

Senate Study Bill 1164

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 uniform securities act; insurance division; examination of
4 insurance companies; articles of incorporation filing
5 requirements; viatical settlements contracts; life insurance
6 companies and associations; long-term care insurance;
7 long-term care asset disregard incentives; insurance other
8 than life; insurance guaranty association; county mutual
9 insurance associations; state mutual insurance associations;
10 consolidation, merger, and reinsurance; and cemetery and
11 funeral merchandise and funeral services; and providing for
12 retroactive applicability.

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

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1 1 Section 1. Section 20.4, Code 2009, is amended by adding
1 2 the following new subsection:

1 3 NEW SUBSECTION. 13. Full-time persons employed by the
1 4 insurance division of the department of commerce who examine
1 5 or analyze the accounts and affairs of persons subject to the
1 6 supervision and regulation of the commissioner of insurance
1 7 pursuant to chapter 507.

1 8 Sec. 2. Section 249A.35, Code 2009, is amended to read as
1 9 follows:

1 10 249A.35 PURCHASE OF ~~CERTIFIED~~ QUALIFIED LONG-TERM CARE
1 11 INSURANCE POLICY == COMPUTATION UNDER MEDICAL ASSISTANCE
1 12 PROGRAM.

1 13 A computation for the purposes of determining eligibility
1 14 under this chapter concerning an individual who is the
1 15 beneficiary of a ~~certified~~ qualified long-term care insurance
1 16 policy under chapter 514H shall include consideration of the
1 17 asset disregard provided in section 514H.5.

1 18 Sec. 3. Section 502.409, subsection 1, Code 2009, is
1 19 amended to read as follows:

1 20 1. WITHDRAWAL OF REGISTRATION. Withdrawal of registration
1 21 by a broker-dealer, agent, investment adviser, or investment
1 22 adviser representative becomes effective sixty days after the
1 23 filing of the application to withdraw or within any shorter
1 24 period as provided by rule adopted or order issued under this
1 25 chapter unless a revocation or suspension proceeding is
1 26 pending when the application is filed. If a proceeding is
1 27 pending, withdrawal becomes effective when and upon such
1 28 conditions as required by rule adopted or order issued under
1 29 this chapter. The administrator may institute a ~~revocation or~~
~~1 30 suspension proceeding~~ disciplinary action under section
1 31 502.412, including an action to revoke, suspend, condition, or
1 32 ~~limit the registration of a registrant, censure, impose a bar,~~
1 33 ~~or impose a civil penalty,~~ within one year after the
1 34 withdrawal became effective automatically and issue a
1 35 ~~revocation or suspension~~ disciplinary order as of the last
2 1 date on which registration was effective if a proceeding is
2 2 not pending.

2 3 Sec. 4. Section 502.410, subsection 4, Code 2009, is
2 4 amended to read as follows:

2 5 4. INVESTMENT ADVISER REPRESENTATIVES. The fee for an
2 6 individual is ~~thirty~~ forty dollars when filing an application
2 7 for registration as an investment adviser representative, a
2 8 fee of ~~thirty~~ forty dollars when filing a renewal of

2 9 registration as an investment adviser representative, and a
2 10 fee of ~~thirty~~ ~~forty~~ dollars when filing a change of
2 11 registration as an investment adviser representative. If the
2 12 filing results in a denial or withdrawal, the administrator
2 13 shall retain the ~~fee-~~
2 14 ~~However, fee. However,~~ an investment adviser
2 15 representative is not required to pay a filing fee if the
2 16 investment adviser is a sole proprietorship or the substantial
2 17 equivalent and the investment adviser representative is the
2 18 same individual as the investment adviser.

2 19 Sec. 5. Section 505.8, subsection 6, Code 2009, is amended
2 20 to read as follows:

2 21 6. The commissioner shall provide assistance to the public
2 22 and to consumers of insurance products and services in this
2 23 state.

2 24 a. The commissioner shall accept inquiries and complaints
2 25 from the public regarding the business of insurance. The
2 26 commissioner may respond to inquiries and complaints, and may
2 27 examine or investigate such inquiries and complaints to
2 28 determine whether laws in this subtitle and rules adopted
2 29 pursuant to such laws have been violated.

2 30 a- b. The commissioner shall establish a bureau, to be
2 31 known as the "consumer advocate bureau", which shall be
2 32 responsible for ensuring fair treatment of consumers by
2 33 persons in the business of insurance and for preventing unfair
2 34 or deceptive trade practices in the insurance marketplace and
2 35 by persons under the jurisdiction of the commissioner
3 1 including the securities and regulated industries bureau of
3 2 the insurance division of the department of commerce under
3 3 chapter 502.

3 4 b- (1) The commissioner, with the advice of the governor,
3 5 shall appoint a consumer advocate who shall be knowledgeable
3 6 in the area of insurance and particularly in the area of
3 7 consumer protection. The consumer advocate shall be the chief
3 8 administrator of the consumer advocate bureau.

3 9 e- (2) The consumer advocate bureau shall may receive and
3 10 may investigate consumer complaints and inquiries from the
3 11 public, and shall may conduct investigations to determine
3 12 whether any person has violated any provision of the insurance
3 13 code, including chapters 507B and 522B, and any provisions
3 14 related to the establishment of insurance rates.

3 15 d. ~~When necessary or appropriate to protect the public~~
3 16 ~~interest or consumers, the consumer advocate may request that~~
3 17 ~~the commissioner conduct administrative hearings as provided~~
3 18 ~~in section 505.29.~~

3 19 e- (3) The consumer advocate bureau shall perform other
3 20 functions as may be assigned to it by the commissioner related
3 21 to consumer advocacy.

3 22 f- (4) The consumer advocate bureau shall work in
3 23 conjunction with other areas of the insurance division on
3 24 matters of mutual interest. The insurance division shall
3 25 cooperate with the consumer advocate in fulfilling the duties
3 26 of the consumer advocate bureau. The consumer advocate may
3 27 also seek assistance from other federal or state agencies or
3 28 private entities for the purpose of assisting consumers.

3 29 g- (5) The commissioner, in cooperation with the consumer
3 30 advocate, shall prepare and deliver a report to the general
3 31 assembly by January 15 of each year that contains findings and
3 32 recommendations regarding the activities of the consumer
3 33 advocate bureau including but not limited to all of the
3 34 following:

3 35 (1) (a) An overview of the functions of the bureau.

4 1 (2) (b) The structure of the bureau including the number
4 2 and type of staff positions.

4 3 (3) (c) Statistics showing the number of complaints
4 4 handled by the bureau, the nature of the complaints including
4 5 the line of business involved and their disposition, and the
4 6 disposition of similar issues in other states.

4 7 (4) (d) Actions commenced by the consumer advocate.

4 8 (5) (e) Studies performed by the consumer advocate.

4 9 (6) (f) Educational and outreach efforts of the consumer
4 10 advocate bureau.

4 11 (7) (g) Recommendations from the commissioner and the
4 12 consumer advocate about additional consumer protection
4 13 functions that would be appropriate and useful for the bureau
4 14 or the insurance division to fulfill based on observations and
4 15 analysis of trends in complaints and information derived from
4 16 national or other sources.

4 17 (8) (h) Recommendations from the commissioner and the
4 18 consumer advocate about any needs for additional funding,
4 19 staffing, legislation, or administrative rules.

4 20 c. When necessary or appropriate to protect the public
4 21 interest or consumers, the commissioner may conduct, or the
4 22 consumer advocate may request that the commissioner conduct
4 23 administrative hearings as provided in this subtitle.

4 24 d. The commissioner may adopt rules for the administration
4 25 of this subsection.

