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SENATE FILE 2279
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 3120)

Passed Senate, Date (P.518) 3/6/02 Passed House, Date (P.1078) 3-28-02
Vote: Ayes 48 Nays 0 Vote: Ayes 94 Nays 0
Approved April 12, 2002
*(P.888) Repassed 4/2/02
Vote 48-0*

A BILL FOR

1 An Act relating to the regulated commercial activities of
2 insurance and security sales, including rate adjustments for
3 small group coverage, provisions pertaining to state and
4 county mutual insurance associations, termination dates and
5 licensed health care providers for emergency medical
6 malpractice insurance, suspension of an insurer's certificate
7 of authority for delinquency, exceptions to the right of a
8 notice of intent not to renew, coverage requirements in a
9 medical expense policy, tort immunity related to viatical
10 settlement contracts, confidentiality of certain personal
11 information in securities and insurance filings, postponement
12 or suspension of registration under the blue sky law,
13 reporting related to professional liability insurance, annual
14 percentage rate used in calculations of the minimum
15 nonforfeiture amount relating to individual deferred
16 annuities, and providing for a future repeal.

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

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SF 2279

1 Section 1. Section 272C.4, unnumbered paragraph 2, Code
2 Supplement 2001, is amended by striking the unnumbered
3 paragraph.

4 Sec. 2. Section 502.102, subsection 19, Code Supplement
5 2001, is amended to read as follows:

6 19. "Security" means any note; stock; treasury stock;
7 bond; debenture; evidence of indebtedness; certificate of
8 interest or participation in a profit sharing agreement;
9 collateral trust certificate; preorganization certificate or
10 subscription; transferable share; investment contract;
11 viatical settlement investment contract, or any fractional or
12 pooled interest in such contract; voting trust certificate;
13 certificate of deposit for a security; fractional undivided
14 interest in an oil, gas, or other mineral lease or in payments
15 out of production under such a lease, right, or royalty; an
16 interest in a limited liability company or in a limited
17 liability partnership or any class or series of such interest,
18 including any fractional or other interest in such interest;
19 or, in general, any interest or instrument commonly known as a
20 "security", or any certificate of interest or participation
21 in, temporary or interim certificate for, receipt for,
22 guarantee of, or warrant or right to subscribe to or purchase,
23 any of the foregoing. "Security" does not include an
24 insurance or endowment policy or annuity contract under which
25 an insurance company promises to pay money either in a lump
26 sum or periodically for life or for some other specified
27 period. "Security" also does not include an interest in a
28 limited liability company or a limited liability partnership
29 if the person claiming that such an interest is not a security
30 proves that all of the members of the limited liability
31 company or limited liability partnership are actively engaged
32 in the management of the limited liability company or limited
33 liability partnership; provided that the evidence that members
34 vote or have the right to vote, or the right to information
35 concerning the business and affairs of the limited liability

1 company or limited liability partnership, or the right to
2 participate in management, shall not establish, without more,
3 that all members are actively engaged in the management of the
4 limited liability company or limited liability partnership.
5 "Security" is any of the foregoing as provided in this
6 subsection whether or not it is evidenced by a written
7 instrument.

8 Sec. 3. Section 502.102, subsection 21, Code Supplement
9 2001, is amended by striking the subsection and inserting in
10 lieu thereof the following:

11 21. "Viatical settlement investment contract" means a
12 contract entered into by a viatical settlement purchaser, to
13 which the viator is not a party, to purchase a life insurance
14 policy or an interest in the death benefits of a life
15 insurance policy, which contract is entered into for the
16 purpose of deriving economic benefit.

17 Sec. 4. Section 502.304, subsection 3, Code Supplement
18 2001, is amended to read as follows:

19 3. The administrator may by order summarily postpone or
20 suspend registration pending final determination of any
21 proceeding under this section. Upon the entry of the order,
22 the administrator shall promptly notify the applicant or
23 registrant, as well as the employer or prospective employer if
24 the applicant or registrant is an agent or investment adviser
25 representative, that it has been entered and of the reasons
26 therefor for the postponement or suspension and that within
27 fifteen days after the receipt of a written request the matter
28 will be set down for hearing. If no hearing is requested and
29 none is ordered by the administrator, the order will remain in
30 effect until it is modified or vacated by the administrator.
31 If a hearing is requested or ordered, the administrator, after
32 notice of and opportunity for hearing, may modify or vacate
33 the order or extend it until final determination. Section
34 17A.18A is inapplicable to a summary order issued under this
35 subsection.

1 Sec. 5. Section 502.608, subsection 2, Code 2001, is
2 amended to read as follows:

3 2. The administrator shall keep a register of all
4 applications for registration, notice filings, and
5 registration statements ~~which~~ that are or have been effective
6 under this chapter and predecessor laws, and all censure,
7 denial, suspension, or revocation orders ~~which~~ that have been
8 entered under this chapter and predecessor laws. All records
9 may be maintained in an electronic or microfilm format or any
10 other form of data storage. The register shall be open for
11 public inspection. However, notwithstanding chapter 22, the
12 administrator may keep confidential any social security
13 number, residence address, and residence telephone number that
14 is contained in these records if disclosure is not required in
15 the performance of any duty or is not otherwise required under
16 law.

17 Sec. 6. Section 505.8, Code Supplement 2001, is amended by
18 adding the following new subsection:

19 NEW SUBSECTION. 7. Notwithstanding chapter 22, the
20 commissioner may keep confidential any social security number,
21 residence address, and residence telephone number that is
22 contained in a record filed as part of a licensing,
23 registration, or filing process if disclosure is not required
24 in the performance of any duty or is not otherwise required
25 under law.

26 Sec. 7. NEW SECTION. 507C.60 SUSPENSION OF CERTIFICATE
27 OF AUTHORITY.

28 Without advance notice or a hearing, the commissioner may
29 suspend immediately the certificate of authority of any
30 insurer as to which proceedings for receivership,
31 conservatorship, rehabilitation, or other delinquency
32 proceedings have been commenced in any state by the public
33 insurance supervisory official of that state.

34 Sec. 8. Section 508.31A, subsection 2, paragraph a,
35 subparagraph (2), subparagraph subdivision (e), Code 2001, is

1 amended by striking the subparagraph subdivision and inserting
2 in lieu thereof the following:

3 (e) A person other than a natural person that has assets
4 of at least twenty-five million dollars.

5 Sec. 9. Section 508.38, subsection 3, paragraph a,
6 unnumbered paragraph 1, Code 2001, is amended to read as
7 follows:

8 With respect to contracts providing for flexible
9 considerations, the minimum nonforfeiture amount at any time
10 at or prior to the commencement of any annuity payments shall
11 be equal to an accumulation up to such time at a rate of
12 interest of three one and one-half percent per annum of
13 percentages of the net considerations (as hereinafter defined)
14 paid prior to such time, decreased by the sum of (1) any prior
15 withdrawals from or partial surrenders of the contract
16 accumulated at a rate of interest of three percent per annum
17 and (2) the amount of any indebtedness to the company on the
18 contract, including interest due and accrued; and increased by
19 any existing additional amounts credited by the company to the
20 contract.

21 Sec. 10. NEW SECTION. 508.40 LIMITATION ON TERMINATION
22 OF INDEPENDENT PRODUCERS.

23 An insurance company authorized to do business in this
24 state shall not terminate a contract of an insurance producer
25 who is an independent contractor without at least one hundred
26 eighty days' notice, except for loss of license, fraud,
27 nonpayment of company premiums that are due and not in dispute
28 by the producer, or the withdrawal of operations in the state
29 by the insurance company.

30 Sec. 11. NEW SECTION. 508E.3A IMMUNITY FROM LIABILITY.

31 1. A person acting without malice, fraudulent intent, or
32 bad faith is not liable civilly as a result of filing a
33 report, or otherwise furnishing, orally or in writing, other
34 information concerning alleged acts in violation of this
35 chapter, or the administrative rules that implement this

1 chapter, if the report or information is provided to or
2 received from any of the following:

3 a. Law enforcement officials, and their agents or
4 employees.

5 b. The national association of insurance commissioners,
6 the insurance division, a federal or state governmental agency
7 or bureau established to detect and prevent fraudulent
8 insurance or viatical settlement acts, or any other
9 organization established for such purpose, and their agents,
10 employees, or designees.

11 c. An authorized representative of the life insurer that
12 issued the insurance policy covering the life of the insured.

13 2. This section does not affect in any way any common law
14 or statutory privilege or immunity applicable to such person
15 or entity.

16 3. A person or entity against whom an action is brought
17 for libel, slander, or any other relevant tort, where the
18 action involves acts subject to immunity under this section
19 and is not substantially justified, is entitled to an award of
20 court costs and reasonable attorney fees. For purposes of
21 this section, "substantially justified" means the action had a
22 reasonable basis in law or fact at the time that it was filed.

23 Sec. 12. Section 509.19, Code 2001, is amended to read as
24 follows:

25 509.19 ~~DISCLOSURE OF CLAIMS AND RELATED COSTS~~ CLAIMS AND
26 PREMIUM DISCLOSURE TO POLICYHOLDERS.

27 1. a. A person issuing a policy or contract providing
28 group health benefit coverages to a group of ~~one-hundred~~
29 fifty-one or more ~~persons~~ eligible employees as defined in
30 chapter 513B shall provide to the policyholder, contract
31 holder, or sponsor of the group health benefit plan, upon
32 request, ~~once-in-a-twelve-month-period, all-of-the-following~~
33 ~~information:~~

34 ~~a.--Number-of-claims-submitted-to-date.~~

35 ~~b.--Costs-of-claims-submitted-to-date.~~

1 ~~c. Average cost per claim, and average annual cost per~~
2 ~~covered individual annually, but not more than three months~~
3 ~~prior to the policy renewal date, the total amount of actual~~
4 ~~claims identified as paid or incurred and paid, and the total~~
5 ~~amount of premiums by line of coverage.~~

6 b. For purposes of this section, "line of coverage"
7 includes medical, prescription drug card program, dental,
8 vision, long-term disability, and short-term disability.

9 c. The information required by paragraph "a" shall be
10 provided separately for the current policy year-to-date and
11 for the prior policy year.

12 d. The information shall be presented in the aggregate,
13 and required by paragraph "a" shall not disclose any
14 confidential information or otherwise disclose the identity of
15 an individual insured, subscriber, or enrollee, who has
16 submitted a claim within the time frame of the report.

17 2. For purposes of this section, "person issuing a policy
18 or contract providing group health benefit coverages" includes
19 all of the following:

20 a. A person issuing a group policy of accident or health
21 insurance pursuant to this chapter.

22 b. A person issuing a group contract of a nonprofit health
23 service corporation pursuant to chapter 514.

24 c. A person issuing a group contract of a health
25 maintenance organization pursuant to chapter 514B.

26 d. An organized delivery system authorized under 1993 Iowa
27 Acts, chapter 158, licensed by the director of public health.

28 e. A multiple employer welfare arrangement, as defined in
29 section 3 of the federal Employee Retirement Income Security
30 Act of 1974, 29 U.S.C. § 1002, paragraph 40, that meets the
31 requirements of section 507A.4, subsection 9, paragraph "a".

32 f. A plan for public employees established pursuant to
33 chapter 509A.

34 g. A person issuing or sponsoring an association group
35 policy under section 509.14.

1 Sec. 13. Section 513B.4, subsection 1, Code Supplement
2 2001, is amended by adding the following new paragraph:

3 NEW PARAGRAPH. d. Any adjustment in rates for claims
4 experience, health status, and duration of coverage shall not
5 be charged to individual employees or dependents. Any such
6 adjustment shall be applied uniformly to the rates charged for
7 all employees and dependents of the small employer.

8 Sec. 14. Section 514A.3, subsection 2, paragraph k, Code
9 Supplement 2001, is amended by striking the paragraph and
10 inserting in lieu thereof the following:

11 k. A provision as follows:

12 **INTOXICANTS AND NARCOTICS:** The insurer shall not be liable
13 for any loss sustained or contracted in consequence of the
14 insured's being intoxicated or under the influence of any
15 narcotic unless administered on the advice of a physician.
16 This provision shall not be used with respect to a medical
17 expense policy. For purposes of this provision, "medical
18 expense policy" means an accident and sickness insurance
19 policy that provides hospital, medical, and surgical expense
20 coverage.

