

Senate Study Bill 1086 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
COMMERCE/INSURANCE DIVISION
BILL)

A BILL FOR

1 An Act relating to various matters involving insurance and
2 the insurance division of the department of commerce and
3 including effective date provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 22.7, subsection 58, Code 2015, is
2 amended to read as follows:

3 58. Information filed with the commissioner of insurance
4 pursuant to sections 523A.204 ~~and~~, 523A.205, 523A.206,
5 523A.207, 523A.401, 523A.502A, and 523A.803.

6 Sec. 2. Section 502.103, Code 2015, is amended to read as
7 follows:

8 **502.103 References to federal statutes.**

9 "*Securities Act of 1933*", 15 U.S.C. §77a et seq.; "*Securities*
10 *Exchange Act of 1934*", 15 U.S.C. §78a et seq.; "*Public Utility*
11 *Holding Company Act of 1935*", 15 U.S.C. §79 et seq.; "*Investment*
12 *Company Act of 1940*", 15 U.S.C. §80a-1 et seq.; "*Investment*
13 *Advisers Act of 1940*", 15 U.S.C. §80b-1 et seq.; "*Employee*
14 *Retirement Income Security Act of 1974*", 29 U.S.C. §1001 et
15 seq.; "*National Housing Act*", 12 U.S.C. §1701; "*Commodity*
16 *Exchange Act*", 7 U.S.C. §1 et seq.; "*Internal Revenue Code*",
17 26 U.S.C. §1 et seq.; "*Securities Investor Protection Act*
18 *of 1970*", 15 U.S.C. §78aaa et seq.; "*Securities Litigation*
19 *Uniform Standards Act of 1998*", 112 Stat. 3227; "*Small Business*
20 *Investment Act of 1958*", 15 U.S.C. §661 et seq.; and "*Electronic*
21 *Signatures in Global and National Commerce Act*", 15 U.S.C.
22 §7001 et seq.; and "*Dodd-Frank Wall Street Reform and Consumer*
23 *Protection Act*", Pub. L. No. 111-203 mean those federal statutes
24 and the rules and regulations adopted under those federal
25 statutes, as in effect on January 1, ~~2005~~ 2015.

26 Sec. 3. Section 502.202, Code 2015, is amended by adding the
27 following new subsection:

28 NEW SUBSECTION. 24. *Intrastate crowdfunding.*

29 *a. Definitions.* As used in this subsection, unless the
30 context otherwise requires:

31 (1) "*Intermediary*" means a broker-dealer that is subject
32 to the registration requirements of section 502.401 and that
33 facilitates the offer and sale of securities by issuers to
34 investors through an internet-based system that is open to
35 and accessible by the general public. If an intermediary's

1 activity as a broker-dealer is limited to offerings conducted
2 in accordance with the exemption in this subsection, the
3 administrator shall by rule list the specific broker-dealer
4 requirements with which the intermediary must comply.

5 (2) "*Intrastate crowdfunding*" means the offer or sale of a
6 security by an issuer in a transaction that is available for
7 purchase only by Iowa residents and by business organizations
8 located in, and organized and registered under the laws of,
9 this state.

10 *b. Exemption not available.* The exemption in this
11 subsection is not available to any of the following:

12 (1) A foreign issuer.

13 (2) An investment company, as defined in section 3 of the
14 federal Investment Company Act of 1940.

15 (3) A development stage company that either has no specific
16 business plan or purpose or has indicated that the company's
17 business plan is to engage in a merger or acquisition with an
18 unidentified company or companies, or other entity or person.

19 (4) A company with a class of securities registered under
20 the federal Securities Exchange Act of 1934.

21 (5) Any person who is subject to a disqualifying event as
22 described in the regulations adopted in accordance with section
23 926 of the federal Dodd-Frank Wall Street Reform and Consumer
24 Protection Act, Pub. L. No. 111-203, or in rules adopted by the
25 administrator pursuant to chapter 17A.

26 *c. Aggregate sales limit.* The aggregate amount of
27 securities sold to all investors by the issuer during the
28 twelve-month period preceding the date of the offer or sale,
29 including any amount sold in reliance upon the exemption in
30 this subsection, shall not exceed one million dollars other
31 than either of the following:

32 (1) Securities sold to Iowa resident institutional
33 investors.

34 (2) Securities sold to the Iowa resident issuer's
35 management.

1 *d. Individual sales limit.* The aggregate amount of
2 securities sold to an investor by the issuer during the
3 twelve-month period preceding the date of the offer or sale,
4 including any amount sold in reliance upon the exemption in
5 this subsection, shall not exceed five thousand dollars unless
6 the investor is an accredited investor who resides in Iowa.
7 For purposes of this individual sales limit, the following
8 investors shall be treated as one investor:

9 (1) A relative, spouse, or relative of the spouse of an
10 investor who has the same principal residence as the investor.

11 (2) A trust or estate in which an investor and any related
12 person collectively have more than fifty percent of the
13 beneficial interest, excluding contingent interests.

14 (3) A corporation or other organization of which an investor
15 and any related person collectively are beneficial owners of
16 more than fifty percent of the equity securities, excluding
17 directors' qualifying shares, or equity interests.

18 *e. Use of an intermediary.* All offers and sales of
19 securities made in reliance upon the exemption in this
20 subsection shall be made through an intermediary's internet
21 site.

22 *f. Notice to administrator.* Prior to the offer of any
23 security in this state made in reliance upon the exemption
24 in this subsection, the issuer shall file a notice with
25 the administrator in a form and format approved by the
26 administrator, and including the filing fee specified by rule,
27 if any.

28 *g. Rulemaking.* The administrator shall adopt all rules
29 necessary to implement the exemption in this subsection
30 including but not limited to all of the following:

31 (1) Mandatory disclosures.

32 (2) Restrictions on advertising and communications.

33 (3) Target amount, offering period, and escrow
34 requirements.

35 (4) Use and compensation of promoters.

1 (5) Restrictions on the sale of securities purchased under
2 the exemption in this subsection.

3 (6) Sales reports.

4 (7) Limitations on the offering price.

5 (8) Duties of an intermediary which shall include providing
6 the administrator with continuous investor-level access to the
7 intermediary's internet site.

