

Senate Study Bill 1170 - Introduced

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

A BILL FOR

- 1 An Act relating to insurance holding company systems.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

DIVISION I

INSURANCE HOLDING COMPANY SYSTEMS

Section 1. NEW SECTION. 521A.101 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "*Affiliate of*" or person affiliated with, a specific person, is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

2. "*Commissioner*" means the commissioner of insurance.

3. "*Control*", including the terms "*controlling*", "*controlled by*", and "*under common control with*", means possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, ten percent or more of the voting securities of any other person. This presumption may be rebutted by a showing made in the manner provided in section 521A.104, subsection 11, that control does not exist in fact. The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

4. "*Domestic insurer*" means an insurer organized or created under the laws of this state.

5. "*Insurance holding company system*" means two or more affiliated persons, one or more of which is an insurer.

6. "*Insurer*" means a company qualified and licensed by the insurance division to transact the business of insurance in

1 this state by certificate issued pursuant to chapter 508, 512B,
2 514, 514B, 515, 515E, or 520, except that it shall not include
3 agencies, authorities, or instrumentalities of the United
4 States, its possessions and territories, the commonwealth of
5 Puerto Rico, the District of Columbia, or a state or political
6 subdivision of a state.

7 7. "*Enterprise risk*" means any activity, circumstance,
8 event, or series of events, involving one or more affiliates
9 of an insurer that, if not remedied promptly, is likely to
10 have a material adverse effect upon the financial condition or
11 liquidity of the insurer or the insurer's insurance holding
12 company system as a whole, including but not limited to
13 anything that would cause the insurer's risk-based capital to
14 fall into a company-action-level event as set forth in section
15 521E.3 for insurers or section 521F.4 for health organizations,
16 or would cause the insurer to be in hazardous financial
17 condition as set forth in 191 IAC ch. 110.

18 8. A "*person*" is an individual, a corporation, a limited
19 liability company, a partnership, an association, a joint
20 stock company, a trust, an unincorporated organization, or
21 any similar entity or any combination of the foregoing acting
22 in concert, but does not include a joint venture partnership
23 exclusively engaged in owning, managing, leasing, or developing
24 real or tangible personal property.

25 9. A "*securityholder*" of a specified person is one who owns
26 any security of the specified person, including common stock,
27 preferred stock, debt obligations, and any other security
28 convertible into or evidencing the right to acquire any of the
29 foregoing.

30 10. A "*subsidiary*" of a specified person is an affiliate
31 controlled by such person directly or indirectly through one
32 or more intermediaries.

33 11. A "*supervisory college*" is a temporary or permanent
34 forum for communication and cooperation between regulators
35 charged with supervision of an insurer or its affiliates.

1 12. *“Ultimate controlling person”* means a person that is not
2 controlled by any other person.

3 13. The term *“voting security”* shall include any security
4 convertible into or evidencing a right to acquire a voting
5 security.

6 Sec. 2. NEW SECTION. **521A.102 Subsidiaries of insurers.**

7 1. *Authorization.* A domestic insurer, either by itself
8 or in cooperation with one or more persons, may organize or
9 acquire one or more subsidiaries. The subsidiaries may conduct
10 any kind of business or businesses and their authority to do
11 so shall not be limited by reason of the fact that they are
12 subsidiaries of a domestic insurer.

13 2. *Additional investment authority.* In addition to
14 investments in common stock, preferred stock, debt obligations
15 and other securities permitted under all other sections of this
16 subtitle, a domestic insurer may also:

17 a. Invest, in common stock, preferred stock, debt
18 obligations, and other securities of one or more subsidiaries,
19 amounts which do not exceed the lesser of ten percent of the
20 insurer’s assets or fifty percent of the insurer’s surplus as
21 regards policyholders, provided that after such investments the
22 insurer’s surplus as regards policyholders is reasonable in
23 relation to the insurer’s outstanding liabilities and adequate
24 to meet its financial needs. In calculating the amount of
25 such investments, investments in domestic or foreign insurance
26 subsidiaries and health maintenance organizations shall be
27 excluded and both of the following shall be included:

28 (1) Total net moneys or other consideration expended
29 and obligations assumed in the acquisition or formation
30 of a subsidiary, including all organizational expenses and
31 contributions to capital and surplus of the subsidiary whether
32 or not represented by the purchase of capital stock or issuance
33 of other securities.

34 (2) All amounts expended in acquiring additional common
35 stock, preferred stock, debt obligations, and other securities;

1 and all contributions to the capital or surplus of a subsidiary
2 subsequent to its acquisition or formation.

3 **b.** Invest any amount in common stock, preferred stock, debt
4 obligations and other securities of one or more subsidiaries
5 engaged or organized to engage exclusively in the ownership
6 and management of assets authorized as investments for the
7 insurer, provided that each such subsidiary agrees to limit
8 its investments in any asset so that such investments will not
9 cause the amount of the total investment of the insurer to
10 exceed any of the investment limitations specified in paragraph
11 "a" or in chapters 511, 515, 518A, and 520. For the purposes of
12 this lettered paragraph "b", "*total investment of the insurer*"
13 shall include both:

14 (1) Any direct investment by the insurer in an asset.

15 (2) The insurer's proportionate share of any investment
16 in an asset by any subsidiary of the insurer, which shall
17 be calculated by multiplying the amount of the subsidiary's
18 investment by the percentage of the insurer's ownership of the
19 subsidiary.

20 **c.** With the approval of the commissioner, invest any greater
21 amount in common stock, preferred stock, debt obligations,
22 or other securities of one or more subsidiaries, provided
23 that after the investment the insurer's surplus as regards
24 policyholders is reasonable in relation to the insurer's
25 outstanding liabilities and adequate to meet its financial
26 needs.

27 **d.** Invest, reinvest, and trade in financial instruments as
28 defined in section 511.8, subsection 22, for its own account,
29 that of its parent, any subsidiary of its parent, or any
30 affiliate or subsidiary.

31 **3. Exemption from investment restrictions.** Investments
32 in common stock, preferred stock, debt obligations, or other
33 securities of subsidiaries made pursuant to subsection 2 shall
34 not be subject to any of the otherwise applicable restrictions
35 or prohibitions contained in this chapter applicable to such

1 investments of insurers.

2 4. *Qualification of investment — when determined.* Whether
3 any investment pursuant to subsection 2 meets the applicable
4 requirements of that subsection is to be determined before the
5 investment is made by calculating the applicable investment
6 limitations as though the investment had already been made,
7 taking into account the then outstanding principal balance on
8 all previous investments in debt obligations, and the value
9 of all previous investments in equity securities as of the
10 day they were made, net of any return of capital invested,
11 excluding dividends.

12 5. *Cessation of control.* If an insurer ceases to control
13 a subsidiary, it shall dispose of any investment therein
14 made pursuant to this section within three years from the
15 time of the cessation of control or within such further time
16 as the commissioner may prescribe, unless at any time after
17 the investment has been made, the investment has met the
18 requirements for investment under any other section of this
19 chapter, and the insurer has so notified the commissioner.

20 Sec. 3. NEW SECTION. 521A.103 **Acquisition of control of or**
21 **merger with domestic insurer.**

22 1. *Filing requirements.*

23 a. A person, other than the issuer, shall not make a
24 tender offer for or a request or invitation for tenders of,
25 or enter into any agreement to exchange securities for, seek
26 to acquire, or acquire, in the open market or otherwise,
27 any voting security of a domestic insurer if, after the
28 consummation thereof, the person would, directly or indirectly,
29 or by conversion or by exercise of any right to acquire, be in
30 control of the insurer, and a person shall not enter into an
31 agreement to merge with or otherwise to acquire control of a
32 domestic insurer unless, at the time the offer, request, or
33 invitation is made or the agreement is entered into, or prior
34 to the acquisition of the securities if no offer or agreement
35 is involved, the person has filed with the commissioner and has

1 sent to the insurer, a statement containing the information
2 required by this section and such offer, request, invitation,
3 agreement, or acquisition has been approved by the commissioner
4 in the manner prescribed in this chapter.

5 *b.* For purposes of this section, a controlling person of
6 a domestic insurer seeking to divest the person's controlling
7 interest in the domestic insurer in any manner, shall file with
8 the commissioner, with a copy to the insurer, confidential
9 notice of the controlling person's proposed divestiture at
10 least thirty days prior to the cessation of control. The
11 commissioner shall determine those instances in which a
12 party seeking to divest a controlling interest in a domestic
13 insurer, shall be required to file for and obtain approval
14 of the transaction. The information filed shall remain
15 confidential until the conclusion of the transaction unless
16 the commissioner, in the commissioner's discretion, determines
17 that confidential treatment of the information will interfere
18 with enforcement of this section. If the statement required in
19 paragraph "a" has been filed, this paragraph does not apply.

20 *c.* For purposes of this section, a "domestic insurer" shall
21 include any person controlling a domestic insurer unless the
22 person, as determined by the commissioner, is either directly
23 or through its affiliates primarily engaged in business other
24 than the business of insurance. For purposes of this section,
25 "person" does not include a securities broker holding, in the
26 usual and customary broker's function, less than twenty percent
27 of the voting securities of an insurer or of any person that
28 controls an insurer.

29 2. *Content of statement.*

30 *a.* The statement to be filed with the commissioner shall be
31 made under oath or affirmation and shall contain the following
32 information:

33 (1) The name and address of each person by whom or on whose
34 behalf the merger or other acquisition of control referred
35 to in subsection 1 is to be effected, hereinafter called the

1 *"acquiring party"*.

2 (a) If the person is an individual, the individual's
3 principal occupation and all offices and positions held during
4 the past five years, and any conviction of crimes other than
5 minor traffic violations during the past ten years.

6 (b) If the person is not an individual, a report of the
7 nature of its business operations during the past five years
8 or for such lesser period as the person and any predecessors
9 shall have been in existence; an informative description of the
10 business intended to be done by the person and the person's
11 subsidiaries; and a list of all individuals who are or who have
12 been selected to become directors or executive officers of the
13 person, or who perform or will perform functions appropriate to
14 such positions. Such list shall include for each individual
15 listed the information required by subparagraph division (a).

16 (2) The source, nature and amount of the consideration used
17 or to be used in effecting the merger or other acquisition
18 of control, a description of any transaction in which funds
19 were or are to be obtained for any such purpose, including
20 a pledge of the insurer's stock or the stock of any of its
21 subsidiaries or controlling affiliates, and the identity of
22 persons furnishing the consideration. However, if a source
23 of the consideration is a loan made in the lender's ordinary
24 course of business, the identity of the lender shall remain
25 confidential, if the person filing the statement so requests.

26 (3) Fully audited financial information as to the earnings
27 and financial condition of each acquiring party for the
28 preceding five fiscal years of each such acquiring party,
29 or for such lesser period as the acquiring party and any
30 predecessors of the acquiring party have been in existence, and
31 similar unaudited information as of a date not earlier than
32 ninety days prior to the filing of the statement.

33 (4) Any plans or proposals which each acquiring party may
34 have to liquidate the insurer, to sell the insurer's assets
35 or merge or consolidate it with any person, or to make any

1 other material change in the insurer's business or corporate
2 structure or management.

