

HSB 152

COMMERCE AND REGULATION

Hoffman, Chair
Jacobs
Petersen

SENATE/HOUSE FILE ^{Succ} ~~100~~ ^{ted By} 500
BY (PROPOSED DEPARTMENT OF COMMERCE/
INSURANCE DIVISION BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the licensure of persons acting as insurance
2 producers, providing an effective date, and applying
3 penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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Hoffman, Ch.
Jacobs.

1 Section 1. Section 272C.1, subsection 6, paragraph z, Code
2 2001, is amended to read as follows:

3 z. The commissioner of insurance in licensing insurance
4 ~~agents~~ producers pursuant to chapter ~~522~~ 522B, except those
5 ~~agents~~ producers authorized to sell only credit ~~life-and~~
6 ~~credit-accident-and-health~~ insurance or crop insurance.

7 Sec. 2. Section 272C.3, subsection 2, paragraph a, Code
8 2001, is amended to read as follows:

9 a. Revoke a license, or suspend a license either until
10 further order of the board or for a specified period, upon any
11 of the grounds specified in section 147.55, 148.6, 148B.7,
12 152.10, 153.34, 154A.24, 169.13, 542B.21, 542C.21, 543B.29,
13 544A.13, 544B.15, or 602.3203 or chapter 151, 155, 507B, or
14 ~~522~~ 522B, as applicable, or upon any other grounds
15 specifically provided for in this chapter for revocation of
16 the license of a licensee subject to the jurisdiction of that
17 board, or upon failure of the licensee to comply with a
18 decision of the board imposing licensee discipline;

19 Sec. 3. Section 272C.4, subsection 6, Code 2001, is
20 amended to read as follows:

21 6. Define by rule acts or omissions which are grounds for
22 revocation or suspension of a license under section 147.55,
23 148.6, 148B.7, 152.10, 153.34, 154A.24, 169.13, 455B.191,
24 542B.21, 542C.21, 543B.29, 544A.13, 544B.15, or 602.3203 or
25 chapter 151, 155, 507B, or ~~522~~ 522B, as applicable, and to
26 define by rule acts or omissions which constitute negligence,
27 careless acts or omissions within the meaning of section
28 272C.3, subsection 2, paragraph "b", which licensees are
29 required to report to the board pursuant to section 272C.9,
30 subsection 2;

31 Sec. 4. Section 422.45, subsection 27, paragraph d,
32 subparagraph (3), Code 2001, is amended to read as follows:

33 (3) "Insurance company" means an insurer organized or
34 operating under chapter 508, 514, 515, 518, 518A, 519, or 520,
35 or authorized to do business in Iowa as an insurer or a

1 ~~licensed-insurance-agent~~ an insurance producer under chapter
2 522 522B.

3 Sec. 5. Section 502.102, subsection 11, paragraph d, Code
4 2001, is amended to read as follows:

5 d. As used in this subsection, "compensation" does not
6 include a commission, fee, or a combination of a commission
7 and a fee, which is paid to an insurance ~~agent~~ producer
8 licensed under chapter 522 522B, if the insurance ~~agent~~
9 producer receives the commission, fee, or the combination of a
10 commission and a fee, for the sale of insurance as regulated
11 pursuant to Title XIII, subtitle 1.

12 Sec. 6. Section 502.304, subsection 1, paragraph e, Code
13 2001, is amended to read as follows:

14 e. Is the subject of an order of the administrator
15 denying, suspending, or revoking registration as a broker-
16 dealer, agent, investment adviser, investment adviser
17 representative, or insurance ~~agent~~ producer;

18 Sec. 7. Section 508A.5, Code 2001, is amended to read as
19 follows:

20 508A.5 OTHER PROVISIONS APPLICABLE.

21 Except for section 508.37 and section 509.2, subsection 1,
22 and except as otherwise provided in this chapter, all
23 pertinent provisions of chapters 508, 509, 511, and 522 522B
24 shall apply to separate accounts and contracts relating
25 thereto. Any individual variable life insurance contract,
26 delivered or issued for delivery in this state, shall contain
27 nonforfeiture provisions appropriate to such a contract. Any
28 group variable life insurance contract, delivered or issued
29 for delivery in this state, shall contain a grace provision
30 appropriate to such a contract. The reserve liability for
31 variable contracts shall be established in accordance with
32 actuarial procedures that recognize the variable nature of the
33 benefits provided and any mortality guarantees.

34 Sec. 8. Section 511.4, Code 2001, is amended to read as
35 follows:

1 511.4 ADVERTISEMENTS -- WHO DEEMED AGENT.

2 The provisions of ~~sections 515.122 to 515.126~~ section
3 515.125 shall apply to life insurance companies and
4 associations.

5 Sec. 9. Section 515.125, Code 2001, is amended to read as
6 follows:

7 515.125 ~~AGENT---SPECIFIC-DEFINITION~~ AGENCY RELATIONSHIP.

8 Any officer, agent insurance producer, or representative of
9 an insurance company doing business in this state who may
10 solicit insurance, procure applications, issue policies,
11 adjust losses, or transact the business generally of such
12 companies, shall be held to be the agent of such insurance
13 company with authority to transact all business within the
14 scope of the ~~agent's-employment~~ agency relationship, anything
15 in the application, policy, contract, bylaws, or articles of
16 incorporation of such company to the contrary notwithstanding.

17 Sec. 10. Section 516A.1, unnumbered paragraph 2, Code
18 2001, is amended to read as follows:

19 However, the named insured may reject all of such coverage,
20 or reject the uninsured motor vehicle (hit-and-run motor
21 vehicle) coverage, or reject the underinsured motor vehicle
22 coverage, by written rejections signed by the named insured.
23 If rejection is made on a form or document furnished by an
24 insurance company or insurance agent producer, it shall be on
25 a separate sheet of paper which contains only the rejection
26 and information directly related to it. Such coverage need
27 not be provided in or supplemental to a renewal policy if the
28 named insured has rejected the coverage in connection with a
29 policy previously issued to the named insured by the same
30 insurer.

31 Sec. 11. Section 521A.2, subsection 1, paragraph b, Code
32 2001, is amended to read as follows:

33 b. Acting as an insurance ~~broker-or-as-an-insurance-agent~~
34 producer for its parent or for any of its parent's insurer
35 subsidiaries or intermediate insurer subsidiaries.

1 Sec. 12. Section 522A.3, subsection 1, Code 2001, is
2 amended to read as follows:

3 1. Notwithstanding the provisions of chapter 522 522B, the
4 commissioner may issue a limited license to a rental company
5 that has complied with the requirements of this chapter. The
6 limited license shall authorize the limited licensee to offer
7 or sell insurance with the rental of vehicles.

8 Sec. 13. Section 523H.1, subsection 3, paragraph c, Code
9 2001, is amended to read as follows:

10 c. "Franchise" also does not include any contract under
11 which a petroleum retailer or petroleum distributor is
12 authorized or permitted to occupy leased marketing premises,
13 which premises are to be employed in connection with the sale,
14 consignment, or distribution of motor fuel under a trademark
15 which is owned or controlled by a refiner which is regulated
16 by the federal Petroleum Marketing Practices Act, 15 U.S.C. §
17 2801 et seq. The term "refiner" means any person engaged in
18 the refining of crude oil to produce motor fuel, and includes
19 any affiliate of such person. "Franchise" also does not
20 include a contract entered into by any person regulated under
21 chapter 123, 322, 322A, 322B, 322C, 322D, 322F, ~~522~~ 522B, or
22 543B, or a contract establishing a franchise relationship with
23 respect to the sale of construction equipment, lawn or garden
24 equipment, or real estate.

25 Sec. 14. Section 514B.19, Code 2001, is amended to read as
26 follows:

27 514B.19 REGULATION OF AGENTS INSURANCE PRODUCERS.

28 The commissioner may, after notice and hearing, promulgate
29 such reasonable rules under the provisions of chapter 522 522B
30 that are necessary to provide for the licensing of agents
31 insurance producers who engage in solicitation or enrollment
32 for a health maintenance organization.

33 Sec. 15. NEW SECTION. 522B.1 DEFINITIONS.

34 As used in this chapter, unless the context otherwise
35 requires:

- 1 1. "Business entity" means a corporation, association,
2 partnership, limited liability company, limited liability
3 partnership, or other legal entity.
- 4 2. "Commissioner" means the commissioner of insurance.
- 5 3. "Home state" means the District of Columbia and any
6 state or territory of the United States in which an insurance
7 producer maintains the producer's principal place of residence
8 or principal place of business and is licensed to act as an
9 insurance producer.
- 10 4. "Insurance" means any of the lines of authority an
11 insurer is authorized to sell in this state.
- 12 5. "Insurance producer" means a person required to be
13 licensed under the laws of this state to sell, solicit, or
14 negotiate insurance.
- 15 6. "Insurer" means a person engaged in the business of
16 insurance who is licensed under chapter 508, 512B, 515, or
17 520.
- 18 7. "License" means a document issued pursuant to this
19 chapter by the commissioner authorizing a person to act as an
20 insurance producer for the lines of authority specified in the
21 document. A license by itself does not create any authority,
22 actual, apparent, or inherent, in the holder to represent or
23 commit an insurer.
- 24 8. "Limited lines insurance" means any authority granted
25 by the home state which restricts the authority of the license
26 to less than the total authority prescribed in the associated
27 major lines pursuant to section 522B.6, subsection 2,
28 paragraphs "a" through "f", and any other line of insurance
29 that the commissioner may deem it necessary to recognize for
30 the purposes of complying with section 522B.7, subsection 4.
- 31 9. "Limited lines producer" means a person authorized by
32 the commissioner to sell, solicit, or negotiate limited lines
33 insurance.
- 34 10. "Negotiate" means the act of conferring directly with
35 or offering advice directly to a purchaser or prospective

1 purchaser of a particular contract of insurance concerning any
2 of the substantive benefits, terms, or conditions of the
3 contract, provided that the person engaged in that act either
4 sells insurance or obtains insurance from insurers for
5 purchasers.

6 11. "Person" means an individual or a business entity.

7 12. "Producer database" means the national database of
8 insurance producers maintained by the national association of
9 insurance commissioners, its affiliates, or subsidiaries.

10 13. "Sell" means to exchange a contract of insurance by
11 any means, for money or its equivalent, on behalf of an
12 insurer.

13 14. "Solicit" or "solicitation" means attempting to sell
14 insurance or asking or urging a person to apply for a
15 particular kind of insurance from a particular company.

16 15. "Terminate" means the cancellation of the relationship
17 between an insurance producer and the insurer or the
18 termination of an insurance producer's authority to transact
19 insurance.

20 16. "Uniform application" means the current version of the
21 national association of insurance commissioners uniform
22 application for resident and nonresident insurance producer
23 licensing.

24 17. "Uniform business entity application" means the
25 current version of the national association of insurance
26 commissioners uniform business entity application for resident
27 and nonresident business entities.

28 Sec. 16. NEW SECTION. 522B.2 LICENSE REQUIRED.

29 1. A person shall not sell, solicit, or negotiate
30 insurance in this state for any line of insurance unless the
31 person is licensed as an insurance producer for that line of
32 insurance as provided in this chapter. A person offering to
33 the public, for a fee or commission, to engage in the business
34 of offering any advice, counsel, or service with respect to
35 the benefits, advantages, or disadvantages promised under any

1 policy of insurance which could be sold in this state must
2 also be licensed as an insurance producer.

3 2. a. Except as provided in paragraph "b", this chapter
4 applies to all of the following:

5 (1) An attorney licensed to practice law in this state.

6 (2) A certified public accountant licensed pursuant to
7 chapter 542C.

8 (3) An actuary who is a member in good standing of the
9 American academy of actuaries, the society of actuaries, or
10 the casualty actuarial society.

11 (4) A bank trust officer.

12 b. Notwithstanding paragraph "a", this chapter does not
13 apply to a person identified in paragraph "a" when, in the
14 course of such person's professional capacity, the person
15 provides information, recommendations, advice, or services
16 relating to the business of insurance, without solicitation of
17 a person.

18 3. This section does not prohibit a licensed insurance
19 producer from placing actual or proposed insurance business of
20 the insurance producer's customers or potential customers with
21 other licensed insurance producers if both of the following
22 conditions are met:

23 a. The reason for the placement is due to lack of
24 capacity, restrictive markets, or any other legitimate
25 business reason.

26 b. The placement of business does not adversely affect the
27 insured customer.

28 Sec. 17. NEW SECTION. 522B.3 EXCEPTIONS TO LICENSING.

29 1. Nothing in this chapter shall be construed to require
30 an insurer to obtain an insurance producer license. For the
31 purposes of this section, "insurer" does not mean an officer,
32 director, employee, subsidiary, or affiliate of the insurer.

33 2. A license as an insurance producer shall not be
34 required of any the following:

35 a. An officer, director, or employee of an insurer or of

1 an insurance producer, provided that the officer, director, or
2 employee does not receive any commission on policies written
3 or sold to insure risks residing, located, or to be performed
4 in this state, and one of the following applies:

5 (1) The activities of the officer, director, or employee
6 are executive, administrative, managerial, clerical, or a
7 combination of these, and are only indirectly related to the
8 sale, solicitation, or negotiation of insurance.

9 (2) The function of the officer, director, or employee
10 relates to underwriting, loss control, inspection, or the
11 processing, adjusting, investigating, or settling of a claim
12 on a contract of insurance.

13 (3) The officer, director, or employee is acting in the
14 capacity of a special agent or agency supervisor assisting
15 insurance producers where the person's activities are limited
16 to providing technical advice and assistance to licensed
17 insurance producers and do not include the sale, solicitation,
18 or negotiation of insurance.

19 b. A person who performs any of the following services and
20 who is not paid a commission for the performance of such
21 service:

22 (1) Secures and furnishes information for the purpose of
23 group life insurance, group property and casualty insurance,
24 group annuities, group or blanket accident and health
25 insurance.

26 (2) Secures and furnishes information for the purpose of
27 enrolling individuals under plans, issuing certificates under
28 plans, or otherwise assisting in administering plans.