8 (9) Records maintenance.

9 (10) Duties and registration requirements for internet site
10 operators.

11 Sec. 4. Section 502.302, subsection 1, paragraph a,
12 subparagraph (1), Code 2015, is amended to read as follows:

13 (1) A person who is the issuer of a federal covered
14 security under section 18(b)(2) of the Securities Act of
15 1933 shall initially make a notice filing and annually renew
16 a notice filing in this state ~~for an indefinite amount or a~~
17 ~~fixed amount. The fixed amount must be for two hundred fifty~~
18 ~~thousand dollars.~~

19 Sec. 5. Section 502.302, subsection 1, paragraph a,
20 subparagraph (2), unnumbered paragraph 1, Code 2015, is amended
21 to read as follows:

22 A notice filer shall pay a filing fee in the amount of
23 five hundred dollars when the notice is filed. ~~If the amount~~
24 ~~covered by the notice is indefinite, the notice filer shall pay~~
25 ~~a filing fee of one thousand dollars. If the amount covered by~~
26 ~~the notice is fixed, the notice filer shall pay a filing fee~~
27 ~~of two hundred fifty dollars, and all of the following shall~~
28 ~~apply:~~

29 Sec. 6. Section 502.302, subsection 1, paragraph a,
30 subparagraph (2), subparagraph divisions (a) and (b), Code
31 2015, are amended by striking the subparagraph divisions.

32 Sec. 7. Section 502.302, subsections 2 and 3, Code 2015, are
33 amended to read as follows:

34 2. *Notice filing effectiveness and renewal.* A notice filing
35 under subsection 1 is effective for one year commencing on

1 the later of the notice filing or the effectiveness of the
2 offering filed with the securities and exchange commission.
3 On or before expiration, the issuer may renew a notice filing
4 by filing a copy of those records filed by the issuer with
5 the securities and exchange commission that are required by
6 rule or order under this chapter to be filed and by paying
7 ~~the a~~ renewal fee required by subsection 1, paragraph "a" of
8 five hundred dollars. A previously filed consent to service
9 of process complying with section 502.611 may be incorporated
10 by reference in a renewal. A renewed notice filing becomes
11 effective upon the expiration of the filing being renewed.

12 3. *Notice filings for federal covered securities under*
13 *section 18(b)(4)(D)*. With respect to a security that is a
14 federal covered security under section 18(b)(4)(D) of the
15 Securities Act of 1933, 15 U.S.C. §77r(b)(4)(D), a rule under
16 this chapter may require a notice filing by or on behalf of an
17 issuer to include a copy of form D, including the appendix,
18 as promulgated by the securities and exchange commission,
19 and a consent to service of process complying with section
20 502.611 signed by the issuer not later than fifteen days after
21 the first sale of the federal covered security in this state
22 and the payment of a fee of ~~one~~ two hundred dollars; and the
23 payment of a fee of two hundred fifty dollars for any late
24 filing.

25 Sec. 8. Section 502.412, subsection 9, Code 2015, is amended
26 to read as follows:

27 9. *Limit on investigation or proceeding*. The administrator
28 shall not institute a proceeding under subsection 1, 2,
29 or 3 based solely on material facts actually known by the
30 administrator unless an investigation or the proceeding is
31 instituted within ~~one year~~ two years after the administrator
32 actually acquires knowledge of the material facts.

33 Sec. 9. Section 511.8, subsection 5, paragraphs a and b,
34 Code 2015, are amended to read as follows:

35 a. (1) If fixed interest-bearing obligations, the net

1 earnings of the issuing, assuming, or guaranteeing corporation
2 available for its fixed charges for a period of five fiscal
3 years next preceding the date of acquisition of the obligations
4 by such insurance company shall have averaged per year not
5 less than one and one-half times such average annual fixed
6 charges of the issuing, assuming, or guaranteeing corporation
7 applicable to such period, and, during at least one of the last
8 two years of such period, its net earnings shall have been
9 not less than one and one-half times its fixed charges for
10 such year; or if, at the date of acquisition, the obligations
11 ~~are adequately secured and have investment qualities and~~
12 ~~characteristics wherein the speculative elements are not~~
13 predominant investment grade as defined by the commissioner by
14 rule.

15 (2) However, with respect to fixed interest-bearing
16 obligations which are issued, assumed, or guaranteed by a
17 financial company, the net earnings by the financial company
18 available for its fixed charges for the period of five fiscal
19 years preceding the date of acquisition of the obligations by
20 the insurance company shall have averaged per year not less
21 than one and one-fourth times such average annual fixed charges
22 of the issuing, assuming, or guaranteeing financial company
23 applicable to such period, and, during at least one of the last
24 two years of the period, its net earnings shall have been not
25 less than one and one-fourth times its fixed charges for such
26 year; or if, at the date of acquisition, the obligations are
27 ~~adequately secured and speculative elements are not predominant~~
28 ~~in their investment qualities and characteristics~~ investment
29 grade as defined by the commissioner by rule. As used in
30 this subparagraph (2), "*financial company*" means a corporation
31 which on the average over its last five fiscal years preceding
32 the date of acquisition of its obligations by the insurer,
33 has had at least fifty percent of its net income, including
34 income derived from subsidiaries, derived from the business
35 of wholesale, retail, installment, mortgage, commercial,

1 industrial or consumer financing, or from banking or factoring,
2 or from similar or related lines of business.

3 *b.* If adjustment, income, or other contingent interest
4 obligations, the net earnings of the issuing, assuming, or
5 guaranteeing corporation available for its fixed charges
6 for a period of five fiscal years next preceding the date
7 of acquisition of the obligations by such insurance company
8 shall have averaged per year not less than one and one-half
9 times such average annual fixed charges of the issuing,
10 assuming, or guaranteeing corporation and its average annual
11 maximum contingent interest applicable to such period and,
12 during at least one of the last two years of such period, its
13 net earnings shall have been not less than one and one-half
14 times the sum of its fixed charges and maximum contingent
15 interest for such year, or if, at the date of acquisition,
16 the obligations are ~~adequately secure and have investment~~
17 ~~qualities and characteristics and speculative elements are not~~
18 predominant investment grade as defined by the commissioner by
19 rule.