21 Sec. 15. Section 515.80, Code 2001, is amended to read as
22 follows:

23 515.80 FORFEITURE OF POLICIES -- NOTICE.

24 1. A policy or contract of insurance, unless otherwise
25 provided in section 515.81A or 515.81B, provided for in this
26 chapter shall not be forfeited, suspended, or canceled except
27 by notice to the insured as provided in this chapter. A
28 notice of cancellation is not effective unless mailed or
29 delivered by the insurer to the named insured at least **twenty**
30 **thirty** days before the effective date of cancellation, or,
31 where cancellation is for nonpayment of a premium, assessment,
32 or installment provided for in the policy, or in a note or
33 contract for the payment thereof, at least ten days prior to
34 the date of cancellation. The notice may be made in person,
35 or by sending by mail a letter addressed to the insured at the

1 insured's address as given in or upon the policy, anything in
2 the policy, application, or a separate agreement to the
3 contrary notwithstanding.

4 2. An insurer shall not fail to renew a policy except by
5 notice to the insured as provided in this chapter. A notice
6 of intention not to renew is not effective unless mailed or
7 delivered by the insurer to the named insured at least thirty
8 days prior to the expiration date of the policy. A notice of
9 intention not to renew is not required if the insured is
10 transferred from an insurer to an affiliate for future
11 coverage as a result of a merger, acquisition, or company
12 restructuring and if the transfer results in the same or
13 broader coverage.

14 If the reason does not accompany the notice of cancellation
15 or nonrenewal, the insurer shall, upon receipt of a timely
16 request by the named insured, state in writing the reason for
17 cancellation or nonrenewal.

18 Sec. 16. Section 515.81B, Code 2001, is amended to read as
19 follows:

20 515.81B NONRENEWAL OF COMMERCIAL LINES POLICIES OR
21 CONTRACTS.

22 1. An insurer shall not fail to renew a commercial line
23 policy or contract of insurance except by notice to the
24 insured as provided in this section. Nonrenewal of a
25 commercial line policy or contract includes a decision by the
26 insurer not to renew the policy or contract, an increase in
27 the premium of twenty-five percent or more, an increase in the
28 deductible of twenty-five percent or more, or a material
29 reduction in the limits or coverage of the policy or contract.
30 However, a premium charge which is assessed after the
31 beginning date of the policy period for which the premium is
32 due shall not be deemed a premium increase for the purpose of
33 this section.

34 2. A notice of nonrenewal is not effective unless mailed
35 or delivered by the insurer to the named insured and any loss

1 payee at least forty-five days prior to the expiration date of
2 the policy. If the insurer fails to meet the notice
3 requirements of this section, the insured has the option of
4 continuing the policy for the remainder of the notice period
5 plus an additional thirty days at the premium rate of the
6 existing policy or contract. A post office department
7 certificate of mailing to the named insured at the address
8 shown in the policy or contract is proof of receipt of the
9 mailing.

10 3. This section applies to all forms of commercial
11 property and casualty insurance written pursuant to this
12 chapter. It does not apply if the insurer has offered to
13 renew or if the insured fails to pay a premium due or any
14 advance premium required by the insurer for renewal. A notice
15 of nonrenewal is not required if the insured is transferred
16 from an insurer to an affiliate for future coverage as a
17 result of a merger, acquisition, or company restructuring and
18 if the transfer results in the same or broader coverage.

19 Sec. 17. NEW SECTION. 515.125A LIMITATION ON TERMINATION
20 OF INDEPENDENT PRODUCERS.

21 An insurance company authorized to do business in this
22 state shall not terminate a contract of an insurance producer
23 who is an independent contractor without at least one hundred
24 eighty days' notice, except for loss of license, fraud,
25 nonpayment of company premiums that are due and not in dispute
26 by the producer, or the withdrawal of operations in the state
27 by the insurance company.

28 Sec. 18. Section 515B.5, subsection 1, paragraph c,
29 unnumbered paragraph 2, Code Supplement 2001, is amended to
30 read as follows:

31 The association shall also have the right to pursue and
32 retain for its own account salvage and subrogation recoverable
33 on paid covered claim obligations. An obligation of the
34 association to defend an insured shall cease upon the
35 association's payment or tender to an excess insurer of an

1 amount equal to the lesser of the association's covered claim
2 obligation or the applicable policy limits.

3 Sec. 19. Section 515B.5, subsection 1, paragraph d, Code
4 Supplement 2001, is amended by striking the paragraph and
5 inserting in lieu thereof the following:

6 d. Investigate claims brought against the association and
7 adjust, compromise, settle, and pay covered claims to the
8 extent of the association's obligations on covered claims and
9 deny all other claims. The association may review
10 settlements, releases, and judgments to which the insolvent
11 insurer or its insureds were parties to determine the extent
12 to which settlements, releases, and judgments may properly be
13 contested, and, to that end, any uncontested or default
14 judgment against the insolvent insurer or its insured shall
15 not be binding on the association. The association shall have
16 the right to appoint or substitute legal counsel retained to
17 defend insureds on covered claims.

18 Sec. 20. Section 515D.4, Code 2001, is amended to read as
19 follows:

20 515D.4 NOTICE OF CANCELLATION -- REASONS.

21 1. A policy shall not be canceled except by notice to the
22 insured as provided in this chapter. Notice of cancellation
23 of a policy is not effective unless it is based on one or more
24 of the following reasons:

25 a. Nonpayment of premium.

26 b. Nonpayment of dues to an association or organization
27 other than an insurance association or organization, where
28 payment of dues is a prerequisite to obtaining or continuing
29 insurance in force and the dues payment requirement was in
30 effect prior to January 1, 1969.

31 c. Fraud or material misrepresentation affecting the
32 policy or the presentation of a claim.

33 d. Violation of terms or conditions of the policy.

34 e. Any reason permitted in subsection 2 for exclusion of a
35 person from the policy.

1 2. A person shall not be excluded from the policy unless
2 the exclusion is based on one or more of the following
3 reasons, or is requested by the named insured:

4 a. The named insured or any operator who either resides in
5 the same household or customarily operates an automobile
6 insured under the policy has that person's driver's license
7 suspended or revoked during the policy term or, if the policy
8 is a renewal, during its term or the one hundred eighty days
9 immediately preceding its effective date.

10 b. The named insured or any operator who either resides in
11 the same household or customarily operates an automobile
12 insured under the policy has during the term of the policy
13 engaged in a competitive speed contest while operating an
14 automobile insured under the policy.

15 c. The named insured or any operator who either resides in
16 the same household or customarily operates an automobile
17 insured under the policy, during the thirty-six months
18 immediately preceding the notice of cancellation or
19 nonrenewal, has been convicted of or forfeited bail for any of
20 the following:

21 (1) Criminal negligence resulting in death, homicide, or
22 assault and arising out of the operation of a motor vehicle.

23 (2) Operating a motor vehicle while intoxicated or while
24 under the influence of a drug.

25 (3) A violation of section 321.261.

26 3. This section shall not apply to any policy or coverage
27 which has been in effect less than sixty days at the time
28 notice of cancellation is mailed or delivered by the insurer
29 unless it is a renewal policy. This section shall not apply
30 to the nonrenewal of a policy.

31 4. During the policy period, a modification of automobile
32 physical damage coverage, other than coverage for loss caused
33 by collision, where provision is made for the application of a
34 deductible amount not exceeding one hundred dollars, shall not
35 be deemed a cancellation of the coverage or of the policy.

1 Sec. 21. Section 515D.7, Code 2001, is amended to read as
2 follows:

3 515D.7 NOTICE OF INTENT.

4 1. Notwithstanding the provisions of sections 515.80
5 through 515.81B, an insurer shall not fail to renew a policy
6 except by notice to the insured as provided in this chapter.
7 A notice of intention not to renew shall not be effective
8 unless mailed or delivered by the insurer to the named insured
9 at least thirty days prior to the expiration date of the
10 policy. A post office department certificate of mailing to
11 the named insured at the address shown in the policy shall be
12 proof of receipt of such mailing. Unless the reason
13 accompanies the notice of intent not to renew, the notice
14 shall state that, upon written request of the named insured,
15 mailed or delivered to the insurer not less than twenty thirty
16 days prior to the expiration date of the policy, the insurer
17 will state the reason for nonrenewal.

18 2. When the reason does not accompany the notice of intent
19 not to renew, the insurer shall, upon receipt of a timely
20 request by the named insured, state in writing the reason for
21 nonrenewal, together with notification of the right to a
22 hearing before the commissioner within fifteen days as
23 provided herein. A statement of reason shall be mailed or
24 delivered to the named insured within ten days after receipt
25 of a request.

26 3. This section shall not apply:

27 ~~1-~~ a. If the insurer has manifested its willingness to
28 renew.

29 ~~2-~~ b. If the insured fails to pay any premium due or any
30 advance premium required by the insurer for renewal.

31 c. If the insured is transferred from an insurer to an
32 affiliate for future coverage as a result of a merger,
33 acquisition, or company restructuring and if the transfer
34 results in the same or broader coverage.

35 Sec. 22. Section 515F.3, subsection 6, Code 2001, is

1 amended to read as follows:

2 6. Insurance written by a county or state mutual insurance
3 association as provided in chapter 518 or 518A.

4 Sec. 23. NEW SECTION. 518.16A LIMITATION ON TERMINATION
5 OF INDEPENDENT PRODUCERS.

6 A county mutual insurance association authorized to do
7 business in this state shall not terminate a contract of an
8 insurance producer who is an independent contractor without at
9 least one hundred eighty days' notice, except for loss of
10 license, fraud, nonpayment of association premiums that are
11 due and not in dispute by the producer, or the withdrawal of
12 operations in the state by the association.

13 Sec. 24. Section 518.17, unnumbered paragraph 2, Code
14 2001, is amended to read as follows:

15 Reinsurance sufficient to protect the financial stability
16 of the state mutual association is also required. **Reinsurance**
17 In general, reinsurance coverage obtained by a county mutual
18 insurance association shall not expose the association to
19 losses from coverages written pursuant to this chapter of more
20 than fifteen percent from surplus in any calendar year. The
21 commissioner of insurance may require additional reinsurance
22 if necessary to protect the policyholders of the association.

23 Sec. 25. Section 518.25, Code 2001, is amended to read as
24 follows:

25 518.25 SURPLUS.

26 An association organized under this chapter shall at all
27 times maintain a surplus of not less than fifty thousand
28 dollars or one-tenth of one percent of the gross **property** risk
29 in force, whichever is greater.

30 Sec. 26. Section 518A.2, Code 2001, is amended to read as
31 follows:

32 518A.2 STATE MUTUAL ASSOCIATIONS.

33 Any association incorporated under the laws of this state
34 for the purpose of furnishing insurance as provided for in
35 this chapter may is authorized to do business ~~throughout-the~~

1 state in the county in which its principal place of business
2 is located, the counties contiguous thereto, and the next tier
3 of contiguous counties and in other states where they are
4 legalized and authorized to do business. Each association
5 seeking to modify its authorized writing territory shall file
6 with the commissioner a plan for controlled expansion
7 demonstrating that provisions have been made adequately to
8 service and protect policyholders. The expansion plan shall
9 not be modified without the prior written approval of the
10 commissioner, which approval shall not be unreasonably
11 withheld. The words "mutual" and "association" shall be
12 incorporated in and become a part of their name.

13 Sec. 27. Section 518A.37, Code 2001, is amended to read as
14 follows:

15 518A.37 SURPLUS.

16 An association organized under this chapter shall at all
17 times maintain a surplus of not less than one hundred thousand
18 dollars, or one-tenth of one percent of the gross property
19 risk in force, whichever is greater.

20 Sec. 28. NEW SECTION. 518A.42 LIMITATION ON TERMINATION
21 OF INDEPENDENT PRODUCERS.

22 A state mutual insurance association authorized to do
23 business in this state shall not terminate a contract of an
24 insurance producer who is an independent contractor without at
25 least one hundred eighty days' notice, except for loss of
26 license, fraud, nonpayment of association premiums that are
27 due and not in dispute by the producer, or the withdrawal of
28 operations in the state by the association.

