

CHAPTER 238

AUTOMOBILE INSURANCE DISCRIMINATION

H. F. 36

AN ACT relating to discrimination in the renewal of automobile insurance.

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

1 SECTION 1. Section five hundred fifteen D point six (515D.6), un-
2 numbered paragraph one (1), Code 1975, is amended to read as fol-
3 lows:

4 No insurer shall refuse to renew a policy solely because of age, resi-
5 dence, sex, race, color, creed, or occupation of an insured.

Approved June 6, 1975

CHAPTER 239

MEDICAL MALPRACTICE

H. F. 803

AN ACT relating to the compensation of persons suffering loss as a result of medical malpractice.

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

1 SECTION 1. The general assembly finds that a critical situation ex-
2 ists because of the high cost and impending unavailability of medical
3 malpractice insurance. The purposes of sections two (2) through thir-
4 teen (13) of this Act are to assure that the public is adequately protect-
5 ed against losses arising out of medical malpractice by providing
6 licensed health care providers with medical malpractice insurance
7 through the requirement that certain liability insurance carriers write
8 medical malpractice insurance for a period of two years upon a finding
9 of an emergency by the commissioner of insurance that either such in-
10 surance is not available through normal channels or that it is not avail-
11 able on a reasonable basis because of lack of competition for such
12 insurance, or otherwise; to establish an association to equitably spread
13 the risks for such insurance; and to provide for recoupment of losses re-
14 sulting from the operation of the association through a stabilization re-
15 serve fund contributed to by insureds, a surcharge on future liability
16 insurance policies, or a favorable premium tax treatment.

17 It is the intent of this Act to provide only an interim solution to the
18 impending unavailability of medical malpractice insurance. It is not
19 anticipated that this Act will resolve the underlying causes of the un-
20 availability and high cost which extend beyond the insurance mecha-
21 nism. It is anticipated that future legislation will be required to deal
22 on a more permanent basis with the underlying causes of the current
23 situation.

1 SEC. 2. NEW SECTION. **Definitions.** As used in this Act, unless
2 the context otherwise requires:

3 1. "Association" means the joint underwriting association established
4 pursuant to sections two (2) through thirteen (13) of this Act.

5 2. "Commissioner" means the commissioner of insurance or a desig-
6 nee.

7 3. "Medical malpractice insurance" means insurance coverage
8 against the legal liability of the insured and against loss, damage, or
9 expense incident to a claim arising out of the death or injury of any
10 person as the result of negligence or malpractice in rendering profes-
11 sional service by any licensed health care provider.

12 4. "Net direct premiums" means gross direct premiums written on li-
13 ability insurance as reported in the annual statements filed by the in-
14 surers with the commissioner, including the liability component of
15 multiple peril package policies as computed by the commissioner, less
16 return premiums for the unused or unabsorbed portions of premium de-
17 posits.

18 5. "Licensed health care provider" means and includes a physician
19 and surgeon, osteopath, osteopathic physician and surgeon, dentist,
20 podiatrist, optometrist, pharmacist, chiropractor or nurse licensed pur-
21 suant to chapter one hundred forty-seven (147) of the Code, and a hos-
22 pital licensed pursuant to chapter one hundred thirty-five B (135B) of
23 the Code.

1 **SEC. 3. NEW SECTION. Temporary joint underwriting associa-**
2 **tion.**

3 1. A temporary joint underwriting association is created, consisting
4 of all insurers authorized to write and engaged in writing on a direct
5 basis within this state liability insurance, including insurers covering
6 such peril in multiple peril policies. Every such insurer shall be a mem-
7 ber of the association and shall remain a member as a condition of its
8 authority to continue to write liability insurance in this state.

9 2. The purpose of the association shall be to provide, for a period
10 not exceeding two years, a market for medical malpractice insurance
11 on a self-supporting basis without subsidy from its members.

12 3. The association shall not commence underwriting operations for
13 health care providers until the commissioner, after notice and opportu-
14 nity for hearing, has determined that medical malpractice insurance is
15 not available at a reasonable cost for a specific type of licensed health
16 care provider in the voluntary market. Upon such determination the
17 association shall be authorized to issue policies of medical malpractice
18 insurance for such specific type of health care provider but need not be
19 the exclusive agency through which such insurance may be written on a
20 primary basis in this state.

