

Senate File 346 - Introduced

SENATE FILE 346
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 1086)

A BILL FOR

1 An Act relating to various matters involving insurance and
2 the insurance division of the department of commerce and
3 including effective date provisions.

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

1 Section 1. Section 22.7, subsection 58, Code 2015, is
2 amended to read as follows:

3 58. Information filed with the commissioner of insurance
4 pursuant to sections 523A.204 ~~and~~, 523A.205, 523A.206,
5 523A.207, 523A.401, 523A.502A, and 523A.803.

6 Sec. 2. Section 502.103, Code 2015, is amended to read as
7 follows:

8 **502.103 References to federal statutes.**

9 "*Securities Act of 1933*", 15 U.S.C. §77a et seq.; "*Securities*
10 *Exchange Act of 1934*", 15 U.S.C. §78a et seq.; "*Public Utility*
11 *Holding Company Act of 1935*", 15 U.S.C. §79 et seq.; "*Investment*
12 *Company Act of 1940*", 15 U.S.C. §80a-1 et seq.; "*Investment*
13 *Advisers Act of 1940*", 15 U.S.C. §80b-1 et seq.; "*Employee*
14 *Retirement Income Security Act of 1974*", 29 U.S.C. §1001 et
15 seq.; "*National Housing Act*", 12 U.S.C. §1701; "*Commodity*
16 *Exchange Act*", 7 U.S.C. §1 et seq.; "*Internal Revenue Code*",
17 26 U.S.C. §1 et seq.; "*Securities Investor Protection Act*
18 *of 1970*", 15 U.S.C. §78aaa et seq.; "*Securities Litigation*
19 *Uniform Standards Act of 1998*", 112 Stat. 3227; "*Small Business*
20 *Investment Act of 1958*", 15 U.S.C. §661 et seq.; and "*Electronic*
21 *Signatures in Global and National Commerce Act*", 15 U.S.C.
22 §7001 et seq.; and "*Dodd-Frank Wall Street Reform and Consumer*
23 *Protection Act*", Pub. L. No. 111-203 mean those federal statutes
24 and the rules and regulations adopted under those federal
25 statutes, as in effect on January 1, ~~2005~~ 2015.

26 Sec. 3. Section 502.202, Code 2015, is amended by adding the
27 following new subsection:

28 NEW SUBSECTION. 24. *Intrastate crowdfunding.*

29 a. *Definitions.* As used in this subsection, unless the
30 context otherwise requires:

31 (1) "*Intermediary*" means a broker-dealer that is subject
32 to the registration requirements of section 502.401 and that
33 facilitates the offer and sale of securities by issuers to
34 investors through an internet-based system that is open to
35 and accessible by the general public. If an intermediary's

1 activity as a broker-dealer is limited to offerings conducted
2 in accordance with the exemption in this subsection, the
3 administrator shall by rule list the specific broker-dealer
4 requirements with which the intermediary must comply.

5 (2) "*Intrastate crowdfunding*" means the offer or sale of a
6 security by an issuer in a transaction that is available for
7 purchase only by Iowa residents and by business organizations
8 located in, and organized and registered under the laws of,
9 this state.

10 *b. Exemption not available.* The exemption in this
11 subsection is not available to any of the following:

12 (1) A foreign issuer.

13 (2) An investment company, as defined in section 3 of the
14 federal Investment Company Act of 1940.

15 (3) A development stage company that either has no specific
16 business plan or purpose or has indicated that the company's
17 business plan is to engage in a merger or acquisition with an
18 unidentified company or companies, or other entity or person.

19 (4) A company with a class of securities registered under
20 the federal Securities Exchange Act of 1934.

21 (5) Any person who is subject to a disqualifying event as
22 described in the regulations adopted in accordance with section
23 926 of the federal Dodd-Frank Wall Street Reform and Consumer
24 Protection Act, Pub. L. No. 111-203, or in rules adopted by the
25 administrator pursuant to chapter 17A.

26 *c. Aggregate sales limit.* The aggregate amount of
27 securities sold to all investors by the issuer during the
28 twelve-month period preceding the date of the offer or sale,
29 including any amount sold in reliance upon the exemption in
30 this subsection, shall not exceed one million dollars other
31 than either of the following:

32 (1) Securities sold to Iowa resident institutional
33 investors.

34 (2) Securities sold to the Iowa resident issuer's
35 management.

1 *d. Individual sales limit.* The aggregate amount of
2 securities sold to an investor by the issuer during the
3 twelve-month period preceding the date of the offer or sale,
4 including any amount sold in reliance upon the exemption in
5 this subsection, shall not exceed five thousand dollars unless
6 the investor is an accredited investor who resides in Iowa.
7 For purposes of this individual sales limit, the following
8 investors shall be treated as one investor:

9 (1) A relative, spouse, or relative of the spouse of an
10 investor who has the same principal residence as the investor.

11 (2) A trust or estate in which an investor and any related
12 person collectively have more than fifty percent of the
13 beneficial interest, excluding contingent interests.

14 (3) A corporation or other organization of which an investor
15 and any related person collectively are beneficial owners of
16 more than fifty percent of the equity securities, excluding
17 directors' qualifying shares, or equity interests.

18 *e. Use of an intermediary.* All offers and sales of
19 securities made in reliance upon the exemption in this
20 subsection shall be made through an intermediary's internet
21 site.

22 *f. Notice to administrator.* Prior to the offer of any
23 security in this state made in reliance upon the exemption
24 in this subsection, the issuer shall file a notice with
25 the administrator in a form and format approved by the
26 administrator, and including the filing fee specified by rule,
27 if any.

28 *g. Rulemaking.* The administrator shall adopt all rules
29 necessary to implement the exemption in this subsection
30 including but not limited to all of the following:

31 (1) Mandatory disclosures.

32 (2) Restrictions on advertising and communications.

33 (3) Target amount, offering period, and escrow
34 requirements.

35 (4) Use and compensation of promoters.

1 (5) Restrictions on the sale of securities purchased under
2 the exemption in this subsection.

3 (6) Sales reports.

4 (7) Limitations on the offering price.

5 (8) Duties of an intermediary which shall include providing
6 the administrator with continuous investor-level access to the
7 intermediary's internet site.

8 (9) Records maintenance.

9 (10) Duties and registration requirements for internet site
10 operators.

