



Iowa General Assembly
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House Amendment 1150

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1 1 Amend House File 712 as follows:
1 2 #1. By striking everything after the enacting
1 3 clause and inserting the following:
1 4 <Section 1. NEW SECTION. 714H.1 TITLE.
1 5 This chapter shall be known and may be cited as the
1 6 "Private Right of Action for Consumer Frauds Act".
1 7 Sec. 2. NEW SECTION. 714H.2 DEFINITIONS.
1 8 1. "Advertisement" means the same as defined in
1 9 section 714.16.
1 10 2. "Consumer" means a natural person or the
1 11 person's legal representative.
1 12 3. "Consumer merchandise" means merchandise
1 13 offered for sale or lease, or sold or leased,
1 14 primarily for personal, family, or household purposes.
1 15 4. "Deception" means an act or practice that is
1 16 likely to mislead a substantial number of consumers as
1 17 to a material fact or facts.
1 18 5. "Merchandise" means the same as defined in
1 19 section 714.16 except that, for the purposes of this
1 20 chapter, "merchandise" does not include services
1 21 offered or provided by any of the following persons,
1 22 including business entities organized under Title XII
1 23 by those persons and the officers, directors,
1 24 employees, and agents of those persons or business
1 25 entities, pursuant to a profession or business for
1 26 which they are licensed or registered:
1 27 a. Insurance companies subject to Title XIII.
1 28 b. Attorneys licensed to practice law in this
1 29 state.
1 30 c. Financial institutions which includes any bank
1 31 incorporated under the provisions of any state or
1 32 federal law, any savings and loan association or
1 33 savings bank incorporated under the provisions of any
1 34 state or federal law, any credit union organized under
1 35 the provisions of any state or federal law, any
1 36 affiliate or subsidiary of a bank, savings and loan
1 37 association, savings bank, or credit union, and
1 38 industrial loan licensees pursuant to chapter 536A and
1 39 regulated loan licensees pursuant to chapter 536.
1 40 d. Persons or facilities licensed, certified, or
1 41 registered under chapter 135B, 135C, 135J, 148, 148A,
1 42 148B, 148C, 149, 151, 152, 152A, 152B, 153, 154, 154B,
1 43 154C, 154D, 155A, 156, 169, 522B, 542, 542B, 543B,
1 44 544A, or 544B.
1 45 6. "Person" means the same as defined in section
1 46 714.16.
1 47 7. "Sale" means any sale or offer for sale of
1 48 consumer merchandise for cash or credit.
1 49 8. "Unfair practice" means the same as defined in
1 50 section 714.16.



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2 1 Sec. 3. NEW SECTION. 714H.3 PROHIBITED PRACTICES
2 2 AND ACTS.
2 3 1. A person shall not engage in a practice the
2 4 person knows or reasonably should know is an unfair
2 5 practice, deception, fraud, false pretense, OR false
2 6 promise, or the misrepresentation, concealment,
2 7 suppression, or omission of a material fact, with the
2 8 intent that others rely upon the unfair practice,
2 9 deception, fraud, false pretense, false promise,
2 10 misrepresentation, concealment, suppression, or
2 11 omission in connection with the advertisement, sale,
2 12 or lease of consumer merchandise, or the solicitation
2 13 of contributions for charitable purposes. For the
2 14 purposes of this chapter, a claimant alleging fraud,
2 15 false promise, false pretense, or misrepresentation
2 16 must prove that the prohibited practice related to a
2 17 material fact or facts. "Solicitation of
2 18 contributions for charitable purposes" does not
2 19 include solicitations made on behalf of a political
2 20 organization as defined in section 13C.1,
2 21 solicitations made on behalf of a religious
2 22 organization as defined in section 13C.1,
2 23 solicitations made on behalf of a state, regionally,
2 24 or nationally accredited college or university, or
2 25 solicitations made on behalf of a nonprofit foundation
2 26 benefiting a state, regionally, or nationally
2 27 accredited college or university subject to section
2 28 509(a)(1) or 509(a)(3) of the Internal Revenue Code of
2 29 1986.
2 30 2. A person shall not engage in any practice or
2 31 act that is in violation of any of the following:
2 32 a. Section 321.69.
2 33 b. Chapter 516D.
2 34 c. Section 516E.5, 516E.9, or 516E.10.
2 35 d. Chapter 555A.
2 36 e. Section 714.16, subsection 2, paragraphs "b"
2 37 through "n".
2 38 f. Chapter 714A.
2 39 Sec. 4. NEW SECTION. 714H.4 EXCLUSIONS.
2 40 1. This chapter shall not apply to any of the
2 41 following:
2 42 a. Advertising by a retailer for a product, other
2 43 than a drug or other product claiming to have a
2 44 health-related benefit or use, if the advertising is
2 45 prepared by a supplier, unless the retailer
2 46 participated in the preparation of the advertisement
2 47 or knew or should have known that the advertisement
2 48 was deceptive, false, or misleading.
2 49 b. In connection with an advertisement that
2 50 violates this chapter, the newspaper, magazine,



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3 1 publication, or other print media in which the
3 2 advertisement appears, or the radio station,
3 3 television station, or other electronic media which
3 4 disseminates the advertisement.
3 5 c. Any advertisement that complies with the
3 6 statutes, rules, and regulations of the federal trade
3 7 commission.
3 8 d. Public utilities as defined in section 476.1
3 9 that furnish gas by a piped distribution system or
3 10 electricity to the public for compensation.
3 11 e. The provision of cable television service or
3 12 video service pursuant to a franchise under section
3 13 364.2 or 477A.2.
3 14 f. The provision of local exchange carrier
3 15 telephone service pursuant to a certificate issued
3 16 under section 476.29.
3 17 g. Conduct for which a cause of action is
3 18 available to the consumer based upon negligence,
3 19 product liability, or warranty.
3 20 h. Actions alleging bodily injury.
3 21 i. Conduct in compliance with the orders or rules
3 22 of, or a statute administered by, a federal, state, or
3 23 local governmental agency.
3 24 j. An affirmative act that violates this chapter
3 25 but is specifically required by other applicable law,
3 26 to the extent that the action could not reasonably
3 27 avoid a violation of this chapter.
3 28 k. In any action relating to a charitable
3 29 solicitation, an individual who has engaged in the
3 30 charitable solicitation as an unpaid, uncompensated
3 31 volunteer solicitor and who does not receive monetary
3 32 gain of any sort from engaging in the solicitation.
3 33 2. "Material fact" as used in this chapter does
3 34 not include repairs of damage to or adjustments on or
3 35 replacements of parts with new parts of otherwise new
3 36 merchandise if the repairs, adjustments, or
3 37 replacements are made to achieve compliance with
3 38 factory specifications and are made before sale of the
3 39 merchandise at retail and the actual cost of any labor
3 40 and parts charged to or performed by a retailer for
3 41 any such repairs, adjustments, and parts does not
3 42 exceed three hundred dollars or ten percent of the
3 43 actual cost to a retailer including freight of the
3 44 merchandise, whichever is less, providing that the
3 45 seller posts in a conspicuous place notice that
3 46 repairs, adjustments, or replacements will be
3 47 disclosed upon request. The exclusion provided in
3 48 this subsection does not apply to the concealment,
3 49 suppression, or omission of a material fact if the
3 50 purchaser requests disclosure of any repair,



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4 1 adjustment, or replacement.
4 2 Sec. 5. NEW SECTION. 714H.5 PRIVATE CAUSE OF
4 3 ACTION.
4 4 1. A consumer who reasonably relies on a practice
4 5 prohibited by this chapter and who suffers an
4 6 ascertainable loss of money or property as the result
4 7 of such prohibited practice may bring an action at law
4 8 to recover actual economic damages. An award of
4 9 damages for such a prohibited practice shall not be
4 10 made without proof that the consumer suffered actual
4 11 economic damages. The court may order such equitable
4 12 relief as it deems necessary to protect the public
4 13 from further violations, including temporary and
4 14 permanent injunctive relief.
4 15 2. If the court finds that a person has violated
4 16 this chapter and the consumer is awarded actual
4 17 damages, the court shall award to the consumer the
4 18 costs of the action and to the consumer's attorney
4 19 reasonable fees. Reasonable attorney fees shall be
4 20 determined by the value of the time reasonably
4 21 expended by the attorney including but not limited to
4 22 consideration of the following factors:
4 23 a. The time and labor required.
4 24 b. The novelty and difficulty of the issues in the
4 25 case.
4 26 c. The skills required to perform the legal
4 27 services properly.
4 28 d. The preclusion of other employment by the
4 29 attorney due to the attorney's acceptance of the case.
4 30 e. The customary fee.
4 31 f. Whether the fee is fixed or contingent.
4 32 g. The time limitations imposed by the client or
4 33 the circumstances of the case.
4 34 h. The amount of money involved in the case and
4 35 the results obtained.
4 36 i. The experience, reputation, and ability of the
4 37 attorney.
4 38 j. The undesirability of the case.
4 39 k. The nature and length of the professional
4 40 relationship between the attorney and the client.
4 41 1. Damage awards in similar cases.
4 42 3. In order to recover damages, a claim under this
4 43 section shall be proved by a preponderance of the
4 44 evidence.
4 45 4. If the finder of fact finds by a preponderance
4 46 of clear, convincing, and satisfactory evidence that a
4 47 prohibited practice or act in violation of this
4 48 chapter constitutes willful and wanton disregard for
4 49 the rights or safety of another, in addition to an
4 50 award of actual damages, statutory damages up to three



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5 1 times the amount of actual damages may be awarded to a
5 2 prevailing consumer.
5 3 5. An action pursuant to this chapter must be
5 4 brought within two years of the occurrence of the last
5 5 event giving rise to the cause of action under this
5 6 chapter or within two years of the discovery of the
5 7 violation of this chapter by the person bringing the
5 8 action, whichever is later.
5 9 6. This section shall not affect a consumer's
5 10 right to seek relief under any other theory of law.
5 11 Sec. 6. NEW SECTION. 714H.6 ATTORNEY GENERAL
5 12 NOTIFICATION.
5 13 1. A party filing a petition, counterclaim,
5 14 cross-petition, or pleading in intervention alleging a
5 15 violation under this chapter, within seven days
5 16 following the date of filing such pleading, shall
5 17 provide a copy to the attorney general and, within
5 18 seven days following entry of any final judgment in
5 19 the action, shall provide a copy of the judgment to
5 20 the attorney general. This subsection shall not apply
5 21 to small claims actions, except as provided in
5 22 subsection 2.
5 23 2. A party appealing to district court a small
5 24 claims order or judgment involving an issue raised
5 25 under this chapter, within seven days of providing
5 26 notice of the appeal, shall notify the attorney
5 27 general in writing and provide a copy of the pleading
5 28 raising the issue and a copy of the small claims court
5 29 order or judgment.
5 30 3. A party appealing an order or judgment
5 31 involving an issue raised under this chapter, within
5 32 seven days following the date such notice of appeal is
5 33 filed with the court, shall notify the attorney
5 34 general in writing and provide a copy of the pleading
5 35 raising the issue and a copy of the court order or
5 36 judgment being appealed.
5 37 4. Upon timely application to the court in which
5 38 an action involving an issue raised under this chapter
5 39 is pending, the attorney general may intervene as a
5 40 party at any time or may be heard at any time. The
5 41 attorney general's failure to intervene shall not
5 42 preclude the attorney general from bringing a separate
5 43 enforcement action.
5 44 5. All copies of pleadings, orders, judgments, and
5 45 notices required by this section to be sent to the
5 46 attorney general shall be sent by certified mail
5 47 unless the attorney general has previously been
5 48 provided such copies of pleadings, orders, judgments,
5 49 or notices in the same action by certified mail, in
5 50 which case subsequent mailings may be made by regular



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6 1 mail. Failure to provide the required mailings to the
6 2 attorney general shall not be grounds for dismissal of
6 3 an action under this chapter, but shall be grounds for
6 4 a subsequent action by the attorney general to vacate
6 5 or modify the judgment.
6 6 Sec. 7. NEW SECTION. 714H.7 CLASS ACTIONS
6 7 BARRED.
6 8 A class action lawsuit alleging violations of this
6 9 chapter shall not be available.
6 10 Sec. 8. APPLICABILITY. This Act applies to causes
6 11 of actions accruing on or after the effective date of
6 12 this Act.>
6 13 #2. Title page, line 1 by striking the word
6 14 <cause> and inserting the following: <right>.
6 15 #3. Title page, line 2, by striking the word
6 16 <providing> and inserting the following: <including>.
6 17
6 18
6 19
6 20 STRUYK of Pottawattamie
6 21 HF 712.301 83
6 22 rh/rj/22549



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House File 716 - Introduced

HOUSE FILE
BY MURPHY

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

A BILL FOR

- 1 An Act relating to tort liability of municipalities for damage to
- 2 motor vehicles caused by towing or transporting.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 2442HH 83
- 5 md/rj/5



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1 1 Section 1. Section 331.303, Code 2009, is amended by
1 2 adding the following new subsection:
1 3 NEW SUBSECTION. 10A. Indemnify a person with whom the
1 4 county contracts to tow or transport a motor vehicle if the
1 5 person has been found liable for damages caused to the vehicle
1 6 in accordance with section 670.2A.

1 7 Sec. 2. Section 364.12, Code 2009, is amended by adding
1 8 the following new subsection:

1 9 NEW SUBSECTION. 8. A city shall indemnify a person with
1 10 whom the city contracts to tow or transport a motor vehicle if
1 11 the person has been found liable for damages caused to the
1 12 vehicle in accordance with section 670.2A.

1 13 Sec. 3. NEW SECTION. 670.2A DAMAGE TO VEHICLES ==
1 14 TOWING.

1 15 1. Notwithstanding any provision of law to the contrary, a
1 16 municipality is liable for damages to a motor vehicle caused
1 17 by towing or transporting the motor vehicle for a violation of
1 18 law or violation of a municipal ordinance. Liability imposed
1 19 under this section includes towing or transporting by officers
1 20 or employees of the municipality acting within the scope of
1 21 their employment or duties and by persons under contract with
1 22 the municipality to tow and transport motor vehicles in
1 23 violation of law or ordinance.

1 24 2. A municipality shall indemnify a person with whom the
1 25 municipality contracts to tow or transport a motor vehicle if
1 26 the person has been found liable for damages caused to the
1 27 motor vehicle.

1 28 EXPLANATION

1 29 This bill imposes liability on a municipality for damages
1 30 to a motor vehicle caused by towing or transporting the motor
1 31 vehicle for a violation of law or violation of a municipal
1 32 ordinance. Under the bill, a municipality is liable for
1 33 damages to a motor vehicle that was towed or transported by an
1 34 officer or employee of the municipality acting within the
1 35 scope of their employment or duties, or by a person with whom



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2 1 the municipality contracts.
2 2 The bill requires the municipality to indemnify a person
2 3 with whom the municipality contracts to tow or transport a
2 4 motor vehicle if the person has been found liable for damages
2 5 caused to the motor vehicle.
2 6 Under Code chapter 670, "municipality" means city, county,
2 7 township, school district, and any other unit of local
2 8 government except soil and water conservation districts.
2 9 LSB 2442HH 83
2 10 md/rj/5



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House File 717 - Introduced

HOUSE FILE
BY BEARD

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

Passed Senate, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act providing for a county groundwater pollution control
- 2 program, and providing for penalties.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 2408YH 83
- 5 da/nh/5



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1 1 Section 1. Section 455B.171, Code 2009, is amended by
1 2 adding the following new subsections:
1 3 NEW SUBSECTION. 1A. "Agricultural drainage well area"
1 4 means the same as defined in section 460.101.
1 5 NEW SUBSECTION. 7A. "Groundwater" means the same as
1 6 defined in section 455E.2.
1 7 NEW SUBSECTION. 9A. "Karst terrain" means the same as
1 8 defined in section 459.102.
1 9 SUBPART B
1 10 COUNTY GROUNDWATER POLLUTION CONTROL PROGRAM
1 11 Sec. 2. NEW SECTION. 455B.201 DEFINITIONS.
1 12 As used in this subpart, unless the context otherwise
1 13 requires:
1 14 1. "Board" means a county board of supervisors.
1 15 2. "County control program" or "program" means the program
1 16 conducted by a county board of supervisors as provided in this
1 17 subpart.
1 18 3. "State groundwater protection regulations" means the
1 19 provisions of state law described in section 455B.202.
1 20 Sec. 3. NEW SECTION. 455B.202 AUTHORIZATION.
1 21 1. A county board of supervisors that has been issued a
1 22 certificate of acceptance by the department pursuant to
1 23 section 455B.203 may conduct a county groundwater pollution
1 24 control program.
1 25 2. If the department issues a certificate of acceptance to
1 26 a county board of supervisors pursuant to section 455B.203,
1 27 the department cedes its powers and duties to administer and
1 28 enforce state groundwater protection regulations that apply to
1 29 sources that are located in sensitive groundwater access areas
1 30 located in the county. The scope of such state groundwater
1 31 protection regulations is limited to the provisions of
1 32 division I, this division, and division IV, of this chapter,
1 33 including rules adopted by the department pursuant to such
1 34 divisions; the provisions of chapter 459, subchapter III,
1 35 including rules adopted by the department pursuant to that



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2 1 subchapter; chapter 459A, including rules adopted by the
2 2 department pursuant to that chapter; and chapter 460,
2 3 including rules adopted by the department pursuant to that
2 4 chapter.
2 5 Sec. 4. NEW SECTION. 455B.203 CERTIFICATE OF ACCEPTANCE
2 6 == REQUEST AND APPROVAL.
2 7 1. In order to conduct a county groundwater pollution
2 8 control program, a county board of supervisors must make a
2 9 request to the department. The request shall include a
2 10 resolution adopted by the board and any supporting
2 11 documentation required by the department relating to the
2 12 board's implementation and administration of the program.
2 13 2. The department shall approve or disapprove a request
2 14 submitted by a county board of supervisors based on a
2 15 determination of whether the board is capable of conducting
2 16 the program in lieu of the department administering and
2 17 enforcing state groundwater protection regulations as provided
2 18 in section 455B.202.
2 19 3. In evaluating a request submitted by a county board of
2 20 supervisors under this section, the department shall consider
2 21 all of the following:
2 22 a. The types of ordinances, rules, or standards that the
2 23 board plans to adopt in order to conduct the program. The
2 24 ordinances, rules, or standards must be consistent with or
2 25 more strict than state law.
2 26 b. The county's administrative organization, staff, and
2 27 financial or other resources available to effectively conduct
2 28 the program.
2 29 c. The location of monitoring devices that may provide a
2 30 reasonably consistent measurement of groundwater contamination
2 31 in compliance with uniform state standards that shall be
2 32 adopted by the department.
2 33 4. The department may conduct a public hearing before
2 34 approving or disapproving a request submitted by a county
2 35 board of supervisors under this section.



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3 1 5. The department shall notify a county board of
3 2 supervisors of the department's decision in regard to a
3 3 request within one hundred eighty days of the date that it
3 4 received the request. Once the department approves a request,
3 5 it shall issue a certificate of acceptance to the board. The
3 6 department may limit or qualify the certificate of acceptance
3 7 as necessary in order to perform duties reserved by law to the
3 8 department or to perform concurrent functions with the board,
3 9 including the issuance of permits. The department shall not
3 10 reduce the scope of the certificate of acceptance so that it
3 11 cedes less than the requested authority to conduct the
3 12 program. The department shall continue to administer and
3 13 enforce the state groundwater protection regulations within
3 14 the county that are not ceded to the county board of
3 15 supervisors.

3 16 Sec. 5. NEW SECTION. 455B.204 SUSPENSION OR REVOCATION
3 17 OF CERTIFICATE OF ACCEPTANCE.

3 18 The department may determine at any time that a county
3 19 board of supervisors is not conducting a county groundwater
3 20 control program in a manner consistent with its certificate of
3 21 acceptance. Upon making the determination, the department
3 22 shall notify the county board of supervisors, citing all
3 23 inconsistencies and corrective measures required to be
3 24 completed by the board within a reasonable amount of time. If
3 25 the board does not implement corrective measures within the
3 26 reasonable amount of time, the department shall suspend or
3 27 revoke the certificate of acceptance. The department's
3 28 suspension may reduce the scope of the certificate of
3 29 acceptance so that it cedes less authority to conduct the
3 30 program to the board. Upon receipt of evidence that the board
3 31 has taken corrective action, the department may reinstate a
3 32 suspended certificate of acceptance with or without
3 33 limitation, and the board shall resume conducting the county
3 34 groundwater control program as provided by the reinstated
3 35 certificate of acceptance. The department shall temporarily



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4 1 administer and enforce the state groundwater protection
4 2 regulations until the matter is concluded.
4 3 Sec. 6. NEW SECTION. 455B.205 CONTEST OF DEPARTMENTAL
4 4 ACTION.
4 5 A board of supervisors may contest a decision by the
4 6 department as provided in this part. The board shall contest
4 7 the decision as a contested case proceeding conducted by the
4 8 department of inspections and appeals pursuant to chapter 17A.
4 9 The burden of proof shall be on the board.
4 10 Sec. 7. NEW SECTION. 455B.206 ATTORNEY GENERAL.
4 11 The department's issuance of a certificate of acceptance
4 12 pursuant to section 455B.203 does not limit the authority of
4 13 the attorney general to enforce state groundwater protection
4 14 regulations.
4 15 Sec. 8. NEW SECTION. 455B.207 PROSECUTION == CRIMINAL
4 16 PENALTIES.
4 17 A county board of supervisors conducting a county
4 18 groundwater control program may refer any matter requiring
4 19 enforcement of state groundwater protection regulations that
4 20 has been ceded to the board to the attorney general for a
4 21 civil or criminal action, in the same manner as the
4 22 department. The board may also refer the matter to the county
4 23 attorney for civil or criminal action. Moneys collected in
4 24 fines and civil penalties shall be credited to the state in
4 25 the same manner as if the fines or civil penalties were
4 26 collected by the attorney general.
4 27 Sec. 9. NEW SECTION. 455B.208 CIVIL PENALTIES.
4 28 Notwithstanding sections 331.302 and 331.307, a county
4 29 board of supervisors conducting a county groundwater control
4 30 program may administratively establish, assess, and collect
4 31 civil penalties consistent with state groundwater protection
4 32 regulations. Civil penalties shall be credited to the state
4 33 in the same manner as civil penalties collected by the
4 34 department for the same violation.
4 35 Sec. 10. NEW SECTION. 455B.301B COUNTY GROUNDWATER



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5 1 POLLUTION CONTROL PROGRAM.

5 2 A county board of supervisors issued a certificate of
5 3 acceptance to conduct a county groundwater pollution control
5 4 program by the department pursuant to division III, part 1,
5 5 subpart B, of this chapter may administer and enforce the
5 6 provisions of this division within sensitive groundwater
5 7 access areas located in the county.

5 8 Sec. 11. NEW SECTION. 459.302A COUNTY GROUNDWATER
5 9 POLLUTION CONTROL PROGRAM.

5 10 A county board of supervisors issued a certificate of
5 11 acceptance to conduct a county groundwater pollution control
5 12 program by the department pursuant to chapter 455B, division
5 13 III, part 1, subpart B, may administer and enforce the
5 14 provisions of this subchapter within sensitive groundwater
5 15 access areas located in the county.

5 16 Sec. 12. NEW SECTION. 459A.106 COUNTY GROUNDWATER
5 17 POLLUTION CONTROL PROGRAM.

5 18 A county board of supervisors issued a certificate of
5 19 acceptance to conduct a county groundwater pollution control
5 20 program by the department pursuant to chapter 455B, division
5 21 III, part 1, subpart B, may administer and enforce the
5 22 provisions of this chapter within sensitive groundwater access
5 23 areas located in the county.

5 24 Sec. 13. NEW SECTION. 460.102 COUNTY GROUNDWATER
5 25 POLLUTION CONTROL PROGRAM.

5 26 A county board of supervisors issued a certificate of
5 27 acceptance to conduct a county groundwater pollution control
5 28 program by the department pursuant to chapter 455B, division
5 29 III, part 2, subpart B, may administer and enforce the
5 30 provisions of this chapter within sensitive groundwater access
5 31 areas located in the county.

5 32 EXPLANATION

5 33 GENERAL. This bill authorizes the department of natural
5 34 resources to cede some of its authority to regulate certain
5 35 environmental statutes and its rules to a county board of



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6 1 supervisors upon the board's request. A board that has been
6 2 granted such authority conducts a county groundwater pollution
6 3 control program according to the terms of a certificate of
6 4 acceptance issued by the department.

6 5 CERTIFICATE OF ACCEPTANCE == ISSUANCE. A certificate of
6 6 acceptance allows a county board of supervisors to administer
6 7 and enforce state groundwater protection regulations that
6 8 apply to sources that are located in sensitive groundwater
6 9 access areas (where there is karst terrain, or land where
6 10 there is located an agricultural drainage well area, or known
6 11 sinkhole). The regulations are limited to those in statute or
6 12 rule under Code chapter 455B, division I, division III, and
6 13 division IV (providing general administrative authority, water
6 14 quality regulations, and solid waste disposal regulations);
6 15 Code chapter 459, division III, and Code chapter 459
6 16 (providing for water quality regulation applicable to animal
6 17 feeding operations); and Code chapter 460 (regulating sources
6 18 that may contaminate groundwater from agricultural drainage
6 19 wells). The department may approve or disapprove a request
6 20 but cannot limit or qualify the certificate of acceptance or
6 21 reduce the scope of the certificate of acceptance so that it
6 22 cedes less authority to conduct the program than requested by
6 23 the board. A county board of supervisors may adopt
6 24 ordinances, rules, or standards more strict than state law.

6 25 CERTIFICATE OF ACCEPTANCE == SUSPENSION OR REVOCATION. The
6 26 bill provides that the department may suspend or revoke a
6 27 certificate of acceptance if it determines that the board is
6 28 not conducting the program in a manner consistent with the
6 29 certificate of acceptance. If a certificate is suspended or
6 30 revoked, a county may take measures to correct the
6 31 inconsistencies and the department may reinstate the
6 32 certificate with or without limitation. The board may contest
6 33 a departmental decision by bringing a contested case
6 34 proceeding to be decided by the department of inspections and
6 35 appeals.



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7 1 ENFORCEMENT. The department's issuance of a certificate of
7 2 acceptance does not limit the authority of the attorney
7 3 general to enforce state groundwater protection regulations,
7 4 and the board may refer any matter requiring enforcement to
7 5 the attorney general or a county attorney for judicial
7 6 enforcement.

7 7 VIOLATIONS AND PENALTIES. The bill provides for both
7 8 administrative and judicial enforcement of violations of state
7 9 groundwater protection regulations. The board may assess,
7 10 impose, and collect civil penalties up to \$10,000 (Code
7 11 section 455B.109). The board may also seek judicial
7 12 enforcement of civil penalties not to exceed \$5,000 per each
7 13 day of a violation (Code section 455B.191). A person who
7 14 fails to prevent surface water from draining into an
7 15 agricultural drainage well is subject to a civil penalty of
7 16 not more than \$1,000 (Code sections 460.202, 460.203, and
7 17 460.206), and a person who constructs or expands an earthen
7 18 storage structure within an agricultural drainage well area is
7 19 subject to a civil penalty of not more than \$5,000 for each
7 20 day of the violation (Code sections 460.205 and 460.206).

7 21 Criminal penalties also apply. A person who negligently or
7 22 knowingly disposes of a pollutant in a water of the state is
7 23 guilty of a serious misdemeanor or an aggravated misdemeanor
7 24 depending on the type of violation, punishable by a range of
7 25 fines and imprisonment (Code sections 455B.186 and 455B.191).