20 Sec. 10. Section 511.8, subsection 6, paragraph a,
21 subparagraph (1), subparagraph division (b), unnumbered
22 paragraph 1, Code 2015, is amended to read as follows:

23 The net earnings available for fixed charges and preferred
24 dividends of the issuing corporation shall have been, for
25 each of the five fiscal years immediately preceding the date
26 of acquisition, not less than one and one-half times the sum
27 of the annual fixed charges and contingent interest, if any,
28 and the annual preferred dividend requirements as of the date
29 of acquisition; or at the date of acquisition the preferred
30 stock ~~has is~~ is investment qualities and characteristics wherein
31 speculative elements are not predominant grade as defined by
32 the commissioner by rule.

33 Sec. 11. Section 511.8, subsection 8, unnumbered paragraph
34 1, Code 2015, is amended to read as follows:

35 Securities included under subsections 5, 6, and 7, and

1 subsection 9, paragraph "h", shall not be eligible:

2 Sec. 12. Section 511.8, subsection 8, paragraph b,
3 unnumbered paragraph 1, Code 2015, is amended to read as
4 follows:

5 The investments of any company or association in ~~such the~~
6 securities of a corporation shall not ~~be eligible in excess of~~
7 exceed the following percentages of the legal reserve of such
8 company or association:

9 Sec. 13. Section 511.8, subsection 8, paragraph b,
10 subparagraphs (1) and (2), Code 2015, are amended to read as
11 follows:

12 ~~(1) With the exception of public securities~~ For any one
13 corporation other than a public utility company, two percent
14 of the legal reserve ~~in the securities of any one corporation.~~
15 Five For any one public utility company, five percent of the
16 legal reserve ~~in the securities of any one public utility~~
17 corporation.

18 ~~(2) Seventy-five percent of the legal reserve in the~~
19 ~~securities described in subsection 5 issued by other than~~
20 ~~public utility corporations. Fifty percent of the legal~~
21 ~~reserve in the~~ For securities described in subsection 5 issued
22 by public utility corporations companies, fifty percent of the
23 legal reserve.

24 Sec. 14. Section 511.8, subsection 9, Code 2015, is amended
25 by adding the following new paragraph:

26 NEW PARAGRAPH. h. Mezzanine real estate loans subject to
27 the following conditions:

28 (1) The terms of the mezzanine real estate loan agreement
29 shall do all of the following:

30 (a) Require that each pledgor abstain from granting
31 additional security interests in the equity interest pledged.

32 (b) Set forth techniques to minimize the likelihood or
33 impact of a bankruptcy filing on the part of the real estate
34 owner or the mezzanine real estate loan borrower consistent
35 with the national association of insurance commissioners'

1 accounting practices and procedures manual.

2 (c) Require the real estate owner or mezzanine real estate
3 loan borrower to do all of the following:

4 (i) Hold no assets other than, in the case of the real
5 estate owner, the real property, and in the case of the
6 mezzanine real estate loan borrower, the equity interest of the
7 real estate owner.

8 (ii) Not engage in any business other than, in the case
9 of the real estate owner, the ownership and operation of the
10 real estate, and in the case of the mezzanine real estate loan
11 borrower, holding an ownership interest in the real estate
12 owner.

13 (iii) Not incur additional debt, other than limited trade
14 payables, a first mortgage loan, or mezzanine real estate
15 loans.

16 (2) At the time of purchase, the sum of the first mortgage
17 and the mezzanine real estate loans shall not exceed ninety
18 percent of the value of the real estate evidenced by a
19 current appraisal and the mezzanine real estate loan shall be
20 classified as CM4 or better in accordance with the national
21 association of insurance commissioners' rating methodology, or
22 an equivalent or successor rating.

23 (3) The value of a company's or association's total
24 investments qualified under this paragraph "h" shall not exceed
25 three percent of the legal reserve subject to the following
26 conditions:

27 (a) The value of a company's or association's total
28 investments qualified under this paragraph "h" in mezzanine
29 real estate loans classified as CM3 in accordance with the
30 national association of insurance commissioners' rating
31 methodology or an equivalent or successor rating at the time of
32 purchase shall not exceed two percent of the legal reserve.

33 (b) The value of a company's or association's total
34 investments qualified under this paragraph "h" in mezzanine
35 real estate loans classified as CM4 in accordance with the

1 national association of insurance commissioners' rating
2 methodology or an equivalent or successor rating at the time of
3 purchase shall not exceed one percent of the legal reserve.

4 (4) For purposes of this paragraph "h", "mezzanine real
5 estate loan" means a loan secured by a pledge of a direct or
6 indirect equity interest in an entity that owns real estate.

7 Sec. 15. Section 511.8, subsection 13, Code 2015, is amended
8 to read as follows:

9 13. *Collateral loans.* Loans secured by collateral
10 consisting of any ~~securities~~ assets or investments qualified in
11 under this section, provided the amount of the loan is not in
12 excess of ninety percent of the value of the ~~securities~~ assets
13 or investments. Provided further that subsection 8 shall apply
14 to the collateral ~~securities~~ assets or investments pledged
15 to the payment of loans ~~authorized in~~ qualified under this
16 subsection.

17 Sec. 16. Section 511.8, subsection 18, paragraph a, Code
18 2015, is amended to read as follows:

19 a. (1) Common stocks, or shares, or equity interests issued
20 by solvent corporations or institutions are eligible if the
21 total investment in the common stocks, or shares in, or equity
22 interests of the corporations or institutions does not exceed
23 ten percent of legal reserve, provided not more than one-half
24 percent of the legal reserve is invested in common stocks,
25 or shares, or equity interests of any one corporation or
26 institution. However, the not more than four percent of legal
27 reserve shall be invested in common stocks, or shares shall be
28 , or equity interests which do not meet one of the following
29 requirements:

30 (a) Are listed or admitted to trading on an established
31 foreign securities exchange or a securities exchange in the
32 United States or shall be.

33 (b) Are publicly held and traded in the "over-the-counter
34 market" and, provided that market quotations shall be readily
35 available, and further, the investment.