11 Sec. 4. Section 502.302, subsection 1, paragraph a,
12 subparagraph (1), Code 2015, is amended to read as follows:

13 (1) A person who is the issuer of a federal covered
14 security under section 18(b)(2) of the Securities Act of
15 1933 shall initially make a notice filing and annually renew
16 a notice filing in this state ~~for an indefinite amount or a~~
17 ~~fixed amount. The fixed amount must be for two hundred fifty~~
18 ~~thousand dollars.~~

19 Sec. 5. Section 502.302, subsection 1, paragraph a,
20 subparagraph (2), unnumbered paragraph 1, Code 2015, is amended
21 to read as follows:

22 A notice filer shall pay a filing fee in the amount of
23 four hundred dollars when the notice is filed. ~~If the amount~~
24 ~~covered by the notice is indefinite, the notice filer shall pay~~
25 ~~a filing fee of one thousand dollars. If the amount covered by~~
26 ~~the notice is fixed, the notice filer shall pay a filing fee~~
27 ~~of two hundred fifty dollars, and all of the following shall~~
28 ~~apply:~~

29 Sec. 6. Section 502.302, subsection 1, paragraph a,
30 subparagraph (2), subparagraph divisions (a) and (b), Code
31 2015, are amended by striking the subparagraph divisions.

32 Sec. 7. Section 502.302, subsections 2 and 3, Code 2015, are
33 amended to read as follows:

34 2. *Notice filing effectiveness and renewal.* A notice filing
35 under subsection 1 is effective for one year commencing on

1 the later of the notice filing or the effectiveness of the
 2 offering filed with the securities and exchange commission.
 3 On or before expiration, the issuer may renew a notice filing
 4 by filing a copy of those records filed by the issuer with
 5 the securities and exchange commission that are required by
 6 rule or order under this chapter to be filed and by paying
 7 the a renewal fee required by subsection 1, paragraph "a" of
 8 four hundred dollars. A previously filed consent to service
 9 of process complying with section 502.611 may be incorporated
 10 by reference in a renewal. A renewed notice filing becomes
 11 effective upon the expiration of the filing being renewed.

12 3. *Notice filings for federal covered securities under*
 13 *section 18(b)(4)(D)*. With respect to a security that is a
 14 federal covered security under section 18(b)(4)(D) of the
 15 Securities Act of 1933, 15 U.S.C. §77r(b)(4)(D), a rule under
 16 this chapter may require a notice filing by or on behalf of an
 17 issuer to include a copy of form D, including the appendix, as
 18 promulgated by the securities and exchange commission, and a
 19 consent to service of process complying with section 502.611
 20 signed by the issuer not later than fifteen days after the
 21 first sale of the federal covered security in this state and
 22 the payment of a fee of one hundred dollars; and the payment of
 23 a fee of two hundred fifty dollars for any late filing.

24 Sec. 8. Section 502.412, subsection 9, Code 2015, is amended
 25 to read as follows:

26 9. *Limit on investigation or proceeding*. The administrator
 27 shall not institute a proceeding under subsection 1, 2,
 28 or 3 based solely on material facts actually known by the
 29 administrator unless an investigation or the proceeding is
 30 instituted within ~~one year~~ two years after the administrator
 31 actually acquires knowledge of the material facts.

32 Sec. 9. Section 511.8, subsection 5, paragraphs a and b,
 33 Code 2015, are amended to read as follows:

34 a. (1) If fixed interest-bearing obligations, the net
 35 earnings of the issuing, assuming, or guaranteeing corporation

1 available for its fixed charges for a period of five fiscal
 2 years next preceding the date of acquisition of the obligations
 3 by such insurance company shall have averaged per year not
 4 less than one and one-half times such average annual fixed
 5 charges of the issuing, assuming, or guaranteeing corporation
 6 applicable to such period, and, during at least one of the last
 7 two years of such period, its net earnings shall have been
 8 not less than one and one-half times its fixed charges for
 9 such year; or if, at the date of acquisition, the obligations
 10 are ~~adequately secured and have investment qualities and~~
 11 ~~characteristics wherein the speculative elements are not~~
 12 ~~predominant~~ investment grade as defined by the commissioner by
 13 rule.

14 (2) However, with respect to fixed interest-bearing
 15 obligations which are issued, assumed, or guaranteed by a
 16 financial company, the net earnings by the financial company
 17 available for its fixed charges for the period of five fiscal
 18 years preceding the date of acquisition of the obligations by
 19 the insurance company shall have averaged per year not less
 20 than one and one-fourth times such average annual fixed charges
 21 of the issuing, assuming, or guaranteeing financial company
 22 applicable to such period, and, during at least one of the last
 23 two years of the period, its net earnings shall have been not
 24 less than one and one-fourth times its fixed charges for such
 25 year; or if, at the date of acquisition, the obligations are
 26 ~~adequately secured and speculative elements are not predominant~~
 27 ~~in their investment qualities and characteristics~~ investment
 28 grade as defined by the commissioner by rule. As used in
 29 this subparagraph (2), "*financial company*" means a corporation
 30 which on the average over its last five fiscal years preceding
 31 the date of acquisition of its obligations by the insurer,
 32 has had at least fifty percent of its net income, including
 33 income derived from subsidiaries, derived from the business
 34 of wholesale, retail, installment, mortgage, commercial,
 35 industrial or consumer financing, or from banking or factoring,

1 or from similar or related lines of business.

2 *b.* If adjustment, income, or other contingent interest
3 obligations, the net earnings of the issuing, assuming, or
4 guaranteeing corporation available for its fixed charges
5 for a period of five fiscal years next preceding the date
6 of acquisition of the obligations by such insurance company
7 shall have averaged per year not less than one and one-half
8 times such average annual fixed charges of the issuing,
9 assuming, or guaranteeing corporation and its average annual
10 maximum contingent interest applicable to such period and,
11 during at least one of the last two years of such period, its
12 net earnings shall have been not less than one and one-half
13 times the sum of its fixed charges and maximum contingent
14 interest for such year, or if, at the date of acquisition,
15 the obligations are ~~adequately secure and have investment~~
16 ~~qualities and characteristics and speculative elements are not~~
17 predominant investment grade as defined by the commissioner by
18 rule.

19 Sec. 10. Section 511.8, subsection 6, paragraph a,
20 subparagraph (1), subparagraph division (b), unnumbered
21 paragraph 1, Code 2015, is amended to read as follows:

22 The net earnings available for fixed charges and preferred
23 dividends of the issuing corporation shall have been, for
24 each of the five fiscal years immediately preceding the date
25 of acquisition, not less than one and one-half times the sum
26 of the annual fixed charges and contingent interest, if any,
27 and the annual preferred dividend requirements as of the date
28 of acquisition; or at the date of acquisition the preferred
29 stock has is investment qualities and characteristics wherein
30 speculative elements are not predominant grade as defined by
31 the commissioner by rule.