29 (3) Performs administrative services related to mass
30 marketed property and casualty insurance.

31 c. An employer or association, or an officer, director, or
32 employee of such employer or association, or the trustees of
33 an employee trust plan, to the extent that such employer,
34 association, officer, director, employee, or trustee is
35 engaged in the administration or operation of a program of

1 employee benefits for the employer's or association's own
2 employees or the employees of its subsidiaries or affiliates,
3 which program involves the use of insurance issued by an
4 insurer, as long as such employer, association, officer,
5 director, employee, or trustee is not in any manner
6 compensated, directly or indirectly, by the insurer issuing
7 the contracts.

8 d. An employee of an insurer, or an organization employed
9 by an insurer, who engages in the inspection, rating, or
10 classification of risks, or in the supervision of the training
11 of insurance producers and who is not individually engaged in
12 the sale, solicitation, or negotiation of insurance.

13 e. A person whose activities in this state are limited to
14 advertising without the intent to solicit insurance in this
15 state through communications in printed publications or other
16 forms of electronic mass media whose distribution is not
17 limited to residents of the state, provided that the person
18 does not sell, solicit, or negotiate insurance that would
19 insure risks residing, located, or to be performed in this
20 state.

21 f. A person who is not a resident of this state who sells,
22 solicits, or negotiates a contract of insurance for commercial
23 property and casualty risks to an insured with risks located
24 in more than one state insured under that contract, provided
25 that that person is otherwise licensed as an insurance
26 producer to sell, solicit, or negotiate that insurance in the
27 state where the insured maintains its principal place of
28 business and the contract of insurance insures risks located
29 in that state.

30 g. A salaried full-time employee who counsels or advises
31 the employee's employer relative to the insurance interests of
32 the employer or of the subsidiaries or business affiliates of
33 the employer, provided that the employee does not sell or
34 solicit insurance or receive a commission.

35 h. A licensed attorney providing surety bonds incident to

1 the attorney's practice.

2 i. A person selling transportation tickets of a common
3 carrier of persons or property when that person also sells, in
4 connection with and related to the transportation ticket, a
5 trip and accident insurance policy or an insurance policy on
6 personal effects being carried as baggage.

7 Sec. 18. NEW SECTION. 522B.4 APPLICATION FOR
8 EXAMINATION.

9 1. A resident individual applying for an insurance
10 producer license shall pass a written examination unless
11 exempt pursuant to section 522B.8. The examination shall test
12 the knowledge of the individual concerning the lines of
13 authority for which application is made, the duties and
14 responsibilities of an insurance producer, and the insurance
15 laws and regulations of this state. The commissioner shall
16 adopt rules pursuant to chapter 17A related to development and
17 conduct of the examination.

18 2. The commissioner may make arrangements, including
19 contracting with an outside testing service or other
20 appropriate entity, for administering examinations and
21 collecting fees.

22 3. An individual applying for an examination shall remit a
23 nonrefundable fee as established by rule of the commissioner.

24 4. An individual who fails to appear for the examination
25 as scheduled or fails to pass the examination, shall reapply
26 for an examination and remit all required fees and forms
27 before being rescheduled for another examination.

28 Sec. 19. NEW SECTION. 522B.5 APPLICATION FOR LICENSE.

29 1. A person applying for a resident insurance producer
30 license shall make application to the commissioner on the
31 uniform application and declare under penalty of refusal,
32 suspension, or revocation of the license that the statements
33 made in the application are true, correct, and complete to the
34 best of the individual's knowledge and belief. Before
35 approving the application, the commissioner shall find all of

1 the following:

2 a. The individual is at least eighteen years of age.

3 b. The individual has not committed any act that is a
4 ground for denial, suspension, or revocation as set forth in
5 section 522B.11.

6 c. The individual has paid the license fee of fifty
7 dollars.

8 d. The individual has successfully passed the examinations
9 for the lines of authority for which the person has applied.

10 e. In order to protect the public interest, the individual
11 has the requisite character and competence to receive a
12 license as an insurance producer.

13 2. A business entity acting as an insurance producer may
14 elect to obtain an insurance producer license. Application
15 shall be made using the uniform business entity application.
16 Prior to approving the application, the commissioner shall
17 find both of the following:

18 a. The business entity has paid the appropriate fees.

19 b. The business entity has designated a licensed producer
20 responsible for the business entity's compliance with the
21 insurance laws and rules of this state.

22 3. The commissioner may require any documents reasonably
23 necessary to verify the information contained in an
24 application.

25 Sec. 20. NEW SECTION. 522B.6 LICENSE.

26 1. A person who meets the requirements of sections 522B.4
27 and 522B.5, unless otherwise denied licensure pursuant to
28 section 522B.11, shall be issued an insurance producer
29 license. An insurance producer license is valid for three
30 years.

31 2. An insurance producer may qualify for a license in one
32 or more of the following lines of authority:

33 a. Life insurance providing coverage on human lives
34 including benefits of endowment and annuities, and may include
35 benefits in the event of death or dismemberment by accident

- 1 and benefits for disability income.
- 2 b. Accident and health or sickness insurance providing
- 3 coverage for sickness, bodily injury, or accidental death, and
- 4 may include benefits for disability income.
- 5 c. Property insurance providing coverage for the direct or
- 6 consequential loss or damage to property of any kind.
- 7 d. Casualty insurance providing coverage against legal
- 8 liability, including that for death, injury, or disability, or
- 9 damage to real or personal property.
- 10 e. Variable life and variable annuity products insurance
- 11 providing coverage provided under variable life insurance
- 12 contracts and variable annuities.
- 13 f. Personal lines property and casualty insurance sold to
- 14 individuals and families primarily for noncommercial purposes.
- 15 g. Excess and surplus lines insurance provided by certain
- 16 nonadmitted insurers pursuant to section 515.147.
- 17 h. Credit insurance, including credit life, credit
- 18 disability, credit property, credit unemployment, involuntary
- 19 unemployment, mortgage life, mortgage guaranty, mortgage
- 20 disability, guaranteed automobile protection insurance, and
- 21 any other form of insurance offered in connection with an
- 22 extension of credit that is limited to partially or wholly
- 23 extinguishing a credit obligation and that the commissioner
- 24 determines should be designated a form of credit insurance.
- 25 i. Any other line of insurance permitted under state law
- 26 or by rule.
- 27 3. An insurance producer license remains in effect unless
- 28 revoked or suspended as long as all required fees are paid and
- 29 continuing education requirements for resident individual
- 30 insurance producers are met by any applicable due date.
- 31 4. An individual insurance producer who allows the
- 32 producer's license to lapse, within twelve months from the due
- 33 date of the renewal fee, may have the same license reinstated
- 34 without the necessity of passing a written examination upon
- 35 the payment of a reinstatement fee as specified by rule of the

1 commissioner. Such reinstatement fee shall be in addition to
2 the required renewal fee.

3 5. A licensed insurance producer who is unable to comply
4 with license renewal procedures due to military service or
5 some other extenuating circumstance may request a waiver of
6 those procedures. Such insurance producer may also request a
7 waiver of any examination requirement or any other penalty or
8 sanction imposed for failure to comply with renewal
9 procedures.

10 6. The license shall contain the licensee's name, address,
11 personal identification number, and the date of issuance, the
12 lines of authority, the expiration date, and any other
13 information the commissioner deems necessary.

14 7. A licensee shall inform the commissioner by any means
15 acceptable to the commissioner of a change of address within
16 thirty days of the change. Failure to timely inform the
17 commissioner of a change in legal name or address may result
18 in a penalty as specified in section 522B.17.

19 8. In order to assist with the commissioner's duties, the
20 commissioner may contract with a nongovernmental entity,
21 including the national association of insurance commissioners
22 or any affiliate or subsidiary the national association of
23 insurance commissioners oversees, to perform any ministerial
24 functions, including the collection of fees, related to
25 producer licensing, that the commissioner deems appropriate.

26 Sec. 21. NEW SECTION. 522B.7 NONRESIDENT LICENSING.

27 1. Unless denied licensure pursuant to section 522B.11, a
28 nonresident person shall receive a nonresident insurance
29 producer license if all of the following apply:

30 a. The person is currently licensed as an insurance
31 producer and is in good standing in the person's home state.

32 b. The person has submitted the proper request for
33 licensure and has paid the required fees.

34 c. The person has submitted or transmitted to the
35 commissioner the application for licensure that the person

1 submitted to the person's home state, or in lieu of such
2 application, a completed uniform application.

3 d. The person's home state awards nonresident insurance
4 producer licenses to residents of this state on the same
5 basis.

6 2. The commissioner may verify the insurance producer's
7 licensing status through the producer database.

8 3. A nonresident insurance producer who moves from one
9 state to another state or a resident insurance producer who
10 moves from this state to another state shall file a change of
11 address and provide certification from the new resident state
12 within thirty days of the change of legal residence. No fee
13 or license application is required. The certification may be
14 obtained through the producer database.

15 4. Notwithstanding any other provision of this chapter, a
16 person licensed as a limited lines insurance producer in the
17 person's home state shall receive a nonresident limited lines
18 insurance producer license, pursuant to subsection 1, granting
19 the same scope of authority as granted under the license
20 issued by such person's home state.

21 Sec. 22. NEW SECTION. 522B.8 EXEMPTION FROM EXAMINATION.

22 1. An individual who applies for an insurance producer
23 license in this state who was previously licensed for the same
24 lines of authority in another state shall not be required to
25 complete an examination. This exemption is only available if
26 the person is currently licensed in that other state or if the
27 request for licensure is received within ninety days of the
28 cancellation of the applicant's previous license and if the
29 prior state issues a certification that, at the time of
30 cancellation, the applicant was in good standing in that
31 state. The certification may be obtained through the producer
32 database.

33 2. A person licensed as an insurance producer in another
34 state who moves to this state shall make application within
35 ninety days of establishing legal residence to become a

1 resident licensee pursuant to section 522B.5. An examination
2 shall not be required of that person to obtain an insurance
3 producer license for any line of authority previously held in
4 the prior state except where the commissioner determines
5 otherwise by regulation.

6 Sec. 23. NEW SECTION. 522B.9 ASSUMED NAMES.

7 An insurance producer doing business under any name other
8 than the insurance producer's legal name is required to notify
9 the commissioner prior to using the assumed name.

10 Sec. 24. NEW SECTION. 522B.10 TEMPORARY LICENSING.

11 1. The commissioner may issue a temporary insurance
12 producer license for a period not to exceed one hundred eighty
13 days without requiring an examination if the commissioner
14 deems that the temporary license is necessary for the
15 servicing of an insurance business in the following cases:

16 a. To the surviving spouse or court-appointed personal
17 representative of a licensed insurance producer who dies or
18 becomes mentally or physically disabled, to allow adequate
19 time for the sale of the insurance business owned by the
20 insurance producer, for the recovery or return of the
21 insurance producer to the business, or for the training and
22 licensing of new personnel to operate the insurance producer's
23 business.

24 b. To a member or employee of a business entity licensed
25 as an insurance producer, upon the death or disability of an
26 individual designated in the business entity application or
27 the license.

28 c. To the designee of a licensed insurance producer
29 entering active service in the armed forces of the United
30 States.

31 d. In any other circumstance where the commissioner deems
32 that the public interest will best be served by the issuance
33 of a temporary license.

34 2. The commissioner may by order limit the authority of
35 any temporary licensee in any way deemed necessary to protect

1 insureds and the public. The commissioner may require the
 2 temporary licensee to have a suitable sponsor who is a
 3 licensed insurance producer or insurer and who assumes
 4 responsibility for all acts of the temporary licensee and may
 5 impose other similar requirements designed to protect insureds
 6 and the public. The commissioner may by order revoke a
 7 temporary license if the interest of insureds or the public is
 8 endangered. A temporary license shall not continue after the
 9 owner or the personal representative disposes of the business.

10 Sec. 25. NEW SECTION. 522B.11 LICENSE DENIAL,
 11 NONRENEWAL, OR REVOCATION.

12 1. The commissioner may place on probation, suspend,
 13 revoke, or refuse to issue or renew an insurance producer's
 14 license or may levy a civil penalty as provided in section
 15 522B.17 for any one or more of the following causes:

- 16 a. Providing incorrect, misleading, incomplete, or
- 17 materially untrue information in the license application.
- 18 b. Violating any insurance laws, or violating any
- 19 regulation, subpoena, or order of the commissioner or of a
- 20 commissioner of another state.
- 21 c. Obtaining or attempting to obtain a license through
- 22 misrepresentation or fraud.
- 23 d. Improperly withholding, misappropriating, or converting
- 24 any moneys or properties received in the course of doing
- 25 insurance business.
- 26 e. Intentionally misrepresenting the terms of an actual or
- 27 proposed insurance contract or application for insurance.
- 28 f. Having been convicted of a felony.
- 29 g. Having admitted or been found to have committed any
- 30 unfair insurance trade practice or fraud.
- 31 h. Using fraudulent, coercive, or dishonest practices, or
- 32 demonstrating incompetence, untrustworthiness, or financial
- 33 irresponsibility in the conduct of business in this state or
- 34 elsewhere.
- 35 i. Having an insurance producer license, or its

1 equivalent, denied, suspended, or revoked in any other state,
2 province, district, or territory.

3 j. Forging another's name to an application for insurance
4 or to any document related to an insurance transaction.

5 k. Improperly using notes or any other reference material
6 to complete an examination for an insurance license.

7 l. Knowingly accepting insurance business from an
8 individual who is not licensed.

9 m. Failing to comply with an administrative or court order
10 imposing a child support obligation.

11 n. Failing to comply with an administrative or court order
12 related to repayment of loans to the college student aid
13 commission.

14 o. Failing to pay state income tax or comply with any
15 administrative or court order directing payment of state
16 income tax.

17 p. Failing or refusing to cooperate in an investigation by
18 the commissioner.

19 2. If the commissioner does not renew a license or denies
20 an application for a license, the commissioner shall notify
21 the applicant or licensee and advise, in writing, the licensee
22 or applicant of the reason for the nonrenewal of the license
23 or denial of the application for a license. The licensee or
24 applicant may request a hearing on the nonrenewal or denial.
25 A hearing shall be conducted according to section 507B.6.