21 If the commissioner determines at any time that medical malpractice
22 insurance can be made available in the voluntary market at a reason-
23 able price for any specific type of licensed health care provider, the as-
24 sociation shall thereby cease underwriting medical malpractice
25 insurance for that type of licensed health care provider.

26 4. The association shall, subject to the terms and conditions of sec-
27 tions two (2) through thirteen (13) of this Act, have and exercise the
28 following powers on behalf of its members:

29 a. To issue, or to cause to be issued, policies of insurance to appli-
30 cants, including incidental coverages and subject to limits as specified
31 in the plan of operation but not to exceed one million dollars for each
32 claimant under one policy and three million dollars for all claimants
33 under one policy in any one year.

34 b. To underwrite such insurance and to adjust and pay losses with
35 respect thereto, or to appoint service companies to perform those func-
36 tions.

37 c. To assume reinsurance from its members.

38 d. To cede reinsurance.

1 **SEC. 4. NEW SECTION. Plan of operation.**

2 1. The association shall submit a plan of operation to the commis-
3 sioner, together with any amendments necessary or suitable to assure
4 the fair, reasonable, and equitable administration of the association
5 consistent with sections two (2) through thirteen (13) of this Act. The
6 plan of operation and any amendments thereto shall become effective
7 only after promulgation of the plan or amendment by the commission-
8 er as a rule pursuant to section seventeen A point four (17A.4) of the
9 Code: Provided that the initial plan may in the discretion of the com-
10 missioner become effective immediately upon filing with the secretary
11 of state pursuant to subparagraph one (1) of paragraph b of subsection
12 two (2) of section seventeen A point five (17A.5) of the Code.

13 If the association fails to submit a suitable plan of operation within
14 twenty-five days following the effective date of this Act or if at any
15 time thereafter the association fails to submit suitable amendments to
16 the plan, the commissioner shall adopt rules necessary to effectuate
17 sections two (2) through thirteen (13) of this Act. Such rules shall con-
18 tinue in force until modified by the commissioner or superseded by a
19 plan submitted by the association and approved by the commissioner.

20 2. The plan of operation shall provide for economic, fair and nondis-
21 criminatory administration, and for the prompt and efficient provision
22 of medical malpractice insurance. The plan shall contain other provi-
23 sions including, but not limited to, preliminary assessment of all mem-
24 bers for initial expenses necessary to commence operations, establish-
25 ment of necessary facilities, management of the association, assess-
26 ment of members to defray losses and expenses, commission ar-
27 rangements, reasonable and objective underwriting standards, accep-
28 tance and cession of reinsurance, appointment of servicing carriers or
29 other servicing arrangements and procedures for determining amounts
30 of insurance to be provided by the association.

31 3. All member insurers shall comply with the plan of operation.

1 **SEC. 5. NEW SECTION. Policy forms and rates.**

2 1. The rates, rating plans, rating classifications, and policy forms
3 and endorsements applicable to insurance written by the association
4 and the statistical and experience data relating thereto shall be subject
5 to sections two (2) through thirteen (13) of this Act and to the provi-
6 sions of the general insurance code which are not inconsistent with the
7 purposes and provisions of this Act.

8 2. All policies issued by the association shall provide for a continu-
9 ous period of coverage beginning with their respective effective dates
10 and terminating automatically at 12:01 a.m. on July 1, 1977, unless
11 sooner terminated in accordance with sections two (2) through thirteen
12 (13) of this Act, or unless terminated because of failure of the policy-
13 holder to pay any premium or stabilization reserve fund charge or por-
14 tion of either when due. All policies shall be issued subject to the
15 group retrospective rating plan and the stabilization reserve fund au-
16 thorized by this Act. No policy form shall be used by the association
17 unless it has been filed with and approved by the commissioner.

18 3. The commissioner shall specify whether policy forms and the rate
19 structure shall be on a "claims-made" or "occurrence" basis and cover-
20 age shall be provided by the association only on the basis specified by
21 the commissioner. The commissioner shall specify the "claims-made"
22 basis only if the contract makes provision for residual "occurrence"
23 coverage upon the retirement, death, disability or removal from this
24 state of the insured. Provision may be made for a premium charge al-
25 locable to any such residual "occurrence" coverage and such premium

26 charges for such residual coverage shall be segregated and separately
27 maintained for such purpose which may include the reinsurance of all
28 or a part of that portion of the risk.

