

Senate File 2200 - Introduced

SENATE FILE 2200
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 3093)

A BILL FOR

- 1 An Act relating to matters involving insurance and the
- 2 insurance division of the department of commerce, providing
- 3 fees, and resolving inconsistencies.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1

DIVISION I

2

INSURANCE

3 Section 1. Section 507B.7, Code 2020, is amended to read as
4 follows:

5 **507B.7 Cease and desist orders Orders and penalties.**

6 1. If, after hearing, the commissioner determines that a
7 person has engaged in an unfair method of competition or an
8 unfair or deceptive act or practice, the commissioner shall
9 reduce the findings to writing and shall issue and cause to
10 be served upon the person charged with the violation a copy
11 of such findings, an order requiring such person to cease
12 and desist from engaging in such method of competition, act,
13 or practice, and the commissioner may at the commissioner's
14 discretion order any one or more of the following:

15 a. Payment of a civil penalty of not more than one thousand
16 dollars for each act or violation of this subtitle, but not
17 to exceed an aggregate of ten thousand dollars, unless the
18 person knew or reasonably should have known the person was in
19 violation of this subtitle, in which case the penalty shall be
20 not more than five thousand dollars for each act or violation,
21 but not to exceed an aggregate penalty of fifty thousand
22 dollars in any one six-month period. If the commissioner finds
23 that a violation of this subtitle was directed, encouraged,
24 condoned, ignored, or ratified by the employer of the person or
25 by an insurer, the commissioner shall also assess a penalty to
26 the employer or insurer.

27 b. Suspension or revocation of the license of a person as
28 defined in **section 507B.2, subsection 1**, if the person knew or
29 reasonably should have known the person was in violation of
30 this subtitle.

31 c. Payment of interest at the rate of ten percent per
32 annum if the commissioner finds that the insurer failed to
33 pay interest as required under **section 507B.4, subsection 3**,
34 paragraph "p".

35 2. Until the expiration of the time allowed under section

1 507B.8 for filing a petition for review if no such petition has
2 been duly filed within such time, or, if a petition for review
3 has been filed within such time, then until the transcript of
4 the record in the proceeding has been filed in the district
5 court, as hereinafter provided, the commissioner may at any
6 time, upon such notice and in such manner as the commissioner
7 may deem proper, modify or set aside in whole or in part any
8 order issued by the commissioner under **this section**.

9 3. After the expiration of the time allowed for filing
10 such a petition for review if no such petition has been duly
11 filed within such time, the commissioner may at any time, after
12 notice and opportunity for hearing, reopen and alter, modify,
13 or set aside, in whole or in part, any order issued by the
14 commissioner under **this section**, whenever in the commissioner's
15 opinion conditions of fact or of law have so changed as
16 to require such action, or if the public interest shall so
17 require.

18 4. Any person who violates ~~a cease and desist~~ an order
19 of the commissioner, and while such order is in effect, may,
20 after notice and hearing and upon order of the commissioner,
21 be subject at the discretion of the commissioner to any one or
22 more of the following:

23 a. A monetary penalty of not more than ten thousand dollars
24 for each and every act or violation. A penalty collected
25 under this lettered paragraph shall be deposited as provided
26 in **section 505.7**.

27 b. Suspension or revocation of such person's license.

28 Sec. 2. Section 514G.103, subsection 10, Code 2020, is
29 amended to read as follows:

30 10. "*Independent review entity organization*" means a review
31 entity organization certified by the commissioner pursuant to
32 section 514G.110, subsection 4.

33 Sec. 3. Section 514G.110, Code 2020, is amended to read as
34 follows:

35 **514G.110 Independent review of benefit trigger**

1 determinations.

2 1. *Request.* An insured may file a written request for
3 independent review of a benefit trigger determination with
4 the commissioner after the internal appeal process has been
5 exhausted. The request shall be filed within sixty days after
6 the insured receives written notice of the insurer's internal
7 appeal decision.

8 2. *Eligibility for review.* The commissioner shall certify
9 that the request is eligible for independent review if all of
10 the following criteria are satisfied:

11 a. The insured was covered by a long-term care insurance
12 policy issued by the insurer at the time the benefit trigger
13 determination was made.

14 b. The sole reason for requesting an independent review is
15 to review the insurer's determination that the benefit trigger
16 was not met.

17 c. The insured has exhausted all internal appeal procedures
18 provided under the insured's long-term care insurance policy.