26 3. The license of a business entity may be suspended,
27 revoked, or refused if the commissioner finds, after hearing,
28 that an individual licensee's violation was known or should
29 have been known by a partner, officer, or manager acting on
30 behalf of the business entity and the violation was not
31 reported to the commissioner and corrective action was not
32 taken.

33 4. In addition to, or in lieu of, any applicable denial,
34 suspension, or revocation of a license, a person, after
35 hearing, may be subject to a civil penalty as provided in

1 section 522B.17.

2 5. The commissioner may enforce the provisions and impose
3 any penalty or remedy authorized by this chapter and chapter
4 507B against any person who is under investigation for, or
5 charged with, a violation of either chapter even if the
6 person's license has been surrendered or has lapsed by
7 operation of law.

8 Sec. 26. NEW SECTION. 522B.12 COMMISSIONS.

9 1. An insurer or insurance producer shall not pay a
10 commission, service fee, brokerage, or other valuable
11 consideration to a person for selling, soliciting, or
12 negotiating insurance in this state if that person is required
13 to be licensed under this chapter and is not so licensed.

14 2. A person shall not accept a commission, service fee,
15 brokerage, or other valuable consideration for selling,
16 soliciting, or negotiating insurance in this state if that
17 person is required to be licensed under this chapter and is
18 not so licensed.

19 3. Renewal or other deferred commissions may be paid to a
20 person for selling, soliciting, or negotiating insurance in
21 this state if the person was required to be licensed under
22 this chapter at the time of the sale, solicitation, or
23 negotiation and was so licensed at that time.

24 4. An insurer or insurance producer may pay or assign a
25 commission, service fee, brokerage, or other valuable
26 consideration to an insurance agency or to a person who does
27 not sell, solicit, or negotiate insurance in this state,
28 unless the payment would violate chapter 507B or section
29 515.130.

30 Sec. 27. NEW SECTION. 522B.13 APPOINTMENTS.

31 1. An individual insurance producer who acts as an agent
32 of an insurer must be appointed by that insurer. An insurance
33 producer who is not acting as an agent of an insurer need not
34 be appointed. A business entity is not required to be
35 appointed.

1 2. The appointing insurer, for the purpose of appointing
2 an insurance producer as its agent, shall file, in a format
3 approved by the commissioner, a notice of appointment within
4 thirty days from the date the agency contract is executed or
5 the first insurance application is submitted.

6 3. An insurer shall pay an appointment fee, in the amount
7 and method of payment set forth by rule of the commissioner,
8 for each insurance producer appointed by the insurer.

9 4. An insurer shall remit a renewal appointment fee in the
10 manner and amount as set forth by rule of the commissioner.

11 Sec. 28. NEW SECTION. 522B.14 NOTIFICATION TO
12 COMMISSIONER OF TERMINATION -- PENALTIES.

13 1. An insurer or authorized representative of the insurer
14 that terminates the appointment, employment, contract, or
15 other insurance business relationship with an insurance
16 producer shall notify the commissioner within thirty days
17 following the effective date of the termination, using a
18 format prescribed by the commissioner, if the reason for
19 termination is one of the reasons set forth in section
20 522B.11, or the insurer has knowledge the insurance producer
21 was found by a court, government body, or self-regulatory
22 organization authorized by law to have engaged in any of the
23 activities set forth in section 522B.11. Upon request of the
24 commissioner, the insurer or authorized representative of the
25 insurer shall provide additional information, documents,
26 records, or other data pertaining to the termination or
27 activity of the insurance producer.

28 2. An insurer or authorized representative of the insurer
29 that terminates the appointment, employment, contract, or
30 other insurance business relationship with an insurance
31 producer for any reason not set forth in section 522B.11,
32 shall notify the commissioner within thirty days following the
33 effective date of the termination, using a format prescribed
34 by the commissioner. Upon request of the commissioner, the
35 insurer shall provide additional information, documents,

1 records, or other data pertaining to the termination.

2 3. The insurer or the authorized representative of the
3 insurer shall promptly notify the commissioner using a format
4 prescribed by the commissioner, if, upon further review or
5 investigation, the insurer or authorized representative of the
6 insurer discovers additional information that would have been
7 reportable to the commissioner pursuant to subsection 1, had
8 the insurer then known of its existence.

9 4. Within fifteen days after making the notification
10 required by this section, the insurer shall mail a copy of the
11 notification to the insurance producer at the insurance
12 producer's last known address. If the insurance producer is
13 terminated for any of the reasons set forth in section
14 522B.11, the insurer shall provide a copy of the notification
15 to the insurance producer at the insurance producer's last
16 known address by restricted certified mail, as defined in
17 section 618.15, or by overnight delivery using a nationally
18 recognized carrier.

19 5. Within thirty days after the insurance producer has
20 received the original or additional notification, the
21 insurance producer may file written comments concerning the
22 substance of the notification with the commissioner. The
23 insurance producer, by the same means, shall simultaneously
24 send a copy of the comments to the reporting insurer, and the
25 comments shall become a part of the commissioner's record and
26 accompany every copy of a report distributed or disclosed for
27 any reason about the insurance producer, as permitted under
28 subsection 8.

29 6. In the absence of actual malice, an insurer, the
30 authorized representative of the insurer, an insurance
31 producer, the commissioner, or an organization of which the
32 commissioner is a member and that compiles the information and
33 makes it available to other commissioners or regulatory or law
34 enforcement agencies shall not be subject to civil liability.
35 A civil cause of action of any nature shall not arise against

1 any of these entities or their respective agents or employees,
2 as a result of any statement or information required by or
3 provided pursuant to this section or any information relating
4 to any statement that may be requested in writing by the
5 commissioner from an insurer or insurance producer; or a
6 statement by a terminating insurer or insurance producer to an
7 insurer or insurance producer limited solely and exclusively
8 to whether a termination for cause under subsection 1 was
9 reported to the commissioner, provided that the propriety of
10 any termination for cause under subsection 1 is certified in
11 writing by an officer or authorized representative of the
12 insurer or insurance producer terminating the relationship.

13 In any action brought against a person that may have
14 immunity under this section for making any statement required
15 by this section or providing any information relating to any
16 statement that may be requested by the commissioner, the party
17 bringing the action shall plead specifically in any allegation
18 that this section does not apply because the person making the
19 statement or providing the information did so with actual
20 malice. This section shall not abrogate or modify any
21 existing statutory or common law privileges or immunities.

22 7. Any document, material, or other information in the
23 control or possession of the insurance division that is
24 furnished by an insurer, insurance producer, or an employee or
25 agent of such insurer or insurance producer acting on behalf
26 of the insurer or insurance producer, or obtained by the
27 commissioner in an investigation pursuant to this section are
28 considered confidential records and shall not be subject to
29 subpoena, or subject to discovery, or admissible in evidence
30 in any private civil action. However, the commissioner is
31 authorized to use such document, material, or other
32 information in the furtherance of any regulatory or legal
33 action brought as a part of the commissioner's duties.

34 Neither the commissioner nor any person who received any
35 document, material, or other information while acting under

1 the authority of the commissioner shall be permitted or
2 required to testify in any private civil action concerning any
3 confidential document, material, or information subject to
4 this section.

5 8. The commissioner may share documents, materials, or
6 other information, including the confidential and privileged
7 documents, materials, or information subject to subsection 7
8 with other state, federal, and international regulatory
9 agencies, with the national association of insurance
10 commissioners, its affiliates or subsidiaries, and with state,
11 federal, and international law enforcement authorities,
12 provided that the recipient agrees to maintain the
13 confidentiality and privileged status of the document,
14 material, or other information.

15 The commissioner may receive documents, materials, or
16 information, including otherwise confidential and privileged
17 documents, materials, or information, from the national
18 association of insurance commissioners, its affiliates or
19 subsidiaries, and from regulatory and law enforcement
20 officials of other foreign or domestic jurisdictions, and
21 shall maintain as confidential or privileged any document,
22 material, or information received with notice or the
23 understanding that it is confidential or privileged under the
24 laws of the jurisdiction that is the source of the document,
25 material, or information.

26 The commissioner may enter into agreements governing
27 sharing and use of information consistent with this
28 subsection.

29 9. A waiver of any applicable privilege or claim of
30 confidentiality in the documents, materials, or information
31 shall not occur as a result of disclosure to the commissioner
32 or sharing of information received under this section.

33 10. Nothing in this chapter shall prohibit the
34 commissioner from releasing information regarding final,
35 adjudicated actions that are considered public records subject

1 to examination and copying under chapter 22 to a database or
2 other clearinghouse service maintained by the national
3 association of insurance commissioners, or an affiliate or
4 subsidiary of the national association of insurance
5 commissioners.

6 11. An insurer, the authorized representative of the
7 insurer, or an insurance producer that fails to report as
8 required under this section, or that is found to have reported
9 with actual malice by a court of competent jurisdiction, after
10 notice and hearing, may have its license or certificate of
11 authority suspended or revoked and may be fined as provided in
12 section 522B.17.

13 Sec. 29. NEW SECTION. 522B.15 RECIPROCITY.

14 1. The commissioner shall waive any requirements for a
15 nonresident license applicant with a valid license from such
16 applicant's home state, except for the requirements imposed by
17 section 522B.7, if the applicant's home state awards
18 nonresident licenses to residents of this state on the same
19 basis.

20 2. A nonresident insurance producer's satisfaction of the
21 producer's home state's continuing education requirements for
22 licensed insurance producers shall constitute satisfaction of
23 this state's continuing education requirements if the
24 nonresident insurance producer's home state recognizes the
25 satisfaction of its continuing education requirements imposed
26 upon insurance producers from this state on the same basis.

27 Sec. 30. NEW SECTION. 522B.16 REPORTING OF ACTIONS.

28 An insurance producer shall report to the commissioner any
29 administrative action taken against the insurance producer in
30 another jurisdiction or by another governmental agency in this
31 state within thirty days of the final disposition of the
32 matter. This report shall include a copy of the order,
33 consent to the order, or other relevant legal documents.

34 Within thirty days of the initial pretrial hearing date, an
35 insurance producer shall report to the commissioner any

1 criminal prosecution of the insurance producer taken in any
2 jurisdiction. The report shall include a copy of the initial
3 complaint filed, the order resulting from the hearing, and any
4 other relevant legal documents.

5 Sec. 31. NEW SECTION. 522B.17 PENALTY.

6 An insurer or insurance producer who, after hearing, is
7 found to have violated this chapter may be assessed a civil
8 penalty pursuant to chapter 507B.

9 A person found, after hearing, to have acted as an agent of
10 an insurer or otherwise selling, soliciting, or negotiating
11 insurance in this state, or offering to the public advice,
12 counsel, or services with regard to insurance who is not
13 properly licensed is subject to penalty according to the
14 provisions of chapter 507A.

15 Sec. 32. NEW SECTION. 522B.18 RULES.

16 The commissioner may adopt reasonable rules according to
17 chapter 17A as are necessary or proper to carry out the
18 purposes of this chapter.

19 Sec. 33. Section 536.26, unnumbered paragraph 1, Code
20 2001, is amended to read as follows:

21 A licensee shall not, directly or indirectly, sell or offer
22 for sale any life, or accident and health insurance in
23 connection with a loan made under this chapter except as and
24 to the extent authorized by this section. Life, accident and
25 health insurance, or any of them, may be written by a licensed
26 insurance agent producer upon or in connection with any loan
27 for a term not extending beyond the final maturity date of the
28 loan contract but only upon one obligor on any one loan
29 contract.

30 Sec. 34. Section 536A.23, subsection 3, Code 2001, is
31 amended to read as follows:

32 3. Require any borrower to purchase insurance from the
33 lender as a condition for obtaining a loan. However, an
34 industrial loan company may collect from the borrower, at the
35 option of the borrower, and transmit the premiums charged for

1 insuring real or personal property used by the borrower as
2 security for a loan and provided that such insurance is
3 obtained from a licensed insurance agent producer for an
4 insurance company authorized to do business in Iowa; and the
5 premiums charged for insuring the life of one party on the
6 loan in an amount not to exceed the total amount of the note
7 or contract, including cash advance, interest and service
8 charge, provided that no licensee shall require that the
9 contract of life insurance be outstanding for more than the
10 unpaid balance of the indebtedness and provided that such
11 insurance is obtained from a licensed insurance agent producer
12 for an insurance company authorized to do business in Iowa;
13 and an industrial loan company may receive and transmit the
14 premiums charged for accident and health insurance on the
15 borrower, provided such insurance bears a reasonable
16 relationship to the existing hazards or risk of loss, and the
17 aggregate benefits of which shall not exceed the approximate
18 amount of the contractual payments on the loan outstanding at
19 the time of loss, and provided that such insurance is obtained
20 from a licensed agent producer for an insurance company
21 authorized to do business in Iowa. However, all life
22 insurance rates in connection with industrial loans shall be
23 subject to the rules and regulations of the insurance
24 commissioner of the state of Iowa.

25 Sec. 35. Section 537.3207, Code 2001, is amended to read
26 as follows:

27 537.3207 FORM OF INSURANCE PREMIUM LOAN AGREEMENT.

28 An agreement pursuant to which an insurance premium loan is
29 made shall contain the names of the insurance ~~agent-or-broker~~
30 producer negotiating each policy or contract and of the
31 insurer issuing each policy or contract, the number and
32 inception date of, and premium for, each policy or contract,
33 the date on which the term of the loan begins, and a clear and
34 conspicuous notice that each policy or contract may be
35 canceled if payment is not made in accordance with the

1 agreement. If a policy or contract has not been issued when
2 the agreement is signed, the agreement may provide that the
3 insurance ~~agent-or-broker~~ producer may insert the appropriate
4 information in the agreement and, if they do so, shall furnish
5 the information promptly in writing to the insured.

6 Sec. 36.

7 1. Sections 512B.31, 515.123, 515.124, and 515.126, Code
8 2001, are repealed.