32 Sec. 11. Section 511.8, subsection 8, unnumbered paragraph
33 1, Code 2015, is amended to read as follows:

34 Securities included under subsections 5, 6, and 7, and
35 subsection 9, paragraph "h", shall not be eligible:

1 Sec. 12. Section 511.8, subsection 8, paragraph b,
2 unnumbered paragraph 1, Code 2015, is amended to read as
3 follows:

4 The investments of any company or association in ~~such the~~
5 securities of a corporation shall not ~~be eligible in excess of~~
6 exceed the following percentages of the legal reserve of such
7 company or association:

8 Sec. 13. Section 511.8, subsection 8, paragraph b,
9 subparagraphs (1) and (2), Code 2015, are amended to read as
10 follows:

11 (1) ~~With the exception of public securities~~ For any one
12 corporation other than a public utility company, two percent
13 of the legal reserve ~~in the securities of any one corporation.~~
14 ~~Five~~ For any one public utility company, five percent of the
15 legal reserve ~~in the securities of any one public utility~~
16 ~~corporation.~~

17 (2) ~~Seventy-five percent of the legal reserve in the~~
18 ~~securities described in subsection 5 issued by other than~~
19 ~~public utility corporations. Fifty percent of the legal~~
20 ~~reserve in the~~ For securities described in subsection 5 issued
21 by public utility corporations companies, fifty percent of the
22 legal reserve.

23 Sec. 14. Section 511.8, subsection 9, Code 2015, is amended
24 by adding the following new paragraph:

25 NEW PARAGRAPH. *h.* Mezzanine real estate loans subject to
26 the following conditions:

27 (1) The terms of the mezzanine real estate loan agreement
28 shall do all of the following:

29 (a) Require that each pledgor abstain from granting
30 additional security interests in the equity interest pledged.

31 (b) Set forth techniques to minimize the likelihood or
32 impact of a bankruptcy filing on the part of the real estate
33 owner or the mezzanine real estate loan borrower consistent
34 with the national association of insurance commissioners'
35 accounting practices and procedures manual.

1 (c) Require the real estate owner or mezzanine real estate
2 loan borrower to do all of the following:

3 (i) Hold no assets other than, in the case of the real
4 estate owner, the real property, and in the case of the
5 mezzanine real estate loan borrower, the equity interest of the
6 real estate owner.

7 (ii) Not engage in any business other than, in the case
8 of the real estate owner, the ownership and operation of the
9 real estate, and in the case of the mezzanine real estate loan
10 borrower, holding an ownership interest in the real estate
11 owner.

12 (iii) Not incur additional debt, other than limited trade
13 payables, a first mortgage loan, or mezzanine real estate
14 loans.

15 (2) At the time of purchase, the sum of the first mortgage
16 and the mezzanine real estate loans shall not exceed ninety
17 percent of the value of the real estate evidenced by a
18 current appraisal and the mezzanine real estate loan shall be
19 classified as CM4 or better in accordance with the national
20 association of insurance commissioners' rating methodology, or
21 an equivalent or successor rating.

22 (3) The value of a company's or association's total
23 investments qualified under this paragraph "h" shall not exceed
24 three percent of the legal reserve subject to the following
25 conditions:

26 (a) The value of a company's or association's total
27 investments qualified under this paragraph "h" in mezzanine
28 real estate loans classified as CM3 in accordance with the
29 national association of insurance commissioners' rating
30 methodology or an equivalent or successor rating at the time of
31 purchase shall not exceed two percent of the legal reserve.

32 (b) The value of a company's or association's total
33 investments qualified under this paragraph "h" in mezzanine
34 real estate loans classified as CM4 in accordance with the
35 national association of insurance commissioners' rating

1 methodology or an equivalent or successor rating at the time of
2 purchase shall not exceed one percent of the legal reserve.

3 (4) For purposes of this paragraph "h", "mezzanine real
4 estate loan" means a loan secured by a pledge of a direct or
5 indirect equity interest in an entity that owns real estate.

6 Sec. 15. Section 511.8, subsection 13, Code 2015, is amended
7 to read as follows:

8 13. *Collateral loans.* Loans secured by collateral
9 consisting of any ~~securities~~ assets or investments qualified in
10 under this section, provided the amount of the loan is not in
11 excess of ninety percent of the value of the ~~securities~~ assets
12 or investments. Provided further that subsection 8 shall apply
13 to the collateral ~~securities~~ assets or investments pledged
14 to the payment of loans ~~authorized in~~ qualified under this
15 subsection.

16 Sec. 16. Section 511.8, subsection 18, paragraph a, Code
17 2015, is amended to read as follows:

18 a. (1) Common stocks, or shares, or equity interests issued
19 by solvent corporations or institutions are eligible if the
20 total investment in the common stocks, ~~or shares in,~~ or equity
21 interests of the corporations or institutions does not exceed
22 ten percent of legal reserve, provided not more than one-half
23 percent of the legal reserve is invested in common stocks,
24 ~~or shares, or equity interests~~ of any one corporation or
25 institution. However, the not more than four percent of legal
26 reserve shall be invested in common stocks, ~~or shares shall be~~
27 , or equity interests which do not meet one of the following
28 requirements:

29 (a) Are listed or admitted to trading on an established
30 foreign securities exchange or a securities exchange in the
31 United States ~~or shall be~~.

32 (b) Are publicly held and traded in the "over-the-counter
33 market" and, provided that market quotations shall be readily
34 available, ~~and further, the investment~~.

35 (2) An investment in common stocks, shares, or equity

1 interests shall not create a conflict of interest for an
2 officer or director of the company between the insurance
3 company and the corporation whose common stocks, ~~or~~ shares, or
4 equity interests are purchased.

5 Sec. 17. Section 511.8, subsection 20, paragraph b, Code
6 2015, is amended to read as follows:

7 b. For purposes of this subsection, "*venture capital*
8 *fund*" means a corporation, partnership, proprietorship, or
9 other entity formed under the laws of the United States, or
10 a state, district, or territory of the United States, whose
11 principal business is or will be the making of investments in,
12 and the provision of significant managerial assistance to,
13 small businesses which meet the small business administration
14 definition of small business. "*Equity interests*" means limited
15 partnership interests and other equity interests in which
16 liability is limited to the amount of the investment, but does
17 not mean general partnership interests or other interests
18 involving general liability. "*Venture capital fund*" includes an
19 equity interest in the Iowa fund of funds as defined in section
20 15E.62 and an equity interest in an innovation fund as defined
21 in section 15E.52.