1 (2) An investment in common stocks, shares, or equity
2 interests shall not create a conflict of interest for an
3 officer or director of the company between the insurance
4 company and the corporation whose common stocks, ~~or shares, or~~
5 equity interests are purchased.

6 Sec. 17. Section 511.8, subsection 22, paragraphs c and d,
7 Code 2015, are amended to read as follows:

8 c. Investments in financial instruments used in hedging
9 transactions are not eligible in excess of two percent of
10 the legal reserve in the financial instruments of any one
11 corporation, less any securities of that corporation owned
12 by the company or association and in which its legal reserve
13 is invested, except insofar as the financial instruments are
14 collateralized by cash, United States government obligations
15 as authorized by subsection 1, or obligations of or guaranteed
16 by a United States government-sponsored enterprise which on
17 the date they are pledged as collateral are ~~adequately secured~~
18 ~~and have investment qualities and characteristics wherein the~~
19 ~~speculative elements are not predominant~~ investment grade as
20 defined by the commissioner by rule, which are deposited with a
21 custodian bank as defined in subsection 21, and held under a
22 written agreement with the custodian bank that complies with
23 subsection 21 and provides for the proceeds of the collateral,
24 subject to the terms and conditions of the applicable
25 collateral or other credit support agreement, to be remitted to
26 the legal reserve deposit of the company or association and to
27 vest in the state in accordance with section 508.18 whenever
28 proceedings under that section are instituted.

29 d. Investments in financial instruments used in hedging
30 transactions are not eligible in excess of ten percent of the
31 legal reserve, except insofar as the financial instruments are
32 collateralized by cash, United States government obligations
33 as authorized by subsection 1, or obligations of or guaranteed
34 by a United States government-sponsored enterprise which on
35 the date they are pledged as collateral are ~~adequately secured~~

1 ~~and have investment qualities and characteristics wherein the~~
2 ~~speculative elements are not predominant~~ investment grade as
3 defined by the commissioner by rule, which are deposited with a
4 custodian bank as defined in subsection 21, and held under a
5 written agreement with the custodian bank that complies with
6 subsection 21 and provides for the proceeds of the collateral,
7 subject to the terms and conditions of the applicable
8 collateral or other credit support agreement, to be remitted to
9 the legal reserve deposit of the company or association and to
10 vest in the state in accordance with section 508.18 whenever
11 proceedings under that section are instituted.

12 Sec. 18. Section 511.8, subsection 22, paragraph e,
13 subparagraph (1), Code 2015, is amended to read as follows:

14 (1) Investments in financial instruments of foreign
15 governments or foreign corporate obligations, other than
16 Canada, used in hedging transactions shall be included
17 in the limitation contained in subsection 19 that allows
18 only twenty percent of the legal reserve of the company or
19 association to be invested in such foreign investments, except
20 insofar as the financial instruments are collateralized by
21 cash, United States government obligations as authorized by
22 subsection 1, or obligations of or guaranteed by a United
23 States government-sponsored enterprise which on the date
24 they are pledged as collateral are ~~adequately secured and~~
25 ~~have investment qualities and characteristics wherein the~~
26 ~~speculative elements are not predominant~~ investment grade as
27 defined by the commissioner by rule, which are deposited with a
28 custodian bank as defined in subsection 21, and held under a
29 written agreement with the custodian bank that complies with
30 subsection 21 and provides for the proceeds of the collateral,
31 subject to the terms and conditions of the applicable
32 collateral or other credit support agreement, to be remitted to
33 the legal reserve deposit of the company or association and to
34 vest in the state in accordance with section 508.18 whenever
35 proceedings under that section are instituted.

1 Sec. 19. Section 514G.102, Code 2015, is amended to read as
2 follows:

3 **514G.102 Scope.**

4 The requirements of this chapter apply to policies delivered
5 or issued for delivery in this state on or after July 1, 2008.
6 The requirements of this chapter related to independent review
7 of benefit trigger determinations apply to all claims made on
8 or after January 1, 2009. The requirements of this chapter
9 related to prompt payment of claims and the payment of interest
10 apply to all long-term care insurance policies. This chapter
11 is not intended to supersede the obligations of entities
12 subject to this chapter to comply with the substance of other
13 applicable insurance laws not in conflict with this chapter,
14 except that laws and regulations designed and intended to apply
15 to Medicare supplement insurance policies shall not be applied
16 to long-term care insurance.

17 Sec. 20. Section 521A.5, subsection 4, paragraph d, Code
18 2015, is amended to read as follows:

19 *d.* The board of directors of a domestic insurer shall
20 establish one or more committees comprised solely of directors
21 who or other persons appointed by the board, the majority of
22 whom are not officers or employees of the insurer or of any
23 entity controlling, controlled by, or under common control with
24 the insurer and who are not beneficial owners of a controlling
25 interest in the voting stock of the insurer or any such entity.
26 The committee or committees shall have responsibility for
27 recommending or nominating candidates for director for election
28 by shareholders or policyholders, evaluating the performance
29 of officers deemed to be principal officers of the insurer,
30 and recommending to the board of directors the selection and
31 compensation of the principal officers.

32 Sec. 21. Section 523A.102, subsection 8, Code 2015, is
33 amended by striking the subsection.

34 Sec. 22. Section 523A.102, Code 2015, is amended by adding
35 the following new subsection:

1 NEW SUBSECTION. 13A. *“Guaranteed”* means that the
2 preneed seller has agreed to accept the funds available from
3 contractual payments made by the purchaser and the allocable
4 portion of accumulated income as payment in full for the
5 applicable items of merchandise and services selected and
6 identified in the purchase agreement, and that the purchaser,
7 beneficiary, and the beneficiary’s estate are not obligated to
8 pay any additional costs related to updated charges for price
9 increases on the merchandise and services selected even if the
10 additional costs exceed the funds available from contractual
11 payments made by the purchaser and the allocable portion of
12 accumulated income.

13 Sec. 23. Section 523A.204, subsection 3, Code 2015, is
14 amended to read as follows:

15 3. All records maintained by the commissioner under this
16 section shall be confidential pursuant to section 22.7,
17 subsection 58, and shall not be made available for inspection
18 or copying except upon the approval of the commissioner or the
19 attorney general, or except when sought by the preneed seller
20 to whom the records relate. Such records shall be privileged
21 and confidential in any judicial or administrative proceeding
22 except any of the following:

23 a. An action commenced by the commissioner.