29 Sec. 29. Section 518A.44, unnumbered paragraph 2, Code
30 2001, is amended to read as follows:

31 Reinsurance sufficient to protect the financial stability
32 of the state mutual insurance association is required.

33 Reinsurance In general, reinsurance coverage obtained by an
34 association shall not expose the association to losses from
35 coverages written pursuant to this chapter of more than

1 fifteen percent from surplus in any calendar year. The
2 commissioner of insurance may require additional reinsurance
3 if necessary to protect the policyholders of the association.

4 Sec. 30. Section 519A.2, subsection 3, Code 2001, is
5 amended to read as follows:

6 3. "Licensed health care provider" means and includes a
7 physician and surgeon, osteopath, osteopathic physician and
8 surgeon, dentist, podiatric physician, optometrist,
9 pharmacist, chiropractor or nurse licensed pursuant to chapter
10 147, ~~and a~~ hospital licensed pursuant to chapter 135B, and a
11 nursing facility licensed pursuant to chapter 135C.

12 Sec. 31. Section 519A.5, subsection 2, Code 2001, is
13 amended to read as follows:

14 2. All policies issued by the association shall provide
15 for a continuous period of coverage beginning with their
16 respective effective dates ~~and terminating automatically at~~
17 ~~12:01 a.m. on July 17, 1977, unless sooner terminated.~~ All
18 policies shall terminate at 12:01 a.m. two years from the date
19 of finding of an emergency by the commissioner, or earlier in
20 accordance with sections 519A.2 to through 519A.137; or unless
21 terminated because of failure of the policyholder to pay any
22 premium or stabilization reserve fund charge or portion of
23 either when due. All policies shall be issued subject to the
24 group retrospective rating plan and the stabilization reserve
25 fund authorized by this chapter. No policy form shall be used
26 by the association unless it has been filed with and approved
27 by the commissioner.

28 Sec. 32. FUTURE REPEAL. The section of this Act amending
29 section 508.38, subsection 3, paragraph "a", is repealed July
30 1, 2003. Upon the effective date of the repeal, the Code
31 editor shall revise the applicable Code language to that
32 language that existed in the Code of Iowa 2001. Any
33 intervening amendments to the language in section 508.38,
34 subsection 3, paragraph "a", shall be stricken with the
35 repeal, unless a subsequent Act specifically provides

1 otherwise.

2

EXPLANATION

3 This bill makes changes to various provisions related to
4 insurance throughout the Code.

5 The bill strikes part of Code section 272C.4 that requires
6 reports to be filed with the insurance commissioner by
7 insurance carriers that insure professional and occupational
8 licensees relating to negligent acts and omissions in the
9 practice of a profession or an occupation.

10 The bill amends subsections of Code section 502.102 to
11 substitute a definition for "viatical settlement investment
12 contract," rather than "viatical settlement contract", and
13 makes appropriate changes elsewhere in the change in
14 terminology.

15 The bill amends Code section 502.304, subsection 3, to
16 provide that Code section 17A.18A, regarding emergency
17 adjudicative hearings, shall not apply to summary orders
18 issued under that subsection. The bill also makes grammatical
19 changes to the subsection.

20 The bill amends Code sections 502.608 and 505.8 to allow
21 the commissioner of insurance to keep social security numbers,
22 residence addresses, and residence telephone numbers contained
23 in certain securities and insurance filings confidential if
24 the disclosure is not required in the performance of any duty
25 or is not otherwise required under law.

26 The bill adds a new Code section to Code chapter 507C to
27 provide that the commissioner, without advance notice or
28 hearing, may immediately suspend the certificate of authority
29 of an insurer if the insurance supervisory official of another
30 state has commenced any delinquency proceedings against the
31 insurer.

32 The bill amends language in Code section 508.31A, to
33 provide that a funding agreement may be issued to a person
34 other than a natural person that has assets of at least \$25
35 million. Current Code language provides that the agreement

1 may be issued to a program of an institution that has assets
2 in excess of \$25 million.

3 The bill amends Code section 508.38, relating to individual
4 deferred annuities. The minimum nonforfeiture amount is
5 calculated in part based on prior withdrawals or from partial
6 surrenders of the contract, calculated currently at 3 percent
7 yearly, and the bill changes this figure to 1.5 percent
8 yearly. This provision is repealed effective July 1, 2003.

9 The bill adds new Code sections 508.40, 515.125A, 518.16A,
10 and 518A.42 that provide that insurance producers who are
11 independent contractors have the right to 180 days' notice of
12 termination of contract except in cases of loss of license,
13 fraud, nonpayment of company premiums, or the withdrawal of
14 operations in the state by the insurance company. The
15 amendments are made to Code chapters regarding life insurance,
16 insurance other than life, and state and county mutual
17 associations.

18 The bill adds a new section to Code chapter 508E, relating
19 to viatical settlement contracts. The new Code section
20 provides immunity from liability for any person acting without
21 malice or bad faith who files a report or otherwise furnishes
22 information to certain persons concerning alleged acts in
23 violation of the chapter or the related administrative rules.
24 A person entitled to immunity under the new Code section is
25 also entitled to an award of court costs and reasonable
26 attorney fees if a tort action is brought against the person
27 that is not substantially justified.

28 The bill amends Code section 509.19 regarding group health
29 benefit coverages to require annual information to a
30 policyholder with group coverage for 51 or more eligible
31 employees, regarding the total amount of claims paid and the
32 total amount of premiums by line of coverage, for current and
33 prior policy years. The bill adds organized delivery systems,
34 multiple employer welfare arrangements, state employee health
35 plans, and association group policies to the list of persons

1 covered by Code section 509.19.

2 The bill amends Code section 513B.4 regarding rate
3 adjustments for small group coverage for claims experience,
4 health status, and duration of coverage to require that such
5 adjustments be applied uniformly to all covered employees and
6 dependents.

7 The bill amends Code section 514A.3 to provide for coverage
8 in a medical expense policy if there is a loss sustained or
9 contracted due to the insured's being intoxicated or under the
10 influence of narcotics. This provision replaces one that
11 excludes coverage if the insured is intoxicated or under the
12 influence of any narcotic unless administered on advice of a
13 physician.

14 The bill amends Code sections 515.80 and 515.81B regarding
15 notices of intent not to renew or nonrenewal sent by insurers
16 for insurance other than life. In both sections, language is
17 added that such a notice is not required if the insured is
18 transferred from an insurer to an affiliate for future
19 coverage as a result of a merger, acquisition, or company
20 restructuring and if the transfer results in the same or
21 greater coverage. Similar language is also added to Code
22 section 515D.7, regarding notice of intent not to renew on
23 automobile policies. The bill also changes certain notice
24 periods in Code sections 515.80 and 515D.7 from 20 to 30 days.

25 The bill amends Code section 515B.5 to provide that the
26 insurance guaranty association's obligation to defend may
27 cease upon the association's tender to an excess insurer. The
28 association may review all settlements, releases, and
29 judgments of the insolvent insurer to determine which may be
30 contested.

31 The bill amends Code section 515D.4, relating to notice of
32 cancellation of automobile insurance, to provide that a person
33 may be excluded from the policy if requested by the named
34 insured, and that a policy may be cancelled for any reason
35 permitted under Code section 515D.4 for which a person may be

1 excluded from the policy.

2 The bill amends Code section 515F.3 to add state mutual
3 insurance associations as excluded from the scope of the
4 chapter.

5 The bill amends the standard for exposure of surplus in
6 Code sections 518.17 and 518A.44, relating to county and state
7 mutual associations, to a general benchmark of 15 percent.

8 The bill amends Code sections 518.25 and 518A.37, removing
9 the redundant word "property".

10 The bill amends the authorized area of business for a state
11 mutual association under Code section 518A.2 to the county of
12 its principal place of business, the contiguous counties, and
13 the next tier of contiguous counties. If the association
14 seeks to modify its authorized territory, it must file and
15 have a plan approved by the commissioner for controlled
16 expansion that protects policyholders.

17 The bill amends the definition of licensed health care
18 provider in Code section 519A.2 to add nursing facilities
19 licensed pursuant to Code chapter 135C.

20 The bill amends Code section 519A.5, relating to medical
21 malpractice insurance issued under the terms of Code chapter
22 519A, to provide that insurance issued under that chapter
23 shall expire two years from the date the commissioner deems an
24 emergency to exist, or earlier, in accordance with the terms
25 of the statute. Current Code language provides for the
26 coverage to expire in 1977.

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SENATE FILE 2279

S-5119

1 Amend Senate File 2279 as follows:
2 1. Page 4, line 16, by striking the word "three"
3 and inserting the following: "three one and one-
4 half".
5 2. Page 4, by striking lines 21 through 29.
6 3. Page 7, by inserting after line 7, the
7 following:
8 "Sec. ____ . Section 513C.3, subsection 14, Code
9 2001, is amended by adding the following new
10 paragraph:
11 NEW PARAGRAPH. d. Loss of eligibility for the
12 hawk-i program authorized in chapter 514I."
13 4. Page 7, by inserting after line 20, the
14 following:
15 "Sec. ____ . Section 514E.1, subsection 6, Code
16 Supplement 2001, is amended by adding the following
17 new paragraph:
18 NEW PARAGRAPH. 1. The hawk-i program authorized
19 by chapter 514I."
20 5. Page 9, line 23, by adding after the word
21 "contractor" the following: "but who is not an
22 exclusive insurance producer as defined in section
23 522B.1".
24 6. Page 11, line 3, by striking the words
25 "requested by the named insured" and inserting the
26 following: "agreed upon by both the named insured and
27 the insurer".
28 7. Page 13, line 8, by adding after the word
29 "contractor" the following: "but who is not an
30 exclusive insurance producer as defined in section
31 522B.1".
32 8. Page 14, line 24, by adding after the word
33 "contractor" the following: "but who is not an
34 exclusive insurance producer as defined in section
35 522B.1".
36 9. Page 15, by inserting after line 27 the
37 following:
38 "Sec. ____ . Section 519A.9, subsection 2,
39 unnumbered paragraph 1, Code 2001, is amended to read
40 as follows:
41 ~~Within fifteen days after July 1, 1975 the~~ The
42 commissioner shall designate a time and place for a
43 meeting of the members of the association at which the
44 eight elected members serving on the ~~first~~ board shall
45 be elected. The commissioner shall appoint the
46 appointive members of the board on or before the date
47 of ~~such~~ the meeting.
48 Sec. ____ . Section 522B.1, Code Supplement 2001, is
49 amended by adding the following new subsection:
50 NEW SUBSECTION. 2A. "Exclusive insurance

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-1-

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Page 2

1 producer" means a licensed insurance producer whose
2 contract with an insurer requires the insurance
3 producer to act as an agent only for that insurer or a
4 group of insurers under common ownership or control or
5 other insurers authorized by that insurer."

6 10. Page 15, line 30, by striking the figure
7 "2003" and inserting the following: "2004".

8 11. By renumbering, redesignating, and correcting
9 internal references as necessary.

By MICHAEL E. GRONSTAL
JOHN W. JENSEN

S-5119 FILED MARCH 6, 2002
ADOPTED

p. 518

H- 3/7/02 Commerce & Reg
H- 3/15/02 Do Pass

SENATE FILE 2279
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 3120)

(AS AMENDED AND PASSED BY THE SENATE MARCH 6, 2002)

- _____ - New Language by the Senate
- * - Language Stricken by the Senate

Passed Senate, Date ^(p. 888) 4/2/02 Passed House, Date ^(p. 1078) 3-28-02
 Vote: Ayes 48 Nays 0 Vote: Ayes 94 Nays 0
 Approved April 12, 2002

A BILL FOR

1 An Act relating to the regulated commercial activities of
 2 insurance and security sales, including rate adjustments for
 3 small group coverage, provisions pertaining to state and
 4 county mutual insurance associations, termination dates and
 5 licensed health care providers for emergency medical
 6 malpractice insurance, suspension of an insurer's certificate
 7 of authority for delinquency, exceptions to the right of a
 8 notice of intent not to renew, coverage requirements in a
 9 medical expense policy, tort immunity related to viatical
 10 settlement contracts, confidentiality of certain personal
 11 information in securities and insurance filings, postponement
 12 or suspension of registration under the blue sky law,
 13 reporting related to professional liability insurance, annual
 14 percentage rate used in calculations of the minimum
 15 nonforfeiture amount relating to individual deferred
 16 annuities, and providing for a future repeal.

