

House File 489 - Introduced

HOUSE FILE 489
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 83)

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 applicability and effective date
4 provisions.

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

1 Section 1. Section 135.22A, subsection 2, paragraph g, Code
2 2013, is amended by striking the paragraph.

3 Sec. 2. Section 249A.3, Code 2013, is amended by adding the
4 following new subsection:

5 NEW SUBSECTION. 15. An insurance policy or annuity
6 purchased to fund an irrevocable purchase agreement to furnish
7 cemetery merchandise, funeral merchandise, funeral services,
8 or a combination thereof as provided in chapter 523A, which is
9 owned by or assigned to a seller or a provider as defined in
10 section 523A.102, and in which the department is designated as
11 the primary beneficiary as provided in section 523A.304, shall
12 be excluded as a resource for eligibility under this chapter.

13 Sec. 3. Section 502.102, subsection 16, paragraph c, Code
14 2013, is amended to read as follows:

15 c. Is employed by or associated with a federal covered
16 investment adviser, unless the individual has a "place of
17 business" in this state as that term is defined by rule adopted
18 by the ~~securities and exchange commission under section 203A~~
19 ~~of the Investment Advisers Act of 1940, 15 U.S.C. § 80b-3a,~~
20 administrator pursuant to chapter 17A and is any of the
21 following:

22 (1) An "investment adviser representative" as that term is
23 defined by rule adopted under section 203A of the Investment
24 Advisers Act of 1940, 15 U.S.C. § 80b-3a.

25 (2) Not a "supervised person" as that term is defined in
26 ~~section 202(a)(25) of the Investment Advisers Act of 1940, 15~~
27 ~~U.S.C. § 80b-2(a)(25)~~ by rule adopted by the administrator
28 pursuant to chapter 17A.

29 Sec. 4. Section 502.412, subsection 3, Code 2013, is amended
30 to read as follows:

31 3. *Disciplinary penalties — registrants.* If the
32 administrator finds that the order is in the public interest
33 and subsection 4, paragraphs "a" through "f", "h", "i", "j",
34 "l", or "m", authorizes the action, an order under this chapter
35 may censure, impose a bar, or impose a civil penalty in an

1 amount not to exceed a maximum of ~~five~~ ten thousand dollars
2 for a single violation or ~~five hundred thousand~~ one million
3 dollars for more than one violation, or in an amount as agreed
4 to by the parties, on a registrant, and, if the registrant is
5 a broker-dealer or investment adviser, a partner, officer,
6 director, or person having a similar status or performing
7 similar functions, or a person directly or indirectly in
8 control, of the broker-dealer or investment adviser.

9 Sec. 5. Section 502.604, subsection 4, Code 2013, is amended
10 to read as follows:

11 4. *Civil penalty — restitution — corrective action.* In a
12 final order under subsection 3, the administrator may impose a
13 civil penalty up to an amount not to exceed a maximum of ~~five~~
14 ten thousand dollars for a single violation or ~~five hundred~~
15 ~~thousand~~ one million dollars for more than one violation, or
16 in an amount as agreed to by the parties, order restitution,
17 or take other corrective action as the administrator deems
18 necessary and appropriate to accomplish compliance with
19 the laws of the state relating to all securities business
20 transacted in the state.

21 Sec. 6. Section 502.604, Code 2013, is amended by adding the
22 following new subsection:

23 NEW SUBSECTION. 5A. *Failure to obey cease and desist*
24 *order.* A person who fails to obey a valid cease and desist
25 order issued by the administrator under this section may, after
26 notice and opportunity for a hearing, be subject to a civil
27 penalty in an amount of not less than one thousand dollars and
28 not to exceed ten thousand dollars for violating the order.
29 Each day the failure to obey the cease and desist order occurs
30 or continues constitutes a separate violation of the order.
31 The penalties provided in this subsection are in addition to,
32 and not exclusive of, other remedies that may be available.

