  
3 9 from the security given under this section, pursuant to  
3 10 chapter 85, 85A, 85B, 86, or 87, shall be deemed an undue  
3 11 expense, hardship, or inconvenience upon the employer for  
3 12 purposes of a full commutation pursuant to section 85.45,  
3 13 subsection 2.  
3 14 5. Financial statements provided to the commissioner of  
3 15 insurance pursuant to this section may be held as  
3 16 confidential, proprietary trade secrets, pursuant to section  
3 17 22.7, subsection 3, upon the request of the employer, subject  
3 18 to rules adopted by the commissioner of insurance, and are not  
3 19 subject to disclosure or examination under chapter 22.  
3 20 Sec. 2. Section 432.1, subsection 3, Code 2007, is amended  
3 21 to read as follows:  
3 22 3. The applicable percent, as provided in subsection 4, of  
3 23 the gross amount of premiums written, and assessments, and  
3 24 fees received during the preceding calendar year by every  
3 25 company or association other than life on contracts of  
3 26 insurance other than life for business done in this state,  
3 27 including all insurance upon property situated in this state,  
3 28 after deducting the amounts returned upon canceled policies,  
3 29 certificates, and rejected applications but not including the  
3 30 gross premiums written, and assessments, and fees received in  
3 31 connection with ocean marine insurance authorized in section  
3 32 515.48.  
3 33 Sec. 3. Section 502.602, subsection 3, unnumbered  
3 34 paragraph 1, Code 2007, is amended to read as follows:  
3 35 If a person does not appear or refuses to testify, file a  
4 1 statement, produce records, or otherwise does not obey a  
4 2 subpoena as required by the administrator under this chapter,  
4 3 the administrator may apply to the Polk county district court  
4 4 or the district court for the county in which the person  
4 5 resides or is located or a court of another state to enforce  
4 6 compliance. The court may do any of the following:  
4 7 Sec. 4. Section 502.603, subsection 1, Code 2007, is  
4 8 amended to read as follows:  
4 9 1. CIVIL ACTION INSTITUTED BY ADMINISTRATOR. If the  
4 10 administrator believes that a person has engaged, is engaging,  
4 11 or is about to engage in an act, practice, or course of  
4 12 business constituting a violation of this chapter or a rule  
4 13 adopted or order issued under this chapter or that a person  
4 14 has, is, or is about to engage in an act, practice, or course  
4 15 of business that materially aids a violation of this chapter  
4 16 or a rule adopted or order issued under this chapter, the  
4 17 administrator may maintain an action in the ~~district court~~

4 18 county in which the person against whom the action is being  
4 19 brought resides, has a principal place of business, or is  
4 20 doing business, or in the county where the transaction or any  
4 21 substantial portion of the transaction which is the subject of  
4 22 the action occurred, or in the county in which one or more of  
4 23 the victims of the transaction which is the subject of the  
4 24 action resides. to enjoin the act, practice, or course of  
4 25 business and to enforce compliance with this chapter or a rule  
4 26 adopted or order issued under this chapter.

4 27 Sec. 5. Section 502.604, subsections 2 and 7, Code 2007,  
4 28 are amended to read as follows:

4 29 2. SUMMARY PROCESS. An order under subsection 1 is  
4 30 effective on the date of issuance. Upon issuance of the  
4 31 order, the administrator shall promptly serve each person  
4 32 subject to the order with a copy of the order and a notice  
4 33 that the order has been entered. The order must include a  
4 34 statement of any civil penalty or costs of investigation the  
4 35 administrator will seek, a statement of the reasons for the  
5 1 order, and notice that, within ~~fifteen~~ thirty days after  
5 2 receipt of a request in a record from the person, the matter  
5 3 will be scheduled for a hearing. If a person subject to the  
5 4 order does not request a hearing and none is ordered by the  
5 5 administrator within thirty days after the date of service of  
5 6 the order, the order, including the imposition of a civil  
5 7 penalty or requirement for payment of costs of investigation  
5 8 sought in the order, becomes final as to that person by  
5 9 operation of law. If a hearing is requested or ordered, the  
5 10 administrator, after notice of and opportunity for hearing to  
5 11 each person subject to the order, may modify or vacate the  
5 12 order or extend it until final determination.

5 13 7. ENFORCEMENT BY COURT == FURTHER CIVIL PENALTY. If a  
5 14 person does not comply with an order under this section, the  
5 15 administrator may petition ~~a~~ the Polk county district court of  
~~5 16 competent jurisdiction or the district court for the county in~~  
5 17 which the person resides or is located to enforce the order.

5 18 The court shall not require the administrator to post a bond  
5 19 in an action or proceeding under this section. If the court  
5 20 finds, after service and opportunity for hearing, that the  
5 21 person was not in compliance with the order, the court may  
5 22 adjudge the person in civil contempt of the order. The court  
5 23 may impose a further civil penalty against the person for  
5 24 contempt in an amount not less than three thousand dollars but  
5 25 not greater than ten thousand dollars for each violation and  
5 26 may grant any other relief the court determines is just and  
5 27 proper in the circumstances.

