

Senate Study Bill 3066 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
COMMERCE/INSURANCE DIVISION
BILL)

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 premium for duplication of*
27 *insurance.* Failing to refund premiums paid for a Medicare
28 supplement policy after the effective date of a subsequently
29 purchased Medicare advantage plan, where there have been no
30 claims made on the Medicare supplement policy, and it can be
31 established that the carrier of the Medicare supplement policy
32 has no exposure to pay benefits if a claim is submitted to it
33 during the time that both the Medicare supplement policy and
34 the Medicare advantage plan are in effect. For the purposes
35 of this subsection, "Medicare supplement policy" and "Medicare

1 *advantage plan*" mean the same as defined by the commissioner of
2 insurance pursuant to rules adopted under chapter 17A.

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

6 1. The provisions of this section apply in accordance
7 with Tit. II of the federal Dodd-Frank Wall Street Reform and
8 Consumer Protection Act, Pub. L. No. 111-203, 12 U.S.C. § 5301
9 et seq., with respect to a domestic insurer that is a covered
10 financial company, as that term is defined under 12 U.S.C. §
11 5381.

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

15 a. Upon a determination and notification given by the
16 secretary of the treasury of the United States, in consultation
17 with the president of the United States, that the insurer is
18 a covered financial company satisfying the requirements of
19 12 U.S.C. § 5383(b), and the board of directors, or a body
20 performing similar functions of a board of directors, of the
21 insurer acquiesces or consents to the appointment of a receiver
22 pursuant to 12 U.S.C. § 5382(a)(1)(A)(i) with such consent
23 to be considered as consent to an order of rehabilitation or
24 liquidation.

25 b. Upon an order of the United States district court for
26 the District of Columbia under 12 U.S.C. § 5382(a)(1)(A)(iv)(I)
27 granting the petition of the secretary of the treasury of
28 the United States concerning the insurer under 12 U.S.C. §
29 5382(a)(1)(A)(i).

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

33 3. Notwithstanding any other provision of law to the
34 contrary, after notice to the insurer, a district court
35 may grant an order of rehabilitation or liquidation within

1 twenty-four hours after the filing of such a petition pursuant
2 to this section.

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

9 a. At the time that an order is deemed granted under this
10 subsection, the provisions of this chapter shall be deemed
11 to be in effect, and the commissioner shall be deemed to be
12 affirmed as receiver and to have all of the applicable powers
13 provided by this chapter, regardless of whether an order has
14 been entered by the district court.

15 b. If an order is deemed granted by operation of law under
16 this subsection, the district court shall expeditiously enter
17 an order of rehabilitation or liquidation that does all of the
18 following:

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

21 (2) Conforms to the provisions for rehabilitation or
22 liquidation of an insurer contained in this chapter, as
23 applicable.

24 5. An order of rehabilitation or liquidation made pursuant
25 to this section shall not be subject to a stay or injunction
26 pending appeal.

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

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

32 2. The commissioner may share documents, materials, or
33 other information, including confidential and privileged
34 documents, materials, or other information, with other
35 state, federal, and international regulatory agencies, with

1 the national association of insurance commissioners and its
2 affiliates or subsidiaries, and with local, state, federal, and
3 international law enforcement authorities, provided that the
4 recipient agrees to maintain the confidential and privileged
5 status of the document, material, or other information,
6 pursuant to Iowa law.

7 Sec. 12. Section 511.8, subsection 14, Code Supplement
8 2011, is amended to read as follows:

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

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

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

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

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

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

28 (4) A controlling membership, partnership, shareholder, or
29 trust interest in any entity created solely for the purpose
30 of owning and operating any of the interests described in
31 subparagraph (1), (2), or (3), if the entity is expressly
32 limited to that purpose within its organizational documents.

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

35 Sec. 13. Section 511.8, subsection 19, Code Supplement

1 2011, is amended to read as follows:

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

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

33 b. Eligible investments in foreign obligations under this
34 subsection are limited to the types of obligations specifically
35 referred to in this subsection. This subsection in no way

1 limits or restricts investments in Canadian obligations and
2 securities specifically authorized in other subsections of this
3 section.