22 Sec. 18. Section 511.8, subsection 22, paragraphs c and d,
23 Code 2015, are amended to read as follows:

24 c. Investments in financial instruments used in hedging
25 transactions are not eligible in excess of two percent of
26 the legal reserve in the financial instruments of any one
27 corporation, less any securities of that corporation owned
28 by the company or association and in which its legal reserve
29 is invested, except insofar as the financial instruments are
30 collateralized by cash, United States government obligations
31 as authorized by subsection 1, or obligations of or guaranteed
32 by a United States government-sponsored enterprise which on
33 the date they are pledged as collateral are ~~adequately secured~~
34 ~~and have investment qualities and characteristics wherein the~~
35 ~~speculative elements are not predominant~~ investment grade as

1 defined by the commissioner by rule, which are deposited with a
2 custodian bank as defined in subsection 21, and held under a
3 written agreement with the custodian bank that complies with
4 subsection 21 and provides for the proceeds of the collateral,
5 subject to the terms and conditions of the applicable
6 collateral or other credit support agreement, to be remitted to
7 the legal reserve deposit of the company or association and to
8 vest in the state in accordance with section 508.18 whenever
9 proceedings under that section are instituted.

10 *d.* Investments in financial instruments used in hedging
11 transactions are not eligible in excess of ten percent of the
12 legal reserve, except insofar as the financial instruments are
13 collateralized by cash, United States government obligations
14 as authorized by subsection 1, or obligations of or guaranteed
15 by a United States government-sponsored enterprise which on
16 the date they are pledged as collateral are ~~adequately secured~~
17 ~~and have investment qualities and characteristics wherein the~~
18 ~~speculative elements are not predominant~~ investment grade as
19 defined by the commissioner by rule, which are deposited with a
20 custodian bank as defined in subsection 21, and held under a
21 written agreement with the custodian bank that complies with
22 subsection 21 and provides for the proceeds of the collateral,
23 subject to the terms and conditions of the applicable
24 collateral or other credit support agreement, to be remitted to
25 the legal reserve deposit of the company or association and to
26 vest in the state in accordance with section 508.18 whenever
27 proceedings under that section are instituted.

28 Sec. 19. Section 511.8, subsection 22, paragraph e,
29 subparagraph (1), Code 2015, is amended to read as follows:

30 (1) Investments in financial instruments of foreign
31 governments or foreign corporate obligations, other than
32 Canada, used in hedging transactions shall be included
33 in the limitation contained in subsection 19 that allows
34 only twenty percent of the legal reserve of the company or
35 association to be invested in such foreign investments, except

1 insofar as the financial instruments are collateralized by
2 cash, United States government obligations as authorized by
3 subsection 1, or obligations of or guaranteed by a United
4 States government-sponsored enterprise which on the date
5 they are pledged as collateral are ~~adequately secured and~~
6 ~~have investment qualities and characteristics wherein the~~
7 ~~speculative elements are not predominant~~ investment grade as
8 defined by the commissioner by rule, which are deposited with a
9 custodian bank as defined in subsection 21, and held under a
10 written agreement with the custodian bank that complies with
11 subsection 21 and provides for the proceeds of the collateral,
12 subject to the terms and conditions of the applicable
13 collateral or other credit support agreement, to be remitted to
14 the legal reserve deposit of the company or association and to
15 vest in the state in accordance with section 508.18 whenever
16 proceedings under that section are instituted.

17 Sec. 20. Section 514G.102, Code 2015, is amended to read as
18 follows:

19 **514G.102 Scope.**

20 The requirements of this chapter apply to policies delivered
21 or issued for delivery in this state on or after July 1, 2008.
22 The requirements of this chapter related to independent review
23 of benefit trigger determinations apply to all claims made on
24 or after January 1, 2009. The requirements of this chapter
25 related to prompt payment of claims and the payment of interest
26 apply to all long-term care insurance policies. This chapter
27 is not intended to supersede the obligations of entities
28 subject to this chapter to comply with the substance of other
29 applicable insurance laws not in conflict with this chapter,
30 except that laws and regulations designed and intended to apply
31 to Medicare supplement insurance policies shall not be applied
32 to long-term care insurance.

33 Sec. 21. Section 515.35, subsection 4, paragraph m, Code
34 2015, is amended to read as follows:

35 *m. Venture capital funds.* Shares or equity interests in

1 venture capital funds which agree to invest an amount equal to
2 at least fifty percent of the investments by a company in small
3 businesses having their principal offices within this state and
4 having either more than one-half of their assets within this
5 state or more than one-half of their employees employed within
6 this state. A company shall not invest more than five percent
7 of its capital and surplus under this paragraph. For purposes
8 of this paragraph, "venture capital fund" means a corporation,
9 partnership, proprietorship, or other entity formed under the
10 laws of the United States, or a state, district, or territory
11 of the United States, whose principal business is or will be
12 the making of investments in, and the provision of significant
13 managerial assistance to, small businesses which meet the small
14 business administration definition of small business. "Equity
15 interests" means limited partnership interests and other equity
16 interests in which liability is limited to the amount of the
17 investment, but does not mean general partnership interests or
18 other interests involving general liability. "Venture capital
19 fund" includes an equity interest in the Iowa fund of funds
20 as defined in section 15E.62 and an equity interest in an
21 innovation fund as defined in section 15E.52.

22 Sec. 22. Section 521A.5, subsection 4, paragraph d, Code
23 2015, is amended to read as follows:

24 d. The board of directors of a domestic insurer shall
25 establish one or more committees comprised solely of directors
26 who or other persons appointed by the board, the majority of
27 whom are not officers or employees of the insurer or of any
28 entity controlling, controlled by, or under common control with
29 the insurer and who are not beneficial owners of a controlling
30 interest in the voting stock of the insurer or any such entity.
31 The committee or committees shall have responsibility for
32 recommending or nominating candidates for director for election
33 by shareholders or policyholders, evaluating the performance
34 of officers deemed to be principal officers of the insurer,
35 and recommending to the board of directors the selection and

1 compensation of the principal officers.

