

House Study Bill 537 - Introduced

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

A BILL FOR

1 An Act relating to various matters involving insurance and
2 the insurance division of the department of commerce and
3 including applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

MISCELLANEOUS PROVISIONS

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2
3 Section 1. Section 97B.49B, subsection 1, paragraph e, Code
4 2014, is amended by adding the following new subparagraph:

5 NEW SUBPARAGRAPH. (13) An employee of the insurance
6 division of the department of commerce who as a condition
7 of employment is required to be certified by the Iowa law
8 enforcement academy and who is required to perform the duties
9 of a peace officer as provided in section 507E.8.

10 Sec. 2. Section 502.409, subsection 1, Code 2014, is amended
11 to read as follows:

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

28 Sec. 3. Section 511.8, subsection 8, paragraph d, Code 2014,
29 is amended to read as follows:

30 d. In addition to the restrictions contained in paragraphs
31 "a" and "b", the investments of any company or association in
32 securities included under subsection 5, paragraph "c", are not
33 eligible in excess of ~~two~~ three percent of the legal reserve,
34 but not more than ~~one-eighth~~ one-half of one percent of the
35 legal reserve shall be invested in the securities of any one

1 corporation.

2 Sec. 4. Section 511.8, subsection 22, paragraph i, Code
3 2014, is amended to read as follows:

4 *i.* Securities held in the legal reserve of a life insurance
5 company or association pledged as collateral for financial
6 instruments used in ~~highly effective~~ hedging transactions as
7 ~~defined in the national association of insurance commissioners'~~
8 ~~statement of statutory accounting principles no. 86~~ shall
9 continue to be eligible for inclusion in the legal reserve of
10 the life insurance company or association subject to all of the
11 following:

12 (1) The life insurance company or association does not
13 include the financial instruments used in ~~highly effective~~
14 hedging transactions for which the securities are pledged as
15 collateral in the legal reserve of the life insurance company
16 or association, provided, however, that this subparagraph
17 shall not exclude securities pledged to a counterparty,
18 clearing organization, or clearinghouse on an upfront basis
19 in the form of initial margin, independent amount, or other
20 securities pledged as a precondition of entering into financial
21 instruments used in ~~highly effective~~ hedging transactions from
22 inclusion in the legal reserve of the life insurance company
23 or association.

24 (2) Securities pledged as collateral for financial
25 instruments used in highly effective hedging transactions
26 as defined in the national association of insurance
27 commissioners' statement of statutory accounting principles
28 no. 86, together with securities pledged to a counterparty,
29 clearing organization, or clearinghouse on an upfront basis
30 in the form of initial margin, independent amount, or other
31 securities pledged as a precondition of entering into ~~financial~~
32 ~~instruments used in~~ highly effective hedging transactions
33 pursuant to subparagraph (1), are not eligible in excess of
34 ten percent of the legal reserve of the life insurance company
35 or association, less any financial instruments used in hedging

1 transactions held in the legal reserve under this subsection
2 and less any securities included under subparagraph (3).

3 (3) Securities pledged as collateral for financial
4 instruments used in hedging transactions that the life
5 insurance company or association does not report as highly
6 effective hedging transactions, together with securities
7 pledged to a counterparty, clearing organization, or
8 clearinghouse on an upfront basis in the form of initial
9 margin, independent amount, or other securities pledged as
10 a precondition of entering into hedging transactions that
11 the life insurance company or association does not report as
12 highly effective hedging transactions pursuant to subparagraph
13 (1), are not eligible in excess of three percent of the legal
14 reserve of the life insurance company or association, less any
15 financial instruments used in hedging transactions held in the
16 legal reserve under this subsection.

17 DIVISION II

18 ELECTRONIC POSTING AND TRANSMISSION OF INSURANCE NOTICES AND
19 DOCUMENTS

20 Sec. 5. NEW SECTION. 505B.1 Notices and documents delivered
21 by electronic means.

22 1. As used in this chapter, unless the context otherwise
23 requires:

24 a. *"Delivered by electronic means"* means any of the
25 following:

26 (1) Delivery to an electronic mail address at which a party
27 has consented to receive notices or documents.

28 (2) Posting on an electronic network or site accessible via
29 the internet, a mobile application, computer, mobile device,
30 tablet, or any other electronic device, together with separate
31 notice of the posting which shall be provided by electronic
32 mail to the address at which the party has consented to receive
33 notice or by any other delivery method that has been consented
34 to by the party.

35 b. *"Party"* means a recipient of a notice or document

1 required as part of an insurance transaction including but not
2 limited to an applicant, an insured, a policyholder, or an
3 annuity contract holder.