7 26 Moneys assessed as part of an administrative or civil
7 27 proceeding are to be credited to the state in the same manner
7 28 as if the department had not issued a certificate of
7 29 acceptance. Civil penalties assessed by the department must
7 30 be deposited in the general fund of the state (Code section
7 31 455B.109). Moneys from civil penalties assessed for
7 32 violations involving animal feeding operations are to be
7 33 credited to the animal feeding operations compliance fund
7 34 (Code section 459.401). Moneys from civil penalties for
7 35 violations involving contamination of groundwater from



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House File 717 - Introduced continued

8 1 agricultural drainage wells are credited to the manure storage
8 2 indemnity fund (Code section 459.501). Moneys from criminal
8 3 fines and restitution awarded to the attorney general as part
8 4 of a judgment in an environmental criminal case are credited
8 5 to the environmental crimes investigation and prosecution fund
8 6 (Code section 455B.112A).
8 7 LSB 2408YH 83
8 8 da/nh/5.1



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House File 718 - Introduced

HOUSE FILE
BY HELLAND

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

A BILL FOR

- 1 An Act providing for a telework tax credit and including a
- 2 retroactive applicability date provision.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 2179YH 83
- 5 tw/mg:sc/14



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House File 718 - Introduced continued

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1 1 Section 1. NEW SECTION. 422.11X TELEWORK TAX CREDIT.
1 2 1. a. The taxes imposed under this division, less the
1 3 credits allowed under section 422.12, shall be reduced by a
1 4 telework tax credit for a portion of the costs incurred by an
1 5 employer in the development and operation of a program that
1 6 allows employees to work from home using communications
1 7 technology instead of physically commuting to the workplace.
1 8 b. The amount of the tax credit shall be calculated by
1 9 adding together all of the following:
1 10 (1) Not more than ten thousand dollars for costs
1 11 associated with the initial creation of the program. These
1 12 costs may include the purchase of computer equipment, computer
1 13 software licenses, and the costs related to the planning,
1 14 consulting, and training required to develop the program.
1 15 (2) Six hundred dollars for each full-time employee who
1 16 works from home for at least twenty percent of that employee's
1 17 working days in the employer's tax year.
1 18 c. Not more than one million dollars of tax credits shall
1 19 be issued pursuant to this section, section 422.33, subsection
1 20 27, section 422.60, subsection 15, section 432.11M, and
1 21 section 533.329, subsection 2, paragraph "n".
1 22 2. An individual may claim a tax credit under this section
1 23 of a partnership, limited liability company, S corporation,
1 24 estate, or trust electing to have income taxed directly to the
1 25 individual. The amount claimed by the individual shall be
1 26 based upon the pro rata share of the individual's earnings
1 27 from the partnership, limited liability company, S
1 28 corporation, estate, or trust.
1 29 3. Any tax credit in excess of the taxpayer's liability
1 30 for the tax year is not refundable, but the taxpayer may elect
1 31 to have the excess credited to the tax liability for the
1 32 following two years or until depleted, whichever is earlier.
1 33 A tax credit shall not be carried back to a tax year prior to
1 34 the tax year in which the taxpayer first receives the tax
1 35 credit.



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House File 718 - Introduced continued

2 1 4. a. A taxpayer seeking to claim a tax credit pursuant
2 2 to this section shall apply to the department of revenue which
2 3 shall have the authority to approve the amount of the tax
2 4 credit and issue a tax credit certificate.

2 5 b. In applying for the certificate, the taxpayer shall
2 6 include information documenting the costs incurred and the
2 7 number of employees availing themselves of the program, as
2 8 described in subsection 1, paragraph "b".

2 9 c. A taxpayer shall apply for a tax credit certificate on
2 10 or before October 31, 2010.

2 11 d. After verifying the eligibility of a taxpayer for a tax
2 12 credit pursuant to this section, the department shall issue a
2 13 tax credit certificate to be attached to the taxpayer's tax
2 14 return. The tax credit certificate shall contain the
2 15 taxpayer's name, address, tax identification number, the
2 16 amount of the credit, and any other information required by
2 17 the department of revenue.

2 18 5. a. To claim a tax credit under this section, a
2 19 taxpayer must attach one or more tax credit certificates to
2 20 the taxpayer's tax return. A tax credit certificate attached
2 21 to the taxpayer's tax return shall be issued in the taxpayer's
2 22 name and expire on or after the last day of the taxable year
2 23 for which the taxpayer is claiming the tax credit.

2 24 b. The tax credit certificate, unless otherwise void,
2 25 shall be accepted as payment for taxes imposed pursuant to
2 26 chapter 422, divisions II, III, and V, and chapter 432, and
2 27 for the moneys and credits tax imposed pursuant to section
2 28 533.329, subject to any conditions or restrictions placed by
2 29 the department upon the face of the tax credit certificate and
2 30 subject to the limitations of this section.

2 31 c. Tax credit certificates issued under this section are
2 32 not transferable to any person or entity.

2 33 6. This section is repealed on June 30, 2011.

2 34 Sec. 2. Section 422.33, Code 2009, is amended by adding
2 35 the following new subsection:



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House File 718 - Introduced continued

3 1 NEW SUBSECTION. 27. The taxes imposed under this division
3 2 shall be reduced by a telework tax credit in the same manner,
3 3 for the same amount, and under the same conditions as provided
3 4 in section 422.11X.

3 5 Sec. 3. Section 422.60, Code 2009, is amended by adding
3 6 the following new subsection:

3 7 NEW SUBSECTION. 15. The taxes imposed under this division
3 8 shall be reduced by a telework tax credit in the same manner,
3 9 for the same amount, and under the same conditions as provided
3 10 in section 422.11X.

3 11 Sec. 4. NEW SECTION. 432.12M TELEWORK TAX CREDIT.

3 12 The taxes imposed under this chapter shall be reduced by a
3 13 telework tax credit in the same manner, for the same amount,
3 14 and under the same conditions as provided in section 422.11X.

3 15 Sec. 5. Section 533.329, subsection 2, Code 2009, is
3 16 amended by adding the following new paragraph:

3 17 NEW PARAGRAPH. n. The moneys and credits tax imposed
3 18 under this section shall be reduced by a telework tax credit
3 19 in the same manner, for the same amount, and under the same
3 20 conditions as provided in section 422.11X.

3 21 Sec. 6. RETROACTIVE APPLICABILITY DATE. This Act applies
3 22 retroactively to January 1, 2009, for tax years beginning on
3 23 or after that date.

3 24 EXPLANATION

3 25 This bill provides a tax credit to employers who develop
3 26 programs allowing their employees to work from home rather
3 27 than physically commuting to the workplace. The amount of the
3 28 credit is equal to the costs incurred by the employer to
3 29 establish the program, not to exceed \$10,000, plus \$600 per
3 30 employee participating. The tax credit is available against
3 31 the individual and corporate income taxes, the franchise tax,
3 32 the insurance companies tax, and the moneys and credits tax.

3 33 The total amount of credits that may be issued is limited
3 34 to \$1 million.

3 35 Taxpayers seeking to claim the credit must apply to the



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House File 718 - Introduced continued

4 1 department of revenue by October 31, 2010, for a tax credit
4 2 certificate and attach the certificate to their tax return.
4 3 The tax credit is not refundable or transferable and expires
4 4 June 30, 2011.
4 5 The bill applies retroactively to January 1, 2009, for tax
4 6 years beginning on or after that date.
4 7 LSB 2179YH 83
4 8 tw/mg:sc/14



Iowa General Assembly
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House File 719 - Introduced

HOUSE FILE
BY SCHUELLER

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

A BILL FOR

- 1 An Act relating to the crime of stalking and increasing
- 2 penalties.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 2509HH 83
- 5 rh/nh/8



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House File 719 - Introduced continued

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1 1 Section 1. Section 237A.12, subsection 1, Code 2009, is
1 2 amended by adding the following new paragraph:
1 3 NEW PARAGRAPH. i. Complaints received by the department
1 4 relating to a child care provider in a facility who is the
1 5 victim of stalking as provided in section 708.11.
1 6 Sec. 2. Section 708.11, subsection 1, Code 2009, is
1 7 amended to read as follows:
1 8 1. As used in this section, unless the context otherwise
1 9 requires:
1 10 a. "Accompanying offense" means any public offense
1 11 committed as part of the course of conduct engaged in while
1 12 committing the offense of stalking.
1 13 b. "Course of conduct" means repeatedly maintaining a
1 14 visual or physical proximity to a person without legitimate
1 15 purpose or repeatedly conveying oral or written threats,
1 16 threats implied by conduct, or a combination thereof, directed
1 17 at or toward a person. "Course of conduct" may also include
1 18 conveying oral or written threats by electronic means.
1 19 c. "Electronic means" means any communication involving
1 20 the transmission of information by wire, radio, optical cable,
1 21 electromagnetic, or other similar means. "Electronic means"
1 22 includes but is not limited to communication via electronic
1 23 mail, internet-based communications, pager service, cell
1 24 phone, and electronic text messaging.
1 25 ~~e.~~ d. "Immediate family member" means a spouse, parent,
1 26 child, sibling, or any other person who regularly resides in
1 27 the household of a specific person, or who within the prior
1 28 six months regularly resided in the household of a specific
1 29 person.
1 30 ~~d.~~ e. "Repeatedly" means on two or more occasions.
1 31 Sec. 3. Section 708.11, subsection 3, Code 2009, is
1 32 amended to read as follows:
1 33 3. a. A person who commits stalking in violation of this
1 34 section commits a class ~~"C"~~ "B" felony for a third or
1 35 subsequent offense.



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House File 719 - Introduced continued

2 1 b. A person who commits stalking in violation of this
2 2 section commits a class ~~"D"~~ "C" felony if any of the following
2 3 apply:

2 4 (1) The person commits stalking while subject to
2 5 restrictions contained in a criminal or civil protective order
2 6 or injunction, or any other court order which prohibits
2 7 contact between the person and the victim, or while subject to
2 8 restrictions contained in a criminal or civil protective order
2 9 or injunction or other court order which prohibits contact
2 10 between the person and another person against whom the person
2 11 has committed a public offense.

2 12 (2) The person commits stalking while in possession of a
2 13 dangerous weapon, as defined in section 702.7.

2 14 (3) The person commits stalking by directing a course of
2 15 conduct at a specific person who is under eighteen years of
2 16 age.

2 17 (4) The offense is a second offense.

2 18 c. A person who commits stalking in violation of this
2 19 section commits ~~an aggravated misdemeanor~~ a class "D" felony
2 20 if the offense is a first offense which is not included in
2 21 paragraph "b".

2 22 Sec. 4. Section 708.11, Code 2009, is amended by adding
2 23 the following new subsection:

2 24 NEW SUBSECTION. 6. A person charged with or convicted of
2 25 a violation of this section who is placed on probation,
2 26 parole, work release, special sentence, or any other type of
2 27 conditional release, may be ordered by the court to be
2 28 supervised by an electronic tracking and monitoring system in
2 29 addition to any other conditions of supervision.

2 30 Sec. 5. Section 915.100, subsection 2, Code 2009, is
2 31 amended by adding the following new paragraph:

2 32 NEW PARAGRAPH. j. In cases where the act committed by an
2 33 offender is a violation of section 708.11 and the act results
2 34 in the victim's loss of employment, in addition to the amount
2 35 ordered for payment of the victim's pecuniary damages, the



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House File 719 - Introduced continued

3 1 court may also order the offender to pay the victim's lost
3 2 wages and benefits.

3 3 EXPLANATION

3 4 This bill relates to the crime of stalking.

3 5 The bill provides that the department of human services
3 6 shall adopt rules setting minimum standards to provide quality
3 7 child care in the operation and maintenance of child care
3 8 centers and registered child development homes relating to
3 9 complaints received by the department relating to a child care
3 10 provider in a facility who is the victim of stalking.

3 11 The bill expands the definition of "course of conduct" for
3 12 purposes of the definition of the crime of stalking contained
3 13 in Code section 708.11 to include conveying oral or written
3 14 threats by electronic means. "Electronic means" is defined to
3 15 mean any communication involving the transmission of
3 16 information by wire, radio, optical cable, electromagnetic, or
3 17 other similar means. "Electronic means" includes but is not
3 18 limited to communication via electronic mail, internet-based
3 19 communications, pager service, cell phone, and electronic text
3 20 messaging.

3 21 The bill increases the penalties for the crime of stalking
3 22 from an aggravated misdemeanor to a class "D" felony for a
3 23 first offense, from a class "D" felony to a class "C" felony
3 24 for a second offense or an offense involving certain
3 25 aggravating circumstances, and from a class "C" felony to a
3 26 class "B" felony for a third or subsequent offense. A class
3 27 "D" felony is punishable by confinement for no more than five
3 28 years and a fine of at least \$750 but not more than \$7,500, a
3 29 class "C" felony is punishable by confinement for no more than
3 30 10 years and a fine of at least \$1,000 but not more than
3 31 \$10,000, and a class "B" felony is punishable by confinement
3 32 for no more than 25 years.

3 33 The bill provides that a person charged with or convicted
3 34 of a violation of Code section 708.11 who is placed on
3 35 probation, parole, work release, special sentence, or any



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House File 719 - Introduced continued

4 1 other type of conditional release, may be ordered by the court
4 2 to be supervised by an electronic tracking and monitoring
4 3 system in addition to any other conditions of supervision.
4 4 The bill provides that in cases where the act committed by
4 5 an offender is a violation of Iowa's stalking statute (Code
4 6 section 708.11) and the act results in the victim's loss of
4 7 employment, in addition to the amount ordered for payment of
4 8 the victim's pecuniary damages, the court may also order the
4 9 offender to pay the victim's lost wages and benefits.
4 10 LSB 2509HH 83
4 11 rh/nh/8



Iowa General Assembly
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House File 720 - Introduced

HOUSE FILE
BY COMMITTEE ON LABOR

(SUCCESSOR TO HF 542

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

A BILL FOR

1 An Act relating to boiler and pressure vessel inspections and the
2 boiler and pressure vessel board that oversees the
3 inspections.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 2204HV 83
6 ak/rj/14



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House File 720 - Introduced continued

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1 1 DIVISION I
1 2 BOILER AND PRESSURE VESSEL INSPECTIONS
1 3 Section 1. Section 89.2, Code 2009, is amended by adding
1 4 the following new subsection:
1 5 NEW SUBSECTION. 5A. "Object" means a boiler or pressure
1 6 vessel.
1 7 Sec. 2. Section 89.3, subsections 4 and 5, Code 2009, are
1 8 amended by striking the subsections and inserting in lieu
1 9 thereof the following:
1 10 4. a. An object that meets all of the following criteria
1 11 shall be inspected at least once every two years internally
1 12 and externally while not under pressure, and at least once
1 13 every two years externally while under pressure, unless the
1 14 commissioner determines that an earlier inspection is
1 15 warranted.
1 16 (1) The object is a boiler with one hundred thousand
1 17 pounds per hour or more capacity, or the object is an unfired
1 18 steam pressure vessel or a regulated appurtenance that is part
1 19 of the same system as a boiler with one hundred thousand
1 20 pounds per hour or more capacity.
1 21 (2) The object contains only water subject to internal
1 22 continuous water treatment under the direct supervision of a
1 23 graduate engineer or chemist, or one having equivalent
1 24 experience in the treatment of boiler water.
1 25 (3) The water treatment is for the purpose of controlling
1 26 and limiting serious corrosion and other deteriorating
1 27 factors.
1 28 b. The owner or user of an object meeting the criteria in
1 29 paragraph "a" shall do the following:
1 30 (1) At any time the commissioner, a special inspector, or
1 31 the supervisor of water treatment deems a hydrostatic test is
1 32 necessary to determine the safety of an object, conduct the
1 33 test under the supervision of the commissioner.
1 34 (2) Keep available for examination by the commissioner
1 35 accurate records showing the date and actual time the object



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House File 720 - Introduced continued

2 1 is out of service and the reason it is out of service.
2 2 (3) Keep available for examination by the commissioner
2 3 chemical physical laboratory analyses of samples of the object
2 4 water taken at regular intervals of not more than forty-eight
2 5 hours of operation as will adequately show the condition of
2 6 the water and any elements or characteristics of the water
2 7 which are capable of producing corrosion or other
2 8 deterioration of the object or its parts.

2 9 5. a. An object that meets the following criteria shall
2 10 be inspected at least once each year externally while under
2 11 pressure and at least once every four years internally while
2 12 not under pressure, unless the commissioner determines an
2 13 earlier inspection is warranted.

2 14 (1) The object is a boiler with one hundred thousand
2 15 pounds per hour or more capacity, or the object is an unfired
2 16 steam pressure vessel or a regulated appurtenance that is part
2 17 of the same system as a boiler with one hundred thousand
2 18 pounds per hour or more capacity.

2 19 (2) The object contains only water subject to internal
2 20 continuous water treatment under the direct supervision of a
2 21 graduate engineer or chemist, or one having equivalent
2 22 experience in the treatment of boiler water.

2 23 (3) The water treatment is for the purpose of controlling
2 24 and limiting serious corrosion and other deteriorating
2 25 factors.

2 26 (4) The owner or user is a participant in good standing in
2 27 the Iowa occupational safety and health voluntary protection
2 28 program and have achieved star status within the program,
2 29 which is administered by the division of labor in the
2 30 department of workforce development.

2 31 b. The owner or user of an object that meets the criteria
2 32 in paragraph "a" shall do the following:

2 33 (1) At any time the commissioner, a special inspector, or
2 34 the supervisor of the water treatment deems a hydrostatic test
2 35 necessary to determine the safety of an object, conduct the



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3 1 test under the supervision of the commissioner.
3 2 (2) Keep available for examination by the commissioner
3 3 accurate records showing the date and actual time the object
3 4 is out of service and the reason it is out of service.
3 5 (3) Arrange for an internal inspection of the object
3 6 during each planned outage by a special inspector or the
3 7 commissioner.
3 8 (4) Keep for examination by the commissioner accurate
3 9 records showing the chemical physical laboratory analyses of
3 10 samples of the object's water taken at regular intervals of
3 11 not more than forty-eight hours of operation adequate to show
3 12 the condition of the water and any elements or characteristics
3 13 of the water that are capable of producing corrosion or other
3 14 deterioration of the object or its parts.
3 15 DIVISION II
3 16 BOILER AND PRESSURE VESSEL BOARD
3 17 Sec. 3. Section 89.14, subsection 2, Code 2009, is amended
3 18 to read as follows:
3 19 2. The boiler and pressure vessel board is composed of
3 20 nine members, ~~one of whom shall be the~~ as follows:
3 21 a. The commissioner or the commissioner's designee.
3 22 b. The ~~remaining~~ following eight members who shall be
3 23 appointed by the governor, subject to confirmation by the
3 24 senate, to four-year staggered terms beginning and ending as
3 25 provided in section 69.19.
3 26 (1) One member shall be a special inspector who is
3 27 employed by an insurance company that is licensed and actively
3 28 writing boiler and machinery insurance in this state and who
3 29 is commissioned to inspect boiler and pressure vessels in this
3 30 state, ~~two members.~~
3 31 (2) One member shall be appointed from a certified
3 32 employee ~~organizations, one of whom~~ organization and shall
3 33 represent steamfitters, ~~two.~~
3 34 (3) One member shall be appointed from a certified
3 35 employee organization and shall represent boilermakers.



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House File 720 - Introduced continued

- 4 1 (4) Two members shall be mechanical engineers who
4 2 regularly practice in the area of boilers and pressure
4 3 vessels, ~~one~~.
4 4 (5) One member shall be a boiler and pressure vessel
4 5 distributor in this state, ~~one~~.
4 6 (6) One member shall represent boiler and pressure vessel
4 7 manufacturers, ~~and one~~.
4 8 (7) One member shall be a mechanical contractor engaged in
4 9 the business of installation, renovation, and repair of
4 10 boilers and pressure vessels.

4 11 EXPLANATION

4 12 This bill under Code section 89.3(4) is unchanged in
4 13 content and covers boilers and certain pressure vessels that
4 14 are inspected at least once every two years internally and
4 15 externally while not under pressure, and at least once every
4 16 two years externally while under pressure.

4 17 The bill under Code section 89.3(5) allows certain boilers
4 18 and pressure vessels to extend from two years to four years
4 19 the internal inspection schedule if the owner or user is a
4 20 participant in good standing in the division of labor in the
4 21 department of workforce's Iowa occupational safety and health
4 22 voluntary protection program and have achieved star status
4 23 within the program.

4 24 The bill also alters the membership of the boiler and
4 25 pressure vessel board by requiring one member to represent
4 26 boilermakers from a certified employee organization. The
4 27 board keeps the same number of members by reducing the current
4 28 two members representing steamfitters from certified employee
4 29 organizations to just one representative.

4 30 LSB 2204HV 83

4 31 ak/rj/14



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House File 721 - Introduced

HOUSE FILE
BY COMMITTEE ON NATURAL
RESOURCES

(SUCCESSOR TO HF 116)

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

Passed Senate, Date _____
Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act relating to the carrying of a gun in or on a vehicle on a
- 2 public highway and making penalties applicable.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1861HV 83
- 5 rh/nh/24



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House File 721 - Introduced continued

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1 1 Section 1. Section 483A.36, Code 2009, is amended to read
1 2 as follows:
1 3 483A.36 MANNER OF CONVEYANCE.
1 4 ~~No~~ A person, except as permitted by law, shall not have or
1 5 carry a gun in or on a vehicle on a public highway, unless the
1 6 gun is taken down or totally contained in a securely fastened
1 7 case, and its barrels and permanently attached magazines are
1 8 unloaded.

1 9 EXPLANATION

1 10 This bill provides that a person, except as permitted by
1 11 law, shall not have or carry a gun in or on a vehicle on a
1 12 public highway, unless the gun is taken down or totally
1 13 contained in a securely fastened case and its barrels and
1 14 permanently attached attached magazines are unloaded.

1 15 A person who violates this law is subject to a scheduled
1 16 fine of either \$25 or \$50 depending on whether the violation
1 17 involved an assembled, unloaded gun or a loaded gun.

1 18 LSB 1861HV 83

1 19 rh/nh/24



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House File 722 - Introduced

HOUSE FILE
BY COMMITTEE ON NATURAL
RESOURCES

(SUCCESSOR TO HSB 136)

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

A BILL FOR

1 An Act relating to regulation of certain conservation and
2 recreation activities under the jurisdiction of the department
3 of natural resources, modifying fees, and making penalties
4 applicable.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TL5B 2094HV 83
7 av/sc/8



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House File 722 - Introduced continued

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1 1 Section 1. Section 321G.2, subsection 1, paragraph e, Code
1 2 2009, is amended to read as follows:

1 3 e. Establishment of a program of grants, subgrants, and
1 4 contracts to be administered by the department for the
1 5 development ~~and delivery of certified courses of instruction~~
~~1 6 for the safe use and operation of snowmobiles, maintenance,~~
1 7 and operation of designated snowmobile trails and grooming
1 8 equipment by political subdivisions and incorporated private
1 9 organizations.

1 10 Sec. 2. Section 321G.2, subsection 1, Code 2009, is
1 11 amended by adding the following new paragraphs:

1 12 NEW PARAGRAPH. i. Establishment of a certified education
1 13 course for the operation of snowmobile grooming equipment.

1 14 NEW PARAGRAPH. j. Establishment of a certified education
1 15 course for the safe use and operation of snowmobiles.

1 16 NEW PARAGRAPH. k. Certification of volunteer snowmobile
1 17 education instructors.

1 18 Sec. 3. Section 321G.11, subsection 1, Code 2009, is
1 19 amended by striking the subsection and inserting in lieu
1 20 thereof the following:

1 21 1. The exhaust of every internal combustion engine used in
1 22 any snowmobile shall be effectively muffled by equipment
1 23 constructed and used to muffle all snowmobile noise in a
1 24 reasonable manner in accordance with rules adopted by the
1 25 commission.

1 26 Sec. 4. Section 321G.21, subsection 9, Code 2009, is
1 27 amended to read as follows:

1 28 9. The ~~department~~ commission may adopt rules consistent
1 29 with this chapter establishing minimum requirements for
1 30 dealers. In adopting such rules, the ~~department~~ commission
1 31 shall consider the need to protect persons, property, and the
1 32 environment and to promote uniformity of practices relating to
1 33 the sale and use of snowmobiles. The commission may also
1 34 adopt rules providing for the suspension or revocation of a
1 35 dealer's special registration certificate issued pursuant to



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House File 722 - Introduced continued

2 1 this section.
 2 2 Sec. 5. Section 321G.24, subsection 3, Code 2009, is
 2 3 amended to read as follows:
 2 4 3. Any person who is required to have a safety certificate
 2 5 under this chapter and who has completed a course of
 2 6 instruction established under section 321G.2, subsection 1,
 2 7 paragraph "e" "j", including the successful passage of an
 2 8 examination which includes a written test relating to such
 2 9 course of instruction, shall be considered qualified to ~~apply~~
~~2 10 for receive a safety certificate. The commission may waive~~
~~2 11 the requirement of completing such course of instruction if~~
~~2 12 such person successfully passes a written test based on such~~
~~2 13 course of instruction.~~
 2 14 Sec. 6. Section 321I.1, subsection 1, paragraph c, Code
 2 15 2009, is amended by striking the paragraph.
 2 16 Sec. 7. Section 321I.1, subsection 16, Code 2009, is
 2 17 amended to read as follows:
 2 18 16. a. "Off=road utility vehicle" means a motorized
 2 19 flotation=tire vehicle with not less than four and not more
 2 20 than ~~six~~ eight low=pressure tires that is limited in engine
 2 21 displacement to less than one thousand five hundred cubic
 2 22 centimeters and in total dry weight to not more than one
 2 23 thousand eight hundred pounds and that has a seat that is of
 2 24 bucket or bench design, not intended to be straddled by the
 2 25 operator, and a steering wheel or control levers for control.
 2 26 b. An owner of an off=road utility vehicle may register or
~~2 27 title an off=road utility vehicle in order to legally operate~~
~~2 28 the off=road vehicle on public ice, a designated riding area,~~
~~2 29 or a designated riding trail. The operator of an off=road~~
~~2 30 utility vehicle is subject to provisions governing the~~
~~2 31 operation of all=terrain vehicles in section 321.234A and this~~
~~2 32 chapter, but is exempt from the safety instruction and~~
~~2 33 certification program requirements of sections 321I.25 and~~
~~2 34 321I.26. An operator of an off=road utility vehicle shall not~~
~~2 35 operate the vehicle on a designated riding area or designated~~



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3 1 riding trail unless the department has posted signage
3 2 indicating the riding area or trail is open to the operation
3 3 of off=road utility vehicles. Off=road utility vehicles are
3 4 exempt from the dealer registration and titling requirements
3 5 of this chapter. A motorized vehicle that was previously
3 6 titled or is currently titled under chapter 321 shall not be
3 7 registered or operated as an off=road utility vehicle.
3 8 Sec. 8. Section 321I.2, subsection 1, paragraph e, Code
3 9 2009, is amended to read as follows:
3 10 e. Establishment of a program of grants, subgrants, and
3 11 contracts to be administered by the department for the
3 12 development and delivery of certified courses of instruction
~~3 13 for the safe use and operation of all=terrain vehicles,~~
3 14 maintenance, and operation of designated all=terrain vehicle
3 15 riding areas and trails by political subdivisions and
3 16 incorporated private organizations.
3 17 Sec. 9. Section 321I.2, subsection 1, paragraph i, Code
3 18 2009, is amended by striking the paragraph and inserting in
3 19 lieu thereof the following:
3 20 i. Establishment of a certified education course for the
3 21 safe use and operation of all=terrain vehicles.
3 22 Sec. 10. Section 321I.2, subsection 1, Code 2009, is
3 23 amended by adding the following new paragraph:
3 24 NEW PARAGRAPH. j. Certification of volunteer all=terrain
3 25 vehicle education instructors.
3 26 Sec. 11. Section 321I.22, subsection 9, Code 2009, is
3 27 amended to read as follows:
3 28 9. The ~~department~~ commission may adopt rules consistent
3 29 with this chapter establishing minimum requirements for
3 30 dealers. In adopting such rules, the department shall
3 31 consider the need to protect persons, property, and the
3 32 environment and to promote uniformity of practices relating to
3 33 the sale and use of all=terrain vehicles. The commission may
3 34 also adopt rules providing for the suspension or revocation of
3 35 a dealer's special registration certificate issued pursuant to



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4 1 this section.