2 Sec. 23. Section 523A.102, subsection 8, Code 2015, is
3 amended by striking the subsection.

4 Sec. 24. Section 523A.102, Code 2015, is amended by adding
5 the following new subsection:

6 NEW SUBSECTION. 13A. *“Guaranteed”* means that the
7 preneed seller has agreed to accept the funds available from
8 contractual payments made by the purchaser and the allocable
9 portion of accumulated income as payment in full for the
10 applicable items of merchandise and services selected and
11 identified in the purchase agreement, and that the purchaser,
12 beneficiary, and the beneficiary’s estate are not obligated to
13 pay any additional costs related to updated charges for price
14 increases on the merchandise and services selected even if the
15 additional costs exceed the funds available from contractual
16 payments made by the purchaser and the allocable portion of
17 accumulated income. This provision does not prevent the
18 inclusion of nonguaranteed items in an otherwise guaranteed
19 purchase agreement.

20 Sec. 25. Section 523A.204, subsection 3, Code 2015, is
21 amended to read as follows:

22 3. All records maintained by the commissioner under this
23 section shall be confidential pursuant to section 22.7,
24 subsection 58, and shall not be made available for inspection
25 or copying except upon the approval of the commissioner or the
26 attorney general, or except when sought by the preneed seller
27 to whom the records relate. Such records shall be privileged
28 and confidential in any judicial or administrative proceeding
29 except any of the following:

30 a. An action commenced by the commissioner.

31 b. An administrative proceeding brought by the insurance
32 division.

33 c. An action or proceeding which arises out of the criminal
34 provisions of the laws of this state or of the United States.

35 d. An action brought by the insurance division or

1 the attorney general to recover moneys for embezzlement,
2 misappropriation, or misuse of trust funds.

3 Sec. 26. Section 523A.204, subsections 4 and 5, Code 2015,
4 are amended by striking the subsections.

5 Sec. 27. Section 523A.205, subsection 2, Code 2015, is
6 amended by striking the subsection.

7 Sec. 28. Section 523A.205, subsection 3, Code 2015, is
8 amended to read as follows:

9 3. ~~Notwithstanding chapter 22, all~~ All records maintained
10 by the commissioner under this section shall be confidential
11 pursuant to section 22.7, subsection 58, and shall not be made
12 available for inspection or copying except upon approval of the
13 commissioner or the attorney general, or except when sought by
14 the financial institution to whom the records relate. Such
15 records shall be privileged and confidential in any judicial or
16 administrative proceeding except any of the following:

17 a. An action commenced by the commissioner.

18 b. An administrative proceeding brought by the insurance
19 division.

20 c. An action or proceeding which arises out of the criminal
21 provisions of the laws of this state or of the United States.

22 d. An action brought by the insurance division or
23 the attorney general to recover moneys for embezzlement,
24 misappropriation, or misuse of trust funds.

25 Sec. 29. Section 523A.206, subsection 6, Code 2015, is
26 amended by striking the subsection and inserting in lieu
27 thereof the following:

28 6. All records maintained by the commissioner under this
29 section, including work papers, notes, recorded information,
30 documents, and copies thereof that are produced or obtained
31 by or disclosed to the commissioner or another person in the
32 course of a compliance examination, shall be confidential
33 pursuant to section 22.7, subsection 58, and shall not be
34 made available for inspection and copying except upon the
35 approval of the commissioner or the attorney general. Such

1 records shall be privileged and confidential in any judicial or
2 administrative proceeding except any of the following:

3 *a.* An action commenced by the commissioner.

4 *b.* An administrative proceeding brought by the insurance
5 division.

6 *c.* An action or proceeding which arises out of the criminal
7 provisions of the laws of this state or of the United States.

8 *d.* An action brought by the insurance division or
9 the attorney general to recover moneys for embezzlement,
10 misappropriation, or misuse of trust funds.

11 Sec. 30. Section 523A.207, Code 2015, is amended to read as
12 follows:

13 **523A.207 Audits by certified public accountants — penalty.**

14 1. A purchase agreement shall not be sold or transferred,
15 as part of the sale of a business or the assets of a business,
16 until an audit has been performed by a certified public
17 accountant and filed with the commissioner that expresses the
18 auditor's opinion of the adequacy of funding related to the
19 purchase agreements to be sold or transferred. If the buyer
20 of a purchase agreement sold or transferred as part of the
21 sale of a business or the assets of a business, fails to file
22 such an audit, the commissioner shall suspend the preneed
23 seller's license of the buyer and the preneed sales license of
24 any sales agent in the employ of the buyer until the audit is
25 filed. In addition, the commissioner shall assess a penalty
26 against the buyer in an amount up to one hundred dollars for
27 each day that the audit remains unfiled. The commissioner
28 shall allow a thirty-day grace period after the date that a
29 purchase agreement is sold or transferred before suspension of
30 a license or assessment of a penalty for failure to file an
31 audit pursuant to this section.

32 2. All records maintained by the commissioner under this
33 section shall be confidential pursuant to section 22.7,
34 subsection 58, and shall not be made available for inspection
35 or copying except upon approval of the commissioner or the

1 attorney general, or except when sought by the preneed seller
2 to whom the records relate. Such records shall be privileged
3 and confidential in any judicial or administrative proceeding
4 except any of the following:

5 a. An action commenced by the commissioner.

6 b. An administrative proceeding brought by the insurance
7 division.

8 c. An action or proceeding which arises out of the criminal
9 provisions of the laws of this state or of the United States.

10 d. An action brought by the insurance division or
11 the attorney general to recover moneys for embezzlement,
12 misappropriation, or misuse of trust funds.

13 Sec. 31. Section 523A.401, subsection 8, Code 2015, is
14 amended to read as follows:

15 8. An insurance company issuing policies funding purchase
16 agreements subject to this chapter shall file an annual report
17 with the commissioner on a form prescribed by the commissioner.
18 The report shall list the applicable insurance policies
19 outstanding for each seller. ~~Computer printouts may be~~
20 ~~submitted so long as each legibly provides the same information~~
21 ~~required in the prescribed form.~~

22 Sec. 32. Section 523A.401, Code 2015, is amended by adding
23 the following new subsection:

24 NEW SUBSECTION. 10. All records maintained by the
25 commissioner under this section shall be confidential
26 pursuant to section 22.7, subsection 58, and shall not be made
27 available for inspection or copying except upon approval of the
28 commissioner or the attorney general, or except when sought
29 by the insurance company to whom the records relate. Such
30 records shall be privileged and confidential in any judicial or
31 administrative proceeding except any of the following:

32 a. An action commenced by the commissioner.

33 b. An administrative proceeding brought by the insurance
34 division.

35 c. An action or proceeding which arises out of the criminal

1 provisions of the laws of this state or of the United States.

2 *d.* An action brought by the insurance division or
3 the attorney general to recover moneys for embezzlement,
4 misappropriation, or misuse of trust funds.