33 Sec. 7. Section 505.8, subsection 10, Code 2013, is amended
34 to read as follows:

35 10. The commissioner may, after a hearing conducted

1 pursuant to chapter 17A, assess fines or penalties; assess
2 costs of an examination, investigation, or proceeding;
3 order restitution; or take other corrective action as the
4 commissioner deems necessary and appropriate to accomplish
5 compliance with the laws of the state relating to all insurance
6 business transacted in the state.

7 Sec. 8. NEW SECTION. 506.14 Voluntary dissolution of
8 domestic mutual insurance companies.

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

14 2. The commissioner shall approve the plan if the
15 commissioner finds that the plan complies with all applicable
16 provisions of law and is fair and equitable to the domestic
17 mutual insurance company and its policyholders.

18 Sec. 9. Section 507.10, subsection 4, paragraph a, Code
19 2013, is amended to read as follows:

20 a. All orders entered pursuant to subsection 3, paragraph
21 "a", shall be accompanied by findings and conclusions resulting
22 from the commissioner's consideration and review of the
23 examination report, relevant examiner work papers, and any
24 written submissions or rebuttals. Any such order is a final
25 administrative decision and may be appealed pursuant to chapter
26 17A, and shall be served upon the company by certified mail,
27 together with a copy of the adopted examination report. ~~Within~~
28 ~~thirty days of the issuance of the adopted report, the company~~
29 ~~shall file affidavits executed by each of its directors stating~~
30 ~~under oath that they have received a copy of the adopted report~~
31 ~~and related orders. The board of directors of the company~~
32 ~~shall timely review the adopted report. The minutes of the~~
33 ~~meeting of the board at which the adopted report is considered~~
34 ~~shall reflect that each member of the board has reviewed the~~
35 ~~adopted report.~~

1 Sec. 10. NEW SECTION. **507C.17A Rehabilitation or**
2 **liquidation of certain covered domestic insurers.**

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

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

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

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

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

30 3. Notwithstanding any other provision of law to the
31 contrary, after notice to the insurer, a district court
32 may grant an order of rehabilitation or liquidation within
33 twenty-four hours after the filing of such a petition pursuant
34 to this section.

35 4. If the district court does not make a determination on a

1 petition for an order of rehabilitation or liquidation filed by
2 the commissioner pursuant to this section within twenty-four
3 hours after the filing of the petition, the order shall be
4 deemed granted by operation of law upon the expiration of the
5 twenty-four-hour period.

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

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

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

18 (2) Conforms to the provisions for rehabilitation or
19 liquidation of an insurer contained in this chapter, as
20 applicable.

21 5. An order of rehabilitation or liquidation made pursuant
22 to this section shall not be subject to a stay or injunction
23 pending appeal.

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

27 Sec. 11. Section 511.8, subsection 14, Code 2013, is amended
28 to read as follows:

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

30 a. Personal or real property or both located within the
31 United States or the Dominion of Canada, other than real
32 property used or to be used primarily for agricultural,
33 horticultural, ranching or mining purposes, which produces
34 income or which by suitable improvement will produce income.
35 However, personal property acquired under this subsection shall

1 be acquired for the purpose of entering into a contract for
2 the sale or for a use under which the contractual payments
3 may reasonably be expected to result in the recovery of the
4 investment and an investment return within the anticipated
5 useful life of the property. Legal title to the real property
6 may be acquired subject to a contract of sale.

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

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

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

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

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

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

20 Sec. 12. Section 511.8, subsection 23, Code 2013, is amended
21 by adding the following new paragraph:

22 NEW PARAGRAPH. g. For securities loaned pursuant to this
23 subsection that are included in the legal reserve of the life
24 insurance company or association, the collateral received for
25 the loaned securities shall not be eligible for inclusion in
26 the legal reserve.

