

13 in the same manner and for the same purpose be imposed upon in-
 14 surance companies of such other state doing business in Iowa. For
 15 the purpose of this section, an alien insurer shall be deemed to be
 16 domiciled in a state designated by it wherein it has (a) established its
 17 principal office or agency in the United States, or (b) maintains the
 18 largest amount of its assets held in trust or on deposit for the security
 19 of its policyholders or policyholders and creditors in the United
 20 States, or (c) in which it was admitted to do business in the United
 21 States. The provisions of this section shall not apply to ad valorem
 22 taxes on real or personal property or to personal income taxes."

1 SEC. 2. Section four hundred thirty-two point two (432.2), Code
 2 1954, is hereby repealed.

Approved March 24, 1955.

CHAPTER 236

INSURANCE EXAMINERS

H. F. 387

AN ACT to amend section five hundred seven point four (507.4), Code 1954, relating to compensation of insurance examiners.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section five hundred seven point four (507.4), Code
 2 1954, is hereby amended by striking from line twenty-one (21) thereof
 3 the word "twenty" and substituting therefor the word "fifty"; and
 4 by striking the word "fifty" from line twenty-three (23) thereof and
 5 substituting therefor the word "eighty".

Approved April 21, 1955.

CHAPTER 237

INSURANCE TRADE PRACTICES

H. F. 332

AN ACT relating to unfair methods of competition and unfair and deceptive acts and practices in the business of insurance, and to amend and repeal various sections of the Code 1954.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. **Declaration of Purpose.** The purpose of this Act is
 2 to regulate trade practices in the business of insurance in accordance
 3 with the intent of Congress as expressed in the Act of Congress of
 4 March 9, 1945 (Public Law 15, 79th Congress), by defining, or provid-
 5 ing for the determination of, all such practices in this state which
 6 constitute unfair methods of competition or unfair or deceptive acts
 7 or practices and by prohibiting the trade practices so defined or de-
 8 termined.

1 **SEC. 2 Definitions.** When used in this Act:

2 (a) "Person" shall mean any individual, corporation, association,
3 partnership, reciprocal exchange, interinsurer, fraternal beneficiary
4 association, and any other legal entity engaged in the business of
5 insurance, including agents, brokers and adjusters.

6 (b) "Commissioner" shall mean the commissioner of insurance of
7 this state.

1 **SEC. 3. Unfair Methods of Competition or Unfair and Deceptive**
2 **Acts or Practices Prohibited.** No person shall engage in this state in
3 any trade practice which is defined in this Act as, or determined pur-
4 suant to this Act to be, an unfair method of competition, or an unfair
5 or deceptive act or practice in the business of insurance.

1 **SEC. 4. Unfair Methods of Competition and Unfair or Deceptive**
2 **Acts or Practices Defined.** The following are hereby defined as unfair
3 methods of competition and unfair and deceptive acts or practices in
4 the business of insurance:

5 (a) *Misrepresentations and False Advertising of Policy Contracts.*
6 Making, issuing, circulating, or causing to be made, issued or circu-
7 lated, any estimate, illustration, circular or statement misrepresent-
8 ing the terms of any policy issued or to be issued or the benefits or
9 advantages promised thereby or the dividends or share of the sur-
10 plus to be received thereon, or making any false or misleading state-
11 ments as to the dividends or share of surplus previously paid on
12 similar policies, or making any misleading representation or any
13 misrepresentation as to the financial condition of any insurer, or as
14 to the legal reserve system upon which any life insurer operates,
15 or using any name or title of any policy or class of policies misrep-
16 resenting the true nature thereof or making any misrepresentation
17 to any policyholder insured in any company for the purpose of in-
18 ducing or tending to induce such policyholder to lapse, forfeit, or sur-
19 render his insurance.

20 (b) *False Information and Advertising Generally.* Making, pub-
21 lishing, disseminating, circulating or placing before the public, or
22 causing, directly or indirectly, to be made, published, disseminated,
23 circulated, or placed before the public in a newspaper, magazine or
24 other publication, or in the form of a notice, circular, pamphlet,
25 letter or poster, or over any radio or television station, or in any
26 other way, an advertisement, announcement or statement containing
27 any assertion, representation, or statement with respect to the busi-
28 ness of insurance or with respect to any person in the conduct of his
29 insurance business, which is untrue, deceptive or misleading.