5 28 Sec. 6. Section 505.8, Code 2007, is amended by adding the  
5 29 following new subsections:

5 30 NEW SUBSECTION. 8. The commissioner may do any of the  
5 31 following:

5 32 a. Conduct public or private investigations within or  
5 33 outside of this state which the commissioner deems necessary  
5 34 or appropriate to determine whether a person has violated, is  
5 35 violating, or is about to violate a provision of any chapter  
6 1 of this subtitle or a rule adopted or order issued under any  
6 2 chapter of this subtitle, or to aid in the enforcement of any  
6 3 chapter of this subtitle or in the adoption of rules and forms  
6 4 under any chapter of this subtitle.

6 5 b. Require or permit a person to testify, file a  
6 6 statement, or produce a record under oath or otherwise as the  
6 7 commissioner determines, concerning facts and circumstances  
6 8 relating to a matter being investigated or about which an  
6 9 action or proceeding will be instituted.

6 10 c. Notwithstanding subsection 6, publish a record  
6 11 concerning an action, proceeding, or investigation under, or a  
6 12 violation of, any chapter of this subtitle or a rule adopted  
6 13 or order issued under any chapter of this subtitle, if the  
6 14 commissioner determines that such publication is in the public  
6 15 interest and is necessary and appropriate for the protection  
6 16 of the public.

6 17 NEW SUBSECTION. 9. For the purpose of an investigation  
6 18 made under any chapter of this subtitle, the commissioner or  
6 19 the commissioner's designee may administer oaths and  
6 20 affirmations, subpoena witnesses, seek compulsory attendance,  
6 21 take evidence, require the filing of statements, and require  
6 22 the production of any records that the commissioner considers  
6 23 relevant or material to the investigation, pursuant to rules  
6 24 adopted under chapter 17A.

6 25 NEW SUBSECTION. 10. If a person does not appear or  
6 26 refuses to testify, or does not file a statement or produce  
6 27 records, or otherwise does not obey a subpoena or order issued  
6 28 by the commissioner under any chapter of this subtitle, the

6 29 commissioner may, in addition to assessing the penalties  
6 30 contained in sections 505.7A, 507B.6A, 507B.7, 522B.11, and  
6 31 522B.17, make application to a district court of this state or  
6 32 another state to enforce compliance with the subpoena or  
6 33 order. A court to whom application is made to enforce  
6 34 compliance with a subpoena or order pursuant to this subtitle  
6 35 may do any of the following:

- 7 1 a. Hold the person in contempt.
- 7 2 b. Order the person to appear before the commissioner.
- 7 3 c. Order the person to testify about the matter under  
7 4 investigation.
- 7 5 d. Order the production of records.
- 7 6 e. Grant injunctive relief, including restricting or  
7 7 prohibiting the offer or sale of insurance or insurance  
7 8 advice.
- 7 9 f. Impose a civil penalty as set forth in section 505.7A.
- 7 10 g. Grant any other necessary or appropriate relief.

7 11 NEW SUBSECTION. 11. This section shall not be construed  
7 12 to prohibit a person from applying to a district court of this  
7 13 state or another state for relief from a subpoena or order  
7 14 issued by the commissioner under any chapter of this subtitle.

7 15 NEW SUBSECTION. 12. An individual shall not be relieved  
7 16 of an order to appear, testify, file a statement, produce a  
7 17 record or other evidence, or obey a subpoena or other order of  
7 18 the commissioner made under any chapter of this subtitle on  
7 19 the grounds that fulfillment of the requirement may, directly  
7 20 or indirectly, tend to incriminate the individual or subject  
7 21 the individual to a criminal fine, penalty, or forfeiture. If  
7 22 an individual refuses to obey a subpoena or order by asserting  
7 23 that individual's privilege against self-incrimination, the  
7 24 commissioner may apply to the district court to compel the  
7 25 individual to obey the subpoena or order of the commissioner.  
7 26 Testimony, records, or other evidence that is compelled by a  
7 27 court enforcing an order of the commissioner shall not be  
7 28 used, directly or indirectly, against that individual in a  
7 29 criminal case, except in a prosecution for perjury or contempt  
7 30 or for otherwise failing to comply with the order.

7 31 NEW SUBSECTION. 13. Upon request of the insurance  
7 32 regulator of another state or foreign jurisdiction, the  
7 33 commissioner may provide assistance in conducting an  
7 34 investigation to determine whether a person has violated, is  
7 35 violating, or is about to violate an insurance law or rule of  
8 1 the other state or foreign jurisdiction administered or  
8 2 enforced by that insurance regulator. The commissioner may  
8 3 provide such assistance pursuant to the powers conferred under  
8 4 this section as the commissioner determines is necessary or  
8 5 appropriate under the circumstances. Such assistance may be  
8 6 provided regardless of whether the conduct being investigated  
8 7 would constitute a violation of this subtitle or any other law  
8 8 of this state if the conduct occurred in this state. In  
8 9 determining whether to provide such assistance the  
8 10 commissioner may consider whether the insurance regulator  
8 11 requesting the assistance is permitted to and has agreed to  
8 12 reciprocate in providing assistance to the commissioner upon  
8 13 request, whether compliance with the request would violate or  
8 14 prejudice the public policy of this state, and the  
8 15 availability of division commissioner resources and employees  
8 16 to provide such assistance.

8 17 Sec. 7. NEW SECTION. 505.27A SALE OF INSURANCE TO  
8 18 MILITARY PERSONNEL.