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

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S.F. 2279

1 Section 1. Section 272C.4, unnumbered paragraph 2, Code
2 Supplement 2001, is amended by striking the unnumbered
3 paragraph.

4 Sec. 2. Section 502.102, subsection 19, Code Supplement
5 2001, is amended to read as follows:

6 19. "Security" means any note; stock; treasury stock;
7 bond; debenture; evidence of indebtedness; certificate of
8 interest or participation in a profit sharing agreement;
9 collateral trust certificate; preorganization certificate or
10 subscription; transferable share; investment contract;
11 viatical settlement investment contract, or any fractional or
12 pooled interest in such contract; voting trust certificate;
13 certificate of deposit for a security; fractional undivided
14 interest in an oil, gas, or other mineral lease or in payments
15 out of production under such a lease, right, or royalty; an
16 interest in a limited liability company or in a limited
17 liability partnership or any class or series of such interest,
18 including any fractional or other interest in such interest;
19 or, in general, any interest or instrument commonly known as a
20 "security", or any certificate of interest or participation
21 in, temporary or interim certificate for, receipt for,
22 guarantee of, or warrant or right to subscribe to or purchase,
23 any of the foregoing. "Security" does not include an
24 insurance or endowment policy or annuity contract under which
25 an insurance company promises to pay money either in a lump
26 sum or periodically for life or for some other specified
27 period. "Security" also does not include an interest in a
28 limited liability company or a limited liability partnership
29 if the person claiming that such an interest is not a security
30 proves that all of the members of the limited liability
31 company or limited liability partnership are actively engaged
32 in the management of the limited liability company or limited
33 liability partnership; provided that the evidence that members
34 vote or have the right to vote, or the right to information
35 concerning the business and affairs of the limited liability

1 company or limited liability partnership, or the right to
2 participate in management, shall not establish, without more,
3 that all members are actively engaged in the management of the
4 limited liability company or limited liability partnership.
5 "Security" is any of the foregoing as provided in this
6 subsection whether or not it is evidenced by a written
7 instrument.

8 Sec. 3. Section 502.102, subsection 21, Code Supplement
9 2001, is amended by striking the subsection and inserting in
10 lieu thereof the following:

11 21. "Viatical settlement investment contract" means a
12 contract entered into by a viatical settlement purchaser, to
13 which the viator is not a party, to purchase a life insurance
14 policy or an interest in the death benefits of a life
15 insurance policy, which contract is entered into for the
16 purpose of deriving economic benefit.

17 Sec. 4. Section 502.304, subsection 3, Code Supplement
18 2001, is amended to read as follows:

19 3. The administrator may by order summarily postpone or
20 suspend registration pending final determination of any
21 proceeding under this section. Upon the entry of the order,
22 the administrator shall promptly notify the applicant or
23 registrant, as well as the employer or prospective employer if
24 the applicant or registrant is an agent or investment adviser
25 representative, that it has been entered and of the reasons
26 therefor for the postponement or suspension and that within
27 fifteen days after the receipt of a written request the matter
28 will be set down for hearing. If no hearing is requested and
29 none is ordered by the administrator, the order will remain in
30 effect until it is modified or vacated by the administrator.
31 If a hearing is requested or ordered, the administrator, after
32 notice of and opportunity for hearing, may modify or vacate
33 the order or extend it until final determination. Section
34 17A.18A is inapplicable to a summary order issued under this
35 subsection.

1 Sec. 5. Section 502.608, subsection 2, Code 2001, is
2 amended to read as follows:

3 2. The administrator shall keep a register of all
4 applications for registration, notice filings, and
5 registration statements which that are or have been effective
6 under this chapter and predecessor laws, and all censure,
7 denial, suspension, or revocation orders which that have been
8 entered under this chapter and predecessor laws. All records
9 may be maintained in an electronic or microfilm format or any
10 other form of data storage. The register shall be open for
11 public inspection. However, notwithstanding chapter 22, the
12 administrator may keep confidential any social security
13 number, residence address, and residence telephone number that
14 is contained in these records if disclosure is not required in
15 the performance of any duty or is not otherwise required under
16 law.

17 Sec. 6. Section 505.8, Code Supplement 2001, is amended by
18 adding the following new subsection:

19 NEW SUBSECTION. 7. Notwithstanding chapter 22, the
20 commissioner may keep confidential any social security number,
21 residence address, and residence telephone number that is
22 contained in a record filed as part of a licensing,
23 registration, or filing process if disclosure is not required
24 in the performance of any duty or is not otherwise required
25 under law.

26 Sec. 7. NEW SECTION. 507C.60 SUSPENSION OF CERTIFICATE
27 OF AUTHORITY.

28 Without advance notice or a hearing, the commissioner may
29 suspend immediately the certificate of authority of any
30 insurer as to which proceedings for receivership,
31 conservatorship, rehabilitation, or other delinquency
32 proceedings have been commenced in any state by the public
33 insurance supervisory official of that state.

34 Sec. 8. Section 508.31A, subsection 2, paragraph a,
35 subparagraph (2), subparagraph subdivision (e), Code 2001, is

1 amended by striking the subparagraph subdivision and inserting
2 in lieu thereof the following:

3 (e) A person other than a natural person that has assets
4 of at least twenty-five million dollars.

5 Sec. 9. Section 508.38, subsection 3, paragraph a,
6 unnumbered paragraph 1, Code 2001, is amended to read as
7 follows:

8 With respect to contracts providing for flexible
9 considerations, the minimum nonforfeiture amount at any time
10 at or prior to the commencement of any annuity payments shall
11 be equal to an accumulation up to such time at a rate of
12 interest of three one and one-half percent per annum of
13 percentages of the net considerations (as hereinafter defined)
14 paid prior to such time, decreased by the sum of (1) any prior
15 withdrawals from or partial surrenders of the contract
16 accumulated at a rate of interest of three one and one-half
17 percent per annum and (2) the amount of any indebtedness to
18 the company on the contract, including interest due and
19 accrued; and increased by any existing additional amounts
20 credited by the company to the contract.

* 21 Sec. 10. NEW SECTION. 508E.3A IMMUNITY FROM LIABILITY.

22 1. A person acting without malice, fraudulent intent, or
23 bad faith is not liable civilly as a result of filing a
24 report, or otherwise furnishing, orally or in writing, other
25 information concerning alleged acts in violation of this
26 chapter, or the administrative rules that implement this
27 chapter, if the report or information is provided to or
28 received from any of the following:

29 a. Law enforcement officials, and their agents or
30 employees.

31 b. The national association of insurance commissioners,
32 the insurance division, a federal or state governmental agency
33 or bureau established to detect and prevent fraudulent
34 insurance or viatical settlement acts, or any other
35 organization established for such purpose, and their agents,

1 employees, or designees.

2 c. An authorized representative of the life insurer that
3 issued the insurance policy covering the life of the insured.

4 2. This section does not affect in any way any common law
5 or statutory privilege or immunity applicable to such person
6 or entity.

7 3. A person or entity against whom an action is brought
8 for libel, slander, or any other relevant tort, where the
9 action involves acts subject to immunity under this section
10 and is not substantially justified, is entitled to an award of
11 court costs and reasonable attorney fees. For purposes of
12 this section, "substantially justified" means the action had a
13 reasonable basis in law or fact at the time that it was filed.

14 Sec. 11. Section 509.19, Code 2001, is amended to read as
15 follows:

16 509.19 ~~DISCLOSURE OF CLAIMS AND RELATED COSTS~~ CLAIMS AND
17 PREMIUM DISCLOSURE TO POLICYHOLDERS.

18 1. a. A person issuing a policy or contract providing
19 group health benefit coverages to a group of one-hundred
20 fifty-one or more persons eligible employees as defined in
21 chapter 513B shall provide to the policyholder, contract
22 holder, or sponsor of the group health benefit plan, upon
23 request, ~~once-in-a-twelve-month-period, all-of-the-following~~
24 ~~information:~~

25 ~~a.---Number-of-claims-submitted-to-date.~~

26 ~~b.---Costs-of-claims-submitted-to-date.~~

27 ~~c.---Average-cost-per-claim, and average annual cost per~~
28 ~~covered individual annually, but not more than three months~~
29 ~~prior to the policy renewal date, the total amount of actual~~
30 ~~claims identified as paid or incurred and paid, and the total~~
31 ~~amount of premiums by line of coverage.~~

32 b. For purposes of this section, "line of coverage"
33 includes medical, prescription drug card program, dental,
34 vision, long-term disability, and short-term disability.

35 c. The information required by paragraph "a" shall be

1 provided separately for the current policy year-to-date and
2 for the prior policy year.

3 d. The information ~~shall be presented in the aggregate,~~
4 and required by paragraph "a" shall not disclose any
5 confidential information or otherwise disclose the identity of
6 an individual insured, subscriber, or enrollee, who has
7 submitted a claim within the time frame of the report.

8 2. For purposes of this section, "person issuing a policy
9 or contract providing group health benefit coverages" includes
10 all of the following:

11 a. A person issuing a group policy of accident or health
12 insurance pursuant to this chapter.

13 b. A person issuing a group contract of a nonprofit health
14 service corporation pursuant to chapter 514.

15 c. A person issuing a group contract of a health
16 maintenance organization pursuant to chapter 514B.

17 d. An organized delivery system authorized under 1993 Iowa
18 Acts, chapter 158, licensed by the director of public health.

19 e. A multiple employer welfare arrangement, as defined in
20 section 3 of the federal Employee Retirement Income Security
21 Act of 1974, 29 U.S.C. § 1002, paragraph 40, that meets the
22 requirements of section 507A.4, subsection 9, paragraph "a".

23 f. A plan for public employees established pursuant to
24 chapter 509A.

25 g. A person issuing or sponsoring an association group
26 policy under section 509.14.

27 Sec. 12. Section 513B.4, subsection 1, Code Supplement
28 2001, is amended by adding the following new paragraph:

29 NEW PARAGRAPH. d. Any adjustment in rates for claims
30 experience, health status, and duration of coverage shall not
31 be charged to individual employees or dependents. Any such
32 adjustment shall be applied uniformly to the rates charged for
33 all employees and dependents of the small employer.

34 Sec. 13. Section 513C.3, subsection 14, Code 2001, is
35 amended by adding the following new paragraph:

1 NEW PARAGRAPH. d. Loss of eligibility for the hawk-i
2 program authorized in chapter 514I.

3 Sec. 14. Section 514A.3, subsection 2, paragraph k, Code
4 Supplement 2001, is amended by striking the paragraph and
5 inserting in lieu thereof the following:

6 k. A provision as follows:

7 INTOXICANTS AND NARCOTICS: The insurer shall not be liable
8 for any loss sustained or contracted in consequence of the
9 insured's being intoxicated or under the influence of any
10 narcotic unless administered on the advice of a physician.
11 This provision shall not be used with respect to a medical
12 expense policy. For purposes of this provision, "medical
13 expense policy" means an accident and sickness insurance
14 policy that provides hospital, medical, and surgical expense
15 coverage.

16 Sec. 15. Section 514E.1, subsection 6, Code Supplement
17 2001, is amended by adding the following new paragraph:

18 NEW PARAGRAPH. 1. The hawk-i program authorized by
19 chapter 514I.

20 Sec. 16. Section 515.80, Code 2001, is amended to read as
21 follows:

22 515.80 FORFEITURE OF POLICIES -- NOTICE.

23 1. A policy or contract of insurance, unless otherwise
24 provided in section 515.81A or 515.81B, provided for in this
25 chapter shall not be forfeited, suspended, or canceled except
26 by notice to the insured as provided in this chapter. A
27 notice of cancellation is not effective unless mailed or
28 delivered by the insurer to the named insured at least **twenty**
29 **thirty** days before the effective date of cancellation, or,
30 where cancellation is for nonpayment of a premium, assessment,
31 or installment provided for in the policy, or in a note or
32 contract for the payment thereof, at least ten days prior to
33 the date of cancellation. The notice may be made in person,
34 or by sending by mail a letter addressed to the insured at the
35 insured's address as given in or upon the policy, anything in

1 the policy, application, or a separate agreement to the
2 contrary notwithstanding.