24 b. An administrative proceeding brought by the insurance
25 division.

26 c. An action or proceeding which arises out of the criminal
27 provisions of the laws of this state or of the United States.

28 d. An action brought by the insurance division or
29 the attorney general to recover moneys for embezzlement,
30 misappropriation, or misuse of trust funds.

31 Sec. 24. Section 523A.204, subsections 4 and 5, Code 2015,
32 are amended by striking the subsections.

33 Sec. 25. Section 523A.205, subsection 2, Code 2015, is
34 amended by striking the subsection.

35 Sec. 26. Section 523A.205, subsection 3, Code 2015, is

1 amended to read as follows:

2 3. ~~Notwithstanding chapter 22, all~~ All records maintained
3 by the commissioner under this section shall be confidential
4 pursuant to section 22.7, subsection 58, and shall not be made
5 available for inspection or copying except upon approval of the
6 commissioner or the attorney general, or except when sought by
7 the financial institution to whom the records relate. Such
8 records shall be privileged and confidential in any judicial or
9 administrative proceeding except any of the following:

10 a. An action commenced by the commissioner.

11 b. An administrative proceeding brought by the insurance
12 division.

13 c. An action or proceeding which arises out of the criminal
14 provisions of the laws of this state or of the United States.

15 d. An action brought by the insurance division or
16 the attorney general to recover moneys for embezzlement,
17 misappropriation, or misuse of trust funds.

18 Sec. 27. Section 523A.206, subsection 6, Code 2015, is
19 amended by striking the subsection and inserting in lieu
20 thereof the following:

21 6. All records maintained by the commissioner under this
22 section, including work papers, notes, recorded information,
23 documents, and copies thereof that are produced or obtained
24 by or disclosed to the commissioner or another person in the
25 course of a compliance examination, shall be confidential
26 pursuant to section 22.7, subsection 58, and shall not be
27 made available for inspection and copying except upon the
28 approval of the commissioner or the attorney general. Such
29 records shall be privileged and confidential in any judicial or
30 administrative proceeding except any of the following:

31 a. An action commenced by the commissioner.

32 b. An administrative proceeding brought by the insurance
33 division.

34 c. An action or proceeding which arises out of the criminal
35 provisions of the laws of this state or of the United States.

1 *d.* An action brought by the insurance division or
2 the attorney general to recover moneys for embezzlement,
3 misappropriation, or misuse of trust funds.

4 Sec. 28. Section 523A.207, Code 2015, is amended to read as
5 follows:

6 **523A.207 Audits by certified public accountants — penalty.**

7 1. A purchase agreement shall not be sold or transferred,
8 as part of the sale of a business or the assets of a business,
9 until an audit has been performed by a certified public
10 accountant and filed with the commissioner that expresses the
11 auditor's opinion of the adequacy of funding related to the
12 purchase agreements to be sold or transferred. If the buyer
13 of a purchase agreement sold or transferred as part of the
14 sale of a business or the assets of a business, fails to file
15 such an audit, the commissioner shall suspend the preneed
16 seller's license of the buyer and the preneed sales license of
17 any sales agent in the employ of the buyer until the audit is
18 filed. In addition, the commissioner shall assess a penalty
19 against the buyer in an amount up to one hundred dollars for
20 each day that the audit remains unfiled. The commissioner
21 shall allow a thirty-day grace period after the date that a
22 purchase agreement is sold or transferred before suspension of
23 a license or assessment of a penalty for failure to file an
24 audit pursuant to this section.

25 2. All records maintained by the commissioner under this
26 section shall be confidential pursuant to section 22.7,
27 subsection 58, and shall not be made available for inspection
28 or copying except upon approval of the commissioner or the
29 attorney general, or except when sought by the preneed seller
30 to whom the records relate. Such records shall be privileged
31 and confidential in any judicial or administrative proceeding
32 except any of the following:

33 a. An action commenced by the commissioner.

34 b. An administrative proceeding brought by the insurance
35 division.

1 c. An action or proceeding which arises out of the criminal
2 provisions of the laws of this state or of the United States.

3 d. An action brought by the insurance division or
4 the attorney general to recover moneys for embezzlement,
5 misappropriation, or misuse of trust funds.

6 Sec. 29. Section 523A.401, subsection 8, Code 2015, is
7 amended to read as follows:

8 8. An insurance company issuing policies funding purchase
9 agreements subject to this chapter shall file an annual report
10 with the commissioner on a form prescribed by the commissioner.
11 The report shall list the applicable insurance policies
12 outstanding for each seller. ~~Computer printouts may be~~
13 ~~submitted so long as each legibly provides the same information~~
14 ~~required in the prescribed form.~~

15 Sec. 30. Section 523A.401, Code 2015, is amended by adding
16 the following new subsection:

17 NEW SUBSECTION. 10. All records maintained by the
18 commissioner under this section shall be confidential
19 pursuant to section 22.7, subsection 58, and shall not be made
20 available for inspection or copying except upon approval of the
21 commissioner or the attorney general, or except when sought
22 by the insurance company to whom the records relate. Such
23 records shall be privileged and confidential in any judicial or
24 administrative proceeding except any of the following:

25 a. An action commenced by the commissioner.

26 b. An administrative proceeding brought by the insurance
27 division.

28 c. An action or proceeding which arises out of the criminal
29 provisions of the laws of this state or of the United States.

30 d. An action brought by the insurance division or
31 the attorney general to recover moneys for embezzlement,
32 misappropriation, or misuse of trust funds.

33 Sec. 31. Section 523A.402, subsection 8, Code 2015, is
34 amended to read as follows:

35 8. An insurance company issuing annuities funding purchase

1 agreements subject to this chapter shall file an annual report
2 with the commissioner on a form prescribed by the commissioner.
3 The report shall list the applicable annuities outstanding for
4 each seller. ~~Computer printouts may be submitted so long as~~
5 ~~each legibly provides the same information required in the~~
6 ~~prescribed form.~~

7 Sec. 32. Section 523A.405, Code 2015, is amended by striking
8 the section and inserting in lieu thereof the following:

9 **523A.405 Bond in lieu of trust fund.**

10 The commissioner may, by rule, establish terms and
11 conditions under which a seller may, in lieu of trust
12 requirements, file with the commissioner a surety bond issued
13 by a surety company authorized to do business and doing
14 business in this state.