8 19 Notwithstanding any other provision of this title, the  
8 20 commissioner of insurance shall have the authority to adopt  
8 21 such rules related to the business of insurance, other than  
8 22 the servicemembers' group life insurance program under 38  
8 23 U.S.C. pt. II, ch. 19, subc. III, as may be necessary to  
8 24 protect military personnel located either on a United States  
8 25 military installation or elsewhere in this state and to carry  
8 26 out the provisions of this title.

8 27 Sec. 8. NEW SECTION. 506.13 NEW OFFICERS OR DIRECTORS ==  
8 28 BIOGRAPHICAL AFFIDAVIT REQUIRED.

8 29 Within thirty days after a quarterly or annual statement of  
8 30 an insurance company domiciled in this state first names an  
8 31 individual as an officer or director of the company on the  
8 32 jurat page of the quarterly or annual statement, the new  
8 33 officer or director shall file a biographical affidavit with  
8 34 the commissioner. The affidavit shall be prepared on the  
8 35 current template for biographical affidavits prescribed by the  
9 1 national association of insurance commissioners.

9 2 Sec. 9. Section 507.1, subsection 2, paragraphs b and e,  
9 3 Code 2007, are amended to read as follows:

- 9 4 b. "Company" means any person engaging in or proposing or

9 5 attempting to engage in any transaction or kind of insurance  
9 6 or surety business and any person or group of persons who may  
9 7 otherwise be subject to the administrative, regulatory, or  
9 8 taxing authority of the commissioner including nonadmitted  
9 9 insurers authorized to do business in Iowa.

9 10 e. "Insurer" includes all companies or associations  
9 11 organized under chapter 508, 511, 512A, 512B, 514, 514B, 515,  
9 12 515C, or 518A, associations subject to chapters 518 and 520,  
9 13 and companies or associations admitted or seeking to be  
9 14 admitted to this state under any of those chapters. "Insurer"  
9 15 also includes nonadmitted insurers authorized to do business  
9 16 in Iowa.

9 17 Sec. 10. Section 508.6, Code 2007, is amended to read as  
9 18 follows:

9 19 508.6 DEPOSIT OF SECURITIES == CERTIFICATE.  
9 20 Securities in the amount of the capital and surplus  
9 21 required under section 508.5 shall be deposited by companies  
9 22 organized under the laws of this state with the commissioner  
9 23 of insurance or at such places as the commissioner may  
9 24 designate. When the deposit is made and evidence furnished,  
9 25 by affidavit or otherwise, satisfactory to the commissioner,  
9 26 that the capital stock is all fully paid and the company  
9 27 possessed of the surplus required and that the company is the  
9 28 actual and unqualified owner of the securities representing  
9 29 the paid-up capital stock or other funds of the company, and  
9 30 all laws have been complied with, the commissioner shall issue  
9 31 the company the certificate provided for in this chapter.

9 32 Sec. 11. Section 508.10, Code 2007, is amended to read as  
9 33 follows:

9 34 508.10 FOREIGN COMPANIES == CAPITAL OR SURPLUS ==  
9 35 INVESTMENTS.

10 1 1. No A company incorporated by or organized under the  
10 2 laws of any other state or government shall not transact  
10 3 business in this state unless it is possessed of the actual  
10 4 amount of capital and surplus required of any company  
10 5 organized by the laws of this state, or, if it be a mutual  
10 6 company, of surplus equal in amount thereto, ~~and the same is~~  
~~10 7 invested in bonds of the United States or of this state, or in~~  
~~10 8 interest-paying bonds, when they are at or above par, of the~~  
~~10 9 state in which the company is located, or of some other state,~~  
~~10 10 or in notes or bonds secured by mortgages on unencumbered real~~  
~~10 11 estate within this or the state where such company is located,~~  
~~10 12 worth one and one-third times the amount loaned thereon, which~~  
~~10 13 securities shall, at the time, be on deposit with the~~  
~~10 14 commissioner of insurance, auditor, director of revenue, or~~  
~~10 15 chief financial officer of the state by whose laws the company~~  
~~10 16 is incorporated, or of some other state, and the commissioner~~  
~~10 17 of insurance is furnished with a certificate of such officer,~~  
~~10 18 under the officer's official seal, that the person as such~~  
~~10 19 officer holds in trust and on deposit for the benefit of all~~  
~~10 20 the policyholders of such company, the securities above~~  
~~10 21 mentioned. This certificate shall embrace the items of~~  
~~10 22 security so held, and show that such officer is satisfied that~~  
~~10 23 such securities are worth the amount stated in the~~  
~~10 24 certificate. Nothing herein contained shall invalidate the~~  
~~10 25 agency of any company incorporated in another state by reason~~  
~~10 26 of its having exchanged the bonds or securities so deposited~~  
~~10 27 with such officer for other bonds or securities authorized by~~  
~~10 28 this chapter, or by reason of its having drawn its interest~~  
~~10 29 and dividends on the same.~~

10 30 2. An alien insurer, with the approval of the  
10 31 commissioner, may be treated as a domestic insurer of this  
10 32 state in whole or in part, and if so approved is deemed to be  
10 33 organized under the laws of this state and is an Iowa domestic  
10 34 insurer as provided by rules adopted by the commissioner. The  
10 35 approval of the commissioner may be based upon such factors

11 1 as:

11 2 ~~1-~~ a. Maintenance of an appropriate trust account,  
11 3 surplus account, or other financial mechanism in this state.

