

House File 2339 - Introduced

HOUSE FILE 2339
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 621)

A BILL FOR

1 An Act relating to various matters under the purview of the
2 insurance division of the department of commerce, providing
3 penalties, and including effective date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 135.22A, subsection 2, paragraph g, Code
2 2011, is amended by striking the paragraph.

3 Sec. 2. Section 502.412, subsection 3, Code 2011, is amended
4 to read as follows:

5 3. *Disciplinary penalties — registrants.* If the
6 administrator finds that the order is in the public interest
7 and subsection 4, paragraphs "a" through "f", "h", "i", "j",
8 "l", or "m", authorizes the action, an order under this chapter
9 may censure, impose a bar, or impose a civil penalty in an
10 amount not to exceed a maximum of ~~five~~ ten thousand dollars
11 for a single violation or ~~five hundred thousand~~ one million
12 dollars for more than one violation, or in an amount as agreed
13 to by the parties, on a registrant, and, if the registrant is
14 a broker-dealer or investment adviser, a partner, officer,
15 director, or person having a similar status or performing
16 similar functions, or a person directly or indirectly in
17 control, of the broker-dealer or investment adviser.

18 Sec. 3. Section 502.604, subsection 4, Code Supplement
19 2011, is amended to read as follows:

20 4. *Civil penalty — restitution — corrective action.* In a
21 final order under subsection 3, the administrator may impose a
22 civil penalty up to an amount not to exceed a maximum of ~~five~~
23 ten thousand dollars for a single violation or ~~five hundred~~
24 ~~thousand~~ one million dollars for more than one violation, or
25 in an amount as agreed to by the parties, order restitution,
26 or take other corrective action as the administrator deems
27 necessary and appropriate to accomplish compliance with
28 the laws of the state relating to all securities business
29 transacted in the state.

30 Sec. 4. Section 502.604, Code Supplement 2011, is amended by
31 adding the following new subsection:

32 NEW SUBSECTION. 5A. *Failure to obey cease and desist*
33 *order.* A person who fails to obey a valid cease and desist
34 order issued by the administrator under this section may, after
35 notice and opportunity for a hearing, be subject to a civil

1 penalty in an amount of not less than one thousand dollars and
2 not to exceed ten thousand dollars for violating the order.
3 Each day the failure to obey the cease and desist order occurs
4 or continues constitutes a separate violation of the order.
5 The penalties provided in this subsection are in addition to,
6 and not exclusive of, other remedies that may be available.

7 Sec. 5. Section 505.8, subsection 10, Code Supplement 2011,
8 is amended to read as follows:

9 10. The commissioner may, after a hearing conducted
10 pursuant to chapter 17A, assess fines or penalties; assess
11 costs of an examination, investigation, or proceeding;
12 order restitution; or take other corrective action as the
13 commissioner deems necessary and appropriate to accomplish
14 compliance with the laws of the state relating to all insurance
15 business transacted in the state.

16 Sec. 6. NEW SECTION. 506.14 Voluntary dissolution of
17 domestic mutual insurance companies.

18 1. Any plan for voluntary dissolution of a domestic
19 mutual insurance company licensed to transact the business
20 of insurance under chapter 508, 515, 518, or 518A shall be
21 presented for approval by the commissioner not less than ninety
22 days in advance of notice of the plan to policyholders.

23 2. The commissioner shall approve the plan if the
24 commissioner finds that the plan complies with all applicable
25 provisions of law and is fair and equitable to the domestic
26 mutual insurance company and its policyholders.

27 Sec. 7. Section 507.10, subsection 4, paragraph a, Code
28 2011, is amended to read as follows:

29 a. All orders entered pursuant to subsection 3, paragraph
30 "a", shall be accompanied by findings and conclusions resulting
31 from the commissioner's consideration and review of the
32 examination report, relevant examiner work papers, and any
33 written submissions or rebuttals. Any such order is a final
34 administrative decision and may be appealed pursuant to chapter
35 17A, and shall be served upon the company by certified mail,

1 together with a copy of the adopted examination report. Within
2 ~~thirty days of the issuance of the adopted report, the company~~
3 ~~shall file affidavits executed by each of its directors stating~~
4 ~~under oath that they have received a copy of the adopted report~~
5 ~~and related orders. The board of directors of the company~~
6 shall timely review the adopted report. The minutes of the
7 meeting of the board at which the adopted report is considered
8 shall reflect that each member of the board has reviewed the
9 adopted report.