19 d. The written request for independent review was filed by
20 the insured within sixty days from the date of receipt of the
21 insurer's internal appeal decision.

22 3. *Notice of eligibility.* The commissioner shall provide
23 written notice regarding eligibility of a request for
24 independent review to the insured and the insurer within two
25 business days from the date of receipt of the request.

26 a. If the commissioner decides that the request is not
27 eligible for independent review, the written notice shall
28 indicate the reasons for that decision.

29 b. If the commissioner certifies that the request is
30 eligible for independent review, the insurer may appeal that
31 certification by filing a written notice of appeal with the
32 commissioner within three business days from the date of
33 receipt of the notice of certification. If upon further
34 review, the commissioner upholds the certification, the
35 commissioner shall promptly notify the insured and the insurer

1 in writing of the reasons for that decision.

2 4. *Qualifications of independent review entities*

3 organizations. The commissioner shall maintain a list of
4 qualified independent review entities organizations that are
5 certified by the commissioner. Independent review entities
6 organizations shall be recertified by the commissioner every
7 two years in order to remain on the list. In order to be
8 certified, an independent review entity organization shall meet
9 all of the following criteria:

10 a. Have on staff, or contract with, a qualified, licensed
11 health care professional in an appropriate field for
12 determining an insured's functional or cognitive impairment who
13 can conduct an independent review.

14 (1) In order to be qualified, a licensed health care
15 professional who is a physician shall hold a current
16 certification by a recognized American medical specialty
17 board in a specialty appropriate for determining an insured's
18 functional or cognitive impairment.

19 (2) In order to be qualified, a licensed health care
20 professional who is not a physician shall hold a current
21 certification in the specialty in which that person is
22 licensed, by a recognized American specialty board in a
23 specialty appropriate for determining an insured's functional
24 or cognitive impairment.

25 b. Ensure that any licensed health care professional who
26 conducts an independent review has no history of disciplinary
27 actions or sanctions, including but not limited to the loss
28 of staff privileges or any participation restrictions taken
29 or pending by any hospital or state or federal government
30 regulatory agency.

31 c. Ensure that the independent review entity organization
32 or any of its employees, agents, or licensed health care
33 professionals utilized does not receive compensation of any
34 type that is dependent on the outcome of a review.

35 d. Ensure that the independent review entity organization

1 or any of its employees, agents, or licensed health care
2 professionals utilized are not in any manner related to,
3 employed by, or affiliated with the insured or with a person
4 who previously provided medical care to the insured.

5 e. Ensure that an independent review entity organization
6 or any of its employees, agents, or licensed health care
7 professionals utilized is not a subsidiary of, or owned or
8 controlled by, an insurer or by a trade association of insurers
9 of which the insurer is a member.

10 f. Have a quality assurance program on file with the
11 commissioner that ensures the timeliness and quality of reviews
12 performed, the qualifications and independence of the licensed
13 health care professionals who perform the reviews, and the
14 confidentiality of the review process.

15 g. Have on staff or contract with a licensed health care
16 practitioner, as defined in section 514G.103, subsection 3, who
17 is qualified to certify that an individual is chronically ill
18 for purposes of a qualified long-term care insurance contract.

19 5. *Independent review process.* The independent review
20 process shall be conducted as follows:

21 a. Within three business days of receiving a notice from the
22 commissioner of the certification of a request for independent
23 review or receipt of a denial of an insurer's appeal from such
24 a certification, the insurer shall do all of the following:

25 (1) Select an independent review entity organization from
26 the list certified by the commissioner and notify the insured
27 in writing of the name, address, and telephone number of the
28 selected independent review entity selected organization. The
29 selected independent review entity selected organization shall
30 utilize a licensed health care professional with qualifications
31 appropriate to the benefit trigger determination that is under
32 review.

33 (2) Notify the independent review entity organization
34 that it has been selected to conduct an independent review
35 of a benefit trigger determination and provide sufficient

1 descriptive information to enable the independent review entity
2 organization to provide licensed health care professionals who
3 will be qualified to conduct the review.

4 (3) Provide the commissioner with a copy of the notices sent
5 to the insured and to the selected independent review entity
6 selected organization.