11 4 ~~2-~~ b. Maintenance of all books and records of United  
11 5 States operations in this state.

11 6 ~~3-~~ c. Maintenance of a separate financial reporting  
11 7 system for its United States operations.

11 8 ~~4-~~ d. Any other provisions deemed necessary by the  
11 9 commissioner.

11 10 3. A foreign company authorized to do business in this  
11 11 state shall not assumptively reinsure a block of business  
11 12 which includes policyholders residing in this state to a  
11 13 company not authorized to do business in this state without  
11 14 the prior written approval of the commissioner.

11 15 Sec. 12. Section 514.4, unnumbered paragraph 2, Code 2007,

11 16 is amended to read as follows:

11 17 A subscriber director is a director of the board of a  
11 18 corporation who is a subscriber and who is not a provider of  
11 19 health care pursuant to section 514B.1, subsection 7, a person  
11 20 who has material financial or fiduciary interest in the  
11 21 delivery of health care services or a related industry, an  
11 22 employee of an institution which provides health care  
11 23 services, or a spouse or a member of the immediate family of  
11 24 such a person. However, a subscriber director of a dental  
11 25 service corporation may be an employee, officer, director, or  
11 26 trustee of a hospital that does not contract with the dental  
11 27 service corporation. A subscriber director of a hospital or  
11 28 medical service corporation shall be a subscriber of the  
11 29 services of that corporation.

11 30 Sec. 13. Section 514J.2, subsection 3, Code 2007, is  
11 31 amended to read as follows:

11 32 3. "Coverage decision" means a final adverse decision  
11 33 based on medical necessity. This definition does not include  
11 34 a denial of coverage for a service or treatment specifically  
11 35 listed in plan or evidence of coverage documents as excluded  
12 1 from coverage, or a denial of coverage for a service or  
12 2 treatment that has already been received and for which the  
12 3 enrollee has no financial liability.

12 4 Sec. 14. Section 515.35, subsection 2, Code 2007, is  
12 5 amended by adding the following new paragraph:

12 6 NEW PARAGRAPH. aa. "Capital and surplus", for purposes of  
12 7 computing percentage limitations on particular types of  
12 8 investments, means the capital and surplus that is authorized  
12 9 to be shown as capital and surplus on the national association  
12 10 of insurance commissioners' annual statement template as of  
12 11 the December 31 immediately preceding the date the company  
12 12 acquires the investment.

12 13 Sec. 15. NEW SECTION. 515H.1 SHORT TITLE.

12 14 This chapter shall be known and may be cited as the  
12 15 "Property and Casualty Actuarial Opinions Act".

12 16 Sec. 16. NEW SECTION. 515H.2 ACTUARIAL OPINION OF  
12 17 RESERVES == SUPPORTING DOCUMENTATION.

12 18 1. STATEMENT OF ACTUARIAL OPINION. Every property and  
12 19 casualty insurance company doing business in this state,  
12 20 unless otherwise exempted from this requirement by the  
12 21 commissioner, shall annually submit the opinion of an  
12 22 appointed actuary entitled "statement of actuarial opinion"  
12 23 with the company's annual statement in accordance with the  
12 24 provisions of section 515.63 and with the requirements of the  
12 25 national association of insurance commissioners' property and  
12 26 casualty annual statement instructions.

12 27 2. ACTUARIAL OPINION SUMMARY.

12 28 a. Every property and casualty insurance company domiciled  
12 29 in this state that is required to submit a statement of  
12 30 actuarial opinion shall annually submit an actuarial opinion  
12 31 summary, prepared and signed by the company's appointed  
12 32 actuary. The actuarial summary shall be filed in accordance  
12 33 with the requirements of the national association of insurance  
12 34 commissioners' property and casualty company annual statement  
12 35 instructions and shall be considered a document in support of  
13 1 the statement of actuarial opinion required under subsection  
13 2 1.

13 3 b. A property and casualty insurance company that is  
13 4 licensed but not domiciled in this state shall provide an  
13 5 actuarial opinion summary upon request of the commissioner.

13 6 3. ACTUARIAL REPORT AND WORK PAPERS.

13 7 a. An actuarial report and supporting work papers shall be  
13 8 prepared to support each statement of actuarial opinion in  
13 9 accordance with the requirements of the national association  
13 10 of insurance commissioners' property and casualty company  
13 11 annual statement instructions.

13 12 b. If an insurance company fails to provide a supporting  
13 13 actuarial report and work papers as requested by the  
13 14 commissioner or the commissioner determines that the actuarial  
13 15 report and work papers provided are unacceptable, the  
13 16 commissioner may engage a qualified actuary at the company's  
13 17 expense to review the statement of actuarial opinion and the  
13 18 basis for the opinion and to prepare a supporting actuarial  
13 19 report and work papers.

13 20 4. An appointed actuary of a property and casualty  
13 21 insurance company that prepares a statement of actuarial  
13 22 opinion pursuant to this section shall not be liable for  
13 23 damages to any person, except the company and the insurance  
13 24 commissioner, for any act, error, omission, decision, or  
13 25 misconduct of the appointed actuary in conducting the  
13 26 actuary's duties pursuant to this section.

13 27 Sec. 17. NEW SECTION. 515H.3 CONFIDENTIALITY.

