

Senate Study Bill 1050 - 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 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 502.412, subsection 3, Code 2013, is amended
14 to read as follows:

15 3. *Disciplinary penalties — registrants.* If the
16 administrator finds that the order is in the public interest
17 and subsection 4, paragraphs “a” through “f”, “h”, “i”, “j”,
18 “l”, or “m”, authorizes the action, an order under this chapter
19 may censure, impose a bar, or impose a civil penalty in an
20 amount not to exceed a maximum of ~~five~~ ten thousand dollars
21 for a single violation or ~~five hundred thousand~~ one million
22 dollars for more than one violation, or in an amount as agreed
23 to by the parties, on a registrant, and, if the registrant is
24 a broker-dealer or investment adviser, a partner, officer,
25 director, or person having a similar status or performing
26 similar functions, or a person directly or indirectly in
27 control, of the broker-dealer or investment adviser.

28 Sec. 4. Section 502.604, subsection 4, Code 2013, is amended
29 to read as follows:

30 4. *Civil penalty — restitution — corrective action.* In a
31 final order under subsection 3, the administrator may impose a
32 civil penalty up to an amount not to exceed a maximum of ~~five~~
33 ten thousand dollars for a single violation or ~~five hundred~~
34 ~~thousand~~ one million dollars for more than one violation, or
35 in an amount as agreed to by the parties, order restitution,

1 or take other corrective action as the administrator deems
2 necessary and appropriate to accomplish compliance with
3 the laws of the state relating to all securities business
4 transacted in the state.

5 Sec. 5. Section 502.604, Code 2013, is amended by adding the
6 following new subsection:

7 NEW SUBSECTION. 5A. *Failure to obey cease and desist*
8 *order.* A person who fails to obey a valid cease and desist
9 order issued by the administrator under this section may, after
10 notice and opportunity for a hearing, be subject to a civil
11 penalty in an amount of not less than one thousand dollars and
12 not to exceed ten thousand dollars for violating the order.
13 Each day the failure to obey the cease and desist order occurs
14 or continues constitutes a separate violation of the order.
15 The penalties provided in this subsection are in addition to,
16 and not exclusive of, other remedies that may be available.

17 Sec. 6. Section 505.8, subsection 10, Code 2013, is amended
18 to read as follows:

19 10. The commissioner may, after a hearing conducted
20 pursuant to chapter 17A, assess fines or penalties~~;~~ assess
21 costs of an examination, investigation, or proceeding~~;~~
22 order restitution~~;~~ or take other corrective action as the
23 commissioner deems necessary and appropriate to accomplish
24 compliance with the laws of the state relating to all insurance
25 business transacted in the state.

26 Sec. 7. NEW SECTION. 506.14 **Voluntary dissolution of**
27 **domestic mutual insurance companies.**

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

33 2. The commissioner shall approve the plan if the
34 commissioner finds that the plan complies with all applicable
35 provisions of law and is fair and equitable to the domestic

1 mutual insurance company and its policyholders.

2 Sec. 8. Section 507.10, subsection 4, paragraph a, Code
3 2013, is amended to read as follows:

4 a. All orders entered pursuant to subsection 3, paragraph
5 "a", shall be accompanied by findings and conclusions resulting
6 from the commissioner's consideration and review of the
7 examination report, relevant examiner work papers, and any
8 written submissions or rebuttals. Any such order is a final
9 administrative decision and may be appealed pursuant to chapter
10 17A, and shall be served upon the company by certified mail,
11 together with a copy of the adopted examination report. ~~Within~~
12 ~~thirty days of the issuance of the adopted report, the company~~
13 ~~shall file affidavits executed by each of its directors stating~~
14 ~~under oath that they have received a copy of the adopted report~~
15 ~~and related orders. The board of directors of the company~~
16 ~~shall timely review the adopted report. The minutes of the~~
17 ~~meeting of the board at which the adopted report is considered~~
18 ~~shall reflect that each member of the board has reviewed the~~
19 ~~adopted report.~~

20 Sec. 9. Section 507B.4, subsection 3, Code 2013, is amended
21 by adding the following new paragraph:

22 NEW PARAGRAPH. t. *Refund of premium for duplication of*
23 *insurance.* Failing to refund premiums paid for a Medicare
24 supplement policy after the effective date of a subsequently
25 purchased Medicare advantage plan, where there have been no
26 claims made on the Medicare supplement policy, and it can be
27 established that the carrier of the Medicare supplement policy
28 has no exposure to pay benefits if a claim is submitted to it
29 during the time that both the Medicare supplement policy and
30 the Medicare advantage plan are in effect. For the purposes
31 of this paragraph, "Medicare supplement policy" and "Medicare
32 advantage plan" mean the same as defined by the commissioner of
33 insurance pursuant to rules adopted under chapter 17A.