29 4. The rates, rating plans, rating rules, and rating classifications ap-
30 plicable to the insurance written by the association shall be on an actu-
31 arially sound basis, giving due consideration to the group retrospective
32 rating plan and the stabilization reserve fund, and shall be calculated
33 to be self-supporting.

34 5. All policies issued by the association shall be subject to a nonprof-
35 it group retrospective rating plan to be approved by the commissioner
36 under which the final premium for all policyholders of the association,
37 as a group, will be equal to the administrative expenses, loss and loss
38 adjustment expenses and taxes, plus a reasonable allowance for contin-
39 gencies and servicing. Policyholders shall be given full credit for all in-
40 vestment income, net of expenses and a reasonable management fee,
41 on policyholder supplied funds. The standard premium, before retro-
42 spective adjustment, for each policy issued by the association shall be
43 established for portions of the policy period coinciding with the asso-
44 ciation's fiscal year on the basis of the association's rates, rating plans,
45 rating rules, and rating classifications then in effect. The maximum fi-
46 nal premium for all policyholders of the association, as a group, shall
47 be limited as provided in subsection five (5) of section six (6) of this
48 Act. Since the business of the association is subject to the nonprofit
49 group retrospective rating plan required by this subsection, there shall
50 be a presumption that the rates filed and premiums imposed by the as-
51 sociation are not unreasonable or excessive.

52 6. The association shall certify to the commissioner the estimated
53 amount of any deficit remaining after the stabilization reserve fund
54 has been exhausted in payment of the maximum final premium for all
55 policyholders of the association. Within sixty days after that certifica-
56 tion the commissioner shall authorize the members of the association to
57 commence recoupment of their respective shares of the deficit by de-
58 ducting their share of the deficit from past or future premium taxes
59 due the state of Iowa. The association shall amend the amount of its
60 certification of deficit to the commissioner as the values of its incurred
61 losses become finalized and the members of the association shall amend
62 their recoupment procedure accordingly.

63 7. In the event that sufficient funds are not available for the sound
64 financial operation of the association, all members shall contribute to
65 the financial requirements of the association in the manner provided
66 for in section eight (8) of this Act. Any contribution shall be reim-
67 bursed to the members by recoupment as provided in subsection six (6)
68 of this section.

1 **SEC. 6. NEW SECTION. Stabilization reserve fund.**

2 1. There is created a stabilization reserve fund. The fund shall be
3 administered by three directors, one of whom shall be the commission-
4 er. The remaining two directors shall be appointed by the commission-
5 er: One shall be a representative of the association and the other a
6 representative of its policyholders.

7 2. The directors shall act by majority vote with two directors consti-
8 tuting a quorum for the transaction of any business or the exercise of
9 any power of the fund. The directors shall serve without salary, but
10 each director other than the commissioner shall be reimbursed for ac-
11 tual and necessary expenses incurred in the performance of official du-
12 ties as a director. The directors shall not be subject to any personal
13 liability with respect to the administration of the fund for acts or deci-
14 sions made in good faith pursuant to the provisions of this Act.

15 3. Each policyholder shall pay to the association a stabilization re-
16 serve fund charge determined by the directors which shall not exceed
17 the amount of one annual premium due for insurance through the as-
18 sociation. Such charge shall be separately stated in the policy. The as-
19 sociation shall cancel the policy of any policyholder who fails to pay
20 the stabilization reserve fund charge.

21 4. The association shall promptly pay to the fund all stabilization
22 reserve fund charges which it collects from its policyholders and any re-
23 spective premium refunds payable under any group retrospective
24 rating plan approved by the commissioner under the provisions of this
25 Act.

26 5. All monies received by the fund shall be held in trust by a corpo-
27 rate trustee selected by the directors. The corporate trustee may invest
28 the monies held in trust, subject to the approval of the directors. All
29 investment income shall be credited to the fund, and all expenses of
30 administration of the fund shall be charged against the fund. The
31 monies held in trust shall be used solely for the purpose of discharging
32 when due any retrospective premium charges payable by policyholders
33 of the association under the group retrospective rating plan approved
34 by the commissioner. Payment of retrospective premium charges shall
35 be made by the directors upon certification to them by the association
36 of the amount due. If all monies accruing to the fund are finally ex-
37 hausted in payment of retrospective premium charges, all liability and
38 obligations of the association's policyholders with respect to the pay-
39 ment of retrospective premium charges shall thereupon terminate and
40 shall be conclusively presumed to have been discharged. Any monies
41 remaining in the fund after all such retrospective premium charges
42 have been paid shall be returned to policyholders pursuant to proce-
43 dures authorized by the directors.