13 28 1. A statement of actuarial opinion filed pursuant to  
13 29 section 515H.2 is a public record subject to examination and  
13 30 copying.

13 31 2. Documents in the possession or control of the insurance  
13 32 division that are provided to the division in support of a  
13 33 statement of actuarial opinion, that are considered an  
13 34 actuarial report, work papers, an actuarial opinion summary,  
13 35 or any other material provided by the company in connection  
14 1 with the actuarial report, work papers, or actuarial opinion  
14 2 summary are confidential records under section 507.14 and  
14 3 shall not be subject to subpoena or discovery or be admissible  
14 4 in evidence in any private civil action.

14 5 3. Disclosure of any documents, materials, or information  
14 6 to the division in compliance with the requirements of this  
14 7 chapter shall not be considered a waiver of any applicable  
14 8 privilege or claim of confidentiality.

14 9 Sec. 18. Section 516E.3, subsection 2, paragraph a, Code  
14 10 2007, is amended by striking the paragraph.

14 11 Sec. 19. Section 518.14, subsection 2, Code 2007, is  
14 12 amended by adding the following new paragraph:

14 13 NEW PARAGRAPH. h. "Surplus", for purposes of computing  
14 14 percentage limitations on particular types of investments,  
14 15 means the surplus that is authorized to be shown on the  
14 16 commissioner's annual statement blank as surplus as of the  
14 17 December 31 immediately preceding the date the association  
14 18 acquires the investment.

14 19 Sec. 20. Section 518A.1, subsection 1, paragraph d, Code  
14 20 2007, is amended to read as follows:

14 21 d. Any ~~automobile vehicle, excluding automobiles or~~  
14 22 ~~aircraft or other vehicle, including loss, and expense, or~~  
14 23 ~~liability~~ resulting from the ownership, maintenance, or use  
14 24 thereof, but shall not include insurance against bodily injury  
14 25 to the person.

14 26 Sec. 21. Section 518A.12, subsection 2, Code 2007, is  
14 27 amended by adding the following new paragraph:

14 28 NEW PARAGRAPH. h. "Surplus", for purposes of computing  
14 29 percentage limitations on particular types of investments,  
14 30 means the surplus that is authorized to be shown on the  
14 31 commissioner's annual statement blank as surplus as of the  
14 32 December 31 immediately preceding the date the association  
14 33 acquires the investment.

14 34 Sec. 22. Section 520.9, subsection 1, Code 2007, is  
14 35 amended to read as follows:

15 1 1. There shall at all times be maintained as assets a sum  
15 2 in cash, or in securities of the kind designated by the laws  
15 3 of the state where the principal office is located for the  
15 4 investment of funds of insurance companies, equal to one  
15 5 hundred percent of the net unearned premiums or deposits  
15 6 collected and credited to the account of subscribers, or  
15 7 assets equal to fifty percent of the net annual deposits  
15 8 collected and credited to the account of subscribers on  
15 9 policies having one year or less to run and pro rata on those  
15 10 for longer periods; in addition to which there shall be  
15 11 maintained in cash, or in such securities, assets sufficient  
15 12 to discharge all liabilities on all outstanding losses arising  
15 13 under policies issued, the same to be calculated in accordance  
15 14 with the laws of the state relating to similar reserves for  
15 15 companies insuring similar risks; provided that where the  
15 16 assets on hand available for the payment of losses other than  
15 17 determined losses, do not equal ~~two five~~ million dollars, all  
15 18 liability for each determined loss or claim deferred for more  
15 19 than one year, shall be provided for by a special deposit in a  
15 20 trust company or bank having fiduciary powers of the state in  
15 21 which the principal office is located, to be used in payment  
15 22 of compensation benefits for disability; such deposit to be a  
15 23 trust fund and applicable only to the purposes stated, or such  
15 24 liability may be reinsured in authorized companies with a  
15 25 surplus of at least ~~two five~~ million dollars. For the purpose  
15 26 of such reserves, net deposits shall be construed to mean the  
15 27 advance payments of subscribers after deducting the amount  
15 28 specifically provided in the subscribers' agreements for  
15 29 expenses. If at any time the assets so held in cash or such  
15 30 securities shall be less than required above, or less than ~~two~~  
15 31 ~~five~~ million dollars, the subscribers or their attorney for  
15 32 them shall make up the deficiency within thirty days after  
15 33 notice from the commissioner of insurance to do so. In  
15 34 computing the assets required by this section, the amount  
15 35 specified in section 520.4, subsection 7, shall be included.

16 1 Sec. 23. Section 522B.6, subsection 3, Code 2007, is  
16 2 amended to read as follows:

16 3 3. An insurance producer license remains in effect unless  
16 4 revoked or suspended as long as all required fees are paid and  
16 5 continuing education requirements for resident individual  
16 6 insurance producers are met by any applicable due date.  
16 7 Resident individual insurance producers are required to  
16 8 complete continuing education requirements in order to be  
16 9 eligible for license renewal.

16 10 Sec. 24. NEW SECTION. 522C.1 PURPOSE.  
16 11 The purpose of this chapter is to govern the qualifications  
16 12 and procedures for licensing public adjusters in this state,  
16 13 and to specify the duties of and restrictions on public  
16 14 adjusters, including limitation of such licensure to assisting  
16 15 insureds only with first-party claims.