7 b. Within three business days of receiving a notice from
8 an insurer that it has been selected to conduct an independent
9 review, the independent review entity organization shall do one
10 of the following:

11 (1) Accept its selection as the independent review entity
12 organization, designate a qualified licensed health care
13 professional to perform the independent review, and provide
14 notice of that designation to the insured and the insurer,
15 including a brief description of the health care professional's
16 qualifications and the reasons that person is qualified to
17 determine whether the insured's benefit trigger has been met.
18 A copy of this notice shall be sent to the commissioner via
19 facsimile. The independent review entity organization is not
20 required to disclose the name of the health care professional
21 selected.

22 (2) Decline its selection as the independent review entity
23 organization or, if the independent review entity organization
24 does not have a licensed health care professional who is
25 qualified to conduct the independent review available, request
26 additional time from the commissioner to have a qualified
27 licensed health care professional certified, and provide
28 notice to the insured, the insurer, and the commissioner.
29 The commissioner shall notify the independent review entity
30 organization, the insured, and the insurer of how to proceed
31 within three business days of receipt of such notice from the
32 independent review entity organization.

33 c. An insured may object to the independent review entity
34 organization selected by the insurer or to the licensed
35 health care professional designated by the independent review

1 entity organization to conduct the review by filing a notice
2 of objection along with reasons for the objection, with the
3 commissioner within ten days of receipt of a notice sent by the
4 independent review entity organization pursuant to paragraph
5 "b". The commissioner shall consider the insured's objection
6 and shall notify the insured, the insurer, and the independent
7 review entity organization of the commissioner's decision to
8 sustain or deny the objection within two business days of
9 receipt of the objection.

10 d. Within five business days of receiving a notice from
11 the independent review entity organization accepting its
12 selection or within five business days of receiving a denial
13 of an objection to the independent review entity organization
14 selected, whichever is later, the insured may submit any
15 information or documentation in support of the insured's claim
16 to both the independent review entity organization and the
17 insurer.

18 e. Within fifteen days of receiving a notice from the
19 independent review entity organization accepting its selection
20 or within three business days of receipt of a denial of
21 an objection to the independent review entity organization
22 selected, whichever is later, an insurer shall do all of the
23 following:

24 (1) Provide the independent review entity organization
25 with any information submitted to the insurer by the insured
26 in support of the insured's internal appeal of the insurer's
27 benefit trigger determination.

28 (2) Provide the independent review entity organization with
29 any other relevant documents used by the insurer in making its
30 benefit trigger determination.

31 (3) Provide the insured and the commissioner with
32 confirmation that the information required under subparagraphs
33 (1) and (2) has been provided to the independent review entity
34 organization, including the date the information was provided.

35 f. The independent review entity organization shall not

1 commence its review until fifteen days after the selection of
2 the independent review entity organization is final including
3 the resolution of any objection made pursuant to paragraph
4 "c". During this time period, the insurer may consider any
5 information provided by the insured pursuant to paragraph
6 "d" and overturn or affirm the insurer's benefit trigger
7 determination based on such information. If the insurer
8 overturns its benefit trigger determination, the independent
9 review process shall immediately cease.

10 g. In conducting a review, the independent review
11 entity organization shall consider only the information
12 and documentation provided to the independent review entity
13 organization pursuant to paragraphs "d" and "e".

14 h. The independent review entity organization shall submit
15 its decision as soon as possible, but not later than thirty
16 days from the date the independent review entity organization
17 receives the information required under paragraphs "d" and "e",
18 whichever is received later. The decision shall include a
19 description of the basis for the decision and the date of the
20 benefit trigger determination to which the decision relates.
21 The independent review entity organization, for good cause,
22 may request an extension of time from the commissioner to file
23 its decision. A copy of the decision shall be mailed to the
24 insured, the insurer, and the commissioner.

25 i. All medical records submitted for use by the independent
26 review entity organization shall be maintained as confidential
27 records as required by applicable state and federal laws. The
28 commissioner shall keep all information obtained during the
29 independent review process confidential pursuant to section
30 505.8, subsection 8, except that the commissioner may share
31 some information obtained as provided under section 505.8,
32 subsection 8, and as required by **this chapter** and rules adopted
33 pursuant to **this chapter**.

34 j. If an insured dies before completion of the independent
35 review, the review shall continue to completion if there

1 is potential liability of an insurer to the estate of the
2 insured or to a provider for rendering qualified long-term care
3 services to the insured.

4 6. *Costs.* All reasonable fees and costs of the independent
5 review entity ~~incurred~~ organization in conducting an
6 independent review under **this section** shall be paid by the
7 insurer.