4 2 Sec. 12. Section 321I.26, subsection 3, Code 2009, is
4 3 amended to read as follows:

4 4 3. Any person who is required to have a safety certificate
4 5 under this chapter and who has completed a course of

4 6 instruction established under section 321I.2, subsection 1,
4 7 paragraph "e" "i", including the successful passage of an

4 8 examination which includes either a written test relating to
4 9 such course of instruction or the demonstration of adequate

riding skills, shall be considered qualified to ~~apply for~~
4 11 receive a safety certificate. ~~The commission may waive the~~

~~requirement of completing such course of instruction if such~~
4 13 ~~person successfully passes a written test based on such course~~

~~of instruction.~~

4 15 Sec. 13. Section 452A.17, subsection 1, paragraph a,
4 16 subparagraph (7), Code 2009, is amended to read as follows:

4 17 (7) A bona fide commercial fisher, licensed and operating
4 18 under an owner's certificate for commercial ~~fishing~~ gear
4 19 issued pursuant to section 482.4.

4 20 Sec. 14. Section 481A.122, Code 2009, is amended by adding
4 21 the following new subsection:

4 22 NEW SUBSECTION. 3. This section is not applicable to a
4 23 person who is legally hunting with a raptor.

4 24 Sec. 15. Section 481A.130, subsection 1, paragraphs d and
4 25 e, Code 2009, are amended to read as follows:

4 26 d. For each ~~fish~~, reptile, mussel, or amphibian, fifteen
4 27 dollars.

4 28 e. For each beaver, bobcat, mink, otter, red fox, gray
4 29 fox, or raccoon, two hundred dollars.

4 30 Sec. 16. Section 481A.130, subsection 1, Code 2009, is
4 31 amended by adding the following new paragraph:

4 32 NEW PARAGRAPH. i. For each fish, reimbursement shall be
4 33 as follows:

4 34 (1) For each fish of a species other than shovelnose
4 35 sturgeon, with an established daily limit greater than



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5 1 twenty-five, fifteen dollars.

5 2 (2) For each fish of a species other than paddlefish and
5 3 muskellunge, with an established daily limit of twenty-five or
5 4 less, fifty dollars.

5 5 (3) For each shovelnose sturgeon, paddlefish, and
5 6 muskellunge, one thousand dollars.

5 7 Sec. 17. Section 481A.130, Code 2009, is amended by adding
5 8 the following new subsection:

5 9 NEW SUBSECTION. 4. This section does not apply to a
5 10 person who is liable to pay restitution to the department
5 11 pursuant to section 481A.151 for injury to a wild animal
5 12 caused by polluting a water of this state in violation of
5 13 state law.

5 14 Sec. 18. Section 482.1, Code 2009, is amended to read as
5 15 follows:

5 16 482.1 AUTHORITY OF THE COMMISSION.

5 17 1. The natural resource commission shall observe,
5 18 administer, and enforce this chapter. The natural resource
5 19 commission may adopt and enforce rules under chapter 17A as
5 20 necessary to carry out this chapter.

5 21 2. The natural resource commission may:

5 22 ~~1.~~ a. Remove or cause to be removed from the waters of
5 23 the state any aquatic species that in the judgment of the
5 24 commission is an underused renewable resource or has a
5 25 detrimental effect on other aquatic populations. All proceeds
5 26 from a sale of these aquatic organisms shall be credited to
5 27 the state fish and game protection fund.

5 28 ~~2.~~ b. Issue to any person a permit or license authorizing
5 29 that person to take, possess, and sell underused, undesirable,
5 30 or injurious aquatic organisms from the waters of the state.
5 31 The person receiving a permit or license shall comply with the
5 32 applicable provisions of this chapter.

5 33 ~~3.~~ c. Authorize the director to enter into written
5 34 contracts for the removal of underused, undesirable, or
5 35 injurious organisms from the waters of the state. The



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6 1 contracts shall specify all terms and conditions desired.
6 2 Sections 482.4, 482.6, and 482.14 do not apply to these
6 3 contracts.
6 4 ~~4. d.~~ Prohibit, restrict, or regulate commercial fishing,
6 5 ~~and commercial turtle fishing, and commercial mussel fishing~~
6 6 harvesting in any waters of the state.
6 7 ~~5. e.~~ Revoke the license of a licensee ~~and the licensee's~~
~~6 8 designated operators~~ for up to one year if the licensee ~~or any~~
~~6 9 designated operator~~ has been convicted of a violation of
6 10 chapter 481A, 482, or 483A. A licensee shall not continue
6 11 commercial fishing while a license issued by the natural
6 12 resource commission or issued by another state is under
6 13 revocation or suspension.
6 14 ~~6. f.~~ Regulate the numbers of commercial fishers, ~~and~~
6 15 ~~commercial turtle fishers, and commercial mussel fishers~~
6 16 harvesters and the amount, type, seasonal use, mesh size,
6 17 construction and design, manner of use, and other criteria
6 18 relating to the use of commercial gear for any body of water
6 19 or part thereof.
6 20 ~~7. g.~~ Establish catch quotas, seasons, size limits, and
6 21 other regulations for any species of commercial fish, ~~or~~
6 22 ~~turtles, or mussels~~ for any body of water or part thereof.
6 23 ~~8. h.~~ Designate by listing species as commercial fish, ~~or~~
6 24 ~~turtles, or mussels.~~
6 25 ~~9. i.~~ Designate any body of water or its part as
6 26 protected habitat and restrict, prohibit, or otherwise
6 27 regulate the taking of commercial fish, and turtles, ~~and~~
~~6 28 mussels~~ in protected habitat areas.
6 29 3. Employees of the ~~commission~~ department may lift and
6 30 inspect any commercial gear at any time ~~when being used~~ and
6 31 may inspect commercial catches, commercial markets, and
6 32 landings, and examine catch sale and purchase records of
6 33 commercial fishers, commercial turtle ~~fishers~~ harvesters, and
6 34 commercial ~~mussel fishers~~ roe harvesters, commercial turtle
6 35 buyers, and commercial roe buyers upon demand.



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7 1 ~~4.~~ 4. ~~Officers~~ Employees of the ~~commission~~ department may
7 2 seize and retain as evidence any illegal fish, or turtles, ~~or~~
~~7 3 mussels,~~ or any illegal commercial gear, or any other personal
7 4 property used in violation of any provision of the Code, and
7 5 may confiscate any untagged or illegal commercial gear as
7 6 contraband.
7 7 Sec. 19. Section 482.2, Code 2009, is amended to read as
7 8 follows:
7 9 482.2 DEFINITIONS.
7 10 As used in this chapter, unless the context otherwise
7 11 requires:
7 12 1. "Boundary waters" means the waters of the Mississippi,
7 13 Missouri, and Big Sioux rivers.
7 14 2. "Commercial fish helper" means a person who is licensed
7 15 by the state to assist a commercial fisher or a commercial roe
7 16 harvester in operating commercial gear or in taking,
7 17 attempting to take, possessing, or transporting commercial
7 18 fish, roe species, roe, or turtles.
7 19 ~~2.~~ 3. "Commercial fisher" means a person who is licensed
7 20 by the state to take and sell fish from waters of the state,
7 21 attempt to take, possess, transport, sell, barter, or trade
7 22 turtles or turtle eggs, commercial fish except roe species, or
7 23 fish parts except roe.
7 24 ~~3.~~ 4. "Commercial fishing" means taking, attempting to
7 25 take, possessing, or transporting of commercial fish or
7 26 turtles for the purpose of selling, bartering, ~~exchanging~~
7 27 trading, offering, or exposing for sale.
7 28 ~~4.~~ 5. "Commercial gear" means the capturing equipment
7 29 used by commercial fishers, commercial roe harvesters, and
7 30 commercial turtle fishers, and commercial mussel fishers
7 31 harvesters.
7 32 ~~5.~~ "Commercial mussel fisher" means a person who is
~~7 33 licensed to take and sell freshwater mussels from waters of~~
~~7 34 the state. A resident commercial mussel license holder must~~
~~7 35 have resided in this state for one year preceding the person's~~



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~~8 1 application for a commercial mussel fishing license.~~
8 2 ~~6. "Commercial mussel fishing" means taking, attempting to~~
~~8 3 take, or transporting of freshwater mussels for the purpose of~~
~~8 4 selling, bartering, exchanging, offering, or exposing for~~
~~8 5 sale.~~
8 6 6. "Commercial roe buyer" means a person who is licensed
8 7 by the state to engage in the business of buying, selling,
8 8 bartering, or trading of roe and roe species.
8 9 7. "Commercial roe harvester" means a person who is
8 10 licensed by the state to engage in the harvest and sale,
8 11 barter, or trade of roe and roe species.
8 12 ~~7. 8. "Commercial species" means species of fish, and~~
8 13 ~~turtles, and freshwater mussels which may be lawfully taken~~
8 14 ~~and sold by commercial fishers, commercial roe harvesters, and~~
8 15 ~~commercial turtle fishers harvesters, and commercial mussel~~
~~8 16 fishers, as established by rule by the commission.~~
8 17 9. "Commercial turtle buyer" means a person who is
8 18 licensed by the state to engage in the business of buying,
8 19 selling, bartering, or trading commercial turtles or turtle
8 20 eggs.
8 21 ~~9. 10. "Commercial turtle fishing" harvesting" means~~
8 22 ~~taking, attempting to take, possessing, or transporting of~~
8 23 ~~commercial turtles or turtle eggs for the purpose of selling,~~
8 24 ~~bartering, exchanging trading, offering, or exposing for sale.~~
8 25 ~~8. 11. "Commercial turtle fisher" harvester" means a~~
8 26 ~~person who is licensed by the state to take, attempt to take,~~
8 27 ~~possess, transport, and sell, barter, or trade commercial~~
8 28 ~~turtles from the waters of the state or turtle eggs.~~
8 29 12. "Commercial turtle helper" means a person who is
8 30 licensed by the state to assist a commercial turtle harvester
8 31 in operating commercial gear, or in taking, attempting to
8 32 take, possessing, or transporting commercial turtles or turtle
8 33 eggs.
8 34 ~~10. 13. "Constant attendance" means the presence of a~~
8 35 ~~commercial fisher or a designated operator whenever commercial~~



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9 1 gear is in use.
9 2 ~~11.~~ 14. "Director" means the director of the department
9 3 of natural resources, and the director's duly authorized
9 4 assistants, deputies, or agents.
9 5 ~~12.~~ 15. "Game fish" means all species and size categories
9 6 of fish not included as "commercial species" or minnows.
9 7 ~~13.~~ 16. "Inland waters of the state" means all public
9 8 waters of the state excluding the boundary waters of the
9 9 Mississippi, Big Sioux, and Missouri rivers.
9 10 ~~14.~~ 17. "Licensed commercial gear" means any commercial
9 11 gear that is licensed as provided in this chapter and that,
9 12 when in use, has ~~attached~~ the proper tags attached as provided
9 13 by this chapter.
9 14 ~~15.~~ 18. "Nonresident or alien" means a person who does
9 15 not qualify as a resident ~~of the state of Iowa either because~~
~~9 16 of a bona fide residence in another state or because of~~
~~9 17 citizenship of a country other than the United States.~~
~~9 18 However, "alien" does not include a person who has applied for~~
~~9 19 naturalization papers as defined in section 483A.1A.~~
9 20 ~~16.~~ 19. "Resident" means a person ~~who is legally subject~~
~~9 21 to motor vehicle registration and driver's license laws of~~
~~9 22 this state, or who is qualified to vote in an election of this~~
~~9 23 state as defined in section 483A.1A.~~
9 24 20. "Roe" means fish eggs.
9 25 21. "Roe species" means fish harvested for their eggs.
9 26 Roe species include but are not limited to shovelnose sturgeon
9 27 and bowfin and any other fish defined as roe species by the
9 28 commission by rule.
9 29 ~~17.~~ 22. "Waters of the state" means all of the waters
9 30 under the jurisdiction of the state.
9 31 Sec. 20. Section 482.4, Code 2009, is amended to read as
9 32 follows:
9 33 482.4 COMMERCIAL LICENSES AND GEAR TAGS.
9 34 1. A person shall not use or operate commercial gear
9 35 unless ~~at least one~~ an individual is at the site where the



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10 1 commercial gear is being operated who possesses an appropriate
10 2 valid commercial license, ~~or a designated operator's license.~~
10 3 A commercial license is valid from the date of issue to
10 4 January 10 of the succeeding calendar year.

10 5 ~~2. A commercial fisher may designate a person as a~~
~~10 6 designated operator to lift and to fish with any licensed~~
~~10 7 commercial fishing gear owned by the commercial fisher. A~~
~~10 8 commercial fisher shall not have more than five designated~~
~~10 9 operators. A designated operator's license shall be assigned~~
~~10 10 to not more than three operators during a year and a~~
~~10 11 designated operator's license shall be valid for use only by~~
~~10 12 an operator who possesses the license and has signed the~~
~~10 13 license. The signature of any preceding designated operator~~
~~10 14 who possessed the license shall be crossed out. A designated~~
~~10 15 operator shall not lift or fish any commercial fishing gear~~
~~10 16 without possessing a designated operator's license which is~~
~~10 17 signed by the operator. A designated operator's license which~~
~~10 18 is not signed by the operator in possession of the license is~~
~~10 19 forfeited to the state.~~

10 20 ~~3. A boundary water annual sport trotline license permits~~
~~10 21 the licensee to use a maximum of four trotlines with two~~
~~10 22 hundred hooks in the aggregate. All boundary water sport~~
~~10 23 trotlines shall be tagged with the name and address of the~~
~~10 24 licensee on a metal tag affixed above the waterline.~~

10 25 2. A commercial roe harvester shall possess a valid
10 26 commercial fishing license and a valid commercial roe
10 27 harvester license.

10 28 ~~4. 3. Commercial fishers and commercial turtle fishers~~
10 29 harvesters shall purchase gear tags from the commission to be
10 30 affixed to each piece of gear in use. Notwithstanding the fee
10 31 rates for gear tags ~~of~~ under subsection 7 ~~6~~, the minimum fee
10 32 ~~for a gear tag~~ is five dollars. All tags are valid for ten
10 33 years from the date of issue. In addition to the gear tags,
10 34 all gear shall be tagged with a ~~metal~~ weather-resistant tag
10 35 showing the name and address of the licensee and whether the



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11	1	gear is fish or turtle gear.	
11	2	5. <u>4.</u> All numbered fish gear tags are interchangeable	
11	3	among the different types of commercial fishing gear.	
11	4	6. <u>5.</u> Annual license fees are as follows:	
11	5	a. Commercial fishing <u>fisher</u> , resident	\$ 200.00
11	6	b. Commercial fishing <u>fisher</u> , nonresident	\$ 400.00
11	7	c. Designated operator <u>Commercial fish</u>	
11	8	<u>helper</u> , resident	\$ 50.00
11	9	d. Designated operator <u>Commercial fish</u>	
11	10	<u>helper</u> , nonresident	\$ 100.00
11	11	e. Commercial roe buyer, resident	\$ 250.00
11	12	f. Commercial roe buyer, nonresident	\$ 500.00
11	13	g. Commercial roe harvester, resident	\$ 100.00
11	14	h. Commercial roe harvester, nonresident	\$3,500.00
11	15	i. Commercial turtle buyer, resident	\$ 200.00
11	16	j. Commercial turtle buyer, nonresident	\$ 400.00
11	17	e. <u>k.</u> Commercial turtle <u>harvester</u> , resident	\$ 50.00
11	18		100.00
11	19	f. <u>l.</u> Commercial turtle <u>harvester</u> , nonresident .	\$ 100.00
11	20		400.00
11	21	g. <u>m.</u> Commercial mussel fisher <u>turtle helper</u> ,	
11	22	resident	\$ 100.00
11	23		50.00
11	24	h. <u>n.</u> Commercial mussel buyer , resident	\$1,000.00
11	25	<u>turtle helper</u> , nonresident	100.00
11	26	i. Commercial mussel buyer, nonresident	\$5,000.00
11	27	j. Boundary water sport trotline, resident	\$ 10.00
11	28	k. Boundary water sport trotline, nonresident ...	\$ 20.00
11	29	l. Commercial mussel fisher, nonresident	\$2,500.00
11	30	m. Commercial mussel helper, resident	\$ 50.00
11	31	n. Commercial mussel helper, nonresident	\$ 200.00
11	32	7. <u>6.</u> Commercial fish gear tags are required on the	
11	33	following units of commercial fishing gear at the listed fee:	
11	34	a. Seine, resident, one gear tag for each	
11	35	100 feet or fraction thereof	\$ 1.00



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12	1	b. Seine, nonresident, one gear tag for		
12	2	each 100 feet or fraction thereof	\$	2.00
12	3	c. Trammel net, resident, one gear tag		
12	4	for each 100 feet or fraction thereof	\$	1.00
12	5	d. Trammel net, nonresident, one gear		
12	6	tag for each 100 feet or fraction thereof	\$	2.00
12	7	e. Gill net, resident, one gear tag for		
12	8	each 100 feet or fraction thereof	\$	1.00
12	9	f. Gill net, nonresident, one gear tag		
12	10	for each 100 feet or fraction thereof	\$	2.00
12	11	g. Entrapment nets, resident, one		
12	12	gear tag per net	\$	1.00
12	13	h. Entrapment nets, nonresident, one		
12	14	gear tag per net	\$	2.00
12	15	i. Commercial trotline, resident, one		
12	16	gear tag for each 50 hooks or less	\$	1.00
12	17	j. Commercial trotline, nonresident,		
12	18	one gear tag for each 50 hooks or less	\$	2.00
12	19	8- <u>7.</u> Turtle trap gear tags are not interchangeable with		
12	20	other commercial gear. Turtle trap gear tag fees are as		
12	21	follows:		
12	22	a. Commercial turtle trap, resident,		
12	23	one gear tag per trap	\$	1.00
12	24	b. Commercial turtle trap, nonresident,		
12	25	one gear tag per trap	\$	2.00
12	26	Sec. 21. Section 482.5, Code 2009, is amended to read as		
12	27	follows:		
12	28	482.5 COMMERCIAL GEAR.		
12	29	It is lawful for a person who is legally licensed to		
12	30	<u>harvest commercial fish or commercial turtles</u> to use the		
12	31	commercial fishing gear of a design, construction, size,		
12	32	season, and all other criteria established by the commission		
12	33	for taking those species of fish and turtles designated by the		
12	34	commission by rule.		
12	35	Sec. 22. Section 482.7, Code 2009, is amended to read as		



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13 1 follows:

13 2 482.7 GEAR ATTENDANCE.

13 3 1. The A commercial fisher, commercial turtle harvester,
13 4 or commercial roe harvester licensee or a designated operator
13 5 must be present when lifting commercial gear is operated. A
13 6 commercial fish helper or commercial turtle helper shall not
13 7 operate commercial gear except under the direct supervision of
13 8 a commercial fisher, commercial turtle harvester, or
13 9 commercial roe harvester. A nonresident commercial turtle
13 10 helper is licensed only to assist a licensed nonresident
13 11 commercial turtle harvester. Commercial gear shall be lifted
13 12 and emptied of catch as provided by the rules of the
13 13 commission. Constant attendance by the licensee or a
13 14 designated operator commercial fisher of seines, trammel nets,
13 15 and gill nets is required when the gear is fished by driving,
13 16 drive=seining, seining, floating, or drifting methods.
13 17 Officers of the commission shall may grant a reasonable
13 18 extension of gear attendance intervals in cases of inclement
13 19 weather or unsafe conditions only upon the request of a
13 20 commercial fisher, commercial turtle harvester, or commercial
13 21 roe harvester specifying why such an extension is necessary.
13 22 2. For the purposes of this section, "direct supervision"
13 23 means that a commercial fisher, commercial turtle harvester,
13 24 or commercial roe harvester must be in the same boat, within
13 25 hand=signal distance, or within vocal communication distance,
13 26 without the help of any electronic or amplifying device, of
13 27 the commercial fish helper or commercial turtle helper being
13 28 supervised.

13 29 Sec. 23. Section 482.8, subsection 1, Code 2009, is
13 30 amended to read as follows:

13 31 1. It is lawful for licensed commercial fishers,
13 32 ~~designated operators,~~ commercial turtle ~~fishers,~~ and licensed
13 33 ~~sport trotline fishers~~ harvesters, and commercial roe
13 34 harvesters to pursue, take, possess, and transport any
13 35 commercial fish or their parts, bait fish, turtles, frogs,



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14 1 salamanders, leeches, crayfish, or any other aquatic
14 2 invertebrates for bait unless otherwise prohibited by law.
14 3 Sec. 24. Section 482.9, subsections 4 and 7, Code 2009,
14 4 are amended to read as follows:
14 5 4. For a person to lift or to fish licensed commercial
14 6 gear of another person, except ~~by the licensee and the~~
~~14 7 licensee's designated operators.~~
14 8 7. To block or inhibit navigation through channels with
14 9 commercial ~~fishing~~ gear unless a minimum of three feet of
14 10 water depth is maintained over float lines of any entanglement
14 11 gear or leads to trap nets. Gear shall not block over
14 12 one-half the width of a navigable channel if there is less
14 13 than three feet of water over the gear.
14 14 Sec. 25. Section 482.10, Code 2009, is amended to read as
14 15 follows:
14 16 482.10 ~~SALE OF COMMERCIAL FISH LICENSES.~~
14 17 1. ~~A person possessing a~~ All persons who commercially
14 18 take, attempt to take, possess, transport, sell, barter,
14 19 trade, or buy commercial fish or their parts shall possess an
14 20 appropriate, valid commercial fishing license or designated
~~14 21 operator's license may possess and sell any commercial fish,~~
~~14 22 turtles, or freshwater mussels, or their parts, which have~~
~~14 23 been lawfully taken. This subsection does not apply to an~~
14 24 individual who buys commercial fish or their parts from a
14 25 commercial fisher for personal consumption.
14 26 a. A commercial fisher license is required to operate
14 27 commercial gear and to take, attempt to take, possess,
14 28 process, transport, or sell any commercial fish, commercial
14 29 turtles, or turtle eggs.
14 30 b. A commercial fish helper license is required to assist
14 31 a commercial fisher or commercial roe harvester in operating,
14 32 commercial gear and in taking, attempting to take, possessing,
14 33 or transporting commercial fish, roe species, roe, commercial
14 34 turtles, or turtle eggs. A commercial fish helper is not
14 35 permitted to buy, sell, barter, or trade commercial fish, roe



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15 1 species, roe, commercial turtles, or turtle eggs. A
15 2 commercial fish helper license is not required for a person
15 3 under sixteen years of age to assist a commercial fisher as
15 4 provided in this paragraph "b".
15 5 c. A commercial roe harvester license is required to
15 6 harvest, possess, transport, or sell roe or roe species or
15 7 their parts. A commercial roe harvester is not permitted to
15 8 buy, barter, or trade roe or roe species unless in possession
15 9 of a valid roe buyer license. A commercial roe harvester
15 10 shall sell roe or roe species only to a commercial roe buyer
15 11 licensed in this state.
15 12 d. A commercial roe buyer license is required to buy,
15 13 barter, or trade roe or roe species for resale.
15 14 2. All intrastate and interstate shipments of commercial
15 15 fish, ~~or turtles, or roe or roe species,~~ must be accompanied
15 16 by a ~~label~~ receipt which shows the name and address of the
15 17 seller ~~and the kinds,~~ date of sale, and the species, numbers,
15 18 and pounds of the ~~catches~~ fish, roe species, roe, turtles, or
15 19 turtle eggs being sold. ~~Individuals purchasing fish, turtles,~~
15 20 ~~or mussels from a commercial fisher, turtle fisher, or mussel~~
15 21 ~~fisher need not possess a license.~~
15 22 Sec. 26. Section 482.11, subsections 1 and 3, Code 2009,
15 23 are amended to read as follows:
15 24 1. ~~A person shall not~~ All persons who commercially take,
15 25 attempt to take, possess, transport, or sell turtles ~~from the~~
15 26 ~~waters of the state without~~ or turtle eggs shall possess an
15 27 appropriate, valid commercial license. This subsection does
15 28 not apply to an individual who buys turtles or turtle eggs
15 29 from a commercial fisher or a commercial turtle harvester for
15 30 personal consumption.
15 31 a. A ~~valid sport fishing license~~ entitles a person
15 32 commercial turtle harvester license is required to operate
15 33 commercial gear and to take ~~and,~~ attempt to take, possess a
15 34 ~~maximum of one hundred pounds of live turtles or fifty pounds~~
15 35 ~~of dressed turtles,~~ transport, sell, barter, or trade



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~~16 1 commercial turtles or turtle eggs. The sale of live or~~
~~16 2 dressed turtles is not permitted with a sport fishing license.~~
16 3 Nonresident commercial turtle harvesters shall harvest
16 4 commercial turtles only from the boundary waters.

16 5 b. A commercial turtle helper license is required to take
~~16 6 and possess more than one hundred pounds of live or fifty~~
~~16 7 pounds of dressed turtles. The holder of assist a commercial~~
16 8 turtle license may sell live or dressed turtles harvester in
16 9 operating commercial gear, and in taking, attempting to take,
16 10 possessing, or transporting commercial turtles or turtle eggs.
16 11 A commercial turtle helper is not permitted to buy, sell,
16 12 barter, or trade commercial turtles or turtle eggs. A
16 13 commercial turtle helper license is not required for a person
16 14 under sixteen years of age to assist a commercial turtle
16 15 harvester as provided in this paragraph "b".

16 16 c. A commercial turtle buyer license is required to engage
16 17 in the business of buying, bartering, or trading commercial
16 18 turtles or turtle eggs.

16 19 ~~e.~~ d. A commercial fishing fisher license or a designated
~~16 20 operator's license entitles commercial fishers to operate any~~
16 21 licensed commercial fishing gear for taking, possessing, or
~~16 22 selling and to take, attempt to take, possess, and sell,~~
16 23 barter, or trade turtles or turtle eggs taken with such
16 24 commercial gear.

16 25 ~~d.~~ An individual possessing a valid commercial turtle
~~16 26 license may have the assistance of one unlicensed individual~~
~~16 27 in the commercial taking of turtles.~~

16 28 3. ~~The method of taking turtles shall only be by hand,~~
~~16 29 turtle hook, turtle trap, licensed commercial fishing gear, or~~
~~16 30 other means designated by commission rules. Sport fishers may~~
~~16 31 also use hook-and-line in catching turtles.~~

16 32 Sec. 27. Section 482.11, subsections 3 and 4, Code 2009,
16 33 are amended by striking the subsections.

