

APR 13 2005  
WAYS & MEANS CALENDAR

HOUSE FILE 851  
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HF 455)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to fees imposed for certified copies of death  
2 certificates.

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

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HF 851

1 Section 1. Section 144.46, Code 2005, is amended to read  
2 as follows:

3 144.46 FEE FOR COPY OF RECORD.

4 1. The Except as provided in subsection 2, the department  
5 by rule shall establish fees based on the average  
6 administrative cost which shall be collected by the state  
7 registrar or the county registrar for each certified copy or  
8 short form certification of certificates or records, or for a  
9 search of the files or records when no copy is made, or when  
10 no record is found on file.

11 2. The state registrar or the county registrar shall  
12 charge a fee of fifteen dollars for the first certified copy  
13 of a death certificate, and ten dollars for each additional  
14 certified copy of a death certificate ordered at the same  
15 time, which fees include the fees collected pursuant to  
16 section 331.605, subsection 6.

17 3. Fees collected by the state registrar and by the county  
18 registrar on behalf of the state under this section shall be  
19 deposited in the general fund of the state. Fees collected by  
20 the county registrar pursuant to section 331.605, subsection  
21 6, shall be deposited in the county general fund. A fee shall  
22 not be collected from a political subdivision or agency of  
23 this state.

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#### EXPLANATION

25 This bill provides that the state registrar or the county  
26 registrar shall charge a fee of \$15 for the first certified  
27 copy of a death certificate, and \$10 for each additional  
28 certified copy of a death certificate ordered at the same  
29 time. The bill specifically sets out these fees in a new  
30 subsection of Code section 144.46, which more generally  
31 provides that the Iowa department of public health shall  
32 establish fees for copies of record by rule based on the  
33 average administrative cost incurred by the state registrar or  
34 county registrar.

35 Current provisions regarding the deposit of fees collected

1 by the state registrar and by the county registrar in the  
2 general fund of the state, and deposit in the county general  
3 fund of fees retained by the county registrar pursuant to Code  
4 section 331.605, subsection 6, continue to be applicable to  
5 certified copies of death certificates.

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**Fiscal Services Division**  
**Legislative Services Agency**  
**Fiscal Note**

HF 851 - Death Certificate Fee (LSB 1632 HV)

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Fiscal Note Version - New

**Description**

House File 851 requires the fee charged by the State or a County Registrar for the first certified copy of a death certificate be set at \$15.00, and \$10.00 for each additional certified copy ordered at the same time.

**Background**

The current fee for a certified copy of a death certificate is \$15.00 each. Certified copies may be obtained from either the State or a County Registrar where the death occurred. The fee was raised from \$10.00 to \$15.00 by administrative rule effective in January 2005, with a portion of the fee increase to be used to assist the State Medical Examiner's Office in providing vital records information to the Department of Public Health, Bureau of Vital Statistics.

The majority (94.0%) of certified death certificate copies are issued at the county level. For each \$15.00 fee collected by a County Registrar, \$4.00 is retained by the respective County Registrar, as required by Section 331.605(6), Code of Iowa, \$6.00 is remitted to and retained by the State Registrar, \$3.00 is provided to the State Medical Examiner's Office, and \$2.00 is deposited into the State General Fund.

For each \$15.00 fee collected by the State Registrar for a certified death certificate copy, \$9.00 is retained by the State Registrar, \$3.00 is provided to the State Medical Examiner's Office, and \$3.00 is deposited into the State General Fund.

Under the current fee structure, a total of \$2.0 million in revenue is generated annually from these fees. The table below provides details on the amounts provided to County Registrars, the State Registrar, the State Medical Examiner's Office, and the State General Fund from these revenues.

**Current Death Certificate Fee Revenue - Annual**

	<u>Copies Issued</u>	<u>County Reg. Fees</u>	<u>State Reg. Fees</u>	<u>Medical Examiner</u>	<u>State Gen. Fund</u>
County	125,000	\$500,000	\$750,000	\$375,000	\$250,000
State	8,000	0	72,000	24,000	24,000
<b>Total</b>	<b>133,000</b>	<b>\$500,000</b>	<b>\$822,000</b>	<b>\$399,000</b>	<b>\$274,000</b>

**Assumptions**

1. The number of certified copies of death certificates issued will remain constant at 133,000 per year. Of these, 125,000 (94.0%) will be issued by a County Registrar and 8,000 (6.0%) will be issued by the State Registrar.
2. Of those issued by a County Registrar, it is assumed that 31,250 (25.0%) will be issued at \$15.00 each and 93,750 (75.0%) will be issued at \$10.00 each.
3. Of those issued by the State Registrar, it is assumed that 7,600 (95.0%) will be issued at \$15.00 each and 400 (5.0%) will be issued at \$10.00 each.
4. The amount of revenue retained by County Registrars from these fees will not be impacted as counties will continue to retain \$4.00 from each fee charged.

5. The amount of revenue generated by County Registrars from these fees and provided to the State Registrar's Office will not be impacted as counties will continue to remit \$6.00 from each fee charged.
6. The amount of revenue generated by County Registrars from these fees and provided to the State Medical Examiner's Office will be reduced by an estimated \$281,000.
7. The amount of revenue generated by County Registrars from these fees and deposited into the State General Fund will be reduced by an estimated \$188,000.
8. The amount of revenue retained by the State Registrar's Office from these fees will not be impacted as the Office will continue to retain \$9.00 from each fee charged.
9. The amount of revenue generated by the State Registrar's Office from these fees and deposited into the State General Fund will not be impacted as \$3.00 from each fee charged will continue to be deposited.
10. The amount of revenue generated by the State Registrar's Office from these fees and provided to the State Medical Examiner's Office will be reduced by an estimated \$1,000.

**Fiscal Impact**

The fiscal impact of HF 851 is an estimated reduction of \$470,000 in revenues generated from fees charged for certified copies of death certificates. This would include a reduction of \$282,000 for the State Medical Examiner's Office and a reduction in revenue to the State General Fund of \$188,000. The table below provides details on the amounts that would be available for County Registrars, the State Registrar, the State Medical Examiner's Office, and the State General Fund under HF 851.

**Death Certificate Fee Revenue Estimate Under HF 851**

	<u>Copies Issued</u>	<u>County Reg. Fees</u>	<u>State Reg. Fees</u>	<u>Medical Examiner</u>	<u>State Gen. Fund</u>
County	125,000	\$ 500,000	\$ 750,000	\$ 93,750	\$ 62,500
State	8,000	0	72,000	23,100	24,000
<b>Total</b>	<u>133,000</u>	<u>\$ 500,000</u>	<u>\$ 822,000</u>	<u>\$ 116,850</u>	<u>\$ 86,500</u>

**Source**

Department of Public Health, Bureau of Vital Statistics

/s/ Holly M. Lyons

April 13, 2005

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The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

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HOFFMAN, CH

TOMENGA  
SHOMSHOR

HSB 211

COMMERCE, REGULATION & LABOR

SENATE/HOUSE FILE \_\_\_\_\_

BY (PROPOSED DEPARTMENT OF  
COMMERCE/INSURANCE  
DIVISION BILL)

Succeeded By  
SF (HF) 851

Passed Senate, Date \_\_\_\_\_

Passed House, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to various provisions administered by the  
2 insurance division of the department of commerce concerning  
3 premium tax refunds, the interstate insurance compact, insurer  
4 insolvency proceedings, individual health insurance, the small  
5 employer carrier reinsurance program, the Iowa comprehensive  
6 health association, fire insurance policies, the Iowa  
7 insurance guaranty association, the FAIR plan, motor vehicle  
8 service contracts, investments by county and state mutual  
9 associations, reciprocal or interinsurance contract premium  
10 rates, unauthorized activity of insurance producers, and  
11 annuity contracts for cemetery and funeral merchandise and  
12 funeral services, and making fees and penalties applicable and  
13 providing effective and retroactive applicability dates.

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

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1 Section 1. Section 322.19, subsection 2, paragraph a, Code  
2 2005, is amended to read as follows:

3 a. A ~~meter-vehicle~~ service contract as defined in section  
4 516E.1.

5 Sec. 2. Section 432.1, subsection 6, paragraph d, Code  
6 2005, is amended to read as follows:

7 d. The sums prepaid by a company or association under this  
8 subsection shall be allowed as credits against its premium tax  
9 liability for the calendar year during which the payments are  
10 made. If a prepayment made under this subsection exceeds the  
11 annual premium tax liability, the excess shall be allowed as a  
12 credit against subsequent prepayment or tax liabilities. The  
13 commissioner of insurance shall authorize the department of  
14 revenue to make a cash refund to an insurer, in lieu of a  
15 credit against subsequent prepayment or tax liabilities, if  
16 the insurer demonstrates the inability to recoup the funds  
17 paid via a credit. The commissioner shall adopt rules  
18 establishing eligibility criteria for such a refund and a  
19 refund process. The commissioner may suspend or revoke the  
20 license of a company or association that fails to make a  
21 prepayment on or before the due date.

22 Sec. 3. Section 505A.1, Article II, section 8, Code 2005,  
23 is amended to read as follows:

24 8. "Member" means the person chosen by a compacting state  
25 as its representative to the commission, or the person's  
26 designee. The commissioner of insurance shall be the  
27 representative member of the compact for the state of Iowa.

28 Sec. 4. Section 507C.2, Code 2005, is amended by adding  
29 the following new subsections:

30 NEW SUBSECTION. 01. "Affiliate" of or "affiliated" with a  
31 specific person, means a person that directly or indirectly,  
32 through one or more intermediaries, controls or is controlled  
33 by, or is under common control with, the person specified.

34 NEW SUBSECTION. 2A. "Commodity contract" means any of the  
35 following:

1 a. A contract for the purchase or sale of a commodity for  
2 future delivery on, or subject to the rules of, a board of  
3 trade designated as a contract market by the commodity futures  
4 trading commission under the federal Commodity Exchange Act, 7  
5 U.S.C. § 1 et seq., or a board of trade outside the United  
6 States.

7 b. An agreement that is subject to regulation under  
8 section 19 of the federal Commodity Exchange Act, 7 U.S.C. § 1  
9 et seq., and that is commonly known to the commodities trade  
10 as a margin account, margin contract, leverage account, or  
11 leverage contract.