9 2. Chapter 522, Code 2001, is repealed.

10 3. Chapter 523F, Code 2001, is repealed.

11 Sec. 37. EFFECTIVE DATE. This Act takes effect January 1,
12 2002.

13 EXPLANATION

14 This bill creates new Code chapter 522B, relating to the
15 licensing of persons acting as insurance producers, and makes
16 certain changes to other statutes that relate to insurance
17 producers and agents. The bill takes effect January 1, 2002.

18 New Code section 522B.1 provides definitions for the new
19 chapter, including "business entity", "commissioner", "home
20 state", "insurance", "insurance producer", "insurer",
21 "license", "limited lines insurance", "limited lines
22 producer", "negotiate", "person", "producer database", "sell",
23 "solicit", "terminate", "uniform application", and "uniform
24 business entity application".

25 The bill creates new Code section 522B.2, which requires a
26 person to obtain a license as an insurance producer for any
27 line of insurance the person sells, solicits, or negotiates in
28 this state. A person who, for a fee, offers advice, counsel,
29 or service, with respect to the benefits, advantages, or
30 disadvantages promised under any policy of insurance that
31 could be sold in this state, must also be licensed as an
32 insurance producer. The bill states that it applies to
33 attorneys, certified public accountants, actuaries, and bank
34 trust officers, except as specifically excluded under
35 circumstances described in the new Code section. Code section

1 522B.1 states that Code chapter 522B does not apply to one of
2 the four preceding categories of professionals when the person
3 provides the services without attempting to sell an insurance
4 product or urging a person to apply for a particular kind of
5 insurance from a particular company.

6 New Code section 522B.2 states that it does not prohibit a
7 licensed insurance producer from placing insurance business
8 with other licensed insurance producers if both (1) the reason
9 for the placement is due to the lack of capacity, restrictive
10 markets, or any other legitimate business reason; and (2) the
11 placement of business does not adversely affect the insured.

12 New Code section 522B.3 addresses exceptions to licensing
13 requirements. The bill states that nothing in the chapter
14 should be construed to require an insurer to obtain an insurer
15 producer license, and does not require an insurance producer
16 license for any of the following: (1) an officer, director,
17 or employee of an insurer or insurance producer who does not
18 receive any commission on policies written or sold, and who is
19 not involved in the sale of insurance, in one of the specific
20 ways provided by the bill; (2) a person who, without receiving
21 a commission, performs certain services related to group
22 insurance or the administration of insurance plans or mass-
23 marketed property and casualty insurance; (3) an employer or
24 association, including certain persons affiliated with the
25 employer or association, to the extent that the employer,
26 association, or other person is administering an employee
27 benefits program provided that the employer, association, or
28 other person is not compensated by the insurer responsible for
29 the insurance used in the employee benefits program; (4) an
30 employee of an insurer who is involved in inspection, rating,
31 classification of risks, or in the supervision of the training
32 of insurance producers, and who is not involved in the sale or
33 negotiation of insurance; (5) a person who only advertises in
34 printed or electronic mass media not limited in distribution
35 to this state, provided that the person does not sell or

1 negotiate insurance related to risks in this state; (6) a
 2 nonresident who sells or negotiates insurance for commercial
 3 property and casualty risks with an insured who has risks in
 4 more than one state covered under that contract, provided that
 5 the person is licensed as an insurance producer in the state
 6 where the insured maintains its principal place of business,
 7 and the contract insures risks in that state; (7) a full-time
 8 employee who advises the employee's employer on insurance for
 9 the employer, and who does not sell insurance or receive a
 10 commission; (8) a licensed attorney providing surety bonds
 11 incident to the attorney's practice; and (9) a person selling
 12 accident or baggage insurance in connection with a ticket for
 13 transportation on a common carrier.

14 New Code section 522B.4 provides that an applicant for an
 15 insurance producer license must pass a written examination,
 16 unless previously licensed in another jurisdiction, as
 17 provided in new Code section 522B.8. The commissioner is
 18 authorized to adopt rules related to development and conduct
 19 of the examination, and may make arrangements for
 20 administering examinations and collecting fees. A person
 21 applying for the examination shall remit a nonrefundable fee,
 22 and must reapply for the examination if the person fails to
 23 appear, pass, or remit all required fees and forms.

24 New Code section 522B.5 provides that a person applying for
 25 a resident insurance producer license must be at least 18, has
 26 not committed any act that is a ground for denial, suspension,
 27 or revocation as set forth in new Code section 522B.11, paid a
 28 \$50 license fee, has passed the examinations for the lines for
 29 which the person has applied, and has the requisite character
 30 and competence to receive a license as an insurance producer.
 31 The person shall complete the application declaring that the
 32 information contained within is true and complete to the best
 33 of the individual's knowledge, subject to the penalty of
 34 refusal, suspension, or revocation of the license. A business
 35 entity may also obtain an insurance producer license, by

1 completing an application, paying the appropriate fees, and
2 designating a licensed producer as responsible for the
3 entity's compliance with state insurance laws and rules.

4 New Code section 522B.6 provides that a person who meets
5 the requirements for licensure shall be issued a license that
6 is valid for three years, and so long as it is not suspended
7 or revoked, remains in effect as long as all required fees are
8 paid and continuing education requirements are met. Special
9 provisions apply for late renewals and renewals affected by
10 military service. The licensee must inform the commissioner
11 of a change of address within 30 days, or be subject to
12 penalty. The commissioner may contract with a nongovernmental
13 entity to perform ministerial functions related to the
14 licensing procedures.

15 An insurance producer may qualify for a license in one or
16 more of the following lines of authority: (1) life, including
17 endowments, annuities, accident, and death benefits; (2)
18 accident and health or sickness insurance, including bodily
19 injury, accidental death, and disability; (3) property; (4)
20 casualty, including death, injury, disability, or damage to
21 property; (5) variable life and variable annuity products; (6)
22 personal lines property and casualty insurance sold to
23 individuals and families primarily for noncommercial purposes;
24 (7) excess and surplus lines insurance provided by certain
25 nonadmitted insurers; (8) credit insurance, including credit
26 life, disability, property, unemployment, mortgage life,
27 mortgage guarantee, mortgage disability, and guaranteed
28 automobile protection insurance; and (9) any other line of
29 insurance permitted under state law or by rule.

30 New Code section 522B.7 relates to licensing for
31 nonresidents. A nonresident producer license is issued if the
32 person is licensed in good standing in the person's home
33 state, has submitted the request and paid the fees for
34 licensure, has submitted the application submitted in the
35 person's home state or a uniform application, and the person's

1 home state awards nonresident licenses on the same basis. A
2 nonresident who moves to another state is required to submit a
3 change of address within 30 days of the change.

4 Notwithstanding any other provision of the chapter, a person
5 licensed as a limited lines producer in the person's home
6 state shall receive a nonresident limited lines insurance
7 producer license granting the same scope of authority as in
8 the home state, upon application and payment of fees as
9 previously described.

10 New Code section 522B.8 provides that an individual who was
11 previously licensed for the same lines of authority in another
12 state shall not be required to complete an examination, if the
13 person is currently licensed in the other state or if the
14 request for licensure is within 90 days of cancellation and
15 the applicant was in good standing. Application to become a
16 resident licensee in this state must be made within 90 days of
17 establishing legal residency.

18 New Code section 522B.9 requires an insurance producer
19 doing business under any name other than the insurance
20 producer's legal name to notify the commissioner prior to
21 using the assumed name.

22 New Code section 522B.10 allows the commissioner to issue a
23 temporary insurance producer license for up to 180 days
24 without an examination if necessary in the following cases:

- 25 (1) to a surviving spouse or court-appointed personal
- 26 representative of a licensed insurance producer who dies or
- 27 becomes physically or mentally disabled, to allow time for the
- 28 sale of the business, recovery of the insurance producer, or
- 29 training and licensing of new personnel; (2) to a member or
- 30 employee of a business entity licensed as an insurance
- 31 producer, upon the death or disability of an individual
- 32 designated in the business entity application; (3) to the
- 33 designee of a licensed insurance producer entering active
- 34 military service; and (4) in any other circumstance where the
- 35 commissioner deems the public interest will be best served by

1 the issuance of a temporary license. The commissioner may by
2 order limit the authority of a temporary licensee as necessary
3 to protect insureds and the public, and may require the
4 temporary licensee to have a sponsor who assumes
5 responsibility for all acts of the temporary licensee. The
6 commissioner may also revoke a temporary license if the public
7 interest or that of insureds is endangered.

8 New Code section 522B.11 addresses denial, nonrenewal, and
9 revocation of licenses. The commissioner may place on
10 probation, suspend, revoke, or refuse to issue or renew a
11 license or may levy a civil penalty for one or more of the
12 following: (1) providing incorrect, misleading, incomplete,
13 or materially untrue information in the license application;
14 (2) violating any insurance laws, or any regulation, subpoena,
15 or order of the commissioner of this or another state; (3)
16 obtaining or attempting to obtain a license through
17 misrepresentation or fraud; (4) improperly withholding,
18 misappropriating, or converting any moneys or properties
19 received in the course of doing insurance business; (5)
20 intentionally misrepresenting the terms of an actual or
21 proposed insurance contract or application for insurance; (6)
22 having been convicted of a felony; (7) having admitted or been
23 found to have committed any unfair insurance trade practice or
24 fraud; (8) using fraudulent, coercive, or dishonest practices,
25 or demonstrating incompetence, untrustworthiness, or financial
26 irresponsibility in the conduct of business in this state or
27 elsewhere; (9) having an insurance producer license or its
28 equivalent denied, suspended, or revoked in any other state,
29 province, district, or territory; (10) forging another's name
30 to an application for insurance or to any document related to
31 an insurance transaction; (11) improperly using notes or any
32 other reference material to complete an examination for an
33 insurance license; (12) knowingly accepting insurance business
34 from an individual who is not licensed; (13) failing to comply
35 with an administrative or court order imposing a child support

1 obligation; (14) failing to comply with an administrative or
2 court order related to repayment of loans to the college
3 student aid commission; (15) failing to pay state income tax
4 or comply with any administrative or court order directing
5 payment of state income tax; and (16) failing or refusing to
6 cooperate in an investigation by the commissioner.

7 The commissioner shall notify a person in writing of the
8 reason for the nonrenewal of the license or denial of the
9 application. The licensee or applicant may request a hearing.
10 The license of business entity may be suspended, revoked, or
11 refused if the commissioner finds, after hearing, that an
12 individual licensee's violation was known or should have been
13 known and was not reported to the commissioner, and corrective
14 action was not taken. A person may also be subject to civil
15 penalty.

16 New Code section 522B.12 addresses commissions, and
17 provides that an insurer or producer shall not pay a
18 commission or other consideration for selling insurance if a
19 person is required to be licensed and is not licensed. A
20 person is prohibited from accepting a commission for selling
21 insurance if the person is required to be licensed and is not
22 licensed. Renewal commissions can be paid if the person was
23 licensed at the time of the sale. An insurer or producer may
24 assign a commission to an insurance agency or to a person who
25 does not sell insurance, unless the payment would violate Code
26 chapter 507B, insurance trade practices, or Code section
27 515.130, relating to prohibited rebates.

28 New Code section 522B.13 requires that an insurance
29 producer who acts as an agent of an insurer must be appointed
30 by that insurer. A business entity is not required to be
31 appointed. The appointing insurer must file a notice of
32 appointment within 30 days from the date of the agency
33 contract, and shall pay an appointment fee and renewal
34 appointment fees for each insurance producer appointed.

35 New Code section 522B.14 requires an insurer that

1 terminates the appointment relationship with an insurance
2 producer to notify the commissioner within 30 days of the
3 effective date of the termination. The insurer may be
4 obligated to report certain other information known about the
5 producer to the commissioner. The insurance producer may file
6 written comments concerning the substance of the insurer's
7 notification, which shall become part of the commissioner's
8 record. The bill provides that a civil cause of action shall
9 not arise against the regulatory and enforcement agencies in
10 the absence of actual malice as a result of any statement of
11 information provided pursuant to this Code section. An
12 insurer or producer that fails to report as required, or is
13 found to have reported with actual malice by a court, may have
14 its license or certificate of authority revoked after notice
15 and hearing, or may be fined.

16 Documents and other information in the possession of the
17 insurance division are considered confidential records not
18 subject to subpoena or civil discovery, and the commissioner
19 and other persons who received the documents and other
20 information are not required to testify in any civil action.
21 The commissioner may share documents and other information
22 with other state and federal regulatory agencies, law
23 enforcement authorities, and the national association of
24 insurance commissioners, provided that confidentiality is
25 maintained. Waiver shall not occur as a result of any
26 disclosure.

27 New Code section 522B.15 addresses reciprocity requirements
28 for license applicants holding licenses in another state,
29 including when continuing education requirements are
30 considered satisfied.

31 New Code section 522B.16 requires an insurance producer to
32 report to the commissioner any administrative action taken
33 against the producer in another jurisdiction or by another
34 governmental agency, within 30 days of the final disposition.
35 The report must include a copy of the order and other relevant

1 legal documents. The producer must report any criminal
2 prosecution within 30 days of the initial pretrial hearing
3 date, including any complaint filed and any other relevant
4 legal documents.

5 New Code section 522B.17 provides that an insurer or
6 producer who after hearing is found to have violated Code
7 chapter 522B may be assessed a civil penalty pursuant to Code
8 chapter 507B. A person who sells insurance without proper
9 licensing is subject to penalty according to the provisions of
10 Code chapter 507A, which provides for cease and desist orders
11 and civil penalties for violations of those orders.

12 New Code section 522B.18 provides that the commissioner may
13 adopt rules as necessary to carry out the purposes of the
14 chapter.

15 The following Code sections are repealed: Code section
16 512B.31, relating to the licensing of agents; and Code
17 sections 515.123, 515.124, and 515.126, relating to various
18 definitions pertaining to agents.

19 The bill also repeals Code chapter 522, relating to the
20 licensing of agents; and Code chapter 523F, relating to legal
21 expense insurance.

