

**House File 426 - Introduced**

HOUSE FILE 426  
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 92)

**A BILL FOR**

1 An Act relating to the insurance fraud bureau, criminal history  
2 checks for licenses granted by the insurance division, and  
3 resolving inconsistencies.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 502.604A, Code 2019, is amended to read  
2 as follows:

3 **502.604A ~~Limited law~~ Law enforcement authority.**

4 The administrator or the administrator's designee, when  
5 carrying out the provisions of [section 502.603](#) or [502.604](#), may  
6 develop, share, and receive information related to any law  
7 enforcement purpose, including any criminal investigation.  
8 ~~The administrator or designee shall not have the authority to~~  
9 ~~issue criminal subpoenas or make arrests. The administrator~~  
10 ~~or designee shall not be considered a peace officer, including~~  
11 ~~as provided in [chapter 801](#).~~ An insurance fraud bureau  
12 investigator shall be authorized to conduct an investigation  
13 under article 5 of this chapter and shall have law enforcement  
14 authority pursuant to section 507E.8.

15 Sec. 2. Section 507E.2, Code 2019, is amended to read as  
16 follows:

17 **507E.2 Purpose.**

18 An insurance fraud bureau is created within the insurance  
19 division. Upon a reasonable determination by the division,  
20 by its own inquiries or as a result of ~~complaints~~ a complaint  
21 filed with the division, that a person has engaged in, is  
22 engaging in, or may be engaging in an act or practice that  
23 violates ~~this chapter~~ or any other provision of the insurance  
24 code subject to the jurisdiction of the commissioner, the  
25 division may administer oaths and affirmations, serve subpoenas  
26 ordering the attendance of witnesses, and collect evidence  
27 related to such act or practice.

28 Sec. 3. Section 507E.5, subsection 5, Code 2019, is amended  
29 to read as follows:

30 5. An insurance fraud bureau investigator or other staff  
31 member of the bureau is not subject to subpoena in a civil  
32 action concerning any matter of which the bureau investigator  
33 or other staff member has knowledge pursuant to a pending or  
34 continuing investigation being conducted by the bureau pursuant  
35 to [this chapter](#).

1     Sec. 4. Section 507E.8, Code 2019, is amended to read as  
2 follows:

3     **507E.8 Law enforcement ~~officer status~~ authority.**

4     1. ~~Bureau investigators~~ For purposes of an arrest resulting  
5 from a criminal violation of any provision of the code subject  
6 to the jurisdiction of the commissioner established as a result  
7 of an investigation pursuant to this chapter, an insurance  
8 fraud bureau investigator shall have the ~~power~~ authority and  
9 status of a law enforcement officers ~~who by the nature of their~~  
10 ~~duties may be required to perform the duties of a peace officer~~  
11 ~~when making arrests for criminal violations established as a~~  
12 ~~result of their investigations pursuant to this chapter~~ officer  
13 pursuant to section 80B.3, subsection 3.

14     2. The ~~general laws applicable to arrests~~ an arrest by a  
15 law enforcement ~~officers~~ officer of the state ~~also apply to~~  
16 an insurance fraud bureau investigators investigator. Bureau  
17 ~~investigators~~ An insurance fraud bureau investigator shall  
18 have the power to execute arrest warrants and search warrants  
19 ~~for the same criminal violations, serve subpoenas issued for~~  
20 the examination, investigation, and trial of all offenses  
21 identified through ~~their investigations~~ the course of an  
22 investigation conducted pursuant to this section, and arrest  
23 upon probable cause without warrant a person found in the act  
24 of committing a violation of ~~the provisions~~ a provision of this  
25 chapter.

26     Sec. 5. Section 508E.3, Code 2019, is amended to read as  
27 follows:

28     **508E.3 License requirements.**

29     1. *a.* A person shall not operate as a viatical settlement  
30 provider or viatical settlement broker without first obtaining  
31 a license from the commissioner of the state of residence of  
32 the viator.

33     ~~*b.* (1) A life insurance producer who has been duly licensed~~  
34 ~~as a resident insurance producer with a life line of authority~~  
35 ~~in this state or the life insurance producer's home state for~~

1 ~~at least one year immediately prior to operating as a viatical~~  
2 ~~settlement broker and is licensed as a nonresident producer in~~  
3 ~~this state shall be deemed to meet the licensing requirements~~  
4 ~~of this section and shall be permitted to operate as a viatical~~  
5 ~~settlement broker.~~