4 26 Sec. 6. Section 505.15, subsection 2, Code 2009, is
4 27 amended to read as follows:

4 28 2. The commissioner may, or at the request of the consumer
4 29 advocate may, retain attorneys, appraisers, independent
4 30 actuaries, independent certified public accountants, or other
4 31 professionals or specialists to assist the division or the
4 32 consumer advocate bureau in carrying out its duties in regard
4 33 to rate filing reviews. The reasonable cost of retaining such
4 34 professionals and specialists shall be borne by the insurer
4 35 which is the subject of the rate filing review.

5 1 Sec. 7. Section 507.4, subsection 2, Code 2009, is amended
5 2 to read as follows:

5 3 2. The commissioner may, when in the commissioner's
5 4 judgment it is advisable, appoint assistants to aid in
5 5 conducting examinations. ~~The commissioner shall employ rates~~
5 6 ~~of compensation consistent with current standards in the~~
5 7 ~~industry for certified public accountants, attorneys, and~~
5 8 ~~skilled insurance examiners. The commissioner may use~~
5 9 ~~compensation rates suggested by the national association of~~
5 10 ~~insurance commissioners. Insurance examiners employed under~~
5 11 ~~this section shall be exempt from the merit system provisions~~
5 12 ~~of chapter 8A, subchapter IV, under section 8A.412, subsection~~
5 13 ~~17. Pay plans which are substantially equivalent to those~~
5 14 ~~paid to examiners under section 524.208 shall be established~~
5 15 ~~for employees who examine or analyze the accounts and affairs~~
5 16 ~~of persons subject to the supervision and regulation of the~~
5 17 ~~commissioner. Compensation shall be paid from appropriations~~
5 18 ~~for such purposes upon certification of the commissioner,~~
5 19 ~~which shall be reimbursed as provided in sections 507.8 and~~
5 20 ~~507.9.~~

5 21 Sec. 8. Section 508.2, Code 2009, is amended by striking
5 22 the section and inserting in lieu thereof the following:

5 23 508.2 ARTICLES == APPROVAL == BYLAWS.

5 24 The articles of incorporation, and any subsequent
5 25 amendments, of a company shall be filed with and approved by
5 26 the commissioner of insurance before filing with the secretary
5 27 of state. A company shall file with the commissioner bylaws
5 28 and subsequent amendments to the bylaws within thirty days of
5 29 adoption of the bylaws and amendments.

5 30 Sec. 9. Section 508E.3, subsection 1, paragraph b,
5 31 subparagraphs (1) and (2), Code 2009, are amended to read as
5 32 follows:

5 33 (1) A life insurance producer who has been duly licensed
5 34 as a resident insurance producer with a life line of authority
5 35 in this state or the life insurance producer's home state for
6 1 at least one year immediately prior to operating as a viatical
6 2 settlement broker and is licensed as a nonresident producer in
6 3 this state shall be deemed to meet the licensing requirements
6 4 of this section and shall be permitted to operate as a
6 5 viatical settlement broker.

6 6 (2) Not later than thirty days from the first day of
6 7 operating as a viatical settlement broker, the life insurance
6 8 producer shall notify the commissioner that the life insurance
6 9 producer is acting as a viatical settlement broker on a form
6 10 prescribed by the commissioner, and shall pay any applicable
6 11 fee of up to one hundred dollars as provided by rules adopted
6 12 by the commissioner. The notification shall include an
6 13 acknowledgment by the life insurance producer that the life
6 14 insurance producer will operate as a viatical settlement
6 15 broker in accordance with this chapter. The notification
6 16 shall also include proof that the life insurance producer is
6 17 covered by an errors and omissions policy for an amount of not
6 18 less than one hundred thousand dollars per occurrence and not
6 19 less than one hundred thousand dollars total annual aggregate
6 20 for all claims during the policy period.

6 21 Sec. 10. Section 508E.3, subsections 3 and 9, Code 2009,
6 22 are amended to read as follows:

6 23 3. ~~A The license may be renewed from year to year on the~~
6 24 ~~anniversary date term shall be three years and the license may~~
6 25 ~~be renewed upon payment of the annual renewal fee of not more~~
6 26 ~~than one hundred dollars as provided by rules adopted by the~~
6 27 ~~commissioner. A failure to pay the fee by the renewal date~~
6 28 ~~results in expiration of the license.~~

6 29 9. An individual licensed as a viatical settlement broker
6 30 shall complete on a ~~biennial basis fifteen hours~~ triennial

6 31 basis running concurrent with the license term twenty credits
6 32 of training related to viatical settlements and viatical
6 33 settlement transactions, as required by the commissioner;
6 34 provided, however, that a life insurance producer who is
6 35 operating as a viatical settlement broker pursuant to
7 1 subsection 1, paragraph "b", shall not be subject to the
7 2 requirements of this subsection. Any person failing to meet
7 3 the requirements of this subsection shall be subject to the
7 4 penalties imposed by the commissioner.

7 5 Sec. 11. Section 511.8, subsection 18, paragraph b, Code
7 6 2009, is amended to read as follows:

7 7 b. Common stocks or shares in a subsidiary corporation,
7 8 the acquisition or purchase of which is authorized by section
7 9 508.33 are eligible if the total investment in these stocks or
7 10 shares does not exceed five percent of the legal reserve;

7 11 provided, however, that common stocks or shares of stock in a
7 12 direct or indirect subsidiary insurance company which is
7 13 domiciled in the United States are eligible up to an
7 14 additional two percent of the legal reserve upon application
7 15 by the insurer to and upon approval by the commissioner.

7 16 Stocks or shares of the insurer's subsidiary corporations are
7 17 not eligible in total in excess of seven percent of the legal
7 18 reserve and the stock or shares of any one subsidiary
7 19 corporation are not eligible in excess of five percent of the
7 20 legal reserve. These stocks or shares are eligible even if

7 21 the stocks or shares are not listed or admitted to trading on
7 22 a securities exchange in the United States and are not

7 23 publicly held and have not been traded in the
7 24 "over-the-counter market". The stocks or shares shall be

7 25 valued at their book value; provided, however, that stocks or
7 26 shares of a direct or indirect subsidiary insurance company
7 27 held in the legal reserve of up to an additional two percent
7 28 of the legal reserve shall be valued at their statutory book
7 29 value, excluding approved permitted practices.

7 30 Sec. 12. Section 512A.10, subsection 1, Code 2009, is
7 31 amended by striking the subsection and inserting in lieu
7 32 thereof the following:

7 33 1. The articles of incorporation, and any subsequent
7 34 amendments, of an organization shall be filed with and
7 35 approved by the commissioner of insurance before filing with
8 1 the secretary of state. An organization shall file bylaws and
8 2 subsequent amendments to bylaws with the commissioner within
8 3 thirty days of adoption of the bylaws and amendments.

8 4 Sec. 13. Section 514B.3A, Code 2009, is amended by
8 5 striking the section and inserting in lieu thereof the
8 6 following:

8 7 514B.3A ARTICLES == APPROVAL == BYLAWS.

8 8 The articles of incorporation, and any subsequent
8 9 amendments, of a corporation shall be filed with and approved
8 10 by the commissioner of insurance before filing with the
8 11 secretary of state. A corporation shall file bylaws and
8 12 subsequent amendments to the bylaws with the commissioner
8 13 within thirty days of adoption of the bylaws and amendments.

8 14 Sec. 14. Section 514G.102, Code 2009, is amended to read
8 15 as follows:

8 16 514G.102 SCOPE.

8 17 The requirements of this chapter apply to policies
8 18 delivered or issued for delivery in this state on or after
8 19 July 1, 2008. The requirements of this chapter related to
8 20 independent review of benefit trigger determinations apply to

8 21 all claims made on or after January 1, 2009. This chapter is
8 22 not intended to supersede the obligations of entities subject
8 23 to this chapter to comply with the substance of other
8 24 applicable insurance laws not in conflict with this chapter,
8 25 except that laws and regulations designed and intended to
8 26 apply to Medicare supplement insurance policies shall not be
8 27 applied to long-term care insurance.