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

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

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

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

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

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

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

33 4. If the district court does not make a determination on a
34 petition for an order of rehabilitation or liquidation filed by
35 the commissioner pursuant to this section within twenty-four

1 hours after the filing of the petition, the order shall be
2 deemed granted by operation of law upon the expiration of the
3 twenty-four-hour period.

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

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

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

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

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

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

25 Sec. 11. Section 507E.5, subsection 2, Code 2013, is amended
26 to read as follows:

27 2. The commissioner may share documents, materials, or
28 other information, including confidential and privileged
29 documents, materials, or other information, with other
30 state, federal, and international regulatory agencies, with
31 the national association of insurance commissioners and its
32 affiliates or subsidiaries, and with local, state, federal, and
33 international law enforcement authorities, provided that the
34 recipient agrees to maintain the confidential and privileged
35 status of the document, material, or other information,

1 pursuant to Iowa law.

2 Sec. 12. Section 511.8, subsection 14, Code 2013, is amended
3 to read as follows:

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

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

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

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

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

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

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

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

30 Sec. 13. Section 511.8, subsection 23, Code 2013, is amended
31 by adding the following new paragraph:

32 NEW PARAGRAPH. g. For securities loaned pursuant to this
33 subsection that are included in the legal reserve of the life
34 insurance company or association, the collateral received for
35 the loaned securities shall not be eligible for inclusion in

1 the legal reserve.

2 Sec. 14. Section 511.40, Code 2013, is amended by adding the
3 following new subsection:

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

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

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

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

15 *c.* As used in this subsection, "*employer-owned life*
16 *insurance contract*" means a policy which provides coverage on
17 a life for which the employer has an insurable interest under
18 this section or a similar provision of the laws of another
19 state and the policy is owned by either the employer or a trust
20 established by the employer for the benefit of the employer or
21 the employer's active or retired employees.

22 Sec. 15. Section 514.4, Code 2013, is amended to read as
23 follows:

24 **514.4 Directors.**

25 1. At least two-thirds of the directors of a hospital
26 service corporation, medical service corporation, dental
27 service corporation, or pharmaceutical or optometric service
28 corporation subject to this chapter shall be at all times
29 subscribers and not more than one-third of the directors
30 shall be providers as provided in this section. The board of
31 directors of each corporation shall consist of at least nine
32 members.

33 2. A subscriber director is a director of the board of
34 a corporation who is a subscriber and who is not a provider
35 of health care pursuant to section 514B.1, subsection 7, a

1 person who has material financial or fiduciary interest in the
2 delivery of health care services or a related industry, an
3 employee of an institution which provides health care services,
4 or a spouse or a member of the immediate family of such a
5 person. However, a subscriber director of a dental service
6 corporation may be an employee, officer, director, or trustee
7 of a hospital or other entity that does not have a provider
8 contract with the dental service corporation. A subscriber
9 director of a hospital or medical service corporation shall be
10 a subscriber of the services of that corporation.

11 3. A provider director of a corporation subject to this
12 chapter shall be at all times a person who has a material
13 financial interest in or is a fiduciary to or an employee
14 of or is a spouse or member of the immediate family of a
15 provider having a contract with such corporation to render to
16 its subscribers the services of such corporation or who is a
17 hospital trustee.

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

20 5. The commissioner of insurance shall adopt rules pursuant
21 to chapter 17A to implement the process of the election of
22 subscriber directors of the board of directors of a corporation
23 to ensure the representation of a broad spectrum of subscriber
24 interest on each board and establish criteria for the selection
25 of nominees. The rules shall provide for an independent
26 subscriber nominating committee to serve until the composition
27 of the board of directors meets the percentage requirements
28 of this section. Once the composition requirements of this
29 section are met, the nominations for subscriber directors
30 shall be made by the subscriber directors of the board under
31 procedures the board establishes which shall also permit
32 nomination by a petition of at least fifty subscribers. The
33 board shall also establish procedures to permit nomination of
34 provider directors by petition of at least fifty participating
35 providers. A member of the board of directors of a corporation

1 subject to this chapter shall not serve on the independent
2 subscriber nominating committee. The nominating committee
3 shall consist of subscribers as defined in this section. The
4 rules of the commissioner of insurance shall also permit
5 nomination of subscriber directors by a petition of at least
6 fifty subscribers, and nomination of provider directors
7 by a petition of at least fifty participating providers.
8 These petitions shall be considered only by the independent
9 nominating committee during the duration of the committee.
10 Following the discontinuance of the committee, the petition
11 process shall be continued and the board of directors of the
12 corporation shall consider the petitions. The independent
13 subscriber nominating committee is not subject to chapter 17A.
14 The nominating committee shall not receive per diem or expenses
15 for the performance of their duties.