16 34 Sec. 28. Section 482.14, Code 2009, is amended to read as
16 35 follows:



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17 1 482.14 REPORTS AND RECORDS REQUIRED == INSPECTIONS.
17 2 1. All commercial fishers, commercial turtle fishers
17 3 harvesters, commercial turtle buyers, commercial mussel
17 4 fishers roe harvesters, and commercial mussel roe buyers shall
17 5 submit a monthly report supplying all information requested on
17 6 forms furnished by the ~~commission~~ department. Reports must be
17 7 received by the ~~commission~~ department no later than the
17 8 fifteenth day of the following month.
17 9 2. Commercial fishers shall utilize a dated receipt with
17 10 at least two parts, with one original and one copy of each
17 11 receipt, that contains the species, number, and pounds of fish
17 12 or turtles sold, bartered, or traded. Commercial fishers
17 13 shall retain a copy of each receipt for five years following
17 14 the transaction. A purchaser of commercial fish or turtles
17 15 shall retain a copy of the receipt for as long as the
17 16 purchaser is in possession of the fish or turtles.
17 17 3. Commercial turtle harvesters shall utilize a dated
17 18 receipt with at least two parts, with one original and one
17 19 copy of each receipt, that contains the species, number, and
17 20 pounds of turtles sold, bartered, or traded. Commercial
17 21 turtle harvesters shall retain a copy of each receipt for five
17 22 years following the transaction. A purchaser of commercial
17 23 turtles shall retain a copy of the receipt for as long as the
17 24 purchaser is in possession of the turtles.
17 25 4. Commercial turtle buyers shall maintain accurate
17 26 records of all transactions. The records shall contain the
17 27 date, number, weight, and species of turtles purchased, the
17 28 name and address of the seller, and the county or pools where
17 29 the turtles were taken. The records shall be updated monthly.
17 30 Such records shall be available for examination by employees
17 31 of the department upon request. A commercial turtle buyer
17 32 shall only purchase turtles from a licensed commercial fisher
17 33 or commercial turtle harvester.
17 34 5. Commercial roe buyers shall utilize a receipt with at
17 35 least two parts, with one original and at least one copy of



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18 1 each receipt, for each purchase of commercial roe species and
 18 2 roe. The original of the receipt shall be kept by the
 18 3 commercial roe buyer and a copy of the receipt shall be given
 18 4 to the commercial roe harvester selling the commercial roe
 18 5 species or roe. Commercial roe buyers and commercial roe
 18 6 harvesters shall retain such receipts for five years following
 18 7 the date of the transaction.

18 8 6. Facilities and records of commercial fish buyers,
 18 9 commercial turtle buyers, commercial roe harvesters, and
 18 10 commercial roe buyers shall be open at all reasonable times
 18 11 for inspection by any conservation officer.

18 12 Sec. 29. Section 483A.1, subsection 1, Code 2009, is
 18 13 amended by adding the following new paragraph:

18 14 NEW PARAGRAPH. u. Boundary waters sport
 18 15 trotline license, annual \$ 20.50

18 16 Sec. 30. Section 483A.1, subsection 2, Code 2009, is
 18 17 amended by adding the following new paragraphs:

18 18 NEW PARAGRAPH. ee. Preference point issued
 18 19 under section 483A.7, subsection 3, paragraph
 18 20 "b", or section 483A.8, subsection 3, paragraph "e" . \$ 50.00

18 21 NEW PARAGRAPH. w. Boundary waters sport
 18 22 trotline license, annual \$ 40.50

18 23 Sec. 31. Section 483A.1A, Code 2009, is amended by adding
 18 24 the following new subsections:

18 25 NEW SUBSECTION. 0A. "Boundary waters" means the waters of
 18 26 the Mississippi, Missouri, and Big Sioux rivers.

18 27 NEW SUBSECTION. 6A. "Nonresident" means a person who is
 18 28 not a resident as defined in subsection 7.

18 29 NEW SUBSECTION. 6B. "Principal and primary residence or
 18 30 domicile" means the one and only place where a person has a
 18 31 true, fixed, and permanent home, and to where, whenever the
 18 32 person is briefly and temporarily absent, the person intends
 18 33 to return. Relevant factors in determining a person's
 18 34 principal and primary residence or domicile include but are
 18 35 not limited to proof of place of employment, mailing address,



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19 1 utility records, land ownership records, vehicle registration,
19 2 and address listed on the person's state and federal income
19 3 tax returns. A person shall submit documentation to establish
19 4 the person's principal and primary residence or domicile to
19 5 the department or its designee upon request. The department
19 6 or its designee shall keep confidential any document received
19 7 pursuant to such a request if the document is required to be
19 8 kept confidential by state or federal law.

19 9 Sec. 32. Section 483A.1A, subsection 7, Code 2009, is
19 10 amended to read as follows:

19 11 7. "Resident" means a natural person who meets any of the
19 12 following criteria during each year in which the person claims
19 13 status as a resident:

19 14 a. Has physically resided in this state at least thirty as
19 15 the person's principal and primary residence or domicile for a
19 16 period of not less than ninety consecutive days immediately
19 17 before applying for or purchasing a resident license, tag, or
19 18 permit under this chapter and has been issued an Iowa driver's
19 19 license or an Iowa nonoperator's identification card. A
19 20 person is not considered a resident under this paragraph if
19 21 the person is residing in the state only for a special or
19 22 temporary purpose including but not limited to engaging in
19 23 hunting, fishing, or trapping.

19 24 b. Is a full-time student at either of the following:

19 25 (1) ~~an~~ An accredited educational institution located in
19 26 this state and resides in this state while attending the
19 27 educational institution.

19 28 (2) An accredited educational institution located outside
19 29 of this state, if the person is under the age of twenty-five
19 30 and has at least one parent or legal guardian who maintains a
19 31 principal and primary residence or domicile in this state.

19 32 c. A Is a student who qualifies as a resident pursuant to
19 33 this paragraph "b" only for the purpose of purchasing any
19 34 resident license specified in section 483A.1 or 484A.2.

19 35 ~~e.~~ d. Is a nonresident under eighteen years of age whose



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20 1 parent is a resident of this state.

20 2 ~~d.~~ e. Is a member of the armed forces of the United
20 3 States who is serving on active duty, claims residency in this
20 4 state, and has filed a state individual income tax return as a
20 5 resident pursuant to chapter 422, division II, for the
20 6 preceding tax year, or is stationed in this state.

20 7 ~~e. Is registered to vote in this state.~~

20 8 Sec. 33. Section 483A.2, Code 2009, is amended to read as
20 9 follows:

20 10 483A.2 DUAL RESIDENCY.

20 11 A resident license shall be limited to persons who do not
20 12 claim any resident privileges, except as defined in section
20 13 483A.1A, subsection 7, paragraphs "b", "c", ~~and~~ "d", and "e",
20 14 in another state or country. A person shall not purchase or
20 15 apply for any resident license or permit if that person has
20 16 claimed residency in any other state or country.

20 17 Sec. 34. Section 483A.7, subsection 3, Code 2009, is
20 18 amended to read as follows:

20 19 3. a. A nonresident wild turkey hunter is required to
20 20 have a nonresident hunting license and a nonresident wild
20 21 turkey hunting license and pay the wildlife habitat fee. The
20 22 commission shall annually limit to two thousand three hundred
20 23 licenses the number of nonresidents allowed to have wild
20 24 turkey hunting licenses. Of the two thousand three hundred
20 25 licenses, one hundred fifty licenses shall be valid for
20 26 hunting with muzzle loading shotguns only. The commission
20 27 shall allocate the nonresident wild turkey hunting licenses
20 28 issued among the zones based on the populations of wild
20 29 turkey. A nonresident applying for a wild turkey hunting
20 30 license must exhibit proof of having successfully completed a
20 31 hunter safety and ethics education program as provided in
20 32 section 483A.27 or its equivalent as determined by the
20 33 department before the license is issued.

20 34 b. The commission shall assign one preference point to a
20 35 nonresident whose application for a nonresident wild turkey



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21 1 hunting license is denied due to limitations on the number of
21 2 nonresident wild turkey hunting licenses available for
21 3 issuance that year. An additional preference point shall be
21 4 assigned to that person each subsequent year the person's
21 5 license application is denied for that reason. A nonresident
21 6 may purchase additional preference points pursuant to section
21 7 483A.1, subsection 2, paragraph "ee". The first nonresident
21 8 wild turkey hunting license drawing each year shall be made
21 9 from the pool of applicants with the most preference points
21 10 and continue to pools of applicants with successively fewer
21 11 preference points until all available nonresident wild turkey
21 12 hunting licenses have been issued. If a nonresident applicant
21 13 receives a wild turkey hunting license, all of the applicant's
21 14 assigned preference points at that time shall be removed.

21 15 Sec. 35. Section 483A.8, subsections 3, 4, and 5, Code
21 16 2009, are amended to read as follows:

21 17 3. a. A nonresident hunting deer is required to have a
21 18 nonresident hunting license and a nonresident deer hunting
21 19 license and must pay the wildlife habitat fee. In addition, a
21 20 nonresident who purchases a deer hunting license shall pay a
21 21 one dollar fee that shall be used and is appropriated for the
21 22 purpose of deer herd population management, including
21 23 assisting with the cost of processing deer donated to the help
21 24 us stop hunger program administered by the commission.

21 25 b. A nonresident who purchases an antlered or any sex deer
21 26 hunting license pursuant to section 483A.1, subsection 2,
21 27 paragraph "e", is required to purchase an antlerless deer only
21 28 deer hunting license at the same time, pursuant to section
21 29 483A.1, subsection 2, paragraph "f".

21 30 c. The commission shall annually limit to six thousand the
21 31 number of nonresidents allowed to have antlered or any sex
21 32 deer hunting licenses. Of the six thousand nonresident
21 33 antlered or any sex deer hunting licenses issued, not more
21 34 than thirty-five percent of the licenses shall be bow season
21 35 licenses. After the six thousand antlered or any sex



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22 1 nonresident deer hunting licenses have been issued, all
22 2 additional licenses shall be issued for antlerless deer only.
22 3 The commission shall annually determine the number of
22 4 nonresident antlerless deer only deer hunting licenses that
22 5 will be available for issuance.
22 6 d. The commission shall allocate all nonresident deer
22 7 hunting licenses issued among the zones ~~based on the~~
~~22 8 populations of deer~~ using a county-by-county system. However,
22 9 a nonresident applicant may request one or more hunting zones,
22 10 in order of preference, in which the applicant wishes to hunt.
22 11 If the request cannot be fulfilled, the applicable fees shall
22 12 be returned to the applicant. A nonresident applying for a
22 13 deer hunting license must exhibit proof of having successfully
22 14 completed a hunter safety and ethics education program as
22 15 provided in section 483A.27 or its equivalent as determined by
22 16 the department before the license is issued.
22 17 e. The commission shall assign one preference point to a
22 18 nonresident whose application for a nonresident antlered or
22 19 any sex deer hunting license is denied due to limitations on
22 20 the number of nonresident antlered or any sex deer hunting
22 21 licenses available for issuance that year. An additional
22 22 preference point shall be assigned to that person each
22 23 subsequent year the person's license application is denied for
22 24 that reason. A nonresident may purchase additional preference
22 25 points pursuant to section 483A.1, subsection 2, paragraph
22 26 "f". The first nonresident antlered or any sex deer hunting
22 27 license drawing each year shall be made from the pool of
22 28 applicants with the most preference points and continue to
22 29 pools of applicants with successively fewer preference points
22 30 until all available nonresident antlered or any sex deer
22 31 hunting licenses have been issued. If a nonresident applicant
22 32 receives an antlered or any sex deer hunting license, all of
22 33 the applicant's assigned preference points at that time shall
22 34 be removed.
22 35 4. The commission may provide, by rule, for the issuance



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23 1 of an additional antlerless deer hunting license to a person
23 2 who has been issued an antlerless deer hunting license. The
23 3 rules shall specify the number of additional antlerless deer
23 4 hunting licenses which may be issued, and the season and zone
23 5 in which the license is valid. The fee for an additional
23 6 antlerless deer hunting license shall be ten dollars for
23 7 residents.

23 8 5. A nonresident owning land in this state may apply for a
23 9 nonresident antlered or any sex deer hunting license, and the
23 10 provisions of subsection 3 shall apply. However, if a
23 11 nonresident owning land in this state is unsuccessful in
23 12 obtaining one of the nonresident antlered or any sex deer
23 13 hunting licenses, the landowner shall be given preference for
23 14 one of the antlerless deer only nonresident deer hunting
23 15 licenses available pursuant to subsection 3. A nonresident
23 16 owning land in this state shall pay the fee for a nonresident
23 17 antlerless only deer hunting license and the license shall be
23 18 valid to hunt on the nonresident's land only. If one or more
23 19 parcels of land have multiple nonresident owners, only one of
23 20 the nonresident owners is eligible for a nonresident
23 21 antlerless only deer hunting license. If a nonresident
23 22 jointly owns land in this state with a resident, the
23 23 nonresident shall not be given preference for a nonresident
23 24 antlerless only deer hunting license. The department may
23 25 require proof of land ownership from a nonresident landowner
23 26 applying for a nonresident antlerless only deer hunting
23 27 license.

23 28 Sec. 36. Section 483A.8A, Code 2009, is amended to read as
23 29 follows:

23 30 483A.8A DEER AND WILD TURKEY HARVEST REPORTING SYSTEM.

23 31 1. The commission shall provide, by rule, for the
23 32 establishment of a deer and wild turkey harvest reporting
23 33 system for the purpose of collecting information from ~~deer~~
23 34 hunters concerning the deer and wild turkey population in this
23 35 state. Each person who is issued a deer or wild turkey



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24 1 hunting license in this state shall report such information
24 2 pursuant to this section. Information collected by the
24 3 commission pursuant to the deer and wild turkey harvest
24 4 reporting system from a ~~deer~~ hunter who takes a deer or wild
24 5 turkey shall be limited to the following:
24 6 a. The county where the deer or wild turkey was taken.
24 7 b. The season during which the deer or wild turkey was
24 8 taken.
24 9 c. The sex of the deer or wild turkey taken.
24 10 d. The age of the deer or wild turkey taken.
24 11 e. The type of weapon used.
24 12 f. The hunting license number of the hunter.
24 13 g. The number of days the hunter hunted.
24 14 h. The total number of deer or wild turkey taken by the
24 15 hunter.
24 16 2. The deer and wild turkey harvest reporting system
24 17 established by the commission shall utilize and is limited to
24 18 utilizing one or more of the following methods of reporting
24 19 deer or wild turkey taken by hunters:
24 20 a. A toll-free telephone number.
24 21 b. A postcard.
24 22 c. Reporting at an electronic licensing location.
24 23 d. Electronic internet communication.
24 24 Sec. 37. Section 483A.10, Code 2009, is amended to read as
24 25 follows:
24 26 483A.10 ISSUANCE OF LICENSES.
24 27 1. The licenses and combination packages of licenses
24 28 issued pursuant to this chapter shall be issued by the
24 29 department or the license agents as specified by rules of the
24 30 commission. A county recorder may issue licenses or
24 31 combination packages of licenses subject to the rules of the
24 32 commission.
24 33 2. The rules shall include the application procedures as
24 34 necessary. The licenses and combination packages of licenses
24 35 shall show the total cost of the license or combination



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25 1 package of licenses, including a writing fee to be retained by
25 2 the license agent and any administrative fees to be forwarded
25 3 to the department, if applicable. A person authorized to
25 4 issue a license or combination package of licenses or collect
25 5 a fee pursuant to this chapter or chapter 484A shall charge
25 6 the fee specified in this chapter or chapter 484A only plus a
25 7 writing fee and administrative fee, if applicable.

25 8 Sec. 38. Section 483A.12, Code 2009, is amended to read as
25 9 follows:

25 10 483A.12 FEES.

25 11 1. The license agent shall be responsible for all fees for
25 12 the issuance of hunting, fishing, ~~and~~ fur harvester licenses,
25 13 and combination packages of licenses sold by the license
25 14 agent. All unused license blanks shall be surrendered to the
25 15 department upon the department's demand.

25 16 2. A license agent shall retain a writing fee of fifty
25 17 cents from the sale of each license or combination package of
25 18 licenses except that the writing fee for a free deer or wild
25 19 turkey license as authorized under section 483A.24, subsection
25 20 2, shall be one dollar. If a county recorder is a license
25 21 agent, the writing fees retained by the county recorder shall
25 22 be deposited in the general fund of the county.

25 23 Sec. 39. NEW SECTION. 483A.28 NONCOMMERCIAL HARVEST OF
25 24 AQUATIC SPECIES.

25 25 1. A boundary waters sport trotline license entitles the
25 26 licensee to use a maximum of four trotlines with two hundred
25 27 hooks in the aggregate and only on boundary waters. All
25 28 boundary waters sport trotlines shall be tagged with the name
25 29 and address of the licensee on a weather-resistant tag
25 30 provided by the licensee and affixed above the waterline. A
25 31 boundary waters sport trotline licensee is not permitted to
25 32 sell, barter, or trade fish or turtles taken pursuant to the
25 33 license.

25 34 2. A valid fishing license issued pursuant to this chapter
25 35 entitles the licensee to take and possess a maximum of one



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26 1 hundred pounds of live turtles or fifty pounds of dressed
26 2 turtles. Any unattended fishing gear used to take turtles
26 3 pursuant to a fishing license shall be tagged with the name
26 4 and address of the licensee on a weather-resistant tag
26 5 provided by the licensee and affixed above the waterline. A
26 6 fishing licensee is not permitted to sell, barter, or trade
26 7 live or dressed turtles taken pursuant to the license.
26 8 3. A valid fishing license issued pursuant to this chapter
26 9 entitles the licensee to take and possess a maximum amount of
26 10 mussels or shells daily as authorized by rule under the
26 11 authority of sections 456A.24, 481A.38, and 481A.39. A
26 12 fishing licensee shall not sell, barter, or trade freshwater
26 13 mussels or shells taken pursuant to the fishing license.
26 14 Sec. 40. Section 805.8B, subsection 3, paragraphs c, d,
26 15 and n, Code 2009, are amended to read as follows:
26 16 c. For violations of sections 481A.6, 481A.21, 481A.22,
26 17 481A.26, 481A.50, 481A.56, 481A.60 through 481A.62, 481A.83,
26 18 481A.84, 481A.92, 481A.123, 481A.145, subsection 3, sections
26 19 ~~482.7~~, 483A.7, 483A.8, 483A.23, ~~and~~ 483A.24, and 483A.28, the
26 20 scheduled fine is twenty-five dollars.
26 21 d. For violations of sections 481A.7, 481A.24, 481A.47,
26 22 481A.52, 481A.53, 481A.55, 481A.58, 481A.76, 481A.90, 481A.91,
26 23 481A.97, 481A.122, 481A.126, 481A.142, 481A.145, subsection 2,
26 24 482.5, 482.7, sections 482.8, 482.10, and 483A.37, the
26 25 scheduled fine is fifty dollars.
26 26 n. For violations of section 482.11 ~~relating to turtles~~,
26 27 the scheduled fine is one hundred dollars.
26 28 ~~(1) For commercial turtle violations, the scheduled fine~~
26 29 ~~is one hundred dollars.~~
26 30 ~~(2) For sport turtle violations, the scheduled fine is~~
26 31 ~~fifty dollars.~~
26 32 Sec. 41. Section 805.8B, subsection 3, paragraph o, Code
26 33 2009, is amended by striking the paragraph.
26 34 Sec. 42. Section 805.8B, subsection 3, paragraph p,
26 35 subparagraph (5), Code 2009, is amended to read as follows:



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27 1 (5) For a license or permit costing more than fifty
27 2 dollars but less than one hundred dollars, the scheduled fine
27 3 is one hundred dollars.
27 4 (6) For a license or permit costing one hundred dollars or
27 5 more, the scheduled fine is two times the cost of the original
27 6 license or permit.

27 7 Sec. 43. Sections 482.12 and 483A.25, Code 2009, are
27 8 repealed.

27 9 EXPLANATION

27 10 This bill relates to various conservation and recreation
27 11 activities under the purview of the department of natural
27 12 resources, modifies fees, and makes penalties applicable.
27 13 SNOWMOBILES. Code section 321G.2(1) is amended to allow
27 14 the natural resource commission to adopt rules for the
27 15 establishment of a program of grants, subgrants, and contracts
27 16 for the development, maintenance, and operation of designated
27 17 snowmobile trails and grooming equipment by political
27 18 subdivisions and incorporated private organizations; of a
27 19 certified education course for the operation of snowmobile
27 20 grooming equipment; of a certified education course for the
27 21 safe use and operation of snowmobiles; and for certification
27 22 of volunteer snowmobile education instructors.

27 23 Code section 321G.11 is amended to require that exhaust on
27 24 internal combustion engines of snowmobiles must be muffled in
27 25 accordance with rules adopted by the natural resource
27 26 commission.

27 27 Code section 321G.21(9) is amended to allow the commission
27 28 to adopt rules providing for the suspension or revocation of a
27 29 snowmobile dealer's special registration certificate issued
27 30 pursuant to this section.

27 31 Code section 321G.24(3) is amended to coordinate an
27 32 internal reference with the changes in Code section 321G.2(1),
27 33 to allow a person who completes a course of safety instruction
27 34 to receive a safety certificate, and to delete a provision
27 35 that allowed the commission to waive completion of the safety



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28 1 course if a person passed a written test instead.
28 2 ALL=TERRAIN VEHICLES. Code section 321I.1(1)(c) is amended
28 3 by removing a provision requiring off=road utility vehicles to
28 4 be considered all=terrain vehicles for the purposes of
28 5 registration.

28 6 Code section 321I.1(16) is amended to provide that an
28 7 off=road utility vehicle means a vehicle with not less than
28 8 four and not more than eight tires, a bucket or bench seat,
28 9 and a steering wheel or control levers. The amendment also
28 10 allows an owner of an off=road utility vehicle to register and
28 11 title an off=road utility vehicle in order to legally operate
28 12 the vehicle on public ice, or on a designated riding area or
28 13 riding trail but be exempt from certain dealer registration
28 14 and titling requirements and safety instruction and
28 15 certification program requirements. An operator of a
28 16 registered or titled off=road utility vehicle shall not
28 17 operate the vehicle on public ice or designated riding areas
28 18 or trails unless the department has posted signage allowing
28 19 such operation.

28 20 Code section 321I.2(1) is amended to allow the commission
28 21 to adopt rules for the establishment of a program of grants,
28 22 subgrants, and contracts for the development, maintenance, and
28 23 operation of all=terrain vehicle riding areas and trails by
28 24 political subdivisions and incorporated private organizations;
28 25 of a certified education course for the safe use and operation
28 26 of all=terrain vehicles; and for certification of volunteer
28 27 all=terrain vehicle education instructors.

28 28 Code section 321I.22(9) is amended to allow the adoption of
28 29 rules by the commission providing for the suspension or
28 30 revocation of an all=terrain vehicle dealer's special
28 31 registration certificate.

28 32 Code section 321I.26(3) is amended to coordinate an
28 33 internal reference with the changes made in Code section
28 34 321I.2(1), to allow a person to obtain a safety certificate by
28 35 passing an examination including either a written test or the



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29 1 demonstration of adequate riding skills, and to delete a
29 2 provision that allowed the commission to waive completion of
29 3 the course of instruction upon passage of a written test
29 4 instead.

29 5 WILDLIFE CONSERVATION. Code section 481A.122 is amended to
29 6 exempt a person who is hunting with a raptor from certain
29 7 requirements to wear blaze orange apparel.

29 8 Code section 481A.130 is amended to add a civil penalty of
29 9 \$200 for the unlawful taking of a bobcat and to add a schedule
29 10 of civil penalties for the unlawful taking of fish, dependent
29 11 on the species of fish taken. The Code section is also made
29 12 inapplicable to a person who is liable to pay restitution
29 13 pursuant to Code section 481A.151 for injury to a wild animal
29 14 caused by polluting a water of this state.

29 15 COMMERCIAL FISHING. Code section 482.1 is amended to
29 16 provide that a licensee under the Code chapter shall not
29 17 continue commercial fishing while a license issued by the
29 18 commission is under revocation or suspension, to allow
29 19 regulation of commercial mussel bait fishing, and to allow
29 20 employees of the department of natural resources to examine
29 21 gear, catches, and sale and purchase records of commercial
29 22 licensees.

29 23 Code section 482.2 is amended to add definitions of new
29 24 licenses for commercial fish buyers, commercial fish helpers,
29 25 commercial roe buyers, commercial roe harvesters, commercial
29 26 turtle buyers, commercial turtle helpers, and to define roe
29 27 and roe species. References to commercial mussel fishing are
29 28 deleted. References to water sport trotline licenses are
29 29 deleted and moved to Code chapter 483A. Code section
29 30 452A.17(1)(a)(7) is amended to make the language consistent
29 31 with the definitional changes.

29 32 Code section 482.4, concerning commercial licenses and gear
29 33 tags, is amended to describe and set fees for the new licenses
29 34 available. Annual license fees for some existing licenses are
29 35 increased, and fees are added for the new licenses available.



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30 1 Code section 482.5, concerning commercial gear, is amended
30 2 to include the harvest of commercial turtles with such gear.
30 3 Code section 482.7, concerning gear attendance, is amended
30 4 to apply to commercial turtle fishing and to require the
30 5 presence of a commercial fisher or commercial turtle fisher
30 6 when commercial gear is operated, including direct supervision
30 7 of a commercial fish helper or commercial turtle helper who
30 8 operates commercial gear. "Direct supervision" is defined to
30 9 require being in the same boat, within hand=signal distance,
30 10 or within vocal communication distance, without electronic or
30 11 amplification devices of the person being supervised. The
30 12 constant attendance requirement may be modified by the
30 13 commission upon a request specifying why an extension of gear
30 14 attendance intervals is needed.
30 15 Code sections 482.8, concerning bait, and 482.9, concerning
30 16 unlawful methods, are amended to coordinate with the new
30 17 license designations.
30 18 Code section 482.10, concerning commercial fish, is amended
30 19 to describe the privileges associated with commercial fisher
30 20 and fish helper licenses, and commercial roe harvester and roe
30 21 buyer licenses. The license requirements do not apply to
30 22 individuals who buy commercial fish or fish parts or roe or
30 23 roe species for personal consumption or to restaurants, liquor
30 24 control licensees, or public benefit corporations that buy
30 25 commercial fish or fish parts, or roe or roe species for
30 26 retail sale and human consumption on their premises. In
30 27 addition, a person under 16 years of age is not required to
30 28 have a commercial fish helper license to assist a commercial
30 29 fisher.
30 30 Code section 482.11, concerning turtles, is amended to
30 31 describe the privileges associated with the taking of turtles,
30 32 particularly by commercial turtle fisher and turtle helper
30 33 licensees. The commercial turtle license requirements do not
30 34 apply to individuals who buy commercial turtles, turtle eggs,
30 35 or turtle parts from a commercial fisher or commercial turtle



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31 1 fisher for personal consumption; or to restaurants, liquor
31 2 control licensees, or public benefit corporations that buy
31 3 commercial turtles, turtle eggs, or turtle parts for retail
31 4 and human consumption on their premises. In addition, a
31 5 commercial turtle helper license is not required for a person
31 6 under 16 years of age to assist a commercial turtle fisher.
31 7 Code section 482.14 is amended to describe report,
31 8 recordkeeping, and inspection requirements pertaining to
31 9 commercial fishers, commercial turtle fishers, commercial fish
31 10 buyers, commercial turtle buyers, commercial roe harvesters,
31 11 and commercial roe buyers.
31 12 FISHING AND HUNTING LICENSES. Code section 483A.1 is
31 13 amended to add the licenses for resident boundary waters sport
31 14 trotline fishing and nonresident boundary waters sport
31 15 trotline fishing.
31 16 Code section 483A.1A is amended to add a definition for
31 17 "boundary waters", "nonresident", and "principal and primary
31 18 residence or domicile".
31 19 Code section 483A.1A is also amended to change the
31 20 definition of "resident" to require a person to meet any of
31 21 the specified criteria during each year in which the person
31 22 claims status as a resident. One specified criterion now
31 23 requires a person to physically reside in the state as the
31 24 person's principal and primary residence or domicile for a
31 25 period of not less than 90 consecutive days immediately before
31 26 applying for a resident hunting or fishing privilege. A
31 27 full-time student at an out-of-state school who is under age
31 28 25 may also qualify as a resident if the student has at least
31 29 one parent or legal guardian who maintains a principal and
31 30 primary residence in the state. Code section 483A.2 is
31 31 amended to coordinate with these changes.
31 32 Code section 483A.7(3) is amended to require the natural
31 33 resource commission to assign a preference point each year to
31 34 a nonresident whose application for a wild turkey hunting
31 35 license is denied due to limitations on the number of licenses



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32 1 available and to authorize the commission to sell additional
32 2 preference points for \$50 each.
32 3 Code section 483A.8 is amended to require the commission to
32 4 allocate all nonresident deer hunting licenses issued among
32 5 the zones using a county-by-county system. The commission is
32 6 also required to assign a preference point each year to a
32 7 nonresident whose application for an antlered or any sex deer
32 8 hunting license is denied due to limitations on the number of
32 9 licenses available and to authorize the commission to sell
32 10 additional preference points for \$50 each.
32 11 Code section 483A.8A is amended to expand the deer harvest
32 12 reporting system to include reporting on wild turkeys
32 13 harvested. Code section 805.8B(3) is amended to make a
32 14 violation of this section punishable by a scheduled fine of
32 15 \$25.
32 16 Code section 483A.10 is amended to allow the sale and
32 17 issuance of combination packages of licenses pursuant to Code
32 18 chapter 483A. Code section 483A.12 is amended to allow for
32 19 the collection of fees by license agents in connection with
32 20 such sales.
32 21 New Code section 483A.28 describes the noncommercial
32 22 harvest of aquatic species. The new boundary waters sport
32 23 trotline license allows the use of trotlines only on boundary
32 24 waters. A valid fishing license entitles the licensee to take
32 25 specified amounts of live and dressed turtles and mussels, as
32 26 set by rule, but not to sell, barter, or trade them. Code
32 27 section 805.8B(3) is amended to provide that a violation of
32 28 this new provision, other than a license violation, is
32 29 punishable by a scheduled fine of \$25.
32 30 Code section 805.8B(3)(n) is amended to strike a provision
32 31 imposing a penalty for sport turtle violations to coordinate
32 32 with changes made to Code section 482.11(3) and (4).
32 33 Code section 805.8B(3)(p)(5) is amended to provide that for
32 34 violations of Code section 483A.1 relating to licenses and
32 35 permits, the scheduled fine is \$100 for a license or permit



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33 1 costing more than \$50 but less than \$100, and the fine is two
33 2 times the cost of the license or permit for licenses or
33 3 permits that cost \$100 or more.
33 4 Code section 482.12, concerning commercial freshwater
33 5 mussel harvesting, and Code section 483A.25, concerning the
33 6 pheasant and quail restoration program and related
33 7 appropriations, are repealed.
33 8 LSB 2094HV 83
33 9 av/sc/8.1



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HOUSE FILE
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 151)

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

A BILL FOR

1 An Act relating to various matters under the purview of the
2 insurance division of the department of commerce including the
3 uniform securities act; insurance division; articles of
4 incorporation filing requirements; viatical settlements
5 contracts; life insurance companies and associations;
6 long-term care insurance; long-term care asset disregard
7 incentives; insurance other than life; insurance guaranty
8 association; county mutual insurance associations; state
9 mutual insurance associations; consolidation, merger, and
10 reinsurance; and cemetery and funeral merchandise and funeral
11 services; and providing for an immediate effective date and
12 retroactive applicability.
13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
14 TLSB 1321HV 83
15 av/rj/14



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PAG LIN

1 1 Section 1. Section 249A.35, Code 2009, is amended to read
1 2 as follows:

1 3 249A.35 PURCHASE OF ~~CERTIFIED~~ QUALIFIED LONG-TERM CARE
1 4 INSURANCE POLICY == COMPUTATION UNDER MEDICAL ASSISTANCE
1 5 PROGRAM.