8 7. *Immunity.* An independent review entity organization that
9 conducts a review under **this section** is not liable for damages
10 arising from determinations made during the review. Immunity
11 does not apply to any act or omission made by an independent
12 review entity organization in bad faith or that involves gross
13 negligence.

14 8. *Effect of independent review decision.*

15 a. The review decision by the independent review entity
16 organization conducting the review is binding on the insurer.

17 b. The independent review process set forth in **this section**
18 shall not be considered a contested case under **chapter 17A**.

19 c. An insured may appeal the review decision by the
20 independent review entity organization conducting the review
21 by filing a petition for judicial review in the district court
22 in the county in which the insured resides. The petition for
23 judicial review shall be filed within fifteen business days
24 after the issuance of the review decision by the independent
25 review organization. The petition shall name the insured
26 as the petitioner and the insurer as the respondent. The
27 petitioner shall not name the independent review entity
28 organization as a party. The commissioner shall not be named
29 as a respondent unless the insured alleges action or inaction
30 by the commissioner under the standards articulated under
31 section 17A.19, subsection 10. Allegations made against the
32 commissioner under **section 17A.19, subsection 10**, must be
33 stated with particularity. The commissioner may, upon motion,
34 intervene in a judicial review proceeding brought pursuant to
35 this paragraph. The findings of fact by the independent review

1 entity organization conducting the review are conclusive and
2 binding on appeal.

3 d. An insurer shall not be subject to any penalties,
4 sanctions, or damages for complying in good faith with a review
5 decision rendered by an independent review entity organization
6 pursuant to **this section**.

7 e. Nothing contained in **this section** or in **section 514G.109**
8 shall be construed to limit the right of an insurer to assert
9 any rights an insurer may have under a long-term care insurance
10 policy related to:

11 (1) An insured's misrepresentation.

12 (2) Changes in the insured's benefit eligibility.

13 (3) Terms, conditions, and exclusions contained in the
14 policy, other than failure to meet the benefit trigger.

15 f. The requirements of **this section** and **section 514G.109** are
16 not applicable to a group long-term care insurance policy that
17 is governed by the federal Employee Retirement Income Security
18 Act of 1974, as codified at 29 U.S.C. §100 et seq.

19 g. The provisions of **this section** and **section 514G.109**
20 are in lieu of and supersede any other third-party review
21 requirement contained in **chapter 514J** or in any other provision
22 of law.

23 h. The insured may bring an action in the district court
24 in the county in which the insured resides to enforce the
25 review decision of the independent review entity organization
26 conducting the review or the decision of the court on appeal.

27 9. *Receipt of notice.* Notice required by **this section** shall
28 be deemed received within five days after the date of mailing.

29 Sec. 4. Section 515D.4, subsection 2, paragraph a, Code
30 2020, is amended to read as follows:

31 a. The named insured or any operator who either resides
32 in the same household or customarily operates an automobile
33 insured under the policy has that person's driver's license
34 suspended or revoked ~~during the policy term or, if the policy~~
35 ~~is a renewal, during its term or the one hundred eighty days~~

1 immediately preceding its effective date. during any of the
2 following:

- 3 (1) The term of the policy.
4 (2) The term of a renewal policy.

5 (3) One hundred eighty days immediately preceding the
6 effective date of a renewal of the policy.

7 Sec. 5. Section 515D.6, Code 2020, is amended to read as
8 follows:

9 **515D.6 Prohibited reasons for nonrenewal.**

10 1. No insurer shall refuse to renew a policy solely because
11 of age, residence, sex, race, color, creed, or occupation of
12 an insured.

13 2. No insurer shall require a physical examination of a
14 policyholder as a condition for renewal solely on the basis of
15 age or other arbitrary reason. In the event that an insurer
16 requires a physical examination of a policyholder, the burden
17 of proof in establishing reasonable and sufficient grounds for
18 such requirement shall rest with the insurer and the expenses
19 incident to such examination shall be borne by the insurer.

20 Sec. 6. Section 515F.32, subsection 3, Code 2020, is amended
21 to read as follows:

22 3. "Insurer" includes all companies or associations licensed
23 to transact insurance business in this state under chapters
24 515, 518, and 518A, reciprocal insurers issued a certificate
25 of authority pursuant to chapter 520, and companies or
26 associations admitted or seeking to be admitted to do business
27 in this state under any of those chapters, notwithstanding any
28 provision of the Code to the contrary.

29 Sec. 7. Section 515F.36, subsection 2, Code 2020, is amended
30 to read as follows:

31 2. The committee shall consist of seven members.