30 (c) *Defamation.* Making, publishing, disseminating, or circu-
31 lating, directly or indirectly, or aiding, abetting or encouraging the
32 making, publishing, disseminating or circulating of any oral or writ-
33 ten statement or any pamphlet, circular, article or literature which is
34 false, or maliciously critical of or derogatory to the financial condi-
35 tion of an insurer, and which is calculated to injure any person en-
36 gaged in the business of insurance.

37 (d) *Boycott, Coercion and Intimidation.* Entering into any agree-
38 ment to commit, or by any concerted action committing, any act of
39 boycott, coercion or intimidation resulting in or tending to result in
40 unreasonable restraint of, or monopoly in, the business of insurance.

41 (e) *False Financial Statements.* Filing with any supervisory or
42 other public official, or making, publishing, disseminating, circulating
43 or delivering to any person, or placing before the public, or causing
44 directly or indirectly, to be made, published, disseminated, circulated,
45 delivered to any person, or placed before the public, any false state-
46 ment of financial condition of an insurer with intent to deceive. Mak-
47 ing any false entry in any book, report or statement of any insurer
48 with intent to deceive any agent or examiner lawfully appointed to
49 examine into its condition or into any of its affairs, or any public
50 official to whom such insurer is required by law to report, or who
51 has authority by law to examine into its condition or into any of its
52 affairs, or, with like intent, wilfully omitting to make a true entry
53 of any material fact pertaining to the business of such insurer in
54 any book, report or statement of such insurer.

55 (f) *Stock Operations and Advisory Board Contracts.* Issuing
56 or delivering or permitting agents, officers or employees to issue or
57 deliver, agency company stock or other capital stock, or benefit cer-
58 tificates or shares in any common-law corporation, or securities or
59 any special or advisory board contracts or other contracts of any
60 kind promising returns and profits as an inducement to insurance.

61 (g) *Unfair Discrimination.* (1) Making or permitting any un-
62 fair discrimination between individuals of the same class and equal
63 expectation of life in the rates charged for any contract of life insur-
64 ance or of life annuity or in the dividends or other benefits payable
65 thereon, or in any other of the terms and conditions of such contract;
66 or (2) Making or permitting any unfair discrimination between in-
67 sureds of the same class for essentially the same hazard in the
68 amount of premium, policy fees, or rates charged for any policy or
69 contract of insurance other than life or in the benefits payable there-
70 under, or in any of the terms or conditions of such contract, or in
71 any other manner whatever.

72 (h) *Rebates.* (1) Except as otherwise expressly provided by
73 law, knowingly permitting or offering to make or making any con-
74 tract of life insurance, life annuity or accident and health insurance,
75 or agreement as to such contract other than as plainly expressed
76 in the contract issued thereon, or paying or allowing, or giving
77 or offering to pay, allow, or give, directly or indirectly, as induce-
78 ment to such insurance, or annuity, any rebate of premium payable
79 on the contract, or any special favor or advantage in the dividends
80 or other benefits thereon, or any valuable consideration or induce-
81 ment whatever not specified in the contract; or giving, or selling,
82 or purchasing or offering to give, sell, or purchase as inducement to
83 such insurance or annuity or in connection therewith, any stocks,
84 bonds, or other securities of any insurance company or other cor-
85 poration, association, or partnership, or any dividends or profits
86 accrued thereon, or anything of value whatsoever not specified in
87 the contract. (2) Nothing in paragraph (g) or subparagraph (1)
88 of paragraph (h) of this subsection shall be construed as including
89 within the definition of discrimination or rebates any of the following
90 practices: (a) In the case of any contract of life insurance or life
91 annuity, paying bonuses to policyholders or otherwise rebating their
92 premiums in whole or in part out of surplus accumulated from non-
93 participating insurance, provided that any such bonuses or re-

94 batement of premiums shall be fair and equitable to policyholders
95 and for the best interests of the company and its policyholders;
96 (b) In the case of life insurance policies issued on the industrial
97 debit plan, making allowance to policyholders who have continuously
98 for a specified period made premium payments directly to an office
99 of the insurer in an amount which fairly represents the saving in
100 collection expenses; (c) Readjustment of the rate of premium for a
101 group insurance policy based on the loss or expense experienced
102 thereunder, at the end of the first or any subsequent policy year of
103 insurance thereunder, which may be made retroactive only for such
104 policy year.