15 Sec. 33. Section 523A.501, subsection 2, Code 2015, is
16 amended to read as follows:

17 2. An application for a preneed seller's license shall be
18 filed on a form and in a format prescribed by the commissioner
19 and be accompanied by a fifty dollar filing fee. The
20 application shall include the name of the natural person or
21 legal entity to be licensed as the preneed seller and, if
22 applicable, any other name under which the preneed seller will
23 be transacting business, including any names registered with
24 the secretary of state or a county clerk. The application
25 shall be updated as necessary to ensure that the commissioner
26 has been notified of all names under which the preneed seller
27 is operating and doing business.

28 Sec. 34. Section 523A.501, subsection 7, Code 2015, is
29 amended to read as follows:

30 7. A preneed seller's license ~~shall be renewed every four~~
31 ~~years by filing the form prescribed by the commissioner under~~
32 ~~subsection 2, accompanied by a renewal fee in an amount set by~~
33 ~~the commissioner by rule~~ expires annually on April 15. If the
34 preneed seller has filed a complete annual report and paid the
35 required fees as required in section 523A.204, the commissioner

1 shall renew the preneed seller's license until April 15 of the
2 following year.

3 Sec. 35. Section 523A.502, subsection 5, Code 2015, is
4 amended by striking the subsection and inserting in lieu
5 thereof the following:

6 5. A sales license shall expire annually on April 15. If
7 the sales agent has filed a substantially complete annual
8 report as required in section 523A.502A, the commissioner shall
9 renew the sales license until April 15 of the following year.

10 Sec. 36. Section 523A.502A, subsections 1 and 2, Code 2015,
11 are amended to read as follows:

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

19 2. All records maintained by the commissioner under this
20 section shall be confidential pursuant to section 22.7,
21 subsection 58, and shall not be made available for inspection
22 or copying except upon the approval of the commissioner or the
23 attorney general, or except when sought by the sales agent to
24 whom the records relate. Such records shall be privileged
25 and confidential in any judicial or administrative proceeding
26 except any of the following:

27 a. An action commenced by the commissioner.

28 b. An administrative proceeding brought by the insurance
29 division.

30 c. An action or proceeding which arises out of the criminal
31 provisions of the laws of this state or of the United States.

32 d. An action brought by the insurance division or
33 the attorney general to recover moneys for embezzlement,
34 misappropriation, or misuse of trust funds.

35 Sec. 37. Section 523A.502A, subsections 3 and 4, Code 2015,

1 are amended by striking the subsections.

2 Sec. 38. Section 523A.803, subsection 1, paragraph c, Code
3 2015, is amended by striking the paragraph.

4 Sec. 39. Section 523A.803, Code 2015, is amended by adding
5 the following new subsection:

6 NEW SUBSECTION. 1A. All records maintained by the
7 commissioner under this section, including work papers, notes,
8 recorded information, documents, and copies thereof that are
9 produced or obtained by or disclosed to the commissioner or
10 another person in the course of an investigation, shall be
11 confidential pursuant to section 22.7, subsection 58, and shall
12 not be made available for inspection and copying except upon
13 the approval of the commissioner or the attorney general. Such
14 records shall be privileged and confidential in any judicial or
15 administrative proceeding except any of the following:

16 a. An action commenced by the commissioner.

17 b. An administrative proceeding brought by the insurance
18 division.

19 c. An action or proceeding which arises out of the criminal
20 provisions of the laws of this state or of the United States.

21 d. An action brought by the insurance division or
22 the attorney general to recover moneys for embezzlement,
23 misappropriation, or misuse of trust funds.

24 Sec. 40. Section 523A.807, subsection 3, unnumbered
25 paragraph 1, Code 2015, is amended to read as follows:

26 If the commissioner finds that a person has violated section
27 523A.201, 523A.202, 523A.203, 523A.207, 523A.401, 523A.402,
28 523A.403, 523A.404, 523A.405, 523A.501, 523A.502, ~~or 523A.504~~
29 or any rule adopted pursuant thereto, the commissioner may
30 order any or all of the following:

31 Sec. 41. Section 523I.810, subsection 9, Code 2015, is
32 amended to read as follows:

33 9. A cemetery may, by resolution adopted by a vote of at
34 least two-thirds of the members of its board at any authorized
35 meeting of the board, authorize the withdrawal and use of

1 not more than twenty percent of the principal of the care
2 fund to acquire additional land for cemetery purposes, to
3 repair a mausoleum or other building or structure intended for
4 cemetery purposes, to build, improve, or repair boundaries,
5 roads and walkways in the cemetery, to purchase equipment for
6 tree, shrub, and lawn care, to purchase backhoes or similar
7 equipment used to open and close interment spaces, to purchase
8 equipment used to construct a columbarium, mausoleum, or
9 similar structure to create additional interment spaces, or
10 to purchase recordkeeping software used to maintain ownership
11 records or interment records. The resolution shall establish
12 a reasonable repayment schedule, not to exceed five years,
13 ~~and provide for interest in an amount comparable to the care~~
14 ~~fund's current rate of return on its investments.~~ However,
15 the care fund shall not be diminished below an amount equal to
16 the greater of twenty-five thousand dollars or five thousand
17 dollars per acre of land in the cemetery. The resolution, and
18 if the deposit of care fund income over five years is unlikely
19 to fund replenishment of the principal of the care fund, either
20 a bond or proof of insurance to guarantee replenishment of the
21 care fund, shall be filed with the commissioner thirty days
22 prior to the withdrawal of funds.

23 Sec. 42. Section 523I.811, subsection 1, paragraph b, Code
24 2015, is amended to read as follows:

25 *b.* Maintaining drains, water lines, roads, buildings,
26 boundaries, fences, and other structures.