5 Sec. 33. Section 523A.402, subsection 8, Code 2015, is
6 amended to read as follows:

7 8. An insurance company issuing annuities funding purchase
8 agreements subject to this chapter shall file an annual report
9 with the commissioner on a form prescribed by the commissioner.
10 The report shall list the applicable annuities outstanding for
11 each seller. ~~Computer printouts may be submitted so long as~~
12 ~~each legibly provides the same information required in the~~
13 ~~prescribed form.~~

14 Sec. 34. Section 523A.405, Code 2015, is amended by striking
15 the section and inserting in lieu thereof the following:

16 **523A.405 Bond in lieu of trust fund.**

17 The commissioner may, by rule, establish terms and
18 conditions under which a seller may, in lieu of trust
19 requirements, file with the commissioner a surety bond issued
20 by a surety company authorized to do business and doing
21 business in this state.

22 Sec. 35. Section 523A.501, subsection 2, Code 2015, is
23 amended to read as follows:

24 2. An application for a preneed seller's license shall be
25 filed on a form and in a format prescribed by the commissioner
26 and be accompanied by a fifty-dollar filing fee in an amount
27 set by the commissioner by rule. The application shall include
28 the name of the natural person or legal entity to be licensed
29 as the preneed seller and, if applicable, any other name
30 under which the preneed seller will be transacting business,
31 including any names registered with the secretary of state or a
32 county clerk. The application shall be updated as necessary
33 to ensure that the commissioner has been notified of all names
34 under which the preneed seller is operating and doing business.

35 Sec. 36. Section 523A.501, subsection 7, Code 2015, is

1 amended to read as follows:

2 7. A preneed seller's license ~~shall be renewed every four~~
3 ~~years by filing the form prescribed by the commissioner under~~
4 ~~subsection 2, accompanied by a renewal fee in an amount set by~~
5 ~~the commissioner by rule expires annually on April 15. If the~~
6 preneed seller has filed a complete annual report and paid the
7 required fees as required in section 523A.204, the commissioner
8 shall renew the preneed seller's license until April 15 of the
9 following year.

10 Sec. 37. Section 523A.502, subsection 5, Code 2015, is
11 amended by striking the subsection and inserting in lieu
12 thereof the following:

13 5. A sales license shall expire annually on April 15. If
14 the sales agent has filed a substantially complete annual
15 report as required in section 523A.502A, the commissioner shall
16 renew the sales license until April 15 of the following year.

17 Sec. 38. Section 523A.502A, subsections 1 and 2, Code 2015,
18 are amended to read as follows:

19 1. A sales agent shall file with the commissioner not later
20 than April 1 of each year an annual report on a form prescribed
21 by the commissioner describing each purchase agreement sold
22 by the sales agent during the year. An annual report must be
23 filed whether or not sales were made during the year and even
24 if the sales agent is no longer an agent of a preneed seller or
25 licensed by the commissioner.

26 2. All records maintained by the commissioner under this
27 section shall be confidential pursuant to section 22.7,
28 subsection 58, and shall not be made available for inspection
29 or copying except upon the approval of the commissioner or the
30 attorney general, or except when sought by the sales agent to
31 whom the records relate. Such records shall be privileged
32 and confidential in any judicial or administrative proceeding
33 except any of the following:

34 a. An action commenced by the commissioner.

35 b. An administrative proceeding brought by the insurance

1 division.

2 c. An action or proceeding which arises out of the criminal
3 provisions of the laws of this state or of the United States.

4 d. An action brought by the insurance division or
5 the attorney general to recover moneys for embezzlement,
6 misappropriation, or misuse of trust funds.

7 Sec. 39. Section 523A.502A, subsections 3 and 4, Code 2015,
8 are amended by striking the subsections.

9 Sec. 40. Section 523A.803, subsection 1, paragraph c, Code
10 2015, is amended by striking the paragraph.

11 Sec. 41. Section 523A.803, Code 2015, is amended by adding
12 the following new subsection:

13 NEW SUBSECTION. 1A. All records maintained by the
14 commissioner under this section, including work papers, notes,
15 recorded information, documents, and copies thereof that are
16 produced or obtained by or disclosed to the commissioner or
17 another person in the course of an investigation, shall be
18 confidential pursuant to section 22.7, subsection 58, and shall
19 not be made available for inspection and copying except upon
20 the approval of the commissioner or the attorney general. Such
21 records shall be privileged and confidential in any judicial or
22 administrative proceeding except any of the following:

23 a. An action commenced by the commissioner.

24 b. An administrative proceeding brought by the insurance
25 division.

26 c. An action or proceeding which arises out of the criminal
27 provisions of the laws of this state or of the United States.

28 d. An action brought by the insurance division or
29 the attorney general to recover moneys for embezzlement,
30 misappropriation, or misuse of trust funds.

31 Sec. 42. Section 523A.807, subsection 3, unnumbered
32 paragraph 1, Code 2015, is amended to read as follows:

33 If the commissioner finds that a person has violated section
34 523A.201, 523A.202, 523A.203, 523A.207, 523A.401, 523A.402,
35 523A.403, 523A.404, 523A.405, 523A.501, 523A.502, ~~or 523A.504~~

1 or any rule adopted pursuant thereto, the commissioner may
2 order any or all of the following:

3 Sec. 43. Section 523I.810, subsection 9, Code 2015, is
4 amended to read as follows:

5 9. A cemetery may, by resolution adopted by a vote of at
6 least two-thirds of the members of its board at any authorized
7 meeting of the board, authorize the withdrawal and use of
8 not more than twenty percent of the principal of the care
9 fund to acquire additional land for cemetery purposes, to
10 repair a mausoleum or other building or structure intended for
11 cemetery purposes, to build, improve, or repair boundaries,
12 roads and walkways in the cemetery, to construct a columbarium,
13 mausoleum, or similar structure to create additional interment
14 spaces, to purchase equipment for tree, shrub, and lawn care,
15 to purchase backhoes or similar equipment used to open and
16 close interment spaces, or to purchase recordkeeping software
17 used to maintain ownership records or interment records. The
18 resolution shall establish a reasonable repayment schedule, not
19 to exceed five years, ~~and provide for interest in an amount~~
20 ~~comparable to the care fund's current rate of return on its~~
21 ~~investments.~~ However, the care fund shall not be diminished
22 below an amount equal to the greater of twenty-five thousand
23 dollars or five thousand dollars per acre of land in the
24 cemetery. The resolution, and if the deposit of care fund
25 income over five years is unlikely to fund replenishment of the
26 principal of the care fund, either a bond or proof of insurance
27 to guarantee replenishment of the care fund, shall be filed
28 with the commissioner thirty days prior to the withdrawal of
29 funds.