32 a. Five Four of the members shall be elected to the
33 committee, with one member from each of the following:

- 34 (1) American property casualty insurance association.
35 (2) Property casualty insurers association of America.

1 (3) (2) Iowa insurance institute.

2 (4) (3) Mutual insurance association of Iowa.

3 (5) (4) Independent insurance agents of Iowa.

4 b. Two Three of the members shall be elected to the
5 committee by other insurer members of the plan.

6 Sec. 8. NEW SECTION. 515F.39 Cancellation or nonrenewal —
7 FAIR notice.

8 If basic property insurance coverage is canceled or not
9 renewed other than for nonpayment of a premium pursuant to
10 section 515.125, 515.126, 515.127, 515.128, 518.23, or 518A.29,
11 the insurer shall notify the named insured that the named
12 insured may be eligible for basic property insurance through
13 the FAIR plan. The notice shall accompany the notice of
14 cancellation or the intent not to renew.

15 Sec. 9. Section 515I.4, subsection 1, paragraph a, Code
16 2020, is amended to read as follows:

17 a. Capital and surplus or its equivalent under the laws of
18 the insurer's domiciliary jurisdiction which equals the ~~greater~~
19 ~~of either greatest~~ of the following:

20 (1) The minimum capital and surplus requirements under the
21 laws of this state.

22 (2) Fifteen million dollars.

23 (3) The risk-based capital level requirements pursuant to
24 chapter 521E.

25 Sec. 10. Section 522.9, subsection 1, Code 2020, is amended
26 to read as follows:

27 1. If an insurer fails, without just cause, to file an
28 own risk and solvency assessment summary report by the filing
29 date stipulated to the commissioner pursuant to section 522.5,
30 subsection 1, paragraph "c", the commissioner shall, after
31 notice and hearing, impose a penalty of five hundred dollars
32 for each day after the stipulated date that the summary
33 report is not filed. The penalties shall be collected by the
34 commissioner and deposited in the general fund of the state
35 pursuant to section 505.7. The maximum penalty which may be

1 imposed under **this section** is fifty thousand dollars.

2 DIVISION II

3 CEMETERY AND PRENEED SELLERS AND SALES

4 Sec. 11. Section 523A.204, subsections 1 and 2, Code 2020,
5 are amended to read as follows:

6 1. A preneed seller shall file an annual report with the
7 commissioner not later than April 1 of each year ~~an annual~~
8 report 15 on a form prescribed by the commissioner.

9 2. A preneed seller filing an annual report shall pay a
10 filing fee of ten dollars per purchase agreement sold during
11 the year covered by the report. Duplicate filing fees are
12 not required for the same purchase agreement. If a purchase
13 agreement has multiple sellers, the filing fee shall be paid
14 by the preneed seller actually providing the merchandise and
15 services.

16 Sec. 12. Section 523A.204, Code 2020, is amended by adding
17 the following new subsection:

18 NEW SUBSECTION. 4. The commissioner may impose a late fee
19 in the amount of five dollars for each day after April 15 that
20 a preneed seller fails to file the preneed seller's annual
21 report. The maximum late fee that may be imposed pursuant
22 to this section is five hundred dollars. The fee shall be
23 collected by the commissioner and deposited pursuant to section
24 505.7.

25 Sec. 13. Section 523A.501, subsection 7, Code 2020, is
26 amended to read as follows:

27 7. A preneed seller's license expires shall expire annually
28 on April 15 30. If the preneed seller has filed a ~~complete~~
29 an annual report pursuant to section 523A.204, subsection 1,
30 and paid the required filing fees as required in pursuant to
31 section 523A.204, subsection 2, the commissioner shall renew
32 the preneed seller's license until April 15 30 of the following
33 year.

34 Sec. 14. Section 523A.502, subsection 5, Code 2020, is
35 amended to read as follows:

1 5. A sales license shall expire annually on April 15 30.
2 If ~~the~~ a sales agent has filed a substantially complete annual
3 report as required in pursuant to section 523A.502A, subsection
4 1, and has fulfilled the continuing education requirements
5 pursuant to subsection 6 of this section, the commissioner
6 shall renew the sales agent's sales license until April 15 30
7 of the following year.