12 c. An agreement or transaction that is subject to  
13 regulation under section 4c(b) of the federal Commodity  
14 Exchange Act, 7 U.S.C. § 1 et seq., and that is commonly known  
15 to the commodities trade as a commodity option.

16 NEW SUBSECTION. 2B. "Control" means the same as defined  
17 in section 521A.1, subsection 3.

18 NEW SUBSECTION. 8A. "Forward contract" means a contract  
19 for the purchase, sale, or transfer of a commodity, as defined  
20 in section 1 of the federal Commodity Exchange Act, 7 U.S.C. §  
21 1 et seq., or any similar good, article, service, right, or  
22 interest that is presently or in the future becomes the  
23 subject of dealing in the forward contract trade, or product  
24 or byproduct thereof, with a maturity date more than two days  
25 after the date the contract is entered into, including, but  
26 not limited to, a repurchase transaction, reverse repurchase  
27 transaction, consignment, lease, swap, hedge transaction,  
28 deposit, loan, option, allocated transaction, unallocated  
29 transaction, or a combination of them or option on any of  
30 them. "Forward contract" does not include a commodity  
31 contract.

32 NEW SUBSECTION. 12A. "Netting agreement" means an  
33 agreement, including terms and conditions incorporated by  
34 reference therein, including a master agreement, which master  
35 agreement, together with all schedules, confirmations,

1 definitions, and addenda thereto and transactions under any  
2 thereof, shall be treated as one netting agreement, that  
3 documents one or more transactions between parties to the  
4 agreement for or involving one or more qualified financial  
5 contracts and that provides for the netting or liquidation of  
6 qualified financial contracts or present or future payment  
7 obligations or payment entitlements thereunder, including  
8 liquidation or closeout values relating to such obligations or  
9 entitlements among the parties to the netting agreement.

10 NEW SUBSECTION. 13A. "Qualified financial contract" means  
11 a commodity contract, forward contract, repurchase agreement,  
12 securities contract, swap agreement, and any similar agreement  
13 that the commissioner determines by regulation, resolution, or  
14 order to be a qualified financial contract for the purposes of  
15 this chapter.

16 NEW SUBSECTION. 15A. "Repurchase agreement" means an  
17 agreement, including related terms, that provides for the  
18 transfer of certificates of deposit, eligible bankers'  
19 acceptances, or securities that are direct obligations of, or  
20 that are fully guaranteed as to principal and interest by, the  
21 United States or an agency of the United States against the  
22 transfer of funds by the transferee of the certificates of  
23 deposit, eligible bankers' acceptances or securities, with a  
24 simultaneous agreement by the transferee to transfer to the  
25 transferor certificates of deposit, eligible bankers'  
26 acceptances, or securities as described above, at a date  
27 certain not later than one year after the transfers or on  
28 demand against the transfer of funds. For the purposes of  
29 this definition, the items that may be subject to a repurchase  
30 agreement include, but are not limited to, mortgage-related  
31 securities, a mortgage loan, and an interest in a mortgage  
32 loan, but shall not include any participation in a commercial  
33 mortgage loan, unless the commissioner determines by rule,  
34 resolution, or order to include the participation within the  
35 meaning of the term. Repurchase agreement also applies to a

1 reverse repurchase agreement.

2 NEW SUBSECTION. 16A. "Securities contract" means a  
3 contract for the purchase, sale, or loan of a security,  
4 including an option for the repurchase or sale of a security,  
5 certificate of deposit, or group or index of securities,  
6 including an interest therein or based on the value thereof,  
7 or an option entered into on a national securities exchange  
8 relating to foreign currencies, or the guarantee of a  
9 settlement of cash or securities by or to a securities  
10 clearing agency. For the purposes of this definition, the  
11 term "security" includes a mortgage loan, mortgage-related  
12 securities, and an interest in any mortgage loan or mortgage-  
13 related security.

14 NEW SUBSECTION. 18A. "Swap agreement" means an agreement,  
15 including the terms and conditions incorporated by reference  
16 in an agreement, that is a rate swap agreement, basis swap,  
17 commodity swap, forward rate agreement, interest rate future,  
18 interest rate option, forward foreign exchange agreement, spot  
19 foreign exchange agreement, rate cap agreement, rate floor  
20 agreement, rate collar agreement, currency swap agreement,  
21 cross-currency rate swap agreement, currency future, or  
22 currency option or any other similar agreement, and includes  
23 any combination of agreements and an option to enter into an  
24 agreement.

25 Sec. 5. NEW SECTION. 507C.28A QUALIFIED FINANCIAL  
26 CONTRACTS.

27 1. Notwithstanding any other provision of this chapter to  
28 the contrary, including any other provision of this chapter  
29 permitting the modification of contracts, or other law of a  
30 state, a person shall not be stayed or prohibited from  
31 exercising any of the following:

32 a. A contractual right to terminate, liquidate, or close  
33 out any netting agreement or qualified financial contract with  
34 an insurer because of any of the following:

35 (1) The insolvency, financial condition, or default of the

1 insurer at any time, provided that the right is enforceable  
2 under applicable law other than this chapter.

3 (2) The commencement of a formal delinquency proceeding  
4 under this chapter.

5 b. Any right under a pledge, security, collateral, or  
6 guarantee agreement or any other similar security arrangement  
7 or credit support document relating to a netting agreement or  
8 qualified financial contract.

9 c. Subject to any provision of section 507C.30, subsection  
10 2, any right to set off or net out any termination value,  
11 payment amount, or other transfer obligation arising under or  
12 in connection with a netting agreement or qualified financial  
13 contract where the counterparty or its guarantor is organized  
14 under the laws of the United States or a state or foreign  
15 jurisdiction approved by the securities valuation office or  
16 the national association of insurance commissioners as  
17 eligible for netting.

18 2. Upon termination of a netting agreement, the net or  
19 settlement amount, if any, owed by a nondefaulting party to an  
20 insurer against which an application or petition has been  
21 filed under this chapter shall be transferred to or on the  
22 order of the receiver for the insurer, even if the insurer is  
23 the defaulting party, notwithstanding any provision in the  
24 netting agreement that may provide that the nondefaulting  
25 party is not required to pay any net or settlement amount due  
26 to the defaulting party upon termination. Any limited two-  
27 way payment provision in a netting agreement with an insurer  
28 that has defaulted shall be deemed to be a full two-way  
29 payment provision as against the defaulting insurer. Any such  
30 amount shall, except to the extent it is subject to one or  
31 more secondary liens or encumbrances, be a general asset of  
32 the insurer.

33 3. In making any transfer of a netting agreement or  
34 qualified financial contract of an insurer subject to a  
35 proceeding under this chapter, the receiver shall do either of

1 the following:

2 a. Transfer to one party, other than an insurer subject to  
3 a proceeding under this chapter, all netting agreements and  
4 qualified financial contracts between a counterparty or any  
5 affiliate of the counterparty and the insurer that is the  
6 subject of the proceeding, including all of the following:

7 (1) All rights and obligations of each party under each  
8 such netting agreement and qualified financial contract.

9 (2) All property, including any guarantees or credit  
10 support documents, securing any claims of each party under  
11 each such netting agreement and qualified financial contract.

12 b. Transfer none of the netting agreements, qualified  
13 financial contracts, rights, obligations, or property referred  
14 to in paragraph "a" with respect to the counterparty and any  
15 affiliate of the counterparty.

16 4. If a receiver for an insurer makes a transfer of one or  
17 more netting agreements or qualified financial contracts, the  
18 receiver shall use the receiver's best efforts to notify any  
19 person who is a party to the netting agreements or qualified  
20 financial contracts of the transfer by noon of the receiver's  
21 local time on the business day following the transfer. For  
22 purposes of this subsection, "business day" means a day other  
23 than a Saturday, Sunday, or any day on which either the New  
24 York stock exchange or the federal reserve bank of New York is  
25 closed.

26 5. Notwithstanding any other provision of this chapter to  
27 the contrary, a receiver shall not avoid a transfer of money  
28 or other property arising under or in connection with a  
29 netting agreement or qualified financial contract, or any  
30 pledge security, collateral, or guarantee agreement or any  
31 other similar security arrangement or credit support document  
32 relating to a netting agreement or qualified financial  
33 contract, that is made before the commencement of a formal  
34 delinquency proceeding under this chapter. However, a  
35 transfer may be avoided under section 507C.28 if the transfer

1 was made with actual intent to hinder, delay, or defraud the  
2 insurer, a receiver appointed for the insurer, or existing or  
3 future creditors.

4 6. In exercising any of its powers under this chapter to  
5 disaffirm or repudiate a netting agreement or qualified  
6 financial contract, the receiver must take action with respect  
7 to each netting agreement or qualified financial contract and  
8 all transactions entered into in connection therewith, in its  
9 entirety. Notwithstanding any other provision of this chapter  
10 to the contrary, any claim of a counterparty against the  
11 estate arising from the receiver's disaffirmance or  
12 repudiation of a netting agreement or qualified financial  
13 contract that has not been previously affirmed in the  
14 liquidation or in the immediately preceding rehabilitation  
15 case shall be determined and shall be allowed or disallowed as  
16 if the claim had arisen before the date of the filing of the  
17 petition for liquidation or, if a rehabilitation proceeding is  
18 converted to a liquidation proceeding, as if the claim had  
19 arisen before the date of filing the petition for  
20 rehabilitation. The amount of the claim shall be the actual  
21 direct compensatory damages determined as of the date of the  
22 disaffirmance or repudiation of the netting agreement or  
23 qualified financial contract. The term "actual direct  
24 compensatory damages" does not include punitive or exemplary  
25 damages, damages for lost profit or lost opportunity, or  
26 damages for pain and suffering, but does include normal and  
27 reasonable costs of cover or other reasonable measures of  
28 damages utilized in the derivatives market for the contract  
29 and agreement claims.

30 7. The term "contractual right" as used in this section  
31 includes any right, whether or not evidenced in writing,  
32 arising under statutory or common law, a rule or bylaw of a  
33 national securities exchange, national securities clearing  
34 organization or securities clearing agency, a rule or bylaw,  
35 or a resolution of the governing body of a contract market or

1 its clearing organization, or under law merchant.

2 8. This section shall not apply to persons who are  
3 affiliates of the insurer that is the subject of the  
4 proceeding.