3 (5) The number of shares of any security referred to in
4 subsection 1 which each acquiring party proposes to acquire,
5 and the terms of the offer, request, invitation, agreement, or
6 acquisition referred to in subsection 1, and a statement as to
7 the method by which the fairness of the proposal was arrived
8 at.

9 (6) The amount of each class of any security referred to
10 in subsection 1 which is beneficially owned or concerning
11 which there is a right to acquire beneficial ownership by each
12 acquiring party.

13 (7) A full description of any contracts, arrangements,
14 or understandings with respect to any security referred to
15 in subsection 1 in which any acquiring party is involved,
16 including but not limited to transfer of any of the securities,
17 joint ventures, loan or option arrangements, puts or calls,
18 guarantees of loans, guarantees against loss or guarantees
19 of profits, division of losses or profits, or the giving
20 or withholding of proxies. The description shall identify
21 the persons with whom such contracts, arrangements, or
22 understandings have been entered into.

23 (8) A description of the purchase of any security
24 referred to in subsection 1 during the twelve calendar months
25 preceding the filing of the statement, by any acquiring party,
26 including the dates of purchase, names of the purchasers, and
27 consideration paid or agreed to be paid.

28 (9) A description of any recommendations to purchase any
29 security referred to in subsection 1 made during the twelve
30 calendar months preceding the filing of the statement, by any
31 acquiring party, or by anyone based upon interviews or at the
32 suggestion of the acquiring party.

33 (10) Copies of all tender offers for, requests or
34 invitations for tenders of, exchange offers for, and agreements
35 to acquire or exchange any securities referred to in subsection

1 1, and, if distributed, of additional soliciting material
2 relating to the securities.

3 (11) The terms of any agreement, contract, or understanding
4 made with any broker-dealer as to solicitation of securities
5 referred to in subsection 1 for tender, and the amount of
6 any fees, commissions, or other compensation to be paid to
7 broker-dealers with regard to the securities.

8 (12) An agreement by the person required to file a statement
9 as provided in subsection 1, that the person will provide the
10 annual enterprise risk report, specified in section 521A.104,
11 subsection 12, for so long as the person's control over the
12 insurer exists.

13 (13) An acknowledgment by the person required to file a
14 statement as provided in subsection 1 that the person and all
15 subsidiaries within the person's control in the insurance
16 company holding system will provide information to the
17 commissioner upon request as necessary to evaluate enterprise
18 risk to the insurer.

19 (14) Additional information as the commissioner may by rule
20 prescribe as necessary or appropriate for the protection of
21 policyholders of the insurer or in the public interest.

22 *b.* If the person required to file the statement referred
23 to in subsection 1 is a partnership, limited partnership,
24 syndicate, or other group, the commissioner may require that
25 the information required by paragraph "a", subparagraphs (1)
26 through (14) shall be given with respect to each partner
27 of the partnership or limited partnership, each member of
28 the syndicate or group, and each person who controls the
29 partner or member. If any partner, member, or person is a
30 corporation or the person required to file the statement
31 referred to in subsection 1 is a corporation, the commissioner
32 may require that the information required by paragraph "a",
33 subparagraphs (1) through (14) shall be given with respect to
34 the corporation, each officer and director of the corporation,
35 and each person who is directly or indirectly the beneficial

1 owner of more than ten percent of the outstanding voting
2 securities of the corporation.

3 *c.* If any material change occurs in the facts set forth
4 in the statement filed with the commissioner and sent to the
5 insurer pursuant to this section, an amendment setting forth
6 the change, together with copies of all documents and other
7 material relevant to the change, shall be filed with the
8 commissioner and sent to the insurer within two business days
9 after the person learns of the change.

10 3. *Alternative filing materials.* If any offer, request,
11 invitation, agreement, or acquisition referred to in subsection
12 1 is proposed to be made by means of a registration statement
13 under the federal Securities Act of 1933, as amended, or in
14 circumstances requiring the disclosure of similar information
15 under the federal Securities Exchange Act of 1934, as amended,
16 or under a state law requiring similar registration or
17 disclosure, the person required to file the statement referred
18 to in subsection 1 may utilize such documents in furnishing the
19 information called for by that statement.

20 4. *Approval by the commissioner — hearings.*

21 *a.* The commissioner shall approve any merger or other
22 acquisition of control referred to in subsection 1 if, after
23 a public hearing on such merger or acquisition of control,
24 the applicant has demonstrated to the commissioner all of the
25 following:

26 (1) After the merger or change of control, the domestic
27 insurer referred to in subsection 1 will be able to satisfy the
28 requirements for the issuance of a license to write the line or
29 lines of insurance for which it is presently licensed.

30 (2) The effect of the merger or other acquisition of control
31 will not substantially lessen competition in insurance in this
32 state or tend to create a monopoly.

33 (3) The financial condition of any acquiring party will not
34 jeopardize the financial stability of the insurer, or prejudice
35 the interest of its policyholders.

1 (4) The plans or proposals which the acquiring party has to
2 liquidate the insurer, sell its assets, or consolidate or merge
3 the insurer with any person, or to make any other material
4 change in the insurer's business or corporate structure or
5 management, are not unfair or unreasonable to policyholders of
6 the insurer and are not contrary to the public interest.

7 (5) The competence, experience, and integrity of those
8 persons who would control the operation of the insurer are
9 sufficient to indicate that the interests of policyholders of
10 the insurer and of the public will not be jeopardized by the
11 merger or other acquisition of control.

12 (6) The merger or other acquisition of control is not likely
13 to be hazardous or prejudicial to the members of the public
14 that buy insurance.

15 *b.* The public hearing referred to in paragraph "a" shall
16 be held within thirty days after the statement required by
17 subsection 1 is filed, and at least twenty days' notice of
18 the public hearing shall be given by the commissioner to the
19 person filing the statement. Not less than seven days' notice
20 of the public hearing shall be given by the person filing the
21 statement to the insurer and to such other persons as may be
22 designated by the commissioner. The commissioner shall make a
23 determination within the forty-five-day period preceding the
24 effective date of the proposed transaction. At the hearing,
25 the person filing the statement, the insurer, any person to
26 whom notice of hearing was sent, and any other person whose
27 interests may be affected shall have the right to present
28 evidence, examine and cross-examine witnesses, and offer oral
29 and written arguments and in connection therewith shall be
30 entitled to conduct discovery proceedings in the same manner as
31 is allowed in the district court of this state. All discovery
32 proceedings shall be concluded not later than three days prior
33 to the commencement of the public hearing.

34 *c.* If the proposed merger or acquisition of control will
35 require the approval of the commissioner of insurance from

1 more than one jurisdiction, the public hearing referred to in
2 paragraph "a" may be held on a consolidated basis upon request
3 of the person filing the statement required in subsection 1.
4 Such a person may file the statement required in subsection 1
5 with the national association of insurance commissioners within
6 five days of making the request for a public hearing. The
7 commissioner may opt out of participating in a consolidated
8 hearing, and shall provide notice to the person requesting
9 the consolidated hearing of the opt-out within ten days of
10 receipt of the statement required in subsection 1. A hearing
11 conducted on a consolidated basis shall be public and shall
12 be held within the United States before the commissioners
13 of the jurisdictions in which the insurers are domiciled.
14 The commissioners shall hear and receive evidence. A
15 commissioner may attend a consolidated hearing in person or by
16 telecommunication.

17 *d.* The commissioner may retain, at the acquiring party's
18 expense, any attorneys, actuaries, accountants, or other
19 experts not otherwise a part of the commissioner's staff as may
20 be reasonably necessary to assist the commissioner in reviewing
21 the proposed merger or acquisition of control.

22 *5. Exemptions.* The provisions of this section shall
23 not apply to any offer, request, invitation, agreement, or
24 acquisition which the commissioner by order shall exempt as not
25 having been made or entered into for the purpose and not having
26 the effect of changing or influencing the control of a domestic
27 insurer or as otherwise not comprehended within the purposes of
28 this section.

29 *6. Violations.* The following shall be violations of this
30 section:

31 *a.* The failure to file any statement, amendment, or other
32 material required to be filed pursuant to subsection 1 or 2.

33 *b.* The effectuation or any attempt to effectuate an
34 acquisition of control of, divestiture of, or merger with, a
35 domestic insurer unless the commissioner has given approval

1 thereto.

2 7. *Jurisdiction — consent to service of process.* The courts
3 of this state are hereby vested with jurisdiction over every
4 person not resident, domiciled, or authorized to do business
5 in this state who files a statement with the commissioner
6 under this section, and over all actions involving such
7 person arising out of violations of this section, and each
8 such person shall be deemed to have performed acts equivalent
9 to and constituting an appointment by the person of the
10 commissioner to be the person's true and lawful attorney upon
11 whom may be served all lawful process in any action, suit, or
12 proceeding arising out of violations of this section. Copies
13 of all lawful process shall be served on the commissioner and
14 transmitted by registered or certified mail by the commissioner
15 to the person at the person's last known address.

16 Sec. 4. NEW SECTION. 521A.104 **Registration of insurers.**

17 1. *Registration.*

18 a. An insurer authorized to do business in this state
19 which is a member of an insurance holding company system shall
20 register with the commissioner, except a foreign insurer
21 subject to registration requirements and standards adopted by
22 statute or regulation in the jurisdiction of its domicile which
23 are substantially similar to those contained in this section
24 and all of the following:

25 (1) Section 521A.105, subsection 1, paragraph "a", section
26 521A.105, subsection 2, and section 521A.105, subsection 4.

27 (2) Section 521A.105, subsection 1, paragraph "b", or a
28 provision requiring each registered insurer to keep current
29 the information required to be disclosed in its registration
30 statement by reporting all material changes or additions within
31 fifteen days after the end of the month in which it learns of
32 each change or addition.

33 b. An insurer subject to registration under this section
34 shall register within fifteen days after it becomes subject
35 to registration and annually thereafter by March 31 of each

1 year for the previous calendar year, unless the commissioner
2 for good cause shown extends the time for registration, and
3 then within the extended time. The commissioner may require
4 any insurer authorized to do business in the state which is a
5 member of an insurance holding company system, and which is
6 not subject to registration under this section, to furnish
7 a copy of the registration statement, the summary specified
8 in subsection 3, or other information filed by the insurance
9 company with the insurance regulatory authority of the
10 company's domiciliary jurisdiction.

11 2. *Information and form required.* Every insurer subject
12 to registration shall file a registration statement with the
13 commissioner on a form and in a format prescribed by the
14 national association of insurance commissioners, which shall
15 contain current information about:

16 a. The capital structure, general financial condition,
17 ownership, and management of the insurer and any person
18 controlling the insurer.

19 b. The identity and relationship of every member of the
20 insurance holding company system.

21 c. The following agreements in force, and transactions
22 currently outstanding or which have occurred during the last
23 calendar year, between the insurer and its affiliates:

24 (1) Loans, other investments, or purchases, sales, or
25 exchanges of securities of the affiliates by the insurer or of
26 the insurer by its affiliates.