1 **SEC. 7. NEW SECTION. Procedures.**

2 1. Upon a finding by the commissioner, after notice and opportunity
3 for hearing, that medical malpractice insurance is not available at a
4 reasonable cost for a specific type of licensed health care provider in
5 the voluntary market and upon notification of that finding to the asso-
6 ciation, any licensed health care provider of the type specified in the
7 commissioner's finding shall be entitled to apply to the association for
8 medical malpractice insurance coverage. The application may be made
9 on behalf of a licensed health care provider by an authorized agent.

10 2. If the association determines that the applicant meets the under-
11 writing standards of the association as prescribed in the plan of opera-
12 tion, then the association, upon receipt of the premium or such portion
13 thereof as is prescribed in the plan of operation, shall cause to be is-
14 sued a policy of medical malpractice insurance.

1 **SEC. 8. NEW SECTION. Participation.** All members of the associa-
2 tion shall participate in its writings, expenses, servicing allowance,
3 management fees and losses in the proportion that the net direct pre-
4 miums of each member, excluding that portion of premiums attribut-
5 able to the operation of the association, written during the preceding
6 calendar year bears to the aggregate net direct premiums written in
7 this state by all members of the association. Each member's proportion
8 shall be determined annually on the basis of the annual statements
9 and other reports filed by the insurer with the commissioner.

1 **SEC. 9. NEW SECTION. Governing board.**

2 1. The association shall be governed by a board of eleven directors
3 of whom three shall be appointed annually by the commissioner to rep-
4 resent the licensed health care providers. Eight members shall be elect-

5 ed annually, except as provided in subsection two (2) of this section, by
6 the members of the association. Vacancies on the board shall be filled
7 for the remaining period of the term by majority vote of the remaining
8 directors subject to approval of the commissioner.

9 2. Within fifteen days after the effective date of this Act the com-
10 missioner shall designate a time and place for a meeting of the mem-
11 bers of the association at which the eight elected members serving on
12 the first board shall be elected. The commissioner shall appoint the ap-
13 pointive members of the board on or before the date of such meeting.

14 The commissioner may, prior to the first meeting of the members of
15 the association, appoint an interim governing board of the association
16 consisting of eight member insurers and three representatives of the li-
17 censed health care providers. The eight member insurers of that inter-
18 im governing board shall serve until their successors are elected by the
19 members of the association. In appointing members of the association
20 to the interim governing board, the commissioner shall consider among
21 other things whether all member insurers are fairly represented.

1 **SEC. 10. NEW SECTION. Appeals and judicial review.**

2 1. Any applicant or any person insured pursuant to section seven (7)
3 of this Act, or a legal representative, or any affected insurer, may ap-
4 peal to the commissioner within thirty days after any ruling, action or
5 decision by or on behalf of the association, with respect to those items
6 the plan of operation defines as appealable matters.

7 2. All orders of the commissioner made pursuant to sections two (2)
8 through thirteen (13) of this Act shall be subject to judicial review as
9 provided in the Iowa administrative procedure Act.

1 **SEC. 11. NEW SECTION. Annual statements.** The association
2 shall file in the office of the commissioner on or before the first day of
3 March each year, a statement as prescribed by the commissioner. The
4 statement shall contain matters and information required by the com-
5 missioner including, but not limited to, information with respect to its
6 transactions, condition, operations and affairs during the preceding
7 year, and shall be in a form approved by the commissioner. The com-
8 missioner may, at any time, require the association to furnish addition-
9 al information with respect to matters considered to be material to the
10 scope, operation and experience of the association.

1 **SEC. 12. NEW SECTION. Examinations.** The commissioner shall
2 make an examination of the association at least annually. The expen-
3 ses of each examination shall be paid by the association.

1 **SEC. 13. NEW SECTION. Privileged communications.** There
2 shall be no liability on the part of, and no cause of action of any na-
3 ture shall arise against the association, the commissioner, or any other
4 person or organization, for any statements made in good faith by any
5 of them in any report or communication concerning risks insured or to
6 be insured by the association, or during any proceedings within the
7 scope of sections two (2) through thirteen (13) of this Act.