5 9. All rights of a counterparty under this chapter shall  
6 apply to netting agreements and qualified financial contracts  
7 entered into on behalf of the general account or separate  
8 accounts, provided that the assets of each separate account  
9 are available only to counterparties to netting agreements and  
10 qualified financial contracts entered into on behalf of that  
11 separate account.

12 Sec. 6. Section 507C.30, subsection 2, paragraph a,  
13 subparagraphs (4) and (5), Code 2005, are amended to read as  
14 follows:

15 (4) The obligation of the person is owed to the affiliate  
16 of the insurer, or any other entity or association other than  
17 the insurer.

18 ~~(4)~~ (5) The obligation of the person is to pay an  
19 assessment levied against the members or subscribers of the  
20 insurer, or is to pay a balance upon a subscription to the  
21 capital stock of the insurer, or is in any other way in the  
22 nature of a capital contribution.

23 ~~(5)~~ (6) The obligation of the person is to pay earned  
24 premiums to the insurer.

25 Sec. 7. Section 513B.12, Code 2005, is amended by adding  
26 the following new subsection:

27 NEW SUBSECTION. 6. During the period of time that the  
28 operation of the small employer carrier reinsurance program is  
29 suspended pursuant to section 513B.13, subsection 14, a small  
30 employer carrier is not required to make an application to  
31 become a risk-assuming carrier pursuant to this section.

32 Sec. 8. Section 513B.13, subsection 3, Code 2005, is  
33 amended by adding the following new paragraph:

34 NEW PARAGRAPH. e. During the period of time that the  
35 program is suspended pursuant to subsection 14, the size of

1 the board may be reduced with the approval of the  
2 commissioner.

3 Sec. 9. Section 513B.17, subsection 4, Code 2005, is  
4 amended by striking the subsection.

5 Sec. 10. Section 513C.6, Code 2005, is amended by adding  
6 the following new subsection:

7 NEW SUBSECTION. 7. An individual who has coverage as a  
8 dependent under a basic or standard health benefit plan may,  
9 when that individual is no longer a dependent under such  
10 coverage, elect to continue coverage under the basic or  
11 standard health benefit plan if the individual so elects  
12 immediately upon termination of the coverage under which the  
13 individual was covered as a dependent.

14 Sec. 11. Section 514B.13, unnumbered paragraph 2, Code  
15 2005, is amended to read as follows:

16 Health maintenance organizations providing services  
17 exclusively on a group contract basis may limit the open  
18 enrollment provided for in this section to all members of the  
19 group covered by the contract, including those members of the  
20 group who previously waived coverage.

21 Sec. 12. Section 514E.2, subsection 1, paragraph a, Code  
22 2005, is amended to read as follows:

23 a. All carriers and all organized delivery systems  
24 licensed by the director of public health providing health  
25 insurance or health care services in Iowa, whether on an  
26 individual or group basis, and all other insurers designated  
27 by the association's board of directors and approved by the  
28 commissioner shall be members of the association.

29 Sec. 13. Section 514E.2, subsection 5, paragraph 1, Code  
30 2005, is amended to read as follows:

31 1. Develop a method of advising applicants of the  
32 availability of other coverages outside the association, ~~and~~  
33 ~~shall promulgate a list of health conditions the existence of~~  
34 ~~which would make an applicant eligible without demonstrating a~~  
35 ~~rejection of coverage by one carrier.~~

1     Sec. 14. Section 514E.2, subsection 7, Code 2005, is  
2 amended by adding the following new unnumbered paragraph:

3     NEW UNNUMBERED PARAGRAPH. For purposes of this subsection,  
4 "total health insurance premiums" and "payments for subscriber  
5 contracts" include, without limitation, premiums or other  
6 amounts paid to or received by a member for individual and  
7 group health plan care coverage provided under any chapter of  
8 the Code or Acts, and "paid losses" includes, without  
9 limitation, claims paid by a member operating on a self-funded  
10 basis for individual and group health plan care coverage  
11 provided under any chapter of the Code or Acts. For purposes  
12 of calculating and conducting the assessment, the association  
13 shall have the express authority to require members to report  
14 on an annual basis each member's total health insurance  
15 premiums and payments for subscriber contracts and paid  
16 losses. A member is liable for its share of the assessment  
17 calculated in accordance with this section regardless of  
18 whether it participates in the individual insurance market.

19     Sec. 15. Section 514E.7, subsection 1, Code 2005, is  
20 amended by adding the following new paragraphs:

21     NEW PARAGRAPH. d. That the individual has a health  
22 condition that is established by the association's board of  
23 directors, with the approval of the commissioner, to be  
24 eligible for plan coverage.

25     NEW PARAGRAPH. e. That the individual has coverage under  
26 a basic or standard health benefit plan under chapter 513C.

27     Sec. 16. Section 514E.8, subsection 1, Code 2005, is  
28 amended to read as follows:

29     1. An association policy shall contain provisions under  
30 which the association is obligated to renew the coverage for  
31 an individual until the day the individual becomes eligible  
32 for Medicare coverage based on age, provided that any  
33 individual who is covered by an association policy and is  
34 eligible for Medicare coverage based on age prior to January  
35 1, 2005, may continue to renew the coverage under the

1 association policy.

2 Sec. 17. Section 515.138, sixth subsection, paragraph  
3 entitled perils not included, Code 2005, is amended to read as  
4 follows:

5 PERILS NOT INCLUDED. This company shall not be liable for  
6 loss by fire or other perils insured against in this policy  
7 caused, directly or indirectly, by: (a) Enemy attack by armed  
8 forces, including action taken by military, naval or air  
9 forces in resisting an actual or an immediately impending  
10 enemy attack; (b) invasion; (c) insurrection; (d) rebellion;  
11 (e) revolution; (f) civil war; (g) usurped power; (h) order of  
12 any civil authority except acts of destruction at the time of  
13 and for the purpose of preventing the spread of fire, provided  
14 that such fire did not originate from any of the perils  
15 excluded by this policy; (i) neglect of the an insured to use  
16 all reasonable means to save and preserve the property at and  
17 after a loss, or when the property is endangered by fire in  
18 neighboring premises; (j) nor shall this company be liable for  
19 loss by theft.

20 Sec. 18. Section 515.138, sixth subsection, paragraph  
21 entitled concealment -- fraud, Code 2005, is amended to read  
22 as follows:

23 CONCEALMENT -- FRAUD. This entire policy shall be void if,  
24 whether before or after a loss, the an insured has willfully  
25 concealed or misrepresented any material fact or circumstance  
26 concerning this insurance or the subject thereof, or the  
27 interest of the an insured therein, or in case of any fraud or  
28 false swearing by the an insured relating thereto.

29 Sec. 19. Section 515.138, sixth subsection, paragraph  
30 entitled conditions suspending or restricting insurance, Code  
31 2005, is amended to read as follows:

32 CONDITIONS SUSPENDING OR RESTRICTING INSURANCE. Unless  
33 otherwise provided in writing added hereto this company shall  
34 not be liable for loss occurring under any of the following  
35 circumstances:

1 a. While the hazard is created or increased by any means  
2 within the control or knowledge of the an insured,~~or.~~

3 b. While a described building, whether intended for  
4 occupancy by owner or tenant, is vacant or unoccupied beyond a  
5 period of sixty consecutive days,~~or.~~

6 c. As a result of explosion or riot, unless fire ensue,  
7 and in that event for loss by fire only.

8 Sec. 20. Section 515B.2, subsection 4, paragraph b,  
9 subparagraph (7), Code 2005, is amended to read as follows:

10 (7) That would otherwise be a covered claim, but is an  
11 obligation to or on behalf of a person who has a net worth~~on~~  
12 ~~the date of the occurrence giving rise to the claim~~, greater  
13 than that allowed by the guarantee fund law of the state of  
14 residence of the claimant, and which state has denied coverage  
15 to that claimant on that basis.

16 Sec. 21. Section 515B.17, Code 2005, is amended to read as  
17 follows:

18 515B.17 TIMELY FILING OF CLAIMS.

19 Notwithstanding any other provision of this chapter, a  
20 covered claim shall not include any claim filed with the  
21 association after twenty-four months from the date of the  
22 order of liquidation or after the final date set by the court  
23 for the filing of claims against the insolvent insurer or its  
24 receiver, whichever occurs first.

25 Sec. 22. Section 515F.36, subsection 2, Code 2005, is  
26 amended to read as follows:

27 2. The committee shall consist of seven members,~~one of~~  
28 whom.

29 a. Five of the members shall be elected by to the  
30 committee, with one member from each of the following:

31 a- (1) American insurance association.

32 b- (2) ~~Alliance of American insurers~~ Property casualty  
33 insurers association of America.

34 c-~~National association of independent insurers.~~

35 d- (3) Iowa insurance institute.

1 e- (4) Mutual insurance association of Iowa.

2 f- (5) Independent insurance agents of Iowa.

3 g- ~~b. All-other-insurers~~ Two of the members shall be  
4 elected to the committee by other insurer members of the plan.

5 Sec. 23. Section 516E.1, Code 2005, is amended to read as  
6 follows:

7 516E.1 DEFINITIONS.

8 For the purposes of this chapter:

9 1. "Administrator" means the deputy administrator  
10 appointed pursuant to section 502.601.

11 ~~1. "Commissioner" means the commissioner of insurance~~  
12 ~~as provided in section 505.1 or the deputy administrator~~  
13 ~~appointed under section 502.601.~~

14 3. "Maintenance agreement" means a contract of limited  
15 duration that provides for scheduled maintenance only.