8 28 Sec. 15. Section 514G.104, Code 2009, is amended to read
8 29 as follows:

8 30 514G.104 EXTRATERRITORIAL JURISDICTION == GROUP LONG-TERM
8 31 CARE INSURANCE.

8 32 Group long-term care insurance coverage shall not be
8 33 offered to a resident of this state under a group policy
8 34 issued in another state unless either this state or another
8 35 state with statutory and regulatory requirements for long-term
9 1 care insurance that are substantially similar to those adopted
9 2 in this state has made a determination that the group to which
9 3 the policy is issued meets the requirements of section
9 4 514G.103, subsection 9, paragraph "d".

9 5 Sec. 16. Section 514H.1, subsection 1, Code 2009, is
9 6 amended by striking the subsection and inserting in lieu

9 7 thereof the following:

9 8 1. "Deficit Reduction Act of 2005" means section
9 9 6021(a)(1)(A) of Public Law 109=171 as it pertains to the
9 10 expansion of state long-term care insurance partnership
9 11 programs.

9 12 Sec. 17. Section 514H.1, Code 2009, is amended by adding
9 13 the following new subsections:

9 14 NEW SUBSECTION. 3A. "Qualified long-term care insurance
9 15 policy" means a long-term care insurance contract that is
9 16 issued by an insurer or other person who complies with section
9 17 514H.4.

9 18 NEW SUBSECTION. 5. "Qualified state long-term care
9 19 insurance partnership" means an approved state plan amendment,
9 20 according to the Deficit Reduction Act of 2005 that provides
9 21 for the disregard of any assets or resources in an amount
9 22 equal to the insurance benefit payments that are made to or on
9 23 behalf of an individual who is a beneficiary.

9 24 Sec. 18. Section 514H.2, subsection 2, Code 2009, is
9 25 amended to read as follows:

9 26 2. The insurance division of the department of commerce
9 27 shall administer the program in cooperation with the division
9 28 responsible for medical services within the department of
9 29 human services. Each agency shall take appropriate action to

~~9 30 maintain the waiver granted by the centers for Medicare and
9 31 Medicaid services of the United States department of health
9 32 and human services under 42 U.S.C. } 1396 relating to
9 33 providing medical assistance under chapter 249A, in effect
9 34 prior to November 17, 2005 all necessary actions, including
9 35 filing an appropriate medical assistance state plan amendment
10 1 to the state Medicaid plan to take full advantage of the
10 2 benefits and features of the Deficit Reduction Act of 2005.~~

10 3 Sec. 19. Section 514H.3, Code 2009, is amended to read as
10 4 follows:

10 5 514H.3 ELIGIBILITY.

10 6 An individual who is the beneficiary of a ~~certified~~
10 7 qualified long-term care insurance policy approved by the
10 8 insurance division may be eligible for assistance under the
10 9 medical assistance program using the asset disregard
10 10 provisions pursuant to section 514H.5.

10 11 Sec. 20. Section 514H.4, Code 2009, subsections 1 and 2,
10 12 are amended to read as follows:

10 13 514H.4 INSURER REQUIREMENTS.

10 14 ~~1. An insurer or other person who wishes to issue a~~
10 15 ~~certified qualified long-term care insurance policy meeting~~
10 16 ~~the requirements of this chapter shall, at a minimum, offer to~~
10 17 ~~each policyholder or prospective policyholder a policy that~~
10 18 ~~provides both of the following: in Iowa shall conform with all~~
10 19 ~~policy guidelines as expressed in the Deficit Reduction Act of~~
10 20 ~~2005 and in Iowa law and rules.~~

10 21 ~~a. Facility coverage, including but not limited to~~
10 22 ~~long-term care facility coverage.~~

10 23 ~~b. Nonfacility coverage, including but not limited to home~~
10 24 ~~and community-based care coverage.~~

10 25 ~~2. An insurer or other person who complies with subsection~~
10 26 ~~1 may also elect to offer a certified long-term care insurance~~
10 27 ~~policy that provides only facility coverage.~~

10 28 Sec. 21. Section 514H.5, Code 2009, is amended to read as
10 29 follows:

10 30 514H.5 ASSET DISREGARD ADJUSTMENT.

10 31 1. As used in this section, "asset disregard" means a one
10 32 dollar increase in the amount of assets an individual who is
10 33 the beneficiary of a ~~certified~~ qualified long-term care
10 34 insurance policy and meets the requirements of section 514H.3
10 35 may retain under section 249A.35 for each one dollar of
11 1 benefit paid out under the individual's ~~certified~~ qualified
11 2 long-term care insurance policy for qualified long-term care
11 3 services if the policy meets all of the following criteria:

11 4 ~~a. If purchased prior to January 1, 2005, provides~~
11 5 ~~benefits in an amount equal to at least seventy thousand~~
11 6 ~~dollars as computed on January 1, 2005.~~

11 7 ~~b. If purchased on or after January 1, 2005, provides~~
11 8 ~~benefits in an amount equal to at least seventy thousand~~
11 9 ~~dollars as computed on January 1, 2005, compounded annually by~~
11 10 ~~at least five percent, or an amount equal to at least the~~
11 11 ~~minimum face amount specified by the commissioner of insurance~~
11 12 ~~pursuant to subsection 3, whichever amount is greater.~~

11 13 ~~c. Includes a provision under which the total amount of~~
11 14 ~~the benefit increases by at least five percent, compounded~~
11 15 ~~annually.~~

11 16 2. When the division responsible for medical services
11 17 within the department of human services determines whether an

11 18 individual is eligible for medical assistance under chapter
11 19 249A, the division shall make an asset disregard adjustment
11 20 for any individual who meets the requirements of section
11 21 514H.3. The asset disregard shall be available after benefits
11 22 of the ~~certified qualified~~ long-term care insurance policy
11 23 have been applied to the cost of qualified long-term care
11 24 services as required under this chapter.

11 25 ~~3. Beginning September 1, 2006, or one year after November~~
~~11 26 17, 2005, whichever is later, the commissioner of insurance~~
~~11 27 shall issue a bulletin annually on that date, declaring the~~
~~11 28 minimum face amount for policies to qualify for the Iowa~~
~~11 29 long-term care asset disregard incentive program for the~~
~~11 30 following calendar year. In making this determination, the~~
~~11 31 commissioner shall consult with the division responsible for~~
~~11 32 collecting data on average nursing home costs in Iowa.~~
~~11 33 Additionally, in making this determination, the commissioner~~
~~11 34 shall consider the current average daily cost for three years~~
~~11 35 of nursing home care and other relevant information.~~

12 1 Sec. 22. Section 514H.7, subsection 1, Code 2009, is
12 2 amended to read as follows:

12 3 1. If the Iowa long-term care asset disregard incentive
12 4 program is discontinued, an individual who is covered by a
12 5 ~~certified qualified~~ long-term care insurance policy prior to
12 6 the date the program is discontinued is eligible to continue
12 7 to receive an asset disregard as defined under section 514H.5.

12 8 Sec. 23. Section 514H.8, Code 2009, is amended to read as
12 9 follows:

12 10 514H.8 RECIPROCAL AGREEMENTS TO EXTEND ASSET DISREGARD.

12 11 The division responsible for medical services within the
12 12 department of human services may enter into reciprocal
12 13 agreements with other states to extend the asset disregard
12 14 under section 514H.5 to Iowa residents who had purchased or
12 15 were covered by ~~certified qualified~~ long-term care insurance
12 16 policies in other states.

12 17 Sec. 24. Section 514H.9, Code 2009, is amended to read as
12 18 follows:

12 19 514H.9 RULES.