105 (i) Any violation of any one of sections five hundred fifteen
106 A.16 (515A.16), or five hundred fifteen B.15 (515B.15).

1 SEC. 5. **Power of Commissioner.** The commissioner shall have
2 power to examine and investigate into the affairs of every person
3 engaged in the business of insurance in this state in order to deter-
4 mine whether such person has been or is engaged in any unfair
5 method of competition or in any unfair or deceptive act or practice
6 prohibited by section three (3) of this Act.

1 SEC. 6. **Hearings, Witnesses, Appearances, Production of Books
2 and Service of Process.** (a) Whenever the commissioner shall have
3 reason to believe that any such person has been engaged or is en-
4 gaging in this state in any unfair method of competition or any
5 unfair or deceptive act or practice defined in section four (4), and
6 that a proceeding by him in respect thereto would be to the interest
7 of the public, he shall issue and serve upon such person a statement
8 of the charges in that respect and a notice of a hearing thereon to
9 be held at a time and place fixed in the notice, which shall not be less
10 than ten days after the date of the service thereof.

11 (b) At the time and place fixed for such hearing, such person
12 shall have an opportunity to be heard and to show cause why an
13 order should not be made by the commissioner requiring such person
14 to cease and desist from the acts, methods or practices so complained
15 of. Upon good cause shown, the commissioner shall permit any per-
16 son to intervene, appear and be heard at such hearing by counsel or
17 in person.

18 (c) Nothing contained in this Act shall require the observance
19 at any such hearing of formal rules of pleading or evidence.

20 (d) The commissioner, upon such hearing, may administer oaths,
21 examine and cross-examine witnesses, receive oral and documentary
22 evidence, and shall have the power to subpoena witnesses, compel
23 their attendance, and require the production of books, papers, records,
24 correspondence, or other documents which he deems relevant to the
25 inquiry. The commissioner, upon such hearing, may, and upon the
26 request of any party shall, cause to be made a stenographic record
27 of all the evidence and all the proceedings had at such hearing. If
28 no stenographic record is made and if a judicial review is sought, the
29 commissioner shall prepare a statement of the evidence and pro-
30 ceedings for use on review. In case of a refusal of any person to
31 comply with any subpoena issued hereunder or to testify with re-
32 spect to any matter concerning which he may be lawfully interro-
33 gated, the district court of Polk county or the county where such

34 party resides, on application of the commissioner, may issue an order
35 requiring such person to comply with such subpoena and to testify;
36 and any failure to obey any such order of the court may be punished
37 by the court as a contempt thereof.

38 (e) Statements of charges, notices, orders, and other processes of
39 the commissioner under this Act may be served by anyone duly au-
40 thorized by the commissioner, either in the manner provided by law
41 for service of process in civil actions, or by registering and mailing
42 a copy thereof to the person affected by such statement, notice, order,
43 or other process at his or its residence or principal office or place of
44 business. The verified return by the person so serving such state-
45 ment, notice, order, or other process, setting forth the manner of
46 such service, shall be proof of the same, and the return postcard
47 receipt for such statement, notice, order or other process, registered
48 and mailed as aforesaid, shall be proof of the service of the same.

1 **SEC. 7. Cease and Desist Orders and Modifications Thereof.**

2 (a) If, after such hearing, the commissioner shall determine that
3 the method of competition or the act or practice in question is defined
4 in section four (4) and that the person complained of has engaged
5 in such method of competition, act or practice in violation of this
6 Act, he shall reduce his findings to writing and shall issue and cause
7 to be served upon the person charged with the violation an order
8 requiring such person to cease and desist from engaging in such
9 method of competition, act or practice.