10 Sec. 8. Section 507.14, subsection 4, Code 2011, is amended
11 to read as follows:

12 4. Confidential documents, materials, information,
13 administrative or judicial orders, or other actions may be
14 disclosed to a regulatory official of any state, federal
15 agency, or foreign country provided that the recipients are
16 required, under their law, to maintain their confidentiality.
17 Confidential records may be disclosed to the national
18 association of insurance commissioners, the international
19 association of insurance supervisors, and the bank for
20 international settlements, provided that the association
21 certifies associations and the bank certify by written
22 statement that the confidentiality of the records will be
23 maintained.

24 Sec. 9. Section 507B.4, Code 2011, is amended by adding the
25 following new subsection:

26 NEW SUBSECTION. 20. *Refund of unearned premium.* Failure of
27 an issuer of a Medicare supplement policy to adjust coverage
28 dates to terminate coverage on the date that coincides with
29 the effective date of a policy or contract providing any
30 hospital, medical, prescription drug, or other health care
31 benefits pursuant to 42 U.S.C. ch. 7, subch. XVIII, Part C,
32 commonly known as Medicare Part C, pursuant to Tit. XVIII of
33 the federal Social Security Act, or any regulations issued
34 pursuant thereto, and to refund any unearned premium to the
35 insured based on that revised termination date, where the

1 policyholder or contract holder provides written notice to the
2 issuer that the policyholder or contract holder desires to
3 terminate the policy or contract and provides documentation
4 substantiating that the policyholder or contract holder has
5 coverage commonly known as Medicare Part C. This subsection
6 shall not be construed to require a refund of premium for any
7 period of time in excess of five years prior to the date that
8 written notice is provided to an issuer.

9 Sec. 10. NEW SECTION. 507C.17A **Rehabilitation or**
10 **liquidation of a domestic insurer covered under the federal**
11 **Dodd-Frank Wall Street Reform and Consumer Protection Act.**

12 1. The provisions of this section apply in accordance
13 with Tit. II of the federal Dodd-Frank Wall Street Reform and
14 Consumer Protection Act, Pub. L. No. 111-203, 12 U.S.C. § 5301
15 et seq., with respect to a domestic insurer that is a covered
16 financial company, as that term is defined under 12 U.S.C. §
17 5381.

18 2. The commissioner may petition the district court for an
19 order of rehabilitation or liquidation of a domestic insurer
20 pursuant to this section on any of the following grounds:

21 *a.* Upon a determination and notification given by the
22 secretary of the treasury of the United States, in consultation
23 with the president of the United States, that the insurer is
24 a covered financial company satisfying the requirements of
25 12 U.S.C. § 5383(b), and the board of directors, or a body
26 performing similar functions of a board of directors, of the
27 insurer acquiesces or consents to the appointment of a receiver
28 pursuant to 12 U.S.C. § 5382(a)(1)(A)(i) with such consent
29 to be considered as consent to an order of rehabilitation or
30 liquidation.

31 *b.* Upon an order of the United States district court for
32 the District of Columbia under 12 U.S.C. § 5382(a)(1)(A)(iv)(I)
33 granting the petition of the secretary of the treasury of
34 the United States concerning the insurer under 12 U.S.C. §
35 5382(a)(1)(A)(i).

1 *c.* A petition by the secretary of the treasury of the United
2 States concerning the insurer is granted by operation of law
3 under 12 U.S.C. § 5382(a)(1)(A)(v).

4 3. Notwithstanding any other provision of law to the
5 contrary, after notice to the insurer, a district court
6 may grant an order of rehabilitation or liquidation within
7 twenty-four hours after the filing of such a petition pursuant
8 to this section.

9 4. If the district court does not make a determination on a
10 petition for an order of rehabilitation or liquidation filed by
11 the commissioner pursuant to this section within twenty-four
12 hours after the filing of the petition, the order shall be
13 deemed granted by operation of law upon the expiration of the
14 twenty-four-hour period.

15 *a.* At the time that an order is deemed granted under this
16 subsection, the provisions of this chapter shall be deemed
17 to be in effect, and the commissioner shall be deemed to be
18 affirmed as receiver and to have all of the applicable powers
19 provided by this chapter, regardless of whether an order has
20 been entered by the district court.

21 *b.* If an order is deemed granted by operation of law under
22 this subsection, the district court shall expeditiously enter
23 an order of rehabilitation or liquidation that does all of the
24 following:

25 (1) Is effective as of the date that the order is deemed
26 granted by operation of law.

27 (2) Conforms to the provisions for rehabilitation or
28 liquidation of an insurer contained in this chapter, as
29 applicable.

30 5. An order of rehabilitation or liquidation made pursuant
31 to this section shall not be subject to a stay or injunction
32 pending appeal.

33 6. Nothing in this section shall be construed to supersede
34 or impair any other power or authority of the commissioner or
35 the district court under this chapter.