22 The following Code sections contain technical,
23 corresponding amendments related to the enactment of new Code
24 chapter 522B and repeal of Code chapter 522, and change in
25 terminology from "insurance agent" to "insurance producer":
26 272C.1, 272C.3, 272C.4, 422.45, 505.102, 502.304, 508A.5,
27 514B,19, 515.125, 516A.1, 521A.2, 522A.3, 523H.1, 536.26,
28 536A.23, and 537.3207.

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Substitute for by SF 276

3/20/01

(P. 777)

MAR 5 2001

Place On Calendar

HOUSE FILE 500

BY COMMITTEE ON COMMERCE AND REGULATION

WITHDRAWN

(SUCCESSOR TO HSB 152)

3-20-01

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the licensure of persons acting as insurance
2 producers, providing an effective date, and applying
3 penalties.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 500

1 Section 1. Section 272C.1, subsection 6, paragraph z, Code
2 2001, is amended to read as follows:

3 z. The commissioner of insurance in licensing insurance
4 ~~agents~~ producers pursuant to chapter ~~522~~ 522B, except those
5 ~~agents~~ producers authorized to sell only credit ~~life-and~~
6 ~~credit-accident-and-health~~ insurance or crop insurance.

7 Sec. 2. Section 272C.3, subsection 2, paragraph a, Code
8 2001, is amended to read as follows:

9 a. Revoke a license, or suspend a license either until
10 further order of the board or for a specified period, upon any
11 of the grounds specified in section 147.55, 148.6, 148B.7,
12 152.10, 153.34, 154A.24, 169.13, 542B.21, 542C.21, 543B.29,
13 544A.13, 544B.15, or 602.3203 or chapter 151, 155, 507B, or
14 ~~522~~ 522B, as applicable, or upon any other grounds
15 specifically provided for in this chapter for revocation of
16 the license of a licensee subject to the jurisdiction of that
17 board, or upon failure of the licensee to comply with a
18 decision of the board imposing licensee discipline;

19 Sec. 3. Section 272C.4, subsection 6, Code 2001, is
20 amended to read as follows:

21 6. Define by rule acts or omissions which are grounds for
22 revocation or suspension of a license under section 147.55,
23 148.6, 148B.7, 152.10, 153.34, 154A.24, 169.13, 455B.191,
24 542B.21, 542C.21, 543B.29, 544A.13, 544B.15, or 602.3203 or
25 chapter 151, 155, 507B, or ~~522~~ 522B, as applicable, and to
26 define by rule acts or omissions which constitute negligence,
27 careless acts or omissions within the meaning of section
28 272C.3, subsection 2, paragraph "b", which licensees are
29 required to report to the board pursuant to section 272C.9,
30 subsection 2;

31 Sec. 4. Section 422.45, subsection 27, paragraph d,
32 subparagraph (3), Code 2001, is amended to read as follows:

33 (3) "Insurance company" means an insurer organized or
34 operating under chapter 508, 514, 515, 518, 518A, 519, or 520,
35 or authorized to do business in Iowa as an insurer or a

1 ~~licensed-insurance-agent~~ an insurance producer under chapter
2 522 522B.

3 Sec. 5. Section 502.102, subsection 11, paragraph d, Code
4 2001, is amended to read as follows:

5 d. As used in this subsection, "compensation" does not
6 include a commission, fee, or a combination of a commission
7 and a fee, which is paid to an insurance ~~agent~~ producer
8 licensed under chapter 522 522B, if the insurance ~~agent~~
9 producer receives the commission, fee, or the combination of a
10 commission and a fee, for the sale of insurance as regulated
11 pursuant to Title XIII, subtitle 1.

12 Sec. 6. Section 502.304, subsection 1, paragraph e, Code
13 2001, is amended to read as follows:

14 e. Is the subject of an order of the administrator
15 denying, suspending, or revoking registration as a broker-
16 dealer, agent, investment adviser, investment adviser
17 representative, or insurance ~~agent~~ producer;

18 Sec. 7. Section 508A.5, Code 2001, is amended to read as
19 follows:

20 508A.5 OTHER PROVISIONS APPLICABLE.

21 Except for section 508.37 and section 509.2, subsection 1,
22 and except as otherwise provided in this chapter, all
23 pertinent provisions of chapters 508, 509, 511, and 522 522B
24 shall apply to separate accounts and contracts relating
25 thereto. Any individual variable life insurance contract,
26 delivered or issued for delivery in this state, shall contain
27 nonforfeiture provisions appropriate to such a contract. Any
28 group variable life insurance contract, delivered or issued
29 for delivery in this state, shall contain a grace provision
30 appropriate to such a contract. The reserve liability for
31 variable contracts shall be established in accordance with
32 actuarial procedures that recognize the variable nature of the
33 benefits provided and any mortality guarantees.

34 Sec. 8. Section 511.4, Code 2001, is amended to read as
35 follows:

1 511.4 ADVERTISEMENTS -- WHO DEEMED AGENT.

2 The provisions of ~~sections-515-122-to-515-126~~ section
3 515.125 shall apply to life insurance companies and
4 associations.

5 Sec. 9. Section 515.125, Code 2001, is amended to read as
6 follows:

7 515.125 ~~AGENT---SPECIFIC-DEFINITION~~ AGENCY RELATIONSHIP.

8 Any officer, agent insurance producer, or representative of
9 an insurance company doing business in this state who may
10 solicit insurance, procure applications, issue policies,
11 adjust losses, or transact the business generally of such
12 companies, shall be held to be the agent of such insurance
13 company with authority to transact all business within the
14 scope of the agent's-employment agency relationship, anything
15 in the application, policy, contract, bylaws, or articles of
16 incorporation of such company to the contrary notwithstanding.

17 Sec. 10. Section 516A.1, unnumbered paragraph 2, Code
18 2001, is amended to read as follows:

19 However, the named insured may reject all of such coverage,
20 or reject the uninsured motor vehicle (hit-and-run motor
21 vehicle) coverage, or reject the underinsured motor vehicle
22 coverage, by written rejections signed by the named insured.
23 If rejection is made on a form or document furnished by an
24 insurance company or insurance agent producer, it shall be on
25 a separate sheet of paper which contains only the rejection
26 and information directly related to it. Such coverage need
27 not be provided in or supplemental to a renewal policy if the
28 named insured has rejected the coverage in connection with a
29 policy previously issued to the named insured by the same
30 insurer.

31 Sec. 11. Section 521A.2, subsection 1, paragraph b, Code
32 2001, is amended to read as follows:

33 b. Acting as an insurance ~~broker-or-as-an-insurance-agent~~
34 producer for its parent or for any of its parent's insurer
35 subsidiaries or intermediate insurer subsidiaries.

1 Sec. 12. Section 522A.3, subsection 1, Code 2001, is
2 amended to read as follows:

3 1. Notwithstanding the provisions of chapter ~~522~~ 522B, the
4 commissioner may issue a limited license to a rental company
5 that has complied with the requirements of this chapter. The
6 limited license shall authorize the limited licensee to offer
7 or sell insurance with the rental of vehicles.

8 Sec. 13. Section 523H.1, subsection 3, paragraph c, Code
9 2001, is amended to read as follows:

10 c. "Franchise" also does not include any contract under
11 which a petroleum retailer or petroleum distributor is
12 authorized or permitted to occupy leased marketing premises,
13 which premises are to be employed in connection with the sale,
14 consignment, or distribution of motor fuel under a trademark
15 which is owned or controlled by a refiner which is regulated
16 by the federal Petroleum Marketing Practices Act, 15 U.S.C. §
17 2801 et seq. The term "refiner" means any person engaged in
18 the refining of crude oil to produce motor fuel, and includes
19 any affiliate of such person. "Franchise" also does not
20 include a contract entered into by any person regulated under
21 chapter 123, 322, 322A, 322B, 322C, 322D, 322F, ~~522~~ 522B, or
22 543B, or a contract establishing a franchise relationship with
23 respect to the sale of construction equipment, lawn or garden
24 equipment, or real estate.

25 Sec. 14. Section 514B.19, Code 2001, is amended to read as
26 follows:

27 514B.19 REGULATION OF AGENTS INSURANCE PRODUCERS.

28 The commissioner may, after notice and hearing, promulgate
29 such reasonable rules under the provisions of chapter ~~522~~ 522B
30 that are necessary to provide for the licensing of agents
31 insurance producers who engage in solicitation or enrollment
32 for a health maintenance organization.

33 Sec. 15. NEW SECTION. 522B.1 DEFINITIONS.

34 As used in this chapter, unless the context otherwise
35 requires:

- 1 1. "Business entity" means a corporation, association,
2 partnership, limited liability company, limited liability
3 partnership, or other legal entity.
- 4 2. "Commissioner" means the commissioner of insurance.
- 5 3. "Home state" means the District of Columbia and any
6 state or territory of the United States in which an insurance
7 producer maintains the producer's principal place of residence
8 or principal place of business and is licensed to act as an
9 insurance producer.
- 10 4. "Insurance" means any of the lines of authority an
11 insurer is authorized to sell in this state.
- 12 5. "Insurance producer" means a person required to be
13 licensed under the laws of this state to sell, solicit, or
14 negotiate insurance.
- 15 6. "Insurer" means a person engaged in the business of
16 insurance who is licensed under chapter 508, 512B, 515, or
17 520.
- 18 7. "License" means a document issued pursuant to this
19 chapter by the commissioner authorizing a person to act as an
20 insurance producer for the lines of authority specified in the
21 document. A license by itself does not create any authority,
22 actual, apparent, or inherent, in the holder to represent or
23 commit an insurer.
- 24 8. "Limited lines insurance" means any authority granted
25 by the home state which restricts the authority of the license
26 to less than the total authority prescribed in the associated
27 major lines pursuant to section 522B.6, subsection 2,
28 paragraphs "a" through "f", and any other line of insurance
29 that the commissioner may deem it necessary to recognize for
30 the purposes of complying with section 522B.7, subsection 4.
- 31 9. "Limited lines producer" means a person authorized by
32 the commissioner to sell, solicit, or negotiate limited lines
33 insurance.
- 34 10. "Negotiate" means the act of conferring directly with
35 or offering advice directly to a purchaser or prospective

1 purchaser of a particular contract of insurance concerning any
2 of the substantive benefits, terms, or conditions of the
3 contract, provided that the person engaged in that act either
4 sells insurance or obtains insurance from insurers for
5 purchasers.

6 11. "Person" means an individual or a business entity.

7 12. "Producer database" means the national database of
8 insurance producers maintained by the national association of
9 insurance commissioners, its affiliates, or subsidiaries.

10 13. "Sell" means to exchange a contract of insurance by
11 any means, for money or its equivalent, on behalf of an
12 insurer.

13 14. "Solicit" or "solicitation" means attempting to sell
14 insurance or asking or urging a person to apply for a
15 particular kind of insurance from a particular company.

16 15. "Terminate" means the cancellation of the relationship
17 between an insurance producer and the insurer or the
18 termination of an insurance producer's authority to transact
19 insurance.

20 16. "Uniform application" means the current version of the
21 national association of insurance commissioners uniform
22 application for resident and nonresident insurance producer
23 licensing.

24 17. "Uniform business entity application" means the
25 current version of the national association of insurance
26 commissioners uniform business entity application for resident
27 and nonresident business entities.

28 Sec. 16. NEW SECTION. 522B.2 LICENSE REQUIRED.

29 1. A person shall not sell, solicit, or negotiate
30 insurance in this state for any line of insurance unless the
31 person is licensed as an insurance producer for that line of
32 insurance as provided in this chapter.

33 2. A person offering to the public, for a fee or
34 commission, to engage in the business of offering any advice,
35 counsel, or service with respect to the benefits, advantages,

1 or disadvantages promised under any policy of insurance must
2 also be licensed as an insurance producer.

3 Sec. 17. NEW SECTION. 522B.3 EXCEPTIONS TO LICENSING.

4 1. Nothing in this chapter shall be construed to require
5 an insurer to obtain an insurance producer license. For the
6 purposes of this section, "insurer" does not mean an officer,
7 director, employee, subsidiary, or affiliate of the insurer.

8 2. A license as an insurance producer shall not be
9 required of any the following:

10 a. An officer, director, or employee of an insurer or of
11 an insurance producer, provided that the officer, director, or
12 employee does not receive any commission on policies written
13 or sold to insure risks residing, located, or to be performed
14 in this state, and one of the following applies:

15 (1) The activities of the officer, director, or employee
16 are executive, administrative, managerial, clerical, or a
17 combination of these, and are only indirectly related to the
18 sale, solicitation, or negotiation of insurance.

19 (2) The function of the officer, director, or employee
20 relates to underwriting, loss control, inspection, or the
21 processing, adjusting, investigating, or settling of a claim
22 on a contract of insurance.

23 (3) The officer, director, or employee is acting in the
24 capacity of a special agent or agency supervisor assisting
25 insurance producers where the person's activities are limited
26 to providing technical advice and assistance to licensed
27 insurance producers and do not include the sale, solicitation,
28 or negotiation of insurance.

29 b. A person who performs any of the following services and
30 who is not paid a commission for the performance of such
31 service:

32 (1) Secures and furnishes information for the purpose of
33 group life insurance, group property and casualty insurance,
34 group annuities, group or blanket accident and health
35 insurance.

1 (2) Secures and furnishes information for the purpose of
2 enrolling individuals under plans, issuing certificates under
3 plans, or otherwise assisting in administering plans.

4 (3) Performs administrative services related to mass
5 marketed property and casualty insurance.

6 c. An employer or association, or an officer, director, or
7 employee of such employer or association, or the trustees of
8 an employee trust plan, to the extent that such employer,
9 association, officer, director, employee, or trustee is
10 engaged in the administration or operation of a program of
11 employee benefits for the employer's or association's own
12 employees or the employees of its subsidiaries or affiliates,
13 which program involves the use of insurance issued by an
14 insurer, as long as such employer, association, officer,
15 director, employee, or trustee is not in any manner
16 compensated, directly or indirectly, by the insurer issuing
17 the contracts.