4 c. This subsection shall not authorize investment in
5 evidences of indebtedness issued, assumed, or guaranteed by a
6 foreign government which engages in a consistent pattern of
7 gross violations of human rights.

8 Sec. 14. Section 511.8, subsection 23, Code Supplement
9 2011, is amended by adding the following new paragraph:

10 NEW PARAGRAPH. *g.* For securities loaned pursuant to this
11 subsection that are included in the legal reserve of the life
12 insurance company or association, the collateral received for
13 the loaned securities shall not be eligible for inclusion in
14 the legal reserve.

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

17 NEW SUBSECTION. 5. *a.* The gross amount of premiums
18 received by a life insurance company or association for an
19 employer-owned life insurance contract which has not been
20 allocated to another state shall be allocated to this state
21 for purposes of section 432.1, subsection 1, if either of the
22 following is applicable:

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

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

25 *b.* To the extent that premiums are allocated to this state
26 pursuant to paragraph "a", the provisions of section 505.14 are
27 not applicable to those premiums.

28 *c.* As used in this subsection, "*employer-owned life*
29 *insurance contract*" means a policy which provides coverage on
30 a life for which the employer has an insurable interest under
31 this section or a similar provision of the laws of another
32 state and the policy is owned by either the employer or a trust
33 established by the employer for the benefit of the employer or
34 the employer's active or retired employees.

35 Sec. 16. Section 514.4, Code 2011, is amended to read as

1 follows:

2 **514.4 Directors.**

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

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

24 3. A provider director of a corporation subject to this
25 chapter shall be at all times a person who has a material
26 financial interest in or is a fiduciary to or an employee
27 of or is a spouse or member of the immediate family of a
28 provider having a contract with such corporation to render to
29 its subscribers the services of such corporation or who is a
30 hospital trustee.

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

33 5. The commissioner of insurance shall adopt rules pursuant
34 to chapter 17A to implement the process of the election of
35 subscriber directors of the board of directors of a corporation

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

29 6. Population factors, representation of different
30 geographic regions, and the demography of the service area of
31 the corporation subject to this chapter shall be considered
32 when making nominations for the board of directors of a
33 corporation subject to this chapter.

34 7. A corporation serving states in addition to Iowa shall be
35 required to implement this section only for directors who are

1 residents of Iowa and elected as board members from Iowa.

2 Sec. 17. Section 515.69, subsection 1, Code 2011, is amended
3 to read as follows:

4 1. A stock insurance company organized under or by the
5 laws of any other state or foreign government for the purpose
6 specified in this chapter, shall not, directly or indirectly,
7 take risks or transact business of insurance in this state
8 unless the company ~~has two and one-half million dollars of~~
9 ~~actual paid-up capital, and a surplus in cash or invested in~~
10 ~~securities authorized by law of not less than two and one-half~~
11 ~~million dollars,~~ possesses the actual amount of capital and
12 surplus required of any company organized pursuant to this
13 chapter, or if the company is a mutual insurance company, the
14 actual amount of surplus required of any mutual insurance
15 company organized pursuant to this chapter, exclusive of assets
16 deposited in a state, territory, district, or country for the
17 special benefit or security of those insured in that state,
18 territory, district, or country.

19 Sec. 18. Section 515.120, Code 2011, is amended to read as
20 follows:

21 **515.120 Business with nonadmitted insurers.**

22 1. This chapter does not prevent a licensed resident or
23 nonresident producer of this state, qualified to write excess
24 and surplus lines insurance, from procuring insurance in
25 certain nonadmitted insurers if such insurance is restricted
26 to the type and kind of insurance authorized by this chapter,
27 excluding insurance authorized under section 515.48,
28 subsection 5, paragraph "a", and the producer makes oath to
29 the commissioner of insurance in the form prescribed by the
30 commissioner that the producer has made diligent effort to
31 place the insurance in authorized insurers and has either
32 exhausted the capacity of all authorized insurers or has been
33 unable to obtain the desired insurance in insurers licensed to
34 transact business in this state.