27 Sec. 13. Section 511.40, Code 2013, is amended by adding the
28 following new subsection:

29 NEW SUBSECTION. 5. a. The gross amount of premiums
30 received by a life insurance company or association for an
31 employer-owned life insurance contract which has not been
32 allocated to another state shall be allocated to this state
33 for purposes of section 432.1, subsection 1, if either of the
34 following is applicable:

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

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

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

5 c. As used in this subsection, "*employer-owned life*
6 *insurance contract*" means a policy which provides coverage on
7 a life for which the employer has an insurable interest under
8 this section or a similar provision of the laws of another
9 state and the policy is owned by either the employer or a trust
10 established by the employer for the benefit of the employer or
11 the employer's active or retired employees.

12 Sec. 14. Section 514.4, Code 2013, is amended to read as
13 follows:

14 **514.4 Directors.**

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

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

1 3. A provider director of a corporation subject to this
2 chapter shall be at all times a person who has a material
3 financial interest in or is a fiduciary to or an employee
4 of or is a spouse or member of the immediate family of a
5 provider having a contract with such corporation to render to
6 its subscribers the services of such corporation or who is a
7 hospital trustee.

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

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

1 process shall be continued and the board of directors of the
2 corporation shall consider the petitions. The independent
3 subscriber nominating committee is not subject to chapter 17A.
4 The nominating committee shall not receive per diem or expenses
5 for the performance of their duties.

6 6. Population factors, representation of different
7 geographic regions, and the demography of the service area of
8 the corporation subject to this chapter shall be considered
9 when making nominations for the board of directors of a
10 corporation subject to this chapter.

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

14 Sec. 15. Section 515.26, Code 2013, is amended to read as
15 follows:

16 **515.26 Directors.**

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

21 Sec. 16. Section 515.35, subsection 4, paragraph f, Code
22 2013, is amended to read as follows:

23 f. Stocks, limited partnership interests, and limited
24 liability company interests.

25 (1) A company may invest in common stocks, common stock
26 equivalents, mutual fund shares, securities convertible into
27 common stocks or common stock equivalents, or preferred stocks
28 issued or guaranteed by a corporation incorporated under the
29 laws of the United States or a state of the United States, or
30 the laws of Canada or a province of Canada.

31 ~~(1)~~ (a) Stocks purchased under this section shall not
32 exceed one hundred percent of capital and surplus. With the
33 approval of the commissioner, a company may invest any amount
34 in common stocks, preferred stocks, or other securities of one
35 or more subsidiaries provided that after such investments the

1 insurer's surplus as regards policyholders will be reasonable
2 in relation to the insurer's outstanding liabilities and
3 adequate to its financial needs.

4 ~~(2)~~ (b) A company shall not invest more than ten percent of
5 its capital and surplus in the stocks of any one corporation.

6 (2) In addition to those investments permitted under
7 subparagraph (1), a company may invest in or otherwise
8 acquire and hold a limited partnership interest in any limited
9 partnership formed under the laws of any state, commonwealth,
10 or territory of the United States, or under the laws of the
11 United States. A company may invest in or otherwise acquire
12 and hold a member interest in any limited liability company
13 formed under the laws of any state, commonwealth, or territory
14 of the United States or under the laws of the United States.
15 A limited partnership or limited liability company interest
16 shall not be acquired if the investment, valued at cost,
17 exceeds two percent of the capital and surplus of the company
18 or if the investment, plus the book value on the date of the
19 investment of all limited partnership or limited liability
20 company interests then held by the company and held under the
21 authority of this subparagraph, exceeds ten percent of the
22 capital and surplus of the company. A limited partnership
23 or limited liability company interest shall not be acquired
24 under this subparagraph unless the limited partnership or
25 limited liability company is audited annually by an independent
26 auditor.

27 Sec. 17. Section 515.48, Code 2013, is amended by adding the
28 following new subsection:

29 NEW SUBSECTION. 11. Insure risks on an excess and aggregate
30 limit basis.

31 Sec. 18. Section 515.69, subsection 1, Code 2013, is amended
32 to read as follows:

33 1. A stock insurance company organized under or by the
34 laws of any other state or foreign government for the purpose
35 specified in this chapter, shall not, directly or indirectly,

1 take risks or transact business of insurance in this state
2 unless the company ~~has two and one-half million dollars of~~
3 ~~actual paid-up capital, and a surplus in cash or invested in~~
4 ~~securities authorized by law of not less than two and one-half~~
5 ~~million dollars,~~ possesses the actual amount of capital and
6 surplus required of any company organized pursuant to this
7 chapter, or if the company is a mutual insurance company, the
8 actual amount of surplus required of any mutual insurance
9 company organized pursuant to this chapter, exclusive of assets
10 deposited in a state, territory, district, or country for the
11 special benefit or security of those insured in that state,
12 territory, district, or country.