30 Sec. 44. Section 523I.811, subsection 1, paragraph b, Code
31 2015, is amended to read as follows:

32 **b.** Maintaining drains, water lines, roads, buildings,
33 boundaries, fences, and other structures.

34 Sec. 45. Section 523I.811, subsection 1, Code 2015, is
35 amended by adding the following new paragraphs:

1 NEW PARAGRAPH. *g.* To purchase equipment to maintain the
2 cemetery.

3 NEW PARAGRAPH. *h.* To purchase backhoes or similar equipment
4 used to open and close interment spaces.

5 NEW PARAGRAPH. *i.* To purchase equipment used to construct
6 a columbarium, mausoleum, or similar structure to create
7 additional interment spaces.

8 Sec. 46. NEW SECTION. 523I.811A **Emergency use of care**
9 **funds.**

10 1. Notwithstanding any other provision of this chapter,
11 a perpetual care cemetery may apply to the commissioner to
12 withdraw funds from the cemetery's care fund for a financial
13 emergency. The commissioner shall, by rule, establish
14 standards and procedures for such applications and for
15 withdrawals from care funds.

16 2. Upon application, the commissioner may allow a perpetual
17 care cemetery to withdraw funds from the care fund if the
18 commissioner finds that the cemetery has an urgent financial
19 need and the withdrawal is deemed reasonable and prudent to
20 fund a necessary expense of the cemetery. The commissioner
21 shall establish conditions for the specific use of the funds
22 withdrawn and may require repayment of all or part of the
23 amount withdrawn.

24 Sec. 47. **EFFECTIVE DATE.** The following provision or
25 provisions of this Act take effect January 1, 2016:

26 1. The section of this Act adding section 502.202,
27 subsection 24.

28 Sec. 48. **DIRECTIONS TO CODE EDITOR.** The Iowa code editor is
29 directed to transfer section 515.11 to new section 515.23.

30 Sec. 49. **REPEAL.** Section 523A.504, Code 2015, is repealed.

31 **EXPLANATION**

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

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

1 includes effective date provisions.

2 UNIFORM SECURITIES ACT. Code section 502.103 is amended
3 to update references in Code chapter 502 to include current
4 federal statutes. New Code section 502.202(24) provides an
5 exemption from certain securities registration and filing
6 requirements for offers and sales of securities known as
7 intrastate crowdfunding and provides limitations and conditions
8 on such offers and sales of securities in the state. All
9 offers and sales of securities made pursuant to the exemption
10 must be made through a broker-dealer's internet site.
11 "Intrastate crowdfunding" is defined as the offer or sale of a
12 security by an issuer in a transaction that is available for
13 purchase only by Iowa residents and by business organizations
14 located in Iowa and organized and registered under Iowa law.
15 This provision takes effect January 1, 2016.

16 Code section 502.302(1)(a)(1) and (2), concerning specified
17 federal covered securities, are amended to eliminate an option
18 that allows filing fees accompanying notice filings of offers
19 of such securities to be based on a definite or indefinite
20 amount, instead requiring all notice filers to pay a fixed fee
21 of \$400. Code section 502.302(1)(a)(2)(a) and (b) are stricken
22 to eliminate the need to file a sales report. Code section
23 502.302(2) is amended to establish a flat fee of \$400 for
24 renewals of such filings.

25 Code section 502.412(9) is amended to provide that the
26 administrator of the securities and regulated industries bureau
27 of the insurance division of the department of commerce has two
28 years instead of one year after acquiring material facts to
29 institute a disciplinary proceeding concerning a broker-dealer
30 or investment adviser.

31 LIFE INSURANCE COMPANIES AND ASSOCIATIONS. Code section
32 511.8(5)(a) and (b) are amended to provide that investments
33 in certain corporate obligations made by life insurance
34 companies and associations are allowed if, at the date of
35 acquisition, the obligations are investment grade as defined

1 by the commissioner by rule. Similar changes are made as to
2 investments in preferred and guaranteed stocks (Code section
3 511.8(6)(a)(1)(b)), and financial instruments used in hedging
4 transactions (Code section 511.8(22)(c),(d), and (e)(1)).

5 Code section 511.8(8) is amended to provide that specified
6 further restrictions on investments of a life insurance
7 company or association in securities apply to mezzanine real
8 estate loans. Code section 511.8(8)(b) is amended to provide
9 that investments of a life insurance company or association
10 in securities of a corporation shall not exceed specified
11 percentages of the legal reserve.

12 Code section 511.8(8)(b)(1) and (2) are amended to provide
13 that investments in corporate obligations, preferred and
14 guaranteed stocks, equipment trust obligations, or mezzanine
15 real estate loans are limited to 2 percent of legal reserve
16 for any one corporation other than a public utility company,
17 5 percent of the legal reserve for any one public utility
18 company, and 50 percent of the legal reserve for corporate
19 obligations issued by public utility companies.

20 New Code section 511.8(9)(h) provides that a life insurance
21 company or association may invest in mezzanine real estate
22 loans subject to specified conditions. The provision specifies
23 what terms a mezzanine loan agreement must include and limits
24 the value of a life insurance company's or association's total
25 investments in mezzanine real estate loans. For purposes of
26 the new provision, "mezzanine real estate loan" means a loan
27 secured by a pledge of a direct or indirect equity interest in
28 an entity that owns real estate.

29 Code section 511.8(13) is amended to provide that life
30 insurance companies and associations can invest in loans
31 secured by collateral consisting of qualified assets or
32 investments instead of securities.

33 Code section 511.8(18)(a) is amended to provide that life
34 insurance companies and associations can invest in certain
35 specified equity interests as well as common stocks and shares

1 issued by corporations or institutions. The provision provides
2 limitations on the percentage of legal reserve that can be
3 invested in specified types of common stocks, shares, or equity
4 interests.

5 Code section 511.8(20)(b) is amended to provide that for
6 purposes of investments made by a life insurance company a
7 "venture capital fund" includes an equity interest in an
8 innovation fund as defined in Code section 15E.52.

9 LONG-TERM CARE INSURANCE. Code section 514G.102 is amended
10 to provide that the requirements of Code chapter 514G related
11 to prompt payment of claims and the payment of interest apply
12 to all long-term care insurance policies.

13 INSURANCE OTHER THAN LIFE. The Code editor is directed to
14 transfer Code section 515.11, pertaining to prohibited loans to
15 an officer, director, stockholder, or employee of a company or
16 to a relative of an officer or relative of a company, to Code
17 section 515.23.