12 20 The insurance division of the department of commerce in
12 21 cooperation with the department of human services shall adopt
12 22 rules pursuant to chapter 17A as necessary to administer this
12 23 chapter. ~~The insurance division shall consult with~~
~~12 24 representatives of the insurance industry in adopting such~~
~~12 25 rules. This delegation of rulemaking authority shall be~~
~~12 26 construed narrowly.~~

12 27 Sec. 25. Section 515.2, Code 2009, is amended by striking
12 28 the section and inserting in lieu thereof the following:

12 29 515.2 ARTICLES == APPROVAL == BYLAWS.

12 30 The articles of incorporation, and any subsequent
12 31 amendments, of an organization shall be filed with and
12 32 approved by the commissioner of insurance before filing with
12 33 the secretary of state. An organization shall file with the
12 34 commissioner bylaws and subsequent amendments to the bylaws
12 35 within thirty days of adoption of the bylaws and amendments.

13 1 Sec. 26. Section 515.101, subsection 2, paragraph i, Code
13 2 2009, is amended to read as follows:

13 3 i. ~~The fraud~~ Fraud, concealment, or misrepresentation of
13 4 ~~the an insured in the procurement of the contract of~~
~~13 5 insurance.~~

13 6 Sec. 27. Section 515.120, Code 2009, is amended to read as
13 7 follows:

13 8 515.120 BUSINESS WITH NONADMITTED INSURERS.

13 9 This chapter does not prevent a licensed resident or
13 10 nonresident producer of this state, qualified to write excess
13 11 and surplus lines insurance, from procuring insurance in with
13 12 certain nonadmitted insurers, if such insurance is restricted
13 13 to the type and kind of insurance authorized by this chapter
13 14 including individual disability insurance, but otherwise
13 15 excluding the types of insurance authorized under section
13 16 515.48, subsection 5, paragraph "a", and the producer makes
13 17 oath to the commissioner of insurance in the form prescribed
~~13 18 by the commissioner using the surplus lines certification~~
~~13 19 report, which states that the producer has made a diligent~~
13 20 effort to place the insurance in authorized insurers with an
~~13 21 admitted insurer~~ and has either exhausted the capacity of all
13 22 authorized admitted insurers or has been unable to obtain the
13 23 desired insurance in insurers licensed to transact business in
~~13 24 this state with an admitted insurer.~~ The procuring of a
13 25 contract of insurance in with a nonadmitted insurer makes the
13 26 insurer liable for, and the producer shall pay, the taxes on
13 27 the premiums as if the insurer were duly authorized to
13 28 transact business in the state. A sworn report of all

13 29 business transacted by producers of this state ~~in~~ with
13 30 nonadmitted insurers shall be made to the commissioner of
13 31 insurance on or before March 1 of each year for the preceding
13 32 calendar year, on the form required by the commissioner of
13 33 insurance. The report shall be accompanied by a remittance to
13 34 cover the taxes on the premiums. A producer who ~~makes the~~
13 35 files the surplus lines certification report under oath, pays
14 1 the taxes on the premiums, and files the transaction report
14 2 has not written such contracts of insurance unlawfully, and is
14 3 not personally liable for the contracts.

14 4 Sec. 28. Section 515B.1, subsection 9, Code 2009, is
14 5 amended to read as follows:

14 6 9. Insurance provided by ~~or~~ guaranteed by, or reinsured
14 7 by government.

14 8 Sec. 29. Section 515B.2, subsection 4, paragraph b,
14 9 subparagraphs (4) and (7), Code 2009, are amended to read as
14 10 follows:

14 11 (4) That is due an attorney, adjuster, or witness as fees
14 12 for services rendered to the insolvent insurer or its insured.

14 13 (7) That would otherwise be a covered claim, but is an
14 14 obligation to or on behalf of a person who has a net worth
14 15 greater than that allowed by the guarantee fund law of the
14 16 state of residence of the ~~claimant person~~, and which state has
14 17 denied coverage to that claimant person on that basis.

14 18 Sec. 30. Section 515B.5, subsection 1, paragraph a,
14 19 subparagraph (3), Code 2009, is amended to read as follows:

14 20 (3) An amount not exceeding the lesser of the policy
14 21 limits or three hundred thousand dollars ~~per claim~~ for all
14 22 covered claims for all damages arising out of any one or
14 23 series of accidents, occurrences, or incidents, regardless of
14 24 the number of persons making claims or the number of
14 25 applicable policies.

14 26 Sec. 31. Section 515B.5, subsection 1, paragraph b, Code
14 27 2009, is amended by striking the paragraph and inserting in
14 28 lieu thereof the following:

14 29 b. Be obligated to pay covered claims but not in excess of
14 30 the obligation under the policy of the insolvent insurer,
14 31 regardless of whether such claim is based on contract or tort.

14 32 Sec. 32. Section 515B.14, Code 2009, is amended to read as
14 33 follows:

14 34 515B.14 IMMUNITY.

14 35 There is no liability, and no cause of action of any nature
15 1 shall arise against any member insurer, the association, its
15 2 agents or employees, the board of directors, the commissioner,
15 3 or the commissioner's representatives, for any ~~reasonable~~
15 4 action taken ~~by them~~ or failure to act in the performance of
15 5 their duties and powers under this chapter.

15 6 Sec. 33. Section 518.2, Code 2009, is amended by striking
15 7 the section and inserting in lieu thereof the following:

15 8 518.2 ARTICLES == APPROVAL == BYLAWS.

15 9 The articles of incorporation, and any subsequent
15 10 amendments, of an organization shall be filed with and
15 11 approved by the commissioner of insurance before filing with
15 12 the secretary of state. The organization shall file with the
15 13 commissioner bylaws and subsequent amendments to the bylaws
15 14 within thirty days of adoption of the bylaws or amendments.

15 15 Sec. 34. Section 518.5, Code 2009, is amended to read as
15 16 follows:

15 17 518.5 COMMENCEMENT OF BUSINESS == CONDITIONS.

15 18 ~~No~~ A county mutual insurance association formed on or after
15 19 July 1, 2009, shall not issue policies until applications for
15 20 insurance of not less than ~~fifty~~ one hundred thousand dollars,
15 21 representing at least ~~fifty two hundred~~ applicants, have been
15 22 received, and no application for insurance during the period
15 23 of organization shall exceed two percent of the amount
15 24 required for organization, any reinsurance taking effect
15 25 simultaneously with the policy being deducted in determining
15 26 such maximum single risk.

15 27 Sec. 35. Section 518.13, Code 2009, is amended to read as
15 28 follows:

15 29 518.13 PREMIUM CHARGES.

15 30 Any association may by action of its board of directors
15 31 establish premium charges for the purpose of payment of losses
15 32 and expenses and for the establishment or maintenance of a
15 33 reserve fund.

15 34 ~~Any policy shall stand suspended if any default shall be~~
15 35 ~~made in the payment of any premium on or before the date~~
16 1 ~~specified in a written notice requiring the payment of such~~
16 2 ~~premium and mailed to the insured and directed to the~~
16 3 ~~insured's last known address not less than thirty days prior~~
16 4 ~~to such suspension date. Such notice shall specify the amount~~

~~16 5 and due date of the premium. The association shall in no~~
~~16 6 event be liable for any loss occurring during such period of~~
~~16 7 suspension.~~

16 8 Sec. 36. Section 518.14, subsection 3, paragraph a,
16 9 subparagraph (2), Code 2009, is amended by striking the
16 10 subparagraph.

16 11 Sec. 37. Section 518.14, subsection 4, paragraph f,
16 12 subparagraphs (1) and (2), Code 2009, are amended to read as
16 13 follows:

16 14 (1) Stocks purchased under this lettered paragraph shall
16 15 not exceed fifty percent of surplus.

16 16 (2) With the approval of the commissioner, an association
16 17 may invest ~~any amount~~ in common stocks, preferred stocks, or
16 18 other securities of one or more subsidiaries provided that
16 19 after both of the following occur:

16 20 (a) After such investments the association's surplus as
16 21 regards policyholders will be reasonable in relation to the
16 22 association's outstanding liabilities and adequate to its
16 23 financial needs.