27 (2) Purchases, sales, or exchanges of assets.

28 (3) Transactions not in the ordinary course of business.

29 (4) Guarantees or undertakings for the benefit of an
30 affiliate which result in an actual contingent exposure of the
31 insurer's assets to liability, other than insurance contracts
32 entered into in the ordinary course of the insurer's business.

33 (5) All management agreements, service contracts, and
34 cost-sharing arrangements.

35 (6) Reinsurance agreements.

1 (7) Dividends and other distributions to shareholders.

2 (8) Consolidated tax allocation agreements.

3 *d.* A pledge of the insurer's stock, including stock of
4 a subsidiary or controlling affiliate, for a loan made to a
5 member of the insurance holding company system.

6 *e.* If requested by the commissioner, the insurer shall
7 include financial statements of or within an insurance
8 holding company system, including all affiliates. Financial
9 statements may include but are not limited to annual audited
10 financial statements filed with the United States securities
11 and exchange commission pursuant to the federal Securities Act
12 of 1933, as amended, or the federal Securities Exchange Act
13 of 1934, as amended. An insurer required to file financial
14 statements pursuant to this paragraph may satisfy the request
15 by providing the commissioner with the most recently filed
16 parent corporation financial statements that have been filed
17 with the securities and exchange commission.

18 *f.* Other matters concerning transactions between registered
19 insurers and any affiliates as may be included from time to
20 time in any registration forms adopted or approved by the
21 commissioner.

22 *g.* Statements that the insurer's board of directors
23 oversees corporate governance and internal controls and that
24 the insurer's officers or senior management have approved,
25 implemented, and continue to maintain and monitor corporate
26 governance and internal control procedures.

27 *h.* Any other information required by the commissioner by
28 rule.

29 3. *Summary of changes to registration statement.* All
30 registration statements shall contain a summary outlining
31 all items in the current registration statement representing
32 changes from the prior registration statement.

33 4. *Materiality.* Information need not be disclosed on the
34 registration statement if the information is not material for
35 the purposes of this section. Unless the commissioner by rule

1 or order provides otherwise, sales, purchases, exchanges, loans
2 or extensions of credit, or investments or guarantees involving
3 one-half of one percent or less of an insurer's admitted assets
4 as of the thirty-first day of December next preceding are not
5 material for purposes of this section.

6 5. *Reporting of dividends to shareholders.* Subject
7 to section 521A.105, subsection 2, a registered insurer
8 shall report to the commissioner all dividends and other
9 distributions to shareholders within fifteen days following
10 the declaration of the dividends or distributions. The report
11 shall also include a schedule setting forth all dividends or
12 other distributions made within the previous twelve months.

13 6. *Information of insurers.* Any person within an insurance
14 holding company system subject to registration is required to
15 provide complete and accurate information to an insurer if the
16 information is reasonably necessary to enable the insurer to
17 comply with the provisions of this chapter.

18 7. *Termination of registration.* The commissioner shall
19 terminate the registration of any insurer that demonstrates
20 that it no longer is a member of an insurance holding company
21 system.

22 8. *Consolidated filing.* The commissioner may require or
23 allow two or more affiliated insurers subject to registration
24 to file a consolidated registration statement.

25 9. *Alternative registration.* The commissioner may allow an
26 insurer authorized to do business in this state which is part
27 of an insurance holding company system to register on behalf
28 of any affiliated insurer which is required to register under
29 subsection 1 and to file all information and material required
30 to be filed under this section.

31 10. *Exemptions.* The provisions of this section shall not
32 apply to any insurer, information, or transaction if, and to
33 the extent that, the commissioner by rule, regulation, or order
34 exempts the same from the provisions of this section.

35 11. *Disclaimer.* Any person may file with the commissioner

1 a disclaimer of affiliation with any authorized insurer, or an
2 insurer or any member of an insurance holding company system
3 may file a disclaimer of affiliation with any person. The
4 disclaimer shall fully disclose all material relationships and
5 the basis for affiliation between the person and the insurer
6 as well as the basis for disclaiming the affiliation. A
7 disclaimer of affiliation shall be deemed to have been allowed,
8 unless the commissioner within thirty days following receipt
9 of a complete disclaimer, notifies the filing party that the
10 disclaimer is disallowed. If a disclaimer is disallowed,
11 the commissioner shall grant a request for administrative
12 hearing on the disallowance made by the party that filed the
13 disclaimer. The disclaiming party shall be relieved of the
14 party's duty to register under this section if the disclaimer
15 is deemed allowed or is allowed by the commissioner pursuant
16 to this subsection.

17 12. *Enterprise risk filing.*

18 a. Beginning May 1, 2014, and every May 1 thereafter,
19 the ultimate controlling person of every insurer subject to
20 registration under this section shall also file an annual
21 enterprise risk report. The commissioner may, for good cause
22 shown, extend the time for filing the annual report. The
23 report shall, to the best of the ultimate controlling person's
24 knowledge and belief, identify material risks within the
25 insurance holding company system that could pose enterprise
26 risk to the insurer. The report shall be filed with the lead
27 state commissioner of the insurance holding company system
28 as determined by the procedures contained in the financial
29 analysis handbook adopted by the national association of
30 insurance commissioners.

31 b. An ultimate controlling person having direct written and
32 assumed premiums of less than five hundred million dollars in
33 any calendar year for all insurers cumulatively, may request
34 an exemption from the requirement to file an enterprise risk
35 report. An ultimate controlling person requesting such an

1 exemption shall file with the commissioner a written statement
2 addressing the reasons why the exemption should be granted.
3 If the commissioner finds, upon review of this statement,
4 that the ultimate controlling person has direct written and
5 assumed premiums of less than five hundred million dollars and
6 that compliance with the requirements of this subsection will
7 constitute a financial or organizational hardship upon the
8 ultimate controlling person, the exemption shall be granted.

9 13. *Violations.* The failure to file a registration
10 statement or a summary of the registration statement, or an
11 enterprise risk report required by this section within the time
12 specified for the filing is a violation of this section.

13 Sec. 5. NEW SECTION. 521A.105 **Standards for and management**
14 **of an insurer within an insurance holding company system.**

15 1. *Transactions within an insurance holding company system.*

16 a. Transactions within an insurance holding company system
17 to which an insurer subject to registration is a party, are
18 subject to the following standards:

19 (1) The terms shall be fair and reasonable.

20 (2) Agreements for cost-sharing services and management
21 services shall include such provisions as required by rules
22 adopted by the commissioner.

23 (3) Charges or fees for services performed shall be
24 reasonable.

25 (4) Expenses incurred and payment received shall be
26 allocated to the insurer in conformity with customary insurance
27 accounting practices consistently applied.

28 (5) The books, accounts, and records of each party to
29 all such transactions shall be so maintained as to clearly
30 and accurately disclose the precise nature and details of
31 the transactions including such accounting information as is
32 necessary to support the reasonableness of the charges or fees
33 to the respective parties.

34 (6) After any material transaction with an affiliate and
35 after any dividends or distributions to shareholder affiliates,

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

4 *b.* A domestic insurer and a person in the domestic
5 insurer's insurance holding company system shall not enter
6 into any of the transactions described in subparagraphs
7 (1) through (7), including amendments to or modifications
8 of affiliate agreements previously filed pursuant to this
9 section, which are subject to any materiality standards
10 contained in subparagraphs (1) through (7), unless the
11 domestic insurer notifies the commissioner in writing of its
12 intention to enter into the transaction at least thirty days
13 prior to entering into the transaction, or within a shorter
14 time permitted by the commissioner, and the commissioner has
15 not disapproved of the transaction within that time period.
16 Notice of amendments to or modifications of agreements shall
17 include the reasons for the change and the financial impact
18 of the change on the domestic insurer. Informal notice of a
19 change shall be reported to the commissioner, within thirty
20 days after termination of a previously filed agreement,
21 for a determination of the type of filing required, if any.
22 This lettered paragraph "b" is applicable to the following
23 transactions:

24 (1) Sales, purchases, exchanges, loans, extensions of
25 credit, or investments, if the transaction involves an amount
26 which is equal to or exceeds the following:

27 (a) With respect to nonlife insurers, the lesser of three
28 percent of the insurer's admitted assets or twenty-five percent
29 of surplus as regards policyholders as of the thirty-first day
30 of December next preceding.

31 (b) With respect to life insurers, three percent of the
32 insurer's admitted assets as of the thirty-first day of
33 December next preceding.

34 (2) Loans or extensions of credit to any person who is not
35 an affiliate, where the insurer makes loans or extensions of

1 credit with the agreement or understanding that the proceeds of
2 the transactions, in whole or in substantial part, are to be
3 used to make loans or extensions of credit, to purchase assets
4 of, or to make investments in, any affiliate of the insurer
5 making the loans or extensions of credit if the transaction
6 involves an amount which is equal to or exceeds the following:

7 (a) With respect to nonlife insurers, the lesser of three
8 percent of the insurer's admitted assets or twenty-five percent
9 of surplus as regards policyholders as of the thirty-first day
10 of December next preceding.

11 (b) With respect to life insurers, three percent of the
12 insurer's admitted assets as of the thirty-first day of
13 December next preceding.

14 (3) Reinsurance agreements or modifications to such
15 agreements including the following:

16 (a) All reinsurance pooling agreements.

17 (b) All agreements or modifications to such agreements in
18 which the reinsurance premium or a change in the insurer's
19 liabilities, or the projected reinsurance premium or a change
20 in the insurer's liabilities in any of the next three years,
21 equals or exceeds five percent of the insurer's surplus as
22 regards policyholders, as of the thirty-first day of December
23 next preceding, including those agreements which may require
24 as consideration the transfer of assets from an insurer to a
25 nonaffiliate, if an agreement or understanding exists between
26 the insurer and nonaffiliate that any portion of the assets
27 will be transferred to one or more affiliates of the insurer.

28 (4) All management agreements, service contracts, tax
29 allocation agreements, guarantees, and other cost-sharing
30 arrangements.

31 (5) Guarantees when made by a domestic insurer, provided,
32 however, that a guarantee that is quantifiable as to amount
33 is not subject to the notice requirements of this lettered
34 paragraph "b" unless the guarantee exceeds the lesser of
35 one-half of one percent of the insurer's admitted assets or

1 ten percent of surplus as regards policyholders as of the
2 thirty-first day of December next preceding. Further, all
3 guarantees that are not quantifiable as to amount are subject
4 to the notice requirements of this lettered paragraph "b".

5 (6) Direct or indirect acquisitions of or investments in
6 a person that controls the insurer or is an affiliate of an
7 insurer in an amount that, together with its present holdings
8 in such investments, exceeds two and one-half percent of
9 the insurer's surplus to policyholders. Direct or indirect
10 acquisitions of or investments in subsidiaries acquired
11 pursuant to section 521A.102, or in nonsubsidiary insurance
12 affiliates that are subject to the provisions of this chapter
13 are exempt from this requirement.

14 (7) Any material transactions, specified by regulation,
15 that the commissioner determines may adversely affect the
16 interests of the insurer's policyholders.