8 Sec. 15. Section 523A.502A, subsection 1, Code 2020, is
9 amended to read as follows:

10 1. ~~A No later than April 15, a sales agent shall file an~~
11 ~~annual report with the commissioner not later than April 1~~
12 ~~of each year an annual report on a form prescribed by the~~
13 ~~commissioner describing each purchase agreement sold by the~~
14 ~~sales agent during the year. An annual report must be filed~~
15 ~~whether or not sales were made a sales agent sold any purchase~~
16 ~~agreements during the year and even if the whether or not a~~
17 ~~sales agent is no longer still an agent of a preneed seller or~~
18 ~~is still licensed by the commissioner.~~

19 Sec. 16. Section 523A.502A, Code 2020, is amended by adding
20 the following new subsection:

21 NEW SUBSECTION. 3. The commissioner may impose a late fee
22 in the amount of five dollars for each day after April 15 that a
23 sales agent fails to file the sales agent's annual report. The
24 maximum late fee that may be imposed pursuant to this section
25 is five hundred dollars. The fee shall be collected by the
26 commissioner and deposited pursuant to section 505.7.

27 Sec. 17. Section 523A.601, subsection 4, Code 2020, is
28 amended to read as follows:

29 4. ~~A purchase agreement shall be signed by the purchaser,~~
30 ~~the seller, and if the agreement is for mortuary science~~
31 ~~services as mortuary science is defined in section 156.1, a~~
32 ~~person licensed to deliver funeral services. All purchase~~
33 ~~agreements, including a purchase agreement delivered or~~
34 ~~executed by electronic means, must have a sales agent~~
35 ~~identified. A purchase agreement, including a purchase~~

1 agreement delivered or executed by electronic means, shall
2 be reviewed by the sales agent identified and named in the
3 purchase agreement pursuant to subsection 1, paragraph "a", and
4 signed by the purchaser and seller. If the purchase agreement
5 is for mortuary sciences as mortuary science is defined in
6 section 156.1, the purchase agreement must also be signed by a
7 person licensed to deliver funeral services.

8 Sec. 18. Section 523A.807, subsection 3, unnumbered
9 paragraph 1, Code 2020, is amended to read as follows:
10 If the commissioner finds that a person has violated
11 section 523A.201, **523A.202, 523A.203, 523A.207, 523A.401,**
12 **523A.402, 523A.403, 523A.404, 523A.405, 523A.501, or 523A.502,**
13 or 523A.502A, or any rule adopted pursuant thereto, the
14 commissioner may order any or all of the following:

15 Sec. 19. Section 523A.812, Code 2020, is amended to read as
16 follows:

17 **523A.812 Insurance division regulatory fund.**

18 The insurance division may authorize the creation of a
19 special revenue fund in the state treasury, to be known as
20 the insurance division regulatory fund. The commissioner
21 shall allocate annually from the filing fees paid pursuant
22 to **section 523A.204**, two dollars for each purchase agreement
23 reported on a preneed seller's annual report filed pursuant
24 to **section 523A.204** for deposit to the regulatory fund. The
25 remainder of the filing fees collected pursuant to section
26 **523A.204** shall be deposited as provided in **section 505.7**. The
27 commissioner shall also allocate annually the examination
28 fees paid pursuant to **section 523A.814** and any examination
29 expense reimbursement for deposit to the regulatory fund. The
30 moneys in the regulatory fund shall be retained in the fund.
31 The moneys are appropriated and, subject to authorization by
32 the commissioner, may be used to pay examiners, examination
33 expenses, investigative expenses, the expenses of mediation
34 ordered by the commissioner, consumer education expenses, the
35 expenses of a toll-free telephone line to receive consumer

1 complaints, and the expenses of receiverships established
2 under **section 523A.811**. If the commissioner determines that
3 funding is not otherwise available to reimburse the expenses of
4 a person who receives title to a cemetery subject to chapter
5 523I, pursuant to such a receivership, the commissioner shall
6 use moneys in the regulatory fund as necessary to preserve,
7 protect, restore, and maintain the physical integrity of
8 that cemetery and to satisfy claims or demands for cemetery
9 merchandise, funeral merchandise, and funeral services based on
10 purchase agreements which the commissioner determines are just
11 and outstanding. ~~An annual allocation to the regulatory fund~~
~~shall not be imposed if the current balance of the fund exceeds~~
~~five hundred thousand dollars.~~

14 Sec. 20. Section 523I.102, subsection 6, Code 2020, is
15 amended by adding the following new paragraph:

16 NEW PARAGRAPH. *d.* A cemetery under the jurisdiction and
17 control of a cemetery commission pursuant to section 331.325,
18 subsection 3, paragraph "c".