16 24 (b) The association owns one hundred percent of the stock
16 25 of the subsidiary.

16 26 ~~(2)~~ (3) An association shall not invest more than ten
16 27 percent of its surplus in the stocks of any one corporation.

16 28 Sec. 38. Section 518.14, subsection 4, paragraph g, Code
16 29 2009, is amended to read as follows:

16 30 g. HOME OFFICE REAL ESTATE. ~~Funds~~ With the prior approval
16 31 of the commissioner, funds may be invested in a home office

16 32 ~~building real estate for the association or a subsidiary, at~~
16 33 ~~the direction of the board of directors and with the prior~~
16 34 ~~approval of the commissioner of insurance. An~~ The association

16 35 or subsidiary shall obtain the approval of the commissioner
17 1 prior to the sale or disposition of home office real estate
17 2 owned by the association or subsidiary. Effective as to home
17 3 office real estate acquired on or after July 1, 2009, an

17 4 association shall not invest more than ~~twenty-five~~ twenty
17 5 percent of its total admitted assets in such real estate.
17 6 With the prior approval of the commissioner, an association
17 7 may exceed the real estate investment limitation to effectuate
17 8 a merger with, or the acquisition of, another association.

17 9 Sec. 39. Section 518.17, Code 2009, is amended to read as
17 10 follows:

17 11 518.17 REINSURANCE.

17 12 1. A county mutual insurance association may reinsure a
17 13 part or all of its coverages written pursuant to this chapter
17 14 with an association operating under this chapter, or with any
17 15 other association or company licensed in this state and
17 16 authorized to write the kinds of insurance enumerated in
17 17 section 518.11.

17 18 2. Reinsurance sufficient to protect the financial
17 19 stability of the ~~state~~ county mutual insurance association is
17 20 also required. In general, reinsurance coverage obtained by a
17 21 county mutual insurance association shall not expose the
17 22 association to losses from coverages written pursuant to this
17 23 chapter of more than fifteen percent from surplus in any
17 24 calendar year. The commissioner of insurance may require
17 25 additional reinsurance if necessary to protect the
17 26 policyholders of the association.

17 27 Sec. 40. Section 518.19, Code 2009, is amended to read as
17 28 follows:

17 29 518.19 PROOF OF LOSS == REQUIREMENT FOR REPORTING.

17 30 ~~The insured shall give immediate written notice to the~~
17 31 ~~association of any loss for which claim is made and shall then~~
17 32 ~~furnish a written proof of loss to the association within~~
17 33 ~~sixty days from the time the loss occurred, unless such time~~
17 34 ~~is extended in writing by the association. The proof~~ A proof
17 35 of loss shall contain such information as is required by the
18 1 policy provisions of the association, which information shall
18 2 be signed and sworn to by the insured.

18 3 Sec. 41. Section 518.22, Code 2009, is amended to read as
18 4 follows:

18 5 518.22 LIMITATION OF ACTION.

18 6 ~~No A suit or action on a policy for the recovery of any~~
18 7 ~~loss shall be begun sooner than forty days after proof of loss~~
18 8 ~~has been given to the association~~ claim shall not be
18 9 sustainable in any court of law or equity unless all

18 10 requirements of the policy have been complied with, and unless
18 11 commenced within twelve months next after the inception of the
18 12 loss.

18 13 Sec. 42. Section 518.23, subsections 1 and 4, Code 2009,
18 14 are amended to read as follows:

18 15 1. CANCELLATION BY INSURED. A policy shall be canceled at

18 16 any time at the request of the insured ~~upon the return of the~~
18 17 ~~policy to the home office of the association, and the payment~~
18 18 ~~of all premium charges against such policy.~~

18 19 4. NOTICE. Service of notice under subsection 2 or 3 may
18 20 be delivered in person or mailed to the insured at the
18 21 insured's post office address as given in or upon the policy,
18 22 or to such other address as the insured shall have given to
18 23 the association in writing. A post office department
18 24 certificate of mailing shall be deemed proof of receipt of
18 25 such mailing. If in either case the cash payments exceed the
18 26 amount properly chargeable, the excess shall be refunded to
18 27 the insured ~~upon the surrender of the policy to the~~
18 28 ~~association at its home office.~~

18 29 Sec. 43. Section 518.25, Code 2009, is amended to read as
18 30 follows:

18 31 518.25 SURPLUS.

18 32 An association organized under this chapter before July 1,
18 33 2009, shall at all times maintain a surplus of not less than
18 34 fifty thousand dollars or one-tenth of one percent of the
18 35 gross risk in force, whichever is greater. An association
19 1 organized under this chapter on or after July 1, 2009, shall
19 2 at all times maintain a surplus of not less than one hundred
19 3 thousand dollars or one-tenth of one percent of the gross risk
19 4 in force, whichever is greater.

19 5 Sec. 44. NEW SECTION. 518.31 RULEMAKING.

19 6 The commissioner may adopt rules pursuant to chapter 17A as
19 7 necessary for the administration of this chapter.

19 8 Sec. 45. Section 518A.8, Code 2009, is amended by striking
19 9 the section and inserting in lieu thereof the following:

19 10 518A.8 ARTICLES == APPROVAL == BYLAWS.

19 11 The articles of incorporation, and any subsequent
19 12 amendments, to the articles of an organization shall be filed
19 13 with and approved by the commissioner of insurance before
19 14 filing with the secretary of state. The organization shall
19 15 file with the commissioner bylaws and subsequent amendments to
19 16 the bylaws within thirty days of adoption of the bylaws or
19 17 amendments.

19 18 Sec. 46. Section 518A.9, Code 2009, is amended to read as
19 19 follows:

19 20 518A.9 PREMIUM CHARGES.

19 21 An association, by action of its board of directors, may
19 22 establish premium charges for the purpose of payment of losses
19 23 and expenses and for the establishment or maintenance of a
19 24 reserve fund.

19 25 ~~A policy shall stand suspended if any default is made in~~
19 26 ~~the payment of any premium on or before the date specified in~~
19 27 ~~a written notice requiring the payment of such premium and~~
19 28 ~~mailed to the insured and directed to the insured's last known~~
19 29 ~~address not less than thirty days prior to such suspension~~
19 30 ~~date. The notice shall specify the amount and due date of the~~
19 31 ~~premium. The association is not liable for any loss occurring~~
19 32 ~~during such period of suspension.~~

19 33 Sec. 47. Section 518A.12, subsection 3, paragraph a,
19 34 subparagraph (2), Code 2009, is amended by striking the
19 35 subparagraph.

20 1 Sec. 48. Section 518A.12, subsection 4, paragraph f,
20 2 subparagraphs (1) and (2), Code 2009, are amended to read as
20 3 follows:

20 4 (1) Stocks purchased under this lettered paragraph shall
20 5 not exceed fifty percent of surplus.

20 6 (2) With the approval of the commissioner, an association
20 7 may invest ~~any amount~~ in common stocks, preferred stocks, or
20 8 other securities of one or more subsidiaries provided that
20 9 after both of the following occur:

20 10 (a) After such investments the association's surplus as
20 11 regards policyholders will be reasonable in relation to the
20 12 association's outstanding liabilities and adequate to its
20 13 financial needs.

20 14 (b) The association owns one hundred percent of the stock
20 15 of the subsidiary.

20 16 ~~(3)~~ (3) An association shall not invest more than ten
20 17 percent of its surplus in the stocks of any one corporation.