16 6. Population factors, representation of different
17 geographic regions, and the demography of the service area of
18 the corporation subject to this chapter shall be considered
19 when making nominations for the board of directors of a
20 corporation subject to this chapter.

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

24 Sec. 16. Section 515.69, subsection 1, Code 2013, is amended
25 to read as follows:

26 1. A stock insurance company organized under or by the
27 laws of any other state or foreign government for the purpose
28 specified in this chapter, shall not, directly or indirectly,
29 take risks or transact business of insurance in this state
30 unless the company ~~has two and one-half million dollars of~~
31 ~~actual paid-up capital, and a surplus in cash or invested in~~
32 ~~securities authorized by law of not less than two and one-half~~
33 ~~million dollars, possesses the actual amount of capital and~~
34 ~~surplus required of any company organized pursuant to this~~
35 ~~chapter, or if the company is a mutual insurance company, the~~

1 actual amount of surplus required of any mutual insurance
2 company organized pursuant to this chapter, exclusive of assets
3 deposited in a state, territory, district, or country for the
4 special benefit or security of those insured in that state,
5 territory, district, or country.

6 Sec. 17. Section 515.136, Code 2013, is amended to read as
7 follows:

8 **515.136 Value of building — liability.**

9 ~~The insurance company or association issuing such policy may~~
10 ~~show the actual value of said property at date of policy, and~~
11 ~~any depreciation in the value thereof before the loss occurred;~~
12 ~~but the said~~ An insurance company or association shall be
13 liable for the actual value of the property insured at the date
14 of the loss, unless such value exceeds the amount stated in the
15 policy.

16 Sec. 18. Section 515A.7, subsection 1, paragraph b,
17 subparagraph (5), Code 2013, is amended to read as follows:

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

23 Sec. 19. Section 518.14, subsection 4, paragraph f,
24 unnumbered paragraph 1, Code 2013, is amended to read as
25 follows:

26 Common stocks, common stock equivalents, mutual fund shares,
27 securities convertible into common stocks or common stock
28 equivalents, or preferred stocks issued or guaranteed by a
29 corporation incorporated under the laws of the United States
30 or a state, or the laws of Canada or a province of Canada,
31 or by limited partnerships publicly traded on a nationally
32 established stock exchange in the United States. Aggregate
33 investments in nondividend paying stocks shall not exceed five
34 percent of surplus.

35 Sec. 20. Section 518A.12, subsection 4, paragraph f,

1 unnumbered paragraph 1, Code 2013, is amended to read as
2 follows:

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

12 Sec. 21. Section 521E.1, subsection 4, unnumbered paragraph
13 1, Code 2013, is amended to read as follows:

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

18 Sec. 22. Section 521E.1, subsection 4, paragraph b, Code
19 2013, is amended by striking the paragraph.

20 Sec. 23. Section 521E.1, subsections 6 and 7, Code 2013, are
21 amended to read as follows:

22 6. "*Foreign insurer*" means an insurance company not
23 domiciled in this state which is licensed to transact the
24 business of insurance in this state under chapter 508, 512B,
25 515, or 520.

26 7. "*Life and health insurer*" means an insurance company
27 licensed under chapter 508, a fraternal benefit society
28 organized under chapter 512B, or a licensed property and
29 casualty insurer writing only accident and health insurance
30 under chapter 515.

31 Sec. 24. Section 521E.3, subsection 1, paragraph a,
32 subparagraph (2), Code 2013, is amended to read as follows:

33 (2) For a life and health insurer, the insurer's
34 total adjusted capital is greater than or equal to its
35 company-action-level risk-based capital but less than the

1 product of its authorized-control-level risk-based capital and
2 ~~two and one-half~~ three, and has a negative trend.