17 c. Nothing in this subsection shall be deemed to authorize
18 or permit any transactions that, in the case of an insurer not
19 a member of the same insurance holding company system, would
20 be otherwise contrary to law.

21 d. A domestic insurer shall not enter into transactions
22 which are part of a plan or series of like transactions, with a
23 person or persons within the insurance holding company system
24 if the purpose of those separate transactions is to avoid
25 the statutory threshold amount and thus avoid review of the
26 transactions that would otherwise occur. If the commissioner
27 determines that separate transactions were entered into over
28 any twelve-month period for that purpose, the commissioner may
29 exercise authority under section 521A.111.

30 e. The commissioner, in reviewing transactions pursuant to
31 paragraph "b", subparagraph (1), shall consider whether the
32 transactions comply with the standards set forth in paragraph
33 "a", subparagraph (1), and whether the transactions may
34 adversely affect the interests of policyholders.

35 f. A domestic insurer shall notify the commissioner

1 within thirty days of an investment of the insurer in any one
2 corporation if the total investment in the corporation by the
3 insurance holding company system exceeds ten percent of the
4 corporation's voting securities.

5 2. *Dividends and other distributions.*

6 a. A domestic insurer may declare and pay dividends to its
7 shareholders only from earned surplus. Assets revalued by
8 the board of directors of the insurer shall not be included
9 in earned surplus until thirty days after the commissioner
10 has received notice of the revaluation and approved the
11 revaluation. The commissioner shall approve or disapprove the
12 revaluation within thirty days after receiving notice of the
13 revaluation, unless for good cause the commissioner extends the
14 approval period for an additional thirty days. For purposes
15 of this paragraph, "earned surplus" means surplus as regards
16 policyholders less paid-in and contributed surplus, and may
17 include a fair revaluation of assets by the board of directors
18 of the insurer that is reasonable under the circumstances.

19 b. (1) A domestic insurer shall not pay any extraordinary
20 dividend or make any other extraordinary distribution to
21 its shareholders until thirty days after the commissioner
22 has received notice of the declaration of the extraordinary
23 dividend or distribution, and within that thirty days the
24 commissioner has either approved payment of the dividend or
25 distribution or has not disapproved payment of the dividend or
26 distribution.

27 (2) For purposes of this lettered paragraph "b",
28 "extraordinary dividend or distribution" means any dividend
29 or distribution of cash or other property, whose fair market
30 value together with that of other dividends or distributions
31 made within the preceding twelve months exceeds the greater of
32 either of the following:

33 (a) Ten percent of the insurer's surplus as regards
34 policyholders as of the thirty-first day of December next
35 preceding.

1 (b) The net gain from operations of the insurer, if
2 the insurer is a life insurer, or the net income of the
3 insurer, if the insurer is not a life insurer, not including
4 realized capital gains, for the twelve-month period ending the
5 thirty-first day of December next preceding, but not including
6 pro rata distributions of any class of the insurer's own
7 securities.

8 (3) Notwithstanding any other provision of law, an insurer
9 may declare an extraordinary dividend or distribution that
10 is conditional upon the commissioner's approval, and the
11 declaration shall not confer rights upon shareholders until
12 either of the following occurs:

13 (a) The commissioner has approved payment of the dividend
14 or distribution within thirty days of receiving notice of the
15 declaration.

16 (b) The commissioner has not disapproved payment of the
17 dividend or distribution within thirty days of receiving notice
18 of the declaration.

19 3. *Management of domestic insurers subject to registration.*

20 a. Notwithstanding the control of a domestic insurer by any
21 person, the officers and directors of the insurer shall not be
22 relieved of any obligation or liability to which they would
23 otherwise be subject by law, and the insurer shall be managed
24 so as to ensure its separate operating identity consistent with
25 the provisions of this chapter.

26 b. Nothing in this section shall preclude a domestic insurer
27 from having or sharing common management or cooperative or
28 joint use of personnel, property, or services with one or more
29 other persons under arrangements that meet the standards set
30 forth in subsection 1, paragraph "a".

31 c. Not less than one-third of the directors of a domestic
32 insurer, and not less than one-third of the members of each
33 committee of the board of directors of a domestic insurer shall
34 be persons who are not officers or employees of the insurer
35 or of any entity controlling, controlled by, or under common

1 control with the insurer and who are not beneficial owners
2 of a controlling interest in the voting stock of the insurer
3 or entity. At least one such person must be included in any
4 quorum for the transaction of business at any meeting of the
5 board of directors or any committee of the board.

6 *d.* The board of directors of a domestic insurer shall
7 establish one or more committees comprised solely of directors
8 who are not officers or employees of the insurer or of any
9 entity controlling, controlled by, or under common control with
10 the insurer and who are not beneficial owners of a controlling
11 interest in the voting stock of the insurer or any such entity.
12 The committee or committees shall have responsibility for
13 nominating candidates for director for election by shareholders
14 or policyholders, evaluating the performance of officers deemed
15 to be principal officers of the insurer, and recommending to
16 the board of directors the selection and compensation of the
17 principal officers of the insurer.

18 *e.* The provisions of paragraphs "*c*" and "*d*" shall not
19 apply to a domestic insurer if the person controlling the
20 domestic insurer, such as an insurer, a mutual insurance
21 holding company, or a publicly held corporation, has a board
22 of directors and committees of that board that meet the
23 requirements of paragraphs "*c*" and "*d*" with respect to such
24 controlling entity.

25 *f.* An insurer may apply to the commissioner for a waiver
26 from the requirements of this subsection if the insurer's
27 annual direct written and assumed premium, excluding premiums
28 reinsured with the federal crop insurance corporation and the
29 federal flood program, is less than three hundred million
30 dollars. An insurer may also apply to the commissioner for
31 a waiver from the requirements of this subsection based upon
32 unique circumstances. The commissioner may consider various
33 factors in determining whether to grant such a waiver including
34 but not limited to the type of business entity, the volume of
35 business written, availability of qualified board members, or

1 the ownership or organizational structure of the entity.

2 4. *Adequacy of surplus.* For purposes of this chapter
3 in determining whether an insurer's surplus as regards
4 policyholders is reasonable in relation to the insurer's
5 outstanding liabilities and adequate to meet its financial
6 needs, the following factors, among others, shall be
7 considered:

8 a. The size of the insurer as measured by its assets,
9 capital and surplus, reserves, premium writings, insurance in
10 force, and other appropriate criteria.

11 b. The extent to which the insurer's business is diversified
12 among the several lines of insurance.

13 c. The number and size of risks insured in each line of
14 business.

15 d. The extent of the geographical dispersion of the
16 insurer's insured risks.

17 e. The nature and extent of the insurer's reinsurance
18 program.

19 f. The quality, diversification, and liquidity of the
20 insurer's investment portfolio.

21 g. The recent past and projected future trends in the size
22 of the insurer's surplus as regards policyholders.

23 h. The surplus as regards policyholders maintained by other
24 comparable insurers.

25 i. The adequacy of the insurer's reserves.

26 j. The quality and liquidity of investments in affiliates.
27 The commissioner may treat any such investment as a disallowed
28 asset for purposes of determining the adequacy of surplus as
29 regards policyholders whenever in the commissioner's judgment
30 such investment so warrants.

31 Sec. 6. NEW SECTION. 521A.106 Examination.

32 1. *Power of commissioner.* Subject to the limitation
33 contained in this section and in addition to the powers
34 which the commissioner has under chapter 507 relating to the
35 examination of insurers, the commissioner has the power to

1 examine any insurer registered under section 521A.104 and
2 its affiliates to ascertain the financial condition of the
3 insurer, including the enterprise risk to the insurer by the
4 ultimate controlling party, or by any entity or combination of
5 entities within the insurance holding company system, or by the
6 insurance holding company system on a consolidated basis.

7 2. *Access to books and records.*

8 a. The commissioner may order an insurer registered
9 under section 521A.104 to produce records, books, or other
10 information papers in the possession of the insurer or its
11 affiliates as reasonably necessary to determine compliance with
12 this chapter.

13 b. To determine compliance with this chapter, the
14 commissioner may order any insurer registered under section
15 521A.104 to produce information not in the possession of the
16 insurer if the insurer can obtain access to such information
17 pursuant to contractual relationships, statutory obligations,
18 or other methods. In the event an insurer cannot obtain the
19 information requested by the commissioner, the insurer shall
20 provide the commissioner a detailed explanation of the reason
21 that the insurer cannot obtain the information and the identity
22 of the holder of the information. Whenever it appears to the
23 commissioner that the detailed explanation is without merit,
24 the commissioner may require, after notice and hearing, the
25 insurer to pay a penalty of five hundred dollars for each day
26 of delay in providing the information, or may suspend or revoke
27 the insurer's license.

28 3. *Use of consultants.* The commissioner may retain at
29 the registered insurer's expense such attorneys, actuaries,
30 accountants, and other experts not otherwise a part of the
31 commissioner's staff as shall be reasonably necessary to assist
32 in the conduct of the examination under subsection 1. Any
33 persons so retained shall be under the direction and control of
34 the commissioner and shall act in a purely advisory capacity.

35 4. *Expenses.* Each registered insurer producing for

1 examination records, books, and papers pursuant to subsection
2 1 shall be liable for and shall pay the expense of such
3 examination in accordance with section 507.7.

4 5. *Compelling production.*

5 a. If an insurer fails to comply with an order to produce
6 information pursuant to this section, the commissioner
7 may examine the affiliates of the insurer to obtain the
8 information. The commissioner may also issue subpoenas,
9 administer oaths, and examine under oath any person, for
10 purposes of determining compliance with this section.

11 b. Upon the failure or refusal of any person to obey a
12 subpoena, the commissioner may petition a court of competent
13 jurisdiction, and upon proper showing, the court may enter
14 an order compelling the witness to appear and testify or to
15 produce documentary evidence. Failure to obey such a court
16 order shall be punishable as contempt of court. Every person
17 shall be obliged to attend as a witness at the time and place
18 specified in the subpoena, anywhere in the state. The witness
19 shall be entitled to the same fees, mileage, and actual
20 expenses, if claimed, that are allowed witnesses in district
21 court, which fees, mileage, and actual expenses, if any,
22 necessarily incurred in securing the attendance of witnesses
23 and their testimony, shall be itemized and charged against, and
24 paid by, the company being examined.

25 Sec. 7. NEW SECTION. 521A.107 **Supervisory colleges.**

26 1. *Power of commissioner.* With respect to any insurer
27 registered under section 521A.104, and in accordance with
28 subsection 3, the commissioner may participate in a supervisory
29 college for any domestic insurer that is part of an insurance
30 holding company system with international operations, in order
31 to determine compliance by the insurer with the provisions of
32 this chapter. The powers of the commissioner with respect
33 to a supervisory college include but are not limited to the
34 following:

35 a. Initiating the establishment of a supervisory college.

1 *b.* Clarifying the membership and participation of other
2 supervisors in the supervisory college.

3 *c.* Clarifying the functions of the supervisory college and
4 the role of other regulators, including the establishment of a
5 group-wide supervisor.

6 *d.* Coordinating the ongoing activities of the supervisory
7 college, including planning meetings, supervisory activities,
8 and processes for sharing information.