3 2. An insurer shall not fail to renew a policy except by
4 notice to the insured as provided in this chapter. A notice
5 of intention not to renew is not effective unless mailed or
6 delivered by the insurer to the named insured at least thirty
7 days prior to the expiration date of the policy. A notice of
8 intention not to renew is not required if the insured is
9 transferred from an insurer to an affiliate for future
10 coverage as a result of a merger, acquisition, or company
11 restructuring and if the transfer results in the same or
12 broader coverage.

13 If the reason does not accompany the notice of cancellation
14 or nonrenewal, the insurer shall, upon receipt of a timely
15 request by the named insured, state in writing the reason for
16 cancellation or nonrenewal.

17 Sec. 17. Section 515.81B, Code 2001, is amended to read as
18 follows:

19 515.81B NONRENEWAL OF COMMERCIAL LINES POLICIES OR
20 CONTRACTS.

21 1. An insurer shall not fail to renew a commercial line
22 policy or contract of insurance except by notice to the
23 insured as provided in this section. Nonrenewal of a
24 commercial line policy or contract includes a decision by the
25 insurer not to renew the policy or contract, an increase in
26 the premium of twenty-five percent or more, an increase in the
27 deductible of twenty-five percent or more, or a material
28 reduction in the limits or coverage of the policy or contract.
29 However, a premium charge which is assessed after the
30 beginning date of the policy period for which the premium is
31 due shall not be deemed a premium increase for the purpose of
32 this section.

33 2. A notice of nonrenewal is not effective unless mailed
34 or delivered by the insurer to the named insured and any loss
35 payee at least forty-five days prior to the expiration date of

1 the policy. If the insurer fails to meet the notice
2 requirements of this section, the insured has the option of
3 continuing the policy for the remainder of the notice period
4 plus an additional thirty days at the premium rate of the
5 existing policy or contract. A post office department
6 certificate of mailing to the named insured at the address
7 shown in the policy or contract is proof of receipt of the
8 mailing.

9 3. This section applies to all forms of commercial
10 property and casualty insurance written pursuant to this
11 chapter. It does not apply if the insurer has offered to
12 renew or if the insured fails to pay a premium due or any
13 advance premium required by the insurer for renewal. A notice
14 of nonrenewal is not required if the insured is transferred
15 from an insurer to an affiliate for future coverage as a
16 result of a merger, acquisition, or company restructuring and
17 if the transfer results in the same or broader coverage.

18 Sec. 18. NEW SECTION. 515.125A LIMITATION ON TERMINATION
19 OF INDEPENDENT PRODUCERS.

20 An insurance company authorized to do business in this
21 state shall not terminate a contract of an insurance producer
22 who is an independent contractor but who is not an exclusive
23 insurance producer as defined in section 522B.1 without at
24 least one hundred eighty days' notice, except for loss of
25 license, fraud, nonpayment of company premiums that are due
26 and not in dispute by the producer, or the withdrawal of
27 operations in the state by the insurance company.

28 Sec. 19. Section 515B.5, subsection 1, paragraph c,
29 unnumbered paragraph 2, Code Supplement 2001, is amended to
30 read as follows:

31 The association shall also have the right to pursue and
32 retain for its own account salvage and subrogation recoverable
33 on paid covered claim obligations. An obligation of the
34 association to defend an insured shall cease upon the
35 association's payment or tender to an excess insurer of an

1 amount equal to the lesser of the association's covered claim
2 obligation or the applicable policy limits.

3 Sec. 20. Section 515B.5, subsection 1, paragraph d, Code
4 Supplement 2001, is amended by striking the paragraph and
5 inserting in lieu thereof the following:

6 d. Investigate claims brought against the association and
7 adjust, compromise, settle, and pay covered claims to the
8 extent of the association's obligations on covered claims and
9 deny all other claims. The association may review
10 settlements, releases, and judgments to which the insolvent
11 insurer or its insureds were parties to determine the extent
12 to which settlements, releases, and judgments may properly be
13 contested, and, to that end, any uncontested or default
14 judgment against the insolvent insurer or its insured shall
15 not be binding on the association. The association shall have
16 the right to appoint or substitute legal counsel retained to
17 defend insureds on covered claims.

18 Sec. 21. Section 515D.4, Code 2001, is amended to read as
19 follows:

20 515D.4 NOTICE OF CANCELLATION -- REASONS.

21 1. A policy shall not be canceled except by notice to the
22 insured as provided in this chapter. Notice of cancellation
23 of a policy is not effective unless it is based on one or more
24 of the following reasons:

25 a. Nonpayment of premium.

26 b. Nonpayment of dues to an association or organization
27 other than an insurance association or organization, where
28 payment of dues is a prerequisite to obtaining or continuing
29 insurance in force and the dues payment requirement was in
30 effect prior to January 1, 1969.

31 c. Fraud or material misrepresentation affecting the
32 policy or the presentation of a claim.

33 d. Violation of terms or conditions of the policy.

34 e. Any reason permitted in subsection 2 for exclusion of a
35 person from the policy.

1 2. A person shall not be excluded from the policy unless
2 the exclusion is based on one or more of the following
3 reasons, or is agreed upon by both the named insured and the
4 insurer:

5 a. The named insured or any operator who either resides in
6 the same household or customarily operates an automobile
7 insured under the policy has that person's driver's license
8 suspended or revoked during the policy term or, if the policy
9 is a renewal, during its term or the one hundred eighty days
10 immediately preceding its effective date.

11 b. The named insured or any operator who either resides in
12 the same household or customarily operates an automobile
13 insured under the policy has during the term of the policy
14 engaged in a competitive speed contest while operating an
15 automobile insured under the policy.

16 c. The named insured or any operator who either resides in
17 the same household or customarily operates an automobile
18 insured under the policy, during the thirty-six months
19 immediately preceding the notice of cancellation or
20 nonrenewal, has been convicted of or forfeited bail for any of
21 the following:

22 (1) Criminal negligence resulting in death, homicide, or
23 assault and arising out of the operation of a motor vehicle.

24 (2) Operating a motor vehicle while intoxicated or while
25 under the influence of a drug.

26 (3) A violation of section 321.261.

27 3. This section shall not apply to any policy or coverage
28 which has been in effect less than sixty days at the time
29 notice of cancellation is mailed or delivered by the insurer
30 unless it is a renewal policy. This section shall not apply
31 to the nonrenewal of a policy.

32 4. During the policy period, a modification of automobile
33 physical damage coverage, other than coverage for loss caused
34 by collision, where provision is made for the application of a
35 deductible amount not exceeding one hundred dollars, shall not

1 be deemed a cancellation of the coverage or of the policy.

2 Sec. 22. Section 515D.7, Code 2001, is amended to read as
3 follows:

4 515D.7 NOTICE OF INTENT.

5 1. Notwithstanding the provisions of sections 515.80
6 through 515.81B, an insurer shall not fail to renew a policy
7 except by notice to the insured as provided in this chapter.
8 A notice of intention not to renew shall not be effective
9 unless mailed or delivered by the insurer to the named insured
10 at least thirty days prior to the expiration date of the
11 policy. A post office department certificate of mailing to
12 the named insured at the address shown in the policy shall be
13 proof of receipt of such mailing. Unless the reason
14 accompanies the notice of intent not to renew, the notice
15 shall state that, upon written request of the named insured,
16 mailed or delivered to the insurer not less than twenty thirty
17 days prior to the expiration date of the policy, the insurer
18 will state the reason for nonrenewal.

19 2. When the reason does not accompany the notice of intent
20 not to renew, the insurer shall, upon receipt of a timely
21 request by the named insured, state in writing the reason for
22 nonrenewal, together with notification of the right to a
23 hearing before the commissioner within fifteen days as
24 provided herein. A statement of reason shall be mailed or
25 delivered to the named insured within ten days after receipt
26 of a request.

27 3. This section shall not apply:

28 ~~1-~~ a. If the insurer has manifested its willingness to
29 renew.

30 ~~2-~~ b. If the insured fails to pay any premium due or any
31 advance premium required by the insurer for renewal.

32 c. If the insured is transferred from an insurer to an
33 affiliate for future coverage as a result of a merger,
34 acquisition, or company restructuring and if the transfer
35 results in the same or broader coverage.

1 Sec. 23. Section 515F.3, subsection 6, Code 2001, is
2 amended to read as follows:

3 6. Insurance written by a county or state mutual insurance
4 association as provided in chapter 518 or 518A.

5 Sec. 24. NEW SECTION. 518.16A LIMITATION ON TERMINATION
6 OF INDEPENDENT PRODUCERS.

7 A county mutual insurance association authorized to do
8 business in this state shall not terminate a contract of an
9 insurance producer who is an independent contractor but who is
10 not an exclusive insurance producer as defined in section

11 522B.1 without at least one hundred eighty days' notice,
12 except for loss of license, fraud, nonpayment of association
13 premiums that are due and not in dispute by the producer, or
14 the withdrawal of operations in the state by the association.

15 Sec. 25. Section 518.17, unnumbered paragraph 2, Code
16 2001, is amended to read as follows:

17 Reinsurance sufficient to protect the financial stability
18 of the state mutual association is also required. Reinsurance
19 In general, reinsurance coverage obtained by a county mutual
20 insurance association shall not expose the association to
21 losses from coverages written pursuant to this chapter of more
22 than fifteen percent from surplus in any calendar year. The
23 commissioner of insurance may require additional reinsurance
24 if necessary to protect the policyholders of the association.

25 Sec. 26. Section 518.25, Code 2001, is amended to read as
26 follows:

27 518.25 SURPLUS.

28 An association organized under this chapter shall at all
29 times maintain a surplus of not less than fifty thousand
30 dollars or one-tenth of one percent of the gross property risk
31 in force, whichever is greater.

32 Sec. 27. Section 518A.2, Code 2001, is amended to read as
33 follows:

34 518A.2 STATE MUTUAL ASSOCIATIONS.

35 Any association incorporated under the laws of this state

1 for the purpose of furnishing insurance as provided for in
2 this chapter may is authorized to do business throughout-the
3 state in the county in which its principal place of business
4 is located, the counties contiguous thereto, and the next tier
5 of contiguous counties and in other states where they are
6 legalized and authorized to do business. Each association
7 seeking to modify its authorized writing territory shall file
8 with the commissioner a plan for controlled expansion
9 demonstrating that provisions have been made adequately to
10 service and protect policyholders. The expansion plan shall
11 not be modified without the prior written approval of the
12 commissioner, which approval shall not be unreasonably
13 withheld. The words "mutual" and "association" shall be
14 incorporated in and become a part of their name.

15 Sec. 28. Section 518A.37, Code 2001, is amended to read as
16 follows:

17 518A.37 SURPLUS.

18 An association organized under this chapter shall at all
19 times maintain a surplus of not less than one hundred thousand
20 dollars, or one-tenth of one percent of the gross property
21 risk in force, whichever is greater.

22 Sec. 29. NEW SECTION. 518A.42 LIMITATION ON TERMINATION
23 OF INDEPENDENT PRODUCERS.

24 A state mutual insurance association authorized to do
25 business in this state shall not terminate a contract of an
26 insurance producer who is an independent contractor but who is
27 not an exclusive insurance producer as defined in section
28 522B.1 without at least one hundred eighty days' notice,
29 except for loss of license, fraud, nonpayment of association
30 premiums that are due and not in dispute by the producer, or
31 the withdrawal of operations in the state by the association.

32 Sec. 30. Section 518A.44, unnumbered paragraph 2, Code
33 2001, is amended to read as follows:

34 Reinsurance sufficient to protect the financial stability
35 of the state mutual insurance association is required.

1 Reinsurance In general, reinsurance coverage obtained by an
2 association shall not expose the association to losses from
3 coverages written pursuant to this chapter of more than
4 fifteen percent from surplus in any calendar year. The
5 commissioner of insurance may require additional reinsurance
6 if necessary to protect the policyholders of the association.

7 Sec. 31. Section 519A.2, subsection 3, Code 2001, is
8 amended to read as follows:

9 3. "Licensed health care provider" means and includes a
10 physician and surgeon, osteopath, osteopathic physician and
11 surgeon, dentist, podiatric physician, optometrist,
12 pharmacist, chiropractor or nurse licensed pursuant to chapter
13 147, ~~and~~ a hospital licensed pursuant to chapter 135B, and a
14 nursing facility licensed pursuant to chapter 135C.