1 6 A computation for the purposes of determining eligibility
1 7 under this chapter concerning an individual who is the
1 8 beneficiary of a ~~certified~~ qualified long-term care insurance
1 9 policy under chapter 514H shall include consideration of the
1 10 asset disregard provided in section 514H.5.

1 11 Sec. 2. Section 502.409, subsection 1, Code 2009, is
1 12 amended to read as follows:

1 13 1. WITHDRAWAL OF REGISTRATION. Withdrawal of registration
1 14 by a broker-dealer, agent, investment adviser, or investment
1 15 adviser representative becomes effective sixty days after the
1 16 filing of the application to withdraw or within any shorter
1 17 period as provided by rule adopted or order issued under this
1 18 chapter unless a revocation or suspension proceeding is
1 19 pending when the application is filed. If a proceeding is
1 20 pending, withdrawal becomes effective when and upon such
1 21 conditions as required by rule adopted or order issued under
1 22 this chapter. The administrator may institute a ~~revocation or~~
1 23 ~~suspension proceeding~~ disciplinary action under section
1 24 502.412, including an action to revoke, suspend, condition, or
1 25 limit the registration of a registrant, censure, impose a bar,
1 26 or impose a civil penalty, within one year after the
1 27 withdrawal became effective automatically and issue a
1 28 ~~revocation or suspension~~ disciplinary order as of the last
1 29 date on which registration was effective if a proceeding is
1 30 not pending.

1 31 Sec. 3. Section 505.8, subsection 6, Code 2009, is amended
1 32 to read as follows:

1 33 6. The commissioner shall provide assistance to the public
1 34 and to consumers of insurance products and services in this
1 35 state.



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2 1 a. The commissioner shall accept inquiries and complaints
2 2 from the public regarding the business of insurance. The
2 3 commissioner or the commissioner's designee may respond to
2 4 inquiries and complaints, and may examine or investigate such
2 5 inquiries and complaints to determine whether laws in this
2 6 subtitle and rules adopted pursuant to such laws have been
2 7 violated.

2 8 ~~a.~~ b. The commissioner shall establish a bureau, to be
2 9 known as the "consumer advocate bureau", which shall be
2 10 responsible for ensuring fair treatment of consumers ~~by~~
~~2 11 persons in the business of insurance and for preventing unfair~~
2 12 ~~or deceptive trade practices in the insurance marketplace and~~ and
2 13 by persons under the jurisdiction of the commissioner.

2 14 ~~b.~~ (1) The commissioner, with the advice of the governor,
2 15 shall appoint a consumer advocate who shall be knowledgeable
2 16 in the area of insurance and particularly in the area of
2 17 consumer protection. The consumer advocate shall be the chief
2 18 administrator of the consumer advocate bureau.

2 19 ~~c.~~ (2) The consumer advocate bureau ~~shall~~ may receive and
2 20 may investigate consumer complaints and inquiries from the
2 21 public, and ~~shall~~ may conduct investigations to determine
2 22 whether any person has violated any provision of the insurance
2 23 code, including chapters 507B and 522B, and any provisions
2 24 related to the establishment of insurance rates.

2 25 ~~d. When necessary or appropriate to protect the public~~
~~2 26 interest or consumers, the consumer advocate may request that~~
~~2 27 the commissioner conduct administrative hearings as provided~~
~~2 28 in section 505.29.~~

2 29 ~~e.~~ (3) The consumer advocate bureau shall perform other
2 30 functions as may be assigned to it by the commissioner related
2 31 to consumer advocacy.

2 32 ~~f.~~ (4) The consumer advocate bureau shall work in
2 33 conjunction with other areas of the insurance division on
2 34 matters of mutual interest. The insurance division shall
2 35 cooperate with the consumer advocate in fulfilling the duties



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3 1 of the consumer advocate bureau. The consumer advocate may
3 2 also seek assistance from other federal or state agencies or
3 3 private entities for the purpose of assisting consumers.
3 4 (5) When necessary or appropriate to protect the public
3 5 interest or consumers, the consumer advocate may request that
3 6 the commissioner conduct rate filing reviews as provided in
3 7 section 505.15 or administrative hearings as provided in
3 8 section 505.29.

3 9 ~~g.~~ (6) The commissioner, in cooperation with the consumer
3 10 advocate, shall prepare and deliver a report to the general
3 11 assembly by January 15 of each year that contains findings and
3 12 recommendations regarding the activities of the consumer
3 13 advocate bureau including but not limited to all of the
3 14 following:

3 15 ~~(1)~~ (a) An overview of the functions of the bureau.

3 16 ~~(2)~~ (b) The structure of the bureau including the number
3 17 and type of staff positions.

3 18 ~~(3)~~ (c) Statistics showing the number of complaints
3 19 handled by the bureau, the nature of the complaints including
3 20 the line of business involved and their disposition, and the
3 21 disposition of similar issues in other states.

3 22 ~~(4)~~ (d) Actions commenced by the consumer advocate.

3 23 ~~(5)~~ (e) Studies performed by the consumer advocate.

3 24 ~~(6)~~ (f) Educational and outreach efforts of the consumer
3 25 advocate bureau.

3 26 ~~(7)~~ (g) Recommendations from the commissioner and the
3 27 consumer advocate about additional consumer protection
3 28 functions that would be appropriate and useful for the bureau
3 29 or the insurance division to fulfill based on observations and
3 30 analysis of trends in complaints and information derived from
3 31 national or other sources.

3 32 ~~(8)~~ (h) Recommendations from the commissioner and the
3 33 consumer advocate about any needs for additional funding,
3 34 staffing, legislation, or administrative rules.

3 35 c. When necessary or appropriate to protect the public



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4 1 interest or consumers, the commissioner may conduct, or the
4 2 commissioner's designee may request that the commissioner
4 3 conduct administrative hearings as provided in this subtitle.
4 4 d. The commissioner may adopt rules for the administration
4 5 of this subsection.

4 6 Sec. 4. Section 505.15, subsection 2, Code 2009, is
4 7 amended to read as follows:

4 8 2. The commissioner may retain, or the commissioner's
4 9 designee may request that the commissioner retain, attorneys,
4 10 appraisers, independent actuaries, independent certified
4 11 public accountants, or other professionals or specialists to
4 12 assist the division or the consumer advocate bureau in
4 13 carrying out its duties in regard to rate filing reviews. The
4 14 reasonable cost of retaining such professionals and
4 15 specialists shall be borne by the insurer which is the subject
4 16 of the rate filing review.

4 17 Sec. 5. Section 508.2, Code 2009, is amended by striking
4 18 the section and inserting in lieu thereof the following:

4 19 508.2 ARTICLES == APPROVAL == BYLAWS.

4 20 The articles of incorporation, and any subsequent
4 21 amendments, of a company shall be filed with and approved by
4 22 the commissioner of insurance before filing with the secretary
4 23 of state. A company shall file with the commissioner bylaws
4 24 and subsequent amendments to the bylaws within thirty days of
4 25 adoption of the bylaws and amendments.

4 26 Sec. 6. Section 508E.3, subsection 1, paragraph b,
4 27 subparagraphs (1) and (2), Code 2009, are amended to read as
4 28 follows:

4 29 (1) A life insurance producer who has been duly licensed
4 30 as a resident insurance producer with a life line of authority
4 31 in this state or the life insurance producer's home state for
4 32 at least one year immediately prior to operating as a viatical
4 33 settlement broker and is licensed as a nonresident producer in
4 34 this state shall be deemed to meet the licensing requirements
4 35 of this section and shall be permitted to operate as a



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5 1 viatical settlement broker.

5 2 (2) Not later than thirty days from the first day of
5 3 operating as a viatical settlement broker, the life insurance
5 4 producer shall notify the commissioner that the life insurance
5 5 producer is acting as a viatical settlement broker on a form
5 6 prescribed by the commissioner, and shall pay any applicable
5 7 fee of up to one hundred dollars as provided by rules adopted
5 8 by the commissioner. The notification shall include an
5 9 acknowledgment by the life insurance producer that the life
5 10 insurance producer will operate as a viatical settlement
5 11 broker in accordance with this chapter. The notification
5 12 shall also include proof that the life insurance producer is
5 13 covered by an errors and omissions policy for an amount of not
5 14 less than one hundred thousand dollars per occurrence and not
5 15 less than one hundred thousand dollars total annual aggregate
5 16 for all claims during the policy period.

5 17 Sec. 7. Section 508E.3, subsections 3 and 9, Code 2009,
5 18 are amended to read as follows:

5 19 3. ~~A The license may be renewed from year to year on the~~
5 20 ~~anniversary date term shall be three years and the license may~~
5 21 be renewed upon payment of the ~~annual~~ renewal fee of not more
5 22 than one hundred dollars as provided by rules adopted by the
5 23 commissioner. A failure to pay the fee by the renewal date
5 24 results in expiration of the license.

5 25 9. An individual licensed as a viatical settlement broker
5 26 shall complete on a ~~biennial basis fifteen hours~~ triennial
5 27 basis running concurrent with the license term twenty credits
5 28 of training related to viatical settlements and viatical
5 29 settlement transactions, as required by the commissioner;
5 30 provided, however, that a life insurance producer who is
5 31 operating as a viatical settlement broker pursuant to
5 32 subsection 1, paragraph "b", shall not be subject to the
5 33 requirements of this subsection. Any person failing to meet
5 34 the requirements of this subsection shall be subject to the
5 35 penalties imposed by the commissioner.



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6 1 Sec. 8. Section 511.8, subsection 18, paragraph b, Code
6 2 2009, is amended to read as follows:
6 3 b. Common stocks or shares in a subsidiary corporation,
6 4 the acquisition or purchase of which is authorized by section
6 5 508.33 are eligible if the total investment in these stocks or
6 6 shares does not exceed five percent of the legal reserve;
6 7 provided, however, that common stocks or shares of stock in a
6 8 direct or indirect subsidiary insurance company which is
6 9 domiciled in the United States are eligible up to an
6 10 additional two percent of the legal reserve upon application
6 11 by the insurer to and upon approval by the commissioner.
6 12 Stocks or shares of the insurer's subsidiary corporations are
6 13 not eligible in total in excess of seven percent of the legal
6 14 reserve and the stock or shares of any one subsidiary
6 15 corporation are not eligible in excess of five percent of the
6 16 legal reserve. These stocks or shares are eligible even if
6 17 the stocks or shares are not listed or admitted to trading on
6 18 a securities exchange in the United States and are not
6 19 publicly held and have not been traded in the
6 20 "over-the-counter market". The stocks or shares shall be
6 21 valued at their book value; provided, however, that stocks or
6 22 shares of a direct or indirect subsidiary insurance company
6 23 held in the legal reserve of up to an additional two percent
6 24 of the legal reserve shall be valued at their statutory book
6 25 value, excluding approved permitted practices.
6 26 Sec. 9. Section 512A.10, subsection 1, Code 2009, is
6 27 amended by striking the subsection and inserting in lieu
6 28 thereof the following:
6 29 1. The articles of incorporation, and any subsequent
6 30 amendments, of an organization shall be filed with and
6 31 approved by the commissioner of insurance before filing with
6 32 the secretary of state. An organization shall file bylaws and
6 33 subsequent amendments to bylaws with the commissioner within
6 34 thirty days of adoption of the bylaws and amendments.
6 35 Sec. 10. Section 514B.3A, Code 2009, is amended by



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7 1 striking the section and inserting in lieu thereof the
7 2 following:
7 3 514B.3A ARTICLES == APPROVAL == BYLAWS.
7 4 The articles of incorporation, and any subsequent
7 5 amendments, of a corporation shall be filed with and approved
7 6 by the commissioner of insurance before filing with the
7 7 secretary of state. A corporation shall file bylaws and
7 8 subsequent amendments to the bylaws with the commissioner
7 9 within thirty days of adoption of the bylaws and amendments.
7 10 Sec. 11. Section 514G.102, Code 2009, is amended to read
7 11 as follows:
7 12 514G.102 SCOPE.
7 13 The requirements of this chapter apply to policies
7 14 delivered or issued for delivery in this state on or after
7 15 July 1, 2008. The requirements of this chapter related to
7 16 independent review of benefit trigger determinations apply to
7 17 all claims made on or after January 1, 2009. This chapter is
7 18 not intended to supersede the obligations of entities subject
7 19 to this chapter to comply with the substance of other
7 20 applicable insurance laws not in conflict with this chapter,
7 21 except that laws and regulations designed and intended to
7 22 apply to Medicare supplement insurance policies shall not be
7 23 applied to long-term care insurance.
7 24 Sec. 12. Section 514G.104, Code 2009, is amended to read
7 25 as follows:
7 26 514G.104 EXTRATERRITORIAL JURISDICTION == GROUP LONG-TERM
7 27 CARE INSURANCE.
7 28 Group long-term care insurance coverage shall not be
7 29 offered to a resident of this state under a group policy
7 30 issued in another state unless either this state or another
7 31 state with statutory and regulatory requirements for long-term
7 32 care insurance that are substantially similar to those adopted
7 33 in this state has made a determination that the group to which
7 34 the policy is issued meets the requirements of section
7 35 514G.103, subsection 9, paragraph "d".



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8 1 Sec. 13. Section 514H.1, subsection 1, Code 2009, is
8 2 amended by striking the subsection and inserting in lieu
8 3 thereof the following:

8 4 1. "Deficit Reduction Act of 2005" means section
8 5 6021(a)(1)(A) of Public Law 109=171 as it pertains to the
8 6 expansion of state long=term care insurance partnership
8 7 programs.

8 8 Sec. 14. Section 514H.1, Code 2009, is amended by adding
8 9 the following new subsections:

8 10 NEW SUBSECTION. 3A. "Qualified long=term care insurance
8 11 policy" means a long=term care insurance contract that is
8 12 issued by an insurer or other person who complies with section
8 13 514H.4.

8 14 NEW SUBSECTION. 5. "Qualified state long=term care
8 15 insurance partnership" means an approved state plan amendment,
8 16 according to the Deficit Reduction Act of 2005 that provides
8 17 for the disregard of any assets or resources in an amount
8 18 equal to the insurance benefit payments that are made to or on
8 19 behalf of an individual who is a beneficiary.

8 20 Sec. 15. Section 514H.2, subsection 2, Code 2009, is
8 21 amended to read as follows:

8 22 2. The insurance division of the department of commerce
8 23 shall administer the program in cooperation with the division
8 24 responsible for medical services within the department of
8 25 human services. Each agency shall take ~~appropriate action to~~
~~8 26 maintain the waiver granted by the centers for Medicare and~~
~~8 27 Medicaid services of the United States department of health~~
~~8 28 and human services under 42 U.S.C. } 1396 relating to~~
~~8 29 providing medical assistance under chapter 249A, in effect~~
~~8 30 prior to November 17, 2005 all necessary actions, including~~
8 31 filing an appropriate medical assistance state plan amendment
8 32 to the state Medicaid plan to take full advantage of the
8 33 benefits and features of the Deficit Reduction Act of 2005.

8 34 Sec. 16. Section 514H.3, Code 2009, is amended to read as
8 35 follows:



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9 1 514H.3 ELIGIBILITY.

9 2 An individual who is the beneficiary of a ~~certified~~
9 3 qualified long-term care insurance policy approved by the
9 4 insurance division may be eligible for assistance under the
9 5 medical assistance program using the asset disregard
9 6 provisions pursuant to section 514H.5.

9 7 Sec. 17. Section 514H.4, Code 2009, subsections 1 and 2,
9 8 are amended to read as follows:

9 9 514H.4 INSURER REQUIREMENTS.

9 10 ~~1-~~ An insurer or other person who wishes to issue a
9 11 ~~certified~~ qualified long-term care insurance policy ~~meeting~~
~~9 12 the requirements of this chapter shall, at a minimum, offer to~~
~~9 13 each policyholder or prospective policyholder a policy that~~
~~9 14 provides both of the following:~~ in Iowa shall conform with all
9 15 policy guidelines as expressed in the Deficit Reduction Act of
9 16 2005 and in Iowa law and rules.

9 17 ~~a. Facility coverage, including but not limited to~~
~~9 18 long-term care facility coverage.~~

9 19 ~~b. Nonfacility coverage, including but not limited to home~~
~~9 20 and community-based care coverage.~~

9 21 ~~2. An insurer or other person who complies with subsection~~
~~9 22 1 may also elect to offer a certified long-term care insurance~~
~~9 23 policy that provides only facility coverage.~~

9 24 Sec. 18. Section 514H.5, Code 2009, is amended to read as
9 25 follows:

9 26 514H.5 ASSET DISREGARD ADJUSTMENT.

9 27 1. As used in this section, "asset disregard" means a one
9 28 dollar increase in the amount of assets an individual who is
9 29 the beneficiary of a ~~certified~~ qualified long-term care
9 30 insurance policy and meets the requirements of section 514H.3
9 31 may retain under section 249A.35 for each one dollar of
9 32 benefit paid out under the individual's ~~certified~~ qualified
9 33 long-term care insurance policy for qualified long-term care
9 34 services if the policy meets all of the following criteria:

9 35 ~~a. If purchased prior to January 1, 2005, provides~~



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~~10 1 benefits in an amount equal to at least seventy thousand
10 2 dollars as computed on January 1, 2005.~~

~~10 3 b. If purchased on or after January 1, 2005, provides
10 4 benefits in an amount equal to at least seventy thousand
10 5 dollars as computed on January 1, 2005, compounded annually by
10 6 at least five percent, or an amount equal to at least the
10 7 minimum face amount specified by the commissioner of insurance
10 8 pursuant to subsection 3, whichever amount is greater.~~

~~10 9 c. Includes a provision under which the total amount of
10 10 the benefit increases by at least five percent, compounded
10 11 annually.~~

10 12 2. When the division responsible for medical services
10 13 within the department of human services determines whether an
10 14 individual is eligible for medical assistance under chapter
10 15 249A, the division shall make an asset disregard adjustment
10 16 for any individual who meets the requirements of section
10 17 514H.3. The asset disregard shall be available after benefits
10 18 of the ~~certified~~ qualified long-term care insurance policy
10 19 have been applied to the cost of qualified long-term care
10 20 services as required under this chapter.

~~10 21 3. Beginning September 1, 2006, or one year after November
10 22 17, 2005, whichever is later, the commissioner of insurance
10 23 shall issue a bulletin annually on that date, declaring the
10 24 minimum face amount for policies to qualify for the Iowa
10 25 long-term care asset disregard incentive program for the
10 26 following calendar year. In making this determination, the
10 27 commissioner shall consult with the division responsible for
10 28 collecting data on average nursing home costs in Iowa.
10 29 Additionally, in making this determination, the commissioner
10 30 shall consider the current average daily cost for three years
10 31 of nursing home care and other relevant information.~~

10 32 Sec. 19. Section 514H.7, subsection 1, Code 2009, is
10 33 amended to read as follows:

10 34 1. If the Iowa long-term care asset disregard incentive
10 35 program is discontinued, an individual who is covered by a



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11 1 ~~certified~~ qualified long-term care insurance policy prior to
11 2 the date the program is discontinued is eligible to continue
11 3 to receive an asset disregard as defined under section 514H.5.

11 4 Sec. 20. Section 514H.8, Code 2009, is amended to read as
11 5 follows:

11 6 514H.8 RECIPROCAL AGREEMENTS TO EXTEND ASSET DISREGARD.

11 7 The division responsible for medical services within the
11 8 department of human services may enter into reciprocal
11 9 agreements with other states to extend the asset disregard
11 10 under section 514H.5 to Iowa residents who had purchased or
11 11 were covered by ~~certified~~ qualified long-term care insurance
11 12 policies in other states.

11 13 Sec. 21. Section 514H.9, Code 2009, is amended to read as
11 14 follows:

11 15 514H.9 RULES.

11 16 The insurance division of the department of commerce in
11 17 cooperation with the department of human services shall adopt
11 18 rules pursuant to chapter 17A as necessary to administer this
11 19 chapter. ~~The insurance division shall consult with~~
~~11 20 representatives of the insurance industry in adopting such~~
~~11 21 rules. This delegation of rulemaking authority shall be~~
~~11 22 construed narrowly.~~

11 23 Sec. 22. Section 515.2, Code 2009, is amended by striking
11 24 the section and inserting in lieu thereof the following:

11 25 515.2 ARTICLES == APPROVAL == BYLAWS.

11 26 The articles of incorporation, and any subsequent
11 27 amendments, of an organization shall be filed with and
11 28 approved by the commissioner of insurance before filing with
11 29 the secretary of state. An organization shall file with the
11 30 commissioner bylaws and subsequent amendments to the bylaws
11 31 within thirty days of adoption of the bylaws and amendments.

11 32 Sec. 23. Section 515.101, subsection 2, paragraph i, Code
11 33 2009, is amended to read as follows:

11 34 i. ~~The fraud~~ Fraud, concealment, or misrepresentation of
11 35 ~~the an insured in the procurement of the contract of~~



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~~12 1 insurance.~~

12 2 Sec. 24. Section 515B.1, subsection 9, Code 2009, is
12 3 amended to read as follows:

12 4 9. Insurance provided by, ~~or~~ guaranteed by, or reinsured
12 5 by government.

12 6 Sec. 25. Section 515B.2, subsection 4, paragraph b,
12 7 subparagraph (7), Code 2009, is amended to read as follows:

12 8 (7) That would otherwise be a covered claim, but is an
12 9 obligation to or on behalf of a person who has a net worth
12 10 greater than that allowed by the guarantee fund law of the
12 11 state of residence of the ~~claimant~~ person, and which state has
12 12 denied coverage to that ~~claimant~~ person on that basis.

12 13 Sec. 26. Section 518.2, Code 2009, is amended by striking
12 14 the section and inserting in lieu thereof the following:

12 15 518.2 ARTICLES == APPROVAL == BYLAWS.

12 16 The articles of incorporation, and any subsequent
12 17 amendments, of an organization shall be filed with and
12 18 approved by the commissioner of insurance before filing with
12 19 the secretary of state. The organization shall file with the
12 20 commissioner bylaws and subsequent amendments to the bylaws
12 21 within thirty days of adoption of the bylaws or amendments.

12 22 Sec. 27. Section 518.5, Code 2009, is amended to read as
12 23 follows:

12 24 518.5 COMMENCEMENT OF BUSINESS == CONDITIONS.

12 25 ~~No~~ A county mutual insurance association formed on or after
12 26 July 1, 2009, shall not issue policies until applications for
12 27 insurance of not less than fifty one hundred thousand dollars,
12 28 representing at least fifty two hundred applicants, have been
12 29 received, and no application for insurance during the period
12 30 of organization shall exceed two percent of the amount
12 31 required for organization, any reinsurance taking effect
12 32 simultaneously with the policy being deducted in determining
12 33 such maximum single risk.

12 34 Sec. 28. Section 518.13, Code 2009, is amended to read as
12 35 follows:



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13 1 518.13 PREMIUM CHARGES.

13 2 Any association may by action of its board of directors
13 3 establish premium charges for the purpose of payment of losses
13 4 and expenses and for the establishment or maintenance of a
13 5 reserve fund.

~~13 6 Any policy shall stand suspended if any default shall be
13 7 made in the payment of any premium on or before the date
13 8 specified in a written notice requiring the payment of such
13 9 premium and mailed to the insured and directed to the
13 10 insured's last known address not less than thirty days prior
13 11 to such suspension date. Such notice shall specify the amount
13 12 and due date of the premium. The association shall in no
13 13 event be liable for any loss occurring during such period of
13 14 suspension.~~

13 15 Sec. 29. Section 518.14, subsection 3, paragraph a,
13 16 subparagraph (2), Code 2009, is amended by striking the
13 17 subparagraph.

13 18 Sec. 30. Section 518.14, subsection 4, paragraph f,
13 19 subparagraphs (1) and (2), Code 2009, are amended to read as
13 20 follows:

13 21 (1) Stocks purchased under this lettered paragraph shall
13 22 not exceed fifty percent of surplus.

13 23 (2) With the approval of the commissioner, an association
13 24 may invest ~~any amount~~ in common stocks, preferred stocks, or
13 25 other securities of one or more subsidiaries provided that
13 26 after both of the following occur:

13 27 (a) After such investments the association's surplus as
13 28 regards policyholders will be reasonable in relation to the
13 29 association's outstanding liabilities and adequate to its
13 30 financial needs.

13 31 (b) The association owns one hundred percent of the stock
13 32 of the subsidiary.

13 33 ~~(2)~~ (3) An association shall not invest more than ten
13 34 percent of its surplus in the stocks of any one corporation.