9 *e.* Establishing a crisis management plan.

10 2. *Expenses.* Each registered insurer subject to this
11 section shall be liable for and shall pay the reasonable
12 expenses of the commissioner's participation in a supervisory
13 college in accordance with subsection 3, including reasonable
14 travel expenses. For purposes of this section, a supervisory
15 college may be convened as either a temporary or permanent
16 forum for communication and cooperation between the regulators
17 charged with the supervision of an insurer and its affiliates,
18 and the commissioner may establish a regular assessment to the
19 insurer for the payment of expenses under this subsection.

20 3. *Participation.* In order to assess the business
21 strategy, financial position, legal and regulatory position,
22 risk exposure, risk management and governance processes,
23 and as part of the examination of individual insurers in
24 accordance with section 521A.106, the commissioner may
25 participate in a supervisory college with other regulators
26 charged with supervision of the insurer or its affiliates,
27 including other state, federal, and international regulatory
28 agencies. The commissioner may enter into agreements in
29 accordance with section 521A.108, subsection 3, providing the
30 basis for cooperation between the commissioner and the other
31 regulatory agencies, and the activities of the supervisory
32 college. Nothing in this section shall delegate to the
33 supervisory college the authority of the commissioner to
34 regulate or supervise the insurer or its affiliates within the
35 commissioner's jurisdiction.

1 Sec. 8. NEW SECTION. **521A.108 Confidential treatment.**

2 1. All documents, materials, or other information in the
3 possession or control of the commissioner that is obtained
4 by or disclosed to the commissioner or any other person in
5 the course of an examination or investigation made pursuant
6 to section 521A.106 and all information reported pursuant to
7 section 521A.103, subsection 2, paragraph "a", subparagraphs
8 (12) and (13), and sections 521A.104 and 521A.105, shall be
9 given confidential treatment and shall not be subject to
10 subpoena, shall not be subject to discovery or be admissible
11 in evidence in any private civil action, and shall not be
12 made public by the commissioner or any other person, except
13 to insurance departments of other jurisdictions, without the
14 prior written consent of the insurer to which the information
15 pertains unless the commissioner, after giving the insurer
16 and its affiliates who would be affected thereby notice and
17 opportunity to be heard, determines that the interests of
18 policyholders, shareholders, or the public will be served
19 by the publication of the information, in which event the
20 commissioner may publish all or any part of the information in
21 such manner as the commissioner may deem appropriate.

22 2. The commissioner or any other person who received
23 documents, materials, or other information while acting under
24 the authority of the commissioner or with whom such documents,
25 materials, or other information are shared pursuant to this
26 chapter shall not be permitted or required to testify in any
27 private civil action concerning any confidential documents,
28 materials, or other information subject to subsection 1.

29 3. In order to assist in the performance of the
30 commissioner's duties, the commissioner may do any of the
31 following:

32 a. Share documents, materials, or other information,
33 including the confidential and privileged documents, materials,
34 or information subject to subsection 1, with other state,
35 federal, and international regulatory agencies, with the

1 national association of insurance commissioners and its
2 affiliates and subsidiaries, and with state, federal, and
3 international law enforcement authorities, including members
4 of any supervisory college described in section 521A.107,
5 provided that the recipient agrees in writing to maintain
6 the confidentiality and privileged status of the documents,
7 materials, or other information, and verifies in writing the
8 legal authority to maintain confidentiality and privilege.

9 *b.* Notwithstanding paragraph *"a"*, the commissioner may
10 only share confidential and privileged documents, materials,
11 or other information reported pursuant to section 521A.104,
12 subsection 12, with commissioners of states having statutes
13 or regulations substantially similar to subsection 1 of this
14 section and who have agreed in writing not to disclose such
15 information.

16 *c.* Receive documents, materials, or other information,
17 including otherwise confidential and privileged documents,
18 materials, or other information from the national association
19 of insurance commissioners and its affiliates and subsidiaries,
20 and from regulatory and law enforcement officials of other
21 foreign or domestic jurisdictions, and shall maintain as
22 confidential or privileged any documents, materials, or
23 other information received with notice or the understanding
24 that it is confidential or privileged under the laws of the
25 jurisdiction that is the source of the document, material, or
26 other information.

27 *d.* Enter into a written agreement with the national
28 association of insurance commissioners that is consistent with
29 this subsection, governing the sharing and use of information
30 provided pursuant to this chapter, and that does all of the
31 following:

32 (1) Specifies procedures and protocols regarding the
33 confidentiality and security of information shared with
34 the national association of insurance commissioners and its
35 affiliates and subsidiaries pursuant to this chapter, including

1 procedures and protocols for the sharing of information by the
2 national association of insurance commissioners with other
3 state, federal, or international regulators.

4 (2) Specifies that ownership of information shared with
5 the national association of insurance commissioners and its
6 affiliates and subsidiaries pursuant to this chapter remains
7 with the commissioner and the national association of insurance
8 commissioners' use of the information is subject to the
9 direction of the commissioner.

10 (3) Requires that prompt notice be given to an insurer whose
11 confidential or privileged information in the possession of
12 the national association of insurance commissioners pursuant
13 to this chapter is subject to a request or subpoena to the
14 national association of insurance commissioners for disclosure
15 or production.

16 (4) Requires the national association of insurance
17 commissioners and its affiliates and subsidiaries to consent to
18 intervention by an insurer in any judicial or administrative
19 action in which the national association of insurance
20 commissioners and its affiliates and subsidiaries may be
21 required to disclose confidential information about the insurer
22 that was shared with the national association of insurance
23 commissioners and its affiliates and subsidiaries pursuant to
24 this chapter.

25 4. The sharing of documents, materials, or other
26 information by the commissioner pursuant to this chapter
27 shall not constitute a delegation of regulatory authority or
28 rulemaking, and the commissioner is solely responsible for the
29 administration, execution, and enforcement of the provisions of
30 this chapter.

31 5. No waiver of any applicable privilege or claim of
32 confidentiality in documents, materials, or other information
33 shall occur as a result of their disclosure to the commissioner
34 under this section or as a result of the sharing of those
35 documents, materials, or other information as authorized in

1 subsection 3.

2 6. Documents, materials, or other information in the
3 possession or control of the national association of insurance
4 commissioners pursuant to this chapter shall be confidential
5 and privileged, shall not be subject to chapter 22, shall not
6 be subject to subpoena, and shall not be subject to discovery
7 or admissible in evidence in any private civil action.

8 Sec. 9. NEW SECTION. 521A.109 Rules.

9 The commissioner may, upon notice and opportunity for all
10 interested persons to be heard, issue such rules and orders as
11 shall be necessary to carry out the provisions of this chapter.

12 Sec. 10. NEW SECTION. 521A.110 Injunctions — prohibitions
13 against voting securities — sequestration of voting securities.

14 1. *Injunctions.* Whenever it appears to the commissioner
15 that any insurer or any director, officer, employee, or agent
16 of the insurer has committed or is about to commit a violation
17 of this chapter or any rule, regulation, or order issued by the
18 commissioner under this chapter, the commissioner may apply to
19 the district court of the county in which the principal office
20 of the insurer is located or if such insurer has no such office
21 in this state then to the district court of Polk county for an
22 order enjoining the insurer or director, officer, employee, or
23 agent of the insurer from violating or continuing to violate
24 this chapter or any such rule, regulation, or order, and for
25 such other equitable relief as the nature of the case and
26 the interests of the insurer's policyholders, creditors, and
27 shareholders or the public may require.

28 2. *Voting of securities — when prohibited.* No security
29 which is the subject of any agreement or arrangement regarding
30 acquisition, or which is acquired or to be acquired, in
31 contravention of the provisions of this chapter or of any rule,
32 regulation, or order issued by the commissioner under this
33 chapter may be voted at any shareholders' meeting, or may be
34 counted for quorum purposes, and any action of shareholders
35 requiring the affirmative vote of a percentage of shares

1 may be taken as though such securities were not issued and
2 outstanding; but no action taken at any such meeting shall
3 be invalidated by the voting of such securities, unless the
4 action would materially affect control of the insurer or unless
5 the district court has so ordered. If any insurer or the
6 commissioner has reason to believe that any security of the
7 insurer has been or is about to be acquired in contravention
8 of the provisions of this chapter or of any rule, regulation,
9 or order issued by the commissioner under this chapter, the
10 insurer or the commissioner may apply to the district court of
11 Polk county or to the district court of the county in which
12 the insurer has its principal place of business to enjoin any
13 offer, request, invitation, agreement, or acquisition made in
14 contravention of section 521A.103 or any rule, regulation, or
15 order issued by the commissioner under that section to enjoin
16 the voting of any security so acquired, to void any vote of
17 the security already cast at any meeting of shareholders, and
18 for such other equitable relief as the nature of the case and
19 the interests of the insurer's policyholders, creditors, and
20 shareholders or the public may require.

21 3. *Sequestration of voting securities.* In any case
22 where a person has acquired or is proposing to acquire any
23 voting securities in violation of this chapter or any rule,
24 regulation, or order issued by the commissioner under this
25 chapter, the district court of Polk county or the district
26 court of the county in which the insurer has its principal
27 place of business may, on such notice as the court deems
28 appropriate, upon the application of the insurer or the
29 commissioner seize or sequester any voting securities of the
30 insurer owned directly or indirectly by the person, and issue
31 such orders as may be appropriate to effectuate the provisions
32 of this chapter. Notwithstanding any other provisions of law,
33 for the purposes of this chapter the situs of the ownership of
34 the securities of domestic insurers shall be deemed to be in
35 this state.

1 Sec. 11. NEW SECTION. 521A.111 **Sanctions and penalties.**

2 1. If the commissioner finds after notice and hearing that
3 an insurer subject to registration under section 521A.104
4 failed without just cause to file a registration statement as
5 required in this chapter, the insurer shall be required to pay
6 a penalty of one thousand dollars for each day of delay. The
7 penalty shall be recovered by the commissioner and deposited in
8 the general fund of the state. The maximum penalty under this
9 section is ten thousand dollars. The commissioner may reduce
10 the penalty if the insurer demonstrates that the imposition
11 of the penalty would constitute a financial hardship to the
12 insurer.

13 2. *a.* A director or officer of an insurance holding company
14 system who does any of the following is subject to the civil
15 penalty imposed under paragraph "b":

16 (1) Knowingly participates in or assents to transactions or
17 investments which have not been properly reported or submitted
18 pursuant to section 521A.104, subsection 1, section 521A.105,
19 subsection 1, paragraph "b", or section 521A.105, subsection 2.

20 (2) Knowingly permits any of the officers or agents of an
21 insurer to engage in transactions or make investments which
22 have not been properly reported or submitted pursuant to
23 section 521A.104, subsection 1, section 521A.105, subsection 1,
24 paragraph "b", or section 521A.105, subsection 2.

25 (3) Knowingly violates any other provision of this chapter.