10 (b) Until the expiration of the time allowed under section eight
11 (8) (a) of this Act for filing a petition for review if no such peti-
12 tion has been duly filed within such time, or, if a petition for review
13 has been filed within such time, then until the transcript of the
14 record in the proceeding has been filed in the district court, as
15 hereinafter provided, the commissioner may at any time, upon such
16 notice and in such manner as he may deem proper, modify or set
17 aside in whole or in part any order issued by him under this section.

18 (c) After the expiration of the time allowed for filing such a
19 petition for review if no such petition has been duly filed within
20 such time, the commissioner may at any time, after notice and
21 opportunity for hearing, reopen and alter, modify, or set aside, in
22 whole or in part, any order issued by him under this section, when-
23 ever in his opinion conditions of fact or of law have so changed as
24 to require such action, or if the public interest shall so require.

1 **SEC. 8. Judicial Review of Cease and Desist Orders.**

2 (a) Any person required by an order of the commissioner under
3 section seven (7) to cease and desist from engaging in any unfair
4 method of competition or any unfair or deceptive act or practice
5 defined in sections three (3) and four (4) hereof, may obtain a
6 review of such order by filing in the district court of Polk county,
7 within ten (10) days from the date of the service of such order,
8 a written petition, duly sworn to, praying that the order of the com-
9 missioner be set aside, and stating the specific grounds thereof. If
10 the court shall find that the grounds thus stated, if true, might
11 reasonably justify the modification of the commissioner's order, it
12 shall direct that a copy of such petition be forthwith served upon
13 the commissioner and thereupon the commissioner forthwith shall

14 certify and file in such court a transcript of the entire record in the
15 proceeding, including all the evidence taken and the report and order
16 of the commissioner. Upon such filing of the petition and transcript
17 such court shall have jurisdiction of the proceeding and of the ques-
18 tion determined therein, shall determine whether the filing of such
19 petition shall operate as a stay of such order of the commissioner,
20 and shall have power to make and enter upon the pleadings, evi-
21 dence, and proceedings set forth in such transcript a decree modify-
22 ing, affirming or reversing the order of the commissioner, in whole
23 or in part. The findings of the commissioner as to the facts, if
24 supported by reasonable evidence, shall be conclusive.

25 (b) To the extent that the order of the commissioner is affirmed,
26 the court shall thereupon issue its own order commanding obedience
27 to the terms of such order of the commissioner. If either party
28 shall apply to the court for leave to adduce additional evidence, and
29 shall show to the satisfaction of the court that such additional evi-
30 dence is material and that there were reasonable grounds for the
31 failure to adduce such evidence in the proceeding before the com-
32 missioner, the court may order such additional evidence to be taken
33 before the commissioner and to be adduced upon the hearing in
34 such manner and upon such terms and conditions as to the court
35 may seem proper. The commissioner may modify his findings of
36 fact, or make new findings by reason of the additional evidence so
37 taken, and he shall file such modified or new findings which if sup-
38 ported by reasonable evidence shall be conclusive, and his recom-
39 mendation, if any, for the modification or setting aside of his original
40 order, with the return of such additional evidence.

41 (c) A cease and desist order issued by the commissioner under
42 section seven (7) shall become final

43 (1) Upon the expiration of the time allowed for filing a petition
44 for review if no such petition has been duly filed within such time;
45 except that the commissioner may thereafter modify or set aside
46 his order to the extent provided in section seven (7) (b); or

47 (2) Upon the final decision of the court if the court directs that
48 the order of the commissioner be affirmed or the petition for review
49 dismissed.

50 (d) No order of the commissioner under this Act or order of a
51 court to enforce the same shall in any way relieve or absolve any
52 person affected by such order from any liability under any other
53 laws of this state.

1 **SEC. 9. Procedure as to Unfair Methods of Competition and**
2 **Unfair or Deceptive Acts or Practices which are not Defined:**

3 (a) Whenever the commissioner shall have reason to believe
4 that any person engaged in the business of insurance is engaging,
5 in this state, in any method of competition or in any act or practice
6 in the conduct of such business which is not defined in section four
7 (4), that such method of competition is unfair or that such act or
8 practice is unfair or deceptive and that a proceeding by him in re-
9 spect thereto would be to the interest of the public, he may issue
10 and serve upon such person a statement of the charges in that
11 respect and a notice of a hearing thereon to be held at a time and
12 place fixed in the notice, which shall not be less than ten (10) days
13 after the date of the service thereof. Each such hearing shall be

14 conducted in the same manner as the hearings provided for in section
15 six (6). The commissioner shall, after such hearing, make a report
16 in writing in which he shall state his findings as to the facts, and
17 he shall serve a copy thereof upon such person.