4 2. Subject to subsection 4, any notice to a party or any
5 other document required under applicable law in an insurance
6 transaction or that is to serve as evidence of insurance
7 coverage may be delivered, stored, or presented by electronic
8 means so long as the notice or document meets the requirements
9 of chapter 554D.

10 3. Delivery of a notice or document in accordance with this
11 section shall be considered equivalent to any delivery method
12 required under applicable law, including delivery by first
13 class mail; first class mail, postage prepaid; certified mail;
14 certificate of mail; or certificate of mailing.

15 4. A notice or document may be delivered by electronic
16 means by an insurer to a party under this section if all of the
17 following occur:

18 a. The party has affirmatively consented to such method of
19 delivery and has not withdrawn the consent.

20 b. The party, before giving consent, is provided with a
21 clear and conspicuous statement informing the party of the
22 following:

23 (1) Any right or option of the party to have the notice
24 or document provided or made available in paper or another
25 nonelectronic form.

26 (2) The right of the party to withdraw consent to have a
27 notice or document delivered by electronic means and any fees,
28 conditions, or consequences imposed in the event consent is
29 withdrawn.

30 (3) Whether the party's consent applies as follows:

31 (a) Only to the particular transaction as to which the
32 notice or document must be provided.

33 (b) To identified categories of notices or documents that
34 may be delivered by electronic means during the course of the
35 parties' relationship.

1 (4) (a) The means, after consent is given, by which a party
2 may obtain a paper copy of a notice or document delivered by
3 electronic means.

4 (b) The fee, if any, for the paper copy.

5 (5) The procedure a party must follow to withdraw consent to
6 have a notice or document delivered by electronic means and to
7 update information needed to contact the party electronically.

8 c. Both of the following occur:

9 (1) Before giving consent, the party is provided with
10 a statement of the hardware and software requirements for
11 access to and retention of a notice or document delivered by
12 electronic means.

13 (2) The party consents electronically, or confirms consent
14 electronically, in a manner that reasonably demonstrates that
15 the party can access information in the electronic form that
16 will be used for notices or documents delivered by electronic
17 means as to which the party has given consent.

18 d. After consent of the party is given, the insurer, in
19 the event a change in the hardware or software requirements
20 needed to access or retain a notice or document delivered by
21 electronic means creates a material risk that the party will
22 not be able to access or retain a subsequent notice or document
23 to which the consent applies, does the following:

24 (1) Provides the party with a statement of the following:

25 (a) The revised hardware and software requirements for
26 access to and retention of a notice or document delivered by
27 electronic means.

28 (b) The right of the party to withdraw consent without the
29 imposition of any fee, condition, or consequence that was not
30 disclosed under paragraph "b", subparagraph (2).

31 (2) Complies with paragraph "b".

32 5. This section does not affect requirements related to
33 content or timing of any notice or document required under
34 applicable law.

35 6. If a provision of this title or applicable law requiring

1 a notice or document to be provided to a party expressly
2 requires verification or acknowledgment of receipt of the
3 notice or document, the notice or document may be delivered
4 by electronic means only if the method used provides for
5 verification or acknowledgment of receipt.

6 7. The legal effectiveness, validity, or enforceability
7 of any contract or policy of insurance executed by a party
8 shall not be denied solely because of the failure to obtain
9 electronic consent or confirmation of consent of the party in
10 accordance with subsection 4, paragraph "c", subparagraph (2).

11 8. a. A withdrawal of consent by a party does not affect
12 the legal effectiveness, validity, or enforceability of a
13 notice or document delivered by electronic means to the party
14 before the withdrawal of consent is effective.

15 b. A withdrawal of consent by a party is effective within a
16 reasonable period of time after receipt of the withdrawal by
17 the insurer.

18 c. Failure by an insurer to comply with subsection 4,
19 paragraph "d", may be treated, at the election of the party, as
20 a withdrawal of consent for purposes of this section.

21 9. This section does not apply to a notice or document
22 delivered by an insurer in an electronic form before the
23 effective date of this Act to a party who, before that date,
24 has consented to receive a notice or document in an electronic
25 form otherwise allowed by law.

26 10. If the consent of a party to receive certain notices
27 or documents in an electronic form is on file with an insurer
28 before the effective date of this Act, and pursuant to this
29 section an insurer intends to deliver additional notices or
30 documents to such party in an electronic form, then prior to
31 delivering such additional notices or documents electronically,
32 the insurer shall notify the party of the following:

33 a. The notices or documents that may be delivered by
34 electronic means under this section that were not previously
35 delivered electronically.

1 *b.* The party's right to withdraw consent to have notices or
2 documents delivered by electronic means.