16 16 Sec. 25. NEW SECTION. 522C.2 DEFINITIONS.  
16 17 As used in this chapter, unless the context otherwise  
16 18 requires:

16 19 1. "Business entity" means a corporation, association,  
16 20 partnership, limited liability company, limited liability  
16 21 partnership, or any other legal entity.

16 22 2. "Commissioner" means the commissioner of insurance.

16 23 3. "Fingerprints" means an impression of the lines on a  
16 24 human finger taken for the purposes of identification. The  
16 25 impression may be electronic or in ink converted to an  
16 26 electronic format.

16 27 4. "First-party claim" means a claim filed by a person  
16 28 insured under the insurance policy against which the claim is  
16 29 made.

16 30 5. "Individual" means a natural person.

16 31 6. "Person" means an individual or a business entity.

16 32 7. "Public adjuster" means any person who for compensation  
16 33 or any other thing of value acts on behalf of an insured by  
16 34 doing any of the following:

16 35 a. Acting for or aiding an insured in negotiating for or  
17 1 effecting the settlement of a first-party claim for loss or  
17 2 damage to real or personal property of the insured.

17 3 b. Advertising for employment as a public adjuster of  
17 4 first-party insurance claims or otherwise soliciting business  
17 5 or representing to the public that the person is a public  
17 6 adjuster of first-party insurance claims for loss or damage to  
17 7 real or personal property of an insured.

17 8 c. Directly or indirectly soliciting business  
17 9 investigating or adjusting losses, or advising an insured  
17 10 about first-party claims for loss or damage to real or  
17 11 personal property of the insured.

17 12 8. "Uniform business entity application" means the current  
17 13 version of the national association of insurance  
17 14 commissioners' uniform business entity application for  
17 15 resident and nonresident business entities.

17 16 9. "Uniform individual application" means the current  
17 17 version of the national association of insurance  
17 18 commissioners' uniform individual application for resident and  
17 19 nonresident individuals.

17 20 Sec. 26. NEW SECTION. 522C.3 AUTHORITY OF THE  
17 21 COMMISSIONER.

17 22 1. The commissioner shall adopt rules pursuant to chapter  
17 23 17A as necessary to administer and enforce this chapter.

17 24 2. The commissioner shall adopt rules including but not  
17 25 limited to all of the following:

17 26 a. Advertising standards.

17 27 b. Continuing education requirements for licensees.

17 28 c. Contracts between public adjusters and insureds.

17 29 d. Required disclosures by licensees.

17 30 e. Examinations for licensure.

17 31 f. Exemptions.

17 32 g. License bonds and errors and omissions insurance  
17 33 requirements.

17 34 h. License requirements and exclusions.

17 35 i. Prohibited practices.

18 1 j. Record retention requirements.

18 2 k. Reporting requirements.

18 3 l. Requirements and limitations on fees charged by public  
18 4 adjusters.

18 5 m. Standards for reasonableness of payment.

18 6 n. Standards of conduct.

18 7 o. Penalties.

18 8 Sec. 27. NEW SECTION. 522C.4 LICENSE REQUIRED.

18 9 A person shall not operate as or represent that the person  
18 10 is a public adjuster in this state unless the person is  
18 11 licensed by the commissioner in accordance with this chapter.

18 12 Sec. 28. NEW SECTION. 522C.5 APPLICATION FOR LICENSE.

18 13 1. A person applying for a public adjuster license shall



18 14 make application on a uniform individual application or  
18 15 uniform business entity application as prescribed by the  
18 16 commissioner pursuant to rules adopted under chapter 17A.  
18 17 2. In determining eligibility for licensure under this  
18 18 chapter, the commissioner shall require each individual  
18 19 applying for a public adjuster license to submit a full set of  
18 20 fingerprints with the application. The commissioner shall  
18 21 also require each business entity applying for licensure under  
18 22 this chapter to submit a full set of fingerprints for each  
18 23 individual who will be acting as a public adjuster on behalf  
18 24 of the business entity. The commissioner shall conduct a  
18 25 state and national criminal history record check on each  
18 26 applicant. The commissioner is authorized to submit  
18 27 fingerprints and any required fees to the state department of  
18 28 public safety, the state attorney general, and the federal  
18 29 bureau of investigation for the performance of such criminal  
18 30 record checks.

18 31 a. The commissioner may contract for the collection,  
18 32 transmission, and resubmission of fingerprints required under  
18 33 this section and may contract for a reasonable fingerprinting  
18 34 fee to be charged by the contractor for these services. Any  
18 35 fees for the collection, transmission, and retention of  
19 1 fingerprints submitted pursuant to this subsection shall be  
19 2 paid directly to the contractor by the applicant.

19 3 b. The commissioner may waive submission of fingerprints  
19 4 by any person who has previously furnished fingerprints if  
19 5 those fingerprints are on file with the central repository of  
19 6 the national association of insurance commissioners, its  
19 7 affiliates, or subsidiaries.

19 8 c. The commissioner may receive criminal history record  
19 9 information concerning an applicant that was requested by the  
19 10 state department of justice directly from the federal bureau  
19 11 of investigation.

19 12 d. The commissioner may submit electronic fingerprint  
19 13 records and necessary identifying information to the national  
19 14 association of insurance commissioners, its affiliates, or  
19 15 subsidiaries for permanent retention in a centralized  
19 16 repository whose purpose is to provide state insurance  
19 17 commissioners with access to fingerprint records in order to  
19 18 perform criminal history record checks.