16 ~~2. "Mechanical breakdown insurance" means a policy,~~  
17 ~~contract, or agreement that undertakes to perform or provide~~  
18 ~~repair or replacement service, or indemnification for that~~  
19 ~~service, for the operational or structural failure of a motor~~  
20 ~~vehicle due to a defect in materials or skill of work or~~  
21 ~~normal wear and tear, and that is issued by an insurance~~  
22 ~~company authorized to do business in this state.~~

23 ~~3. "Motor vehicle" means any self-propelled vehicle~~  
24 ~~subject to registration under chapter 321.~~

25 ~~4. "Motor vehicle service contract" or "service contract"~~  
26 ~~means a contract or agreement given for consideration over and~~  
27 ~~above the lease or purchase price of a new or used motor~~  
28 ~~vehicle having a gross vehicle weight rating of less than~~  
29 ~~sixteen thousand pounds that undertakes to perform or provide~~  
30 ~~repair or replacement service, or indemnification for that~~  
31 ~~service, for the operational or structural failure of a motor~~  
32 ~~vehicle due to a defect in materials or skill of work or~~  
33 ~~normal wear and tear, but does not include mechanical~~  
34 ~~breakdown insurance or maintenance agreements providing~~  
35 ~~scheduled repair and maintenance services for leased vehicles.~~

1 5. ~~6. "Motor-vehicle-service-contract-provider"-or~~  
2 ~~"provider"~~ "Provider" means a person who issues, makes,  
3 provides, sells, or offers to sell a motor-vehicle service  
4 contract.

5 6. ~~---"Motor-vehicle-service-contract-reimbursement-insurance~~  
6 ~~policy"-or-"reimbursement-insurance-policy"-means-a-policy-of~~  
7 ~~insurance-providing-coverage-for-all-obligations-and~~  
8 ~~liabilities-incurred-by-a-motor-vehicle-service-contract~~  
9 ~~provider-under-the-terms-of-motor-vehicle-service-contracts~~  
10 ~~issued-by-the-provider.~~

11 7. "Record" means information stored or preserved in any  
12 medium, including in an electronic or paper format. A record  
13 includes but is not limited to documents, books, publications,  
14 accounts, correspondence, memoranda, agreements, computer  
15 files, film, microfilm, photographs, and audio or visual  
16 tapes.

17 8. "Reimbursement insurance policy" means a policy of  
18 insurance issued to a service company and pursuant to which  
19 the insurer agrees, for the benefit of the service contract  
20 holders, to discharge all of the obligations and liabilities  
21 of the service company under the terms of service contracts  
22 issued by the service company in the event of nonperformance  
23 by the service company. For the purposes of this definition,  
24 "all obligations and liabilities" include, but are not limited  
25 to, failure of the service company to perform under the  
26 service contract and the return of the unearned service  
27 company fee in the event of the service company's  
28 unwillingness or inability to reimburse the unearned service  
29 company fee in the event of termination of a service contract.

30 9. "Service company" means a person who issues and is  
31 obligated to perform, or arrange for the performance of,  
32 services pursuant to a service contract.

33 10. "Service contract" means a contract or agreement given  
34 for consideration over and above the lease or purchase price  
35 of a new or used motor vehicle having a gross vehicle weight

1 rating of less than sixteen thousand pounds, that undertakes  
2 to perform or provide repair or replacement service, or  
3 indemnification for that service, for the operation or  
4 structural failure of a motor vehicle due to a defect in  
5 materials or skill of work or normal wear and tear, but does  
6 not include mechanical breakdown insurance or maintenance  
7 agreements.

8 8- 11. "Service contract holder" means a person who  
9 purchases a motor-vehicle service contract.

10 12. "Third-party administrator" means a person who  
11 contracts with a service company to be responsible for the  
12 administration of the service company's service contracts,  
13 including processing and adjudicating claims pursuant to a  
14 service contract.

15 Sec. 24. Section 516E.2, Code 2005, is amended to read as  
16 follows:

17 516E.2 INSURANCE-REQUIRED REQUIREMENTS FOR DOING BUSINESS.

18 1. A motor-vehicle service contract shall not be issued,  
19 sold, or offered for sale in this state unless the provider-of  
20 ~~the-service-contract-is-insured-under-a-motor-vehicle-service~~  
21 ~~contract-reimbursement-insurance-policy-issued-by-an-insurer~~  
22 ~~authorized-to-do-business-in-this-state.~~ service company does  
23 all of the following:

24 a. Provides a receipt for the purchase of the service  
25 contract to the service contract holder.

26 b. Provides a copy of the service contract to the service  
27 contract holder within a reasonable period of time after the  
28 date of purchase of the service contract.

29 2. ~~The-issuer-of-a-reimbursement-insurance-policy-shall~~  
30 ~~not-cancel-a-reimbursement-insurance-policy-unless-a-written~~  
31 ~~notice-has-been-received-by-the-commissioner-and-by-each~~  
32 ~~applicable-provider,-including-automobile-dealers-and-third-~~  
33 ~~party-administrators.--The-notice-shall-fix-the-date-of~~  
34 ~~cancellation-at-a-date-no-earlier-than-ten-days-after-receipt~~  
35 ~~of-the-notice-by-the-commissioner-and-by-the-applicable~~

~~1 provider.--The notice may be made in person or by mail and a~~  
~~2 post-office department receipt of certified or registered~~  
~~3 mailing shall be deemed proof of receipt of the notice. A~~  
4 service company shall not issue a service contract or arrange  
5 to perform services pursuant to a service contract unless the  
6 service company is registered with the commissioner. A  
7 service company shall file a registration with the  
8 commissioner annually, on a form prescribed by the  
9 commissioner, accompanied by a registration fee in the amount  
10 of five hundred dollars.

11 3. In order to assure the faithful performance of a  
12 service company's obligations to its service contract holders,  
13 each service company shall do all of the following:

14 a. Insure all service contracts under a reimbursement  
15 insurance policy issued by an insurer authorized to transact  
16 insurance in this state.

17 b. Maintain a funded reserve account for the service  
18 company's obligations under its service contracts issued and  
19 outstanding in this state. The reserves shall not be less  
20 than forty percent of gross consideration received, less  
21 claims paid, on the sale of the service contracts for all in-  
22 force service contracts. The reserve account shall be subject  
23 to examination and review by the commissioner.

24 c. File a certificate of deposit issued by a financial  
25 institution in the name of the commissioner, as trustee, with  
26 terms and conditions approved by the commissioner as to  
27 issuer, form, and contents, as a financial security deposit,  
28 having a value of not less than five percent of the gross  
29 consideration received by the service company in Iowa on the  
30 sale of service contracts for all service contracts issued and  
31 in force, but not less than the amount of twenty-five thousand  
32 dollars.

33 4. The commissioner may issue an order denying,  
34 suspending, or revoking any registration if the commissioner  
35 finds that the order is in the public interest and finds any

1 of the following:

2 a. The registration is incomplete in any material respect  
3 or contains any statement which, in light of the circumstances  
4 under which the registration was made, is determined by the  
5 commissioner to be false or misleading with respect to any  
6 material fact.

7 b. A provision of this chapter or a rule, order, or  
8 condition lawfully imposed under this chapter, has been  
9 willfully violated in connection with the sale of service  
10 contracts by any of the following persons:

11 (1) The person filing the registration, but only if the  
12 person filing the registration is directly or indirectly  
13 controlled by or acting for the service company.

14 (2) The service company, any partner, officer, or director  
15 of the service company or any person occupying a similar  
16 status or performing similar functions for the service  
17 company, or any person directly or indirectly controlling or  
18 controlled by the service company.

19 c. The service company has not filed a document or  
20 information required under this chapter.

21 d. The service company's literature or advertising is  
22 misleading, incorrect, incomplete, or deceptive.

23 e. The service company has failed to pay the proper filing  
24 fee. However, the commissioner shall vacate an order issued  
25 pursuant to this paragraph when the proper fee has been paid.

26 f. The service company does not have the minimum net  
27 worth, as determined in accordance with generally accepted  
28 accounting principles, required under this chapter.

29 The commissioner may vacate or modify an order issued under  
30 this subsection if the commissioner finds that the conditions  
31 which prompted the entry of the order have changed or that it  
32 is otherwise in the public interest to do so.

33 Sec. 25. Section 516E.3, Code 2005, is amended to read as  
34 follows:

35 516E.3 FILING AND FEE REQUIREMENTS.

1     1.   SERVICE COMPANIES.

2     a.   A ~~motor-vehicle~~ service contract shall not be issued,  
3 sold, or offered for sale in this state unless a true and  
4 correct copy of the service contract, and the ~~provider's~~  
5 service company's reimbursement insurance policy have been  
6 filed with the commissioner by the service company.

7     ~~2. b. In-addition-to-any-other-required-filings, an~~  
8 ~~accurate-copy-of-the-service-contract-and-the-provider's~~  
9 ~~reimbursement-insurance-policy, the~~ A service company shall  
10 file a consent to service of process on the commissioner, and  
11 such other information as the commissioner requires ~~shall be~~  
12 ~~filed~~ annually with the commissioner no later than the first  
13 day of August. If the first day of August falls on a weekend  
14 or a holiday, the date for filing shall be the next business  
15 day. In addition to the annual filing, the provider service  
16 company shall promptly file copies of any amended documents if  
17 material amendments have been made in the materials on file  
18 with the commissioner. If an annual filing is made after the  
19 first of August and sales have occurred during the period when  
20 the provider service company was in noncompliance with this  
21 section, the commissioner shall assess an additional filing  
22 fee that is two times the amount normally required for an  
23 annual filing. A fee shall not be charged for interim filings  
24 made to keep the materials filed with the division current and  
25 accurate. The annual filing shall be accompanied by a filing  
26 fee determined by the commissioner which shall be sufficient  
27 to defray the costs of administering this chapter.

28     ~~3. a. c.~~   c.   A ~~motor-vehicle-service-contract-provider~~  
29 service company shall promptly file the following information  
30 with the ~~insurance~~ commissioner:

31     (1) A change in the name or ownership of the provider  
32 service company.

33     (2) The termination of the provider's service company's  
34 business.

35     ~~b.~~   (3) The provider service company is not required to

1 submit a fee as part of this filing.

2 2. PROVIDERS.

3 a. A service contract shall not be sold or offered for  
4 sale in this state unless a true and correct copy of the  
5 service contract has been filed with the commissioner by the  
6 provider.

7 b. A provider shall file a consent to service of process  
8 on the commissioner and such other information as the  
9 commissioner requires annually with the commissioner no later  
10 than August 1. If August 1 falls on a weekend or a holiday,  
11 the date for filing shall be the next business day. In  
12 addition to the annual filing, the provider shall promptly  
13 file copies of any amended documents if material amendments  
14 have been made in the materials on file with the commissioner.  
15 If an annual filing is made after August 1 and sales have  
16 occurred during the period when the provider was in  
17 noncompliance with this section, the commissioner shall assess  
18 an additional filing fee that is two times the amount normally  
19 required for an annual filing. A fee shall not be charged for  
20 interim filings made to keep the materials filed with the  
21 division current and accurate. The annual filing shall be  
22 accompanied by a filing fee in the amount of one hundred  
23 dollars.