3 11. *a.* Except as otherwise provided by law, if an oral
4 communication or a recording of an oral communication from a
5 party can be reliably stored and reproduced by an insurer, the
6 oral communication or recording may qualify as a notice or
7 document delivered by electronic means for purposes of this
8 section.

9 *b.* If a provision of this title or applicable law requires a
10 signature or notice or document to be notarized, acknowledged,
11 verified, or made under oath, the requirement is satisfied if
12 the electronic signature of the person authorized to perform
13 those acts, together with all other information required to
14 be included by the provision, is attached to or logically
15 associated with the signature, notice, or document.

16 12. This section shall not be construed to modify, limit, or
17 supersede the provisions of the federal Electronic Signatures
18 in Global and National Commerce Act, Pub. L. No. 106-229, 114
19 Stat. 464 (2000), codified at 15 U.S.C. §7001 et seq., as
20 amended.

21 Sec. 6. NEW SECTION. **505B.2 Posting of policies on the**
22 **internet.**

23 1. Notwithstanding any contrary provision of chapter
24 554D, an insurer may mail, deliver, or post on the insurer's
25 internet site insurance documents, including policies, riders,
26 endorsements, and annuity contracts that do not contain
27 personally identifiable information. If the insurer elects
28 to post an insurance policy or endorsement on the insurer's
29 internet site in lieu of mailing or delivering the policy or
30 endorsement to the insured, the insurer must comply with all of
31 the following conditions:

32 *a.* The policy or endorsement must be accessible and remain
33 accessible for as long as the policy or endorsement is in
34 force.

35 *b.* After the expiration of the policy or endorsement, the

1 insurer must archive the expired policy or endorsement for
2 a period of five years, and make the policy or endorsement
3 available upon request.

4 c. The policy or endorsement must be posted in a manner that
5 enables the insured to print and save the policy or endorsement
6 using programs and applications that are widely available on
7 the internet and free to use.

8 d. The insurer must provide the following information in,
9 or simultaneously with, each declarations page provided at the
10 time of issuance of the initial policy and any renewal of that
11 policy:

12 (1) A description of the exact policy or endorsement
13 purchased by the insured.

14 (2) A method by which the insured may obtain, upon request
15 and without charge, a paper copy of the insured's policy or
16 endorsement.

17 (3) An internet address where the insured's policy or
18 endorsement is posted.

19 e. The insurer must provide notice, in the format preferred
20 by the insured, of any changes to the policy or endorsement,
21 the insured's right to obtain, upon request and without charge,
22 a paper copy of such policy or endorsement, and the internet
23 address where such policy or endorsement is posted.

24 Sec. 7. NEW SECTION. 505B.3 **Applicability.**

25 The provisions of this chapter shall apply to the insurance
26 products and documents, including insurance policies, insurance
27 riders, insurance endorsements, and annuity contracts filed
28 with and regulated by the commissioner of insurance under the
29 authority provided to the commissioner by Title XIII, subtitle
30 1.

31 EXPLANATION

32 The inclusion of this explanation does not constitute agreement with
33 the explanation's substance by the members of the general assembly.

34 This bill relates to various matters involving insurance
35 and the insurance division of the department of commerce and

1 includes applicability provisions.

2 DIVISION I — MISCELLANEOUS PROVISIONS.

3 IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM (IPERS). New
4 Code section 97B.49B(1)(e)(13) provides that employees of
5 the insurance division who as a condition of employment are
6 required to be certified by the Iowa law enforcement academy
7 and who are required to perform the duties of a peace officer,
8 are defined as being in a "protection occupation" for purposes
9 of calculation of their retirement benefits under IPERS.

10 UNIFORM SECURITIES ACT. Code section 502.409(1) is amended
11 to provide that when a broker-dealer, agent, investment
12 adviser, or investment adviser representative withdraws its
13 registration in this state, the commissioner of insurance
14 or a deputy may institute a disciplinary action against
15 such a person within two years, instead of one year, of the
16 withdrawal.

17 LIFE INSURANCE COMPANIES AND ASSOCIATIONS. Code section
18 511.8(8)(d) is amended to provide that certain corporate
19 obligations held in the legal reserve of a life insurance
20 company or association cannot exceed 3 percent, instead of
21 2 percent, of the legal reserve and not more than one-half,
22 instead of one-eighth, of 1 percent of the legal reserve can be
23 invested in the securities of any one corporation.

24 Code section 511.8(22)(i) is amended to provide that certain
25 securities pledged as collateral for financial instruments used
26 in hedging transactions, instead of highly effective hedging
27 transactions, are eligible to be held in the legal reserve of
28 a life insurance company or association subject to certain
29 restrictions. Those restrictions are:

30 1) Financial instruments used in hedging transactions for
31 which the securities are pledged as collateral cannot be
32 included in the reserve, except in specified cases.