13 35 Sec. 31. Section 518.14, subsection 4, paragraph g, Code



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14 1 2009, is amended to read as follows:

14 2 g. HOME OFFICE REAL ESTATE. ~~Funds~~ With the prior approval
14 3 of the commissioner, funds may be invested in a home office
14 4 ~~building~~ real estate for the association or a subsidiary, at
14 5 the direction of the board of directors and with the prior
14 6 ~~approval of the commissioner of insurance.~~ An The association
14 7 or subsidiary shall obtain the approval of the commissioner
14 8 prior to the sale or disposition of home office real estate
14 9 owned by the association or subsidiary. Effective as to home
14 10 office real estate acquired on or after July 1, 2009, an
14 11 association shall not invest more than ~~twenty-five~~ twenty
14 12 percent of its total admitted assets in such real estate.
14 13 With the prior approval of the commissioner, an association
14 14 may exceed the real estate investment limitation to effectuate
14 15 a merger with, or the acquisition of, another association.

14 16 Sec. 32. Section 518.17, Code 2009, is amended to read as
14 17 follows:

14 18 518.17 REINSURANCE.

14 19 1. A county mutual insurance association may reinsure a
14 20 part or all of its coverages written pursuant to this chapter
14 21 with an association operating under this chapter, or with any
14 22 other association or company licensed in this state and
14 23 authorized to write the kinds of insurance enumerated in
14 24 section 518.11.

14 25 2. Reinsurance sufficient to protect the financial
14 26 stability of the ~~state~~ county mutual insurance association is
14 27 also required. In general, reinsurance coverage obtained by a
14 28 county mutual insurance association shall not expose the
14 29 association to losses from coverages written pursuant to this
14 30 chapter of more than fifteen percent from surplus in any
14 31 calendar year. The commissioner of insurance may require
14 32 additional reinsurance if necessary to protect the
14 33 policyholders of the association.

14 34 Sec. 33. Section 518.19, Code 2009, is amended to read as
14 35 follows:



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15 1 518.19 PROOF OF LOSS ~~== REQUIREMENT FOR REPORTING.~~
15 2 ~~The insured shall give immediate written notice to the~~
~~15 3 association of any loss for which claim is made and shall then~~
~~15 4 furnish a written proof of loss to the association within~~
~~15 5 sixty days from the time the loss occurred, unless such time~~
~~15 6 is extended in writing by the association. The proof A proof~~
15 7 of loss shall contain such information as is required by the
15 8 policy provisions of the association, which information shall
15 9 be signed and sworn to by the insured.
15 10 Sec. 34. Section 518.22, Code 2009, is amended to read as
15 11 follows:
15 12 518.22 LIMITATION OF ACTION.
15 13 ~~No A suit or action on a policy for the recovery of any~~
15 14 ~~loss shall be begun sooner than forty days after proof of loss~~
~~15 15 has been given to the association claim shall not be~~
15 16 sustainable in any court of law or equity unless all
15 17 requirements of the policy have been complied with, and unless
15 18 commenced within twelve months next after the inception of the
15 19 loss.
15 20 Sec. 35. Section 518.23, subsections 1 and 4, Code 2009,
15 21 are amended to read as follows:
15 22 1. CANCELLATION BY INSURED. A policy shall be canceled at
15 23 any time at the request of the insured ~~upon the return of the~~
~~15 24 policy to the home office of the association, and the payment~~
~~15 25 of all premium charges against such policy.~~
15 26 4. NOTICE. Service of notice under subsection 2 or 3 may
15 27 be delivered in person or mailed to the insured at the
15 28 insured's post office address as given in or upon the policy,
15 29 or to such other address as the insured shall have given to
15 30 the association in writing. A post office department
15 31 certificate of mailing shall be deemed proof of receipt of
15 32 such mailing. If in either case the cash payments exceed the
15 33 amount properly chargeable, the excess shall be refunded to
15 34 the insured ~~upon the surrender of the policy to the~~
~~15 35 association at its home office.~~



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16 1 Sec. 36. Section 518.25, Code 2009, is amended to read as
16 2 follows:

16 3 518.25 SURPLUS.

16 4 An association organized under this chapter before July 1,
16 5 2009, shall at all times maintain a surplus of not less than
16 6 fifty thousand dollars or one-tenth of one percent of the
16 7 gross risk in force, whichever is greater. An association
16 8 organized under this chapter on or after July 1, 2009, shall
16 9 at all times maintain a surplus of not less than one hundred
16 10 thousand dollars or one-tenth of one percent of the gross risk
16 11 in force, whichever is greater.

16 12 Sec. 37. NEW SECTION. 518.31 RULEMAKING.

16 13 The commissioner may adopt rules pursuant to chapter 17A as
16 14 necessary for the administration of this chapter.

16 15 Sec. 38. Section 518A.8, Code 2009, is amended by striking
16 16 the section and inserting in lieu thereof the following:

16 17 518A.8 ARTICLES == APPROVAL == BYLAWS.

16 18 The articles of incorporation, and any subsequent
16 19 amendments, to the articles of an organization shall be filed
16 20 with and approved by the commissioner of insurance before
16 21 filing with the secretary of state. The organization shall
16 22 file with the commissioner bylaws and subsequent amendments to
16 23 the bylaws within thirty days of adoption of the bylaws or
16 24 amendments.

16 25 Sec. 39. Section 518A.9, Code 2009, is amended to read as
16 26 follows:

16 27 518A.9 PREMIUM CHARGES.

16 28 An association, by action of its board of directors, may
16 29 establish premium charges for the purpose of payment of losses
16 30 and expenses and for the establishment or maintenance of a
16 31 reserve fund.

16 32 ~~A policy shall stand suspended if any default is made in~~
16 33 ~~the payment of any premium on or before the date specified in~~
16 34 ~~a written notice requiring the payment of such premium and~~
16 35 ~~mailed to the insured and directed to the insured's last known~~



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~~17 1 address not less than thirty days prior to such suspension
17 2 date. The notice shall specify the amount and due date of the
17 3 premium. The association is not liable for any loss occurring
17 4 during such period of suspension.~~

17 5 Sec. 40. Section 518A.12, subsection 3, paragraph a,
17 6 subparagraph (2), Code 2009, is amended by striking the
17 7 subparagraph.

17 8 Sec. 41. Section 518A.12, subsection 4, paragraph f,
17 9 subparagraphs (1) and (2), Code 2009, are amended to read as
17 10 follows:

17 11 (1) Stocks purchased under this lettered paragraph shall
17 12 not exceed fifty percent of surplus.

17 13 (2) With the approval of the commissioner, an association
17 14 may invest ~~any amount~~ in common stocks, preferred stocks, or
17 15 other securities of one or more subsidiaries provided that
17 16 ~~after~~ both of the following occur:

17 17 (a) After such investments the association's surplus as
17 18 regards policyholders will be reasonable in relation to the
17 19 association's outstanding liabilities and adequate to its
17 20 financial needs.

17 21 (b) The association owns one hundred percent of the stock
17 22 of the subsidiary.

17 23 ~~(2)~~ (3) An association shall not invest more than ten
17 24 percent of its surplus in the stocks of any one corporation.

17 25 Sec. 42. Section 518A.12, subsection 4, paragraph g, Code
17 26 2009, is amended to read as follows:

17 27 g. HOME OFFICE REAL ESTATE. ~~Funds~~ With the prior approval
17 28 of the commissioner, funds may be invested in a home office
17 29 building real estate for the association or a subsidiary, at
17 30 the direction of the board of directors and with the prior
~~17 31 approval of the commissioner of insurance. An~~ The association
17 32 or subsidiary shall obtain the approval of the commissioner
17 33 prior to the sale or disposition of home office real estate
17 34 owned by the association or subsidiary. Effective as to home
17 35 office real estate acquired on or after July 1, 2009, an



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18 1 association shall not invest more than ~~twenty-five~~ twenty
18 2 percent of its total admitted assets in such real estate.
18 3 With the prior approval of the commissioner, an association
18 4 may exceed the real estate investment limitation to effectuate
18 5 a merger with, or the acquisition of, another association.

18 6 Sec. 43. Section 518A.19, Code 2009, is amended by
18 7 striking the section and inserting in lieu thereof the
18 8 following:

18 9 518A.19 PROOF OF LOSS.

18 10 A proof of loss shall contain such information as is
18 11 required by the policy provisions of the association, which
18 12 information shall be signed and sworn to by the insured.

18 13 Sec. 44. Section 518A.22, Code 2009, is amended to read as
18 14 follows:

18 15 518A.22 LIMITATION OF ACTION.

18 16 ~~No A suit or action on any loss a policy for the recovery~~
18 17 ~~of any claim shall not be begun until the date when such loss~~
18 18 ~~becomes due in accordance with the articles of incorporation~~
18 19 ~~or bylaws of such association and in no event sooner than~~
18 20 ~~forty days after such proof has been given to the association~~
18 21 ~~and no action can be started after one year from the date such~~
18 22 ~~cause of action accrues sustainable in any court of law or~~
18 23 ~~equity unless all requirements of the policy have been~~
18 24 ~~complied with, and unless commenced within twelve months next~~
18 25 ~~after the inception of the loss.~~

18 26 Sec. 45. Section 518A.29, subsections 1 and 4, Code 2009,
18 27 are amended to read as follows:

18 28 1. CANCELLATION BY INSURED. A policy shall be canceled at
18 29 any time at the request of the insured ~~upon the return of the~~
18 30 ~~policy to the home office of the association and the payment~~
18 31 ~~of all premium charges against such policy.~~

18 32 4. NOTICE. Service of notice under subsection 2 or 3 may
18 33 be delivered in person or mailed to the insured at the
18 34 insured's post office address as given in or upon the policy,
18 35 or to such other address as the insured shall have given to



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19 1 the association in writing. A post office department
19 2 certificate of mailing shall be deemed proof of receipt of
19 3 such mailing. If in either case the cash payments exceed the
19 4 amount properly chargeable, the excess shall be refunded ~~upon~~
~~19 5 the surrender of the policy to the association at its home~~
~~19 6 office to the insured.~~

19 7 Sec. 46. Section 518A.37, Code 2009, is amended to read as
19 8 follows:

19 9 518A.37 SURPLUS.

19 10 An association organized under this chapter before July 1,
19 11 2009, shall at all times maintain a surplus of not less than
19 12 one hundred thousand dollars, or one-tenth of one percent of
19 13 the gross risk in force, whichever is greater. An association
19 14 organized under this chapter on or after July 1, 2009, shall
19 15 at all times maintain a surplus of not less than two hundred
19 16 thousand dollars or one-tenth of one percent of the gross risk
19 17 in force, whichever is greater.

19 18 Sec. 47. Section 518A.40, subsection 1, Code 2009, is
19 19 amended to read as follows:

19 20 1. Such associations shall pay the same fees for annual
19 21 reports and annual certificates of authority as are required
19 22 to be paid by domestic companies organized and doing business
19 23 under chapter 515, which certificates shall expire ~~May~~ June 1
19 24 of the year following the date of issue.

19 25 Sec. 48. NEW SECTION. 518A.56 RULEMAKING AUTHORITY.

19 26 The commissioner may adopt rules, pursuant to chapter 17A,
19 27 as necessary for the administration of this chapter.

19 28 Sec. 49. NEW SECTION. 518A.57 POWERS OF MEMBERS.

19 29 Members of the association shall have the power to make or
19 30 amend articles of incorporation at any membership meeting,
19 31 provided that notice of such proposed addition or amendment
19 32 has been mailed to each member of the association at least ten
19 33 days in advance of the meeting in which such proposed action
19 34 is to be considered, and provided that no such addition or
19 35 amendment shall become effective until approved by the



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20 1 commissioner of insurance and recorded in the office of the
20 2 secretary of state.

20 3 Sec. 50. Section 519.3, Code 2009, is amended by striking
20 4 the section and inserting in lieu thereof the following:

20 5 519.3 ARTICLES == APPROVAL == BYLAWS.

20 6 The articles of incorporation, and any subsequent
20 7 amendments, of such mutual insurance corporation shall be
20 8 filed with and approved by the commissioner of insurance
20 9 before being filed with the secretary of state. A mutual
20 10 insurance corporation shall file with the commissioner bylaws
20 11 and subsequent amendments to the bylaws within thirty days of
20 12 adoption of the bylaws or amendments.

20 13 Sec. 51. Section 521.2, subsection 1, Code 2009, is
20 14 amended to read as follows:

20 15 1. One or more domestic mutual insurance companies
20 16 organized under chapter 491 may merge or consolidate with a
20 17 domestic or foreign mutual insurance company as provided in
20 18 this chapter. Sections ~~491.101~~ 491.102 through 491.105 shall
20 19 not be applicable to a merger or consolidation of a domestic
20 20 mutual insurance company pursuant to this chapter.

20 21 Sec. 52. Section 521A.14, subsection 3, Code 2009, is
20 22 amended to read as follows:

20 23 3. A mutual insurance holding company resulting from the
20 24 reorganization of a domestic mutual insurance company
20 25 organized under chapter 491 shall be incorporated pursuant to
20 26 chapter 491. This requirement shall supersede any conflicting
20 27 provisions of section 491.1. The articles of incorporation
20 28 and any amendments to such articles of the mutual insurance
20 29 holding company shall be subject to approval of the
20 30 commissioner ~~and the attorney general~~ in the same manner as
20 31 those of an insurance company.

20 32 Sec. 53. Section 523A.202, subsection 1, Code 2009, is
20 33 amended to read as follows:

20 34 1. All funds held in trust pursuant to section 523A.201
20 35 shall be deposited in a financial institution within fifteen



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21 1 days ~~after the close of the month a seller receives~~ following
21 2 receipt of the funds. The financial institution shall hold
21 3 the funds for the designated beneficiary until released.

21 4 Sec. 54. Sections 518A.4, 518A.7, and 518A.23, Code 2009,
21 5 are repealed.

21 6 Sec. 55. IMMEDIATE EFFECTIVE DATE AND RETROACTIVE
21 7 APPLICABILITY. The section of this Act amending Code section
21 8 514G.102, being deemed of immediate importance, takes effect
21 9 upon enactment, and is retroactively applicable to January 1,
21 10 2009, and applicable on and after that date.

21 11 EXPLANATION

21 12 This bill amends various provisions under the purview of
21 13 the insurance division of the department of commerce.

21 14 UNIFORM SECURITIES ACT. Code section 502.409 is amended to
21 15 expand the types of disciplinary tools available to an
21 16 administrator upon withdrawal of a registrant under the Act to
21 17 include not only an action to revoke or suspend a license but
21 18 also other enumerated actions.

21 19 INSURANCE DIVISION. Code section 505.8 is amended to
21 20 provide that the commissioner of insurance shall accept
21 21 inquiries and complaints from the public and the commissioner
21 22 or the commissioner's designee may respond, examine, or
21 23 investigate such inquiries and complaints including conducting
21 24 administrative hearings. In addition the commissioner shall
21 25 oversee the consumer advocate bureau, which may also receive
21 26 and investigate consumer inquiries and complaints. The
21 27 consumer advocate is the chief of the consumer advocate
21 28 bureau. The consumer advocate bureau is given expanded
21 29 responsibility for ensuring fair treatment of consumers in the
21 30 marketplace and by persons under the jurisdiction of the
21 31 commissioner.

21 32 Code section 505.15 is amended to allow the commissioner to
21 33 retain, or at the request of the commissioner's designee, to
21 34 retain various professionals and specialists to assist the
21 35 consumer advocate bureau in carrying out its duties in regard



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22 1 to rate filing reviews.
22 2 FILING OF ARTICLES OF INCORPORATION == BYLAWS. Code
22 3 sections 508.2, 512A.10(1), 514B.3A, 515.2, 518.2, 518A.8,
22 4 519.3, and 521A.14(3), are amended to provide that articles of
22 5 incorporation and their amendments, that are required to be
22 6 filed with the commissioner of insurance, of certain life
22 7 insurance companies, benevolent associations, health
22 8 maintenance organizations, insurance other than life
22 9 companies, county mutual insurance associations, state mutual
22 10 insurance associations, professional liability insurance
22 11 companies, and insurance holding company systems are no longer
22 12 also required to be filed with the attorney general. Bylaws
22 13 or subsequent amendments to bylaws are required to be filed
22 14 with the commissioner within 30 days of adoption.
22 15 VIATICAL SETTLEMENT CONTRACTS. Code section
22 16 508E.3(1)(b)(1) and (2) are amended to provide that a licensed
22 17 life insurance producer meets the requirements for licensure
22 18 as a viatical settlement broker only if the person was
22 19 licensed as a life insurance producer for at least one year
22 20 immediately prior to operating as a viatical settlement broker
22 21 and the licensed life insurance producer provides proof of
22 22 coverage by an errors and omissions policy of not less than
22 23 \$100,000 per occurrence and not less than \$100,000 total
22 24 annual aggregate for all claims during the policy period.
22 25 Code section 508E.3(3) and (9) are amended to change the
22 26 term of licensure for a viatical settlement provider or broker
22 27 from one to three years and to require a viatical settlement
22 28 broker to complete 20 credits of training related to viatical
22 29 settlements and viatical settlement transactions every three
22 30 years.
22 31 LIFE INSURANCE COMPANIES AND ASSOCIATIONS. Code section
22 32 511.8(18) is amended to provide that insurance companies may
22 33 invest in additional percentages of common stocks or shares of
22 34 stock in a direct or indirect subsidiary company domiciled in
22 35 the United States upon application to the commissioner of



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23 1 insurance.

23 2 LONG=TERM CARE INSURANCE. Code section 514G.102 is amended

23 3 to provide that the requirements of Code chapter 514G related

23 4 to independent review of benefit trigger determinations apply

23 5 to all claims made on or after January 1, 2009. This

23 6 provision is effective upon enactment and is retroactively

23 7 applicable to January 1, 2009, and applicable on and after

23 8 that date.

23 9 Code section 514G.104 is amended to allow group long-term

23 10 care insurance issued in another state to be offered in Iowa

23 11 upon certain findings by the commissioner of insurance. This

23 12 amendment makes the provision consistent with the national

23 13 association of insurance commissioners' model Act.

23 14 LONG=TERM CARE ASSET DISREGARD INCENTIVES. Code section

23 15 514H.1 is amended by changing the terminology of "certified

23 16 long-term care insurance policy" to "qualified long-term care

23 17 insurance policy". Code sections 249A.35, 514H.3, 514H.4,

23 18 514H.5, 514H.7, and 514H.8 are amended to reflect this change.

23 19 Code section 514H.1 is also amended to include new definitions

23 20 for the federal "Deficit Reduction Act of 2005" and "qualified

23 21 state long-term care insurance partnership".

23 22 Code section 514H.2(2) is amended to require the department

23 23 of human services to take necessary actions, including filing

23 24 an appropriate medical assistance state plan amendment to the

23 25 state Medicaid plan to take full advantage of the benefits and

23 26 features of the federal Deficit Reduction Act of 2005.

23 27 Code section 514H.4 is amended to require an insurer who

23 28 issues qualified long-term care insurance policies in Iowa to

23 29 conform with policy guidelines expressed in the federal

23 30 Deficit Reduction Act of 2005.

23 31 Code section 514H.5, concerning the asset disregard

23 32 adjustment, is amended by deleting previously specified

23 33 eligibility criteria. The Code section is also amended to

23 34 remove a requirement that the commissioner of insurance issue

23 35 an annual bulletin about qualifying amounts for the Iowa



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24 1 long-term care asset disregard incentive program.
24 2 Code section 514H.9 is amended to remove requirements that
24 3 the commissioner of insurance consult with the insurance
24 4 industry before adopting rules concerning long-term care
24 5 insurance and that such rulemaking power be construed
24 6 narrowly.
24 7 INSURANCE OTHER THAN LIFE. Code section 515.101 is amended
24 8 to provide that an application, policy, or contract of
24 9 insurance may stipulate that fraud, concealment, or
24 10 misrepresentation of an insured may make such application,
24 11 policy, or contract void before a loss occurs.
24 12 INSURANCE GUARANTY ASSOCIATION. Code section 515B.1 is
24 13 amended to make Code chapter 515B applicable to insurance
24 14 reinsured by government.
24 15 Code section 515B.2 is amended to specify that a "covered
24 16 claim" does not include obligations to a nonresident person
24 17 who has a net worth greater than that allowed by the person's
24 18 state guarantee fund law and who has been denied that state's
24 19 coverage.
24 20 COUNTY MUTUAL INSURANCE ASSOCIATIONS. Code section 518.5
24 21 is amended to increase from \$50,000 to \$100,000 the amount of
24 22 insurance and from 50 to 200 applicants from which a county
24 23 mutual insurance association formed on or after July 1, 2009,
24 24 must receive applications, before issuing policies.
24 25 Code section 518.13 is amended to delete a requirement that
24 26 a county mutual insurance association suspend a policy of an
24 27 insured if there is a premium default.
24 28 Code section 518.14(3)(a)(2), which allows a county mutual
24 29 insurance association to loan stocks or obligations held by it
24 30 to a registered broker-dealer or to a member bank, is
24 31 stricken.
24 32 Code section 518.14(4)(f)(1) and (2) are amended to provide
24 33 that a county mutual insurance association may invest in
24 34 common stocks, preferred stocks, or other securities of a
24 35 subsidiary if such investments are reasonable as to the



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25 1 association's surplus, liabilities, and needs, and the
25 2 association owns 100 percent of the subsidiary's stock.
25 3 Code section 518.14(4)(g) is amended to provide that an
25 4 association must receive prior approval of the commissioner of
25 5 insurance before investing funds in a home office real estate
25 6 for a subsidiary. As to all home office real estate acquired
25 7 on or after July 1, 2009, an association is prohibited from
25 8 investing more than 20 percent instead of 25 percent of its
25 9 total admitted assets in such real estate. The amendment also
25 10 requires an association or subsidiary to obtain prior approval
25 11 of the commissioner before selling or disposing of home office
25 12 real estate.

25 13 Code section 518.17 is amended to correct an error in
25 14 terminology and to number the unnumbered paragraphs.

25 15 Code section 518.19 is amended to delete a requirement that
25 16 an insured give notice of proof of loss within a statutorily
25 17 specified time and to allow the requirements of the policy to
25 18 control.

25 19 Code section 518.22 is amended to eliminate a requirement
25 20 that a suit or action on a policy for recovery of a claim
25 21 cannot be brought until 40 days after proof of loss has been
25 22 given to the association and to instead allow the requirements
25 23 of the policy to control.

25 24 Code section 518.23(1) is amended to require an association
25 25 to cancel a policy at any time at the request of the insured
25 26 without first requiring that the policy be returned to the
25 27 home office of the association and all premium charges be
25 28 paid.

25 29 Code section 518.23(4) is amended to delete the requirement
25 30 that a policy must be surrendered by the insured to the home
25 31 office of the association before the insured can receive a
25 32 refund of excess payments.

25 33 Code section 518.25 is amended to provide that an
25 34 association organized before July 1, 2009, must maintain a
25 35 surplus of not less than \$50,000 or one-tenth of 1 percent of



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26 1 the gross risk in force, whichever is greater, while an
26 2 association organized on or after July 1, 2009, must maintain
26 3 a surplus of not less than \$100,000 or one-tenth of 1 percent
26 4 of the gross risk in force, whichever is greater.
26 5 New Code section 518.31 provides that the commissioner of
26 6 insurance may adopt administrative rules as necessary for the
26 7 administration of the Code chapter.
26 8 STATE MUTUAL INSURANCE ASSOCIATIONS. Code section 518A.4,
26 9 pertaining to the power of the association to make or amend
26 10 articles of incorporation at an annual meeting, is repealed.
26 11 Code section 518A.7, pertaining to requirements for a state
26 12 mutual insurance association to issue policies based on
26 13 specified numbers of applications and dollar amounts of
26 14 insurance coverage, is repealed.
26 15 Code section 518A.9 is amended by deleting a requirement
26 16 that a state mutual insurance association suspend a policy if
26 17 there is a premium default.
26 18 Code section 518A.12(2), which allows a state mutual
26 19 insurance association to loan stocks or obligations held by it
26 20 to a registered broker-dealer or to a member bank, is
26 21 stricken.
26 22 Code section 518A.12(4)(f)(1) and (2) are amended to
26 23 provide that a state mutual insurance association may invest
26 24 in common stocks, preferred stocks, or other securities of a
26 25 subsidiary if such investments are reasonable as to the
26 26 association's surplus, liabilities, and needs, and the
26 27 association owns 100 percent of the subsidiary's stock.
26 28 Code section 518A.12(4)(g) is amended to provide that an
26 29 association must receive prior approval of the commissioner of
26 30 insurance before investing funds in a home office real estate
26 31 for a subsidiary. As to all home office real estate acquired
26 32 on or after July 1, 2009, an association is prohibited from
26 33 investing more than 20 percent instead of 25 percent of its
26 34 total admitted assets in such real estate. The amendment also
26 35 requires an association or subsidiary to obtain prior approval



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27 1 of the commissioner before selling or disposing of home office
27 2 real estate.

27 3 Code section 518A.19 is amended to delete a requirement
27 4 that an insured give notice of proof of loss within a
27 5 statutorily specified time and allow proof of loss to contain
27 6 such information as is required by the provisions of the
27 7 policy.

27 8 Code section 518A.22 is amended to eliminate a requirement
27 9 that a suit or action on a policy for recovery of a loss
27 10 cannot be brought until 40 days after proof of loss has been
27 11 given to the association and instead to allow the requirements
27 12 of the policy to control so long as the suit or action is
27 13 commenced within 12 months after the inception of the loss.

27 14 Code section 518A.23, pertaining to a presumption that the
27 15 amount stated in the policy is prima facie evidence of the
27 16 insurable value of a building lost, is repealed.

27 17 Code section 518A.29(1) is amended to require an
27 18 association to cancel a policy at any time at the request of
27 19 the insured without first requiring that the policy be
27 20 returned to the home office of the association and all premium
27 21 charges be paid.

27 22 Code section 518A.29(4) is amended to delete the
27 23 requirement that a policy must be surrendered by the insured
27 24 to the home office of the association before the insured can
27 25 receive a refund of excess payments.

27 26 Code section 518A.37 is amended to provide that an
27 27 association organized before July 1, 2009, must maintain a
27 28 surplus of not less than \$100,000 or one-tenth of 1 percent of
27 29 the gross risk in force, whichever is greater, while an
27 30 association organized on or after July 1, 2009, must maintain
27 31 a surplus of not less than \$200,000 or one-tenth of 1 percent
27 32 of the gross risk in force, whichever is greater.

27 33 Code section 518A.40(1) is amended to provide that
27 34 certificates of authority expire on June 1 instead of May 1
27 35 following the year of issue.



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28 1 New Code section 518A.56 provides that the commissioner of
28 2 insurance may adopt administrative rules as necessary for the
28 3 administration of the Code chapter.

28 4 New Code section 518A.57 provides that members of a state
28 5 mutual insurance association have the power to make or amend
28 6 articles of incorporation at any membership meeting upon
28 7 proper notice, with such changes becoming effective only after
28 8 approval by the commissioner of insurance and recording in the
28 9 office of the secretary of state.

28 10 CONSOLIDATION, MERGER, AND REINSURANCE. Code section
28 11 521.2(1) is amended to provide that Code sections 491.101,
28 12 491.101A, and 491.101B, which provide definitions, authorize a
28 13 poison pill defense, and allow consideration of community
28 14 interests in consideration of acquisition proposals, are
28 15 applicable to mergers or consolidations of domestic and
28 16 foreign mutual insurance companies.

28 17 CEMETERY AND FUNERAL MERCHANDISE AND FUNERAL SERVICES.
28 18 Code section 523A.202(1) is amended to provide that funds
28 19 required to be held in trust by a seller of cemetery and
28 20 funeral merchandise, and funeral services, must be deposited
28 21 in a financial institution within 15 days following receipt of
28 22 the funds instead of within 15 days after the close of the
28 23 month in which the seller receives the funds.