13 Sec. 19. Section 515.128, subsection 1, Code 2013, is
14 amended to read as follows:

15 1. An insurer shall not fail to renew a commercial line
16 policy or contract of insurance except by notice to the
17 named insured as provided in this section. ~~Nonrenewal of a~~
18 ~~commercial line policy or contract includes a decision by the~~
19 ~~insurer not to renew the policy or contract, an increase in~~
20 ~~the premium of twenty-five percent or more, an increase in~~
21 ~~the deductible of twenty-five percent or more, or a material~~
22 ~~reduction in the limits or coverage of the policy or contract.~~
23 ~~However, a premium charge which is assessed after the beginning~~
24 ~~date of the policy period for which the premium is due shall~~
25 ~~not be deemed a premium increase for the purpose of this~~
26 ~~section.~~

27 Sec. 20. NEW SECTION. 515.128A **Material changes in**
28 **commercial lines policies or contracts — notice required.**

29 1. If an insurer has an increase in the premium rates of
30 twenty-five percent or more, an increase in the deductible
31 of twenty-five percent or more, or a material reduction in
32 the limits or coverage of the policy or contract, the insurer
33 shall notify the named insured by a letter of explanation of
34 the changes by mail at least forty-five days prior to the
35 expiration date of the policy or contract. However, a premium

1 charge that is assessed after the beginning date of the policy
2 or contract period for which the premium is due shall not be
3 deemed a premium increase for the purposes of this section.

4 2. If the insurer fails to meet the notice requirements of
5 this section, the named insured has the option of continuing
6 the policy or contract for the remainder of the notice
7 period plus an additional thirty days at the premium rate of
8 the existing policy or contract. A post office department
9 certificate of mailing to the named insured at the address
10 shown in the policy or contract is proof of receipt of the
11 mailing.

12 Sec. 21. Section 515.136, Code 2013, is amended to read as
13 follows:

14 **515.136 Value of building — liability.**

15 ~~The insurance company or association issuing such policy may~~
16 ~~show the actual value of said property at date of policy, and~~
17 ~~any depreciation in the value thereof before the loss occurred;~~
18 ~~but the said~~ An insurance company or association shall be
19 liable for the actual cash value of the property insured at the
20 date of the loss, unless such value exceeds the amount stated
21 in the policy.

22 Sec. 22. Section 515A.7, subsection 1, paragraph b,
23 subparagraph (5), Code 2013, is amended to read as follows:

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

29 Sec. 23. Section 518.14, subsection 4, paragraph f,
30 unnumbered paragraph 1, Code 2013, is amended to read as
31 follows:

32 Common stocks, common stock equivalents, mutual fund
33 shares, securities convertible into common stocks or common
34 stock equivalents, or preferred stocks issued or guaranteed
35 by a corporation incorporated under the laws of the United

1 States or a state, or the laws of Canada or a province of
2 Canada, or limited partnerships publicly traded on a nationally
3 established stock exchange in the United States. Aggregate
4 investments in nondividend paying stocks shall not exceed five
5 percent of surplus.

6 Sec. 24. Section 518A.12, subsection 4, paragraph f,
7 unnumbered paragraph 1, Code 2013, is amended to read as
8 follows:

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

18 Sec. 25. Section 521E.1, subsection 4, unnumbered paragraph
19 1, Code 2013, is amended to read as follows:

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

24 Sec. 26. Section 521E.1, subsection 4, paragraph b, Code
25 2013, is amended by striking the paragraph.

26 Sec. 27. Section 521E.1, subsections 6 and 7, Code 2013, are
27 amended to read as follows:

28 6. "*Foreign insurer*" means an insurance company not
29 domiciled in this state which is licensed to transact the
30 business of insurance in this state under chapter 508, 512B,
31 515, or 520.