1 Sec. 11. Section 507E.5, subsection 2, Code 2011, is amended
2 to read as follows:

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

13 Sec. 12. Section 511.8, subsection 14, Code Supplement
14 2011, is amended to read as follows:

15 14. *Urban real estate and personal property.*

16 a. Personal or real property or both located within the
17 United States or the Dominion of Canada, other than real
18 property used or to be used primarily for agricultural,
19 horticultural, ranching or mining purposes, which produces
20 income or which by suitable improvement will produce income.
21 However, personal property acquired under this subsection shall
22 be acquired for the purpose of entering into a contract for
23 the sale or for a use under which the contractual payments
24 may reasonably be expected to result in the recovery of the
25 investment and an investment return within the anticipated
26 useful life of the property. Legal title to the real property
27 may be acquired subject to a contract of sale.

28 b. "Real property" as used in this subsection includes a all
29 of the following:

30 (1) A leasehold of real estate, ~~an.~~

31 (2) An undivided interest in a leasehold of real estate, ~~and~~
32 an.

33 (3) An undivided interest in the fee title of real estate.

34 (4) A controlling membership, partnership, shareholder, or
35 trust interest in any entity created solely for the purpose

1 of owning and operating any of the interests described in
2 subparagraph (1), (2), or (3), if the entity is expressly
3 limited to that purpose within its organizational documents.

4 c. Investments under this subsection are not eligible in
5 excess of ten percent of the legal reserve.

6 Sec. 13. Section 511.8, subsection 19, Code Supplement
7 2011, is amended to read as follows:

8 19. *Other foreign government or corporate obligations.*

9 a. Bonds or other evidences of indebtedness, not to
10 include currency, issued, assumed, or guaranteed by a foreign
11 government other than Canada, or by a corporation incorporated
12 under the laws of a foreign government other than Canada. Such
13 governmental obligations must be valid, legally authorized
14 and issued, and on the date of acquisition have predominantly
15 investment qualities and characteristics as provided by
16 rule. Such corporate obligations must meet the qualifications
17 established in subsection 5 for bonds and other evidences of
18 indebtedness issued, assumed, or guaranteed by a corporation
19 incorporated under the laws of the United States or Canada.
20 Foreign investments authorized by this subsection are not
21 eligible in excess of ~~twenty~~ twenty-five percent of the
22 legal reserve of the life insurance company or association.
23 Investments in obligations of a foreign government, other
24 than Canada and, the United Kingdom, and foreign governments
25 rated AAA by Standard and Poor's division of McGraw-Hill
26 companies, inc., or Aaa by Moody's investors services, inc.,
27 are not eligible in excess of two percent of the legal reserve
28 in the securities of foreign governments of any one foreign
29 nation. Investments in obligations of the United Kingdom are
30 not eligible in excess of four percent of the legal reserve.
31 Investments in obligations of foreign governments rated either
32 AAA by Standard and Poor's division of McGraw-Hill companies,
33 inc., or Aaa by Moody's investors services, inc., are not
34 eligible in excess of five percent of the legal reserve.
35 Investments in a corporation incorporated under the laws of a

1 foreign government other than Canada are not eligible in excess
2 of two percent of the legal reserve in the securities of any
3 one foreign corporation.

4 b. Eligible investments in foreign obligations under this
5 subsection are limited to the types of obligations specifically
6 referred to in this subsection. This subsection in no way
7 limits or restricts investments in Canadian obligations and
8 securities specifically authorized in other subsections of this
9 section.

10 c. This subsection shall not authorize investment in
11 evidences of indebtedness issued, assumed, or guaranteed by a
12 foreign government which engages in a consistent pattern of
13 gross violations of human rights.

14 Sec. 14. Section 511.8, subsection 23, Code Supplement
15 2011, is amended by adding the following new paragraph:

16 NEW PARAGRAPH. g. For securities loaned pursuant to this
17 subsection that are included in the legal reserve of the life
18 insurance company or association, the collateral received for
19 the loaned securities shall not be eligible for inclusion in
20 the legal reserve.

21 Sec. 15. Section 511.40, Code 2011, is amended by adding the
22 following new subsection:

23 NEW SUBSECTION. 5. a. The gross amount of premiums
24 received by a life insurance company or association for an
25 employer-owned life insurance contract which has not been
26 allocated to another state shall be allocated to this state
27 for purposes of section 432.1, subsection 1, if either of the
28 following is applicable:

29 (1) The contract is issued or delivered in this state.

30 (2) The company or association is domiciled in this state.

31 b. To the extent that premiums are allocated to this state
32 pursuant to paragraph "a", the provisions of section 505.14 are
33 not applicable to those premiums.