18 d. An employee of an insurer, or an organization employed
19 by an insurer, who engages in the inspection, rating, or
20 classification of risks, or in the supervision of the training
21 of insurance producers and who is not individually engaged in
22 the sale, solicitation, or negotiation of insurance.

23 e. A person whose activities in this state are limited to
24 advertising without the intent to solicit insurance in this
25 state through communications in printed publications or other
26 forms of electronic mass media whose distribution is not
27 limited to residents of the state, provided that the person
28 does not sell, solicit, or negotiate insurance that would
29 insure risks residing, located, or to be performed in this
30 state.

31 f. A person who is not a resident of this state who sells,
32 solicits, or negotiates a contract of insurance for commercial
33 property and casualty risks to an insured with risks located
34 in more than one state insured under that contract, provided
35 that that person is otherwise licensed as an insurance

1 producer to sell, solicit, or negotiate that insurance in the
2 state where the insured maintains its principal place of
3 business and the contract of insurance insures risks located
4 in that state.

5 g. A salaried full-time employee who counsels or advises
6 the employee's employer relative to the insurance interests of
7 the employer or of the subsidiaries or business affiliates of
8 the employer, provided that the employee does not sell or
9 solicit insurance or receive a commission.

10 h. A licensed attorney providing surety bonds incident to
11 the attorney's practice.

12 i. A person selling transportation tickets of a common
13 carrier of persons or property when that person also sells, in
14 connection with and related to the transportation ticket, a
15 trip and accident insurance policy or an insurance policy on
16 personal effects being carried as baggage.

17 Sec. 18. NEW SECTION. 522B.4 APPLICATION FOR
18 EXAMINATION.

19 1. A resident individual applying for an insurance
20 producer license shall pass a written examination unless
21 exempt pursuant to section 522B.8. The examination shall test
22 the knowledge of the individual concerning the lines of
23 authority for which application is made, the duties and
24 responsibilities of an insurance producer, and the insurance
25 laws and regulations of this state. The commissioner shall
26 adopt rules pursuant to chapter 17A related to development and
27 conduct of the examination.

28 2. The commissioner may make arrangements, including
29 contracting with an outside testing service or other
30 appropriate entity, for administering examinations and
31 collecting fees.

32 3. An individual applying for an examination shall remit a
33 nonrefundable fee as established by rule of the commissioner.

34 4. An individual who fails to appear for the examination
35 as scheduled or fails to pass the examination, shall reapply

1 for an examination and remit all required fees and forms
2 before being rescheduled for another examination.

3 Sec. 19. NEW SECTION. 522B.5 APPLICATION FOR LICENSE.

4 1. A person applying for a resident insurance producer
5 license shall make application to the commissioner on the
6 uniform application and declare under penalty of refusal,
7 suspension, or revocation of the license that the statements
8 made in the application are true, correct, and complete to the
9 best of the individual's knowledge and belief. Before
10 approving the application, the commissioner shall find all of
11 the following:

12 a. The individual is at least eighteen years of age.

13 b. The individual has not committed any act that is a
14 ground for denial, suspension, or revocation as set forth in
15 section 522B.11.

16 c. The individual has paid the license fee of fifty
17 dollars.

18 d. The individual has successfully passed the examinations
19 for the lines of authority for which the person has applied.

20 e. In order to protect the public interest, the individual
21 has the requisite character and competence to receive a
22 license as an insurance producer.

23 2. A business entity acting as an insurance producer may
24 elect to obtain an insurance producer license. Application
25 shall be made using the uniform business entity application.
26 Prior to approving the application, the commissioner shall
27 find both of the following:

28 a. The business entity has paid the appropriate fees.

29 b. The business entity has designated a licensed producer
30 responsible for the business entity's compliance with the
31 insurance laws and rules of this state.

32 3. The commissioner may require any documents reasonably
33 necessary to verify the information contained in an
34 application.

35 Sec. 20. NEW SECTION. 522B.6 LICENSE.

1 1. A person who meets the requirements of sections 522B.4
2 and 522B.5, unless otherwise denied licensure pursuant to
3 section 522B.11, shall be issued an insurance producer
4 license. An insurance producer license is valid for three
5 years.

6 2. An insurance producer may qualify for a license in one
7 or more of the following lines of authority:

8 a. Life insurance providing coverage on human lives
9 including benefits of endowment and annuities, and may include
10 benefits in the event of death or dismemberment by accident
11 and benefits for disability income.

12 b. Accident and health or sickness insurance providing
13 coverage for sickness, bodily injury, or accidental death, and
14 may include benefits for disability income.

15 c. Property insurance providing coverage for the direct or
16 consequential loss or damage to property of any kind.

17 d. Casualty insurance providing coverage against legal
18 liability, including that for death, injury, or disability, or
19 damage to real or personal property.

20 e. Variable life and variable annuity products insurance
21 providing coverage provided under variable life insurance
22 contracts and variable annuities.

23 f. Personal lines property and casualty insurance sold to
24 individuals and families primarily for noncommercial purposes.

25 g. Excess and surplus lines insurance provided by certain
26 nonadmitted insurers pursuant to section 515.147.

27 h. Credit insurance, including credit life, credit
28 disability, credit property, credit unemployment, involuntary
29 unemployment, mortgage life, mortgage guaranty, mortgage
30 disability, guaranteed automobile protection insurance, and
31 any other form of insurance offered in connection with an
32 extension of credit that is limited to partially or wholly
33 extinguishing a credit obligation and that the commissioner
34 determines should be designated a form of credit insurance.

35 i. Any other line of insurance permitted under state law

1 or by rule.

2 3. An insurance producer license remains in effect unless
3 revoked or suspended as long as all required fees are paid and
4 continuing education requirements for resident individual
5 insurance producers are met by any applicable due date.

6 4. An individual insurance producer who allows the
7 producer's license to lapse, within twelve months from the due
8 date of the renewal fee, may have the same license reinstated
9 without the necessity of passing a written examination upon
10 the payment of a reinstatement fee as specified by rule of the
11 commissioner. Such reinstatement fee shall be in addition to
12 the required renewal fee.

13 5. A licensed insurance producer who is unable to comply
14 with license renewal procedures due to military service or
15 some other extenuating circumstance may request a waiver of
16 those procedures. Such insurance producer may also request a
17 waiver of any examination requirement or any other penalty or
18 sanction imposed for failure to comply with renewal
19 procedures.

20 6. The license shall contain the licensee's name, address,
21 personal identification number, and the date of issuance, the
22 lines of authority, the expiration date, and any other
23 information the commissioner deems necessary.

24 7. A licensee shall inform the commissioner by any means
25 acceptable to the commissioner of a change of address within
26 thirty days of the change. Failure to timely inform the
27 commissioner of a change in legal name or address may result
28 in a penalty as specified in section 522B.17.

29 8. In order to assist with the commissioner's duties, the
30 commissioner may contract with a nongovernmental entity,
31 including the national association of insurance commissioners
32 or any affiliate or subsidiary the national association of
33 insurance commissioners oversees, to perform any ministerial
34 functions, including the collection of fees, related to
35 producer licensing, that the commissioner deems appropriate.

1 Sec. 21. NEW SECTION. 522B.7 NONRESIDENT LICENSING.

2 1. Unless denied licensure pursuant to section 522B.11, a
3 nonresident person shall receive a nonresident insurance
4 producer license if all of the following apply:

5 a. The person is currently licensed as an insurance
6 producer and is in good standing in the person's home state.

7 b. The person has submitted the proper request for
8 licensure and has paid the required fees.

9 c. The person has submitted or transmitted to the
10 commissioner the application for licensure that the person
11 submitted to the person's home state, or in lieu of such
12 application, a completed uniform application.

13 d. The person's home state awards nonresident insurance
14 producer licenses to residents of this state on the same
15 basis.

16 2. The commissioner may verify the insurance producer's
17 licensing status through the producer database.

18 3. A nonresident insurance producer who moves from one
19 state to another state or a resident insurance producer who
20 moves from this state to another state shall file a change of
21 address and provide certification from the new resident state
22 within thirty days of the change of legal residence. No fee
23 or license application is required. The certification may be
24 obtained through the producer database.

25 4. Notwithstanding any other provision of this chapter, a
26 person licensed as a limited lines insurance producer in the
27 person's home state shall receive a nonresident limited lines
28 insurance producer license, pursuant to subsection 1, granting
29 the same scope of authority as granted under the license
30 issued by such person's home state.

31 Sec. 22. NEW SECTION. 522B.8 EXEMPTION FROM EXAMINATION.

32 1. An individual who applies for an insurance producer
33 license in this state who was previously licensed for the same
34 lines of authority in another state shall not be required to
35 complete an examination. This exemption is only available if

1 the person is currently licensed in that other state or if the
2 request for licensure is received within ninety days of the
3 cancellation of the applicant's previous license and if the
4 prior state issues a certification that, at the time of
5 cancellation, the applicant was in good standing in that
6 state. The certification may be obtained through the producer
7 database.

8 2. A person licensed as an insurance producer in another
9 state who moves to this state shall make application within
10 ninety days of establishing legal residence to become a
11 resident licensee pursuant to section 522B.5. An examination
12 shall not be required of that person to obtain an insurance
13 producer license for any line of authority previously held in
14 the prior state except where the commissioner determines
15 otherwise by regulation.

16 Sec. 23. NEW SECTION. 522B.9 ASSUMED NAMES.

17 An insurance producer doing business under any name other
18 than the insurance producer's legal name is required to notify
19 the commissioner prior to using the assumed name.

20 Sec. 24. NEW SECTION. 522B.10 TEMPORARY LICENSING.

21 1. The commissioner may issue a temporary insurance
22 producer license for a period not to exceed one hundred eighty
23 days without requiring an examination if the commissioner
24 deems that the temporary license is necessary for the
25 servicing of an insurance business in the following cases:

26 a. To the surviving spouse or court-appointed personal
27 representative of a licensed insurance producer who dies or
28 becomes mentally or physically disabled, to allow adequate
29 time for the sale of the insurance business owned by the
30 insurance producer, for the recovery or return of the
31 insurance producer to the business, or for the training and
32 licensing of new personnel to operate the insurance producer's
33 business.

34 b. To a member or employee of a business entity licensed
35 as an insurance producer, upon the death or disability of an

1 individual designated in the business entity application or
2 the license.

3 c. To the designee of a licensed insurance producer
4 entering active service in the armed forces of the United
5 States.

6 d. In any other circumstance where the commissioner deems
7 that the public interest will best be served by the issuance
8 of a temporary license.

9 2. The commissioner may by order limit the authority of
10 any temporary licensee in any way deemed necessary to protect
11 insureds and the public. The commissioner may require the
12 temporary licensee to have a suitable sponsor who is a
13 licensed insurance producer or insurer and who assumes
14 responsibility for all acts of the temporary licensee and may
15 impose other similar requirements designed to protect insureds
16 and the public. The commissioner may by order revoke a
17 temporary license if the interest of insureds or the public is
18 endangered. A temporary license shall not continue after the
19 owner or the personal representative disposes of the business.

20 Sec. 25. NEW SECTION. 522B.11 LICENSE DENIAL,
21 NONRENEWAL, OR REVOCATION.

22 1. The commissioner may place on probation, suspend,
23 revoke, or refuse to issue or renew an insurance producer's
24 license or may levy a civil penalty as provided in section
25 522B.17 for any one or more of the following causes:

26 a. Providing incorrect, misleading, incomplete, or
27 materially untrue information in the license application.

28 b. Violating any insurance laws, or violating any
29 regulation, subpoena, or order of the commissioner or of a
30 commissioner of another state.

31 c. Obtaining or attempting to obtain a license through
32 misrepresentation or fraud.

33 d. Improperly withholding, misappropriating, or converting
34 any moneys or properties received in the course of doing
35 insurance business.

- 1 e. Intentionally misrepresenting the terms of an actual or
- 2 proposed insurance contract or application for insurance.
- 3 f. Having been convicted of a felony.
- 4 g. Having admitted or been found to have committed any
- 5 unfair insurance trade practice or fraud.
- 6 h. Using fraudulent, coercive, or dishonest practices, or
- 7 demonstrating incompetence, untrustworthiness, or financial
- 8 irresponsibility in the conduct of business in this state or
- 9 elsewhere.
- 10 i. Having an insurance producer license, or its
- 11 equivalent, denied, suspended, or revoked in any other state,
- 12 province, district, or territory.
- 13 j. Forging another's name to an application for insurance
- 14 or to any document related to an insurance transaction.
- 15 k. Improperly using notes or any other reference material
- 16 to complete an examination for an insurance license.
- 17 l. Knowingly accepting insurance business from an
- 18 individual who is not licensed.
- 19 m. Failing to comply with an administrative or court order
- 20 imposing a child support obligation.
- 21 n. Failing to comply with an administrative or court order
- 22 related to repayment of loans to the college student aid
- 23 commission.
- 24 o. Failing to pay state income tax or comply with any
- 25 administrative or court order directing payment of state
- 26 income tax.
- 27 p. Failing or refusing to cooperate in an investigation by
- 28 the commissioner.
- 29 2. If the commissioner does not renew a license or denies
- 30 an application for a license, the commissioner shall notify
- 31 the applicant or licensee and advise, in writing, the licensee
- 32 or applicant of the reason for the nonrenewal of the license
- 33 or denial of the application for a license. The licensee or
- 34 applicant may request a hearing on the nonrenewal or denial.
- 35 A hearing shall be conducted according to section 507B.6.

1 3. The license of a business entity may be suspended,
2 revoked, or refused if the commissioner finds, after hearing,
3 that an individual licensee's violation was known or should
4 have been known by a partner, officer, or manager acting on
5 behalf of the business entity and the violation was not
6 reported to the commissioner and corrective action was not
7 taken.

8 4. In addition to, or in lieu of, any applicable denial,
9 suspension, or revocation of a license, a person, after
10 hearing, may be subject to a civil penalty as provided in
11 section 522B.17.