27 Sec. 43. Section 523I.811, subsection 1, Code 2015, is
28 amended by adding the following new paragraphs:

29 NEW PARAGRAPH. *g.* To purchase equipment to maintain the
30 cemetery.

31 NEW PARAGRAPH. *h.* To purchase backhoes or similar equipment
32 used to open and close interment spaces.

33 NEW PARAGRAPH. *i.* To purchase equipment used to construct
34 a columbarium, mausoleum, or similar structure to create
35 additional interment spaces.

1 Sec. 44. NEW SECTION. 523I.811A Emergency use of care
2 funds.

3 1. Notwithstanding any other provision of this chapter,
4 a perpetual care cemetery may apply to the commissioner to
5 withdraw funds from the cemetery’s care fund for a financial
6 emergency. The commissioner shall, by rule, establish
7 standards and procedures for such applications and for
8 withdrawals from care funds.

9 2. Upon application, the commissioner may allow a perpetual
10 care cemetery to withdraw funds from the care fund if the
11 commissioner finds that the cemetery has an urgent financial
12 need and the withdrawal is deemed reasonable and prudent to
13 fund a necessary expense of the cemetery. The commissioner
14 shall establish conditions for the specific use of the funds
15 withdrawn and may require repayment of all or part of the
16 amount withdrawn.

17 Sec. 45. EFFECTIVE DATE. The following provision or
18 provisions of this Act take effect January 1, 2016:

19 1. The section of this Act adding section 502.202,
20 subsection 24.

21 Sec. 46. DIRECTIONS TO CODE EDITOR. The Iowa code editor is
22 directed to transfer section 515.11 to new section 515.23.

23 Sec. 47. REPEAL. Section 523A.504, Code 2015, is repealed.

24 EXPLANATION

25 The inclusion of this explanation does not constitute agreement with
26 the explanation’s substance by the members of the general assembly.

27 This bill relates to various matters involving insurance
28 and the insurance division of the department of commerce and
29 includes effective date provisions.

30 UNIFORM SECURITIES ACT. Code section 502.103 is amended
31 to update references in Code chapter 502 to include current
32 federal statutes. New Code section 502.202(24) provides an
33 exemption from certain securities registration and filing
34 requirements for offers and sales of securities known as
35 intrastate crowdfunding and provides limitations and conditions

1 on such offers and sales of securities in the state. All
2 offers and sales of securities made pursuant to the exemption
3 must be made through a broker-dealer's internet site.

4 "Intrastate crowdfunding" is defined as the offer or sale of a
5 security by an issuer in a transaction that is available for
6 purchase only by Iowa residents and by business organizations
7 located in Iowa and organized and registered under Iowa law.
8 This provision takes effect January 1, 2016.

9 Code section 502.302(1)(a)(1) and (2), concerning specified
10 federal covered securities, are amended to eliminate an option
11 that allows filing fees accompanying notice filings of offers
12 of such securities to be based on a definite or indefinite
13 amount, instead requiring all notice filers to pay a fixed fee
14 of \$500. Code section 502.302(1)(a)(2)(a) and (b) are stricken
15 to eliminate the need to file a sales report. Code section
16 502.302(2) is amended to establish a flat fee of \$500 for
17 renewals of such filings. Code section 502.302(3) is amended
18 to provide for a filing fee of \$200 instead of \$100 for other
19 specified federal covered securities.

20 Code section 502.412(9) is amended to provide that the
21 administrator of the securities and regulated industries bureau
22 of the insurance division of the department of commerce has two
23 years instead of one year after acquiring material facts to
24 institute a disciplinary proceeding concerning a broker-dealer
25 or investment adviser.

26 LIFE INSURANCE COMPANIES AND ASSOCIATIONS. Code section
27 511.8(5)(a) and (b) are amended to provide that investments
28 in certain corporate obligations made by life insurance
29 companies and associations are allowed if, at the date of
30 acquisition, the obligations are investment grade as defined
31 by the commissioner by rule. Similar changes are made as to
32 investments in preferred and guaranteed stocks (Code section
33 511.8(6)(a)(1)(b)), and financial instruments used in hedging
34 transactions (Code section 511.8(22)(c),(d), and (e)(1)).

35 Code section 511.8(8) is amended to provide that specified

1 further restrictions on investments of a life insurance
2 company or association in securities apply to mezzanine real
3 estate loans. Code section 511.8(8)(b) is amended to provide
4 that investments of a life insurance company or association
5 in securities of a corporation shall not exceed specified
6 percentages of the legal reserve.

7 Code section 511.8(8)(b)(1) and (2) are amended to provide
8 that investments in corporate obligations, preferred and
9 guaranteed stocks, equipment trust obligations, or mezzanine
10 real estate loans are limited to 2 percent of legal reserve
11 for any one corporation other than a public utility company,
12 5 percent of the legal reserve for any one public utility
13 company, and 50 percent of the legal reserve for corporate
14 obligations issued by public utility companies.

15 New Code section 511.8(9)(h) provides that a life insurance
16 company or association may invest in mezzanine real estate
17 loans subject to specified conditions. The provision specifies
18 what terms a mezzanine loan agreement must include and limits
19 the value of a life insurance company's or association's total
20 investments in mezzanine real estate loans. For purposes of
21 the new provision, "mezzanine real estate loan" means a loan
22 secured by a pledge of a direct or indirect equity interest in
23 an entity that owns real estate.

24 Code section 511.8(13) is amended to provide that life
25 insurance companies and associations can invest in loans
26 secured by collateral consisting of qualified assets or
27 investments instead of securities.

28 Code section 511.8(18)(a) is amended to provide that life
29 insurance companies and associations can invest in certain
30 specified equity interests as well as common stocks and shares
31 issued by corporations or institutions. The provision provides
32 limitations on the percentage of legal reserve that can be
33 invested in specified types of common stocks, shares, or equity
34 interests.

35 LONG-TERM CARE INSURANCE. Code section 514G.102 is amended

1 to provide that the requirements of Code chapter 514G related
2 to prompt payment of claims and the payment of interest apply
3 to all long-term care insurance policies.

4 INSURANCE OTHER THAN LIFE. The Code editor is directed to
5 transfer Code section 515.11, pertaining to prohibited loans to
6 an officer, director, stockholder, or employee of a company or
7 to a relative of an officer or relative of a company, to Code
8 section 515.23.