32 7. "*Life and health insurer*" means an insurance company
33 licensed under chapter 508, a fraternal benefit society
34 organized under chapter 512B, or a licensed property and
35 casualty insurer writing only accident and health insurance

1 under chapter 515.

2 Sec. 28. Section 521E.3, subsection 1, paragraph a,
3 subparagraph (2), Code 2013, is amended to read as follows:

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

9 Sec. 29. Section 522C.6, Code 2013, is amended by adding the
10 following new subsection:

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

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

22 *c.* If a person has engaged, is engaging, or is about to
23 engage in any act or practice constituting a violation of
24 this chapter or any rule adopted or order issued pursuant to
25 this chapter, the commissioner may issue a summary order that
26 includes a brief statement of findings of fact, conclusions of
27 law, and policy reasons for the order, and that directs the
28 person to cease and desist from engaging in the act or practice
29 constituting the violation and that may assess a civil penalty
30 or take other affirmative action as in the judgment of the
31 commissioner is necessary to assure that the person complies
32 with the requirements of this chapter as provided in chapter
33 507A.

34 *d.* If a person does not comply with an order issued pursuant
35 to this subsection, the commissioner may petition a court of

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

11 Sec. 30. Section 523A.301, Code 2013, is amended to read as
12 follows:

13 **523A.301 Definition.**

14 As used in sections 523A.302 ~~and~~, 523A.303, and 523A.304,
15 "*director*" means the director of human services.

16 Sec. 31. Section 523A.303, subsection 1, unnumbered
17 paragraph 1, Code 2013, is amended to read as follows:

18 If funds remain in a nonguaranteed irrevocable burial trust
19 ~~fund or from the proceeds of an insurance policy or annuity~~
20 ~~made payable or assigned to the seller or a provider after the~~
21 ~~payment of funeral and burial expenses in accordance with the~~
22 ~~conditions and terms of the purchase agreement for cemetery~~
23 ~~merchandise, funeral merchandise, or funeral services, the~~
24 seller shall comply with all of the following:

25 Sec. 32. NEW SECTION. 523A.304 Disbursement of insurance or
26 annuity proceeds — medical assistance debts.

27 1. If an insurance policy or annuity is purchased or
28 assigned to fund a purchase agreement and the insured or
29 annuitant is or may become a recipient of medical assistance
30 benefits under chapter 249A, unless the primary beneficiary
31 of the policy or annuity is the spouse or disabled child of
32 the insured or annuitant, the policy owner of the insurance
33 policy or annuity shall designate, or shall amend the insurance
34 policy or annuity to designate, the department as the primary
35 beneficiary of any funds that remain from the proceeds of the

1 insurance policy or annuity after payment of funeral and burial
2 expenses in accordance with the terms and conditions of the
3 purchase agreement.

4 2. If the funds remaining from the proceeds of the insurance
5 policy or annuity are disbursed as provided in subsection 1
6 and as otherwise provided in the insurance policy or annuity,
7 if applicable, the seller, provider, or insurer shall not be
8 liable to the director, the estate of the deceased insured or
9 annuitant, a personal representative, or any other interested
10 person for the remaining funds, and any lien imposed by the
11 director shall be unenforceable against the seller, provider,
12 or insurer.

13 3. This section applies to an insurance policy or annuity
14 issued prior to January 1, 2014, that funds a purchase
15 agreement for an insured or annuitant who receives or may
16 receive medical assistance benefits under chapter 249A, and who
17 dies on or after January 1, 2014.

18 4. This section applies to an insurance policy or annuity
19 issued on or after January 1, 2014, to fund a purchase
20 agreement for an insured or annuitant who receives or may
21 receive medical assistance benefits under chapter 249A, and who
22 dies on or after January 1, 2014, and on or after the date of
23 issuance of the insurance policy or annuity.