3 Sec. 25. Section 522C.6, Code 2013, is amended by adding the
4 following new subsection:

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

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

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

28 *d.* If a person does not comply with an order issued pursuant
29 to this subsection, the commissioner may petition a court of
30 competent jurisdiction to enforce the order. The court shall
31 not require the commissioner to post a bond in an action or
32 proceeding under this subsection. If the court finds, after
33 notice and opportunity for hearing, that the person is not in
34 compliance with an order, the court may adjudge the person to
35 be in civil contempt of the order. The court may impose a civil

1 penalty against the person for contempt in an amount not less
2 than three thousand dollars but not greater than ten thousand
3 dollars for each violation and may grant any other relief that
4 the court determines is just and proper in the circumstances.

5 Sec. 26. Section 523A.301, Code 2013, is amended to read as
6 follows:

7 **523A.301 Definition.**

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

10 Sec. 27. Section 523A.303, subsection 1, unnumbered
11 paragraph 1, Code 2013, is amended to read as follows:

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

19 Sec. 28. NEW SECTION. 523A.304 Disbursement of insurance or
20 annuity proceeds — medical assistance debts.

21 1. If an insurance policy or annuity is purchased or
22 assigned to fund a purchase agreement and the insured or
23 annuitant is or may become a recipient of medical assistance
24 benefits under chapter 249A, unless the primary beneficiary of
25 the policy or annuity is the spouse or disabled child of the
26 insured or annuitant, the insurance policy or annuity shall
27 designate, or shall be amended to designate, the department
28 as the primary beneficiary of any funds that remain from the
29 proceeds of the insurance policy or annuity after payment of
30 funeral and burial expenses in accordance with the terms and
31 conditions of the purchase agreement.

32 2. If the funds remaining from the proceeds of the insurance
33 policy or annuity are disbursed as provided in subsection 1
34 and as otherwise provided in the insurance policy or annuity,
35 if applicable, the seller, provider, or insurer shall not be

1 liable to the director, the estate of the deceased insured or
2 annuitant, a personal representative, or any other interested
3 person for the remaining funds, and any lien imposed by the
4 director shall be unenforceable against the seller, provider,
5 or insurer.

6 3. This section applies to an insurance policy or annuity
7 issued prior to January 1, 2014, that funds a purchase
8 agreement for an insured or annuitant who receives or may
9 receive medical assistance benefits under chapter 249A, and who
10 dies on or after January 1, 2015.

11 4. This section applies to an insurance policy or annuity
12 issued on or after January 1, 2014, to fund a purchase
13 agreement for an insured or annuitant who receives or may
14 receive medical assistance benefits under chapter 249A, and who
15 dies on or after January 1, 2014, and on or after the date of
16 issuance of the insurance policy or annuity.

17 Sec. 29. Section 598.20A, Code 2013, 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~~ a
27 policy owner's former spouse to assert an ownership interest in
28 a life insurance policy insuring the life of the policy owner
29 that is not disclosed to the ~~insured's~~ policy owner's spouse
30 prior to the decree of dissolution, annulment, or separate
31 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. 30. 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 MEDICAL ASSISTANCE. New Code section 249A.3(15) provides
14 that an insurance policy or annuity purchased to fund an
15 irrevocable purchase agreement to furnish cemetery and funeral
16 merchandise, funeral services, or a combination thereof as
17 provided in Code chapter 523A, which is owned or assigned
18 to a seller or provider and in which the department of
19 human services is designated as the primary beneficiary, is
20 excluded as a resource for determining eligibility for medical
21 assistance under Code chapter 249A. For purposes of this
22 provision, a "seller" is a person doing business in this state,
23 including one who sells insurance, who sells or offers to
24 furnish cemetery and funeral merchandise, funeral services, or
25 a combination of those products on a preneed basis.

26 UNIFORM SECURITIES ACT (BLUE SKY LAW). Code section
27 502.412(3) is amended to increase the amount of the
28 disciplinary penalty for registrants that the administrator
29 (commissioner of insurance or the commissioner's deputy) can
30 impose for a violation of the Code chapter from a maximum of
31 \$5,000 to \$10,000 for a single violation, and from \$500,000 to
32 \$1 million for more than one violation, or in such amount as
33 agreed to by the parties.

34 Code section 502.604(4) is amended to increase the amount
35 of a civil penalty the administrator can impose against a

1 person for engaging in an act, practice, or course of business
2 in violation of the Code chapter from a maximum of \$5,000 to
3 \$10,000 for a single violation, and from \$500,000 to \$1 million
4 for more than one violation, or in an amount agreed to by the
5 parties.