28 24 LSB 1321HV 83

28 25 av/rj/14.1



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HOUSE FILE
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 152)

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

A BILL FOR

- 1 An Act relating to the regulation of the business of debt
- 2 management and making penalties applicable.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1228HV 83
- 5 rn/nh/14



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1 1 Section 1. Section 533A.1, Code 2009, is amended to read
 1 2 as follows:
 1 3 533A.1 DEFINITIONS.
 1 4 As used in this chapter:
 1 5 ~~1. "Allowable cost" means an actual, identifiable~~
~~1 6 third-party expense incurred by the licensee on behalf of a~~
~~1 7 specific debtor, such as postage and long distance telephone~~
~~1 8 charges, that may be itemized and charged against the debtor~~
~~1 9 for payment.~~
 1 10 2. 1. "Creditor" means a person who grants credit, a
1 11 person who takes assignment of the rights to payments of a
1 12 person who grants credit, or a person for whose benefit moneys
1 13 are being collected and distributed by licensees a licensee.
 1 14 ~~3. 2. "Debt management" means the planning and management~~
~~1 15 of the financial affairs of a debtor and the receiving~~
~~1 16 therefrom of money or evidences thereof for the purpose of~~
~~1 17 distributing the same to the debtor's creditors in payment or~~
~~1 18 partial payment of the debtor's obligations for a fee, when~~
~~1 19 done for a fee, any of the following:~~
 1 20 a. Arranging or negotiating, or attempting to arrange or
1 21 negotiate, the amount or terms of debt owed by a debtor to a
1 22 creditor.
 1 23 b. Receiving from a debtor, directly or indirectly, money
1 24 or evidences thereof for the purposes of distributing the same
1 25 to one or more creditors of the debtor in payment or partial
1 26 payment of the debtor's obligations.
 1 27 c. Serving as an intermediary between a debtor and one or
1 28 more creditors of the debtor for the purpose of obtaining
1 29 concessions from the creditors.
 1 30 d. Engaging in debt settlement.
 1 31 3. "Debt settlement" means seeking to settle the amount of
1 32 a debtor's debts with creditors for less than the amounts owed
1 33 on the debts.
 1 34 4. "Debtor" means any natural person.
 1 35 5. "Donation" means money given by the debtor to a



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2 1 licensee as a gift for debt management and outside of the debt
2 2 management contract.

2 3 6. "Fee" means the moneys paid by the debtor to the
2 4 licensee as payment for debt management and shall not include
2 5 money paid to the licensee or held by the licensee for
2 6 distribution to a creditor, ~~allowable costs~~, a distribution to
2 7 the debtor as a refund, or a donation.

2 8 7. "Gratuitous debt-management service" means debt
2 9 management without charging a fee.

2 10 8. "Licensee" means any person licensed under this
2 11 chapter.

2 12 9. "Natural person" means an individual who is not an
2 13 association, joint venture, or joint stock company,
2 14 partnership, limited partnership, business corporation,
2 15 nonprofit corporation, other business entity, or any group of
2 16 individuals or business entities, however organized.

2 17 10. "Office" means each location by street number,
2 18 building number, city, and state where any person engages in
2 19 debt management.

2 20 11. "Person" means an individual, an association, joint
2 21 venture or joint stock company, partnership, limited
2 22 partnership, business corporation, nonprofit corporation, or
2 23 any other group of individuals however organized.

2 24 12. "Superintendent" means the superintendent of banking.
2 25 Sec. 2. Section 533A.2, subsection 2, Code 2009, is
2 26 amended by adding the following new paragraph:

2 27 NEW PARAGRAPH. h. A person licensed under chapter 533C,
2 28 including that person's authorized delegates as defined in
2 29 section 533C.102, or a person exempt from licensing under
2 30 section 533C.103, when engaging in money transmission or
2 31 currency exchange as defined in chapter 533C.102.

2 32 Sec. 3. Section 533A.2, subsection 3, Code 2009, is
2 33 amended to read as follows:

2 34 3. The application for a license shall be in the form
2 35 prescribed by the superintendent. If the applicant is not a



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3 1 natural person, a copy of the legal documents creating the
3 2 applicant shall be filed with the application. The
3 3 application shall contain all of the following:

3 4 a. The name of the applicant.

3 5 b. If the applicant is not a natural person, the type of
3 6 business entity of the applicant and the date the entity was
3 7 organized.

3 8 c. If the applicant is a foreign corporation, both of the
3 9 following:

3 10 (1) An irrevocable consent, duly acknowledged, that suits
3 11 and actions may be commenced against the licensee in the
3 12 courts of this state by service of process performed as
3 13 provided in section 617.3 or as provided in the Iowa rules of
3 14 civil procedure.

3 15 (2) Proof of authorization to do business in this state.

3 16 ~~e.~~ d. The address where the business is to be conducted,
3 17 including information as to any branch office of the
3 18 applicant.

3 19 ~~d.~~ e. The name and resident address of the applicant's
3 20 owner or partners, or, if a corporation, association, or
3 21 agency, of the members, shareholders, directors, trustees,
3 22 principal officers, managers, and agents.

3 23 f. The name, physical address, and telephone number of the
3 24 licensee's agent for service of process.

3 25 ~~e.~~ g. Other pertinent information as the superintendent
3 26 may require, including a credit report.

3 27 Sec. 4. Section 533A.2, subsection 5, Code 2009, is
3 28 amended to read as follows:

3 29 5. Each applicant shall furnish with the application a
3 30 description of its proposed debt management program, a copy of
3 31 the disclosures it will be providing debtors pursuant to
3 32 section 533A.8, subsection 3, and a copy of the contract the
3 33 applicant proposes to use between the applicant and the
3 34 debtor, which shall contain a schedule of fees to be charged
~~3 35 the debtor for the applicant's services pursuant to section~~



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4 1 533A.8, subsection 4.

4 2 Sec. 5. Section 533A.8, Code 2009, is amended by striking
4 3 the section and inserting in lieu thereof the following:

4 4 533A.8 LICENSEE REQUIREMENTS.

4 5 1. A licensee shall describe the methodology of its debt
4 6 management program to each potential debtor client so that the
4 7 debtor can make an informed decision as to whether or not the
4 8 licensee's program is an appropriate option for the debtor.

4 9 2. A licensee shall conduct a comprehensive review of a
4 10 debtor's debts and monthly budget and make a determination
4 11 that the licensee's program is an appropriate option for the
4 12 debtor before entering into a contract with the debtor. A
4 13 licensee shall not accept an account unless a written and
4 14 thorough budget analysis has been performed which indicates
4 15 that the debtor can meet the requirements determined by the
4 16 budget analysis.

4 17 3. a. A licensee, including any third party who markets
4 18 or sells a debt management program on behalf of a licensee,
4 19 shall make the following disclosures to a debtor both verbally
4 20 and in writing before the debtor signs a contract to enroll in
4 21 the debt management program:

4 22 (1) The total estimated fee the debtor will pay for
4 23 participating in the program if the debtor remains in the
4 24 program for the entire term of the contract.

4 25 (2) That the licensee cannot guarantee any specific
4 26 results from participation in the program.

4 27 (3) That the debtor may elect to discontinue participation
4 28 in the program without penalty at any time during the program.

4 29 (4) If the program includes obtaining concessions
4 30 regarding the principal amount of the debt from creditors,
4 31 that any concessions may be considered income to the debtor
4 32 subject to income tax.

4 33 (5) If the program is based on a model which does not
4 34 require the licensee or another licensee to receive money or
4 35 evidence thereof from the debtor to distribute to the debtor's



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5 1 creditors, the following:

5 2 (a) That payments are not made to creditors on the
5 3 debtor's behalf, so the debtor is still obligated to make
5 4 payments to creditors.

5 5 (b) That creditors may continue to try to collect the
5 6 debtor's debts while the debtor is enrolled in the program.

5 7 (6) If the program is a debt settlement program, that the
5 8 following may occur:

5 9 (a) The debtor's credit report and credit score may be
5 10 harmed by participating in the program.

5 11 (b) Failure to make required minimum payments to the
5 12 debtor's creditors may violate the debtor's agreement with the
5 13 creditors and may result in additional charges, such as late
5 14 fees, over limit fees, and penalties and creditors may raise
5 15 the debtor's interest rate.

5 16 (c) The debtor may be sued by creditors if the debtor
5 17 fails to make required minimum payments to the debtor's
5 18 creditors.

5 19 b. The verbal disclosures required pursuant to this
5 20 subsection shall be made at a normal rate of speech in a
5 21 manner designed to ensure the debtor understands the
5 22 disclosures. The written disclosures shall be provided in a
5 23 separate document from the contract between the licensee and
5 24 the debtor and shall be designed to ensure the debtor
5 25 understands the disclosures. It is a violation of this
5 26 chapter for a licensee, or any third party who markets or
5 27 sells a debt management program on behalf of a licensee, to
5 28 contradict these disclosures in any representation,
5 29 advertising, or solicitation.

5 30 4. A licensee shall make a written contract with a debtor
5 31 and shall immediately and before collecting any fee, furnish
5 32 the debtor with a true copy of the contract. A contract shall
5 33 not extend for a period longer than sixty months. The
5 34 contract between a licensee and a debtor shall include all of
5 35 the following:



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- 6 1 a. The total estimated charges agreed upon for the
6 2 services of the licensee and any third parties providing
6 3 services for or in conjunction with the licensee.
- 6 4 b. A statement of how and when the charges are to be paid.
- 6 5 c. A statement that the debtor may elect to discontinue
6 6 participation in the program without penalty at any time
6 7 during the program.
- 6 8 d. The beginning and expiration date of the contract.
- 6 9 e. The name, physical address, mailing address if
6 10 different from the physical address, and telephone number of
6 11 the licensee.
- 6 12 f. A description of the services to be provided by the
6 13 licensee, which shall include educational and counseling
6 14 services designed to assist the debtor in managing the
6 15 debtor's borrowing, spending, and saving habits.
- 6 16 g. If the debt management program is a debt settlement
6 17 program, the following:
- 6 18 (1) A comprehensive list of every debt at the time of
6 19 enrollment that is to be negotiated for settlement by the
6 20 licensee, including the creditors' names and identifying
6 21 information.
- 6 22 (2) The estimated amount of money needed to fund
6 23 settlements.
- 6 24 h. If the debt management program is based on a model
6 25 which requires the licensee or any licensee to receive money
6 26 or evidences thereof from the debtor to distribute to the
6 27 debtor's creditors, the contract shall set forth the complete
6 28 list of creditors who are to receive payments under the
6 29 contract.
- 6 30 5. If the debt management program is based on a model
6 31 which requires the licensee or any licensee to receive money
6 32 or evidences thereof from the debtor to distribute to the
6 33 debtor's creditors, the licensee who receives the money or
6 34 evidences thereof from the debtor for distribution to the
6 35 debtor's creditors shall do all of the following:



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- 7 1 a. Maintain a separate bank trust account in which all
7 2 payments received from debtors for the benefit of creditors
7 3 shall be deposited and in which all payments shall remain
7 4 until a remittance is made to either the debtor or the
7 5 creditor.
- 7 6 b. Make remittances to creditors within forty-five days
7 7 after initial receipt of funds, and thereafter remittances
7 8 shall be made to creditors within thirty days of receipt, less
7 9 fees, unless the reasonable payment of one or more of the
7 10 debtor's obligations requires that such funds be held for a
7 11 longer period so as to accumulate a sum certain.
- 7 12 c. Provide each debtor a monthly written statement of
7 13 disbursements made and fees deducted from the debtor's
7 14 account. The licensee shall also provide a verbal accounting
7 15 of disbursements made and fees deducted from the debtor's
7 16 account at any time the debtor requests it during normal
7 17 business hours.
- 7 18 d. Not receive any fee, or have or cause any fee to be
7 19 received by any other licensee, other than the initiation fee
7 20 permitted in section 533A.9, subsection 2, unless the licensee
7 21 has the consent of at least fifty percent of the total number
7 22 of the creditors listed in the licensee's contract with the
7 23 debtor, or such a like number of creditors have accepted a
7 24 distribution of payment. The debtor shall be informed by the
7 25 licensee of those creditors who have not agreed to the
7 26 licensee's handling of the account.
- 7 27 6. If the debt management program is not based on a model
7 28 which requires the licensee or any licensee to receive money
7 29 or evidences thereof from the debtor to distribute to the
7 30 debtor's creditors, both of the following shall apply:
- 7 31 a. The debtor shall maintain full control of and access to
7 32 any moneys set aside for payment to creditors.
- 7 33 b. The licensee may not receive consideration from any
7 34 third party in connection with services rendered to a debtor.
- 7 35 7. A licensee shall keep, and use in the licensee's



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8 1 business, books, accounts, and records which will enable the
8 2 superintendent to determine whether such licensee is complying
8 3 with the provisions of this chapter, any applicable state or
8 4 federal laws or regulations, and the rules and regulations of
8 5 the superintendent. A licensee shall preserve such books,
8 6 accounts, and records for at least five years after making the
8 7 final entry on any transaction recorded therein. Records
8 8 shall contain complete information regarding all contracts,
8 9 extensions thereof, payments, disbursements, and charges,
8 10 which records shall be open to inspection by the
8 11 superintendent and the superintendent's duly appointed agents
8 12 during normal business hours.

8 13 8. In the event a compromise of a debt is arranged by a
8 14 licensee with one or more creditors, the debtor shall have the
8 15 full benefit of such compromise.

8 16 9. All licensee advertising content, and data supporting
8 17 any claims made in the advertising, shall be maintained in
8 18 retrievable format and available to the superintendent for
8 19 inspection for a minimum of five years.

8 20 10. If the licensee maintains an internet website, the
8 21 licensee shall make available on its internet website a
8 22 physical address for its headquarters, a main telephone
8 23 number, and an electronic mail contact address.

8 24 11. The superintendent may adopt additional requirements
8 25 applicable to licensees pursuant to administrative rule.

8 26 Sec. 6. Section 533A.9, Code 2009, is amended to read as
8 27 follows:

8 28 533A.9 FEE AGREED IN ADVANCE.

8 29 1. The fee of ~~the~~ a licensee charged to ~~the~~ a debtor shall
8 30 be agreed upon in advance and stated in the contract and
8 31 provision for settlement in case of cancellation ~~or prepayment~~
8 32 shall also be clearly stated in the contract. ~~The fee of the~~
~~8 33 licensee charged to the debtor shall not exceed fifteen~~
~~8 34 percent of any payment made by the debtor and distributed to~~
~~8 35 the creditors pursuant to the contract. In case of total~~



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~~9 1 payment of the contract before the contract period has~~
~~9 2 expired, the licensee shall be entitled only to a fee of no~~
~~9 3 more than three percent of the final payment.~~

9 4 2. A debtor may be charged a one-time initiation fee for
9 5 debt management services, which shall not exceed fifty
9 6 dollars.

9 7 3. If a debt management program is based on a model that
9 8 required the licensee or any other licensee to receive money
9 9 or evidences thereof from the debtor to distribute to the
9 10 debtor's creditors, the debtor may not be charged a fee
9 11 exceeding the initiation fee permitted in subsection 2 plus a
9 12 fee not to exceed fifteen percent of amounts actually applied
9 13 to the debtor's accounts with the creditors. Other than the
9 14 initiation fee, the debtor shall at no time be required to pay
9 15 fees exceeding fifteen percent of amounts actually applied to
9 16 the debtor's accounts with the creditors.

9 17 4. If a debt management program is not based on a model
9 18 that requires the licensee or another licensee to receive
9 19 money or evidences thereof from the debtor to distribute to
9 20 the debtor's creditors, a debtor may not be charged a fee
9 21 exceeding the sum of the following:

9 22 a. The initiation fee permitted in subsection 2.

9 23 b. An additional fee not to exceed eighteen percent of the
9 24 total amount of the debtor's debts enrolled in the licensee's
9 25 program at the time the debtor enrolled in the program. The
9 26 additional fee shall not be collected pursuant to a method
9 27 other than the percent of total debt method or the percent of
9 28 savings method, as provided in subparagraphs (1) and (2),
9 29 respectively.

9 30 (1) The percent of total debt method involves the
9 31 additional fee being collected in equal monthly installments
9 32 payable over the first two-thirds of the term of the contract
9 33 between the debtor and the licensee. The debtor may elect to
9 34 discontinue participation at any time during the program by
9 35 providing written notice to the licensee at the address



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10 1 specified in the contract. Notice of discontinuance, if given
10 2 by mail, is effective when deposited in the mail properly
10 3 addressed with postage paid. If the debtor discontinues
10 4 participation in the program, no future installments are due
10 5 after the mailing of the notice. If participation is
10 6 discontinued within the first twelve months of the contract,
10 7 the licensee may retain only fifty percent of the installments
10 8 it is scheduled to receive through the date the debtor gives
10 9 the discontinuation notice and shall refund the excess to the
10 10 debtor. Notwithstanding the foregoing, the licensee may
10 11 collect a pro rata portion of the total fee upon completion of
10 12 a settlement of a debtor's debt. The pro rata portion shall
10 13 be calculated by multiplying the total dollar amount of the
10 14 contracted additional fee by the percentage of debt settled of
10 15 the original amount of debt enrolled in the program. In no
10 16 event shall the additional fee exceed eighteen percent of the
10 17 total amount of the debtor's debts enrolled in the licensee's
10 18 program at the time the debtor enrolled in the program.
10 19 (2) The percent of savings method involves the additional
10 20 fee being collected in monthly installments of fifty dollars
10 21 per month, and the monthly fees collected shall be credited
10 22 against any fees the licensee earns as the result of
10 23 settlements. The debtor may elect to discontinue
10 24 participation at any time during the program by providing
10 25 written notice to the licensee at the address specified in the
10 26 contract. Notice of discontinuance, if given by mail, is
10 27 effective when deposited in the mail properly addressed with
10 28 postage paid. If the debtor discontinues participation in the
10 29 program, no future installments are due after the mailing of
10 30 the notice. If participation is discontinued within the first
10 31 twelve months of the contract, the licensee may retain only
10 32 fifty percent of the installments it is scheduled to receive
10 33 through the date the debtor gives the discontinuation notice
10 34 and shall refund the excess to the debtor. Notwithstanding
10 35 the foregoing, the licensee may collect a pro rata portion of



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11 1 the total fee upon completion of a settlement of a debtor's
11 2 debt. The pro rata portion, which may be collected at the
11 3 time of settlement, shall be calculated by multiplying the
11 4 contracted savings percentage, not to exceed thirty percent,
11 5 by the amount saved on settled debt. The amount saved on
11 6 settled debt is the difference between the balance of that
11 7 debt upon enrollment in the program and the amount settled.
11 8 In no event shall the additional fee exceed eighteen percent
11 9 of the total amount of the debtor's debts enrolled in the
11 10 licensee's program at the time the debtor enrolled in the
11 11 program.

11 12 5. Any services provided by a third party, other than the
11 13 debtor's own banking fees, including lead generating,
11 14 marketing, and selling services, shall be paid for by the
11 15 licensee. Under no circumstances shall a debtor be required
11 16 to pay a fee to a third party to obtain a licensee's services.

11 17 Sec. 7. Section 533A.11, Code 2009, is amended to read as
11 18 follows:

11 19 533A.11 UNLAWFUL ACTS OF LICENSEE.

11 20 It ~~shall be~~ is unlawful and a violation of this chapter for
11 21 the holder of any license issued under ~~the terms and~~
11 22 ~~provisions hereto~~ this chapter:

11 23 1. To purchase from a creditor any obligation of a debtor.

11 24 2. To operate as a collection agent and as a licensee as
11 25 to the same debtor's account without first disclosing in
11 26 writing such fact to both the debtor and creditor.

11 27 3. To execute any contract or agreement to be signed by
11 28 the debtor unless the contract or agreement is fully and
11 29 completely filled in and finished.

11 30 4. To receive or charge any fee in the form of a
11 31 promissory note or other promise to pay, or receive or accept
11 32 any mortgage or other security for any fee, both as to real or
11 33 personal property.

11 34 5. To pay any bonus or other consideration to any
11 35 individual, agency, partnership, unincorporated association,



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12 1 or corporation for the referral of a debtor to the licensee's
12 2 business, or to accept or receive any bonus, commission, or
12 3 other consideration for referring any debtor to any
12 4 individual, partnership, unincorporated association, agency,
12 5 or corporation for any reason.

12 6 6. To advertise the licensee's services, display,
12 7 distribute, broadcast, or televise, or permit to be displayed,
12 8 advertised, distributed, broadcast, or televised the
12 9 licensee's services in any manner inconsistent with the law.

12 10 7. To make, or facilitate the debtor in making, any false
12 11 or misleading claim regarding a creditor's right to collect a
12 12 debt.

12 13 8. To dispute, or facilitate the debtor in disputing, the
12 14 validity of a debt absent a good faith belief by the debtor
12 15 that the debt is not validly owing.

12 16 9. To challenge a debt without the written consent of the
12 17 debtor.

12 18 10. To provide or offer to provide legal advice or legal
12 19 services, including but not limited to the negotiation of
12 20 payments or the settlement of a debtor's delinquent account
12 21 that is subject to pending litigation, unless the person
12 22 providing or offering to provide legal advice is licensed to
12 23 practice law in the state in which the debtor resides.

12 24 11. To execute a power of attorney or any other written
12 25 agreement that extinguishes or limits the debtor's right to
12 26 contact or communicate with any creditor.

12 27 12. To take a wage assignment, a lien of any type on real
12 28 or personal property, or other security to secure the payment
12 29 of compensation. Any such security is void and unenforceable.

12 30 13. To induce or attempt to induce a debtor to enter into
12 31 a contract which does not comply in all respects with the
12 32 requirements of this chapter.

12 33 14. Where applicable, to make any statements, or allow a
12 34 third party marketing or selling the licensee's program to
12 35 make any statements, in the course of advertising or



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13 1 solicitation that contradicts the disclosures required by
13 2 section 533A.8.
13 3 15. When the licensee's program is a debt settlement
13 4 program, the following:
13 5 a. To advise a debtor to stop making payments to
13 6 creditors.
13 7 b. To lead a debtor to believe that a payment to a
13 8 creditor is in settlement of a debt to the creditor unless the
13 9 creditor provides a written certification or confirmation that
13 10 the payment is in full settlement of the debt, or is part of a
13 11 payment plan that is in full settlement of the debt.
13 12 c. To make any of the following representations:
13 13 (1) The licensee will furnish money to pay bills or
13 14 prevent attachments.
13 15 (2) Payment of a certain amount will guarantee
13 16 satisfaction of a certain amount or range of indebtedness.
13 17 (3) Participation in a program will prevent debt
13 18 collection calls, litigation, garnishment, attachment,
13 19 repossession, foreclosure, eviction, or loss of employment.
13 20 (4) Participation in a program will not harm the debtor's
13 21 credit report or credit score.
13 22 (5) Participation in a program will prevent the debtor
13 23 from having to declare bankruptcy.
13 24 (6) That the licensee is authorized or competent to
13 25 furnish legal advice or perform legal services, including but
13 26 not limited to the negotiation of payments or the settlement
13 27 of a debtor's delinquent account that is subject to pending
13 28 litigation.
13 29 (7) That the licensee's negotiations with creditors will
13 30 result in the elimination of adverse information on the
13 31 debtor's credit report.
13 32 Sec. 8. NEW SECTION. 533A.17 WAIVER NOT ALLOWED.
13 33 A waiver by a debtor of the provisions of this chapter is
13 34 void and unenforceable as contrary to public policy. An
13 35 attempt by a licensee to induce a debtor to waive the debtor's



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15 1 bill requires furnishing the name, physical address, mailing
15 2 address if different from the physical address, and telephone
15 3 number of the licensee's agent for service of process, which
15 4 replaces a provision repealed by the bill which had designated
15 5 the superintendent of banking as the agent for service of
15 6 process. The bill also requires an applicant to furnish a
15 7 description of their proposed debt management program and a
15 8 copy of disclosures required in the chapter to be provided to
15 9 debtors.

15 10 The bill replaces current Code section 533A.8 specifying
15 11 written contract requirements with a new list of requirements
15 12 applicable to a licensee when dealing with a potential debtor
15 13 client or otherwise engaging in the business of debt
15 14 management. The requirements include describing the
15 15 methodology of the debt management program so a debtor can
15 16 make an informed decision regarding the appropriateness of the
15 17 program, conducting a comprehensive review of the debtor's
15 18 debts and the debtor's monthly budget, and performing a
15 19 thorough written budget analysis.

15 20 The bill provides additional requirements relating to
15 21 disclosures required to be made by a licensee. The bill
15 22 provides that a licensee, including any third party who
15 23 markets or sells a debt management program on behalf of a
15 24 licensee, must make a series of disclosures to a debtor both
15 25 verbally and in writing before the debtor signs a contract to
15 26 enroll in the debt management program. The disclosures
15 27 include the total estimated fee the debtor will pay for
15 28 participating in the program, that the licensee cannot
15 29 guarantee any specific results, that the debtor may elect to
15 30 discontinue participation in the program without penalty at
15 31 any time, and that any concession obtained regarding the
15 32 principal amount of debt may be considered income to the
15 33 debtor subject to income tax. Disclosures are also specified
15 34 applicable to debt management programs which do not require
15 35 receipt of money from the debtor to distribute to the debtor's



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16 1 creditors, and to debt settlement programs. The bill contains
16 2 requirements regarding the form and manner of verbal and
16 3 written disclosures, and states that it is a violation of the
16 4 Code chapter for a licensee, or any third party who markets or
16 5 sells a debt management program on behalf of the licensee, to
16 6 contradict the required disclosures in any representation,
16 7 advertising, or solicitation.

16 8 Further, the bill specifies the nature of the contents of a
16 9 written contract entered into between a licensee and a debtor,
16 10 including the duration of the contract, charges, termination
16 11 options, licensee information, and a description of services
16 12 to be performed. If the debt management program is based on a
16 13 model which requires the licensee or any licensee to receive
16 14 money or evidences thereof from the debtor to distribute to
16 15 the debtor's creditors, the bill specifies procedures
16 16 regarding such receipt and distribution. If it does not, the
16 17 bill requires the debtor to maintain control of the funds.
16 18 The licensee may not receive consideration from third parties
16 19 in connection with services rendered to a debtor.

16 20 Requirements relating to books, accounts, records,
16 21 advertising, and internet website content are also provided.

16 22 In addition, the bill addresses fees. The bill provides
16 23 for a one-time initiation fee not to exceed \$50, and
16 24 additional fees in amounts and at intervals which vary
16 25 depending upon whether the debt management program requires
16 26 distribution of money to the debtor's creditors.