15 Sec. 32. Section 519A.5, subsection 2, Code 2001, is
16 amended to read as follows:

17 2. All policies issued by the association shall provide
18 for a continuous period of coverage beginning with their
19 respective effective dates ~~and terminating automatically at~~
20 ~~12:01 a.m. on July 17, 1977, unless sooner terminated.~~ All
21 policies shall terminate at 12:01 a.m. two years from the date
22 of finding of an emergency by the commissioner, or earlier in
23 accordance with sections 519A.2 to through 519A.137; or unless
24 terminated because of failure of the policyholder to pay any
25 premium or stabilization reserve fund charge or portion of
26 either when due. All policies shall be issued subject to the
27 group retrospective rating plan and the stabilization reserve
28 fund authorized by this chapter. No policy form shall be used
29 by the association unless it has been filed with and approved
30 by the commissioner.

31 Sec. 33. Section 519A.9, subsection 2, unnumbered
32 paragraph 1, Code 2001, is amended to read as follows:

33 Within fifteen days after July 17, 1975 the The commissioner
34 shall designate a time and place for a meeting of the members
35 of the association at which the eight elected members serving

1 on the first board shall be elected. The commissioner shall
2 appoint the appointive members of the board on or before the
3 date of such the meeting.

4 Sec. 34. Section 522B.1, Code Supplement 2001, is amended
5 by adding the following new subsection:

6 NEW SUBSECTION. 2A. "Exclusive insurance producer" means
7 a licensed insurance producer whose contract with an insurer
8 requires the insurance producer to act as an agent only for
9 that insurer or a group of insurers under common ownership or
10 control or other insurers authorized by that insurer.

11 Sec. 35. FUTURE REPEAL. The section of this Act amending
12 section 508.38, subsection 3, paragraph "a", is repealed July
13 1, 2004. Upon the effective date of the repeal, the Code
14 editor shall revise the applicable Code language to that
15 language that existed in the Code of Iowa 2001. Any
16 intervening amendments to the language in section 508.38,
17 subsection 3, paragraph "a", shall be stricken with the
18 repeal, unless a subsequent Act specifically provides
19 otherwise.

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SENATE FILE 2279

H-8403

1 Amend Senate File 2279, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, by striking lines 1 through 3, and
4 inserting the following:

5 "Section 1. Section 272C.4, unnumbered paragraph
6 2, Code Supplement 2001, is amended to read as
7 follows:

8 ~~The commissioner of insurance shall by rule in~~
9 ~~consultation with the licensing boards enumerated in~~
10 ~~section 272C.1, require insurance~~ Insurance carriers
11 which insure professional and occupational licensees
12 for acts or omissions ~~which~~ that constitute
13 negligence, careless acts or omissions in the practice
14 of a profession or occupation ~~to~~ shall file reports
15 with the ~~commissioner of insurance~~ appropriate
16 licensing board. The reports shall include information
17 pertaining to ~~incidents by~~ claims against a licensee
18 which may affect the licensee as defined by rule,
19 involving an insured of the insurer. ~~The commissioner~~
20 ~~of insurance shall forward reports pursuant to this~~
21 ~~section to the appropriate licensing board."~~

22 2. By striking page 3, line 34 through page 4,
23 line 3 and inserting the following:

24 "Sec. ____ . Section 508.31A, subsection 2,
25 paragraph a, Code 2001, is amended by adding the
26 following new subparagraph:

27 NEW SUBPARAGRAPH. (3) A person other than a
28 natural person that has assets".

29 3. Page 4, by inserting after line 4, the
30 following:

31 "Sec. ____ . Section 507E.7, subsection 3, Code
32 2001, is amended by striking the subsection."

33 4. Page 5, by striking lines 7 through 13.

34 5. Page 9, line 20, by inserting after the word
35 "company" the following: "organized under this
36 chapter or".

37 6. Page 9, line 27, by inserting after the word
38 "company." the following: "This section does not
39 apply to insurance producers or a business entity
40 whose contract with an insurer authorized to do
41 business in this state contains a written provision
42 expressly reserving to the insurer all right, title,
43 and interest to the ownership or the use of insurance
44 business written by such an insurance producer or
45 business entity."

46 7. By renumbering, redesignating, and correcting
47 internal references as necessary.

By HOFFMAN of Crawford

H-8403 FILED MARCH 20, 2002

Adopted
3/28/02
(P. 1078)

SENATE FILE 2279**H-8412**

1 Amend the amendment, H-8403, to Senate File 2279,
2 as amended, passed, and reprinted by the Senate, as
3 follows:

4 1. Page 1, by inserting after line 33 the
5 following:

6 "____. Page 6, by inserting after line 26 the
7 following:

8 "Sec. ____ . NEW SECTION. 509.20 NOTICE OF RATE
9 INCREASE.

10 1. For purposes of this section, "policy or
11 contract for group health benefit coverages, including
12 a contract to provide services to a plan providing
13 group health benefit coverages" applies to all of the
14 following:

15 a. A group policy of health insurance under this
16 chapter.

17 b. A plan established pursuant to chapter 509A for
18 public employees.

19 c. A plan offered pursuant to chapter 513B.

20 d. A group contract of a nonprofit health service
21 corporation under chapter 514.

22 e. A group plan of a health maintenance
23 organization under chapter 514B.

24 f. An organized delivery system authorized under
25 1993 Iowa Acts, chapter 158, and licensed by the
26 director of public health.

27 g. Preferred provider contracts limiting choice of
28 specific provider.

29 h. Any other policy, contract, or plan for
30 covering the health care costs of a defined group.

31 2. A person who issues a policy or contract for
32 group health benefit coverages, including a contract
33 to provide services to a plan providing group health
34 benefit coverages to a group, shall provide notice of
35 a rate increase for the policy or contract at least
36 ninety days prior to the effective date of the rate
37 increase to the policyholder, contract holder, or
38 sponsor of the group health benefit plan."

39 ____ . Page 7, by inserting after line 2 the
40 following:

41 "Sec. ____ . NEW SECTION. 513C.5A NOTICE OF RATE
42 INCREASE.

43 A carrier shall provide notice of a rate increase
44 for the plan at least ninety days prior to the
45 effective date of the rate increase to the individual
46 covered by the plan.

47 Sec. ____ . Section 514.6, Code 2001, is amended to
48 read as follows:

49 514.6 RATES -- APPROVAL BY COMMISSIONER -- NOTICE
50 OF INCREASE.

H-8412

Page 2

1 1. The rates charged by any such corporation to
2 the subscribers for health care service shall at all
3 times be subject to the approval of the commissioner
4 of insurance.

5 2. A corporation offering health care services to
6 subscribers pursuant to this chapter shall provide
7 notice of a rate increase to subscribers at least
8 ninety days prior to the effective date of the rate
9 increase."

10 _____. Page 7, by inserting after line 15 the
11 following:

12 "Sec. _____. NEW SECTION. 514A.16 NOTICE OF RATE
13 INCREASE.

14 An insurer shall provide notice of a rate increase
15 for a health insurance policy to the insured at least
16 ninety days prior to the effective date of the rate
17 increase."

18 _____. Page 7, by inserting after line 19 the
19 following:

20 "Sec. _____. NEW SECTION. 514E.12 NOTICE OF RATE
21 INCREASE.

22 A carrier or organized delivery system shall
23 provide notice of a rate increase for the association
24 policy to the insured at least ninety days prior to
25 the effective date of the rate increase.""

26 2. By renumbering, redesignating, and correcting
27 internal references as necessary.

By PETERSEN of Polk

H-8412 FILED MARCH 21, 2002

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3/28/02
(P. 1076)

SENATE FILE 2279**H-8416**

1 Amend the amendment, H-8403, to Senate File 2279,
2 as amended, passed, and reprinted by the Senate, as
3 follows:

4 1. Page 1, by inserting after line 33 the
5 following:

6 "____. Page 6, by inserting after line 26 the
7 following:

8 "Sec. ____ . NEW SECTION. 509.20 NOTICE OF RATE
9 INCREASE.

10 1. For purposes of this section, "policy or
11 contract for group health benefit coverages, including
12 a contract to provide services to a plan providing
13 group health benefit coverages" applies to all of the
14 following:

15 a. A group policy of health insurance under this
16 chapter.

17 b. A plan established pursuant to chapter 509A for
18 public employees.

19 c. A plan offered pursuant to chapter 513B.

20 d. A group contract of a nonprofit health service
21 corporation under chapter 514.

22 e. A group plan of a health maintenance
23 organization under chapter 514B.

24 f. An organized delivery system authorized under
25 1993 Iowa Acts, chapter 158, and licensed by the
26 director of public health.

27 g. Preferred provider contracts limiting choice of
28 specific provider.

29 h. Any other policy, contract, or plan for
30 covering the health care costs of a defined group.

31 2. A person who issues a policy or contract for
32 group health benefit coverages, including a contract
33 to provide services to a plan providing group health
34 benefit coverages to a group, shall provide notice of
35 a rate increase for the policy or contract at least
36 sixty days prior to the effective date of the rate
37 increase to the policyholder, contract holder, or
38 sponsor of the group health benefit plan."

39 ____ . Page 7, by inserting after line 2 the
40 following:

41 "Sec. ____ . NEW SECTION. 513C.5A NOTICE OF RATE
42 INCREASE.

43 A carrier shall provide notice of a rate increase
44 for the plan at least sixty days prior to the
45 effective date of the rate increase to the individual
46 covered by the plan.

47 Sec. ____ . Section 514.6, Code 2001, is amended to
48 read as follows:

49 514.6 RATES -- APPROVAL BY COMMISSIONER -- NOTICE
50 OF INCREASE.

H-8416

H-8416

Page 2

1 1. The rates charged by any such corporation to
2 the subscribers for health care service shall at all
3 times be subject to the approval of the commissioner
4 of insurance.

5 2. A corporation offering health care services to
6 subscribers pursuant to this chapter shall provide
7 notice of a rate increase to subscribers at least
8 sixty days prior to the effective date of the rate
9 increase."

10 _____. Page 7, by inserting after line 15 the
11 following:

12 "Sec. _____. NEW SECTION. 514A.16 NOTICE OF RATE
13 INCREASE.

14 An insurer shall provide notice of a rate increase
15 for a health insurance policy to the insured at least
16 sixty days prior to the effective date of the rate
17 increase."

18 _____. Page 7, by inserting after line 19 the
19 following:

20 "Sec. _____. NEW SECTION. 514E.12 NOTICE OF RATE
21 INCREASE.

22 A carrier or organized delivery system shall
23 provide notice of a rate increase for the association
24 policy to the insured at least sixty days prior to the
25 effective date of the rate increase.""

26 2. By renumbering, redesignating, and correcting
27 internal references as necessary.

By PETERSEN of Polk

H-8416 FILED MARCH 21, 2002

Lost

3/28/02

(P. 1078)

**HOUSE AMENDMENT TO
SENATE FILE 2279**

S-5279

1 Amend Senate File 2279, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, by striking lines 1 through 3, and
4 inserting the following:

5 "Section 1. Section 272C.4, unnumbered paragraph
6 2, Code Supplement 2001, is amended to read as
7 follows:

8 ~~The commissioner of insurance shall by rule in~~
9 ~~consultation with the licensing boards enumerated in~~
10 ~~section 272C.1, require insurance~~ Insurance carriers
11 which insure professional and occupational licensees
12 for acts or omissions ~~which~~ that constitute
13 negligence, careless acts or omissions in the practice
14 of a profession or occupation ~~to~~ shall file reports
15 with the ~~commissioner of insurance~~ appropriate
16 licensing board. The reports shall include information
17 pertaining to ~~incidents by~~ claims against a licensee
18 which may affect the licensee as defined by rule,
19 involving an insured of the insurer. ~~The commissioner~~
20 ~~of insurance shall forward reports pursuant to this~~
21 ~~section to the appropriate licensing board."~~

22 2. By striking page 3, line 34 through page 4,
23 line 3 and inserting the following:

24 "Sec. ____ . Section 508.31A, subsection 2,
25 paragraph a, Code 2001, is amended by adding the
26 following new subparagraph:

27 NEW SUBPARAGRAPH. (3) A person other than a
28 natural person that has assets".

29 3. Page 4, by inserting after line 4, the
30 following:

31 "Sec. ____ . Section 507E.7, subsection 3, Code
32 2001, is amended by striking the subsection."