6 ~~(2) Not later than thirty days from the first day of~~  
7 ~~operating as a viatical settlement broker, the life insurance~~  
8 ~~producer shall notify the commissioner that the life insurance~~  
9 ~~producer is acting as a viatical settlement broker on a form~~  
10 ~~prescribed by the commissioner, and shall pay any applicable~~  
11 ~~fee of up to one hundred dollars as provided by rules adopted~~  
12 ~~by the commissioner. The notification shall include an~~  
13 ~~acknowledgment by the life insurance producer that the life~~  
14 ~~insurance producer will operate as a viatical settlement broker~~  
15 ~~in accordance with this chapter. The notification shall also~~  
16 ~~include proof that the life insurance producer is covered by an~~  
17 ~~errors and omissions policy for an amount of not less than one~~  
18 ~~hundred thousand dollars per occurrence and not less than one~~  
19 ~~hundred thousand dollars total annual aggregate for all claims~~  
20 ~~during the policy period.~~

21 ~~(3) b. The An insurer that issued the a policy being~~  
22 ~~viaticated shall not be responsible for any act or omission of~~  
23 ~~a viatical settlement broker or viatical settlement provider~~  
24 ~~arising out of or in connection with the viatical settlement~~  
25 ~~transaction, unless the insurer receives compensation for the~~  
26 ~~placement of a viatical settlement contract from the viatical~~  
27 ~~settlement provider or viatical settlement broker in connection~~  
28 ~~with the viatical settlement contract.~~

29 ~~c. A person licensed as an attorney, certified public~~  
30 ~~accountant, or financial planner accredited by a nationally~~  
31 ~~recognized accreditation agency who is retained to represent~~  
32 ~~the a viator, whose compensation is not paid directly or~~  
33 ~~indirectly by the viatical settlement provider, may negotiate a~~  
34 ~~viatical settlement ~~contracts~~ contract on behalf of the viator~~  
35 ~~without having to obtain a license as a viatical settlement~~

1 broker.

2 2. An application for a viatical settlement provider  
3 or viatical settlement broker license shall be made to the  
4 commissioner by the applicant on a form prescribed by the  
5 commissioner, and the application shall be accompanied by a  
6 fee of not more than one hundred dollars as provided by rules  
7 adopted by the commissioner.

8 3. ~~The~~ A viatical settlement provider or viatical  
9 settlement broker license term shall be three years and the  
10 license may be renewed upon payment of ~~the~~ a renewal fee of not  
11 more than one hundred dollars as provided by rules adopted by  
12 the commissioner. A failure to pay the fee by the renewal date  
13 ~~results shall result~~ in expiration of the license.

14 4. An applicant shall provide information on forms  
15 required by the commissioner and shall meet all requirements  
16 pursuant to section 522B.5A if required by the commissioner.  
17 The commissioner shall have the authority, ~~at any time,~~ to  
18 require ~~the~~ an applicant to fully disclose the identity of  
19 all stockholders, partners, officers, members, and employees,  
20 ~~and the.~~ The commissioner may, in the ~~exercise of the~~  
21 commissioner's discretion, refuse to issue a license ~~in the~~  
22 ~~name of a legal entity~~ to such applicant if not satisfied that  
23 any officer, employee, stockholder, partner, ~~or~~ member thereof,  
24 or employee who may materially influence the applicant's  
25 conduct meets the standards of this chapter.

26 ~~5. A license issued to a legal entity authorizes all~~  
27 ~~partners, officers, members, and designated employees to act as~~  
28 ~~viatical settlement providers or viatical settlement brokers,~~  
29 ~~as applicable, under the license, and all those persons~~  
30 ~~shall be named in the application and any supplements to the~~  
31 ~~application.~~

32 ~~6.~~ 5. Upon the filing of an application and the payment of  
33 the license fee, the commissioner shall ~~make an investigation~~  
34 ~~of~~ investigate each applicant and issue a license if the  
35 commissioner finds that the applicant complies with all of the

1 following:

2 *a.* If a viatical settlement provider, has provided a  
3 detailed plan of operation.

4 *b.* Is competent and trustworthy and intends to act in good  
5 faith in the capacity involved by the license applied for.

6 *c.* Has a good business reputation and has had experience,  
7 training, or education so as to be qualified in the business  
8 for which the license is applied for.

9 ~~*d.* If a legal entity, provides a certificate of good  
10 standing from the state of its domicile.~~

11 ~~*e.* *d.* If a viatical settlement provider or viatical  
12 settlement broker, has provided an antifraud plan that meets  
13 the requirements of pursuant to [section 508E.15, subsection 7.](#)~~

14 ~~7. 6. The commissioner shall not issue a license to a  
15 nonresident applicant unless a written designation of an  
16 agent for service of process is filed and maintained with the  
17 commissioner or the applicant has filed with the commissioner  
18 the applicant's written irrevocable consent that any action  
19 against the applicant may be commenced against the applicant by  
20 service of process on the commissioner. If an applicant files  
21 such consent, service of process made on the commissioner as  
22 the agent for service of process shall be made as provided in  
23 section 505.30.~~