9 INSURANCE HOLDING COMPANY SYSTEMS. Code section
10 521A.5(4)(d) is amended to require that when a domestic
11 insurer is required to establish a committee or committees of
12 directors or other persons appointed by the board, that are
13 responsible for nominating candidates for director, evaluating
14 the performance of officers, and recommending the selection
15 and compensation of principal officers, the majority of such
16 committee members shall not be officers or employers of any
17 entity controlling, controlled by, or under common control with
18 the insurer.

19 CEMETERY AND FUNERAL MERCHANDISE AND FUNERAL SERVICES. Code
20 section 523A.102(8) is stricken, eliminating the definition of
21 "credit sale".

22 New Code section 523A.102(13A) provides that for purposes
23 of Code chapter 523A, "guaranteed" means that a preneed seller
24 has agreed to accept the funds available from contractual
25 payments made by a purchaser and the allocable portion of
26 accumulated income on those payments as payment in full for the
27 applicable items of cemetery merchandise and services selected
28 and identified in a purchase agreement for the merchandise and
29 services. A purchaser, beneficiary, or beneficiary's estate
30 is not obligated to pay any additional costs related to price
31 increases on the merchandise and services selected even if the
32 additional costs exceed the funds available.

33 Code section 523A.204(3) is amended to provide that
34 information in annual reports provided to the commissioner
35 by preneed sellers is confidential pursuant to the Iowa

1 open records law (Code chapter 22) and shall not be made
2 available for inspection or copying except upon the approval
3 of the commissioner or the attorney general or when sought
4 by the preneed seller to whom the records relate. Such
5 information is also privileged and confidential in any judicial
6 or administrative proceeding except as specified. Similar
7 requirements concerning confidentiality of information provided
8 to the commissioner are added in Code section 523A.205(3)
9 concerning annual reports by financial institutions, Code
10 section 523A.206(6) concerning information obtained in
11 the course of an examination, new Code section 523A.207(2)
12 concerning records obtained during an audit performed by a
13 certified public accountant, new Code section 523A.401(10)
14 concerning information maintained about purchase agreements
15 funded by insurance proceeds, Code section 523A.502A(2)
16 concerning licensure of sales agents, and Code section
17 523A.803(1)(c) concerning investigations into violations of the
18 Code chapter. Code section 22.7, subsection 58, is amended to
19 specify that information provided to the commissioner pursuant
20 to Code sections 523A.205, 523A.206, 523A.207, 523A.401, and
21 523A.803 is confidential.

22 Code section 523A.204(4) and (5) are stricken, eliminating
23 provisions related to levying an administrative penalty
24 against a preneed seller for violations of the annual reporting
25 requirement.

26 Code section 523A.205(2) is stricken, eliminating a
27 requirement that the commissioner accept annual reports of
28 preneed sellers in electronic format, including computer
29 diskettes.

30 Code section 523A.401(8) is amended by eliminating the
31 provision that allows computer printouts to be submitted with
32 annual reports filed by insurance companies issuing policies
33 to fund preneed purchase agreements. Code section 523A.402(8)
34 is similarly amended to eliminate the provision that such
35 printouts may be submitted with annual reports pertaining to

1 purchase agreements funded by annuity proceeds.

2 Code section 523A.405 is amended to eliminate specific
3 requirements concerning the use of a surety bond in lieu of
4 trust requirements and instead allows the commissioner, by
5 rule, to establish the terms and conditions under which a
6 seller may file a surety bond.

7 Code section 523A.501(2) is amended to provide that the
8 commissioner may establish the format for applications for a
9 preneed seller's license. The application is also required to
10 include the name of the natural person or legal entity to be
11 licensed and any other name under which the preneed seller will
12 be transacting business. The application must be updated as
13 necessary to ensure that the commissioner is notified of all
14 names under which the preneed seller is operating and doing
15 business.

16 Code section 523A.501(7) is amended to require that a
17 preneed seller's license be renewed annually instead of every
18 four years. The license shall be renewed April 15 of each
19 year so long as the preneed seller has filed a complete annual
20 report and paid the required fees. Code section 523A.502(5)
21 is similarly amended to require annual renewal of the licenses
22 of preneed sales agents.

23 Code section 523A.502A(1) is amended to provide that a sales
24 agent must file an annual report whether or not the sales agent
25 made any sales during the year, is no longer an agent of a
26 preneed seller, or is no longer licensed as a sales agent.
27 Code section 523A.502A(3) and (4) are stricken, eliminating
28 provisions related to levying an administrative penalty against
29 a preneed sales agent for violations of the annual reporting
30 requirement.

31 Code section 523A.504 requiring a preneed seller to file a
32 notice and pay a fee to appoint a person to act as a sales agent
33 of the preneed seller is repealed. Code section 523A.807(3) is
34 amended to remove a cross-reference to the repealed section.

35 CEMETERIES. Code section 523I.810(9) is amended to provide

1 that a cemetery may adopt a resolution to authorize the
2 withdrawal and expenditure of the principal of a cemetery
3 care fund to repair boundaries; to purchase equipment for
4 tree, shrub, and lawn care; to purchase backhoes or similar
5 equipment used to open and close interment spaces; and to
6 purchase equipment used to construct a columbarium, mausoleum,
7 or similar structure to create additional interment spaces.
8 The bill eliminates a requirement that the repayment schedule
9 provide for interest on the amount withdrawn from the care
10 fund but if the deposit of care fund income over five years is
11 unlikely to fund replenishment of the principal of the care
12 fund, the resolution must be accompanied by a bond or proof of
13 insurance.

14 Code section 523I.811(1) is amended to provide that
15 distributions from the care fund can be used for the new
16 purposes described in Code section 523I.810(9).

17 New Code section 523I.811A provides that a perpetual care
18 cemetery may make application to the commissioner to withdraw
19 funds from the cemetery's care fund for a financial emergency.
20 The commissioner may allow such a withdrawal upon finding that
21 the cemetery has an urgent financial need and it is reasonable
22 and prudent to fund a necessary expense of the cemetery. The
23 commissioner shall establish conditions for the specific use
24 of the funds and may require repayment of all or part of the
25 amount withdrawn.