24 c. A provider shall promptly file the following  
25 information with the commissioner:

26 (1) A change in the name or ownership of the provider.

27 (2) The termination of the provider's business.

28 (3) A provider is not required to submit a fee as part of  
29 this filing.

30 Sec. 26. Section 516E.4, Code 2005, is amended by striking  
31 the section and inserting in lieu thereof the following:

32 516E.4 REIMBURSEMENT INSURANCE POLICY REQUIREMENTS.

33 1. REQUIRED DISCLOSURES. A reimbursement insurance policy  
34 insuring a service contract issued, sold, or offered for sale  
35 in this state shall conspicuously state that, upon failure of

1 the service company to perform under the contract, including  
2 but not limited to a failure to return the unearned  
3 consideration paid for a service contract in excess of the  
4 premium, the insurer that issued the policy shall pay on  
5 behalf of the service company any amount that is owed to the  
6 service contract holder by the service company to satisfy the  
7 service company's obligations under a service contract issued  
8 or sold by the service company.

9     2. TERMINATION. As applicable, an insurer that issued a  
10 reimbursement insurance policy shall not terminate the policy  
11 unless a written notice has been received by the commissioner  
12 and by each applicable provider, service company, or third-  
13 party administrator. The notice shall fix the date of  
14 termination at a date no earlier than ten days after receipt  
15 of the notice by the commissioner and by the applicable  
16 provider, service company, or third-party administrator. The  
17 notice may be delivered in person or sent by mail, and a  
18 restricted certified mail return receipt shall be deemed proof  
19 of receipt of notice. The termination of a reimbursement  
20 insurance policy shall not reduce the issuer's responsibility  
21 for a service contract issued by a service company prior to  
22 the date of termination.

23     3. INDEMNIFICATION OR SUBROGATION. This section does not  
24 prevent or limit the right of an insurer that issued a  
25 reimbursement insurance policy to seek indemnification from or  
26 subrogation against a service company if the insurer pays or  
27 is obligated to pay a service contract holder sums that the  
28 service company was obligated to pay pursuant to the  
29 provisions of a service contract or pursuant to a contractual  
30 agreement.

31     Sec. 27. Section 516E.5, Code 2005, is amended to read as  
32 follows:

33     516E.5 DISCLOSURE TO SERVICE CONTRACT HOLDERS -- CONTRACT  
34 PROVISIONS.

35     1. A motor-vehicle service contract shall not be issued,

1 sold, or offered for sale in this state unless the contract  
2 conspicuously states that the obligations of the provider  
3 service company to the service contract holder are guaranteed  
4 under the-service-contract a reimbursement insurance policy,  
5 and-unless-the including a statement in substantially the  
6 following form: "Obligations of the service company under  
7 this service contract are guaranteed under a reimbursement  
8 insurance policy. If the service company fails to pay or  
9 provide service on a claim within sixty days after proof of  
10 loss has been filed with the service company, the service  
11 contract holder is entitled to make a claim directly against  
12 the reimbursement insurance policy." A claim against a  
13 reimbursement insurance policy shall also include a claim for  
14 return of the unearned consideration paid for the service  
15 contract in excess of the premium paid. A service contract  
16 shall conspicuously states state the name and address of the  
17 issuer of the reimbursement insurance policy for that service  
18 contract.

19 2. A motor-vehicle service contract shall be written in  
20 clear, understandable language and the entire contract shall  
21 be printed or typed in easy-to-read type, size, and style, and  
22 shall not be issued, sold, or offered for sale in this state  
23 unless the contract does all of the following:

24 a. Clearly and conspicuously states the name and address  
25 of the service company, describes the service company's  
26 obligations to perform services or to arrange for the  
27 performance of services under the service contract, and states  
28 that the obligations of the provider service company to the  
29 service contract holder are guaranteed under a service  
30 contract reimbursement insurance policy.

31 b. Clearly and conspicuously states the name and address  
32 of the issuer of the reimbursement insurance policy.

33 c. Identifies the motor-vehicle service contract-provider,  
34 the-seller-of-the-motor-vehicle company obligated to perform  
35 the service under the service contract, any third-party

1 administrator, and the service contract holder to the extent  
2 that the name and address of the service contract holder has  
3 been furnished by the service contract holder.

4 d. Sets forth the total purchase price of the service  
5 contract and the terms under which the purchase price of the  
6 service contract is to be paid.

7 e. Sets forth the procedure for making a claim, including  
8 a telephone number.

9 f. Clearly and conspicuously states the dates that  
10 coverage starts and ends and the existence, terms, and  
11 conditions of a deductible amount, if any.

12 g. Specifies the merchandise or services, or both, to be  
13 provided and clearly states any and all limitations,  
14 exceptions, or exclusions.

15 h. Sets forth the conditions on which substitution of  
16 services will be allowed.

17 i. Sets forth all of the obligations and duties of the  
18 service contract holder, including but not limited to the duty  
19 to protect against any further damage to the motor vehicle,  
20 and the obligation to notify the provider service company in  
21 advance of any repair, if any.

22 j. Sets forth any and all terms, restrictions, or  
23 conditions governing transferability of the service contract,  
24 if any.

25 k. Describes or references any and all applicable  
26 provisions of the Iowa consumer credit code, chapter 537.

27 l. States the name and address of the commissioner.

28 m. Sets forth any and all conditions on which the service  
29 contract may be canceled, the terms and conditions for the  
30 refund of any portion of the purchase price, the identity of  
31 the person primarily liable to provide any refund, and the  
32 identity of any other person liable to provide any portion of  
33 the refund. If the service contract holder cancels the  
34 service contract, the service company shall mail a written  
35 notice of termination to the service contract holder within

1 fifteen days of the date of the termination.

2 n. Permits the service contract holder to cancel and  
3 return the service contract within at least twenty days of the  
4 date of mailing the service contract to the service contract  
5 holder or within at least ten days after delivery of the  
6 service contract if the service contract is delivered at the  
7 time of sale of the service contract, or within a longer  
8 period of time as permitted under the service contract. If no  
9 claim has been made under the service contract prior to its  
10 return, the service contract is void and the full purchase  
11 price of the service contract shall be refunded to the service  
12 contract holder. A ten percent penalty shall be added each  
13 month to a refund that is not paid to a service contract  
14 holder within thirty days of the return of the service  
15 contract to the service company. The applicable time period  
16 for cancellation of a service contract shall apply only to the  
17 original service contract holder that purchased the service  
18 contract.

19 3. A complete copy of the terms of the ~~motor-vehicle~~  
20 service contract shall be delivered to the prospective service  
21 contract holder at or before the time that the prospective  
22 service contract holder makes application for the service  
23 contract. If there is no separate application procedure, then  
24 a complete copy of the ~~motor-vehicle~~ service contract shall be  
25 delivered to the service contract holder at or before the time  
26 the service contract holder becomes bound under the contract.

27 Sec. 28. Section 516E.6, Code 2005, is amended to read as  
28 follows:

29 516E.6 COMMISSIONER MAY PROHIBIT CERTAIN SALES --  
30 INJUNCTION.

31 The commissioner shall issue an order instructing the a  
32 provider, service company, or third-party administrator to  
33 cease and desist from selling or offering for sale ~~motor~~  
34 ~~vehicle~~ service contracts if the commissioner determines that  
35 the provider, service company, or third-party administrator

1 has failed to comply with a provision of this chapter. Upon  
2 the failure of a motor-vehicle provider, service contract  
3 provider company, or third-party administrator to obey a cease  
4 and desist order issued by the commissioner, the commissioner  
5 may give notice in writing of the failure to the attorney  
6 general, who shall immediately commence an action against the  
7 provider, service company, or third-party administrator to  
8 enjoin the provider, service company, or third-party  
9 administrator from selling or offering for sale motor-vehicle  
10 service contracts until the provider, service company, or  
11 third-party administrator complies with the provisions of this  
12 chapter and the district court may issue the injunction.

13 Sec. 29. Section 516E.7, Code 2005, is amended to read as  
14 follows:

15 516E.7 RULES.

16 The commissioner may adopt rules as provided in chapter 17A  
17 to administer and enforce the provisions of this chapter and  
18 to establish minimum standards for disclosure of motor-vehicle  
19 service contract coverage limitations and exclusions.

20 Sec. 30. Section 516E.8, Code 2005, is amended to read as  
21 follows:

22 516E.8 EXEMPTION.

23 This chapter does not apply to a motor-vehicle service  
24 contract issued by the manufacturer or importer of the motor  
25 vehicle covered by the service contract or to any third party  
26 acting in an administrative capacity on the manufacturer's  
27 behalf in connection with that service contract.

28 Sec. 31. Section 516E.9, Code 2005, is amended to read as  
29 follows:

30 516E.9 MISREPRESENTATIONS OF STATE APPROVAL.

31 A motor-vehicle service contract-provider company shall not  
32 represent or imply in any manner that the provider service  
33 company has been sponsored, recommended, or approved or that  
34 the provider's service company's abilities or qualifications  
35 have in any respect been passed upon by the state of Iowa,

1 including the commissioner, the insurance division, or the  
2 division's securities bureau.

3 Sec. 32. Section 516E.10, Code 2005, is amended to read as  
4 follows:

5 516E.10 PROHIBITED ACTS -- UNFAIR OR DECEPTIVE TRADE  
6 PRACTICES.

7 1. MISREPRESENTATIONS, FALSE ADVERTISING, AND UNFAIR  
8 PRACTICES.

9 a. Unless licensed as an insurance company, a ~~motor~~  
10 ~~vehicle service contract-provider~~ company shall not use in its  
11 name, contracts, or literature, the words "insurance",  
12 "casualty", "surety", "mutual", or any other words descriptive  
13 of the insurance, casualty, or surety business or deceptively  
14 similar to the name or description of any insurance or surety  
15 corporation, or any other ~~motor-vehicle~~ service contract  
16 ~~provider~~ company.