1 **SEC. 14.** Section one hundred forty-seven point one (147.1), Code
2 1975, is amended by adding the following new subsections:

3 **NEW SUBSECTION.** "Peer review" means evaluation of professional
4 services rendered by a person licensed to practice a profession.

5 **NEW SUBSECTION.** "Peer review committee" means one or more per-
6 sons acting in a peer review capacity who also serve as an officer, direc-
7 tor, trustee, agent, or member of any of the following:

8 a. A state or local professional society of a profession for which there
9 is peer review.

10 b. Any organization approved to conduct peer review by a society as
11 designated in paragraph a of this subsection.

12 c. The medical staff of any licensed hospital.

13 d. An examining board.

1 SEC. 15. Chapter one hundred forty-seven (147), Code 1975, is
2 amended by adding the following new section:

3 NEW SECTION. A person shall not be civilly liable as a result of acts,
4 omissions, or decisions made in connection with the person's service on
5 a peer review committee. However, such immunity from civil liability
6 shall not apply if an act, omission, or decision is made with malice.

1 SEC. 16. Chapter one hundred forty-seven (147), Code 1975, is
2 amended by adding the following new section:

3 NEW SECTION. In an action for damages for personal injury against
4 a physician and surgeon, osteopath, osteopathic physician and sur-
5 geon, dentist, podiatrist, optometrist, pharmacist, chiropractor, or
6 nurse licensed to practice that profession in this state, or against a hos-
7 pital licensed for operation in this state, based on the alleged negli-
8 gence of the practitioner in the practice of the profession or
9 occupation, or upon the alleged negligence of the hospital in patient
10 care, in which liability is admitted or established, the damages award-
11 ed shall not include actual economic losses incurred or to be incurred in
12 the future by the claimant by reason of the personal injury, including
13 but not limited to, the cost of reasonable and necessary medical care,
14 rehabilitation services, and custodial care, and the loss of services and
15 loss of earned income, to the extent that those losses are replaced or
16 are indemnified by insurance, or by governmental, employment, or ser-
17 vice benefit programs or from any other source except the assets of the
18 claimant or of the members of the claimant's immediate family.

1 SEC. 17. Chapter one hundred forty-seven (147), Code 1975, is
2 amended by adding thereto the following new section:

3 NEW SECTION. A consent in writing to any medical or surgical proce-
4 dure or course of procedures in patient care which meets the require-
5 ments of this section shall create a presumption that informed consent
6 was given. A consent in writing meets the requirements of this section
7 if it:

8 1. Sets forth in general terms the nature and purpose of the proce-
9 dure or procedures, together with the known risks, if any, of death,
10 brain damage, quadriplegia, paraplegia, the loss or loss of function of
11 any organ or limb, or disfiguring scars associated with such procedure
12 or procedures, with the probability of each such risk if reasonably de-
13 terminable.

14 2. Acknowledges that the disclosure of that information has been
15 made and that all questions asked about the procedure or procedures
16 have been answered in a satisfactory manner.

17 3. Is signed by the patient for whom the procedure is to be per-
18 formed, or if the patient for any reason lacks legal capacity to consent,
19 is signed by a person who has legal authority to consent on behalf of
20 that patient in those circumstances.

1 SEC. 18. Section five hundred nineteen point one (519.1), Code
2 1975, is amended to read as follows:

3 **519.1 Authorization.** Any number of physicians, ~~druggists and~~
4 *surgeons, osteopaths, osteopathic physicians and surgeons, podia-*
5 *trist, chiropractors, pharmacists, dentists, and graduate nurses, li-*
6 *censed to practice their profession in this state, and hospitals licensed*
7 *under chapter one hundred thirty-five B (135B) of the Code, may,*

8 by complying with the provisions of this chapter and without regard to
 9 other statutory provisions, enter into contracts with each other for the
 10 purpose of protecting themselves by insurance against loss by reason of
 11 actions at law on account of their alleged error, mistake, negligence, or
 12 carelessness in the treatment and care of patients, including the perform-
 13 ance of surgical operations, or in the prescribing and dispensing of
 14 drugs and medicines, or for loss by reason of damages in other respects,
 15 and to reimburse any member in case of such loss.