34 c. As used in this subsection, "*employer-owned life*
35 *insurance contract*" means a policy which provides coverage on

1 a life for which the employer has an insurable interest under
2 this section or a similar provision of the laws of another
3 state and the policy is owned by either the employer or a trust
4 established by the employer for the benefit of the employer or
5 the employer's active or retired employees.

6 Sec. 16. Section 514.4, Code 2011, is amended to read as
7 follows:

8 **514.4 Directors.**

9 1. At least two-thirds of the directors of a hospital
10 service corporation, medical service corporation, dental
11 service corporation, or pharmaceutical or optometric service
12 corporation subject to this chapter shall be at all times
13 subscribers and not more than one-third of the directors
14 shall be providers as provided in this section. The board of
15 directors of each corporation shall consist of at least nine
16 members.

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

30 3. A provider director of a corporation subject to this
31 chapter shall be at all times a person who has a material
32 financial interest in or is a fiduciary to or an employee
33 of or is a spouse or member of the immediate family of a
34 provider having a contract with such corporation to render to
35 its subscribers the services of such corporation or who is a

1 hospital trustee.

2 4. A director may serve on a board of only one corporation
3 at a time subject to this chapter.

4 5. The commissioner of insurance shall adopt rules pursuant
5 to chapter 17A to implement the process of the election of
6 subscriber directors of the board of directors of a corporation
7 to ensure the representation of a broad spectrum of subscriber
8 interest on each board and establish criteria for the selection
9 of nominees. The rules shall provide for an independent
10 subscriber nominating committee to serve until the composition
11 of the board of directors meets the percentage requirements
12 of this section. Once the composition requirements of this
13 section are met, the nominations for subscriber directors
14 shall be made by the subscriber directors of the board under
15 procedures the board establishes which shall also permit
16 nomination by a petition of at least fifty subscribers. The
17 board shall also establish procedures to permit nomination of
18 provider directors by petition of at least fifty participating
19 providers. A member of the board of directors of a corporation
20 subject to this chapter shall not serve on the independent
21 subscriber nominating committee. The nominating committee
22 shall consist of subscribers as defined in this section. The
23 rules of the commissioner of insurance shall also permit
24 nomination of subscriber directors by a petition of at least
25 fifty subscribers, and nomination of provider directors
26 by a petition of at least fifty participating providers.
27 These petitions shall be considered only by the independent
28 nominating committee during the duration of the committee.
29 Following the discontinuance of the committee, the petition
30 process shall be continued and the board of directors of the
31 corporation shall consider the petitions. The independent
32 subscriber nominating committee is not subject to chapter 17A.
33 The nominating committee shall not receive per diem or expenses
34 for the performance of their duties.

35 6. Population factors, representation of different

1 geographic regions, and the demography of the service area of
2 the corporation subject to this chapter shall be considered
3 when making nominations for the board of directors of a
4 corporation subject to this chapter.

5 7. A corporation serving states in addition to Iowa shall be
6 required to implement this section only for directors who are
7 residents of Iowa and elected as board members from Iowa.

8 Sec. 17. Section 515.26, Code 2011, is amended to read as
9 follows:

10 **515.26 Directors.**

11 The affairs of a company organized as provided by this
12 chapter shall be managed by a number of directors, of not less
13 than five nor more than twenty-one. ~~In the case of a mutual~~
14 ~~company, all such directors shall be policyholders.~~

15 Sec. 18. Section 515.69, subsection 1, Code 2011, is amended
16 to read as follows:

17 1. A stock insurance company organized under or by the
18 laws of any other state or foreign government for the purpose
19 specified in this chapter, shall not, directly or indirectly,
20 take risks or transact business of insurance in this state
21 unless the company ~~has two and one-half million dollars of~~
22 ~~actual paid-up capital, and a surplus in cash or invested in~~
23 ~~securities authorized by law of not less than two and one-half~~
24 ~~million dollars,~~ possesses the actual amount of capital and
25 surplus required of any company organized pursuant to this
26 chapter, or if the company is a mutual insurance company, the
27 actual amount of surplus required of any mutual insurance
28 company organized pursuant to this chapter, exclusive of assets
29 deposited in a state, territory, district, or country for the
30 special benefit or security of those insured in that state,
31 territory, district, or country.

32 Sec. 19. Section 515.136, Code 2011, is amended to read as
33 follows:

34 **515.136 Value of building — liability.**

35 ~~The insurance company or association issuing such policy may~~

1 ~~show the actual value of said property at date of policy, and~~
2 ~~any depreciation in the value thereof before the loss occurred;~~
3 ~~but the said~~ An insurance company or association shall be
4 liable for the actual value of the property insured at the date
5 of the loss, unless such value exceeds the amount stated in the
6 policy.