17 b. A ~~motor-vehicle~~ service contract-provider company shall  
18 not, without the written consent of the purchaser, knowingly  
19 charge a purchaser for duplication of coverage or duties  
20 required by state or federal law, a warranty expressly issued  
21 by a manufacturer or seller of a product, or an implied  
22 warranty enforceable against the lessor, seller, or  
23 manufacturer of a product.

24 c. A ~~motor-vehicle~~ provider, service contract-provider  
25 company, or third-party administrator shall not make, permit,  
26 or cause a false or misleading statement, either oral or  
27 written, in connection with the sale, offer to sell, or  
28 advertisement of a ~~motor-vehicle~~ service contract.

29 d. A ~~motor-vehicle~~ provider, service contract-provider  
30 company, or third-party administrator shall not permit or  
31 cause the omission of a material statement in connection with  
32 the sale, offer to sell, or advertisement of a ~~motor-vehicle~~  
33 service contract, which under the circumstances should have  
34 been made in order to make the statement not misleading.

35 e. A ~~motor-vehicle~~ provider, service contract-provider

1 company, or third-party administrator shall not make, permit,  
2 or cause to be made a false or misleading statement, either  
3 oral or written, about the benefits or services available  
4 under the motor-vehicle service contract.

5 f. A motor-vehicle provider, service contract-provider  
6 company, or third-party administrator shall not make, permit,  
7 or cause to be made a statement of practice which has the  
8 effect of creating or maintaining a fraud.

9 g. A motor-vehicle provider, service contract-provider  
10 company, or third-party administrator shall not make, publish,  
11 disseminate, circulate, or place before the public, or cause,  
12 directly or indirectly, to be made, published, disseminated,  
13 circulated, or placed before the public in a newspaper,  
14 magazine, or other publication, or in the form of a notice,  
15 circular, pamphlet, letter, or poster, or over a radio or  
16 television station, or in any other way, an advertisement,  
17 announcement, or statement containing an assertion,  
18 representation, or statement with respect to the motor-vehicle  
19 service contract industry or with respect to a motor-vehicle  
20 provider, service contract-provider company, or third-party  
21 administrator which is untrue, deceptive, or misleading. It  
22 is deceptive or misleading to use any combination of words,  
23 symbols, or physical materials which by their content,  
24 phraseology, shape, color, or other characteristics are so  
25 similar to a combination of words, symbols, or physical  
26 materials used by a manufacturer or of such a nature that the  
27 use would tend to mislead a person into believing that the  
28 solicitation is in some manner connected with the  
29 manufacturer, unless actually authorized or issued by the  
30 manufacturer.

31 h. A bank, savings and loan association, credit union,  
32 insurance company, or other lending institution shall not  
33 require the purchase of a motor-vehicle service contract as a  
34 condition of a loan.

35 2. DEFAMATION. A motor-vehicle provider, service contract

1 provider company, or third-party administrator shall not make,  
2 publish, disseminate, or circulate, directly or indirectly, or  
3 aid, abet, or encourage the making, publishing, disseminating,  
4 or circulating of an oral or written statement or a pamphlet,  
5 circular, article, or literature which is false or maliciously  
6 critical of or derogatory to the financial condition of a  
7 person, and which is calculated to injure the person.

8 3. BOYCOTT, COERCION, AND INTIMIDATION. A motor-vehicle  
9 provider, service contract-provider-shall-not-enter-into-an  
10 company, or third-party administrator agreement to commit, or  
11 by a concerted action commit, an act of boycott, coercion, or  
12 intimidation resulting in or tending to result in unreasonable  
13 restraint of, or monopoly in, the service contract industry.

14 4. FALSE STATEMENTS. A motor-vehicle provider, service  
15 contract-provider company, or third-party administrator shall  
16 not knowingly file with a supervisory or other public  
17 official, or knowingly make, publish, disseminate, circulate,  
18 or deliver to a person, or place before the public, or  
19 knowingly cause directly or indirectly to be made, published,  
20 disseminated, circulated, delivered to a person, or placed  
21 before the public, a false material statement of fact as to  
22 the financial condition of a person.

23 5. FALSE ENTRIES. A motor-vehicle provider, service  
24 contract-provider company, or third-party administrator shall  
25 not knowingly make a false entry of a material fact in a book,  
26 report, or statement of a person or knowingly fail to make a  
27 true entry of a material fact pertaining to the business of  
28 the person in a book, report, or statement of the person.

29 6. USED OR REBUILT PARTS. A motor-vehicle service  
30 contract-provider company shall not repair a motor vehicle  
31 covered by a motor-vehicle service contract with any of the  
32 following:

33 a. Used parts, unless the provider service company  
34 receives prior written authorization by the vehicle owner.

35 b. Rebuilt parts, unless the parts are rebuilt according

1 to national standards recognized by the insurance division.

2 7. MARKETING. A provider, service company, or third-party  
3 administrator shall not market, advertise, offer to sell, or  
4 sell a service contract by using personal information obtained  
5 in violation of the federal Driver's Privacy Protection Act,  
6 18 U.S.C. § 2721 et seq.

7 ~~7.~~ 8. VIOLATIONS OF SECTION 714.16.

8 a. A violation of this chapter or rules adopted by the  
9 commissioner pursuant to this chapter is an unfair practice as  
10 defined in section 714.16.

11 b. An enforcement agreement between the commissioner and a  
12 ~~motor-vehicle provider, service contract-provider company, or~~  
13 third-party administrator does not bar the attorney general  
14 from bringing an action against the provider, service company,  
15 or third-party administrator under section 714.16 as to  
16 allegations that a violation of this chapter constitutes a  
17 violation of section 714.16.

18 Sec. 33. Section 516E.11, Code 2005, is amended to read as  
19 follows:

20 516E.11 RECORDS -- EXPLANATION OF REASONS FOR DENIAL OF  
21 CLAIMS.

22 1. A ~~motor-vehicle provider, service contract-provider~~  
23 company, or third-party administrator shall keep accurate  
24 records concerning transactions regulated under this chapter.

25 a. ~~A-motor-vehicle-service-contract-provider's-records~~  
26 Records of a provider, service company, or third-party  
27 administrator shall include all of the following:

28 (1) Copies of ~~all-service-contracts~~ each type of service  
29 contract issued or sold.

30 (2) The name and address of each service contract holder.

31 (3) The Claim files which shall contain, at a minimum, the  
32 dates, amounts, and descriptions of all receipts, claims, and  
33 expenditures related to service contracts.

34 (4) Copies of all materials relating to claims which have  
35 been denied.

1     b. A motor-vehicle provider, service contract-provider  
2 company, or third-party administrator shall retain all  
3 required records pertaining to a service contract holder for  
4 at least two years after the specified period of coverage has  
5 expired. A provider, service company, or third-party  
6 administrator discontinuing business in this state shall  
7 maintain its records until the provider, service company, or  
8 third-party administrator furnishes the commissioner  
9 satisfactory proof that the provider, service company, or  
10 third-party administrator has discharged all obligations to  
11 contract holders in this state.

12     c. Motor-vehicle-service-contract-providers Providers,  
13 service companies, or third-party administrators shall make  
14 all records concerning transactions regulated under the  
15 chapter available to the commissioner for the purpose of  
16 examination.

17     d. A provider, service company, or third-party  
18 administrator may keep all records required under this chapter  
19 in an electronic form. If an administrator maintains records  
20 in a form other than a printed copy, the records shall be  
21 accessible from a computer terminal available to the  
22 commissioner and shall be capable of duplication to a legible  
23 printed copy.

24     2. A motor-vehicle-service-contract provider, service  
25 company, or third-party administrator shall promptly deliver a  
26 written explanation to the service contract holder, describing  
27 the reasons for denying a claim or for the offer of a  
28 compromise settlement, based on all relevant facts or legal  
29 requirements and referring to applicable provisions of the  
30 service contract.

31     3. A provider, service company, or third-party  
32 administrator shall keep accurate records concerning  
33 transactions regulated under this chapter, including a list of  
34 the locations where service contracts are marketed, sold,  
35 offered for sale, or performed.

1     Sec. 34. Section 516E.12, Code 2005, is amended to read as  
2 follows:

3     516E.12 SERVICE OF PROCESS.

4     The commissioner shall be the agent for service of process  
5 upon a ~~motor-vehicle~~ provider, ~~service contract-provider~~  
6 company, or third-party administrator and an issuer of a  
7 reimbursement insurance policy.

8     Sec. 35. Section 516E.13, subsection 4, unnumbered  
9 paragraph 1, Code 2005, is amended to read as follows:

10    Upon the commissioner's determination that a provider,  
11 service company, or third-party administrator has engaged, is  
12 engaging, or is about to engage in any act or practice  
13 constituting a violation of this chapter or a rule adopted  
14 pursuant to this chapter, the commissioner may issue a summary  
15 order directing the person to cease and desist from engaging  
16 in the act or practice resulting in the violation or to take  
17 other affirmative action as in the judgment of the  
18 commissioner is necessary to comply with the requirements of  
19 this chapter.

20    Sec. 36. Section 516E.14, Code 2005, is amended to read as  
21 follows:

22    516E.14 AUDITS.

23    The commissioner may examine or cause to be examined the  
24 records of a ~~motor-vehicle~~ provider, ~~service contract-provider~~  
25 company, or third-party administrator for the purpose of  
26 verifying compliance with this chapter. The commissioner may  
27 require, by a subpoena, the attendance of the provider,  
28 service company, or third-party administrator, or the  
29 provider's a representative thereof, and any other witness  
30 whom the commissioner deems necessary or expedient, and the  
31 production of records relating in any manner to compliance  
32 with this chapter if a provider, service company, third-party  
33 administrator, or witness fails or refuses to produce the  
34 documents for examination when requested by the commissioner.

35    Sec. 37. Section 516E.15, subsection 1, paragraph b, Code

1 2005, is amended to read as follows:

2 b. A ~~motor-vehicle provider, service contract-provider-who~~  
3 company, or third-party administrator that fails to file  
4 documents and information with the commissioner as required  
5 pursuant to section 516E.3 may be subject to a civil penalty.  
6 The amount of the civil penalty shall not be more than four  
7 hundred dollars plus two dollars for each ~~motor-vehicle~~  
8 service contract that the person executed prior to satisfying  
9 the filing requirement. However, a person who fails to file  
10 information regarding a change in the ~~provider's~~ name or the  
11 termination of the ~~provider's~~ business of a provider, service  
12 company, or third-party administrator as required pursuant to  
13 section 516E.3 is subject to a civil penalty of not more than  
14 five hundred dollars.