18 (b) If such report charges a violation of this Act and if such
19 method of competition, act or practice has not been discontinued,
20 the commissioner may, through the attorney general of this state,
21 at any time after ten (10) days after the service of such report,
22 cause a petition to be filed in the district court of this state within
23 the district wherein the person resides or has his principal place of
24 business, to enjoin and restrain such person from engaging in such
25 method, act or practice. The court shall have jurisdiction of the
26 proceeding and shall have power to make and enter appropriate
27 orders in connection therewith and to issue such writs as are an-
28 cillary to its jurisdiction or are necessary in its judgment to prevent
29 injury to the public pendente lite.

30 (c) A transcript of the proceedings before the commissioner in-
31 cluding all evidence taken and the report and findings shall be filed
32 with such petition. If either party shall apply to the court for leave
33 to adduce additional evidence and shall show, to the satisfaction of
34 the court, that such additional evidence is material and there were
35 reasonable grounds for the failure to adduce such evidence in the
36 proceedings before the commissioner the court may order such ad-
37 ditional evidence to be taken before the commissioner and to be
38 adduced upon the hearing in such manner and upon such terms and
39 conditions as to the court may seem proper. The commissioner may
40 modify his findings of fact or make new findings by reason of the
41 additional evidence so taken, and he shall file such modified or new
42 findings with the return of such additional evidence.

43 (d) If the court finds that the method of competition complained
44 of is unfair or that the act or practice complained of is unfair or
45 deceptive, that the proceeding by the commissioner with respect
46 thereto is to the interest of the public and that the findings of the
47 commissioner are reasonably supported by the evidence, it shall issue
48 its order enjoining and restraining the continuance of such method
49 of competition, act or practice.

1 SEC. 10. **Judicial Review by Intervenor.** If the report of the
2 commissioner does not charge a violation of this Act, then any
3 intervenor in the proceedings may within ten (10) days after the
4 service of such report, cause a petition for writ of certiorari to be
5 filed in the district court of Polk county for a review of such report.
6 Upon such review, the court shall have authority to issue appropriate
7 orders and decrees in connection therewith, including, if the court
8 finds that it is to the interest of the public, orders enjoining and
9 restraining the continuance of any method of competition, act or
10 practice which it finds, notwithstanding such report of the commis-
11 sioner, constitutes a violation of this Act.

1 SEC. 11. **Penalty.** Any person who violates a cease and desist
2 order of the commissioner under section seven (7), after it has
3 become final, and while such order is in effect, shall, upon proof
4 thereof to the satisfaction of the court, forfeit and pay to the state
5 of Iowa a sum not to exceed fifty (\$50.00) dollars, which may be

6 recovered in a civil action, except that, if such violation is found to
7 be willful, the amount of such penalty shall be a sum not to exceed
8 five hundred (\$500.00) dollars.

1 **SEC. 12. Provisions of Act Additional to Existing Law.** The
2 powers vested in the commissioner by this Act shall be additional
3 to any other powers to enforce any penalties, fines or forfeitures
4 authorized by law with respect to the methods, acts and practices
5 hereby declared to be unfair or deceptive.