7 Sec. 20. Section 515A.7, subsection 1, paragraph b,
8 subparagraph (5), Code 2011, is amended to read as follows:

9 (5) An insurer may adopt a ~~scheduled~~ or schedule rating plan
10 providing for credits or debits in an amount not exceeding the
11 maximum modification allowed as set forth by the commissioner
12 by rule. This amount shall be in addition to the permitted
13 deviations set forth in subparagraphs (1) through (4).

14 Sec. 21. Section 518.14, subsection 4, paragraph f,
15 unnumbered paragraph 1, Code 2011, is amended to read as
16 follows:

17 Common stocks, common stock equivalents, mutual fund
18 shares, securities convertible into common stocks or common
19 stock equivalents, or preferred stocks issued or guaranteed
20 by a corporation incorporated under the laws of the United
21 States or a state, or the laws of Canada or a province of
22 Canada, or limited partnerships publicly traded on a nationally
23 established stock exchange in the United States. Aggregate
24 investments in nondividend paying stocks shall not exceed five
25 percent of surplus.

26 Sec. 22. Section 518A.12, subsection 4, paragraph f,
27 unnumbered paragraph 1, Code 2011, is amended to read as
28 follows:

29 Common stocks, common stock equivalents, mutual fund
30 shares, securities convertible into common stocks or common
31 stock equivalents, or preferred stocks issued or guaranteed
32 by a corporation incorporated under the laws of the United
33 States or a state, or the laws of Canada or a province of
34 Canada, or limited partnerships publicly traded on a nationally
35 established stock exchange in the United States. Aggregate

1 investments in nondividend paying stocks shall not exceed five
2 percent of surplus.

3 Sec. 23. Section 521E.1, subsection 4, unnumbered paragraph
4 1, Code 2011, is amended to read as follows:

5 "*Domestic insurer*" means an insurance company domiciled in
6 this state and licensed to transact the business of insurance
7 under chapter 508, 512B, 515, or 520, except that it shall not
8 include any of the following:

9 Sec. 24. Section 521E.1, subsection 4, paragraph b, Code
10 2011, is amended by striking the paragraph.

11 Sec. 25. Section 521E.1, subsections 6 and 7, Code 2011, are
12 amended to read as follows:

13 6. "*Foreign insurer*" means an insurance company not
14 domiciled in this state which is licensed to transact the
15 business of insurance in this state under chapter 508, 512B,
16 515, or 520.

17 7. "*Life and health insurer*" means an insurance company
18 licensed under chapter 508, a fraternal benefit society
19 organized under chapter 512B, or a licensed property and
20 casualty insurer writing only accident and health insurance
21 under chapter 515.

22 Sec. 26. Section 521E.3, subsection 1, paragraph a,
23 subparagraph (2), Code Supplement 2011, is amended to read as
24 follows:

25 (2) For a life and health insurer, the insurer's
26 total adjusted capital is greater than or equal to its
27 company-action-level risk-based capital but less than the
28 product of its authorized-control-level risk-based capital and
29 ~~two and one-half~~ three, and has a negative trend.

30 Sec. 27. Section 522C.6, Code 2011, is amended by adding the
31 following new subsection:

32 NEW SUBSECTION. 3. a. A licensed public adjuster who,
33 after hearing, is found to have violated this chapter or any
34 rule adopted or order issued pursuant to this chapter, may
35 be ordered to cease and desist from engaging in the conduct

1 resulting in the violation and may be assessed a civil penalty
2 as provided in section 505.7A.

3 *b.* A person who, after hearing, is found to have violated
4 this chapter by acting as a public adjuster without proper
5 licensure may be ordered to cease and desist from engaging in
6 the conduct resulting in the violation and may be assessed a
7 civil penalty according to the provisions of chapter 507A.

8 *c.* If a person has engaged, is engaging, or is about to
9 engage in any act or practice constituting a violation of
10 this chapter or any rule adopted or order issued pursuant to
11 this chapter, the commissioner may issue a summary order that
12 includes a brief statement of findings of fact, conclusions of
13 law, and policy reasons for the order, and that directs the
14 person to cease and desist from engaging in the act or practice
15 constituting the violation and that may assess a civil penalty
16 or take other affirmative action as in the judgment of the
17 commissioner is necessary to assure that the person complies
18 with the requirements of this chapter as provided in chapter
19 507A.

20 *d.* If a person does not comply with an order issued pursuant
21 to this subsection, the commissioner may petition a court of
22 competent jurisdiction to enforce the order. The court shall
23 not require the commissioner to post a bond in an action or
24 proceeding under this subsection. If the court finds, after
25 notice and opportunity for hearing, that the person is not in
26 compliance with an order, the court may adjudge the person to
27 be in civil contempt of the order. The court may impose a civil
28 penalty against the person for contempt in an amount not less
29 than three thousand dollars but not greater than ten thousand
30 dollars for each violation and may grant any other relief that
31 the court determines is just and proper in the circumstances.