15 Sec. 38. Section 516E.15, subsection 2, Code 2005, is  
16 amended to read as follows:

17 2. If the commissioner believes that grounds exist for the  
18 criminal prosecution of a ~~motor-vehicle provider, service~~  
19 contract-provider company, or third-party administrator for  
20 violating this chapter or any other law of this state, the  
21 commissioner may forward to the attorney general or the county  
22 attorney the grounds for the belief, including all evidence in  
23 the commissioner's possession for action deemed appropriate by  
24 the attorney general or county attorney. At the request of  
25 the attorney general, the county attorney shall appear and  
26 prosecute the action when brought in the county served by the  
27 county attorney.

28 Sec. 39. NEW SECTION. 516E.16 COURT ACTION FOR FAILURE  
29 TO COOPERATE.

30 1. If a person fails or refuses to file a statement or  
31 report or to produce any books, accounts, papers,  
32 correspondence, memoranda, purchase agreements, files, or  
33 other documents or records, or to obey a subpoena issued by  
34 the commissioner, the commissioner may refer the matter to the  
35 attorney general, who may apply to a district court to enforce

1 compliance. The court may order any of the following:

2 a. Injunctive relief restricting or prohibiting the offer  
3 or sale of service contracts.

4 b. Production of documents or records including but not  
5 limited to books, accounts, papers, correspondence, memoranda,  
6 purchase agreements, files, or other documents or records.

7 c. Such other relief as may be appropriate.

8 2. A court order issued pursuant to subsection 1 is  
9 effective until the person who is subject to the order files  
10 the statement or report, produces the documents requested, or  
11 obeys the subpoena.

12 Sec. 40. NEW SECTION. 516E.17 NET WORTH REQUIREMENT.

13 A service company that has issued or renewed in the  
14 aggregate one thousand or fewer service contracts during the  
15 preceding calendar year shall maintain a minimum net worth of  
16 forty thousand dollars. The minimum net worth to be  
17 maintained shall be increased by an additional twenty thousand  
18 dollars for each additional five hundred contracts or fraction  
19 thereof issued or renewed, up to a maximum required net worth  
20 of four hundred thousand dollars. At least twenty thousand  
21 dollars of net worth shall consist of paid-in capital.

22 Sec. 41. NEW SECTION. 516E.18 PUBLIC ACCESS TO RECORDS.

23 1. The administrator shall keep a register of all filings  
24 and orders which have been entered. The register shall be  
25 open for public inspection.

26 2. Upon request and for a reasonable fee, the  
27 administrator shall furnish to any person copies of any  
28 register entry or any document which is a matter of public  
29 record and not confidential. Copies shall be available during  
30 normal business hours and may be certified upon request. In  
31 any administrative, civil, or criminal proceeding, a certified  
32 copy is prima facie evidence of the contents of the document  
33 certified.

34 3. Pursuant to chapter 22, the administrator may maintain  
35 the confidentiality of information obtained during an

1 investigation or audit.

2 Sec. 42. NEW SECTION. 516E.19 ADMINISTRATION.

3 1. This chapter shall be administered by the commissioner.  
4 The deputy administrator appointed pursuant to section 502.601  
5 shall be the principal operations officer responsible to the  
6 commissioner for the routine administration of this chapter  
7 and management of the administrative staff. In the absence of  
8 the commissioner, whether because of vacancy in the office, by  
9 reason of absence, physical disability, or other cause, the  
10 deputy administrator shall be the acting administrator and  
11 shall, for the time being, have and exercise the authority  
12 conferred upon the commissioner. The commissioner may from  
13 time to time delegate to the deputy administrator any or all  
14 of the functions assigned to the commissioner in this chapter.  
15 The deputy administrator shall employ officers, attorneys,  
16 accountants, auditors, investigators, and other employees as  
17 shall be needed for the administration of this chapter.

18 2. Upon request, the commissioner may honor requests from  
19 interested persons for interpretive opinions.

20 Sec. 43. Section 518.14, subsection 4, paragraph a, Code  
21 2005, is amended to read as follows:

22 a. UNITED STATES GOVERNMENT OBLIGATIONS. Obligations  
23 Bonds or other evidences of indebtedness issued, assumed, or  
24 guaranteed by the United States of America, or by an any  
25 agency or instrumentality of the United States of America,  
26 include investments in an open-end management investment  
27 company registered with the federal securities and exchange  
28 commission under the federal Investment Company Act of 1940,  
29 15 U.S.C. § 80(a) and operated in accordance with 17 C.F.R. §  
30 270.2a-7, the portfolio of which is limited to the United  
31 States obligations described in this paragraph, and which are  
32 included in the national association of insurance  
33 commissioners' securities valuation office's United States  
34 direct obligation - full faith and credit list.

35 Sec. 44. Section 518A.12, subsection 4, paragraph a, Code

1 2005, is amended to read as follows:

2 a. UNITED STATES GOVERNMENT OBLIGATIONS. Obligations  
3 Bonds or other evidences of indebtedness issued, assumed, or  
4 guaranteed by the United States of America, or an by any  
5 agency or instrumentality of the United States of America,  
6 include investments in an open-end management investment  
7 company registered with the federal securities and exchange  
8 commission under the federal Investment Company Act of 1940,  
9 15 U.S.C. § 80(a) and operated in accordance with 17 C.F.R. §  
10 270.2a-7, the portfolio of which is limited to the United  
11 States obligations described in this paragraph, and which are  
12 included in the national association of insurance  
13 commissioners' securities valuation office's United States  
14 direct obligation - full faith and credit list.

15 Sec. 45. Section 520.19, Code 2005, is amended to read as  
16 follows:

17 520.19 ANNUAL TAX -- FEES.

18 In lieu of all other taxes, licenses, charges, and fees  
19 whatsoever, such attorney shall annually pay to the  
20 commissioner the same fees as are paid by mutual companies  
21 transacting the same kind of business, and an annual tax of  
22 ~~two-percent, if a domestic reciprocal organization, and two~~  
23 ~~percent, if a foreign reciprocal organization,~~ based upon the  
24 applicable percentage stated in section 432.1, subsection 4,  
25 calculated upon the gross premiums or deposits collected from  
26 subscribers in this state during the preceding calendar year,  
27 after deducting therefrom returns, or cancellations, and all  
28 amounts returned to subscribers or credited to their accounts  
29 as savings, and the amount returned upon canceled policies and  
30 rejected applications covering property situated or on  
31 business done within this state.

32 Sec. 46. Section 522B.17, Code 2005, is amended to read as  
33 follows:

34 522B.17 PENALTY.

35 An insurer or insurance producer who, after hearing, is

1 found to have violated this chapter may be ordered to cease  
2 and desist from engaging in the conduct resulting in the  
3 violation and may be assessed a civil penalty pursuant to  
4 chapter 507B.

5 A person found who, after hearing, is found to have acted  
6 violated this chapter by acting as an agent of an insurer or  
7 otherwise selling, soliciting, or negotiating insurance in  
8 this state, or offering to the public advice, counsel, or  
9 services with regard to insurance, who is not properly  
10 licensed ~~is-subject-to~~ may be ordered to cease and desist from  
11 engaging in the conduct resulting in the violation and may be  
12 assessed a civil penalty according to the provisions of  
13 chapter 507A.

14 If a person does not comply with an order issued pursuant  
15 to this section, the commissioner may petition a court of  
16 competent jurisdiction to enforce the order. The court shall  
17 not require the commissioner to post a bond in an action or  
18 proceeding under this section. If the court finds, after  
19 notice and opportunity for hearing, that the person is not in  
20 compliance with an order, the court may adjudge the person to  
21 be in civil contempt of the order. The court may impose a  
22 civil penalty against the person for contempt in an amount not  
23 less than three thousand dollars but not greater than ten  
24 thousand dollars for each violation and may grant any other  
25 relief that the court determines is just and proper in the  
26 circumstances.

27 Sec. 47. NEW SECTION. 522B.17A INJUNCTIVE RELIEF.

28 An association with at least twenty-five insurance producer  
29 members may bring an action in district court to enjoin a  
30 person from selling, soliciting, or negotiating insurance in  
31 violation of section 522B.2. If the court finds that the  
32 person is in violation of section 522B.2 and enjoins the  
33 person from selling, soliciting, or negotiating insurance in  
34 violation of that section, the court's findings of fact and  
35 law, and the judgment and decree, when final, shall be

1 admissible in any proceeding initiated pursuant to section  
2 522B.17 by the commissioner against the person enjoined and  
3 the person enjoined shall be precluded from contesting in that  
4 proceeding the court's determination that the person sold,  
5 solicited, or negotiated insurance in violation of section  
6 522B.2.

7 Sec. 48. Section 523A.402, subsection 6, paragraph c, Code  
8 2005, is amended to read as follows:

9 c. The annuity shall not be contestable, or limit death  
10 benefits in the case of suicide, with respect to that portion  
11 of the face amount of the annuity which is required by  
12 paragraph "b". The annuity shall not refer to physical  
13 examination, or otherwise operate as an exclusion, limitation,  
14 or condition other than requiring submission of proof of death  
15 or surrender of the annuity at the time the prepaid purchase  
16 agreement is funded, matures, or is canceled, as the case may  
17 be.

18 Sec. 49. EFFECTIVE AND RETROACTIVE APPLICABILITY DATES.  
19 This section and the sections of this Act amending sections  
20 513C.6 and 514E.2, and amending section 514E.7, subsection 1,  
21 by enacting paragraph "e", being deemed of immediate  
22 importance, take effect upon enactment. The section of the  
23 Act amending section 513C.6 is retroactively applicable to  
24 January 1, 2005, and is applicable on and after that date.  
25 The sections of the Act amending section 514E.2 are  
26 retroactively applicable to July 1, 1986, and are applicable  
27 on and after that date. The portion of the section of the Act  
28 amending section 514E.7, subsection 1, by enacting paragraph  
29 "e" is retroactively applicable to January 1, 2005, and is  
30 applicable on and after that date.

31 EXPLANATION

32 This bill relates to various provisions administered by the  
33 insurance division of the department of commerce.

34 Code section 432.1 provides for cash refunds of excess  
35 prepayments of premium tax to an insurance carrier when a

1 premium tax credit will not allow recoupment of the funds  
2 paid.