19 Sec. 21. Section 523I.213, Code 2020, is amended to read as
20 follows:

21 **523I.213 Insurance division's enforcement fund.**

22 A special revenue fund in the state treasury, to be known as
23 the insurance division's enforcement fund, is created under the
24 authority of the commissioner. The commissioner shall allocate
25 annually from the examination fees paid pursuant to section
26 523I.808, an amount not exceeding fifty thousand dollars, for
27 deposit to all examination fees collected pursuant to section
28 523I.808 in the insurance division's enforcement fund. The
29 moneys in the enforcement fund shall be retained in the fund.
30 The moneys are appropriated and, subject to authorization by
31 the commissioner, shall be used to pay examiners, examination
32 expenses, investigative expenses, the expenses of consumer
33 education, compliance, and education programs for filers and
34 other regulated persons, and educational or compliance program
35 materials, the expenses of a toll-free telephone line for

1 consumer complaints, and the expenses of receiverships of
2 perpetual care cemeteries established under **section 523I.212**.

3 Sec. 22. Section 523I.301, subsections 1 and 2, Code 2020,
4 are amended to read as follows:

5 1. A cemetery shall disclose, prior to the sale of interment
6 rights, whether opening and closing ~~of the interment space is~~
7 services are included in the purchase of the interment rights.
8 If opening and closing services are not included in the sale of
9 interment rights and the cemetery offers opening and closing
10 services, the cemetery must disclose that the price for this
11 servicee opening and closing services is subject to change
12 and must disclose the current prices for opening and closing
13 services provided by the cemetery.

14 2. The cemetery shall fully disclose all fees required for
15 interment, entombment, or inurnment of human remains and for
16 disinterment services.

17 Sec. 23. Section 523I.808, Code 2020, is amended to read as
18 follows:

19 **523I.808 Examination fee.**

20 An examination fee in an amount equal to ten dollars for
21 each certificate of interment rights issued during the time
22 period covered by the report shall be submitted with the a
23 perpetual care cemetery's annual report in an amount equal to
24 five dollars for each certificate of interment rights issued
25 during the time period covered by the report filed pursuant to
26 section 523I.813. The cemetery may charge the examination fee
27 directly to the purchaser of the interment rights.

28 Sec. 24. Section 523I.813, subsection 3, Code 2020, is
29 amended to read as follows:

30 3. The commissioner shall levy an administrative penalty
31 ~~in the amount of up to five hundred dollars against a cemetery~~
32 ~~that fails to file the annual report when due, payable to the~~
33 ~~state for deposit as provided in section 505.7. However,~~
34 ~~the commissioner may waive the administrative penalty upon~~
35 ~~a showing of good cause or financial hardship may assess a~~

1 late fee in the amount of five dollars for each day after the
2 date a perpetual care cemetery's annual report is due that the
3 perpetual care cemetery fails to file the annual report. The
4 maximum late fee that may be imposed pursuant to this section
5 is five hundred dollars. The fee shall be collected by the
6 commissioner and deposited pursuant to section 505.7.

7

EXPLANATION

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

10 This bill relates to various matters involving insurance and
11 the insurance division of the department of commerce. The bill
12 is organized into two divisions.

13 DIVISION I — INSURANCE. Code section 507B.7 (cease and
14 desist orders) is amended to provide that a person who violates
15 any order of the insurance commissioner (commissioner), may,
16 after notice and hearing be subject to a monetary penalty and
17 suspension or revocation of the person's license. Current law
18 provides that a person who violates a cease and desist order
19 of the commissioner is subject to the penalty and suspension
20 or revocation.

21 Code chapter 514G (long-term care insurance) is amended
22 to change terminology throughout the Code chapter from
23 an "independent review entity" to an "independent review
24 organization".

25 The bill amends Code section 515D.4 (notice of cancellation
26 — reasons) to provide more specification regarding when a
27 person can be excluded from an automobile insurance policy due
28 to the person's driver's license being suspended or revoked
29 during the term of the policy or a renewal of the policy.

30 Code section 515F.32 is amended to add reciprocal insurers
31 to the definition of "insurer". Code section 515F.36 is
32 amended to change the make-up of the membership of the
33 governing committee that administers the FAIR plan.