33 4. Page 5, by striking lines 7 through 13.

34 5. Page 9, line 20, by inserting after the word
35 "company" the following: "organized under this
36 chapter or".

37 6. Page 9, line 27, by inserting after the word
38 "company." the following: "This section does not
39 apply to insurance producers or a business entity
40 whose contract with an insurer authorized to do
41 business in this state contains a written provision
42 expressly reserving to the insurer all right, title,
43 and interest to the ownership or the use of insurance
44 business written by such an insurance producer or
45 business entity."

46 7. By renumbering, redesignating, and correcting
47 internal references as necessary.

RECEIVED FROM THE HOUSE

S-5279 FILED APRIL 1, 2002

Senate Concurred
4/2/02 (P. 888)

SENATE FILE 2279

AN ACT

RELATING TO THE REGULATED COMMERCIAL ACTIVITIES OF INSURANCE AND SECURITY SALES, INCLUDING RATE ADJUSTMENTS FOR SMALL GROUP COVERAGE, PROVISIONS PERTAINING TO STATE AND COUNTY MUTUAL INSURANCE ASSOCIATIONS, TERMINATION DATES AND LICENSED HEALTH CARE PROVIDERS FOR EMERGENCY MEDICAL MALPRACTICE INSURANCE, SUSPENSION OF AN INSURER'S CERTIFICATE OF AUTHORITY FOR DELINQUENCY, EXCEPTIONS TO THE RIGHT OF A NOTICE OF INTENT NOT TO RENEW, COVERAGE REQUIREMENTS IN A MEDICAL EXPENSE POLICY, TORT IMMUNITY RELATED TO VIATICAL SETTLEMENT CONTRACTS, CONFIDENTIALITY OF CERTAIN PERSONAL INFORMATION IN SECURITIES AND INSURANCE FILINGS, POSTPONEMENT OR SUSPENSION OF REGISTRATION UNDER THE BLUE SKY LAW, REPORTING RELATED TO PROFESSIONAL LIABILITY INSURANCE, ANNUAL PERCENTAGE RATE USED IN CALCULATIONS OF THE MINIMUM NONFORFEITURE AMOUNT RELATING TO INDIVIDUAL DEFERRED ANNUITIES, AND PROVIDING FOR A FUTURE REPEAL.

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

Section 1. Section 272C.4, unnumbered paragraph 2, Code Supplement 2001, is amended to read as follows:

~~The commissioner of insurance shall by rule in consultation with the licensing boards enumerated in section 272C.17 require insurance~~ Insurance carriers which insure professional and occupational licensees for acts or omissions which that constitute negligence, careless acts or omissions in the practice of a profession or occupation to shall file reports with the ~~commissioner of insurance~~ appropriate licensing board. The reports shall include information pertaining to ~~incidents by claims against~~ a licensee which may affect the licensee as defined by rule, involving an insured of the insurer. ~~The commissioner of insurance shall forward reports pursuant to this section to the appropriate licensing board.~~

Sec. 2. Section 502.102, subsection 19, Code Supplement 2001, is amended to read as follows:

19. "Security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in a profit sharing agreement; collateral trust certificate; preorganization certificate or subscription; transferable share; investment contract; viatical settlement investment contract, or any fractional or pooled interest in such contract; voting trust certificate; certificate of deposit for a security; fractional undivided interest in an oil, gas, or other mineral lease or in payments out of production under such a lease, right, or royalty; an interest in a limited liability company or in a limited liability partnership or any class or series of such interest, including any fractional or other interest in such interest; or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security" does not include an insurance or endowment policy or annuity contract under which an insurance company promises to pay money either in a lump sum or periodically for life or for some other specified period. "Security" also does not include an interest in a limited liability company or a limited liability partnership if the person claiming that such an interest is not a security proves that all of the members of the limited liability company or limited liability partnership are actively engaged in the management of the limited liability company or limited liability partnership; provided that the evidence that members vote or have the right to vote, or the right to information concerning the business and affairs of the limited liability company or limited liability partnership, or the right to participate in management, shall not establish, without more, that all members are actively engaged in the management of the limited liability company or limited liability partnership.

"Security" is any of the foregoing as provided in this subsection whether or not it is evidenced by a written instrument.

Sec. 3. Section 502.102, subsection 21, Code Supplement 2001, is amended by striking the subsection and inserting in lieu thereof the following:

21. "Viatical settlement investment contract" means a contract entered into by a viatical settlement purchaser, to which the viator is not a party, to purchase a life insurance policy or an interest in the death benefits of a life insurance policy, which contract is entered into for the purpose of deriving economic benefit.

Sec. 4. Section 502.304, subsection 3, Code Supplement 2001, is amended to read as follows:

3. The administrator may by order summarily postpone or suspend registration pending final determination of any proceeding under this section. Upon the entry of the order, the administrator shall promptly notify the applicant or registrant, as well as the employer or prospective employer if the applicant or registrant is an agent or investment adviser representative, that it has been entered and of the reasons therefor for the postponement or suspension and that within fifteen days after the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the administrator, the order will remain in effect until it is modified or vacated by the administrator. If a hearing is requested or ordered, the administrator, after notice of and opportunity for hearing, may modify or vacate the order or extend it until final determination. Section 17A.18A is inapplicable to a summary order issued under this subsection.

Sec. 5. Section 502.608, subsection 2, Code 2001, is amended to read as follows:

2. The administrator shall keep a register of all applications for registration, notice filings, and registration statements which that are or have been effective

under this chapter and predecessor laws, and all censure, denial, suspension, or revocation orders which that have been entered under this chapter and predecessor laws. All records may be maintained in an electronic or microfilm format or any other form of data storage. The register shall be open for public inspection. However, notwithstanding chapter 22, the administrator may keep confidential any social security number, residence address, and residence telephone number that is contained in these records if disclosure is not required in the performance of any duty or is not otherwise required under law.

Sec. 6. Section 505.8, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 7. Notwithstanding chapter 22, the commissioner may keep confidential any social security number, residence address, and residence telephone number that is contained in a record filed as part of a licensing, registration, or filing process if disclosure is not required in the performance of any duty or is not otherwise required under law.

Sec. 7. NEW SECTION. 507C.60 SUSPENSION OF CERTIFICATE OF AUTHORITY.

Without advance notice or a hearing, the commissioner may suspend immediately the certificate of authority of any insurer as to which proceedings for receivership, conservatorship, rehabilitation, or other delinquency proceedings have been commenced in any state by the public insurance supervisory official of that state.

Sec. 8. Section 508.31A, subsection 2, paragraph a, Code 2001, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (3) A person other than a natural person that has assets of at least twenty-five million dollars.

Sec. 9. Section 507E.7, subsection 3, Code 2001, is amended by striking the subsection.

Sec. 10. Section 508.38, subsection 3, paragraph a, unnumbered paragraph 1, Code 2001, is amended to read as follows:

With respect to contracts providing for flexible considerations, the minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to such time at a rate of interest of three one and one-half percent per annum of percentages of the net considerations (as hereinafter defined) paid prior to such time, decreased by the sum of (1) any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of three one and one-half percent per annum and (2) the amount of any indebtedness to the company on the contract, including interest due and accrued; and increased by any existing additional amounts credited by the company to the contract.

Sec. 11. NEW SECTION. 508E.3A IMMUNITY FROM LIABILITY.

1. A person acting without malice, fraudulent intent, or bad faith is not liable civilly as a result of filing a report, or otherwise furnishing, orally or in writing, other information concerning alleged acts in violation of this chapter, or the administrative rules that implement this chapter, if the report or information is provided to or received from any of the following:

- a. Law enforcement officials, and their agents or employees.
 - b. The national association of insurance commissioners, the insurance division, a federal or state governmental agency or bureau established to detect and prevent fraudulent insurance or viatical settlement acts, or any other organization established for such purpose, and their agents, employees, or designees.
 - c. An authorized representative of the life insurer that issued the insurance policy covering the life of the insured.
2. This section does not affect in any way any common law or statutory privilege or immunity applicable to such person or entity.

Sec. 12. Section 509.19, Code 2001, is amended to read as follows:

509.19 DISCLOSURE OF CLAIMS AND RELATED COSTS CLAIMS AND PREMIUM DISCLOSURE TO POLICYHOLDERS.

1. a. A person issuing a policy or contract providing group health benefit coverages to a group of one-hundred fifty-one or more persons eligible employees as defined in chapter 513B shall provide to the policyholder, contract holder, or sponsor of the group health benefit plan, upon request, once-in-a-twelve-month-period, all-of-the-following information:

a. Number of claims submitted to date;
b. Costs of claims submitted to date;
c. Average cost per claim, and average annual cost per covered individual annually, but not more than three months prior to the policy renewal date, the total amount of actual claims identified as paid or incurred and paid, and the total amount of premiums by line of coverage.

b. For purposes of this section, "line of coverage" includes medical, prescription drug card program, dental, vision, long-term disability, and short-term disability.

c. The information required by paragraph "a" shall be provided separately for the current policy year-to-date and for the prior policy year.

d. The information shall be presented in the aggregate, and required by paragraph "a" shall not disclose any confidential information or otherwise disclose the identity of an individual insured, subscriber, or enrollee, who has submitted a claim within the time frame of the report.

2. For purposes of this section, "person issuing a policy or contract providing group health benefit coverages" includes all of the following:

- a. A person issuing a group policy of accident or health insurance pursuant to this chapter.
- b. A person issuing a group contract of a nonprofit health service corporation pursuant to chapter 514.

c. A person issuing a group contract of a health maintenance organization pursuant to chapter 514B.

d. An organized delivery system authorized under 1993 Iowa Acts, chapter 158, licensed by the director of public health.

e. A multiple employer welfare arrangement, as defined in section 3 of the federal Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1002, paragraph 40, that meets the requirements of section 507A.4, subsection 9, paragraph "a".

f. A plan for public employees established pursuant to chapter 509A.

g. A person issuing or sponsoring an association group policy under section 509.14.

Sec. 13. Section 513B.4, subsection 1, Code Supplement 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Any adjustment in rates for claims experience, health status, and duration of coverage shall not be charged to individual employees or dependents. Any such adjustment shall be applied uniformly to the rates charged for all employees and dependents of the small employer.

Sec. 14. Section 513C.3, subsection 14, Code 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Loss of eligibility for the hawk-i program authorized in chapter 514I.

Sec. 15. Section 514A.3, subsection 2, paragraph k, Code Supplement 2001, is amended by striking the paragraph and inserting in lieu thereof the following:

k. A provision as follows:

INTOXICANTS AND NARCOTICS: The insurer shall not be liable for any loss sustained or contracted in consequence of the insured's being intoxicated or under the influence of any narcotic unless administered on the advice of a physician. This provision shall not be used with respect to a medical expense policy. For purposes of this provision, "medical expense policy" means an accident and sickness insurance policy that provides hospital, medical, and surgical expense coverage.

Sec. 16. Section 514E.1, subsection 6, Code Supplement 2001, is amended by adding the following new paragraph:

NEW PARAGRAPH. 1. The hawk-i program authorized by chapter 514I.

Sec. 17. Section 515.80, Code 2001, is amended to read as follows:

515.80 FORFEITURE OF POLICIES -- NOTICE.

1. A policy or contract of insurance, unless otherwise provided in section 515.81A or 515.81B, provided for in this chapter shall not be forfeited, suspended, or canceled except by notice to the insured as provided in this chapter. A notice of cancellation is not effective unless mailed or delivered by the insurer to the named insured at least twenty thirty days before the effective date of cancellation, or, where cancellation is for nonpayment of a premium, assessment, or installment provided for in the policy, or in a note or contract for the payment thereof, at least ten days prior to the date of cancellation. The notice may be made in person, or by sending by mail a letter addressed to the insured at the insured's address as given in or upon the policy, anything in the policy, application, or a separate agreement to the contrary notwithstanding.

2. An insurer shall not fail to renew a policy except by notice to the insured as provided in this chapter. A notice of intention not to renew is not effective unless mailed or delivered by the insurer to the named insured at least thirty days prior to the expiration date of the policy. A notice of intention not to renew is not required if the insured is transferred from an insurer to an affiliate for future coverage as a result of a merger, acquisition, or company restructuring and if the transfer results in the same or broader coverage.