3 Code section 505A.1 is amended to provide that the  
4 commissioner of insurance shall be the state's representative  
5 for the interstate insurance product regulation compact.

6 Code section 507C.2 is amended to include additional  
7 definitions, including definitions of certain derivative  
8 contracts that may be involved in insurer insolvency  
9 proceedings.

10 New Code section 507C.28A is amended concerning rights that  
11 may be exercised under netting agreements or qualified  
12 financial contracts under certain circumstances.

13 Code section 507C.30 is amended by adding a new  
14 subparagraph concerning the disallowance of certain setoffs  
15 during insolvency proceedings.

16 Code section 513B.12 is amended to exempt small employer  
17 carriers from electing risk-assuming status while the small  
18 employer carrier reinsurance program is suspended.

19 Code section 513B.13 is amended to permit reduction of the  
20 size of the small employer carrier reinsurance program board  
21 while the program is suspended, with the approval of the  
22 commissioner of insurance.

23 Code section 513B.17 strikes language allowing expansion of  
24 the small employer carrier reinsurance program to employer  
25 groups employing 25 to 50 employees if the market is  
26 constricted and not competitive, since state law already  
27 includes employee groups of that size in the program.

28 Code section 513C.6 is amended to allow an individual who  
29 has coverage as a dependent under a basic or standard health  
30 benefit plan to elect to continue coverage under the plan when  
31 the individual is no longer covered as a dependent under the  
32 plan. The bill provides that this provision is effective upon  
33 enactment and is retroactively applicable to January 1, 2005,  
34 and applies on and after that date.

35 Code section 514B.13 is amended to allow a health

1 maintenance organization that provides services exclusively on  
2 a group contract basis to limit the applicability of the open  
3 enrollment period provided for in the section to members of  
4 the group covered by the contract, including those members of  
5 the group who previously waived coverage.

6 Code section 514E.2, subsection 1, is amended to provide  
7 that all carriers and all organized delivery systems licensed  
8 by the director of public health providing health insurance or  
9 health care services on an individual or group basis are  
10 members of the Iowa comprehensive health insurance  
11 association.

12 Code section 514E.2, subsection 5, is amended to strike a  
13 requirement that the Iowa comprehensive health insurance  
14 association include a list of health conditions which would  
15 make an applicant eligible without demonstrating a rejection  
16 of coverage by one carrier.

17 Code section 514E.2, subsection 7, is amended to include  
18 definitions of "total health insurance premiums" and "payments  
19 for subscriber contracts" for the purpose of computing  
20 assessments of members by the Iowa comprehensive health  
21 insurance association.

22 The bill provides that all the amendments to Code section  
23 514E.2 take effect upon enactment and are retroactively  
24 applicable to July 1, 1986, and apply on and after that date.

25 Code section 514E.7 is amended to provide that an  
26 individual is eligible for coverage under the Iowa  
27 comprehensive health insurance association if the person has  
28 certain health conditions established by the association's  
29 board of directors with the approval of the commission. Code  
30 section 514E.7 is also amended to provide eligibility for such  
31 coverage if the individual has coverage under a basic or  
32 standard health benefit plan under Code chapter 513C and this  
33 provision is effective upon enactment and is retroactively  
34 applicable to January 1, 2005, and applies on and after that  
35 date.

1 Code section 514E.8, subsection 1, is amended to provide  
2 that an individual who is covered by an association health  
3 insurance policy and who is eligible for Medicare coverage  
4 based on age prior to January 1, 2005, may continue to renew  
5 the coverage under the association policy.

6 Code section 515.138 revises language about intentional  
7 acts in standard fire policy language which are  
8 noncompensable.

9 Code section 515B.2 is amended to change the date used when  
10 calculating the net worth of a person for the purpose of  
11 determining whether the person has a covered claim under the  
12 Iowa insurance guaranty association.

13 Code section 515B.17 is amended to provide a date certain  
14 when claims must be filed in order to be covered by the Iowa  
15 insurance guaranty association.

16 Code section 515F.36 is amended to change the membership of  
17 the governing board of the FAIR plan, the plan to assure fair  
18 access to insurance requirements.

19 Code chapter 516E concerning service contracts for the  
20 repair or placement of certain motor vehicles is extensively  
21 revised. Code section 516E.1 concerning definitions is  
22 amended to include the addition of definitions for an  
23 "administrator", for a "third-party administrator", and for a  
24 "service company", to redefine "provider" and to redefine  
25 "reimbursement insurance policy" to specify that such a policy  
26 is for the benefit of the service contract holders.

27 Code section 516E.2 is amended to specify the requirements  
28 for a service company to issue, sell, or offer service  
29 contracts in this state, including financial security  
30 requirements to protect service contract holders in the form  
31 of a funded reserve in the amount of 40 percent of gross  
32 consideration received by the service company, and the filing  
33 of a certificate of deposit with the commissioner in the  
34 amount of not less than 5 percent of consideration received,  
35 but not less than \$25,000. Service companies are also

1 required to register with the commissioner of insurance and  
2 pay a \$500 registration fee. Grounds for denial, suspension,  
3 or revocation of such registrations are also specified.

4 Code section 516E.3 is amended to provide that service  
5 companies and providers, such as auto dealers and other  
6 sellers, are required to file copies of service contracts with  
7 the insurance commissioner, including copies of service  
8 contracts offered for sale or sold, and a copy of the service  
9 company's reimbursement insurance policy. A provider is  
10 required to pay a \$100 filing fee. Providers and service  
11 companies are required to make additional filings concerning  
12 name or ownership changes or cessation of business.

13 Code section 516E.4 is amended to require that  
14 reimbursement insurance policies must include a statement that  
15 the reimbursement insurer is obligated to pay the service  
16 contract holder upon a failure of the service company to  
17 perform, must include specified terms for termination of the  
18 policy, and may include the right of an insurer to seek  
19 indemnification or subrogation against a service company if  
20 the insurer is required to pay a service contract holder  
21 pursuant to the policy.

22 Code section 516E.5 is amended to require service contracts  
23 to include information about the service company and the  
24 service company's obligations under the service contract, a  
25 statement that the obligations of the service company are  
26 guaranteed under a reimbursement insurance policy and that the  
27 service contract holder may file claims directly with the  
28 insurer if the service company fails to perform under the  
29 service contract. The Code section is also amended to require  
30 identification of the third-party administrator and the  
31 service company for the service contract, to require a written  
32 termination notice of a service contract, and to allow a  
33 cancellation period by a service contract holder after a  
34 service contract has been purchased.

35 Code sections 516E.6, 516E.7, 516E.8, 516E.9, 516E.10,

1 516E.12, 516E.13, 516E.14, and 516E.15 are amended to apply to  
2 service companies, providers, and third-party administrators.

3 Code section 516E.11 is amended to conform with changes in  
4 definitions made in Code section 516E.1, to require providers,  
5 service companies, and third-party administrators to comply  
6 with recordkeeping requirements, to reduce recordkeeping  
7 requirements as to individual service contracts, and to update  
8 recordkeeping requirements to reflect modern technology.

9 Providers, service companies, and third-party administrators  
10 are also required to keep a list of locations where service  
11 contracts are marketed, sold, offered for sale, or performed.

12 New Code section 516E.16 allows the insurance commissioner  
13 to pursue court action when a person does not respond to  
14 insurance division orders and requests for information.

15 New Code section 516E.17 imposes a net worth requirement on  
16 service companies, based on the number of service contracts  
17 issued or renewed in a year, that utilizes the same formula  
18 and amounts that are used for residential service contracts  
19 under Code chapter 523C.

20 New Code section 516E.18 codifies an existing rule  
21 concerning public access to the records of an administrator.

22 New Code section 516E.19 relates to the administration of  
23 Code chapter 516E by the commissioner of insurance with the  
24 assistance of the deputy administrator of insurance.

25 Code sections 518.14 and 518A.12 are amended to allow  
26 county and state mutual associations to invest in United  
27 States obligations that include open-end management investment  
28 accounts.

29 Code section 520.19 is amended to provide that reciprocal  
30 or interinsurance contracts are subject to the new premium tax  
31 rate structure contained in Code section 432.1, subsection 4.

32 Code section 522B.17 is amended to provide that if an  
33 insurer or insurance producer is found to have violated Code  
34 chapter 522B, that person may be ordered to cease and desist  
35 from engaging in the illegal conduct and may be assessed a

1 civil penalty pursuant to Code chapter 507B. The section is  
2 also amended to provide that a person who violates Code  
3 chapter 522B by acting as an agent of an insurer or otherwise  
4 sells, solicits, or negotiates insurance in this state or  
5 offers advice or services regarding insurance and who is not  
6 properly licensed may be ordered to cease and desist from  
7 engaging in the illegal conduct and may be assessed a civil  
8 penalty pursuant to Code chapter 507B.

9 Code section 522B.17 is also amended to allow the  
10 commissioner to enforce a cease and desist order by  
11 petitioning a court of competent jurisdiction. The  
12 commissioner is not required to file a bond in such an action  
13 and if the court finds that the person is not in compliance  
14 with the cease and desist order, the court may find the person  
15 in civil contempt and may impose a civil penalty against the  
16 person in an amount not less than \$3,000 and not more than  
17 \$10,000 and grant any other relief that the court determines  
18 is appropriate under the circumstances.

19 New Code section 522B.17A allows an association with a  
20 least 25 members to bring an action in district court for  
21 injunctive relief against a person who sells, solicits, or  
22 negotiates insurance in violation of Code section 522B.2. The  
23 section provides that if the court finds that such a violation  
24 has occurred and enjoins the person from continuing to violate  
25 the chapter, the court's findings of law and fact, and the  
26 final judgment and decree of the court shall be admissible in  
27 any proceeding initiated against the person by the  
28 commissioner and the person enjoined is precluded from  
29 contesting the court's determination that a violation of Code  
30 section 522B.2 has occurred.

31 Code section 523A.402 is amended to correct an error in  
32 language concerning annuity contracts for the purpose of  
33 funding cemetery and funeral merchandise and funeral services.  
34 The change will conform the language to changes made in  
35 legislation contained in House File 2269, which was enacted in

S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

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