35 2. The procuring of a contract of insurance in a nonadmitted

1 insurer makes the insurer liable for, and the producer shall
2 pay, the taxes on the premiums as if the insurer were duly
3 authorized to transact business in the state.

4 3. A sworn report of all business transacted by producers
5 of this state in nonadmitted insurers shall be made to the
6 commissioner of insurance on or before March 1 of each year
7 for the preceding calendar year, on the form required by the
8 commissioner of insurance. The report shall be accompanied by
9 a remittance to cover the taxes on the premiums. A producer
10 who makes the oath, pays the taxes on the premiums, and
11 files the report has not written such contracts of insurance
12 unlawfully, and is not personally liable for the contracts.

13 4. Notwithstanding subsection 1, for purposes of this
14 section and sections 515.121 and 515.122, excess and surplus
15 lines insurance includes disability insurance that is in excess
16 of policy limits available in admitted insurers.

17 Sec. 19. Section 515.136, Code 2011, is amended to read as
18 follows:

19 **515.136 Value of building — liability.**

20 ~~The insurance company or association issuing such policy may~~
21 ~~show the actual value of said property at date of policy, and~~
22 ~~any depreciation in the value thereof before the loss occurred;~~
23 ~~but the said~~ An insurance company or association shall be
24 liable for the actual value of the property insured at the date
25 of the loss, unless such value exceeds the amount stated in the
26 policy.

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

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

34 Sec. 21. Section 518.14, subsection 4, paragraph f,
35 unnumbered paragraph 1, Code 2011, is amended to read as

1 follows:

2 Common stocks, common stock equivalents, mutual fund shares,
3 securities convertible into common stocks or common stock
4 equivalents, or preferred stocks issued or guaranteed by a
5 corporation incorporated under the laws of the United States
6 or a state, or the laws of Canada or a province of Canada,
7 or by limited partnerships publicly traded on a nationally
8 established stock exchange in the United States. Aggregate
9 investments in nondividend paying stocks shall not exceed five
10 percent of surplus.

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

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

23 Sec. 23. Section 521E.1, subsection 4, unnumbered paragraph
24 1, Code 2011, is amended to read as follows:

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

29 Sec. 24. Section 521E.1, subsection 4, paragraph b, Code
30 2011, is amended by striking the paragraph.

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

33 6. "*Foreign insurer*" means an insurance company not
34 domiciled in this state which is licensed to transact the
35 business of insurance in this state under chapter 508, 512B,

1 515, or 520.

2 7. "*Life and health insurer*" means an insurance company
3 licensed under chapter 508, a fraternal benefit society
4 organized under chapter 512B, or a licensed property and
5 casualty insurer writing only accident and health insurance
6 under chapter 515.

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

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

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

17 NEW SUBSECTION. 3. *a.* A licensed public adjuster who,
18 after hearing, is found to have violated this chapter or any
19 rule adopted or order issued pursuant to this chapter, may
20 be ordered to cease and desist from engaging in the conduct
21 resulting in the violation and may be assessed a civil penalty
22 as provided in section 505.7A.

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

28 *c.* If a person has engaged, is engaging, or is about to
29 engage in any act or practice constituting a violation of
30 this chapter or any rule adopted or order issued pursuant to
31 this chapter, the commissioner may issue a summary order that
32 includes a brief statement of findings of fact, conclusions of
33 law, and policy reasons for the order, and that directs the
34 person to cease and desist from engaging in the act or practice
35 constituting the violation and that may assess a civil penalty

1 or take other affirmative action as in the judgment of the
2 commissioner is necessary to assure that the person complies
3 with the requirements of this chapter as provided in chapter
4 507A.

5 *d.* If a person does not comply with an order issued pursuant
6 to this subsection, the commissioner may petition a court of
7 competent jurisdiction to enforce the order. The court shall
8 not require the commissioner to post a bond in an action or
9 proceeding under this subsection. If the court finds, after
10 notice and opportunity for hearing, that the person is not in
11 compliance with an order, the court may adjudge the person to
12 be in civil contempt of the order. The court may impose a civil
13 penalty against the person for contempt in an amount not less
14 than three thousand dollars but not greater than ten thousand
15 dollars for each violation and may grant any other relief that
16 the court determines is just and proper in the circumstances.