24 Sec. 33. Section 598.20A, Code 2013, is amended to read as
25 follows:

26 **598.20A Beneficiary revocation — life insurance.**

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

1 a. The decree designates the ~~insured's~~ policy owner's former
2 spouse or one or more relatives of the ~~insured's~~ policy owner's
3 spouse as beneficiary.

4 b. After issuance of the decree, the ~~insured~~ policy owner
5 executes a designation of beneficiary form provided by the
6 insurance company naming the ~~insured's~~ policy owner's former
7 spouse or one or more relatives of the ~~insured's~~ policy owner's
8 former spouse as beneficiary.

9 c. The ~~insured~~ policy owner and the ~~insured's~~ policy owner's
10 former spouse remarry.

11 2. If a beneficiary designation is not effective pursuant to
12 subsection 1, the benefits or proceeds of the life insurance
13 policy are payable to an alternate beneficiary, or if there is
14 no alternate beneficiary, to the estate of the ~~insured~~ policy
15 owner.

16 3. An insurer who pays benefits or proceeds of a life
17 insurance policy to a beneficiary under a designation that is
18 void pursuant to subsection 1 is not liable for payment to an
19 alternative beneficiary as provided under subsection 2 unless
20 both of the following apply:

21 a. At least ten days prior to payment of the benefits
22 or proceeds of the life insurance policy to the designated
23 beneficiary, the insurer receives written notice at the home
24 office of the insurer that the designation of the beneficiary
25 is not effective pursuant to subsection 1.

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

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

33 5. This section does not affect the right of an ~~insured's~~ a
34 policy owner's former spouse to assert an ownership interest in
35 a life insurance policy insuring the life of the policy owner

1 that is not disclosed to the ~~insured's~~ policy owner's spouse
2 prior to the decree of dissolution, annulment, or separate
3 maintenance and that is not addressed by the decree.

4 6. For purposes of this section, "*relative of the ~~insured's~~*
5 *policy owner's spouse*" means a person who is related to the
6 ~~insured's~~ policy owner's former spouse by blood, adoption,
7 or affinity, and who, subsequent to a decree of dissolution,
8 annulment, or separate maintenance, ceases to be related to the
9 ~~insured~~ policy owner by blood, adoption, or affinity.

10 Sec. 34. EFFECTIVE UPON ENACTMENT. The following
11 provision or provisions of this Act, being deemed of immediate
12 importance, take effect upon enactment:

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

14 Sec. 35. EFFECTIVE DATE. The following provision or
15 provisions of this Act take effect January 1, 2014:

16 1. The section of this Act amending section 523A.303,
17 subsection 1, unnumbered paragraph 1.

18 EXPLANATION

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

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

24 MEDICAL ASSISTANCE. New Code section 249A.3(15) provides
25 that an insurance policy or annuity purchased to fund an
26 irrevocable purchase agreement to furnish cemetery and funeral
27 merchandise, funeral services, or a combination thereof as
28 provided in Code chapter 523A, which is owned or assigned
29 to a seller or provider and in which the department of
30 human services is designated as the primary beneficiary, is
31 excluded as a resource for determining eligibility for medical
32 assistance under Code chapter 249A. For purposes of this
33 provision, a "seller" is a person doing business in this state,
34 including one who sells insurance, who sells or offers to
35 furnish cemetery and funeral merchandise, funeral services, or

1 a combination of those products on a preneed basis.

2 UNIFORM SECURITIES ACT (BLUE SKY LAW). Code section 502.102
3 (16)(c) is amended to provide that the definitions of what
4 constitutes an investment advisor representative's "place of
5 business" or who is a "supervised person" will be determined by
6 rules adopted by the commissioner of insurance pursuant to Code
7 chapter 17A, instead of by the federal securities and exchange
8 commission. Code section 502.412(3) is amended to increase the
9 amount of the disciplinary penalty for registrants that the
10 administrator (commissioner of insurance or the commissioner's
11 deputy) can impose for a violation of the Code chapter from a
12 maximum of \$5,000 to \$10,000 for a single violation, and from
13 \$500,000 to \$1 million for more than one violation, or in such
14 amount as agreed to by the parties.