32 Sec. 28. Section 598.20A, Code 2011, is amended to read as
33 follows:

34 **598.20A Beneficiary revocation — life insurance.**

35 1. Except as preempted by federal law, if a decree of

1 dissolution, annulment, or separate maintenance is issued after
2 ~~an insured~~ the policy owner of an insurance contract insuring
3 the policy owner's own life has designated the ~~insured's~~ policy
4 owner's spouse or one or more relatives of the ~~insured's~~ policy
5 owner's spouse as a beneficiary under a life insurance policy
6 in effect on the date of the decree, a provision in the life
7 insurance policy making such a designation is voided by the
8 issuance of the decree unless any of the following apply:

9 a. The decree designates the ~~insured's~~ policy owner's former
10 spouse or one or more relatives of the ~~insured's~~ policy owner's
11 spouse as beneficiary.

12 b. After issuance of the decree, the ~~insured~~ policy owner
13 executes a designation of beneficiary form provided by the
14 insurance company naming the ~~insured's~~ policy owner's former
15 spouse or one or more relatives of the ~~insured's~~ policy owner's
16 former spouse as beneficiary.

17 c. The ~~insured~~ policy owner and the ~~insured's~~ policy owner's
18 former spouse remarry.

19 2. If a beneficiary designation is not effective pursuant to
20 subsection 1, the benefits or proceeds of the life insurance
21 policy are payable to an alternate beneficiary, or if there is
22 no alternate beneficiary, to the estate of the ~~insured~~ policy
23 owner.

24 3. An insurer who pays benefits or proceeds of a life
25 insurance policy to a beneficiary under a designation that is
26 void pursuant to subsection 1 is not liable for payment to an
27 alternative beneficiary as provided under subsection 2 unless
28 both of the following apply:

29 a. At least ten days prior to payment of the benefits
30 or proceeds of the life insurance policy to the designated
31 beneficiary, the insurer receives written notice at the home
32 office of the insurer that the designation of the beneficiary
33 is not effective pursuant to subsection 1.

34 b. The insurer has failed to interplead the benefits or
35 proceeds of the life insurance policy in a court of competent

1 jurisdiction in accordance with the rules of civil procedure.

2 4. This section does not limit the right of a beneficiary
3 to seek recovery from any person or entity that erroneously
4 receives or collects the benefits or proceeds from a life
5 insurance policy.

6 5. This section does not affect the right of ~~an insured's~~
7 ~~former~~ a policy owner's spouse to assert an ownership interest
8 in a life insurance policy insuring the life of the policy
9 owner that is not disclosed to the ~~insured's~~ policy owner's
10 spouse prior to the decree of dissolution, annulment, or
11 separate maintenance and that is not addressed by the decree.

12 6. For purposes of this section, "*relative of the insured's*
13 *policy owner's spouse*" means a person who is related to the
14 ~~insured's~~ policy owner's former spouse by blood, adoption,
15 or affinity, and who, subsequent to a decree of dissolution,
16 annulment, or separate maintenance, ceases to be related to the
17 ~~insured~~ policy owner by blood, adoption, or affinity.

18 Sec. 29. EFFECTIVE UPON ENACTMENT. The following
19 provision or provisions of this Act, being deemed of immediate
20 importance, take effect upon enactment:

21 1. The section of this Act enacting section 507C.17A.

22 EXPLANATION

23 This bill relates to various matters under the purview of the
24 insurance division of the department of commerce.

25 DEPARTMENT OF PUBLIC HEALTH. Code section 135.22A(2)(g)
26 is stricken to remove the commissioner of insurance from the
27 membership of the advisory council on brain injuries.

28 UNIFORM SECURITIES ACT (BLUE SKY LAW). Code section
29 502.412(3) is amended to increase the amount of the
30 disciplinary penalty for registrants that the administrator
31 (commissioner of insurance or the commissioner's deputy) can
32 impose for a violation of the Code chapter from a maximum of
33 \$5,000 to \$10,000 for a single violation, and from \$500,000 to
34 \$1 million for more than one violation, or in such amount as
35 agreed to by the parties.

1 Code section 502.604(4) is amended to increase the amount
2 of a civil penalty the administrator can impose against a
3 person for engaging in an act, practice, or course of business
4 in violation of the Code chapter from a maximum of \$5,000 to
5 \$10,000 for a single violation, and from \$500,000 to \$1 million
6 for more than one violation, or in an amount agreed to by the
7 parties.