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

19 **598.20A Beneficiary revocation — life insurance.**

20 1. Except as preempted by federal law, if a decree of
21 dissolution, annulment, or separate maintenance is issued after
22 ~~an insured~~ the policy owner of an insurance contract insuring
23 the policy owner's own life has designated the ~~insured's~~ policy
24 owner's spouse or one or more relatives of the ~~insured's~~ policy
25 owner's spouse as a beneficiary under a life insurance policy
26 in effect on the date of the decree, a provision in the life
27 insurance policy making such a designation is voided by the
28 issuance of the decree unless any of the following apply:

29 *a.* The decree designates the ~~insured's~~ policy owner's former
30 spouse or one or more relatives of the ~~insured's~~ policy owner's
31 spouse as beneficiary.

32 *b.* After issuance of the decree, the ~~insured~~ policy owner
33 executes a designation of beneficiary form provided by the
34 insurance company naming the ~~insured's~~ policy owner's former
35 spouse or one or more relatives of the ~~insured's~~ policy owner's

1 former spouse as beneficiary.

2 c. The ~~insured~~ policy owner and the ~~insured's~~ policy owner's
3 former spouse remarry.

4 2. If a beneficiary designation is not effective pursuant to
5 subsection 1, the benefits or proceeds of the life insurance
6 policy are payable to an alternate beneficiary, or if there is
7 no alternate beneficiary, to the estate of the ~~insured~~ policy
8 owner.

9 3. An insurer who pays benefits or proceeds of a life
10 insurance policy to a beneficiary under a designation that is
11 void pursuant to subsection 1 is not liable for payment to an
12 alternative beneficiary as provided under subsection 2 unless
13 both of the following apply:

14 a. At least ten days prior to payment of the benefits
15 or proceeds of the life insurance policy to the designated
16 beneficiary, the insurer receives written notice at the home
17 office of the insurer that the designation of the beneficiary
18 is not effective pursuant to subsection 1.

19 b. The insurer has failed to interplead the benefits or
20 proceeds of the life insurance policy in a court of competent
21 jurisdiction in accordance with the rules of civil procedure.

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

26 5. This section does not affect the right of an ~~insured's~~
27 ~~former~~ a policy owner's spouse to assert an ownership interest
28 in a life insurance policy insuring the life of the policy
29 owner that is not disclosed to the ~~insured's~~ policy owner's
30 spouse prior to the decree of dissolution, annulment, or
31 separate maintenance and that is not addressed by the decree.

32 6. For purposes of this section, "*relative of the insured's*
33 *policy owner's spouse*" means a person who is related to the
34 ~~insured's~~ policy owner's former spouse by blood, adoption,
35 or affinity, and who, subsequent to a decree of dissolution,

1 annulment, or separate maintenance, ceases to be related to the
2 ~~insured~~ policy owner by blood, adoption, or affinity.

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

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

7 EXPLANATION

8 This bill relates to various matters under the purview of the
9 insurance division of the department of commerce.

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

13 UNIFORM SECURITIES ACT (BLUE SKY LAW). Code section
14 502.412(3) is amended to increase the amount of the
15 disciplinary penalty for registrants that the administrator
16 (commissioner of insurance or the commissioner's deputy) can
17 impose for a violation of the Code chapter from a maximum of
18 \$5,000 to \$10,000 for a single violation, and from \$500,000 to
19 \$1 million for more than one violation, or in such amount as
20 agreed to by the parties.

21 Code section 502.604(4) is amended to increase the amount
22 of a civil penalty the administrator can impose against a
23 person for engaging in an act, practice, or course of business
24 in violation of the Code chapter from a maximum of \$5,000 to
25 \$10,000 for a single violation, and from \$500,000 to \$1 million
26 for more than one violation, or in an amount agreed to by the
27 parties.

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

1 INSURANCE DIVISION. Code section 505.8(10) is amended to
2 allow the commissioner to assess the costs of the examination
3 of a regulated entity necessary to accomplish compliance with
4 the insurance laws of this state.