19 19 Sec. 29. NEW SECTION. 522C.6 PENALTIES.

19 20 1. The commissioner may place on probation, suspend,  
19 21 revoke, or refuse to issue or renew a public adjuster's  
19 22 license or may levy a civil penalty as provided in section  
19 23 505.7A if a licensed public adjuster is found after hearing to  
19 24 be in violation of the requirements of this chapter or rules  
19 25 adopted or orders issued pursuant to this chapter.

19 26 2. A person who is found after hearing to have operated as  
19 27 or represented that the person is a public adjuster and does  
19 28 not have a license issued under this chapter, is guilty of a  
19 29 class "D" felony.

19 30 3. A person who is found after hearing to have willfully  
19 31 violated any provisions of this chapter or any rule adopted or  
19 32 order issued under this chapter, is guilty of a class "D"  
19 33 felony.

19 34 Sec. 30. Sections 523.5 and 523.6, Code 2007, are  
19 35 repealed.

#### 20 1 EXPLANATION

20 2 This bill relates to various matters under the purview of  
20 3 the insurance division of the department of commerce.

20 4 WORKERS' COMPENSATION == RELEASE OF SECURITY. Code section  
20 5 87.11 is amended to allow an employer that is self-insured for  
20 6 workers' compensation purposes and discontinues its  
20 7 self-insured status or enters bankruptcy proceedings to  
20 8 petition the workers' compensation commissioner for a release  
20 9 of its security under specified circumstances.

20 10 PREMIUM TAXES. Code section 432.1 is amended to specify  
20 11 that an insurance company or association other than life is  
20 12 required to pay taxes based on a percentage of gross premiums  
20 13 written instead of gross premiums.

20 14 UNIFORM SECURITIES ACT. Code section 502.602 is amended to  
20 15 allow an administrator to seek remedies for noncompliance with  
20 16 the chapter by application to the Polk county district court  
20 17 or the district court for the county in which the person  
20 18 resides or is located.

20 19 Code section 502.603 is amended to authorize an  
20 20 administrator to maintain an action for civil enforcement in  
20 21 the county in which the person against whom the action is  
20 22 being brought resides, has a principal place of business, or  
20 23 is doing business, or in the county where the transaction or  
20 24 any substantial part of the transaction which is the subject

20 25 of the action occurred, or in the county in which one or more  
20 26 of the victims of the transaction which is the subject of the  
20 27 action resides.

20 28 Code section 502.604 is amended to provide that a hearing  
20 29 will be scheduled within 30 instead of 15 days after an  
20 30 administrator receives a request for hearing and to authorize  
20 31 the administrator to petition for enforcement of an  
20 32 administrative order against a person in the Polk county  
20 33 district court or the district court for the county in which  
20 34 the person resides or is located.

20 35 INSURANCE DIVISION POWERS AND DUTIES. Code section 505.8  
21 1 is amended to authorize the commissioner of insurance to do  
21 2 the following: (1) conduct certain public or private  
21 3 investigations within or outside of this state, require or  
21 4 permit certain persons to provide information concerning  
21 5 matters being investigated or actions or proceedings to be  
21 6 instituted, and publish records as the commissioner deems  
21 7 appropriate for the protection of the public; (2) administer  
21 8 oaths and affirmations, subpoena witnesses, compel attendance,  
21 9 take evidence, and require statements and production of  
21 10 records in connection with an investigation; (3) assess  
21 11 penalties and seek judicial enforcement of subpoenas or orders  
21 12 issued by the commissioner; (4) require a person to comply  
21 13 with an order even if compliance may directly or indirectly  
21 14 incriminate the individual or subject the individual to  
21 15 criminal fines, penalties, or forfeiture so long as the  
21 16 testimony, records, or evidence compelled is not used against  
21 17 the individual in a criminal case; and (5) assist insurance  
21 18 regulators in other states or foreign jurisdictions with their  
21 19 investigations of insurance law violations under specified  
21 20 circumstances.

21 21 SALE OF INSURANCE TO MILITARY PERSONNEL. New Code section  
21 22 505.27A authorizes the commissioner of insurance to adopt  
21 23 rules related to the business of insurance, other than the  
21 24 federal servicemembers' group life insurance program, as  
21 25 necessary to protect military personnel located either on a  
21 26 United States military installation or elsewhere in the state  
21 27 and to carry out the provisions of Iowa insurance law and  
21 28 related rules.

21 29 DOMESTIC INSURANCE COMPANIES == BIOGRAPHICAL AFFIDAVITS.  
21 30 New Code section 506.13 requires new officers or directors of  
21 31 an insurance company domiciled in Iowa to file a biographical  
21 32 affidavit with the insurance commissioner within 30 days after  
21 33 a quarterly or annual statement of the company first names the  
21 34 individual as an officer or director of the company on the  
21 35 jurat page (where individual swears to the individual's  
22 1 signature) of the quarterly or annual statement.

22 2 EXAMINATION OF INSURANCE COMPANIES. Code section 507.1 is  
22 3 amended to provide that companies and insurers that are  
22 4 subject to the provisions of Code chapter 507 concerning the  
22 5 examination of insurance companies include nonadmitted  
22 6 insurers that are authorized to do business in Iowa.