8 New Code section 502.604(5A) provides that a person
9 who fails to obey a valid cease and desist order issued by
10 the administrator may be subject to a civil penalty in an
11 amount of not less than \$1,000 and not more than \$10,000 for
12 violating the order. Each day the failure to obey continues
13 constitutes a separate violation. The penalties provided in
14 this subsection are in addition to, and not exclusive of other
15 remedies that may be available.

16 INSURANCE DIVISION. Code section 505.8(10) is amended to
17 allow the commissioner to assess the costs of the examination
18 of a regulated entity necessary to accomplish compliance with
19 the insurance laws of this state.

20 DOMESTIC INSURANCE COMPANIES. New Code section 506.14
21 provides that any plan for the voluntary dissolution of a
22 domestic mutual insurance company licensed in this state shall
23 be presented for approval by the commissioner not less than 90
24 days prior to notice of the plan to the policyholders. The
25 commissioner must approve the plan if it complies with all
26 applicable laws and is fair and equitable to the company and to
27 its policyholders.

28 EXAMINATION OF INSURANCE COMPANIES. Code section
29 507.10(4)(a) is amended to allow the board of directors of
30 an insurance company to signal that each member has reviewed
31 an examination report with a notation in the board's meeting
32 minutes instead of by filing affidavits indicating that each
33 member has received a copy of the report.

34 Code section 507.14 is amended to allow the commissioner
35 to release confidential documents and other materials to the

1 international association of insurance supervisors and the bank
2 for international settlements provided that those entities
3 give written certification that the records will be kept
4 confidential.

5 INSURANCE TRADE PRACTICES. New Code section 507B.4(20)
6 makes it an unfair or deceptive act or practice in the business
7 of insurance for an issuer of a Medicare supplement policy
8 to fail to terminate that coverage and refund any unearned
9 premiums, upon receiving written notice from the policyholder
10 that the policyholder desires to terminate the coverage and has
11 obtained Medicare Part C coverage. An issuer is not required
12 to refund premiums for any period of time in excess of five
13 years prior to the date of receiving such written notice.

14 INSURERS SUPERVISION, REHABILITATION, AND LIQUIDATION.
15 New Code section 507C.17A contains provisions that apply in
16 accordance with the federal Dodd-Frank Wall Street Reform and
17 Consumer Protection Act to a domestic insurer that is a covered
18 financial company, as that term is defined in federal law.

19 The bill provides that the commissioner of insurance may
20 file a petition in the state district court for an order of
21 rehabilitation or liquidation of such a domestic insurer upon
22 receiving notice from the secretary of the treasury of the
23 United States that the insurer acquiesces or consents to the
24 appointment of a receiver; upon an order of the United States
25 district court for the District of Columbia as to that insurer;
26 or when a petition of the secretary of the treasury of the
27 United States concerning the insurer is granted by operation
28 of law.

29 Notwithstanding any other provision of law to the contrary,
30 the state district court, after notice to the insurer, may
31 grant an order on such a petition within 24 hours after the
32 filing of the petition. If the district court does not make a
33 determination on the petition within 24 hours of its filing,
34 the order is deemed granted by operation of law upon expiration
35 of the 24-hour period.

1 At the time an order is deemed granted, the provisions of
2 Code chapter 507C are deemed to be in effect, the commissioner
3 is deemed to be affirmed as the receiver and to have all of
4 the applicable powers provided by Code chapter 507C, and the
5 state district court must expeditiously enter an order of
6 rehabilitation or liquidation. An order of rehabilitation or
7 liquidation made pursuant to the provisions of the bill is not
8 subject to a stay or injunction pending appeal.

9 This provision is effective upon enactment.

10 INSURANCE FRAUD. Code section 507E.5(2) is amended to allow
11 the commissioner to share documents with local as well as
12 state, federal, and international law enforcement authorities
13 if the recipient agrees to maintain the confidentiality of
14 confidential and privileged documents that are shared.

15 LIFE INSURANCE COMPANIES AND ASSOCIATIONS. Code section
16 511.8(14) is amended to provide that a life insurance company
17 can include in its legal reserve as real property a controlling
18 membership, partnership, shareholder, or trust interest in any
19 entity created solely for the purpose of owning and operating a
20 leasehold of real estate, an undivided interest in a leasehold
21 of real estate, or an undivided interest in the fee title of
22 real estate. The entity must be expressly limited to that
23 purpose by its organizational documents.

24 Code section 511.8(19) is amended to provide that a life
25 insurance company can include in its legal reserve certain
26 foreign investments not in excess of 25, instead of 20,
27 percent of its legal reserve. Investments in obligations of a
28 foreign government rated AAA by Standard and Poor's division
29 of McGraw-Hill companies, inc., or Aaa by Moody's investors
30 services, inc., are eligible for inclusion in the legal reserve
31 up to 5, instead of 2, percent of the legal reserve.

