

~~518A.10, and 518A.14, and 518A.28~~, shall apply to all mutual insurance corporations organized under ~~the provisions of~~ this chapter.

Sec. 23. Sections 518A.10, 518A.13, 518A.17, and 518A.28, Code 1999, are repealed.

Approved May 24, 1999

CHAPTER 166

ENTITIES AND SUBJECT MATTER REGULATED BY INSURANCE DIVISION

S.F. 406

AN ACT relating to entities and subject matter under the regulatory authority of the insurance division, including securities, business opportunities, funeral merchandise, funeral services, cemeteries, cemetery merchandise and residential service contracts, providing for fees, and establishing penalties.

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

Section 1. Section 502.202, subsection 12, paragraph b, unnumbered paragraph 1, Code 1999, is amended to read as follows:

A mutual or cooperative organization, including a cooperative association organized in good faith under and for any of the purposes enumerated in chapters 497, 498, ~~and 499~~, and 501 that deals in commodities or supplies goods or services in transactions primarily with and for the benefit of its members, if:

Sec. 2. Section 502.302, subsection 3, Code 1999, is amended to read as follows:

3. Every applicant for initial or renewal registration as a broker-dealer or investment adviser shall pay a filing fee of two hundred dollars. Every applicant for initial or renewal registration as an agent or investment adviser representative shall pay a filing fee of thirty dollars. However, an investment adviser representative is not required to pay a filing fee, if the investment adviser is a sole proprietorship or the substantial equivalent and the investment adviser representative is the same individual as the investment adviser. A filing fee is not refundable. Every person acting as a federal covered adviser in this state, except with respect to federal covered advisers whose only clients are those described in section 502.301, subsection 3, paragraph "b", shall pay an initial and renewal notice filing fee of one hundred dollars.

Sec. 3. Section 502.304, subsection 5, Code 1999, is amended to read as follows:

5. Withdrawal from registration as a broker-dealer, agent, investment adviser, or investment adviser representative becomes effective thirty days after receipt of an application to withdraw or within such shorter period of time as the administrator may by order determine, unless a proceeding to deny, suspend, or revoke a registration is pending when the application is filed or a proceeding to deny, suspend, or revoke a registration, or to impose conditions upon the withdrawal is instituted within thirty days after the application is filed. If a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the administrator by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the administrator may nevertheless institute a revocation or suspension proceeding under subsection 1, ~~paragraph "b"~~, within one year after withdrawal became effective and enter a revocation or suspension order as of the last date on which registration was effective.

Sec. 4. Section 502.304, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 5A. A person who directly or indirectly controls a broker-dealer or agent is subject to the same sanctions applicable to an applicant or registrant under this section, unless the person proves that the person did not know, and was not grossly negligent in failing to know, of the existence of facts by reason of which the liability is alleged to exist.

Sec. 5. Section 502.305, Code 1999, is amended to read as follows:
 502.305 EXAMINATION OF INVESTMENT ADVISER REPRESENTATIVE AND EXEMPTION FROM EXAMINATION.

The administrator may adopt rules requiring the passage of an examination by an individual who is required to be registered under this chapter as an investment adviser representative. However, a person who is registered as an investment adviser representative between January 1, 1999, and December 31, ~~2000~~ 1999, shall not be required to pass an examination for as long as the person maintains a continuous registration.

Sec. 6. Section 502.503, subsection 1, Code 1999, is amended to read as follows:

1. Affiliates of a person liable under section ~~502.401~~, 502.501, 502.502, ~~or 502.502A, or 502.604~~, partners, principal executive officers or directors of such person, persons occupying a similar status or performing similar functions for such person, persons (whether employees of such person or otherwise) who materially aid and abet in the act or transaction constituting the violation, and broker-dealers or agents who materially aid and abet in the act or transaction constituting the violation, are also liable jointly and severally with and to the same extent as such person, unless one of the following applies:

a. With respect to section 502.501, section 502.502, subsections 1 and 5, or section 502.502A, ~~any a person liable hereunder~~ under this subsection proves that the person did not know, and in the exercise of reasonable care could not have known, of the existence of the facts by reason of which the liability is alleged to exist; ~~and,~~

b. With respect to section ~~502.401~~, section 502.502, subsections 2 and 3, ~~and section 502.604~~ any a person liable hereunder under this subsection proves that the person did not know, and was not grossly negligent in failing to know, of the existence of the facts by reason of which the liability is alleged to exist.

Sec. 7. Section 502.504, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 7. This section shall not apply to actions filed by the administrator pursuant to section 502.604.

Sec. 8. Section 502.604, subsection 2, Code 1999, is amended to read as follows:

2. Bring an action in the district court to enjoin the act or practice and to enforce compliance with this chapter or a rule or order adopted or issued pursuant to this chapter. Upon a proper showing, the court may do all of the following:

a. Grant a permanent or temporary injunction, restraining order, or asset freeze, accounting, writ of attachment, writ of general or special execution, writ of mandamus shall be granted and a, or other equitable or ancillary relief.

b. Appoint a receiver or conservator may be appointed for the defendant or the defendant's assets. ~~In addition, upon a proper showing by the administrator, the court may enter an order of~~

c. Order the administrator to take charge and control of a party's property, including but not limited to managing rents and profits, collecting debts, and acquiring and disposing of property.

d. Order the rescission, restitution, or disgorgement directed at any person who has engaged in an act constituting a violation of this chapter, or a rule or order adopted or issued pursuant to this chapter, and may order,

e. Order the payment of prejudgment and postjudgment interest.