1 **SEC. 13. Immunity from Prosecution.** If any person shall ask
2 to be excused from attending and testifying or from producing any
3 books, papers, records, correspondence or other documents at any
4 hearing on the ground that the testimony or evidence required of
5 him may tend to incriminate him or subject him to a penalty or
6 forfeiture, and shall notwithstanding be directed to give such testi-
7 mony or produce such evidence, he must nonetheless comply with
8 such direction, but he shall not thereafter be prosecuted or sub-
9 jected to any penalty or forfeiture for or on account of any trans-
10 action, matter or thing concerning which he may testify or produce
11 evidence pursuant thereto, and no testimony so given or evidence
12 produced shall be received against him upon any criminal action,
13 investigation or proceeding, provided, however, that no such indi-
14 vidual so testifying shall be exempt from prosecution or punishment
15 for any perjury committed by him while so testifying and the
16 testimony or evidence so given or produced shall be admissible
17 against him upon any criminal action, investigation or proceeding
18 concerning such perjury, nor shall he be exempt from the refusal,
19 revocation or suspension of any license, permission or authority
20 conferred, or to be conferred, pursuant to the insurance law of this
21 state. Any such individual may execute, acknowledge and file in
22 the office of the commissioner a statement expressly waiving such
23 immunity or privilege in respect to any transaction, matter or thing
24 specified in such statement and thereupon the testimony of such
25 person or such evidence in relation to such transaction, matter or
26 thing may be received or produced before any judge or justice, court,
27 tribunal, grand jury or otherwise, and if so received or produced
28 such individual shall not be entitled to any immunity or privilege
29 on account of any testimony he may so give or evidence so produced.

1 **SEC. 14.** Section five hundred eight point twenty-three (508.23),
2 Code 1954, is hereby repealed.

1 **SEC. 15.** Section five hundred eight point twenty-four (508.24),
2 Code 1954, is hereby repealed.

1 **SEC. 16.** Section five hundred eleven point twenty (511.20),
2 Code 1954, is hereby repealed.

1 **SEC. 17.** Section five hundred eleven point twenty-one (511.21),
2 Code 1954, is hereby repealed.

1 **SEC. 18.** Section five hundred fifteen point one hundred forty-
2 four (515.144), Code 1954, is hereby repealed.

1 **SEC. 19.** Section five hundred fifteen point one hundred forty-
2 five (515.145), Code 1954, is amended by striking from line two (2)
3 the word and figures "and 515.144".

1 SEC. 20. Section five hundred fifteen point one hundred forty-
2 six (515.146), Code 1954, is amended by striking from line two (2)
3 the word and figures "and 515.144".

1 SEC. 21. Separability Provision. If any provision of this Act,
2 or the application of such provision to any person or circumstances,
3 shall be held invalid, the remainder of the Act, and the application
4 of such provision to persons or circumstances other than those as
5 to which it is held invalid, shall not be affected thereby.

1 SEC. 22. Nothing in this Act shall be deemed or construed to
2 affect pending litigation, prosecutions or proceedings for prior vio-
3 lations, under, with respect to, or growing out of sections of the
4 Code hereby repealed.

Approved April 22, 1955.

CHAPTER 238

GROUP INSURANCE

H. F. 333

AN ACT to amend sections five hundred nine point one (509.1) and five hundred nine point two (509.2), Code 1954, relating to group insurance.

Be It Enacted by the General Assembly of the State of Iowa:

1 SECTION 1. Section five hundred nine point one (509.1), Code
2 1954, is hereby amended as follows:
3 1. By inserting between the words "the" and "policy" in line one
4 (1) of paragraph b of subsection one (1) thereof the following:
5 "group life".
6 2. By inserting between the words "policy" and "may" in line six
7 (6) of paragraph b of subsection one (1) thereof the following:
8 ", except accident and health,".
9 3. By striking the words "twenty-five" from line one (1) of para-
10 graph c section one (1) thereof and inserting in lieu thereof the
11 following: "ten".
12 4. By inserting between the word and comma (,) "dollars," and
13 the word "except" in line ten (10) of paragraph d of subsection one
14 (1) thereof the following: "unless one hundred fifty per cent of the
15 annual compensation of such employee from his employer exceeds
16 twenty thousand dollars, in which event all such term insurance shall
17 not exceed forty thousand dollars or one hundred fifty per cent of such
18 annual compensation, whichever is the lesser,".
19 5. By inserting between the word "employee" and the period (.)
20 in line two (2) of paragraph e of subsection one (1) thereof the
21 following: ", including the spouse".
22 6. By inserting between the words "the" and "policy" in line one
23 (1) of paragraph b of subsection four (4) thereof the following:
24 "group life".
25 7. By inserting between the words "policy" and "may" in line six
26 (6) of paragraph b of subsection four (4) thereof the following:
27 ", except accident and health,".