1 SEC. 19. Section five hundred nineteen point two (519.2), Code
 2 1975, is amended to read as follows:

3 **519.2 Incorporation—powers.** All corporations, organized for
 4 the purpose of transacting such insurance business under the provisions
 5 of this chapter, shall incorporate under the provisions of chapter 491,
 6 and be known as mutual corporations; and are hereby empowered to
 7 collect such assessments, or premium payments, provided for in their
 8 articles of incorporation or bylaws, as are required to pay losses and ex-
 9 penses incurred in the conduct of their business *and to cede reinsur-*
 10 *ance.* Such mutual insurance corporations may issue certificates of
 11 membership, or policies; and may provide that all assessments, or pre-
 12 mium payments, payable thereunder, be made in cash, or on the in-
 13 stallment, or assessment plan.

1 SEC. 20. Section five hundred nineteen point five (519.5), Code
 2 1975, is amended to read as follows:

3 **519.5 Conditions.** No such certificate shall be issued by the com-
 4 missioner of insurance until two hundred fifty applications have been
 5 received, ~~representing, in the aggregate, one million dollars of insur-~~
 6 ~~ance,~~ and until the commissioner of insurance has satisfied himself
 7 that such mutual insurance corporation has bona fide applications rep-
 8 representing the number of applicants ~~and the amount of insurance herein~~
 9 required, and that there is in the possession of such mutual insurance
 10 corporation cash assets amounting to not less than ten ~~thousand dollars~~
 11 *times the maximum single retained risk.*

1 SEC. 21. Section five hundred nineteen point six (519.6), Code 1975,
 2 is amended to read as follows:

3 **519.6 Reports.** Such mutual insurance corporations doing busi-
 4 ness under the provisions of this chapter shall, annually, ~~in the month~~
 5 ~~of January before the first day of March,~~ report to the commissioner
 6 of insurance, upon blanks furnished by him, the same facts, so far as
 7 applicable, as are required to be furnished by mutual insurance associa-
 8 tions under the statutes of Iowa, which report shall be tabulated by the
 9 commissioner of insurance and published by him in the annual report
 10 on insurance.

1 SEC. 22. Section five hundred nineteen point eight (519.8), Code
 2 1975, is amended to read as follows:

3 **519.8 Cancellation of policy.** Any certificate of membership, or
 4 policy, issued by such a mutual insurance corporation may be canceled
 5 by the corporation by giving *five thirty days'* written notice thereof to
 6 the insured; or such cancellation may be upon demand of the insured;
 7 and such cancellation, when so made, either by the corporation or by
 8 the insured, shall be upon a pro rata basis, and the cancellation of such
 9 certificate or policy shall release the member from all other future obli-
 10 gations to such corporation.

1 SEC. 23. Section five hundred nineteen point nine (519.9), Code
 2 1975, is amended to read as follows:

3 **519.9 Fees.** Such a mutual insurance corporation shall pay the
4 same fees for admission into the state, for annual reports, and for an-
5 nual certificates of authority as are required to be paid by domestic
6 mutual companies organized and doing business under chapter 515;
7 such certificate shall expire ~~March 1~~ *May first* of the year following
8 the date of its issue.

1 SEC. 24. Section five hundred nineteen point twelve (519.12), Code
2 1975, is amended to read as follows:

3 **519.12 Foreign companies.** Any mutual insurance association
4 organized under the laws of any other state, for the purpose of trans-
5 acting the kind of business described in this chapter, and which has
6 ~~been in business not less than one year, and has on hand cash assets in~~
7 ~~an amount of surplus amounting to~~ not less than ten thousand dollars
8 *times the maximum single retained risk*, and has not less than ~~three~~
9 *two hundred fifty* members, ~~shall~~ *may* upon application, be admitted
10 to do business in this state *if the commissioner finds such admission*
11 *is in the public interest*; and shall thereafter make all reports and be
12 subject to taxation, examination, and supervision by the commissioner
13 of insurance to the same extent and in the same manner as are domes-
14 tic corporations organized under the provisions of this chapter.

1 SEC. 25. Chapter one hundred forty-seven (147), Code 1975, is
2 amended by adding the following new section:

3 NEW SECTION. In any action for personal injury or wrongful death
4 against any physician and surgeon, osteopath, osteopathic physician
5 and surgeon, dentist, podiatrist, optometrist, pharmacist, chiropractor
6 or nurse licensed under this chapter or against any hospital licensed
7 under chapter one hundred thirty-five B (135B) of the Code, based
8 upon the alleged negligence of the licensee in the practice of that pro-
9 fession or occupation, or upon the alleged negligence of the hospital in
10 patient care, the court shall determine the reasonableness of any con-
11 tingent fee arrangement between the plaintiff and the plaintiff's attor-
12 ney.