12 5. The commissioner may enforce the provisions and impose
13 any penalty or remedy authorized by this chapter and chapter
14 507B against any person who is under investigation for, or
15 charged with, a violation of either chapter even if the
16 person's license has been surrendered or has lapsed by
17 operation of law.

18 Sec. 26. NEW SECTION. 522B.12 COMMISSIONS.

19 1. An insurer or insurance producer shall not pay a
20 commission, service fee, brokerage, or other valuable
21 consideration to a person for selling, soliciting, or
22 negotiating insurance in this state if that person is required
23 to be licensed under this chapter and is not so licensed.

24 2. A person shall not accept a commission, service fee,
25 brokerage, or other valuable consideration for selling,
26 soliciting, or negotiating insurance in this state if that
27 person is required to be licensed under this chapter and is
28 not so licensed.

29 3. Renewal or other deferred commissions may be paid to a
30 person for selling, soliciting, or negotiating insurance in
31 this state if the person was required to be licensed under
32 this chapter at the time of the sale, solicitation, or
33 negotiation and was so licensed at that time.

34 4. An insurer or insurance producer may pay or assign a
35 commission, service fee, brokerage, or other valuable

1 consideration to an insurance agency or to a person who does
2 not sell, solicit, or negotiate insurance in this state,
3 unless the payment would violate chapter 507B or section
4 515.130.

5 Sec. 27. NEW SECTION. 522B.13 APPOINTMENTS.

6 1. An individual insurance producer who acts as an agent
7 of an insurer must be appointed by that insurer. An insurance
8 producer who is not acting as an agent of an insurer need not
9 be appointed. A business entity is not required to be
10 appointed.

11 2. The appointing insurer, for the purpose of appointing
12 an insurance producer as its agent, shall file, in a format
13 approved by the commissioner, a notice of appointment within
14 thirty days from the date the agency contract is executed or
15 the first insurance application is submitted.

16 3. An insurer shall pay an appointment fee, in the amount
17 and method of payment set forth by rule of the commissioner,
18 for each insurance producer appointed by the insurer.

19 4. An insurer shall remit a renewal appointment fee in the
20 manner and amount as set forth by rule of the commissioner.

21 Sec. 28. NEW SECTION. 522B.14 NOTIFICATION TO
22 COMMISSIONER OF TERMINATION -- PENALTIES.

23 1. An insurer or authorized representative of the insurer
24 that terminates the appointment, employment, contract, or
25 other insurance business relationship with an insurance
26 producer shall notify the commissioner within thirty days
27 following the effective date of the termination, using a
28 format prescribed by the commissioner, if the reason for
29 termination is one of the reasons set forth in section
30 522B.11, or the insurer has knowledge the insurance producer
31 was found by a court, government body, or self-regulatory
32 organization authorized by law to have engaged in any of the
33 activities set forth in section 522B.11. Upon request of the
34 commissioner, the insurer or authorized representative of the
35 insurer shall provide additional information, documents,

1 records, or other data pertaining to the termination or
2 activity of the insurance producer.

3 2. An insurer or authorized representative of the insurer
4 that terminates the appointment, employment, contract, or
5 other insurance business relationship with an insurance
6 producer for any reason not set forth in section 522B.11,
7 shall notify the commissioner within thirty days following the
8 effective date of the termination, using a format prescribed
9 by the commissioner. Upon request of the commissioner, the
10 insurer shall provide additional information, documents,
11 records, or other data pertaining to the termination.

12 3. The insurer or the authorized representative of the
13 insurer shall promptly notify the commissioner using a format
14 prescribed by the commissioner, if, upon further review or
15 investigation, the insurer or authorized representative of the
16 insurer discovers additional information that would have been
17 reportable to the commissioner pursuant to subsection 1, had
18 the insurer then known of its existence.

19 4. Within fifteen days after making the notification
20 required by this section, the insurer shall mail a copy of the
21 notification to the insurance producer at the insurance
22 producer's last known address. If the insurance producer is
23 terminated for any of the reasons set forth in section
24 522B.11, the insurer shall provide a copy of the notification
25 to the insurance producer at the insurance producer's last
26 known address by restricted certified mail, as defined in
27 section 618.15, or by overnight delivery using a nationally
28 recognized carrier.

29 5. Within thirty days after the insurance producer has
30 received the original or additional notification, the
31 insurance producer may file written comments concerning the
32 substance of the notification with the commissioner. The
33 insurance producer, by the same means, shall simultaneously
34 send a copy of the comments to the reporting insurer, and the
35 comments shall become a part of the commissioner's record and

1 accompany every copy of a report distributed or disclosed for
2 any reason about the insurance producer, as permitted under
3 subsection 8.

4 6. In the absence of actual malice, an insurer, the
5 authorized representative of the insurer, an insurance
6 producer, the commissioner, or an organization of which the
7 commissioner is a member and that compiles the information and
8 makes it available to other commissioners or regulatory or law
9 enforcement agencies shall not be subject to civil liability.
10 A civil cause of action of any nature shall not arise against
11 any of these entities or their respective agents or employees,
12 as a result of any statement or information required by or
13 provided pursuant to this section or any information relating
14 to any statement that may be requested in writing by the
15 commissioner from an insurer or insurance producer; or a
16 statement by a terminating insurer or insurance producer to an
17 insurer or insurance producer limited solely and exclusively
18 to whether a termination for cause under subsection 1 was
19 reported to the commissioner, provided that the propriety of
20 any termination for cause under subsection 1 is certified in
21 writing by an officer or authorized representative of the
22 insurer or insurance producer terminating the relationship.

23 In any action brought against a person that may have
24 immunity under this section for making any statement required
25 by this section or providing any information relating to any
26 statement that may be requested by the commissioner, the party
27 bringing the action shall plead specifically in any allegation
28 that this section does not apply because the person making the
29 statement or providing the information did so with actual
30 malice. This section shall not abrogate or modify any
31 existing statutory or common law privileges or immunities.

32 7. Any document, material, or other information in the
33 control or possession of the insurance division that is
34 furnished by an insurer, insurance producer, or an employee or
35 agent of such insurer or insurance producer acting on behalf

1 of the insurer or insurance producer, or obtained by the
2 commissioner in an investigation pursuant to this section are
3 considered confidential records and shall not be subject to
4 subpoena, or subject to discovery, or admissible in evidence
5 in any private civil action. However, the commissioner is
6 authorized to use such document, material, or other
7 information in the furtherance of any regulatory or legal
8 action brought as a part of the commissioner's duties.

9 Neither the commissioner nor any person who received any
10 document, material, or other information while acting under
11 the authority of the commissioner shall be permitted or
12 required to testify in any private civil action concerning any
13 confidential document, material, or information subject to
14 this section.

15 8. The commissioner may share documents, materials, or
16 other information, including the confidential and privileged
17 documents, materials, or information subject to subsection 7
18 with other state, federal, and international regulatory
19 agencies, with the national association of insurance
20 commissioners, its affiliates or subsidiaries, and with state,
21 federal, and international law enforcement authorities,
22 provided that the recipient agrees to maintain the
23 confidentiality and privileged status of the document,
24 material, or other information.

25 The commissioner may receive documents, materials, or
26 information, including otherwise confidential and privileged
27 documents, materials, or information, from the national
28 association of insurance commissioners, its affiliates or
29 subsidiaries, and from regulatory and law enforcement
30 officials of other foreign or domestic jurisdictions, and
31 shall maintain as confidential or privileged any document,
32 material, or information received with notice or the
33 understanding that it is confidential or privileged under the
34 laws of the jurisdiction that is the source of the document,
35 material, or information.

1 The commissioner may enter into agreements governing
2 sharing and use of information consistent with this
3 subsection.

4 9. A waiver of any applicable privilege or claim of
5 confidentiality in the documents, materials, or information
6 shall not occur as a result of disclosure to the commissioner
7 or sharing of information received under this section.

8 10. Nothing in this chapter shall prohibit the
9 commissioner from releasing information regarding final,
10 adjudicated actions that are considered public records subject
11 to examination and copying under chapter 22 to a database or
12 other clearinghouse service maintained by the national
13 association of insurance commissioners, or an affiliate or
14 subsidiary of the national association of insurance
15 commissioners.

16 11. An insurer, the authorized representative of the
17 insurer, or an insurance producer that fails to report as
18 required under this section, or that is found to have reported
19 with actual malice by a court of competent jurisdiction, after
20 notice and hearing, may have its license or certificate of
21 authority suspended or revoked and may be fined as provided in
22 section 522B.17.

23 Sec. 29. NEW SECTION. 522B.15 RECIPROCITY.

24 1. The commissioner shall waive any requirements for a
25 nonresident license applicant with a valid license from such
26 applicant's home state, except for the requirements imposed by
27 section 522B.7, if the applicant's home state awards
28 nonresident licenses to residents of this state on the same
29 basis.

30 2. A nonresident insurance producer's satisfaction of the
31 producer's home state's continuing education requirements for
32 licensed insurance producers shall constitute satisfaction of
33 this state's continuing education requirements if the
34 nonresident insurance producer's home state recognizes the
35 satisfaction of its continuing education requirements imposed

1 upon insurance producers from this state on the same basis.

2 Sec. 30. NEW SECTION. 522B.16 REPORTING OF ACTIONS.

3 An insurance producer shall report to the commissioner any
4 administrative action taken against the insurance producer in
5 another jurisdiction or by another governmental agency in this
6 state within thirty days of the final disposition of the
7 matter. This report shall include a copy of the order,
8 consent to the order, or other relevant legal documents.

9 Within thirty days of the initial pretrial hearing date, an
10 insurance producer shall report to the commissioner any
11 criminal prosecution of the insurance producer taken in any
12 jurisdiction. The report shall include a copy of the initial
13 complaint filed, the order resulting from the hearing, and any
14 other relevant legal documents.

15 Sec. 31. NEW SECTION. 522B.17 PENALTY.

16 An insurer or insurance producer who, after hearing, is
17 found to have violated this chapter may be assessed a civil
18 penalty pursuant to chapter 507B.

19 A person found, after hearing, to have acted as an agent of
20 an insurer or otherwise selling, soliciting, or negotiating
21 insurance in this state, or offering to the public advice,
22 counsel, or services with regard to insurance who is not
23 properly licensed is subject to penalty according to the
24 provisions of chapter 507A.

25 Sec. 32. NEW SECTION. 522B.18 RULES.

26 The commissioner may adopt reasonable rules according to
27 chapter 17A as are necessary or proper to carry out the
28 purposes of this chapter.

29 Sec. 33. Section 536.26, unnumbered paragraph 1, Code
30 2001, is amended to read as follows:

31 A licensee shall not, directly or indirectly, sell or offer
32 for sale any life, or accident and health insurance in
33 connection with a loan made under this chapter except as and
34 to the extent authorized by this section. Life, accident and
35 health insurance, or any of them, may be written by a licensed

1 insurance agent producer upon or in connection with any loan
2 for a term not extending beyond the final maturity date of the
3 loan contract but only upon one obligor on any one loan
4 contract.

5 Sec. 34. Section 536A.23, subsection 3, Code 2001, is
6 amended to read as follows:

7 3. Require any borrower to purchase insurance from the
8 lender as a condition for obtaining a loan. However, an
9 industrial loan company may collect from the borrower, at the
10 option of the borrower, and transmit the premiums charged for
11 insuring real or personal property used by the borrower as
12 security for a loan and provided that such insurance is
13 obtained from a licensed insurance agent producer for an
14 insurance company authorized to do business in Iowa; and the
15 premiums charged for insuring the life of one party on the
16 loan in an amount not to exceed the total amount of the note
17 or contract, including cash advance, interest and service
18 charge, provided that no licensee shall require that the
19 contract of life insurance be outstanding for more than the
20 unpaid balance of the indebtedness and provided that such
21 insurance is obtained from a licensed insurance agent producer
22 for an insurance company authorized to do business in Iowa;
23 and an industrial loan company may receive and transmit the
24 premiums charged for accident and health insurance on the
25 borrower, provided such insurance bears a reasonable
26 relationship to the existing hazards or risk of loss, and the
27 aggregate benefits of which shall not exceed the approximate
28 amount of the contractual payments on the loan outstanding at
29 the time of loss, and provided that such insurance is obtained
30 from a licensed agent producer for an insurance company
31 authorized to do business in Iowa. However, all life
32 insurance rates in connection with industrial loans shall be
33 subject to the rules and regulations of the insurance
34 commissioner of the state of Iowa.

35 Sec. 35. Section 537.3207, Code 2001, is amended to read

1 as follows:

2 537.3207 FORM OF INSURANCE PREMIUM LOAN AGREEMENT.

3 An agreement pursuant to which an insurance premium loan is
4 made shall contain the names of the insurance ~~agent-or-broker~~
5 producer negotiating each policy or contract and of the
6 insurer issuing each policy or contract, the number and
7 inception date of, and premium for, each policy or contract,
8 the date on which the term of the loan begins, and a clear and
9 conspicuous notice that each policy or contract may be
10 canceled if payment is not made in accordance with the
11 agreement. If a policy or contract has not been issued when
12 the agreement is signed, the agreement may provide that the
13 insurance ~~agent-or-broker~~ producer may insert the appropriate
14 information in the agreement and, if they do so, shall furnish
15 the information promptly in writing to the insured.

16 Sec. 36.

17 1. Sections 512B.31, 515.123, 515.124, and 515.126, Code
18 2001, are repealed.

19 2. Chapter 522, Code 2001, is repealed.

20 3. Chapter 523F, Code 2001, is repealed.

21 Sec. 37. EFFECTIVE DATE. This Act takes effect January 1,
22 2002.

23 EXPLANATION

24 This bill creates new Code chapter 522B, relating to the
25 licensing of persons acting as insurance producers, and makes
26 certain changes to other statutes that relate to insurance
27 producers and agents. The bill takes effect January 1, 2002.

28 New Code section 522B.1 provides definitions for the new
29 chapter, including "business entity", "commissioner", "home
30 state", "insurance", "insurance producer", "insurer",
31 "license", "limited lines insurance", "limited lines
32 producer", "negotiate", "person", "producer database", "sell",
33 "solicit", "terminate", "uniform application", and "uniform
34 business entity application".