15 Code section 502.604(4) is amended to increase the amount
16 of a civil penalty the administrator can impose against a
17 person for engaging in an act, practice, or course of business
18 in violation of the Code chapter from a maximum of \$5,000 to
19 \$10,000 for a single violation, and from \$500,000 to \$1 million
20 for more than one violation, or in an amount agreed to by the
21 parties.

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

30 INSURANCE DIVISION. Code section 505.8(10) is amended to
31 allow the commissioner to assess the costs of the examination
32 of a regulated entity necessary to accomplish compliance with
33 the insurance laws of this state.

34 DOMESTIC INSURANCE COMPANIES. New Code section 506.14
35 provides that any plan for the voluntary dissolution of a

1 domestic mutual insurance company licensed in this state shall
2 be presented for approval by the commissioner not less than 90
3 days prior to notice of the plan to the policyholders. The
4 commissioner must approve the plan if it complies with all
5 applicable laws and is fair and equitable to the company and to
6 its policyholders.

7 EXAMINATION OF INSURANCE COMPANIES. Code section
8 507.10(4)(a) is amended to allow the board of directors of
9 an insurance company to signal that each member has reviewed
10 an examination report with a notation in the board's meeting
11 minutes instead of by filing affidavits indicating that each
12 member has received a copy of the report.

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

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

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

35 At the time an order is deemed granted, the provisions of

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

8 This provision is effective upon enactment.

9 LIFE INSURANCE COMPANIES AND ASSOCIATIONS. Code section
10 511.8(14) is amended to provide that a life insurance company
11 can include in its legal reserve as real property a controlling
12 membership, partnership, shareholder, or trust interest in any
13 entity created solely for the purpose of owning and operating a
14 leasehold of real estate, an undivided interest in a leasehold
15 of real estate, or an undivided interest in the fee title of
16 real estate. The entity must be expressly limited to that
17 purpose by its organizational documents.

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

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

35 NONPROFIT HEALTH SERVICE CORPORATIONS. Code section 514.4

1 is amended to provide that a person who is affiliated with a
2 hospital or other entity that does not have a provider contract
3 with a dental service corporation can serve as a subscriber
4 director of that corporation.

5 INSURANCE OTHER THAN LIFE. Code section 515.26 is amended to
6 strike a requirement that all directors of a mutual insurance
7 company must be policyholders.

8 Code section 515.35(4)(f) is amended to provide that an
9 insurance company may invest in or otherwise acquire or hold
10 certain interests in a limited partnership or limited liability
11 company subject to specified limitations on the value of such
12 investments as compared to the value of the capital and surplus
13 of the company.

14 Code section 515.48 is amended to provide that an insurance
15 company may insure risk on an excess and aggregate limit basis.

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

25 Code section 515.128(1) is amended to provide that an
26 insurer shall not fail to renew a commercial lines policy or
27 contract of insurance except by notice to the named insured.
28 Provisions relating to nonrenewal of such a policy are stricken
29 and placed with modifications, in new Code section 515.128A.

30 New Code section 515.128A provides that an insurer must
31 notify the named insured in a commercial lines policy or
32 contract of increases in premium rates or deductibles of 25
33 percent or more, or of a material reduction in the limits or
34 coverage of the policy. The notice must be mailed to the
35 insured at least 45 days prior to the expiration date of the

1 policy or contract. A premium charge that is assessed after
2 the beginning date of the policy or contract period for which
3 the premium is due is not considered a premium increase for
4 purposes of the bill. If the insurer fails to meet the notice
5 requirements, the named insured has the option to continue
6 the policy or contract for the remainder of the notice period
7 plus an additional 30 days at the premium rate of the existing
8 policy or contract.