5 DOMESTIC INSURANCE COMPANIES. New Code section 506.14
6 provides that any plan for the voluntary dissolution of a
7 domestic mutual insurance company licensed in this state shall
8 be presented for approval by the commissioner not less than 90
9 days prior to notice of the plan to the policyholders. The
10 commissioner must approve the plan if it complies with all
11 applicable laws and is fair and equitable to the company and to
12 its policyholders.

13 EXAMINATION OF INSURANCE COMPANIES. Code section
14 507.10(4)(a) is amended to allow the board of directors of
15 an insurance company to signal that each member has reviewed
16 an examination report with a notation in the board's meeting
17 minutes instead of by filing affidavits indicating that each
18 member has received a copy of the report.

19 Code section 507.14 is amended to allow the commissioner
20 to release confidential documents and other materials to the
21 international association of insurance supervisors and the bank
22 for international settlements provided that those entities
23 give written certification that the records will be kept
24 confidential.

25 INSURANCE TRADE PRACTICES. New Code section 507B.4(20)
26 makes it an unfair or deceptive act or practice in the business
27 of insurance to fail to refund premiums paid for a Medicare
28 supplement policy after the effective date of a subsequently
29 purchased Medicare advantage plan if the insurer has no
30 exposure to pay benefits under the Medicare supplement policy
31 during the time that both the supplement policy and the
32 advantage plan are in effect.

33 INSURERS SUPERVISION, REHABILITATION, AND LIQUIDATION.
34 New Code section 507C.17A contains provisions that apply in
35 accordance with the federal Dodd-Frank Wall Street Reform and

1 Consumer Protection Act to a domestic insurer that is a covered
2 financial company, as that term is defined in federal law.

3 The bill provides that the commissioner of insurance may
4 file a petition in the state district court for an order of
5 rehabilitation or liquidation of such a domestic insurer upon
6 receiving notice from the secretary of the treasury of the
7 United States that the insurer acquiesces or consents to the
8 appointment of a receiver; upon an order of the United States
9 district court for the District of Columbia as to that insurer;
10 or when a petition of the secretary of the treasury of the
11 United States concerning the insurer is granted by operation
12 of law.

13 Notwithstanding any other provision of law to the contrary,
14 the state district court, after notice to the insurer, may
15 grant an order on such a petition within 24 hours after the
16 filing of the petition. If the district court does not make a
17 determination on the petition within 24 hours of its filing,
18 the order is deemed granted by operation of law upon expiration
19 of the 24-hour period.

20 At the time an order is deemed granted, the provisions of
21 Code chapter 507C are deemed to be in effect, the commissioner
22 is deemed to be affirmed as the receiver and to have all of
23 the applicable powers provided by Code chapter 507C, and the
24 state district court must expeditiously enter an order of
25 rehabilitation or liquidation. An order of rehabilitation or
26 liquidation made pursuant to the provisions of the bill is not
27 subject to a stay or injunction pending appeal.

28 This provision is effective upon enactment.

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

34 LIFE INSURANCE COMPANIES AND ASSOCIATIONS. Code section
35 511.8(14) is amended to provide that a life insurance company

1 can include in its legal reserve as real property a controlling
2 membership, partnership, shareholder, or trust interest in any
3 entity created solely for the purpose of owning and operating a
4 leasehold of real estate, an undivided interest in a leasehold
5 of real estate, or an undivided interest in the fee title of
6 real estate. The entity must be expressly limited to that
7 purpose by its organizational documents.

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

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

20 New Code section 511.40(5) provides that the gross amount of
21 premiums received by a life insurance company or association
22 for an employer-owned life insurance contract shall be
23 allocated to this state for purposes of calculating the state
24 premium tax if the contract is issued or delivered in this
25 state or the company or association is domiciled in this state.
26 For purposes of the subsection, "employer-owned life insurance
27 contract" means a policy which provides coverage on a life for
28 which the employer has an insurable interest under this Code
29 section or the laws of another state and the policy is owned by
30 either the employer or a trust established by the employer for
31 the benefit of the employer or the employer's active or retired
32 employees.