20 18 Sec. 49. Section 518A.12, subsection 4, paragraph g, Code
20 19 2009, is amended to read as follows:

20 20 g. HOME OFFICE REAL ESTATE. ~~Funds~~ With the prior approval
20 21 of the commissioner, funds may be invested in a home office
20 22 building real estate for the association or a subsidiary, at
20 23 the direction of the board of directors and with the prior
20 24 approval of the commissioner of insurance. An The association
20 25 or subsidiary shall obtain the approval of the commissioner
20 26 prior to the sale or disposition of home office real estate

20 27 owned by the association or subsidiary. Effective as to home
20 28 office real estate acquired on or after July 1, 2009, an
20 29 association shall not invest more than ~~twenty-five~~ twenty
20 30 percent of its total admitted assets in such real estate.
20 31 With the prior approval of the commissioner, an association
20 32 may exceed the real estate investment limitation to effectuate
20 33 a merger with, or the acquisition of, another association.
20 34 Sec. 50. Section 518A.19, Code 2009, is amended by
20 35 striking the section and inserting in lieu thereof the

21 1 following:

21 2 518A.19 PROOF OF LOSS.

21 3 A proof of loss shall contain such information as is
21 4 required by the policy provisions of the association, which
21 5 information shall be signed and sworn to by the insured.

21 6 Sec. 51. Section 518A.22, Code 2009, is amended to read as
21 7 follows:

21 8 518A.22 LIMITATION OF ACTION.

21 9 ~~No A suit or action on any loss a policy for the recovery~~
21 10 ~~of any claim shall not be begun until the date when such loss~~
21 11 ~~becomes due in accordance with the articles of incorporation~~

21 12 ~~or bylaws of such association and in no event sooner than~~
21 13 ~~forty days after such proof has been given to the association~~
21 14 ~~and no action can be started after one year from the date such~~

21 15 ~~cause of action accrues sustainable in any court of law or~~
21 16 ~~equity unless all requirements of the policy have been~~

21 17 ~~complied with, and unless commenced with twelve months next~~
21 18 ~~after the inception of the loss.~~

21 19 Sec. 52. Section 518A.29, subsections 1 and 4, Code 2009,
21 20 are amended to read as follows:

21 21 1. CANCELLATION BY INSURED. A policy shall be canceled at
21 22 any time at the request of the insured ~~upon the return of the~~

21 23 ~~policy to the home office of the association and the payment~~
21 24 ~~of all premium charges against such policy.~~

21 25 4. NOTICE. Service of notice under subsection 2 or 3 may
21 26 be delivered in person or mailed to the insured at the

21 27 insured's post office address as given in or upon the policy,
21 28 or to such other address as the insured shall have given to

21 29 the association in writing. A post office department
21 30 certificate of mailing shall be deemed proof of receipt of

21 31 such mailing. If in either case the cash payments exceed the
21 32 amount properly chargeable, the excess shall be refunded ~~upon~~
21 33 ~~the surrender of the policy to the association at its home~~
21 34 ~~office to the insured.~~

21 35 Sec. 53. Section 518A.37, Code 2009, is amended to read as
22 1 follows:

22 2 518A.37 SURPLUS.

22 3 An association organized under this chapter before July 1,
22 4 2009, shall at all times maintain a surplus of not less than

22 5 one hundred thousand dollars, or one-tenth of one percent of
22 6 the gross risk in force, whichever is greater. An association

22 7 organized under this chapter on or after July 1, 2009, shall
22 8 at all times maintain a surplus of not less than two hundred

22 9 thousand dollars or one-tenth of one percent of the gross risk
22 10 in force, whichever is greater.

22 11 Sec. 54. Section 518A.40, subsection 1, Code 2009, is
22 12 amended to read as follows:

22 13 1. Such associations shall pay the same fees for annual
22 14 reports and annual certificates of authority as are required

22 15 to be paid by domestic companies organized and doing business
22 16 under chapter 515, which certificates shall expire ~~May~~ June 1

22 17 of the year following the date of issue.
22 18 Sec. 55. NEW SECTION. 518A.56 RULEMAKING AUTHORITY.

22 19 The commissioner may adopt rules, pursuant to chapter 17A,
22 20 as necessary for the administration of this chapter.

22 21 Sec. 56. NEW SECTION. 518A.57 POWERS OF MEMBERS.

22 22 Members of the association shall have the power to make or
22 23 amend articles of incorporation at any membership meeting,

22 24 provided that notice of such proposed addition or amendment
22 25 has been mailed to each member of the association at least ten

22 26 days in advance of the meeting in which such proposed action
22 27 is to be considered, and provided that no such addition or

22 28 amendment shall become effective until approved by the
22 29 commissioner of insurance and recorded in the office of the
22 30 secretary of state.

22 31 Sec. 57. Section 519.3, Code 2009, is amended by striking
22 32 the section and inserting in lieu thereof the following:

22 33 519.3 ARTICLES == APPROVAL == BYLAWS.

22 34 The articles of incorporation, and any subsequent
22 35 amendments, of such mutual insurance corporation shall be
23 1 filed with and approved by the commissioner of insurance
23 2 before being filed with the secretary of state. A mutual

23 3 insurance corporation shall file with the commissioner bylaws
23 4 and subsequent amendments to the bylaws within thirty days of
23 5 adoption of the bylaws or amendments.

23 6 Sec. 58. Section 521.2, subsection 1, Code 2009, is
23 7 amended to read as follows:

23 8 1. One or more domestic mutual insurance companies
23 9 organized under chapter 491 may merge or consolidate with a
23 10 domestic or foreign mutual insurance company as provided in
23 11 this chapter. Sections ~~491.101~~ 491.102 through 491.105 shall
23 12 not be applicable to a merger or consolidation of a domestic
23 13 mutual insurance company pursuant to this chapter.

23 14 Sec. 59. Section 521A.14, subsection 3, Code 2009, is
23 15 amended to read as follows:

23 16 3. A mutual insurance holding company resulting from the
23 17 reorganization of a domestic mutual insurance company
23 18 organized under chapter 491 shall be incorporated pursuant to
23 19 chapter 491. This requirement shall supersede any conflicting
23 20 provisions of section 491.1. The articles of incorporation
23 21 and any amendments to such articles of the mutual insurance
23 22 holding company shall be subject to approval of the
23 23 commissioner ~~and the attorney general~~ in the same manner as
23 24 those of an insurance company.

23 25 Sec. 60. Section 523A.202, subsection 1, Code 2009, is
23 26 amended to read as follows:

23 27 1. All funds held in trust pursuant to section 523A.201
23 28 shall be deposited in a financial institution within fifteen
23 29 days ~~after the close of the month a seller receives~~ following
23 30 receipt of the funds. The financial institution shall hold
23 31 the funds for the designated beneficiary until released.

23 32 Sec. 61. Sections 518A.4, 518A.7, and 518A.23, Code 2009,
23 33 are repealed.

23 34 Sec. 62. IMMEDIATE EFFECTIVE DATE AND RETROACTIVE
23 35 APPLICABILITY. The section of this Act amending Code section
24 1 514G.102, being deemed of immediate importance, takes effect
24 2 upon enactment, and is retroactively applicable to January 1,
24 3 2009, and applicable on and after that date.

24 4 EXPLANATION

24 5 This bill amends various provisions under the purview of
24 6 the insurance division of the department of commerce.

24 7 PUBLIC EMPLOYMENT RELATIONS (COLLECTIVE BARGAINING). Code
24 8 section 20.4 is amended to exempt full-time persons employed
24 9 by the insurance division of the department of commerce who
24 10 examine or analyze the accounts and affairs of persons subject
24 11 to the supervision and regulation of the commissioner of
24 12 insurance pursuant to Code chapter 507, from the provisions of
24 13 Code chapter 20 relating to public employee collective
24 14 bargaining.

24 15 UNIFORM SECURITIES ACT. Code section 502.409 is amended to
24 16 expand the types of disciplinary tools available to an
24 17 administrator upon withdrawal of a registrant under the Act to
24 18 include not only an action to revoke or suspend a license but
24 19 also other enumerated actions.

24 20 Code section 502.410 is amended to increase the fee for
24 21 license registration or renewal of investment adviser
24 22 representatives from \$30 to \$40.