26 *b.* An officer or director of an insurance holding company
27 system who commits any of the acts or omissions listed
28 in paragraph "a" shall pay, in the person's individual
29 capacity, a civil penalty of not more than one thousand
30 dollars per violation, after notice and hearing before the
31 commissioner. In determining the amount of the civil penalty,
32 the commissioner shall take into account the appropriateness
33 of the penalty with respect to the gravity of the violation,
34 the history of previous violations, and such other matters as
35 justice may require.

1 3. Whenever it appears to the commissioner that an insurer
2 subject to this chapter or a director, officer, employee,
3 or agent of such an insurer, has engaged in a transaction
4 or entered into a contract which is subject to section
5 521A.105 and which would not have been approved had approval
6 been requested, the commissioner may order the insurer to
7 immediately cease and desist any further activity under
8 that transaction or contract. After notice and hearing, the
9 commissioner may also order the insurer to void any contracts
10 and restore the status quo if the commissioner finds that
11 action is in the best interest of the policyholders, creditors,
12 or the public.

13 4. Whenever it appears to the commissioner that an insurer
14 or a director, officer, agent, or employee of an insurer
15 has committed a willful violation of this chapter, the
16 commissioner may refer the matter to the attorney general or
17 to the appropriate county attorney who may institute criminal
18 proceedings against the insurer or the responsible director,
19 officer, agent, or employee in the district court of the county
20 in which the principal office of the insurer is located, or if
21 the insurer has no office in this state, then in the district
22 court of Polk county. An insurer or individual who willfully
23 violates this chapter is guilty of a class "D" felony.

24 5. A director, officer, or employee of an insurance holding
25 company system who willfully and knowingly subscribes to or
26 makes or causes to be made any false statements, false reports,
27 or false filings with the intent to deceive the commissioner in
28 the performance of the commissioner's duties under this chapter
29 is guilty of a class "D" felony. Any fines imposed shall be
30 paid by the director, officer, or employee in the person's
31 individual capacity.

32 6. Whenever it appears to the commissioner that a person
33 has violated the provisions of section 521A.103 and the
34 violation prevents the full understanding of the enterprise
35 risk to the insurer by affiliates or by the insurance holding

1 company system, the violation may serve as an independent basis
2 for disapproving dividends or distributions and for placing
3 the insurer under an order of supervision in accordance with
4 chapter 507C.

5 Sec. 12. NEW SECTION. 521A.112 **Receivership.**

6 Whenever it appears to the commissioner that any person
7 has committed a violation of this chapter which so impairs
8 the financial condition of a domestic insurer as to threaten
9 insolvency or make the further transaction of business
10 by the insurer hazardous to its policyholders, creditors,
11 shareholders, or the public, then the commissioner may proceed
12 as provided in chapter 507C to take possession of the property
13 of the domestic insurer and to conduct the insurer's business.

14 Sec. 13. NEW SECTION. 521A.113 **Recovery.**

15 1. Subject to subsections 2 through 4, if an order for
16 liquidation, conservation, or rehabilitation of a domestic
17 insurer has been entered, the receiver appointed under the
18 order may recover on behalf of the insurer either of the
19 following if the distribution or payment was made within one
20 year preceding the filing of the petition for liquidation,
21 conservation, or rehabilitation:

22 a. From a parent corporation, holding company, affiliate, or
23 other person who otherwise controlled the insurer, the amount
24 of distributions, other than distributions of shares of the
25 same class of stock, paid by the insurer on its capital stock.

26 b. Any payment in the form of a bonus, termination
27 settlement, or extraordinary lump sum salary adjustment made
28 by the insurer or a subsidiary of the insurer to a director,
29 officer, agent, or employee.

30 2. A distribution is not recoverable if the parent
31 corporation or affiliate, or other person, shows that when the
32 distribution was paid it was lawful and reasonable, and that
33 the insurer did not know and could not reasonably have known
34 that the distribution might adversely affect the ability of the
35 insurer to fulfill its contractual obligations.

1 3. A person who was a parent corporation or holding company,
2 or a person who otherwise controlled the insurer or affiliate
3 at the time the distributions were paid is liable only up to
4 the amount of distributions or payments under subsection 1 that
5 the person received. A person who otherwise controlled the
6 insurer at the time the distributions were declared is liable
7 only up to the amount of distributions the person would have
8 received if the person had been paid immediately. If two or
9 more persons are liable with respect to the same distributions,
10 they shall be jointly and severally liable.

11 4. The maximum amount recoverable under this section shall
12 be the amount needed in excess of all other available assets
13 of the impaired or insolvent insurer to pay the contractual
14 obligations of the impaired or insolvent insurer and to
15 reimburse any guaranty funds.

16 5. To the extent that a person liable under subsection 3 is
17 insolvent or otherwise fails to pay claims due from the person
18 pursuant to this section, the person's parent corporation,
19 holding company, or person who otherwise controlled it at the
20 time the distribution was paid, is jointly and severally liable
21 for any resulting deficiency in the amount recovered from the
22 parent corporation, holding company, or person who otherwise
23 controlled it.

24 Sec. 14. NEW SECTION. 521A.114 **Revocation, suspension, or**
25 **nonrenewal of insurer's license.**

26 Whenever it appears to the commissioner that any person
27 has committed a violation of this chapter which makes the
28 continued operation of an insurer contrary to the interests
29 of policyholders or the public, the commissioner may, after
30 giving notice and an opportunity to be heard, determine to
31 suspend, revoke, or refuse to renew the insurer's license
32 or authority to do business in this state for such period
33 as the commissioner finds is required for the protection of
34 policyholders or the public. Any such determination shall be
35 accompanied by specific findings of fact and conclusions of

1 law.

2 Sec. 15. NEW SECTION. 521A.115 **Judicial review — mandamus.**

3 1. Judicial review of the actions of the commissioner may be
4 sought in accordance with the terms of the Iowa administrative
5 procedure Act, chapter 17A.

6 2. Any person aggrieved by the failure of the commissioner
7 to act or to make a determination required by this chapter
8 may petition the district court for Polk county for an order
9 of mandamus directing the commissioner to act or to make a
10 determination.

11 Sec. 16. NEW SECTION. 521A.116 **Conflicts with other laws.**

12 The provisions of this chapter shall prevail wherever the
13 provisions conflict or are inconsistent with other laws of this
14 state.

15 Sec. 17. NEW SECTION. 521A.117 **Severability.**

16 If any provision of this chapter, or the application of this
17 chapter to any person or circumstance, is held invalid, such
18 holding shall not affect the provisions or applications of this
19 chapter which can be given effect without the invalid provision
20 or application, and to that end the provisions of this chapter
21 are severable.

22 Sec. 18. NEW SECTION. 521A.118 **Mutual insurance holding
23 companies.**

24 1. a. A domestic mutual insurance company, upon approval
25 of the commissioner, may reorganize by forming an insurance
26 holding company based upon a mutual plan and continuing the
27 corporate existence of the reorganizing insurance company
28 as a stock insurance company. The commissioner, after a
29 public hearing as provided in section 521A.103, subsection
30 4, paragraph "b", if satisfied that the interests of the
31 policyholders are properly protected and that the plan of
32 reorganization is fair and equitable to the policyholders, may
33 approve the proposed plan of reorganization and may require as
34 a condition of approval such modifications of the proposed plan
35 of reorganization as the commissioner finds necessary for the

1 protection of the policyholders' interests. The commissioner
2 may retain consultants as provided in section 521A.103,
3 subsection 4, paragraph "d". A reorganization pursuant to this
4 section is subject to section 521A.103, subsections 1, 2, and
5 3. The commissioner shall retain jurisdiction over a mutual
6 insurance holding company organized pursuant to this section to
7 assure that policyholder interests are protected.

8 *b.* All of the initial shares of the capital stock of the
9 reorganized insurance company shall be issued to the mutual
10 insurance holding company. The membership interests of the
11 policyholders of the reorganized insurance company shall
12 become membership interests in the mutual insurance holding
13 company. Policyholders of the reorganized insurance company
14 shall be members of the mutual insurance holding company in
15 accordance with the articles of incorporation and bylaws of the
16 mutual insurance holding company. The mutual insurance holding
17 company shall at all times own a majority of the voting shares
18 of the capital stock of the reorganized insurance company.

19 2. *a.* A domestic mutual insurance company, upon the
20 approval of the commissioner, may reorganize by merging its
21 policyholders' membership interests into a mutual insurance
22 holding company formed pursuant to subsection 1 and continuing
23 the corporate existence of the reorganizing insurance company
24 as a stock insurance company subsidiary of the mutual insurance
25 holding company. The commissioner, after a public hearing as
26 provided in section 521A.103, subsection 4, paragraph "b", if
27 satisfied that the interests of the policyholders are properly
28 protected and that the merger is fair and equitable to the
29 policyholders, may approve the proposed merger and may require
30 as a condition of approval such modifications of the proposed
31 merger as the commissioner finds necessary for the protection
32 of the policyholders' interests. The commissioner may retain
33 consultants as provided in section 521A.103, subsection 4,
34 paragraph "d". A merger pursuant to this section is subject to
35 section 521A.103, subsections 1, 2, and 3. The commissioner

1 shall retain jurisdiction over the mutual insurance holding
2 company organized pursuant to this section to assure that
3 policyholder interests are protected.

4 *b.* All of the initial shares of the capital stock of the
5 reorganized insurance company shall be issued to the mutual
6 insurance holding company. The membership interests of the
7 policyholders of the reorganized insurance company shall
8 become membership interests in the mutual insurance holding
9 company. Policyholders of the reorganized insurance company
10 shall be members of the mutual insurance holding company in
11 accordance with the articles of incorporation and bylaws of the
12 mutual insurance holding company. The mutual insurance holding
13 company shall at all times own a majority of the voting shares
14 of the capital stock of the reorganized insurance company.
15 A merger of policyholders' membership interests in a mutual
16 insurance company into a mutual insurance holding company shall
17 be deemed to be a merger of insurance companies pursuant to
18 chapter 521 and chapter 521 is also applicable.

19 *c.* A foreign mutual insurance company, or a foreign health
20 service corporation, which if a domestic corporation would be
21 organized under chapter 514, may reorganize upon the approval
22 of the commissioner and in compliance with the requirements of
23 any law or regulation which is applicable to the foreign mutual
24 insurance company or foreign health service corporation by
25 merging its policyholders' or subscribers' membership interests
26 into a mutual insurance holding company formed pursuant to
27 subsection 1 and continuing the corporate existence of the
28 reorganizing foreign mutual insurance company or reorganizing
29 foreign health service corporation as a foreign stock insurance
30 company subsidiary of the mutual insurance holding company.
31 The commissioner, after a public hearing as provided in section
32 521A.103, subsection 4, paragraph "b", may approve the proposed
33 merger. The commissioner may retain consultants as provided
34 in section 521A.103, subsection 4, paragraph "d". A merger
35 pursuant to this paragraph is subject to section 521A.103,

1 subsections 1, 2, and 3. The reorganizing foreign mutual
2 insurance company or reorganizing foreign health service
3 corporation may remain a foreign company or foreign corporation
4 after the merger, and may be admitted to do business in this
5 state. A foreign mutual insurance company or foreign mutual
6 health service corporation which is a party to the merger may
7 at the same time redomesticate in this state by complying with
8 the applicable requirements of this state and its state of
9 domicile. The provisions of paragraph "b" shall apply to a
10 merger authorized under this paragraph, except that a reference
11 to policyholders in that paragraph is also deemed to include
12 subscribers in the case of a health service corporation.