33 2) Securities pledged as collateral for financial
34 instruments used in highly effective hedging transactions, as
35 defined by the national association of insurance commissioners,

1 together with securities pledged to certain entities or other
2 securities pledged as a precondition of entering into highly
3 effective hedging transactions, cannot be held in excess of
4 10 percent of the legal reserve less any instruments used
5 in hedging transactions held in the reserve and less any
6 securities pledged as collateral for financial instruments used
7 in hedging transactions.

8 3) Securities pledged as collateral for financial
9 instruments used in hedging transactions together with
10 securities pledged to specified entities or other securities
11 pledged as a condition of entering into hedging transactions
12 that are not highly effective hedging transactions, cannot
13 exceed 3 percent of the legal reserve less any financial
14 instruments used in hedging transactions that are held in the
15 reserve under Code section 511.8(22)(i).

16 DIVISION II — ELECTRONIC POSTING AND TRANSMISSION OF
17 INSURANCE NOTICES AND DOCUMENTS. New Code chapter 505B
18 regulates the electronic delivery and posting on an electronic
19 network, of certain insurance notices and documents required to
20 be sent to a person including but not limited to an applicant,
21 an insured, a policyholder, or an annuity contract holder as
22 part of an insurance transaction.

23 New Code section 505B.1 provides that any such notice or
24 document required to be sent to such a person under applicable
25 law may be delivered, stored, or presented by electronic means
26 so long as the notice or document meets the requirements of
27 the Uniform Electronic Transactions Act (Code chapter 554D)
28 and the requirements of this new Code section. Electronic
29 delivery that meets these requirements is considered equivalent
30 to delivery under other methods required by law such as first
31 class mail, certified mail, or certificate of mail.

32 In order to meet the requirements of new Code section 505B.1,
33 the recipient must affirmatively consent to electronic delivery
34 or posting and must be provided with a clear and conspicuous
35 statement informing the recipient of their rights, including

1 the right to withdraw consent and any fees imposed for doing
2 so. The recipient must also be provided with the hardware and
3 software requirements for accessing information in electronic
4 form and notified if those requirements change.

5 New Code section 505B.1 does not affect legal requirements
6 related to the content or timing of any notice or document.
7 If the legal requirements expressly require verification or
8 acknowledgment of receipt of the notice or document, the
9 electronic delivery must provide for such verification or
10 acknowledgment of receipt. The legal effectiveness, validity,
11 or enforceability of any contract or policy of insurance cannot
12 be denied solely because of the failure to obtain electronic
13 consent or confirmation of the consent pursuant to the new
14 Code section. A withdrawal of consent does not affect the
15 legal effectiveness, validity, or enforceability of a notice or
16 document delivered by electronic means prior to the effective
17 date of the withdrawal of consent.

18 If a party had consented to receive certain notices or
19 documents electronically prior to the effective date of new
20 Code chapter 505B, an insurer who intends to deliver additional
21 notices or documents to the party pursuant to the new Code
22 chapter must provide notice of that fact and inform the party
23 of the right to withdraw consent to such delivery.

24 Except as otherwise prohibited by law, if an oral
25 communication or recording of an oral communication from a
26 party can be reliably stored and reproduced by an insurer, the
27 oral communication or recording may qualify as a notice or
28 document delivered by electronic means. Also, the electronic
29 signature of a person is satisfactory to meet requirements to
30 notarize, acknowledge, verify, or make under oath a signature,
31 notice, or document.

32 New Code section 505B.1 shall not be construed to modify,
33 limit, or supersede the provisions of the federal Electronic
34 Signatures in Global and National Commerce Act.

35 New Code section 505B.2 provides that insurance documents,

1 including policies, riders, endorsements, and annuity contracts
2 that do not contain personally identifiable information may be
3 mailed, delivered, or posted on the insurer's internet site.
4 If the insurer elects to post the items in lieu of mailing or
5 delivering them to the insured, the items must be accessible
6 as long as they are in force; must be archived for a period of
7 five years after expiration and be available upon request; and
8 must be posted in a manner that allows the insured to print and
9 save the items using programs and applications that are widely
10 available on the internet at no charge. The insurer must also
11 provide information to the insured in, or simultaneously with,
12 each declarations page provided at the time of issuance of the
13 initial policy and any renewal of that policy, describing the
14 policy or endorsement; providing a method to obtain without
15 charge a paper copy of the policy or endorsement; and providing
16 the internet address where the items are posted.

17 New Code chapter 505B applies to insurance products and
18 documents, including insurance policies, insurance riders,
19 insurance endorsements, and annuity contracts filed with and
20 regulated by the commissioner of insurance under the authority
21 of Title XIII, subtitle 1 of the Code.