24 23 INSURANCE DIVISION. Code section 505.8 is amended to
24 24 provide that the commissioner of insurance shall accept
24 25 inquiries and complaints from the public and may respond,
24 26 examine, or investigate such inquiries and complaints
24 27 including conducting administrative hearings, in addition to
24 28 overseeing the consumer advocate bureau, which may also
24 29 receive and investigate consumer inquiries and complaints.
24 30 The consumer advocate is the chief of the consumer advocate
24 31 bureau. The consumer advocate bureau is given expanded
24 32 responsibility for ensuring fair treatment of consumers in the
24 33 marketplace and by persons under the jurisdiction of the
24 34 commissioner or the securities and regulated industries bureau
24 35 of the insurance division. For the purposes of investigations
25 1 conducted by the commissioner or by the consumer advocate, the
25 2 confidentiality provisions of the Code section are applicable.

25 3 Code section 505.15 is amended to allow the commissioner,
25 4 at the request of the consumer advocate, to retain various
25 5 professionals and specialists to assist the consumer advocate
25 6 bureau in carrying out its duties in regard to rate filing
25 7 reviews.

25 8 EXAMINATION OF INSURANCE COMPANIES. Code section 507.4 is
25 9 amended to require that pay plans be established which are
25 10 substantially equivalent to those paid to bank examiners, for
25 11 employees who examine or analyze the accounts and affairs of
25 12 persons subject to the supervision and regulation of the
25 13 commissioner.

25 14 FILING OF ARTICLES OF INCORPORATION == BYLAWS. Code
25 15 sections 508.2, 512A.10(1), 514B.3A, 515.2, 518.2, 518A.8,
25 16 519.3, and 521A.14(3), are amended to provide that articles of
25 17 incorporation and their amendments, that are required to be
25 18 filed with the commissioner of insurance, of certain life
25 19 insurance companies, benevolent associations, health
25 20 maintenance organizations, insurance other than life
25 21 companies, county mutual insurance associations, state mutual
25 22 insurance associations, professional liability insurance
25 23 companies, and insurance holding company systems are no longer
25 24 also required to be filed with the attorney general. Bylaws
25 25 or subsequent amendments to bylaws are required to be filed
25 26 with the commissioner within 30 days of adoption.

25 27 VIATICAL SETTLEMENT CONTRACTS. Code section
25 28 508E.3(1)(b)(1) and (2) are amended to provide that a licensed
25 29 life insurance producer meets the requirements for licensure
25 30 as a viatical settlement broker only if the person was
25 31 licensed as a life insurance producer for at least one year
25 32 immediately prior to operating as a viatical settlement broker
25 33 and the licensed life insurance producer provides proof of
25 34 coverage by an errors and omissions policy of not less than
25 35 \$100,000 per occurrence and not less than \$100,000 total
26 1 annual aggregate for all claims during the policy period.

26 2 Code section 508E.3(3) and (9) are amended to change the
26 3 term of licensure for a viatical settlement provider or broker
26 4 from one to three years and to require a viatical settlement
26 5 broker to complete 20 credits of training related to viatical
26 6 settlements and viatical settlement transactions every three
26 7 years.

26 8 LIFE INSURANCE COMPANIES AND ASSOCIATIONS. Code section
26 9 511.8(18) is amended to provide that insurance companies may
26 10 invest in additional percentages of common stocks or shares of
26 11 stock in a direct or indirect subsidiary company domiciled in
26 12 the United States upon application to the commissioner of
26 13 insurance.

26 14 LONG-TERM CARE INSURANCE. Code section 514G.102 is amended
26 15 to provide that the requirements of Code chapter 514G related
26 16 to independent review of benefit trigger determinations apply
26 17 to all claims made on or after January 1, 2009. This
26 18 provision is effective upon enactment and is retroactively
26 19 applicable to January 1, 2009, and applicable on and after
26 20 that date.

26 21 Code section 514G.104 is amended to allow group long-term
26 22 care insurance issued in another state to be offered in Iowa
26 23 upon certain findings by the commissioner of insurance. This
26 24 amendment makes the provision consistent with the national
26 25 association of insurance commissioners' model Act.

26 26 LONG-TERM CARE ASSET DISREGARD INCENTIVES. Code section
26 27 514H.1 is amended by changing the terminology of "certified
26 28 long-term care insurance policy" to "qualified long-term care
26 29 insurance policy". Code sections 249A.35, 514H.3, 514H.4,
26 30 514H.5, 514H.7, and 514H.8 are amended to reflect this change.
26 31 Code section 514H.1 is also amended to include new definitions
26 32 for the federal "Deficit Reduction Act of 2005" and "qualified
26 33 state long-term care insurance partnership".

26 34 Code section 514H.2(2) is amended to require the department
26 35 of human services to take necessary actions, including filing
27 1 an appropriate medical assistance state plan amendment to the
27 2 state Medicaid plan to take full advantage of the benefits and
27 3 features of the federal Deficit Reduction Act of 2005.

27 4 Code section 514H.4 is amended to require an insurer who
27 5 issues qualified long-term care insurance policies in Iowa to
27 6 conform with policy guidelines expressed in the federal
27 7 Deficit Reduction Act of 2005.

27 8 Code section 514H.5, concerning the asset disregard
27 9 adjustment, is amended by deleting previously specified
27 10 eligibility criteria. The Code section is also amended to
27 11 remove a requirement that the commissioner of insurance issue
27 12 an annual bulletin about qualifying amounts for the Iowa
27 13 long-term care asset disregard incentive program.

27 14 Code section 514H.9 is amended to remove requirements that
27 15 the commissioner of insurance consult with the insurance
27 16 industry before adopting rules concerning long-term care
27 17 insurance and that such rulemaking power be construed
27 18 narrowly.

27 19 INSURANCE OTHER THAN LIFE. Code section 515.101 is amended
27 20 to provide that an application, policy, or contract of
27 21 insurance may stipulate that fraud, concealment, or
27 22 misrepresentation of an insured may make such application,
27 23 policy, or contract void before a loss occurs.