13 3. A mutual insurance holding company resulting from
14 the reorganization of a domestic mutual insurance company
15 organized under chapter 491 shall be incorporated pursuant to
16 chapter 491. This requirement shall supersede any conflicting
17 provisions of section 491.1. The articles of incorporation and
18 any amendments to such articles of the mutual insurance holding
19 company shall be subject to approval of the commissioner in the
20 same manner as those of an insurance company.

21 4. A mutual insurance holding company is deemed to be
22 an insurer subject to chapter 507C and shall automatically
23 be a party to any proceeding under chapter 507C involving
24 an insurance company which as a result of a reorganization
25 pursuant to subsection 1 or 2 is a subsidiary of the mutual
26 insurance holding company. In any proceeding under chapter
27 507C involving the reorganized insurance company, the assets of
28 the mutual insurance holding company are deemed to be assets of
29 the estate of the reorganized insurance company for purposes of
30 satisfying the claims of the reorganized insurance company's
31 policyholders. A mutual insurance holding company shall not
32 dissolve or liquidate without the approval of the commissioner
33 or as ordered by the district court pursuant to chapter 507C.

34 5. a. Chapters 508B and 515G are not applicable to a
35 reorganization or merger pursuant to this section.

1 *b.* Chapter 508B is applicable to demutualization of a
2 mutual insurance holding company which resulted from the
3 reorganization of a domestic mutual life insurance company
4 organized under chapter 508 as if it were a mutual life
5 insurance company.

6 *c.* Chapter 515G is applicable to demutualization of a
7 mutual insurance holding company which resulted from the
8 reorganization of a domestic mutual property and casualty
9 insurance company organized under chapter 515 as if it were a
10 mutual property and casualty insurance company.

11 6. A membership interest in a domestic mutual insurance
12 holding company shall not constitute a security as defined in
13 section 502.102.

14 7. *a.* The majority of the voting shares of the capital
15 stock of the reorganized insurance company, which is required
16 by this section to be at all times owned by a mutual insurance
17 holding company, shall not be conveyed, transferred, assigned,
18 pledged, subjected to a security interest or lien, encumbered,
19 or otherwise hypothecated or alienated by the mutual insurance
20 holding company or intermediate holding company. Any
21 conveyance, transfer, assignment, pledge, security interest,
22 lien, encumbrance, or hypothecation or alienation of, in or on
23 the majority of the voting shares of the reorganized insurance
24 company which is required by this section to be at all times
25 owned by a mutual insurance holding company, is in violation of
26 this section and shall be void in inverse chronological order
27 of the date of such conveyance, transfer, assignment, pledge,
28 security interest, lien, encumbrance, or hypothecation or
29 alienation, as to the shares necessary to constitute a majority
30 of such voting shares. The majority of the voting shares of
31 the capital stock of the reorganized insurance company which is
32 required by this section to be at all times owned by a mutual
33 insurance holding company shall not be subject to execution
34 and levy as provided in chapter 626. The shares of the
35 capital stock of the surviving or new company resulting from a

1 merger or consolidation of two or more reorganized insurance
2 companies or two or more intermediate holding companies
3 which were subsidiaries of the same mutual insurance holding
4 company are subject to the same requirements, restrictions, and
5 limitations as provided in this section to which the shares of
6 the merging or consolidating reorganized insurance companies
7 or intermediate holding companies were subject by this section
8 prior to the merger or consolidation.

9 *b.* As used in this section, "*majority of the voting shares*
10 *of the capital stock of the reorganized insurance company*"
11 means shares of the capital stock of the reorganized insurance
12 company which carry the right to cast a majority of the votes
13 entitled to be cast by all of the outstanding shares of the
14 capital stock of the reorganized insurance company for the
15 election of directors and on all other matters submitted
16 to a vote of the shareholders of the reorganized insurance
17 company. The ownership of a majority of the voting shares of
18 the capital stock of the reorganized insurance company which
19 are required by this section to be at all times owned by a
20 parent mutual insurance holding company includes indirect
21 ownership through one or more intermediate holding companies in
22 a corporate structure approved by the commissioner. However,
23 indirect ownership through one or more intermediate holding
24 companies shall not result in the mutual insurance holding
25 company owning less than the equivalent of a majority of the
26 voting shares of the capital stock of the reorganized insurance
27 company. The commissioner shall have jurisdiction over an
28 intermediate holding company as if it were a mutual insurance
29 holding company. As used in this section, "*intermediate holding*
30 *company*" means a holding company which is a subsidiary of a
31 mutual insurance holding company, and which either directly
32 or through a subsidiary intermediate holding company has one
33 or more subsidiary reorganized insurance companies of which
34 a majority of the voting shares of the capital stock would
35 otherwise have been required by this section to be at all times

1 owned by the mutual insurance holding company.

2 Sec. 19. REPEAL. Sections 521A.1 through 521A.14, Code
3 2013, are repealed.

4 DIVISION II

5 COORDINATING PROVISIONS

6 Sec. 20. Section 505.23, Code 2013, is amended to read as
7 follows:

8 **505.23 Hearings.**

9 If an evidentiary hearing is conducted in a proceeding
10 pursuant to section 508B.7, 515G.7, ~~521A.3~~ 521A.103, or ~~521A.14~~
11 521A.118, or in a proceeding with respect to a merger or
12 consolidation pursuant to chapter 521, the proceeding is a
13 contested case subject to chapter 17A.

14 Sec. 21. Section 507C.2, subsection 5, Code 2013, is amended
15 to read as follows:

16 5. "*Control*" means the same as defined in section ~~521A.1~~
17 521A.101, subsection 3.

18 Sec. 22. Section 508.33A, subsection 1, paragraph b, Code
19 2013, is amended to read as follows:

20 *b.* "*Parent*" means a person as defined in section ~~521A.1~~
21 521A.101 who directly or indirectly through one or more
22 intermediaries wholly owns the organizing life insurance
23 company.

24 Sec. 23. Section 508.33A, subsection 2, paragraph b, Code
25 2013, is amended to read as follows:

26 *b.* A limited purpose subsidiary life insurance company
27 shall submit a plan of operation to the commissioner, and the
28 commissioner shall approve the plan of operation with such
29 amendments as the commissioner requires, before the limited
30 purpose subsidiary life insurance company assumes any risks
31 under a reinsurance contract. The plan of operation and any
32 records, books, documents, reports, or other information that
33 the commissioner requires a limited purpose subsidiary life
34 insurance company to produce or disclose pursuant to rules
35 adopted under subsection 6 or pursuant to an order of the

1 commissioner shall be treated the same as information obtained
2 by or disclosed to the commissioner pursuant to section ~~521A.6~~
3 521A.106 and the commissioner shall have the powers enumerated
4 in section ~~521A.6~~ 521A.106 as to that insurer.

5 Sec. 24. Section 508.33A, subsection 8, Code 2013, is
6 amended to read as follows:

7 8. The provisions of sections 508.5, 508.6, and 511.8,
8 section 521.2, subsection 4, sections ~~521A.4~~ 521A.104 and
9 ~~521A.5~~ 521A.105, and chapter 521E shall not be applicable to
10 a limited purpose subsidiary life insurance company organized
11 pursuant to this section.

12 Sec. 25. Section 508B.13, Code 2013, is amended to read as
13 follows:

14 **508B.13 Prohibitions on certain offers to acquire shares.**

15 Prior to and for a period of five years following the
16 effective date of the conversion, and in the case of the
17 plans of conversion specified in section 508B.3, subsections
18 1 and 3, five years following the date of distribution of
19 consideration to the policyholders in exchange for their
20 membership interests, a person, other than the reorganized
21 company, other than an employee benefit plan or employee
22 benefit trust sponsored by the reorganized company, or as
23 otherwise specifically provided for in the plan of conversion,
24 shall not directly or indirectly acquire or offer to acquire
25 the beneficial ownership of more than five percent of any
26 class of voting security of the reorganized company, and a
27 person, other than the reorganized company or other than an
28 employee benefit plan or employee benefit trust sponsored by
29 the reorganized company, who acquires five percent or more of
30 any class of voting security of the reorganized company prior
31 to the conversion or as specifically provided for in the plan
32 of conversion, shall not directly or indirectly acquire or
33 offer to acquire the beneficial ownership of additional voting
34 securities of the reorganized company, unless the acquisition
35 is approved by the commissioner as not being contrary to the

1 interests of the policyholders of the reorganized company or
2 its life insurance company subsidiary and by the board of
3 directors of the reorganized company. The commissioner and
4 the board of directors may consider the factors set forth in
5 section 490.1108A. The provisions of section ~~521A.3~~ 521A.103,
6 except section ~~521A.3~~ 521A.103, subsection 4, paragraph "a",
7 shall be applicable to a proposed acquisition subject to this
8 section. An approved plan of conversion may include a stock
9 option plan. As used in this section, "*beneficial ownership*"
10 means, with respect to a security, the sole or shared power to
11 vote or direct the voting of the security or the sole power to
12 dispose or direct the disposition of the security.

13 Sec. 26. Section 510A.2, subsection 2, Code 2013, is amended
14 to read as follows:

15 2. "*Control*" or "*controlled*" has the meaning ascribed in
16 section ~~521A.1~~ 521A.101, subsection 3.

17 Sec. 27. Section 511.8, subsection 22, paragraph b,
18 subparagraph (2), unnumbered paragraph 1, Code 2013, is amended
19 to read as follows:

20 Be between an insurer and a conduit and be collateralized
21 by cash or obligations which are eligible under subsection
22 1, 2, 3, 5, 19, or 24, are deposited with a custodian bank
23 as defined in subsection 21, and are held under a written
24 agreement with the custodian bank that complies with subsection
25 21 and provides for the proceeds of the collateral, subject to
26 the terms and conditions of the applicable collateral or other
27 credit support agreement, to be remitted to the legal reserve
28 deposit of the company or association and to vest in the state
29 in accordance with section 508.18 whenever proceedings under
30 that section are instituted. Paragraphs "c", "d", and "e" of
31 this subsection are not applicable to investments in financial
32 instruments used in hedging transactions eligible pursuant to
33 this subparagraph. As used in this subparagraph, "*conduit*"
34 means a person within an insurer's insurance holding company
35 system, as defined in section ~~521A.1~~ 521A.101, subsection 5,

1 which aggregates hedging transactions by other persons within
2 the insurance holding company system and replicates them with
3 counterparties.

4 Sec. 28. Section 511.8, subsection 22, paragraph b,
5 subparagraph (3), Code 2013, is amended to read as follows:

6 (3) Financial instruments used in hedging transactions
7 shall be eligible only as provided by this paragraph "b" and
8 rules adopted by the commission pursuant to chapter 17A setting
9 standards for hedging transactions between an insurer and a
10 conduit as authorized under section ~~521A.5~~ 521A.105, subsection
11 1, paragraph "b".