34 The bill requires that if basic property insurance coverage
35 is canceled or not renewed other than for nonpayment of a

1 premium pursuant to Code section 515.125, 515.126, 515.127,
2 515.128, 518.23, or 518A.29, the insurer must notify the named
3 insured that the named insured may be eligible for basic
4 property insurance through the FAIR plan. The notice must
5 accompany the notice of cancellation or the intent not to
6 renew.

7 The bill amends Code section 515I.4 (requirements for
8 eligible surplus lines insurers) to allow a nonadmitted
9 insurer seeking to qualify as an eligible surplus line insurer
10 the option of demonstrating that the nonadmitted insurer
11 has capital and surplus under the laws of the nonadmitted
12 insurer's domiciliary that equal the risk-based capital level
13 requirements required by Iowa law. Current law requires the
14 nonadmitted insurer to demonstrate that the nonadmitted insurer
15 has capital and surplus under the laws of the nonadmitted
16 insurer's domiciliary that equal the greater of the minimum
17 capital and surplus required under the laws of this state, or
18 \$15 million.

19 Code section 522.9 is amended to allow the commissioner
20 to deposit penalties pursuant to Code section 505.7 (fees —
21 expenses of division — assessments) that have been collected
22 due to insurers' failure to file a timely own risk and solvency
23 assessment summary report. Code section 505.7 requires
24 the commissioner to transfer the collected penalties to the
25 treasurer of state for deposit in the department of commerce
26 revolving fund. Current law requires the commissioner to
27 deposit the penalties into the general fund of the state.

28 DIVISION II — CEMETERY AND PRENEED SELLERS AND SALES.

29 The bill amends Code section 523A.204 (preneed seller annual
30 reporting requirements) to require a preneed seller to
31 file an annual report no later than April 15. Current law
32 requires the report to be filed by April 1. The bill allows
33 the commissioner to impose a late fee of \$5 per day, up to a
34 maximum late fee of \$500. The fee is to be collected by the
35 commissioner and deposited pursuant to Code section 505.7. The

1 bill specifies that a preneed seller's license expires annually
2 on April 30, rather than the current expiration date of April
3 15.

4 Code section 523A.502A (sales agent annual reporting
5 requirements) is amended to require a sales agent to file
6 the sales agent's annual report by April 15, rather than the
7 current due date of April 1. The bill allows the commissioner
8 to impose a late fee of \$5 per day, up to a maximum late fee
9 of \$500. The fee is to be collected by the commissioner and
10 deposited pursuant to Code section 505.7. The bill allows
11 the commissioner to impose a civil penalty or to issue an
12 order prohibiting the person from selling funeral merchandise,
13 cemetery merchandise, or funeral services.

14 Code section 523A.601 is amended to require all purchase
15 agreements, including purchase agreements delivered or executed
16 by electronic means, to identify a sales agent. The purchase
17 agreement must also be reviewed by the sales agent and signed
18 by the purchaser and seller. If the purchase agreement is for
19 mortuary sciences, the purchase agreement must also be signed
20 by a person licensed to deliver funeral services.

21 The bill amends Code section 523A.812 (insurance division
22 regulatory fund) and removes the prohibition on an annual
23 allocation to the regulatory fund if the current balance of the
24 fund exceeds \$500,000.

25 Code section 523I.102 is amended to exclude specific
26 cemeteries under the jurisdiction and control of a cemetery
27 commission that has jurisdiction and control over pioneer
28 cemeteries from the definition of "cemetery" for purposes of
29 Code chapter 523I (Iowa cemetery Act).

30 Code section 523I.213 (insurance division's enforcement
31 fund) is amended to remove the cap on the allocation to the
32 insurance division's enforcement fund of examination fees paid
33 by perpetual cemeteries with a perpetual cemetery's annual
34 report. The bill requires the commissioner to deposit all of
35 the examination fees in the enforcement fund.

1 Code section 523I.301 (disclosure requirements — prices
2 and fees) is amended to require a cemetery to disclose, prior
3 to the sale of interment rights, whether opening and closing
4 services are included in the purchase price. The bill also
5 requires a cemetery to fully disclose all fees associated with
6 disinterment services.

7 The bill amends Code section 523I.808 to require an
8 examination fee of \$10 per certificate of interment rights
9 issued to be filed with a perpetual care cemetery's annual
10 report. Under current law, the fee is \$5 per certificate of
11 interment rights issued.

12 The bill amends Code section 523I.813 (annual report by
13 perpetual care cemeteries) to allow, rather than to require,
14 the commissioner to impose a late penalty on a perpetual care
15 cemetery that fails to file its annual report on time.