1 SEC. 26. Section six hundred fourteen point one (614.1), Code 1975,
2 is amended by adding the following new subsection:

3 NEW SUBSECTION. Malpractice. Those founded on injuries to the
4 person or wrongful death against any physician and surgeon, osteo-
5 path, osteopathic physician and surgeon, dentist, podiatrist, optome-
6 trist, pharmacist, chiropractor, or nurse, licensed under chapter one
7 hundred forty-seven (147) of the Code, or a hospital licensed under
8 chapter one hundred thirty-five B (135B) of the Code, arising out of
9 patient care, within two years after the date on which the claimant
10 knew, or through the use of reasonable diligence should have known,
11 or received notice in writing of the existence of, the injury or death for
12 which damages are sought in the action, whichever of the dates occurs
13 first, but in no event shall any action be brought more than six years
14 after the date on which occurred the act or omission or occurrence al-
15 leged in the action to have been the cause of the injury or death unless
16 a foreign object unintentionally left in the body caused the injury or
17 death.

1 SEC. 27. Chapter six hundred nineteen (619), Code 1975, is amend-
2 ed by adding the following new section:

3 NEW SECTION. In an action for personal injury or wrongful death
4 against a physician and surgeon, osteopath, osteopathic physician and
5 surgeon, dentist, podiatrist, optometrist, pharmacist, chiropractor, or
6 nurse licensed to practice that profession in this state, or against a hos-

7 pital licensed for operation in this state, based upon the alleged negli-
 8 gence of the practitioner in the practice of the profession or
 9 occupation, or upon the alleged negligence of the hospital in patient
 10 care, the amount of money damages demanded shall not be stated in
 11 the petition, or original notice, or in any counterclaim or cross peti-
 12 tion.

Approved June 30, 1975

CHAPTER 240

ELECTRONIC BANKING

S. F. 536

AN ACT relating to the use of electronic facilities and electronic transfers of funds by banks, credit unions and savings and loan associations.

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

1 SECTION 1. Section five hundred twenty-four point eight hundred
 2 three (524.803), subsection one (1), Code 1975, is amended by adding
 3 the following new paragraph:

4 NEW PARAGRAPH. Subject to the prior approval of the superinten-
 5 dent, acquire and hold shares in a corporation engaged in providing
 6 and operating facilities through which banks and customers may en-
 7 gage, by means of either the direct transmission of electronic impulses
 8 to and from a bank or the recording of electronic impulses or other in-
 9 dicia of a transaction for delayed transmission to a bank, in transac-
 10 tions in which such banks are otherwise permitted to engage pursuant
 11 to applicable law.

1 SEC. 2.

2 1. Except as provided in subsection two (2) of this section, public
 3 funds which are required by section four hundred fifty-three point one
 4 (453.1) of the Code to be deposited in banks shall not be deposited with
 5 any state or federal bank which utilizes a satellite facility as defined in
 6 section six (6) of this Act if that satellite facility is located at a place
 7 other than either the principal place of business or a lawful business of-
 8 fice of that bank. Upon a determination by the treasurer of state that
 9 any state or federal depository bank is in violation of this subsection,
 10 the treasurer of state shall notify the affected governing bodies speci-
 11 fied in section four hundred fifty-three point one (453.1) of the Code,
 12 and each governing body shall forthwith approve and order the trans-
 13 fer of public funds to another bank.

14 2. The prohibition contained in subsection one (1) of this section
 15 shall not apply to any bank participating in an experimental plan ap-
 16 proved by the superintendent of banking. The superintendent of bank-
 17 ing or the supervisor of state chartered savings and loan associations
 18 may approve a limited number of experimental plans submitted by one
 19 or more banks, savings and loan associations or credit unions, or any
 20 combination thereof, for the experimental operation on a limited scope
 21 of satellite facilities as defined in section six (6) of this Act which are
 22 located at places other than the principal places of business and busi-
 23 ness offices of such financial institutions. A plan may not be approved
 24 by the superintendent of banking to permit the operation of such satel-