12 Sec. 29. Section 515B.2, subsection 4, paragraph b,
13 subparagraph (1), subparagraph division (j), Code 2013, is
14 amended to read as follows:

15 (j) That is an obligation owed to or on behalf of an
16 affiliate of, as defined in section ~~521A.1~~ 521A.101, an
17 insolvent insurer.

18 Sec. 30. Section 515G.1, subsection 2, Code 2013, is amended
19 to read as follows:

20 2. "Control" has the meaning assigned to it in section
21 ~~521A.1~~ 521A.101, subsection 3.

22 Sec. 31. Section 518C.3, subsection 4, paragraph b,
23 subparagraph (1), subparagraph division (g), Code 2013, is
24 amended to read as follows:

25 (g) An amount that is an obligation owed to or on behalf
26 of an affiliate of, as defined in section ~~521A.1~~ 521A.101, an
27 insolvent insurer.

28 Sec. 32. Section 521.1, subsection 4, Code 2013, is amended
29 to read as follows:

30 4. "Company" means a company or association organized under
31 chapter 508, 514B, 515, 518, 518A, or 520, and includes a
32 mutual insurance holding company organized pursuant to section
33 ~~521A.14~~ 521A.118.

34 Sec. 33. Section 521.16, Code 2013, is amended to read as
35 follows:

1 include an agreement by the person filing the statement that
2 the person will provide an annual enterprise risk report for
3 so long as control over the insurer exists and the person and
4 all subsidiaries within the person's control in the insurance
5 company holding system will provide information to the
6 commissioner, as requested, as necessary to evaluate enterprise
7 risk to the insurer. Failure to file the statement or other
8 required materials, or an attempt to effectuate an acquisition
9 of control of, divestiture of, or merger with a domestic
10 insurer without the commissioner's approval is a violation of
11 the bill.

12 The commissioner of insurance shall determine when a
13 party seeking to divest a controlling interest in a domestic
14 insurer will be required to file for and obtain approval of the
15 transaction. The commissioner shall approve a merger or other
16 acquisition of control after a public hearing and upon finding
17 that the applicant has demonstrated the factors specified in
18 the bill. If the proposed merger or acquisition of control
19 will require the approval of commissioners of insurance
20 from more than one jurisdiction, the public hearing can be
21 held on a consolidated basis in the United States before the
22 commissioners of the jurisdictions in which the insurers are
23 domiciled.

24 Every insurer authorized to do business in the state which
25 is a member of an insurance holding company system is required
26 to register and file a registration statement on a form and in
27 a format prescribed by the national association of insurance
28 commissioners. If requested by the commissioner, the insurer
29 must include financial statements of or within an insurance
30 holding company system. A person or a member of an insurance
31 holding company system may file a disclaimer of affiliation
32 with another person. A disclaimer shall be deemed to be
33 allowed by the commissioner unless the disclaimer is disallowed
34 within 30 days of filing. The disclaiming person may file a
35 request for an administrative hearing on a disallowance.

1 Beginning May 1, 2014, and every May 1 thereafter, the
2 ultimate controlling person of every insurer subject to
3 registration must file an annual enterprise risk report. The
4 report shall identify material risks within the insurance
5 holding company system that could pose enterprise risk to
6 the insurer. The report shall be filed with the lead state
7 commissioner of the insurance holding company system. An
8 ultimate controlling person having direct written and assumed
9 premiums of less than \$500 million in any calendar year
10 may request an exemption from the enterprise risk report
11 requirement by filing a written statement with the commissioner
12 of insurance discussing the reasons why an exemption should
13 be granted. The commissioner shall grant the exemption upon
14 finding that the ultimate controlling person has the requisite
15 amount of written and assumed premiums and that compliance
16 with the report requirement will constitute a financial
17 or organizational hardship upon that person. "Ultimate
18 controlling person" is defined as a person that is not
19 controlled by any other person.

20 The bill contains standards and requirements for management
21 of an insurer within an insurance holding company system.
22 Certain transactions within an insurance holding company
23 system to which an insurer is a party are subject to specified
24 standards and must be reported to the commissioner in writing
25 30 days prior to entering into the transaction. Notice shall
26 include reasons for amendments or modifications of agreements
27 and the financial impact of the change on the domestic insurer.
28 A domestic insurer shall not enter into transactions which are
29 part of a plan or series of like transactions with a person
30 within the insurance holding company system if the purpose of
31 the separate transactions is to avoid the statutory threshold
32 amount for reporting the transaction and the ensuing review of
33 the transaction. In reviewing a transaction, the commissioner
34 shall consider whether the transaction complies with the
35 standards set forth in the bill and whether the transaction may

1 adversely affect the interests of policyholders.

2 The bill provides that a domestic insurer may declare and pay
3 dividends to its shareholders only from earned surplus. Assets
4 revalued by the board of directors of the insurer cannot be
5 included in earned surplus until 30 days after the commissioner
6 has received notice of the revaluation and approved it.

7 A domestic insurer shall not pay any extraordinary
8 dividend or make any other extraordinary distribution to
9 its shareholders until 30 days after the commissioner has
10 received notice of the declaration of the extraordinary
11 dividend or distribution and either approved the payment or not
12 disapproved the payment. The bill defines what constitutes an
13 extraordinary dividend or distribution.

14 The bill provides that, notwithstanding the control of a
15 domestic insurer by any person, the officers and directors
16 of the insurer must maintain the obligation and liability
17 to which they are otherwise subject by law and the insurer
18 must be managed to assure its separate operating identity
19 consistent with the provisions of the bill. The bill contains
20 requirements for the makeup of the board of directors and
21 committees of the board of a domestic insurer.

22 The bill contains standards for determining whether an
23 insurer's surplus as regards policyholders is reasonable in
24 relation to the insurer's outstanding liabilities and adequate
25 to meet the insurer's financial needs.

26 The commissioner of insurance has the power to examine
27 any insurer required to register under the provisions of the
28 bill. The commissioner may order the insurer to produce
29 books, records, and other information reasonably necessary
30 to determine the insurer's compliance with the provisions of
31 the bill. The commissioner may use consultants to assist
32 in the conduct of an examination and assess the insurer
33 for examination expenses incurred by the commissioner. The
34 commissioner has the power to issue subpoenas, administer
35 oaths, and examine under oath any person for the purpose of

1 determining an insurer's compliance with the bill's provisions.
2 The commissioner may petition a court for an order compelling
3 testimony and production of evidence.

4 The commissioner is authorized to participate in a
5 supervisory college for any domestic insurer that is part
6 of an insurance holding company system with international
7 operations in order to assess the business strategy, financial
8 position, legal and regulatory position, risk exposure, and
9 risk management and governance processes of the insurer. The
10 insurer shall be liable to pay the reasonable expenses of the
11 commissioner's participation in a supervisory college. A
12 "supervisory college" is defined as a temporary or permanent
13 forum for communication and cooperation between regulators.

14 All documents, materials, or other information in the
15 possession or control of the commissioner that are obtained
16 by or disclosed to the commissioner or to any other person
17 in the course of an examination or investigation, and all
18 information reported in a statement concerning a merger or
19 acquisition, including an enterprise risk report, shall be
20 treated as confidential and are not subject to discovery or
21 admissible in evidence in any private civil action. The
22 commissioner or any other person who receives such documents,
23 materials, or other information shall not be permitted or
24 required to testify in any private civil action concerning
25 them. The commissioner may share the information with other
26 state, federal, and international regulatory agencies, with
27 the national association of insurance commissioners, and with
28 state, federal, and international law enforcement authorities,
29 including members of a supervisory college, if the person to
30 whom the information is disclosed agrees in writing not to
31 disclose the information.

32 The commissioner may issue rules and orders to carry out the
33 provisions of the bill. The commissioner may seek injunctive
34 relief if it appears that an insurer or agent of an insurer has
35 committed or is about to commit a violation of the provisions

1 of the bill or any rule or order issued pursuant to those
2 provisions.

3 If the commissioner finds after notice and hearing that an
4 insurer subject to registration failed to file a registration
5 statement as required by the bill, the insurer shall be
6 required to pay a penalty of \$1,000 per day for each day of
7 delay. The penalty shall be recovered by the commissioner
8 and deposited in the general fund of the state. The maximum
9 penalty is \$10,000 and may be reduced if the commissioner finds
10 that imposition of the penalty would constitute a financial
11 hardship to the insurer.

12 A director or officer of an insurance holding company system
13 who commits specified violations of the bill's provisions must
14 pay, in the person's individual capacity, a civil penalty of
15 not more than \$1,000 per violation, after notice and hearing
16 before the commissioner. The commissioner may also order an
17 insurer or an officer, director, employee, or agent of the
18 insurer to cease and desist action that is a violation of the
19 bill and to void any contracts if the commissioner finds that
20 such an order is in the best interest of the policyholders,
21 creditors, or the public. If it appears that an individual has
22 committed a willful violation, the commissioner may refer the
23 matter to the attorney general or to the appropriate county
24 attorney for possible prosecution. A willful violation of
25 the bill's provisions is punishable as a class "D" felony.
26 A class "D" felony is punishable by confinement for no more
27 than five years and a fine of at least \$750 but not more than
28 \$7,500. A violation that prevents full understanding of the
29 enterprise risk to an insurer by affiliates or by the insurance
30 holding company system may serve as an independent basis for
31 disapproving dividends or distributions and for placing the
32 insurer under an order of supervision.

33 When it appears to the commissioner that a person has
34 committed a violation which so impairs the financial condition
35 of a domestic insurer as to threaten insolvency or to make the

1 further transaction of business by the insurer hazardous to
2 its policyholders, creditors, shareholders, or the public, the
3 commissioner may proceed as provided in Code chapter 507C to
4 take possession of the property of the insurer and to conduct
5 the insurer's business.

6 If an order for liquidation, conservation, or rehabilitation
7 of a domestic insurer has been entered, the receiver appointed
8 under the order may recover certain distributions or payments
9 made within one year preceding the petition for liquidation,
10 conservation, or rehabilitation.

11 If a person has committed a violation of the bill's
12 provisions which makes the continued operation of an insurer
13 contrary to the interests of policyholders or the public, the
14 commissioner may, after notice and hearing, suspend, revoke,
15 or refuse to renew the insurer's license or authority to do
16 business in the state. Judicial review of the commissioner's
17 actions shall be sought as provided in Code chapter 17A. The
18 bill's provisions supersede other laws of this state that are
19 inconsistent or in conflict with the bill. If any provisions
20 of the bill are held invalid, the rest of the bill's provisions
21 are severable in order to give them effect without the invalid
22 provision or application.

23 The bill authorizes a domestic mutual insurance company
24 to reorganize by forming an insurance holding company based
25 upon a mutual plan and continuing the corporate existence
26 of the reorganizing insurance company as a stock insurance
27 company, or by merging its policyholders' membership interests
28 into a mutual insurance holding company, upon approval of the
29 commissioner.

30 Coordinating amendments are made in various Code sections
31 to correct internal references to the Code sections of Code
32 chapter 521A that are repealed by the bill.