33 NONPROFIT HEALTH SERVICE CORPORATIONS. Code section 514.4
34 is amended to provide that a person who is affiliated with a
35 hospital or other entity that does not have a provider contract

1 with a dental service corporation can serve as a subscriber
2 director of that corporation.

3 INSURANCE OTHER THAN LIFE. Code section 515.69(1) is
4 amended to require that a foreign stock insurance company must
5 possess the actual amount of capital and surplus required of
6 any company organized pursuant to Code chapter 515, or if the
7 insurer is a mutual company, the actual amount of surplus
8 required of any mutual company organized pursuant to Code
9 chapter 515. Currently, a foreign stock insurance company is
10 required to have \$2.5 million of actual paid-up capital, and a
11 surplus in cash or invested in securities authorized by law of
12 not less than \$2.5 million.

13 Code section 515.120 is amended to provide that excess and
14 surplus lines insurance that can be purchased from nonadmitted
15 insurers includes disability insurance that is in excess of
16 policy limits available in admitted insurers.

17 Code section 515.136 is amended to provide that an insurance
18 company or association is liable for the actual value of the
19 property insured at a date of a loss, unless that value exceeds
20 the amount stated in the policy. Currently, the insurer
21 issuing such a policy may show the actual value of the property
22 at the date of issuance of the policy and any depreciation in
23 the value of the property after a loss occurred but is still
24 liable for the actual value of the property insured on the date
25 of loss or the policy amount, whichever is less.

26 WORKERS' COMPENSATION LIABILITY INSURANCE. Code section
27 515A.7(1)(b)(5) is amended to remove a reference to a
28 "scheduled rating plan", a term that is not defined in the Code
29 chapter.

30 COUNTY MUTUAL INSURANCE ASSOCIATIONS. Code section
31 518.14(4)(f) is amended to allow county mutual insurance
32 associations to invest in stocks that are issued or guaranteed
33 by limited partnerships publicly traded on a nationally
34 established stock exchange in the United States.

35 STATE MUTUAL INSURANCE ASSOCIATIONS. Code section

1 518A.12(4)(f) is amended to allow state mutual insurance
2 associations to invest in stocks that are issued or guaranteed
3 by limited partnerships publicly traded on a nationally
4 established stock exchange in the United States.

5 RISK-BASED CAPITAL REQUIREMENTS FOR INSURERS. Code section
6 521E.1(4) is amended to provide that for purposes of the Code
7 chapter, a fraternal benefit society organized under Code
8 chapter 512B is a domestic insurer. Code section 521E.1(4)(b),
9 which excepted a fraternal benefit society from inclusion as
10 a domestic insurer, is stricken. Corresponding changes to
11 include such a society are made in Code section 521E.1(6) and
12 (7).

13 Code section 521E.3(1)(a)(2) is amended to provide that for
14 a life and health insurer, a company-action-level event means
15 the insurer's total adjusted capital is greater than or equal
16 to its company-action-level risk-based capital but less than
17 the product of its authorized-control-level risk-based capital
18 and three, instead of two and one-half, and has a negative
19 trend.

20 LICENSING OF PUBLIC ADJUSTERS. Code section 522C.6 is
21 amended to add provisions allowing the commissioner of
22 insurance to hold hearings, issue cease and desist orders,
23 assess civil penalties, and petition for enforcement of those
24 orders by the district court against persons who violate
25 the provisions of Code chapter 522C. The district court is
26 authorized to adjudge a violator in civil contempt of an order
27 and to impose a civil penalty for contempt of not less than
28 \$3,000 but not more than \$10,000 for each violation and grant
29 any other relief the court determines is just and proper under
30 the circumstances.

31 DISSOLUTION OF MARRIAGE AND DOMESTIC RELATIONS. Code
32 section 598.20A is amended to provide that it is the policy
33 owner of an insurance contract insuring the policy owner's own
34 life, not the insured, who designates the beneficiary of the
35 policy and is authorized to make changes in that designation

S.F. _____ H.F. _____

1 after a decree of dissolution of marriage, annulment, or
2 separate maintenance.