27 24 Code section 515.120 is amended to allow a resident or

27 25 nonresident insurance producer, qualified to write excess and
27 26 surplus lines insurance, to procure insurance from certain
27 27 nonadmitted insurers including individual disability
27 28 insurance, upon filing a surplus lines certification report
27 29 with the commissioner of insurance stating the producer has
27 30 not been able to place the insurance with an admitted insurer.
27 31 INSURANCE GUARANTY ASSOCIATION. Code section 515B.1 is
27 32 amended to make Code chapter 515B applicable to insurance
27 33 reinsured by government.
27 34 Code section 515B.2 is amended to provide that a "covered
27 35 claim" does not include payments on behalf of the insured of
28 1 an insolvent insurer for attorney, adjuster, or witness fees.
28 2 The Code section is also amended to specify that a "covered
28 3 claim" does not include obligations to a nonresident person
28 4 who has a net worth greater than that allowed by the person's
28 5 state guarantee fund law and who has been denied that state's
28 6 coverage.
28 7 Code section 515B.5(1)(a) is amended to require the
28 8 guaranty association to pay amounts not exceeding the lesser
28 9 of the policy limits or \$300,000 for all covered claims rather
28 10 than per claim, arising out of any one or series of accidents,
28 11 occurrences, or incidents.
28 12 Code section 515B.5(1)(b) is amended to limit the guaranty
28 13 association's obligation to pay covered claims either in
28 14 contract or tort to an amount not in excess of the obligation
28 15 under the policy of the insolvent insurer.
28 16 Code section 515B.14 is amended to provide there is no
28 17 liability or cause of action against a member association, the
28 18 guaranty association or its board, or the commissioner of
28 19 insurance for failure to act in the performance of their
28 20 duties. The change is consistent with the national
28 21 association of insurance commissioners' and national
28 22 conference of insurance legislatures' model Acts.
28 23 COUNTY MUTUAL INSURANCE ASSOCIATIONS. Code section 518.5
28 24 is amended to increase from \$50,000 to \$100,000 the amount of
28 25 insurance and from 50 to 200 applicants from which a county
28 26 mutual insurance association formed on or after July 1, 2009,
28 27 must receive applications, before issuing policies.
28 28 Code section 518.13 is amended to delete a requirement that
28 29 a county mutual insurance association suspend a policy of an
28 30 insured if there is a premium default.
28 31 Code section 518.14(3)(a)(2), which allows a county mutual
28 32 insurance association to loan stocks or obligations held by it
28 33 to a registered broker-dealer or to a member bank, is
28 34 stricken.
28 35 Code section 518.14(4)(f)(1) and (2) are amended to provide
29 1 that a county mutual insurance association may invest in
29 2 common stocks, preferred stocks, or other securities of a
29 3 subsidiary if such investments are reasonable as to the
29 4 association's surplus, liabilities, and needs, and the
29 5 association owns 100 percent of the subsidiary's stock.
29 6 Code section 518.14(4)(g) is amended to provide that an
29 7 association must receive prior approval of the commissioner of
29 8 insurance before investing funds in a home office real estate
29 9 for a subsidiary. As to all home office real estate acquired
29 10 on or after July 1, 2009, an association is prohibited from
29 11 investing more than 20 percent instead of 25 percent of its
29 12 total admitted assets in such real estate. The amendment also
29 13 requires an association or subsidiary to obtain prior approval
29 14 of the commissioner before selling or disposing of home office
29 15 real estate.
29 16 Code section 518.17 is amended to correct an error in
29 17 terminology and to number the unnumbered paragraphs.
29 18 Code section 518.19 is amended to delete a requirement that
29 19 an insured give notice of proof of loss within a statutorily
29 20 specified time and to allow the requirements of the policy to
29 21 control.
29 22 Code section 518.22 is amended to eliminate a requirement
29 23 that a suit or action on a policy for recovery of a claim
29 24 cannot be brought until 40 days after proof of loss has been
29 25 given to the association and to instead allow the requirements
29 26 of the policy to control.
29 27 Code section 518.23(1) is amended to require an association
29 28 to cancel a policy at any time at the request of the insured
29 29 without first requiring that the policy be returned to the
29 30 home office of the association and all premium charges be
29 31 paid.
29 32 Code section 518.23(4) is amended to delete the requirement
29 33 that a policy must be surrendered by the insured to the home
29 34 office of the association before the insured can receive a
29 35 refund of excess payments.

30 1 Code section 518.25 is amended to provide that an
30 2 association organized before July 1, 2009, must maintain a
30 3 surplus of not less than \$50,000 or one-tenth of 1 percent of
30 4 the gross risk in force, whichever is greater, while an
30 5 association organized on or after July 1, 2009, must maintain
30 6 a surplus of not less than \$100,000 or one-tenth of 1 percent
30 7 of the gross risk in force, whichever is greater.

30 8 New Code section 518.31 provides that the commissioner of
30 9 insurance may adopt administrative rules as necessary for the
30 10 administration of the Code chapter.

30 11 STATE MUTUAL INSURANCE ASSOCIATIONS. Code section 518A.4,
30 12 pertaining to the power of the association to make or amend
30 13 articles of incorporation at an annual meeting, is repealed.

30 14 Code section 518A.7, pertaining to requirements for a state
30 15 mutual insurance association to issue policies based on
30 16 specified numbers of applications and dollar amounts of
30 17 insurance coverage, is repealed.

30 18 Code section 518A.9 is amended by deleting a requirement
30 19 that a state mutual insurance association suspend a policy if
30 20 there is a premium default.

30 21 Code section 518A.12(2), which allows a state mutual
30 22 insurance association to loan stocks or obligations held by it
30 23 to a registered broker-dealer or to a member bank, is
30 24 stricken.

30 25 Code section 518A.12(4)(f)(1) and (2) are amended to
30 26 provide that a state mutual insurance association may invest
30 27 in common stocks, preferred stocks, or other securities of a
30 28 subsidiary if such investments are reasonable as to the
30 29 association's surplus, liabilities, and needs, and the
30 30 association owns 100 percent of the subsidiary's stock.

30 31 Code section 518A.12(4)(g) is amended to provide that an
30 32 association must receive prior approval of the commissioner of
30 33 insurance before investing funds in a home office real estate
30 34 for a subsidiary. As to all home office real estate acquired
30 35 on or after July 1, 2009, an association is prohibited from
31 1 investing more than 20 percent instead of 25 percent of its
31 2 total admitted assets in such real estate. The amendment also
31 3 requires an association or subsidiary to obtain prior approval
31 4 of the commissioner before selling or disposing of home office
31 5 real estate.

31 6 Code section 518A.19 is amended to delete a requirement
31 7 that an insured give notice of proof of loss within a
31 8 statutorily specified time and allow proof of loss to contain
31 9 such information as is required by the provisions of the
31 10 policy.

31 11 Code section 518A.22 is amended to eliminate a requirement
31 12 that a suit or action on a policy for recovery of a loss
31 13 cannot be brought until 40 days after proof of loss has been
31 14 given to the association and instead to allow the requirements
31 15 of the policy to control so long as the suit or action is
31 16 commenced within 12 months after the inception of the loss.

31 17 Code section 518A.23, pertaining to a presumption that the
31 18 amount stated in the policy is prima facie evidence of the
31 19 insurable value of a building lost, is repealed.

31 20 Code section 518A.29(1) is amended to require an
31 21 association to cancel a policy at any time at the request of
31 22 the insured without first requiring that the policy be
31 23 returned to the home office of the association and all premium
31 24 charges be paid.

31 25 Code section 518A.29(4) is amended to delete the
31 26 requirement that a policy must be surrendered by the insured
31 27 to the home office of the association before the insured can
31 28 receive a refund of excess payments.

31 29 Code section 518A.37 is amended to provide that an
31 30 association organized before July 1, 2009, must maintain a
31 31 surplus of not less than \$100,000 or one-tenth of 1 percent of
31 32 the gross risk in force, whichever is greater, while an
31 33 association organized on or after July 1, 2009, must maintain
31 34 a surplus of not less than \$200,000 or one-tenth of 1 percent
31 35 of the gross risk in force, whichever is greater.

32 1 Code section 518A.40(1) is amended to provide that
32 2 certificates of authority expire on June 1 instead of May 1
32 3 following the year of issue.

32 4 New Code section 518A.56 provides that the commissioner of
32 5 insurance may adopt administrative rules as necessary for the
32 6 administration of the Code chapter.

32 7 New Code section 518A.57 provides that members of a state
32 8 mutual insurance association have the power to make or amend
32 9 articles of incorporation at any membership meeting upon
32 10 proper notice, with such changes becoming effective only after
32 11 approval by the commissioner of insurance and recording in the

32 12 office of the secretary of state.
32 13 CONSOLIDATION, MERGER, AND REINSURANCE. Code section
32 14 521.2(1) is amended to provide that Code sections 491.101,
32 15 491.101A, and 491.101B, which provide definitions, authorize a
32 16 poison pill defense, and allow consideration of community
32 17 interests in consideration of acquisition proposals, are
32 18 applicable to mergers or consolidations of domestic and
32 19 foreign mutual insurance companies.
32 20 CEMETERY AND FUNERAL MERCHANDISE AND FUNERAL SERVICES.
32 21 Code section 523A.202(1) is amended to provide that funds
32 22 required to be held in trust by a seller of cemetery and
32 23 funeral merchandise, and funeral services, must be deposited
32 24 in a financial institution within 15 days following receipt of
32 25 the funds instead of within 15 days after the close of the
32 26 month in which the seller receives the funds.
32 27 LSB 1321XD 83
32 28 av/rj/14.2