18 Code section 515.35(4)(m) is amended to provide that for
19 purposes of investments made by a non-life insurance company,
20 a "venture capital fund" includes an equity interest in an
21 innovation fund as defined in Code section 15E.52.

22 INSURANCE HOLDING COMPANY SYSTEMS. Code section
23 521A.5(4)(d) is amended to require that when a domestic
24 insurer is required to establish a committee or committees of
25 directors or other persons appointed by the board, that are
26 responsible for nominating candidates for director, evaluating
27 the performance of officers, and recommending the selection
28 and compensation of principal officers, the majority of such
29 committee members shall not be officers or employers of any
30 entity controlling, controlled by, or under common control with
31 the insurer.

32 CEMETERY AND FUNERAL MERCHANDISE AND FUNERAL SERVICES. Code
33 section 523A.102(8) is stricken, eliminating the definition of
34 "credit sale".

35 New Code section 523A.102(13A) provides that for purposes

1 of Code chapter 523A, "guaranteed" means that a preneed seller
2 has agreed to accept the funds available from contractual
3 payments made by a purchaser and the allocable portion of
4 accumulated income on those payments as payment in full for the
5 applicable items of cemetery merchandise and services selected
6 and identified in a purchase agreement for the merchandise and
7 services. A purchaser, beneficiary, or beneficiary's estate
8 is not obligated to pay any additional costs related to price
9 increases on the merchandise and services selected even if the
10 additional costs exceed the funds available. This provision
11 does not prevent the inclusion of nonguaranteed items in an
12 otherwise guaranteed purchase agreement.

13 Code section 523A.204(3) is amended to provide that
14 information in annual reports provided to the commissioner
15 by preneed sellers is confidential pursuant to the Iowa
16 open records law (Code chapter 22) and shall not be made
17 available for inspection or copying except upon the approval
18 of the commissioner or the attorney general or when sought
19 by the preneed seller to whom the records relate. Such
20 information is also privileged and confidential in any judicial
21 or administrative proceeding except as specified. Similar
22 requirements concerning confidentiality of information provided
23 to the commissioner are added in Code section 523A.205(3)
24 concerning annual reports by financial institutions, Code
25 section 523A.206(6) concerning information obtained in
26 the course of an examination, new Code section 523A.207(2)
27 concerning records obtained during an audit performed by a
28 certified public accountant, new Code section 523A.401(10)
29 concerning information maintained about purchase agreements
30 funded by insurance proceeds, Code section 523A.502A(2)
31 concerning licensure of sales agents, and Code section
32 523A.803(1)(c) concerning investigations into violations of the
33 Code chapter. Code section 22.7, subsection 58, is amended to
34 specify that information provided to the commissioner pursuant
35 to Code sections 523A.205, 523A.206, 523A.207, 523A.401, and

1 523A.803 is confidential.

2 Code section 523A.204(4) and (5) are stricken, eliminating
3 provisions related to levying an administrative penalty
4 against a preneed seller for violations of the annual reporting
5 requirement.

6 Code section 523A.205(2) is stricken, eliminating a
7 requirement that the commissioner accept annual reports of
8 preneed sellers in electronic format, including computer
9 diskettes.

10 Code section 523A.401(8) is amended by eliminating the
11 provision that allows computer printouts to be submitted with
12 annual reports filed by insurance companies issuing policies
13 to fund preneed purchase agreements. Code section 523A.402(8)
14 is similarly amended to eliminate the provision that such
15 printouts may be submitted with annual reports pertaining to
16 purchase agreements funded by annuity proceeds.

17 Code section 523A.405 is amended to eliminate specific
18 requirements concerning the use of a surety bond in lieu of
19 trust requirements and instead allows the commissioner, by
20 rule, to establish the terms and conditions under which a
21 seller may file a surety bond.

22 Code section 523A.501(2) is amended to provide that the
23 commissioner may establish the format for applications for a
24 preneed seller's license. The application is also required to
25 include the name of the natural person or legal entity to be
26 licensed and any other name under which the preneed seller will
27 be transacting business. The application must be updated as
28 necessary to ensure that the commissioner is notified of all
29 names under which the preneed seller is operating and doing
30 business. The application must be accompanied by a filing fee
31 set by rule. The current filing fee is \$50.

32 Code section 523A.501(7) is amended to require that a
33 preneed seller's license be renewed annually instead of every
34 four years. The license shall be renewed April 15 of each
35 year so long as the preneed seller has filed a complete annual

1 report and paid the required fees. Code section 523A.502(5)
2 is similarly amended to require annual renewal of the licenses
3 of preneed sales agents.

4 Code section 523A.502A(1) is amended to provide that a sales
5 agent must file an annual report whether or not the sales agent
6 made any sales during the year, is no longer an agent of a
7 preneed seller, or is no longer licensed as a sales agent.
8 Code section 523A.502A(3) and (4) are stricken, eliminating
9 provisions related to levying an administrative penalty against
10 a preneed sales agent for violations of the annual reporting
11 requirement.

12 Code section 523A.504 requiring a preneed seller to file a
13 notice and pay a fee to appoint a person to act as a sales agent
14 of the preneed seller is repealed. Code section 523A.807(3) is
15 amended to remove a cross-reference to the repealed section.

16 CEMETERIES. Code section 523I.810(9) is amended to provide
17 that a cemetery may adopt a resolution to authorize the
18 withdrawal and expenditure of the principal of a cemetery
19 care fund to repair boundaries; to construct a columbarium,
20 mausoleum, or similar structure to create additional interment
21 spaces; to purchase equipment for tree, shrub, and lawn care;
22 or to purchase backhoes or similar equipment used to open and
23 close interment spaces. The bill eliminates a requirement
24 that the repayment schedule provide for interest on the amount
25 withdrawn from the care fund but if the deposit of care fund
26 income over five years is unlikely to fund replenishment of the
27 principal of the care fund, the resolution must be accompanied
28 by a bond or proof of insurance.

29 Code section 523I.811(1) is amended to provide that
30 distributions from the care fund can be used for the new
31 purposes described in Code section 523I.810(9).

32 New Code section 523I.811A provides that a perpetual care
33 cemetery may make application to the commissioner to withdraw
34 funds from the cemetery's care fund for a financial emergency.
35 The commissioner may allow such a withdrawal upon finding that

1 the cemetery has an urgent financial need and it is reasonable
2 and prudent to fund a necessary expense of the cemetery. The
3 commissioner shall establish conditions for the specific use
4 of the funds and may require repayment of all or part of the
5 amount withdrawn.