If the reason does not accompany the notice of cancellation or nonrenewal, the insurer shall, upon receipt of a timely request by the named insured, state in writing the reason for cancellation or nonrenewal.

Sec. 18. Section 515.81B, Code 2001, is amended to read as follows:

515.81B NONRENEWAL OF COMMERCIAL LINES POLICIES OR CONTRACTS.

1. An insurer shall not fail to renew a commercial line policy or contract of insurance except by notice to the insured as provided in this section. Nonrenewal of a commercial line policy or contract includes a decision by the insurer not to renew the policy or contract, an increase in the premium of twenty-five percent or more, an increase in the deductible of twenty-five percent or more, or a material reduction in the limits or coverage of the policy or contract. However, a premium charge which is assessed after the beginning date of the policy period for which the premium is due shall not be deemed a premium increase for the purpose of this section.

2. A notice of nonrenewal is not effective unless mailed or delivered by the insurer to the named insured and any loss payee at least forty-five days prior to the expiration date of the policy. If the insurer fails to meet the notice requirements of this section, the insured has the option of continuing the policy for the remainder of the notice period plus an additional thirty days at the premium rate of the existing policy or contract. A post office department certificate of mailing to the named insured at the address shown in the policy or contract is proof of receipt of the mailing.

3. This section applies to all forms of commercial property and casualty insurance written pursuant to this chapter. It does not apply if the insurer has offered to renew or if the insured fails to pay a premium due or any advance premium required by the insurer for renewal. A notice of nonrenewal is not required if the insured is transferred from an insurer to an affiliate for future coverage as a result of a merger, acquisition, or company restructuring and if the transfer results in the same or broader coverage.

Sec. 19. NEW SECTION. 515.125A LIMITATION ON TERMINATION OF INDEPENDENT PRODUCERS.

An insurance company organized under this chapter or authorized to do business in this state shall not terminate a contract of an insurance producer who is an independent contractor but who is not an exclusive insurance producer as defined in section 522B.1 without at least one hundred eighty days' notice, except for loss of license, fraud, nonpayment of company premiums that are due and not in dispute by the producer, or the withdrawal of operations in the state by the insurance company. This section does not apply to insurance producers or a business entity whose contract with an insurer authorized to do business in this state contains a written provision expressly reserving to the insurer all right, title, and interest to the ownership or the use of insurance business written by such an insurance producer or business entity.

Sec. 20. Section 515B.5, subsection 1, paragraph c, unnumbered paragraph 2, Code Supplement 2001, is amended to read as follows:

The association shall also have the right to pursue and retain for its own account salvage and subrogation recoverable on paid covered claim obligations. An obligation of the association to defend an insured shall cease upon the association's payment or tender to an excess insurer of an amount equal to the lesser of the association's covered claim obligation or the applicable policy limits.

Sec. 21. Section 515B.5, subsection 1, paragraph d, Code Supplement 2001, is amended by striking the paragraph and inserting in lieu thereof the following:

d. Investigate claims brought against the association and adjust, compromise, settle, and pay covered claims to the extent of the association's obligations on covered claims and deny all other claims. The association may review settlements, releases, and judgments to which the insolvent insurer or its insureds were parties to determine the extent to which settlements, releases, and judgments may properly be

contested, and, to that end, any uncontested or default judgment against the insolvent insurer or its insured shall not be binding on the association. The association shall have the right to appoint or substitute legal counsel retained to defend insureds on covered claims.

Sec. 22. Section 515D.4, Code 2001, is amended to read as follows:

515D.4 NOTICE OF CANCELLATION -- REASONS.

1. A policy shall not be canceled except by notice to the insured as provided in this chapter. Notice of cancellation of a policy is not effective unless it is based on one or more of the following reasons:

- a. Nonpayment of premium.
- b. Nonpayment of dues to an association or organization other than an insurance association or organization, where payment of dues is a prerequisite to obtaining or continuing insurance in force and the dues payment requirement was in effect prior to January 1, 1969.
- c. Fraud or material misrepresentation affecting the policy or the presentation of a claim.
- d. Violation of terms or conditions of the policy.
- e. Any reason permitted in subsection 2 for exclusion of a person from the policy.

2. A person shall not be excluded from the policy unless the exclusion is based on one or more of the following reasons, or is agreed upon by both the named insured and the insurer:

- a. The named insured or any operator who either resides in the same household or customarily operates an automobile insured under the policy has that person's driver's license suspended or revoked during the policy term or, if the policy is a renewal, during its term or the one hundred eighty days immediately preceding its effective date.
- b. The named insured or any operator who either resides in the same household or customarily operates an automobile insured under the policy has during the term of the policy

engaged in a competitive speed contest while operating an automobile insured under the policy.

c. The named insured or any operator who either resides in the same household or customarily operates an automobile insured under the policy, during the thirty-six months immediately preceding the notice of cancellation or nonrenewal, has been convicted of or forfeited bail for any of the following:

- (1) Criminal negligence resulting in death, homicide, or assault and arising out of the operation of a motor vehicle.
- (2) Operating a motor vehicle while intoxicated or while under the influence of a drug.
- (3) A violation of section 321.261.

3. This section shall not apply to any policy or coverage which has been in effect less than sixty days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy. This section shall not apply to the nonrenewal of a policy.

4. During the policy period, a modification of automobile physical damage coverage, other than coverage for loss caused by collision, where provision is made for the application of a deductible amount not exceeding one hundred dollars, shall not be deemed a cancellation of the coverage or of the policy.

Sec. 23. Section 515D.7, Code 2001, is amended to read as follows:

515D.7 NOTICE OF INTENT.

1. Notwithstanding the provisions of sections 515.80 through 515.81B, an insurer shall not fail to renew a policy except by notice to the insured as provided in this chapter. A notice of intention not to renew shall not be effective unless mailed or delivered by the insurer to the named insured at least thirty days prior to the expiration date of the policy. A post office department certificate of mailing to the named insured at the address shown in the policy shall be proof of receipt of such mailing. Unless the reason accompanies the notice of intent not to renew, the notice

shall state that, upon written request of the named insured, mailed or delivered to the insurer not less than twenty thirty days prior to the expiration date of the policy, the insurer will state the reason for nonrenewal.

2. When the reason does not accompany the notice of intent not to renew, the insurer shall, upon receipt of a timely request by the named insured, state in writing the reason for nonrenewal, together with notification of the right to a hearing before the commissioner within fifteen days as provided herein. A statement of reason shall be mailed or delivered to the named insured within ten days after receipt of a request.

3. This section shall not apply:

1- a. If the insurer has manifested its willingness to renew.

2- b. If the insured fails to pay any premium due or any advance premium required by the insurer for renewal.

c. If the insured is transferred from an insurer to an affiliate for future coverage as a result of a merger, acquisition, or company restructuring and if the transfer results in the same or broader coverage.

Sec. 24. Section 515F.3, subsection 6, Code 2001, is amended to read as follows:

6. Insurance written by a county or state mutual insurance association as provided in chapter 518 or 518A.

Sec. 25. NEW SECTION. 518.16A LIMITATION ON TERMINATION OF INDEPENDENT PRODUCERS.

A county mutual insurance association authorized to do business in this state shall not terminate a contract of an insurance producer who is an independent contractor but who is not an exclusive insurance producer as defined in section 522B.1 without at least one hundred eighty days' notice, except for loss of license, fraud, nonpayment of association premiums that are due and not in dispute by the producer, or the withdrawal of operations in the state by the association.

Sec. 26. Section 518.17, unnumbered paragraph 2, Code 2001, is amended to read as follows:

Reinsurance sufficient to protect the financial stability of the state mutual association is also required. Reinsurance In general, reinsurance coverage obtained by a county mutual insurance association shall not expose the association to losses from coverages written pursuant to this chapter of more than fifteen percent from surplus in any calendar year. The commissioner of insurance may require additional reinsurance if necessary to protect the policyholders of the association.

Sec. 27. Section 518.25, Code 2001, is amended to read as follows:

518.25 SURPLUS.

An association organized under this chapter shall at all times maintain a surplus of not less than fifty thousand dollars or one-tenth of one percent of the gross property risk in force, whichever is greater.

Sec. 28. Section 518A.2, Code 2001, is amended to read as follows:

518A.2 STATE MUTUAL ASSOCIATIONS.

Any association incorporated under the laws of this state for the purpose of furnishing insurance as provided for in this chapter may is authorized to do business throughout the state in the county in which its principal place of business is located, the counties contiguous thereto, and the next tier of contiguous counties and in other states where they are legalized and authorized to do business. Each association seeking to modify its authorized writing territory shall file with the commissioner a plan for controlled expansion demonstrating that provisions have been made adequately to service and protect policyholders. The expansion plan shall not be modified without the prior written approval of the commissioner, which approval shall not be unreasonably withheld. The words "mutual" and "association" shall be incorporated in and become a part of their name.

Sec. 29. Section 518A.37, Code 2001, is amended to read as follows:

518A.37 SURPLUS.

An association organized under this chapter shall at all times maintain a surplus of not less than one hundred thousand dollars, or one-tenth of one percent of the gross property risk in force, whichever is greater.

Sec. 30. NEW SECTION. 518A.42 LIMITATION ON TERMINATION OF INDEPENDENT PRODUCERS.

A state mutual insurance association authorized to do business in this state shall not terminate a contract of an insurance producer who is an independent contractor but who is not an exclusive insurance producer as defined in section 522B.1 without at least one hundred eighty days' notice, except for loss of license, fraud, nonpayment of association premiums that are due and not in dispute by the producer, or the withdrawal of operations in the state by the association.

Sec. 31. Section 518A.44, unnumbered paragraph 2, Code 2001, is amended to read as follows:

Reinsurance sufficient to protect the financial stability of the state mutual insurance association is required.

Reinsurance In general, reinsurance coverage obtained by an association shall not expose the association to losses from coverages written pursuant to this chapter of more than fifteen percent from surplus in any calendar year. The commissioner of insurance may require additional reinsurance if necessary to protect the policyholders of the association.

Sec. 32. Section 519A.2, subsection 3, Code 2001, is amended to read as follows:

3. "Licensed health care provider" means and includes a physician and surgeon, osteopath, osteopathic physician and surgeon, dentist, podiatric physician, optometrist, pharmacist, chiropractor or nurse licensed pursuant to chapter 147, ~~and a hospital licensed pursuant to chapter 135B, and a nursing facility licensed pursuant to chapter 135C.~~

Sec. 33. Section 519A.5, subsection 2, Code 2001, is amended to read as follows:

2. All policies issued by the association shall provide for a continuous period of coverage beginning with their respective effective dates ~~and terminating automatically at 12:01 a.m. on July 17, 1977, unless sooner terminated.~~ All policies shall terminate at 12:01 a.m. two years from the date of finding of an emergency by the commissioner, or earlier in accordance with sections 519A.2 to through 519A.13, or unless terminated because of failure of the policyholder to pay any premium or stabilization reserve fund charge or portion of either when due. All policies shall be issued subject to the group retrospective rating plan and the stabilization reserve fund authorized by this chapter. No policy form shall be used by the association unless it has been filed with and approved by the commissioner.

Sec. 34. Section 519A.9, subsection 2, unnumbered paragraph 1, Code 2001, is amended to read as follows:

~~Within fifteen days after July 17, 1975 the~~ The commissioner shall designate a time and place for a meeting of the members of the association at which the eight elected members serving on the first board shall be elected. The commissioner shall appoint the appointive members of the board on or before the date of such the meeting.

Sec. 35. Section 522B.1, Code Supplement 2001, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. "Exclusive insurance producer" means a licensed insurance producer whose contract with an insurer requires the insurance producer to act as an agent only for that insurer or a group of insurers under common ownership or control or other insurers authorized by that insurer.

Sec. 36. FUTURE REPEAL. The section of this Act amending section 508.38, subsection 3, paragraph "a", is repealed July 1, 2004. Upon the effective date of the repeal, the Code editor shall revise the applicable Code language to that language that existed in the Code of Iowa 2001. Any

intervening amendments to the language in section 508.38, subsection 3, paragraph "a", shall be stricken with the repeal, unless a subsequent Act specifically provides otherwise.

MARY E. KRAMER
President of the Senate

BRENT SIEGRIST
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2279, Seventy-ninth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved April 12, 2002

THOMAS J. VILSACK
Governor