22 7 LIFE INSURANCE COMPANIES. Code section 508.6 is amended to  
22 8 specify that securities in the amount of capital and surplus  
22 9 are required to be deposited with the commissioner of  
22 10 insurance only by life insurance companies organized under the  
22 11 laws of this state.

22 12 Code section 508.10 is amended to eliminate the requirement  
22 13 that foreign life insurance companies doing business in Iowa  
22 14 maintain on deposit an amount equal to their minimum capital  
22 15 and surplus requirements.

22 16 NONPROFIT HEALTH SERVICE CORPORATIONS. Code section 514.4  
22 17 is amended to provide that a subscriber director of a dental  
22 18 service corporation may be an employee, officer, director, or  
22 19 trustee of a hospital that does not contract with the dental  
22 20 service corporation.

22 21 EXTERNAL REVIEW OF HEALTH CARE COVERAGE DECISIONS. Code  
22 22 section 514J.2 is amended to provide that a "coverage  
22 23 decision" for which there is a right of appeal pursuant to  
22 24 Code chapter 514J does not include a denial of coverage for a  
22 25 service or treatment that has already been received and for  
22 26 which the enrollee has no financial liability.

22 27 INSURANCE OTHER THAN LIFE == INVESTMENT LIMITATIONS. Code  
22 28 section 515.35 is amended by adding a definition of what  
22 29 constitutes "capital and surplus" for purposes of computing  
22 30 percentage limitations on particular types of investments by  
22 31 insurance companies other than life insurers.

22 32 PROPERTY AND CASUALTY INSURANCE == ACTUARIAL OPINION OF  
22 33 RESERVES. New Code chapter 515H requires every property and  
22 34 casualty insurance company doing business in Iowa, unless  
22 35 otherwise exempted, to annually submit a statement of

23 1 actuarial opinion by an appointed actuary with the company's  
23 2 annual statement as prescribed in the new Code chapter. The  
23 3 new Code chapter also provides that a statement of actuarial  
23 4 opinion filed with the company's annual statement is a public  
23 5 record, although other documents filed in support of the  
23 6 statement such as an actuarial report, work papers, or an  
23 7 actuarial opinion summary are considered confidential records  
23 8 under Code section 507.14.

23 9 MOTOR VEHICLE SERVICE CONTRACTS. Code section 516E.3 is  
23 10 amended by striking the requirement that the provider of a  
23 11 motor vehicle service contract file a copy of the contract  
23 12 with the commissioner of insurance since the service company  
23 13 that issues the contract is already required to file such a  
23 14 copy.

23 15 COUNTY MUTUAL INSURANCE ASSOCIATIONS. Code section 518.14  
23 16 is amended to include a definition of what constitutes  
23 17 "surplus" for purposes of computing percentage limitations on  
23 18 particular types of investments by county mutual insurance  
23 19 associations.

23 20 STATE MUTUAL INSURANCE ASSOCIATIONS. Code section 518A.1  
23 21 is amended to prohibit state mutual insurance associations  
23 22 from providing liability and property insurance for loss and  
23 23 expense resulting from the ownership, maintenance, or use of  
23 24 automobiles or aircraft.

23 25 Code section 518A.12 is amended to include a definition of  
23 26 what constitutes "surplus" for purposes of computing  
23 27 percentage limitations on particular types of investments by  
23 28 state mutual insurance associations.

23 29 RECIPROCAL OR INTERINSURANCE CONTRACTS. Code section 520.9  
23 30 is amended to require designated subscribers that are  
23 31 authorized to exchange reciprocal or interinsurance contracts  
23 32 to provide special trust deposits where assets for the payment  
23 33 of certain losses do not equal \$5 million and to require that  
23 34 reinsurance be secured in an authorized company with a surplus  
23 35 of at least \$5 million. Currently, the required minimum  
24 1 amounts are \$2 million.

24 2 LICENSING OF INSURANCE PRODUCERS. Code section 522B.6 is  
24 3 amended to require resident individual insurance producers to  
24 4 complete continuing education requirements in order to be  
24 5 eligible for license renewal.

24 6 LICENSING OF PUBLIC ADJUSTERS. New Code chapter 522C  
24 7 governs qualifications and procedures for licensing public  
24 8 adjusters in this state, and specifies duties and restrictions  
24 9 on public adjusters, including limitation of their licensure  
24 10 to assisting insureds with first-party claims.

24 11 The bill authorizes the commissioner to place on probation,  
24 12 suspend, revoke, or refuse to issue or renew the license of or  
24 13 levy a civil penalty as provided in Code section 505.7A  
24 14 against a person who violates the requirements of the new Code  
24 15 chapter or rules or orders issued pursuant to the chapter.  
24 16 Operating as a public adjuster without a license or willful  
24 17 violations of the new Code chapter are classified as class "D"  
24 18 felonies. A class "D" felony is punishable by confinement for  
24 19 no more than five years and a fine of at least \$750 but not  
24 20 more than \$7,500.

24 21 INSURANCE COMPANY BOARD OF DIRECTORS == PROPORTIONATE  
24 22 REPRESENTATION. Code sections 523.5 and 523.6 which allow  
24 23 proportionate representation of certain minority shareholders  
24 24 on the board of directors of certain life or fire insurance  
24 25 companies are repealed.

24 26 LSB 1235DP 82  
24 27 av:rj/gg/14.1