PARAGRAPH DIVIDED. The administrator shall not be required to post a bond.

Sec. 9. Section 523A.5, subsection 2, Code 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. "Prepaid contract" means a written contract or other agreement executed by a seller in which the seller promises to deliver merchandise or services upon the future death of a person named or implied in the agreement.

Sec. 10. Section 523A.6, Code 1999, is amended to read as follows:

523A.6 COMPLIANCE WITH OTHER LAWS.

The seller of a prepaid contract for the purchase of funeral services or funeral merchandise shall comply with chapter 555A ~~with respect to all contracts that are subject to regulation under this chapter.~~ A ~~failure person failing~~ to comply with chapter 555A is subject to the remedies and penalties provided in that chapter.

Sec. 11. Section 523B.2, subsection 10, paragraph a, subparagraph (9), Code 1999, is amended to read as follows:

(9) The seller does not have a minimum net worth of ~~twenty five~~ fifty thousand dollars, as determined in accordance with generally accepted accounting principles. A seller may submit a surety bond in lieu of the net worth requirement. The administrator may by rule or order increase the amount of the net worth or bond for the protection of purchasers and may require the seller to file reports of all sales in this state to determine the appropriate amount of the net worth requirement. The surety bond shall be for the period of the registration, issued by a surety company authorized to do business in this state and for the benefit of any purchaser.

Sec. 12. Section 523C.6, Code 1999, is amended to read as follows:

523C.6 NET WORTH REQUIREMENT.

A service company that has issued or renewed in the aggregate one thousand or less residential service contracts during the preceding calendar year shall maintain a minimum net worth of forty thousand dollars, and the minimum net worth to be maintained shall be increased by an additional twenty thousand dollars for each additional five hundred contracts or fraction thereof issued or renewed, up to a maximum required net worth of four hundred thousand dollars. At least twenty thousand dollars of net worth shall consist of paid-in capital.

~~For purposes of this chapter, "net worth" means the excess of all assets over all liabilities including required reserves computed in accordance with generally accepted accounting principles. At least twenty thousand dollars of net worth shall consist of paid-in capital.~~

Sec. 13. Section 523C.8, Code 1999, is amended to read as follows:

523C.8 REBATES AND COMMISSIONS.

1. Except as provided in subsection 2, a service company shall not pay a commission or any other consideration to any person as an inducement or compensation for the issuance, purchase, or acquisition of a residential service contract. ~~However, this~~

2. This section does not prohibit any of the following:

a. The payment of an override commission or marketing fee to an employee or commission sales agent who is a marketing or sales representative of the service company or its parent company, subsidiary, or affiliate on the sale or marketing of a residential service contract, provided the employee or commission sales agent is not a real estate licensee sharing in or entitled to share in, or affiliated with, a company or organization which is entitled to share in any real estate commission generated by the underlying real property transaction. ~~This section also does not prohibit fees;~~

b. Fees, payments, or reimbursements for a bona fide ~~inspections~~ inspection, if an inspection of the property to be the subject of a residential service contract is required by a service company and if the inspection fee is reasonably related to the services performed.

3. The division may adopt rules identifying types of fees, payments, or reimbursements that do not constitute an inducement or compensation for the issuance, purchase, or acquisition of a residential service contract.

Sec. 14. Section 523E.1, subsection 6, Code 1999, is amended to read as follows:

6. This section does not apply to payments for merchandise delivered to the purchaser. Delivery includes storage in a warehouse ~~under the control of the seller or any other warehouse~~ or storage facility approved by the commissioner ~~when a receipt of ownership in the name of the purchaser is delivered to the purchaser, the merchandise is insured against loss, the merchandise is protected against damage, title has been transferred to the purchaser, the merchandise is appropriately identified and described in a manner that it can be distinguished from other similar items of merchandise unless this identification requirement with respect to bronze merchandise is waived by the commissioner by rule, the method of storage allows for visual audits of the merchandise, and the annual reporting requirements of section 523E.2, subsection 1, are satisfied.~~

Sec. 15. Section 523I.6, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A cemetery shall provide services necessary for the installation or burial of vaults or other similar merchandise sold by the cemetery. This subsection shall not require the cemetery to provide for opening or closing interment or entombment space, unless an agreement executed by the cemetery expressly provides otherwise.

Approved May 24, 1999

CHAPTER 167

PROPERTY TAX STATEMENT AND EQUALIZATION ORDER INFORMATION

S.F. 458

AN ACT relating to information required to be placed on property tax statements.

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

Section 1. Section 441.49, unnumbered paragraph 3, Code 1999, is amended to read as follows:

On or before October 15 the county auditor shall cause to be published in official newspapers of general circulation the final equalization order. The publication shall include, in type larger than the remainder of the publication, the following statement: "Assessed values are equalized by the department of revenue and finance every two years. Local taxing authorities determine the final tax levies and may reduce property tax rates to compensate for any increase in valuation due to equalization." Failure to publish the equalization order has no effect upon the validity of the orders.

Sec. 2. Section 445.5, subsection 1, paragraph i, Code 1999, is amended to read as follows:

i. The total amount of taxes levied by each taxing authority in the previous fiscal year and the current fiscal year, and the dollar amount difference between the two amounts, and that same difference expressed as a percentage increase or decrease.

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