9 Code section 515.136 is amended to provide that an insurance
10 company or association is liable for the actual cash value of
11 the property insured at a date of a loss, unless that value
12 exceeds the amount stated in the policy. Currently, the
13 insurer issuing such a policy may show the actual value of
14 the property at the date of issuance of the policy and any
15 depreciation in the value of the property after a loss occurred
16 but is still liable for the actual value of the property
17 insured on the date of loss or the policy amount, whichever is
18 less.

19 WORKERS' COMPENSATION LIABILITY INSURANCE. Code section
20 515A.7(1)(b)(5) is amended to remove a reference to a
21 "scheduled rating plan", a term that is not defined in the Code
22 chapter.

23 COUNTY MUTUAL INSURANCE ASSOCIATIONS. Code section
24 518.14(4)(f) is amended to allow county mutual insurance
25 associations to invest in limited partnerships publicly traded
26 on a nationally established stock exchange in the United
27 States.

28 STATE MUTUAL INSURANCE ASSOCIATIONS. Code section
29 518A.12(4)(f) is amended to allow state mutual insurance
30 associations to invest in limited partnerships publicly traded
31 on a nationally established stock exchange in the United
32 States.

33 RISK-BASED CAPITAL REQUIREMENTS FOR INSURERS. Code section
34 521E.1(4) is amended to provide that for purposes of the Code
35 chapter, a fraternal benefit society organized under Code

1 chapter 512B is a domestic insurer. Code section 521E.1(4)(b),
2 which excepted a fraternal benefit society from inclusion as
3 a domestic insurer, is stricken. Corresponding changes to
4 include such a society are made in Code section 521E.1(6) and
5 (7).

6 Code section 521E.3(1)(a)(2) is amended to provide that for
7 a life and health insurer, a company-action-level event means
8 the insurer's total adjusted capital is greater than or equal
9 to its company-action-level risk-based capital but less than
10 the product of its authorized-control-level risk-based capital
11 and three, instead of two and one-half, and has a negative
12 trend.

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

24 CEMETERY AND FUNERAL MERCHANDISE AND FUNERAL SERVICES. Code
25 section 523A.301 is amended to provide that for purposes of new
26 Code section 523A.304, "director" means the director of human
27 services.

28 Code section 523A.303(1) is amended so that the section
29 only applies to funds remaining in a nonguaranteed irrevocable
30 burial trust fund and does not apply to the proceeds of an
31 insurance policy or annuity assigned to a preneed seller or
32 provider of cemetery and funeral merchandise, and funeral
33 services. This provision takes effect January 1, 2014.

34 New Code section 523A.304 provides that if an insurance
35 policy or annuity is purchased or assigned to fund a preneed

1 purchase agreement and the insured or annuitant is or may
2 become a recipient of medical assistance benefits under Code
3 chapter 249A, unless the primary beneficiary of the policy
4 or annuity is the spouse or disabled child of the insured or
5 annuitant, the policy owner of the insurance policy or annuity
6 shall designate, or shall amend the insurance policy or annuity
7 to designate, the department of human services as the primary
8 beneficiary of any funds that remain from the proceeds of the
9 insurance policy or annuity after payment of funeral and burial
10 expenses in accordance with the conditions and terms of the
11 preneed purchase agreement.

12 If the remaining funds are disbursed as required, the
13 preneed seller, the provider of the merchandise and services,
14 and the insurer shall not be liable to the director of human
15 services, the estate of the deceased insured or annuitant, a
16 personal representative, or any other interested person for the
17 remaining funds and any lien imposed by the director against a
18 seller, provider, or insurer is unenforceable.

19 This provision applies to an insurance policy or annuity
20 purchased prior to January 1, 2014, that funds a preneed
21 purchase agreement for an insured or annuitant who receives
22 or may receive medical assistance benefits under Code chapter
23 249A and who dies on or after January 1, 2014. The provision
24 also applies to an insurance policy or annuity issued on or
25 after January 1, 2014, to fund a preneed purchase agreement for
26 an insured or annuitant who receives or may receive medical
27 assistance benefits, and who dies on or after January 1, 2014,
28 and on or after the date of issuance of the insurance policy or
29 annuity.

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

1 separate maintenance.