24 ~~8. 7. A viatical settlement provider or viatical settlement  
25 broker shall provide to the commissioner new or revised  
26 information about officers, ten-percent-or-more stockholders,  
27 partners, directors, members, or designated employees within  
28 thirty days of the change.~~

29 ~~9. 8. An individual licensed as a viatical settlement  
30 broker shall complete on a triennial basis running concurrent  
31 with the license term twenty credits of training related to  
32 viatical settlements and viatical settlement transactions, as  
33 required by the commissioner; provided, however, that a life  
34 insurance producer who is operating as a viatical settlement  
35 broker pursuant to [subsection 1](#), paragraph "b", shall not be~~

1 ~~subject to the requirements of this subsection.~~ Any person  
2 failing to meet the requirements of **this subsection** shall be  
3 subject to the penalties imposed by the commissioner.

4 ~~10.~~ 9. Fees collected pursuant to **this section** shall be  
5 deposited as provided in **section 505.7.**

6 Sec. 6. Section 522B.5, subsection 1, unnumbered paragraph  
7 1, Code 2019, is amended to read as follows:

8 A person applying for a resident insurance producer license  
9 shall make application to the commissioner on the uniform  
10 application, meet all requirements pursuant to section 522B.5A,  
11 and declare under penalty of refusal, suspension, or revocation  
12 of the license that ~~the~~ all statements made in the application  
13 are true, correct, and complete to the best of the individual's  
14 knowledge and belief. Before approving the application, the  
15 commissioner shall find all of the following:

16 Sec. 7. NEW SECTION. **522B.5A Criminal history check.**

17 1. In determining eligibility for licensure, the  
18 commissioner is authorized to require an applicant pursuant to  
19 subsection 2 to provide to the commissioner the applicant's  
20 fingerprints and reasonable fees required to perform a state  
21 criminal history check through the department of public safety,  
22 division of criminal investigation, and a national criminal  
23 history check through the federal bureau of investigation. By  
24 submitting such fingerprints, the applicant authorizes the  
25 commissioner to do all of the following:

26 a. Submit the applicant's fingerprints to the department  
27 of public safety, division of criminal investigation, for  
28 submission to the federal bureau of investigation for the  
29 purpose of conducting a national criminal history check.

30 b. Receive the results of the state and national criminal  
31 history checks.

32 2. The commissioner is authorized to require a state and  
33 national criminal history check on each applicant that applies  
34 for any of the following:

35 a. An initial license in Iowa as a resident insurance

1 producer.

2     *b.* An initial license or an additional line of authority  
3 under a nonresident insurance producer license if a state and  
4 national criminal history check has not already been completed.

5     *c.* A renewal, reinstatement, or reissuance of a license  
6 if the license of a producer has been revoked or suspended  
7 pursuant to section 522B.11, the license of a public adjuster  
8 has been revoked or suspended pursuant to section 522C.6, or  
9 the license of a viatical settlement provider or viatical  
10 settlement broker has been revoked or suspended pursuant to  
11 section 508E.4.

12     *d.* An initial license as a viatical settlement provider or  
13 viatical settlement broker in this state.

14     *e.* An initial license as a public adjuster in this state.

15     3. The commissioner shall require an applicant pursuant to  
16 subsection 2 to submit a full set of fingerprints and any other  
17 required identifying information to the commissioner on a form  
18 prescribed by the department of public safety.

19     4. The commissioner may contract with a third-party  
20 vendor for the collection and transmission of an applicant's  
21 fingerprints for the purpose of conducting a state and  
22 national criminal history check. The commissioner may agree  
23 to reasonable fees to be charged by the third-party vendor and  
24 may require such reasonable fees to be paid by the applicant  
25 directly to the third-party vendor.

26     5. The results of a criminal history check conducted  
27 pursuant to this section shall not be considered a public  
28 record pursuant to chapter 22. An applicant's fingerprints and  
29 any criminal history check information shall not be subject to  
30 subpoena, other than a subpoena issued in a criminal action or  
31 investigation, shall be confidential by law and privileged, and  
32 shall not be subject to discovery or be admissible in evidence  
33 in a private civil action.

34     Sec. 8. Section 522C.5, Code 2019, is amended to read as  
35 follows:



1       **522C.5 Application for license.**

2       1. A person applying for a public adjuster license shall  
3 make application on a uniform individual application or uniform  
4 business entity application as prescribed by the commissioner  
5 pursuant to rules adopted under [chapter 17A](#).