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

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

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

26 EXAMINATION OF INSURANCE COMPANIES. Code section
27 507.10(4)(a) is amended to allow the board of directors of
28 an insurance company to signal that each member has reviewed
29 an examination report with a notation in the board's meeting
30 minutes instead of by filing affidavits indicating that each
31 member has received a copy of the report.

32 INSURANCE TRADE PRACTICES. New Code section 507B.4(3)(t)
33 makes it an unfair or deceptive act or practice in the business
34 of insurance to fail to refund premiums paid for a Medicare
35 supplement policy after the effective date of a subsequently

1 purchased Medicare advantage plan if the insurer has no
2 exposure to pay benefits under the Medicare supplement policy
3 during the time that both the supplement policy and the
4 advantage plan are in effect.

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

10 The bill provides that the commissioner of insurance may
11 file a petition in the state district court for an order of
12 rehabilitation or liquidation of such a domestic insurer upon
13 receiving notice from the secretary of the treasury of the
14 United States that the insurer acquiesces or consents to the
15 appointment of a receiver; upon an order of the United States
16 district court for the District of Columbia as to that insurer;
17 or when a petition of the secretary of the treasury of the
18 United States concerning the insurer is granted by operation
19 of law.

20 Notwithstanding any other provision of law to the contrary,
21 the state district court, after notice to the insurer, may
22 grant an order on such a petition within 24 hours after the
23 filing of the petition. If the district court does not make a
24 determination on the petition within 24 hours of its filing,
25 the order is deemed granted by operation of law upon expiration
26 of the 24-hour period.

27 At the time an order is deemed granted, the provisions of
28 Code chapter 507C are deemed to be in effect, the commissioner
29 is deemed to be affirmed as the receiver and to have all of
30 the applicable powers provided by Code chapter 507C, and the
31 state district court must expeditiously enter an order of
32 rehabilitation or liquidation. An order of rehabilitation or
33 liquidation made pursuant to the provisions of the bill is not
34 subject to a stay or injunction pending appeal.

35 This provision is effective upon enactment.

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

6 LIFE INSURANCE COMPANIES AND ASSOCIATIONS. Code section
7 511.8(14) is amended to provide that a life insurance company
8 can include in its legal reserve as real property a controlling
9 membership, partnership, shareholder, or trust interest in any
10 entity created solely for the purpose of owning and operating a
11 leasehold of real estate, an undivided interest in a leasehold
12 of real estate, or an undivided interest in the fee title of
13 real estate. The entity must be expressly limited to that
14 purpose by its organizational documents.

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

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

32 NONPROFIT HEALTH SERVICE CORPORATIONS. Code section 514.4
33 is amended to provide that a person who is affiliated with a
34 hospital or other entity that does not have a provider contract
35 with a dental service corporation can serve as a subscriber

1 director of that corporation.

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

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

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

25 COUNTY MUTUAL INSURANCE ASSOCIATIONS. Code section
26 518.14(4)(f) is amended to allow county mutual insurance
27 associations to invest in stocks that are issued or guaranteed
28 by limited partnerships publicly traded on a nationally
29 established stock exchange in the United States.

30 STATE MUTUAL INSURANCE ASSOCIATIONS. Code section
31 518A.12(4)(f) is amended to allow state 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 RISK-BASED CAPITAL REQUIREMENTS FOR INSURERS. Code section

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

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

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

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

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

1 New Code section 523A.304 provides that if an insurance
2 policy or annuity is purchased or assigned to fund a preneed
3 purchase agreement and the insured or annuitant is or may
4 become a recipient of medical assistance benefits under Code
5 chapter 249A, unless the primary beneficiary of the policy
6 or annuity is the spouse or disabled child of the insured or
7 annuitant, the insurance policy or annuity shall designate,
8 or be amended to designate, the department of human services
9 as the primary beneficiary of any funds that remain from the
10 proceeds of the insurance policy or annuity after payment of
11 funeral and burial expenses in accordance with the conditions
12 and terms of the preneed purchase agreement.

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

20 This provision applies to an insurance policy or annuity
21 purchased prior to January 1, 2014, that funds a preneed
22 purchase agreement for an insured or annuitant who receives
23 or may receive medical assistance benefits under Code chapter
24 249A and who dies on or after January 1, 2015. The provision
25 also applies to an insurance policy or annuity issued on or
26 after January 1, 2014, to fund a preneed purchase agreement for
27 an insured or annuitant who receives or may receive medical
28 assistance benefits, and who dies on or after January 1, 2014,
29 and on or after the date of issuance of the insurance policy or
30 annuity.

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.