32 Code section 511.8(23) is amended to provide that if
33 securities held in a life insurance company's legal reserve are
34 loaned, the collateral received for the loaned securities is
35 not eligible for inclusion in the legal reserve.

1 New Code section 511.40(5) provides that the gross amount of
2 premiums received by a life insurance company or association
3 for an employer-owned life insurance contract shall be
4 allocated to this state for purposes of calculating the state
5 premium tax if the contract is issued or delivered in this
6 state or the company or association is domiciled in this state.
7 For purposes of the subsection, "employer-owned life insurance
8 contract" means a policy which provides coverage on a life for
9 which the employer has an insurable interest under this Code
10 section or the laws of another state and the policy is owned by
11 either the employer or a trust established by the employer for
12 the benefit of the employer or the employer's active or retired
13 employees.

14 NONPROFIT HEALTH SERVICE CORPORATIONS. Code section 514.4
15 is amended to provide that a person who is affiliated with a
16 hospital or other entity that does not have a provider contract
17 with a dental service corporation can serve as a subscriber
18 director of that corporation.

19 INSURANCE OTHER THAN LIFE. Code section 515.26 is amended to
20 eliminate a requirement that all of the directors of a mutual
21 company shall be policyholders.

22 Code section 515.69(1) is amended to require that a foreign
23 stock insurance company must possess the actual amount of
24 capital and surplus required of any company organized pursuant
25 to Code chapter 515, or if the insurer is a mutual company,
26 the actual amount of surplus required of any mutual company
27 organized pursuant to Code chapter 515. Currently, a foreign
28 stock insurance company is required to have \$2.5 million of
29 actual paid-up capital, and a surplus in cash or invested in
30 securities authorized by law of not less than \$2.5 million.

31 Code section 515.136 is amended to provide that an insurance
32 company or association is liable for the actual value of the
33 property insured at a date of a loss, unless that value exceeds
34 the amount stated in the policy. Currently, the insurer
35 issuing such a policy may show the actual value of the property

1 at the date of issuance of the policy and any depreciation in
2 the value of the property after a loss occurred but is still
3 liable for the actual value of the property insured on the date
4 of loss or the policy amount, whichever is less.

5 WORKERS' COMPENSATION LIABILITY INSURANCE. Code section
6 515A.7(1)(b)(5) is amended to remove a reference to a
7 "scheduled rating plan", a term that is not defined in the Code
8 chapter.

9 COUNTY MUTUAL INSURANCE ASSOCIATIONS. Code section
10 518.14(4)(f) is amended to allow county mutual insurance
11 associations to invest in stocks that are issued or guaranteed
12 by limited partnerships publicly traded on a nationally
13 established stock exchange in the United States.

14 STATE MUTUAL INSURANCE ASSOCIATIONS. Code section
15 518A.12(4)(f) is amended to allow state mutual insurance
16 associations to invest in stocks that are issued or guaranteed
17 by limited partnerships publicly traded on a nationally
18 established stock exchange in the United States.

19 RISK-BASED CAPITAL REQUIREMENTS FOR INSURERS. Code section
20 521E.1(4) is amended to provide that for purposes of the Code
21 chapter, a fraternal benefit society organized under Code
22 chapter 512B is a domestic insurer. Code section 521E.1(4)(b),
23 which excepted a fraternal benefit society from inclusion as
24 a domestic insurer, is stricken. Corresponding changes to
25 include such a society are made in Code section 521E.1(6) and
26 (7).

27 Code section 521E.3(1)(a)(2) is amended to provide that for
28 a life and health insurer, a company-action-level event means
29 the insurer's total adjusted capital is greater than or equal
30 to its company-action-level risk-based capital but less than
31 the product of its authorized-control-level risk-based capital
32 and three, instead of two and one-half, and has a negative
33 trend.

34 LICENSING OF PUBLIC ADJUSTERS. Code section 522C.6 is
35 amended to add provisions allowing the commissioner of

1 insurance to hold hearings, issue cease and desist orders,
2 assess civil penalties, and petition for enforcement of those
3 orders by the district court against persons who violate
4 the provisions of Code chapter 522C. The district court is
5 authorized to adjudge a violator in civil contempt of an order
6 and to impose a civil penalty for contempt of not less than
7 \$3,000 but not more than \$10,000 for each violation and grant
8 any other relief the court determines is just and proper under
9 the circumstances.

10 DISSOLUTION OF MARRIAGE AND DOMESTIC RELATIONS. Code
11 section 598.20A is amended to provide that it is the policy
12 owner of an insurance contract insuring the policy owner's own
13 life, not the insured, who designates the beneficiary of the
14 policy and is authorized to make changes in that designation
15 after a decree of dissolution of marriage, annulment, or
16 separate maintenance.