35 The bill creates new Code section 522B.2, which requires a

1 person to obtain a license as an insurance producer for any
2 line of insurance the person sells, solicits, or negotiates in
3 this state. A person who, for a fee or commission, offers
4 advice, counsel, or service, with respect to the benefits,
5 advantages, or disadvantages promised under any policy of
6 insurance that could be sold in this state, must also be
7 licensed as an insurance producer.

8 New Code section 522B.3 addresses exceptions to licensing
9 requirements. The bill states that nothing in the chapter
10 should be construed to require an insurer to obtain an insurer
11 producer license, and does not require an insurance producer
12 license for any of the following: (1) an officer, director,
13 or employee of an insurer or insurance producer who does not
14 receive any commission on policies written or sold, and who is
15 not involved in the sale of insurance, in one of the specific
16 ways provided by the bill; (2) a person who, without receiving
17 a commission, performs certain services related to group
18 insurance or the administration of insurance plans or mass-
19 marketed property and casualty insurance; (3) an employer or
20 association, including certain persons affiliated with the
21 employer or association, to the extent that the employer,
22 association, or other person is administering an employee
23 benefits program provided that the employer, association, or
24 other person is not compensated by the insurer responsible for
25 the insurance used in the employee benefits program; (4) an
26 employee of an insurer who is involved in inspection, rating,
27 classification of risks, or in the supervision of the training
28 of insurance producers, and who is not involved in the sale or
29 negotiation of insurance; (5) a person who only advertises in
30 printed or electronic mass media not limited in distribution
31 to this state, provided that the person does not sell or
32 negotiate insurance related to risks in this state; (6) a
33 nonresident who sells or negotiates insurance for commercial
34 property and casualty risks with an insured who has risks in
35 more than one state covered under that contract, provided that

1 the person is licensed as an insurance producer in the state
2 where the insured maintains its principal place of business,
3 and the contract insures risks in that state; (7) a full-time
4 employee who advises the employee's employer on insurance for
5 the employer, and who does not sell insurance or receive a
6 commission; (8) a licensed attorney providing surety bonds
7 incident to the attorney's practice; and (9) a person selling
8 accident or baggage insurance in connection with a ticket for
9 transportation on a common carrier.

10 New Code section 522B.4 provides that an applicant for an
11 insurance producer license must pass a written examination,
12 unless previously licensed in another jurisdiction, as
13 provided in new Code section 522B.8. The commissioner is
14 authorized to adopt rules related to development and conduct
15 of the examination, and may make arrangements for
16 administering examinations and collecting fees. A person
17 applying for the examination shall remit a nonrefundable fee,
18 and must reapply for the examination if the person fails to
19 appear, pass, or remit all required fees and forms.

20 New Code section 522B.5 provides that a person applying for
21 a resident insurance producer license must be at least 18, has
22 not committed any act that is a ground for denial, suspension,
23 or revocation as set forth in new Code section 522B.11, paid a
24 \$50 license fee, has passed the examinations for the lines for
25 which the person has applied, and has the requisite character
26 and competence to receive a license as an insurance producer.
27 The person shall complete the application declaring that the
28 information contained within is true and complete to the best
29 of the individual's knowledge, subject to the penalty of
30 refusal, suspension, or revocation of the license. A business
31 entity may also obtain an insurance producer license, by
32 completing an application, paying the appropriate fees, and
33 designating a licensed producer as responsible for the
34 entity's compliance with state insurance laws and rules.

35 New Code section 522B.6 provides that a person who meets

1 the requirements for licensure shall be issued a license that
2 is valid for three years, and so long as it is not suspended
3 or revoked, remains in effect as long as all required fees are
4 paid and continuing education requirements are met. Special
5 provisions apply for late renewals and renewals affected by
6 military service. The licensee must inform the commissioner
7 of a change of address within 30 days, or be subject to
8 penalty. The commissioner may contract with a nongovernmental
9 entity to perform ministerial functions related to the
10 licensing procedures.

11 An insurance producer may qualify for a license in one or
12 more of the following lines of authority: (1) life, including
13 endowments, annuities, accident, and death benefits; (2)
14 accident and health or sickness insurance, including bodily
15 injury, accidental death, and disability; (3) property; (4)
16 casualty, including death, injury, disability, or damage to
17 property; (5) variable life and variable annuity products; (6)
18 personal lines property and casualty insurance sold to
19 individuals and families primarily for noncommercial purposes;
20 (7) excess and surplus lines insurance provided by certain
21 nonadmitted insurers; (8) credit insurance, including credit
22 life, disability, property, unemployment, mortgage life,
23 mortgage guarantee, mortgage disability, and guaranteed
24 automobile protection insurance; and (9) any other line of
25 insurance permitted under state law or by rule.

26 New Code section 522B.7 relates to licensing for
27 nonresidents. A nonresident producer license is issued if the
28 person is licensed in good standing in the person's home
29 state, has submitted the request and paid the fees for
30 licensure, has submitted the application submitted in the
31 person's home state or a uniform application, and the person's
32 home state awards nonresident licenses on the same basis. A
33 nonresident who moves to another state is required to submit a
34 change of address within 30 days of the change.

35 Notwithstanding any other provision of the chapter, a person

1 licensed as a limited lines producer in the person's home
2 state shall receive a nonresident limited lines insurance
3 producer license granting the same scope of authority as in
4 the home state, upon application and payment of fees as
5 previously described.

6 New Code section 522B.8 provides that an individual who was
7 previously licensed for the same lines of authority in another
8 state shall not be required to complete an examination, if the
9 person is currently licensed in the other state or if the
10 request for licensure is within 90 days of cancellation and
11 the applicant was in good standing. Application to become a
12 resident licensee in this state must be made within 90 days of
13 establishing legal residency.

14 New Code section 522B.9 requires an insurance producer
15 doing business under any name other than the insurance
16 producer's legal name to notify the commissioner prior to
17 using the assumed name.

18 New Code section 522B.10 allows the commissioner to issue a
19 temporary insurance producer license for up to 180 days
20 without an examination if necessary in the following cases:
21 (1) to a surviving spouse or court-appointed personal
22 representative of a licensed insurance producer who dies or
23 becomes physically or mentally disabled, to allow time for the
24 sale of the business, recovery of the insurance producer, or
25 training and licensing of new personnel; (2) to a member or
26 employee of a business entity licensed as an insurance
27 producer, upon the death or disability of an individual
28 designated in the business entity application; (3) to the
29 designee of a licensed insurance producer entering active
30 military service; and (4) in any other circumstance where the
31 commissioner deems the public interest will be best served by
32 the issuance of a temporary license. The commissioner may by
33 order limit the authority of a temporary licensee as necessary
34 to protect insureds and the public, and may require the
35 temporary licensee to have a sponsor who assumes

1 responsibility for all acts of the temporary licensee. The
2 commissioner may also revoke a temporary license if the public
3 interest or that of insureds is endangered.

4 New Code section 522B.11 addresses denial, nonrenewal, and
5 revocation of licenses. The commissioner may place on
6 probation, suspend, revoke, or refuse to issue or renew a
7 license or may levy a civil penalty for one or more of the
8 following: (1) providing incorrect, misleading, incomplete,
9 or materially untrue information in the license application;
10 (2) violating any insurance laws, or any regulation, subpoena,
11 or order of the commissioner of this or another state; (3)
12 obtaining or attempting to obtain a license through
13 misrepresentation or fraud; (4) improperly withholding,
14 misappropriating, or converting any moneys or properties
15 received in the course of doing insurance business; (5)
16 intentionally misrepresenting the terms of an actual or
17 proposed insurance contract or application for insurance; (6)
18 having been convicted of a felony; (7) having admitted or been
19 found to have committed any unfair insurance trade practice or
20 fraud; (8) using fraudulent, coercive, or dishonest practices,
21 or demonstrating incompetence, untrustworthiness, or financial
22 irresponsibility in the conduct of business in this state or
23 elsewhere; (9) having an insurance producer license or its
24 equivalent denied, suspended, or revoked in any other state,
25 province, district, or territory; (10) forging another's name
26 to an application for insurance or to any document related to
27 an insurance transaction; (11) improperly using notes or any
28 other reference material to complete an examination for an
29 insurance license; (12) knowingly accepting insurance business
30 from an individual who is not licensed; (13) failing to comply
31 with an administrative or court order imposing a child support
32 obligation; (14) failing to comply with an administrative or
33 court order related to repayment of loans to the college
34 student aid commission; (15) failing to pay state income tax
35 or comply with any administrative or court order directing

1 payment of state income tax; and (16) failing or refusing to
2 cooperate in an investigation by the commissioner.

3 The commissioner shall notify a person in writing of the
4 reason for the nonrenewal of the license or denial of the
5 application. The licensee or applicant may request a hearing.
6 The license of business entity may be suspended, revoked, or
7 refused if the commissioner finds, after hearing, that an
8 individual licensee's violation was known or should have been
9 known and was not reported to the commissioner, and corrective
10 action was not taken. A person may also be subject to civil
11 penalty.

12 New Code section 522B.12 addresses commissions, and
13 provides that an insurer or producer shall not pay a
14 commission or other consideration for selling insurance if a
15 person is required to be licensed and is not licensed. A
16 person is prohibited from accepting a commission for selling
17 insurance if the person is required to be licensed and is not
18 licensed. Renewal commissions can be paid if the person was
19 licensed at the time of the sale. An insurer or producer may
20 assign a commission to an insurance agency or to a person who
21 does not sell insurance, unless the payment would violate Code
22 chapter 507B, insurance trade practices, or Code section
23 515.130, relating to prohibited rebates.

24 New Code section 522B.13 requires that an insurance
25 producer who acts as an agent of an insurer must be appointed
26 by that insurer. A business entity is not required to be
27 appointed. The appointing insurer must file a notice of
28 appointment within 30 days from the date of the agency
29 contract, and shall pay an appointment fee and renewal
30 appointment fees for each insurance producer appointed.

31 New Code section 522B.14 requires an insurer that
32 terminates the appointment relationship with an insurance
33 producer to notify the commissioner within 30 days of the
34 effective date of the termination. The insurer may be
35 obligated to report certain other information known about the

1 producer to the commissioner. The insurance producer may file
2 written comments concerning the substance of the insurer's
3 notification, which shall become part of the commissioner's
4 record. The bill provides that a civil cause of action shall
5 not arise against the regulatory and enforcement agencies in
6 the absence of actual malice as a result of any statement of
7 information provided pursuant to this Code section. An
8 insurer or producer that fails to report as required, or is
9 found to have reported with actual malice by a court, may have
10 its license or certificate of authority revoked after notice
11 and hearing, or may be fined.

12 Documents and other information in the possession of the
13 insurance division are considered confidential records not
14 subject to subpoena or civil discovery, and the commissioner
15 and other persons who received the documents and other
16 information are not required to testify in any civil action.
17 The commissioner may share documents and other information
18 with other state and federal regulatory agencies, law
19 enforcement authorities, and the national association of
20 insurance commissioners, provided that confidentiality is
21 maintained. Waiver shall not occur as a result of any
22 disclosure.

23 New Code section 522B.15 addresses reciprocity requirements
24 for license applicants holding licenses in another state,
25 including when continuing education requirements are
26 considered satisfied.

27 New Code section 522B.16 requires an insurance producer to
28 report to the commissioner any administrative action taken
29 against the producer in another jurisdiction or by another
30 governmental agency, within 30 days of the final disposition.
31 The report must include a copy of the order and other relevant
32 legal documents. The producer must report any criminal
33 prosecution within 30 days of the initial pretrial hearing
34 date, including any complaint filed and any other relevant
35 legal documents.

1 New Code section 522B.17 provides that an insurer or
2 producer who after hearing is found to have violated Code
3 chapter 522B may be assessed a civil penalty pursuant to Code
4 chapter 507B. A person who sells insurance without proper
5 licensing is subject to penalty according to the provisions of
6 Code chapter 507A, which provides for cease and desist orders
7 and civil penalties for violations of those orders.

8 New Code section 522B.18 provides that the commissioner may
9 adopt rules as necessary to carry out the purposes of the
10 chapter.

11 The following Code sections are repealed: Code section
12 512B.31, relating to the licensing of agents; and Code
13 sections 515.123, 515.124, and 515.126, relating to various
14 definitions pertaining to agents.

15 The bill also repeals Code chapter 522, relating to the
16 licensing of agents; and Code chapter 523F, relating to legal
17 expense insurance.

18 The following Code sections contain technical,
19 corresponding amendments related to the enactment of new Code
20 chapter 522B and repeal of Code chapter 522, and change in
21 terminology from "insurance agent" to "insurance producer":
22 272C.1, 272C.3, 272C.4, 422.45, 505.102, 502.304, 508A.5,
23 514B,19, 515.125, 516A.1, 521A.2, 522A.3, 523H.1, 536.26,
24 536A.23, and 537.3207.

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**HOUSE FILE 500
FISCAL NOTE**

A fiscal note for **House File 500** is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 500 creates a new Code Chapter 522B, which sets forth the requirements for licensing insurance producers (formerly known as insurance agents).

Included in the requirement changes are license fees for non-residents. Current law provides for charging a retaliatory fee to a non-resident commensurate with the amount the respective State charges an Iowa applicant. House File 500 eliminates retaliatory fees and charges resident and non-resident applicants a \$50 fee.

ASSUMPTIONS

1. Non-resident insurance producer license applicants will be charged the same as resident insurance producer applicants, \$50.
2. The number of new license applicants will remain constant, approximately 7,000.

FISCAL IMPACT

The Iowa Insurance Division will generate approximately \$351,000 in fees from non-residents, a decrease of \$587,000 compared to current law.

These fees are not part of the Insurance Division's spending authority. These fees may revert to the General Fund, transfer to the Pooled Technology Account, or transfer pursuant to Section 8.39, Code of Iowa.

SOURCE

Iowa Insurance Division, Department of Commerce

(LSB 1074hv, CRS)

FILED MARCH 19, 2001

BY DENNIS PROUTY, FISCAL DIRECTOR