6       2. In determining eligibility for licensure under this  
7 chapter, the commissioner ~~shall~~ is authorized to require  
8 a criminal history check pursuant to section 522B.5A for  
9 each individual applying for a public adjuster license ~~to~~  
10 ~~submit a full set of fingerprints with the application. The~~  
11 ~~commissioner shall also require and for each individual who~~  
12 will be acting as a public adjuster of a business entity  
13 applying for licensure under [this chapter](#) ~~to submit a full~~  
14 ~~set of fingerprints for each individual who will be acting~~  
15 ~~as a public adjuster on behalf of the business entity. The~~  
16 ~~commissioner shall conduct a state and national criminal~~  
17 ~~history record check on each applicant. The commissioner is~~  
18 ~~authorized to submit fingerprints and any required fees to the~~  
19 ~~state department of public safety, the state attorney general,~~  
20 ~~and the federal bureau of investigation for the performance of~~  
21 ~~such criminal record checks.~~

22       ~~a. The commissioner may contract for the collection,~~  
23 ~~transmission, and resubmission of fingerprints required under~~  
24 ~~this section~~ and may contract for a reasonable fingerprinting  
25 fee to be charged by the contractor for these services. Any  
26 fees for the collection, transmission, and retention of  
27 fingerprints submitted pursuant to [this subsection](#) shall be  
28 paid directly to the contractor by the applicant.

29       ~~b. The commissioner may waive submission of fingerprints~~  
30 ~~by any person who has previously furnished fingerprints if~~  
31 ~~those fingerprints are on file with the central repository~~  
32 ~~of the national association of insurance commissioners, its~~  
33 ~~affiliates, or subsidiaries.~~

34       ~~c. The commissioner may receive criminal history record~~  
35 ~~information concerning an applicant that was requested by the~~

1 ~~state department of justice directly from the federal bureau~~  
2 ~~of investigation.~~

3 ~~d. The commissioner may submit electronic fingerprint~~  
4 ~~records and necessary identifying information to the national~~  
5 ~~association of insurance commissioners, its affiliates,~~  
6 ~~or subsidiaries for permanent retention in a centralized~~  
7 ~~repository whose purpose is to provide state insurance~~  
8 ~~commissioners with access to fingerprint records in order to~~  
9 ~~perform criminal history record checks.~~

10

EXPLANATION

11

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

12

13 This bill relates to the insurance fraud bureau and criminal  
14 history checks for licenses granted by the insurance division.

15 The bill clarifies that the insurance fraud bureau has the  
16 authority to conduct investigations in all areas under the  
17 jurisdiction of the insurance commissioner and also clarifies  
18 the law enforcement authority of an insurance fraud bureau  
19 investigator.

20 The bill authorizes the commissioner to require new  
21 applicants licensed under the commissioner's jurisdiction  
22 to submit fingerprints. The bill does not apply to current  
23 Iowa producers in good standing. The bill authorizes the  
24 commissioner to require a state and national criminal history  
25 check on each applicant that applies for an initial license in  
26 Iowa as a resident insurance producer, an initial license or  
27 an additional line of authority under a nonresident insurance  
28 producer license if a state and national criminal history  
29 check has not already been completed, an initial license as a  
30 viatical settlement provider or a viatical settlement broker  
31 in the state, and an initial license as a public adjuster  
32 in the state. In addition, the commissioner may require a  
33 state and national criminal history check for a producer, a  
34 public adjuster, or a viatical settlement provider or viatical  
35 settlement broker that applies for a renewal, reinstatement, or

1 reissuance of a license that has been revoked or suspended.

2 The bill provides that by submitting fingerprints an  
3 applicant is authorizing the commissioner to submit the  
4 fingerprints to the department of public safety for a state  
5 criminal history check and for submission to the federal bureau  
6 of investigation for a national criminal history check. The  
7 applicant is also authorizing the commissioner to receive the  
8 results of the state and national criminal history check.

9 The bill authorizes the commissioner to contract with  
10 a third-party vendor for the collection and submission of  
11 applicants' fingerprints. The commissioner may agree to  
12 reasonable fees to be charged by the vendor and may require  
13 the fee to be paid by an applicant directly to the third-party  
14 vendor.

15 The bill provides that the results of an applicant's  
16 criminal history check are not a public record under Code  
17 chapter 22. An applicant's fingerprints and criminal history  
18 check are only subject to a subpoena issued in a criminal  
19 action or investigation, shall be confidential by law and  
20 privileged, and are not subject to discovery or admissible in  
21 a private civil action.

22 The bill requires any person operating as either a viatical  
23 settlement provider or viatical settlement broker to be  
24 licensed and no longer allows an exception for a life insurance  
25 producer licensed for at least one year as a resident producer  
26 in this state, or the producer's home state, to operate as  
27 a viatical settlement broker. The bill no longer permits a  
28 license to be issued to a legal entity, as is currently allowed  
29 by law, to operate as either a viatical settlement provider or  
30 viatical settlement broker.