16 27 The bill adds several new licensee actions which are
16 28 considered unlawful acts and a violation of the Code chapter.
16 29 They include making, or facilitating the debtor in making, any
16 30 false or misleading claim regarding a creditor's right to
16 31 collect a debt; disputing, or facilitating the debtor to
16 32 dispute, the validity of the debt absent a good faith belief
16 33 by the debtor that the debt is not validly owing; challenging
16 34 a debt without the written consent of the debtor; providing or
16 35 offering to provide legal advice or legal services, including



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17 1 but not limited to the negotiation of payments or the
17 2 settlement of a debtor's delinquent account that is subject to
17 3 pending litigation, unless the person providing or offering to
17 4 provide legal advice is licensed to practice law in the state
17 5 in which the debtor resides; executing a power of attorney or
17 6 any other oral or written express or implied agreement that
17 7 extinguishes or limits the debtor's right at any time to
17 8 contact or communicate with any creditor; taking a wage
17 9 assignment or lien or other security to secure the payment of
17 10 compensation; and inducing or attempting to induce a debtor to
17 11 enter into a contract which does not comply in all respects
17 12 with the requirements of Code chapter 533A. Additional
17 13 unlawful acts specified in the bill relate to advertising and
17 14 misrepresentation.
17 15 Finally, the bill provides that a waiver of the provisions
17 16 of Code chapter 533A is void and unenforceable as contrary to
17 17 public policy, and prohibits the attempt by a licensee to
17 18 induce a debtor to waive the debtor's rights.
17 19 LSB 1228HV 83
17 20 rn/nh/14.1



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House File 725 - Introduced

HOUSE FILE
BY COMMITTEE ON REBUILD IOWA
AND DISASTER RECOVERY

(SUCCESSOR TO HSB 162)

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

A BILL FOR

- 1 An Act relating to disaster emergency assistance immunity.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 3 TLSB 1879HV 83
- 4 tm/rj/8



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1 1 Section 1. Section 613.17, subsection 1, unnumbered
1 2 paragraph 1, Code 2009, is amended to read as follows:
1 3 A person, who in good faith renders emergency care or
1 4 assistance without compensation, shall not be liable for any
1 5 civil damages for acts or omissions occurring at the place of
1 6 an emergency or accident or while the person is in transit to
1 7 or from the emergency or accident or while the person is at or
1 8 being moved to or from an emergency shelter unless such acts
1 9 or omissions constitute recklessness or willful and wanton
1 10 misconduct. An emergency includes but is not limited to a
1 11 disaster as defined in section 29C.2 or the period of time
1 12 immediately following a disaster for which the governor has
1 13 issued a proclamation of a disaster emergency pursuant to
1 14 section 29C.6.

1 15 EXPLANATION

1 16 This bill relates to disaster emergency assistance
1 17 immunity.

1 18 The bill provides that, during a disaster or in the period
1 19 of time immediately following a disaster for which the
1 20 governor has issued a proclamation of disaster emergency, a
1 21 person who in good faith renders emergency care or assistance
1 22 without compensation shall not be liable for any civil damages
1 23 for acts or omissions occurring during the rendering of the
1 24 emergency assistance at the place of the disaster emergency or
1 25 while the person is in transit to or from the emergency or
1 26 while the person is being moved to or from an emergency
1 27 shelter unless such acts or omissions constitute recklessness
1 28 or willful and wanton misconduct.

1 29 LSB 1879HV 83

1 30 tm/rj/8



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House File 726 - Introduced

HOUSE FILE
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 211)

Passed House, Date _____

Passed Senate, Date _____

Vote: Ayes _____ Nays _____
Approved

Vote: Ayes _____ Nays _____

A BILL FOR

- 1 An Act providing for unincorporated nonprofit associations, and
- 2 providing for fees and penalties.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1166HV 83
- 5 da/nh/5



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1 1 DIVISION I
1 2 REVISED UNIFORM UNINCORPORATED
1 3 NONPROFIT ASSOCIATION ACT
1 4 Section 1. NEW SECTION. 501B.1 SHORT TITLE.
1 5 This Act shall be known and may be cited as the "Revised
1 6 Uniform Unincorporated Nonprofit Association Act".
1 7 Sec. 2. NEW SECTION. 501B.2 DEFINITIONS.
1 8 As used in this chapter:
1 9 1. "Established practices" means the practices used by an
1 10 unincorporated nonprofit association without material change
1 11 during the most recent five years of its existence, or if it
1 12 has existed for less than five years, during its entire
1 13 existence.
1 14 2. "Governing principles" means the agreements, whether
1 15 oral, in a record, or implied from its established practices,
1 16 that govern the purpose or operation of an unincorporated
1 17 nonprofit association and the rights and obligations of its
1 18 members and managers. "Governing principles" includes any
1 19 amendment or restatement of the agreements constituting the
1 20 governing principles.
1 21 3. "Manager" means a person that is responsible, alone or
1 22 in concert with others, for the management of an
1 23 unincorporated nonprofit association and includes but is not
1 24 limited to persons who may be designated as directors and
1 25 officers or some other designation indicating that such
1 26 persons would perform the duties of a manager.
1 27 4. "Member" means a person that, under the governing
1 28 principles, may participate in the selection of persons
1 29 authorized to manage the affairs of the unincorporated
1 30 nonprofit association or in the development of the policies
1 31 and activities of the association.
1 32 5. "Person" means an individual, corporation, business
1 33 trust, statutory entity trust, estate, trust, partnership,
1 34 limited liability company, cooperative, association, joint
1 35 venture, public corporation, government or governmental



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2 1 subdivision, agency, or instrumentality, or any other legal or
2 2 commercial entity.

2 3 6. "Record" means information that is inscribed on a
2 4 tangible medium or that is stored in an electronic or other
2 5 medium and is retrievable in perceivable form.

2 6 7. "State" means a state of the United States, the
2 7 District of Columbia, Puerto Rico, United States Virgin
2 8 Islands, or any territory or insular possession subject to the
2 9 jurisdiction of the United States.

2 10 8. "Unincorporated nonprofit association" or "association"
2 11 means an unincorporated organization consisting of two or more
2 12 members joined under an agreement that is oral, in a record,
2 13 or implied from conduct, for one or more common, nonprofit
2 14 purposes. "Unincorporated nonprofit association" does not
2 15 include any of the following:

2 16 a. A trust.

2 17 b. A marriage, domestic partnership, common law domestic
2 18 relationship, civil union, or other domestic living
2 19 arrangement.

2 20 c. An organization formed under any other statute that
2 21 governs the organization and operation of unincorporated
2 22 associations.

2 23 d. A joint tenancy or tenancy in common even if the
2 24 co-owners share use of the property for a nonprofit purpose.

2 25 e. A relationship under an agreement in a record that
2 26 expressly provides that the relationship between the parties
2 27 does not create an unincorporated nonprofit association.

2 28 Sec. 3. NEW SECTION. 501B.3 RELATION TO OTHER LAW.

2 29 1. Principles of law and equity supplement this chapter
2 30 unless displaced by a particular provision of this chapter.

2 31 2. A statute governing a specific type of unincorporated
2 32 nonprofit association prevails over an inconsistent provision
2 33 in this chapter, to the extent of the inconsistency.

2 34 3. This chapter supplements the law of this state that
2 35 applies to nonprofit associations operating in this state. If



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3 1 a conflict exists, that law applies.
3 2 Sec. 4. NEW SECTION. 501B.4 GOVERNING LAW.
3 3 1. Except as otherwise provided in subsection 2, this
3 4 chapter governs the operation in this state of all
3 5 unincorporated nonprofit associations formed or operating in
3 6 this state.
3 7 2. Unless the governing principles specify a different
3 8 jurisdiction, the law of the jurisdiction in which an
3 9 unincorporated nonprofit association has its main place of
3 10 activities governs the internal affairs of the association.
3 11 Sec. 5. NEW SECTION. 501B.5 LEGAL ENTITY == PERPETUAL
3 12 EXISTENCE == POWERS.
3 13 1. An unincorporated nonprofit association is a legal
3 14 entity distinct from its members and managers.
3 15 2. An unincorporated nonprofit association has perpetual
3 16 duration unless the governing principles specify otherwise.
3 17 3. An unincorporated nonprofit association has the same
3 18 powers as an individual to do all things necessary or
3 19 convenient to carry on its purposes.
3 20 4. An unincorporated nonprofit association may engage in
3 21 profit-making activities but profits from any activities must
3 22 be used or set aside for the association's nonprofit purposes.
3 23 Sec. 6. NEW SECTION. 501B.6 OWNERSHIP AND TRANSFER OF
3 24 PROPERTY.
3 25 1. An unincorporated nonprofit association may acquire,
3 26 hold, encumber, or transfer in its name an interest in real or
3 27 personal property.
3 28 2. An unincorporated nonprofit association may be a
3 29 beneficiary of a trust or contract, a legatee, or a devisee.
3 30 Sec. 7. NEW SECTION. 501B.7 STATEMENT OF AUTHORITY AS TO
3 31 REAL PROPERTY.
3 32 1. For purposes of this section, "statement of authority"
3 33 means a statement authorizing a person to transfer an interest
3 34 in real property held in the name of an unincorporated
3 35 nonprofit association.



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4 1 2. An interest in real property held in the name of an
4 2 unincorporated nonprofit association may be transferred by a
4 3 person authorized to do so in a statement of authority filed
4 4 by the association in the office of the county recorder in
4 5 which a transfer of the property would be recorded.
4 6 3. A statement of authority must set forth all of the
4 7 following:
4 8 a. The name of the unincorporated nonprofit association.
4 9 b. The address in this state, including the street
4 10 address, if any, of the association or, if the association
4 11 does not have an address in this state, its out-of-state
4 12 address.
4 13 c. That the association is an unincorporated nonprofit
4 14 association.
4 15 d. The name, title, or position of a person authorized to
4 16 transfer an estate or interest in real property held in the
4 17 name of the association.
4 18 4. A statement of authority must be executed in the same
4 19 manner as an affidavit by a person other than the person
4 20 authorized in the statement to transfer the interest.
4 21 5. The county recorder may collect a fee as provided in
4 22 sections 331.604 and 331.605 for filing a statement of
4 23 authority in the amount authorized for filing a transfer of
4 24 real property.
4 25 6. A document amending, revoking, or canceling a statement
4 26 of authority or stating that the statement is unauthorized or
4 27 erroneous must meet the requirements for executing and filing
4 28 an original statement.
4 29 7. Unless canceled earlier, a filed statement of authority
4 30 and its most recent amendment expire five years after the date
4 31 of the most recent filing.
4 32 8. If the record title to real property is in the name of
4 33 an unincorporated nonprofit association and the statement of
4 34 authority is filed in the office of the county recorder in
4 35 which a transfer of the property would be filed, the authority



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5 1 of the person named in the statement to transfer is conclusive
5 2 in favor of a person that gives value without notice that the
5 3 person lacks authority.

5 4 Sec. 8. NEW SECTION. 501B.8 LIABILITY.

5 5 1. For a debt, obligation, or other liability of an
5 6 unincorporated nonprofit association, whether arising in
5 7 contract, tort, or otherwise, all of the following apply:

5 8 a. It is solely the debt, obligation, or other liability
5 9 of the association.

5 10 b. It does not become a debt, obligation, or other
5 11 liability of a member, manager, employee, or volunteer solely
5 12 because the member acts as a member, the manager acts as a
5 13 manager, the employee acts as an employee, or a volunteer acts
5 14 as a volunteer.

5 15 2. A person's status as a member, manager, employee, or
5 16 volunteer does not prevent or restrict law other than this
5 17 chapter from imposing liability on the person or the
5 18 association because of the person's conduct.

5 19 3. A person who is a manager, member, employee, or
5 20 volunteer is not personally liable in that capacity to the
5 21 unincorporated nonprofit association or any of its members for
5 22 any action taken or failure to take any action in the
5 23 discharge of the person's duties except liability for any of
5 24 the following:

5 25 a. The amount of any financial benefit to which the person
5 26 is not entitled.

5 27 b. An intentional infliction of harm on the unincorporated
5 28 nonprofit association or the members.

5 29 c. An intentional violation of criminal law.

5 30 d. Improper distributions.

5 31 Sec. 9. NEW SECTION. 501B.9 ASSERTION AND DEFENSE OF
5 32 CLAIMS.

5 33 1. An unincorporated nonprofit association may sue or be
5 34 sued in its own name.

5 35 2. A member or manager may assert a claim the member or



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6 1 manager has against the unincorporated nonprofit association.
6 2 An association may assert a claim it has against a member or
6 3 manager.

6 4 Sec. 10. NEW SECTION. 501B.10 EFFECT OF JUDGMENT OR
6 5 ORDER.

6 6 A judgment or order against an unincorporated nonprofit
6 7 association is not by itself a judgment or order against a
6 8 member or manager.

6 9 Sec. 11. NEW SECTION. 501B.11 APPOINTMENT OF AGENT TO
6 10 RECEIVE SERVICE OF PROCESS.

6 11 1. An unincorporated nonprofit association may file in the
6 12 office of the secretary of state a statement appointing an
6 13 agent authorized to receive service of process.

6 14 2. A statement appointing an agent must set forth all of
6 15 the following:

6 16 a. The name of the unincorporated nonprofit association.

6 17 b. The name of the person in this state authorized to
6 18 receive service of process and the person's address, including
6 19 the street address, in this state.

6 20 3. A statement appointing an agent must be signed and
6 21 acknowledged by a person authorized to manage the affairs of
6 22 the unincorporated nonprofit association and by the person
6 23 appointed as the agent. By signing and acknowledging the
6 24 statement the person becomes the agent.

6 25 4. An amendment to or cancellation of a statement
6 26 appointing an agent to receive service of process must meet
6 27 the requirements for executing an original statement. An
6 28 agent may resign by filing a resignation in the office of the
6 29 secretary of state and giving notice to the association.

6 30 5. The secretary of state may collect a fee for filing a
6 31 statement appointing an agent to receive service of process,
6 32 an amendment, a cancellation, or a resignation in the amount
6 33 charged for filing similar documents.

6 34 Sec. 12. NEW SECTION. 501B.12 SERVICE OF PROCESS.

6 35 In an action or proceeding against an unincorporated



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7 1 nonprofit association, process may be served on an agent
7 2 authorized by appointment to receive service of process
7 3 pursuant to section 501B.11, on a manager of the association,
7 4 or in any other manner authorized by the law of this state.
7 5 Sec. 13. NEW SECTION. 501B.13 ACTION OR PROCEEDING NOT
7 6 ABATED BY CHANGE.
7 7 An action or proceeding against an unincorporated nonprofit
7 8 association does not abate merely because of a change in its
7 9 members or managers.
7 10 Sec. 14. NEW SECTION. 501B.14 VENUE.
7 11 Unless otherwise provided by law other than this chapter,
7 12 venue of an action against an unincorporated nonprofit
7 13 association brought in this state is determined under the
7 14 statutes applicable to an action brought in this state against
7 15 a corporation under chapter 504.
7 16 Sec. 15. NEW SECTION. 501B.15 MEMBER NOT AGENT.
7 17 A member is not an agent of an unincorporated nonprofit
7 18 association solely by reason of being a member.
7 19 Sec. 16. NEW SECTION. 501B.16 APPROVAL BY MEMBERS.
7 20 1. Except as otherwise provided in the governing
7 21 principles, an unincorporated nonprofit association must have
7 22 the approval of its members to do any of the following:
7 23 a. Admit, suspend, dismiss, or expel a member.
7 24 b. Select or dismiss a manager.
7 25 c. Adopt, amend, or repeal the governing principles.
7 26 d. Sell, lease, exchange, or otherwise dispose of all, or
7 27 substantially all, of the association's property, with or
7 28 without the association's goodwill, outside the ordinary
7 29 course of its activities.
7 30 e. Dissolve under section 501B.28, or merge under section
7 31 501B.30.
7 32 f. Undertake any other act outside the ordinary course of
7 33 the association's activities.
7 34 g. Determine the policy and purposes of the association.
7 35 2. An unincorporated nonprofit association must have the



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8 1 approval of the members to do any other act or exercise a
8 2 right that the governing principles require to be approved by
8 3 members.

8 4 Sec. 17. NEW SECTION. 501B.17 MEETINGS OF MEMBERS ==
8 5 VOTING, NOTICE, AND QUORUM REQUIREMENTS.

8 6 1. Unless the governing principles provide otherwise all
8 7 of the following apply:

8 8 a. Approval of a matter by members requires an affirmative
8 9 majority of the votes cast at a meeting of members.

8 10 b. Each member is entitled to one vote on each matter that
8 11 is submitted for approval by members.

8 12 2. Notice and quorum requirements for member meetings and
8 13 the conduct of meetings of members are determined by the
8 14 governing principles.

8 15 Sec. 18. NEW SECTION. 501B.18 DUTIES OF MEMBER.

8 16 1. A member does not have a fiduciary duty to an
8 17 unincorporated nonprofit association or to another member
8 18 solely by being a member.

8 19 2. A member shall discharge the duties to the
8 20 unincorporated nonprofit association and the other members and
8 21 exercise any rights under this chapter consistent with the
8 22 governing principles and the obligation of good faith and fair
8 23 dealing.

8 24 Sec. 19. NEW SECTION. 501B.19 ADMISSION, SUSPENSION,
8 25 DISMISSAL, OR EXPULSION OF MEMBERS.

8 26 1. A person becomes a member and may be suspended,
8 27 dismissed, or expelled in accordance with the association's
8 28 governing principles. If there are no applicable governing
8 29 principles, a person may become a member or be suspended,
8 30 dismissed, or expelled from an association only by a vote of
8 31 its members. A person may not be admitted as a member without
8 32 the person's consent.

8 33 2. Unless the governing principles provide otherwise, the
8 34 suspension, dismissal, or expulsion of a member does not
8 35 relieve the member from any unpaid capital contribution, dues,



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9 1 assessments, fees, or other obligation incurred or commitment
9 2 made by the member before the suspension, dismissal, or
9 3 expulsion.

9 4 Sec. 20. NEW SECTION. 501B.20 MEMBER'S RESIGNATION.

9 5 1. A member may resign as a member in accordance with the
9 6 governing principles. In the absence of applicable governing
9 7 principles, a member may resign at any time.

9 8 2. Unless the governing principles provide otherwise,
9 9 resignation of a member does not relieve the member from any
9 10 unpaid capital contribution, dues, assessments, fees, or other
9 11 obligation incurred or commitment made by the member before
9 12 resignation.

9 13 Sec. 21. NEW SECTION. 501B.21 MEMBERSHIP INTEREST NOT
9 14 TRANSFERABLE.

9 15 Except as otherwise provided in the governing principles, a
9 16 member's interest or any right under the governing principles
9 17 is not transferable.

9 18 Sec. 22. NEW SECTION. 501B.22 SELECTION OF MANAGERS ==
9 19 MANAGEMENT RIGHTS OF MANAGERS.

9 20 Except as otherwise provided in this chapter or the
9 21 governing principles, all of the following apply:

9 22 1. Only the members may select a manager or managers.

9 23 2. A manager may be a member or a nonmember.

9 24 3. If a manager is not selected, all members are managers.

9 25 4. Each manager has equal rights in the management and
9 26 conduct of the association's activities.

9 27 5. All matters relating to the association's activities
9 28 shall be decided by its managers except for matters reserved
9 29 for approval by members pursuant to section 501B.16.

9 30 6. A difference among managers is decided by a majority of
9 31 the managers.

9 32 Sec. 23. NEW SECTION. 501B.23 DUTIES OF MANAGERS.

9 33 1. A manager owes to the unincorporated nonprofit
9 34 association and to its members the fiduciary duties of loyalty
9 35 and care.



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10 1 2. A manager shall manage the unincorporated nonprofit
10 2 association in good faith, in a manner the manager reasonably
10 3 believes to be in the best interests of the association, and
10 4 with such care, including reasonable inquiry, as a prudent
10 5 person would reasonably exercise in a similar position and
10 6 under similar circumstances. A manager may rely in good faith
10 7 upon any opinion, report, statement, or other information
10 8 provided by another person that the manager reasonably
10 9 believes is a competent and reliable source for the
10 10 information.

10 11 3. After full disclosure of all material facts, a specific
10 12 act or transaction that would otherwise violate the duty of
10 13 loyalty by a manager may be authorized or ratified by a
10 14 majority of the members that are not interested directly or
10 15 indirectly in the act or transaction.

10 16 4. A manager that makes a business judgment in good faith
10 17 satisfies the duties specified in subsection 1 if all of the
10 18 following conditions apply:

10 19 a. The manager is not interested, directly or indirectly,
10 20 in the subject of the business judgment and is otherwise able
10 21 to exercise independent judgment.

10 22 b. The manager is informed with respect to the subject of
10 23 the business judgment to the extent the manager reasonably
10 24 believes to be appropriate under the circumstances.

10 25 c. The manager believes that the business judgment is in
10 26 the best interests of the unincorporated nonprofit association
10 27 and in accordance with its purposes.

10 28 Sec. 24. NEW SECTION. 501B.24 NOTICE AND QUORUM
10 29 REQUIREMENTS FOR MEETINGS OF MANAGERS.

10 30 Notice and quorum requirements for meetings of managers and
10 31 the conduct of meetings of managers are determined by the
10 32 governing principles.

10 33 Sec. 25. NEW SECTION. 501B.25 RIGHT OF MEMBER OR MANAGER
10 34 TO INFORMATION.

10 35 1. On reasonable notice, a member or manager of an



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11 1 unincorporated nonprofit association may inspect and copy
11 2 during the unincorporated nonprofit association's regular
11 3 operating hours, at a reasonable location specified by the
11 4 association, any record maintained by the association
11 5 regarding its activities, financial condition, or other
11 6 circumstances, to the extent the information is material to
11 7 the member's or manager's rights or duties under the governing
11 8 principles.

11 9 2. An unincorporated nonprofit association may impose
11 10 reasonable restrictions on access to and use of information to
11 11 be furnished under this section, including designating the
11 12 information confidential and imposing obligations of
11 13 nondisclosure and safeguarding on the recipient.

11 14 3. An unincorporated nonprofit association may charge a
11 15 person that makes a demand under this section reasonable
11 16 copying costs, limited to the costs of labor and materials.

11 17 4. A former member or manager is entitled to information
11 18 to which the member or manager was entitled while a member or
11 19 manager if the information pertains to the period during which
11 20 the person was a member or manager, the former member or
11 21 manager seeks the information in good faith, and the former
11 22 member or manager satisfies subsections 1 through 3.

11 23 Sec. 26. NEW SECTION. 501B.26 DISTRIBUTIONS PROHIBITED
11 24 == COMPENSATION AND OTHER PERMITTED PAYMENTS.

11 25 1. Except as otherwise provided in subsection 2, an
11 26 unincorporated nonprofit association may not pay dividends or
11 27 make distributions to a member or manager.

11 28 2. An unincorporated nonprofit association may do any of
11 29 the following:

11 30 a. Pay reasonable compensation or reimburse reasonable
11 31 expenses to a member or manager for services rendered.

11 32 b. Confer benefits on a member or manager in conformity
11 33 with its nonprofit purposes.

11 34 c. Repurchase a membership and repay a capital
11 35 contribution made by a member to the extent authorized by its



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12 1 governing principles.
12 2 d. Make distributions of property to members upon winding
12 3 up and termination to the extent permitted by section 501B.29.
12 4 Sec. 27. NEW SECTION. 501B.27 REIMBURSEMENT ==
12 5 INDEMNIFICATION == ADVANCEMENT OF EXPENSES.
12 6 1. Except as otherwise provided in the governing
12 7 principles, an unincorporated nonprofit association shall
12 8 reimburse a member, manager, employee, or volunteer for
12 9 authorized expenses reasonably incurred in the course of the
12 10 member's, manager's, employee's, or volunteer's activities on
12 11 behalf of the association.
12 12 2. An unincorporated nonprofit association may indemnify a
12 13 member, manager, employee, or volunteer for any debt,
12 14 obligation, or other liability incurred in the course of the
12 15 member's, manager's, employee's, or volunteer's activities on
12 16 behalf of the association if the person seeking
12 17 indemnification has complied with section 501B.18 or 501B.23,
12 18 or other law, as applicable. Governing principles in a record
12 19 may broaden or limit indemnification.
12 20 3. If a person is made or threatened to be made a party in
12 21 an action based on that person's activities on behalf of an
12 22 unincorporated nonprofit association and the person makes a
12 23 request in a record to the association, a majority of the
12 24 disinterested managers may approve in a record advance
12 25 payment, or reimbursement, by the association, of all or a
12 26 part of the reasonable expenses, including attorney fees and
12 27 costs, incurred by the person before the final disposition of
12 28 the proceeding. To be entitled to an advance payment or
12 29 reimbursement, the person must state in a record that the
12 30 person has a good faith belief that the criteria for
12 31 indemnification in subsection 2 have been satisfied and that
12 32 the person will repay the amounts advanced or reimbursed if
12 33 the criteria for payment have not been satisfied. Governing
12 34 principles in a record may broaden or limit the advance
12 35 payments or reimbursements.



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13 1 4. An unincorporated nonprofit association may purchase
13 2 insurance on behalf of a member, manager, employee, or
13 3 volunteer for liability asserted against or incurred by the
13 4 member, manager, employee, or volunteer in the capacity of a
13 5 member, manager, employee, or volunteer whether or not the
13 6 association has authority under this chapter to reimburse,
13 7 indemnify, or advance expenses to the member, manager,
13 8 employee, or volunteer against the liability.

13 9 5. The rights of reimbursement, indemnification, and
13 10 advancement of expenses under this section apply to a former
13 11 member, manager, employee, or volunteer for an activity
13 12 undertaken on behalf of the unincorporated nonprofit
13 13 association while a member, manager, employee, or volunteer.

13 14 Sec. 28. NEW SECTION. 501B.28 DISSOLUTION.

13 15 1. An unincorporated nonprofit association may be
13 16 dissolved pursuant to any of the following:

13 17 a. If the governing principles provide a time or method
13 18 for dissolution, at that time or by that method.

13 19 b. If the governing principles do not provide a time or
13 20 method for dissolution, upon approval by the members.

13 21 c. If no member can be located and the association's
13 22 operations have been discontinued for at least three years, by
13 23 the managers or, if the association has no current manager, by
13 24 its last manager.

13 25 d. By court order.

13 26 e. Under law other than this chapter.

13 27 2. After dissolution, an unincorporated nonprofit
13 28 association continues in existence until its activities have
13 29 been wound up and it is terminated pursuant to section
13 30 501B.29.

13 31 Sec. 29. NEW SECTION. 501B.29 WINDING UP AND
13 32 TERMINATION.

13 33 Winding up and termination of an unincorporated nonprofit
13 34 association shall proceed in accordance with all of the
13 35 following rules:



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14 1 1. All known debts and liabilities must be paid or
14 2 adequately provided for.
14 3 2. Any property subject to a condition requiring return to
14 4 the person designated by the donor must be transferred to that
14 5 person.
14 6 3. Any property subject to a trust must be distributed in
14 7 accordance with the trust agreement.
14 8 4. Any remaining property must be distributed as follows:
14 9 a. As required by law other than this chapter that
14 10 requires assets of an association to be distributed to another
14 11 person with similar nonprofit purposes.
14 12 b. In accordance with the association's governing
14 13 principles or in the absence of applicable governing
14 14 principles, to the members of the association per capita or as
14 15 the members direct.
14 16 c. If neither paragraph "a" nor "b" applies, under chapter
14 17 556.
14 18 Sec. 30. NEW SECTION. 501B.30 MERGERS.
14 19 1. For purposes of this section all of the following
14 20 definitions apply:
14 21 a. "Constituent organization" means an organization that
14 22 is merged with one or more other organizations including the
14 23 surviving organization.
14 24 b. "Nonsurviving organization" means a constituent
14 25 organization that is not the surviving organization.
14 26 c. "Organization" means an unincorporated nonprofit
14 27 association; a general partnership, including a limited
14 28 liability partnership; limited partnership, including a
14 29 limited liability limited partnership; limited liability
14 30 company; business or statutory trust; corporation; or any
14 31 other legal or commercial entity having a statute governing
14 32 its formation and operation. "Organization" includes a
14 33 for-profit or nonprofit organization.
14 34 d. "Surviving organization" means an organization into
14 35 which one or more other organizations are merged.



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15 1 2. An unincorporated nonprofit association may merge with
15 2 any organization that is authorized by law to merge with an
15 3 unincorporated nonprofit association.

15 4 3. A merger involving an unincorporated nonprofit
15 5 association is subject to the following rules:

15 6 a. Each constituent organization shall comply with its
15 7 governing law.

15 8 b. Each party to the merger shall approve a plan of
15 9 merger. The plan, which must be in a record, must include all
15 10 of the following provisions:

15 11 (1) The name and form of each organization that is a party
15 12 to the merger.

15 13 (2) The name and form of the surviving organization and,
15 14 if the surviving organization is to be created by the merger,
15 15 a statement to that effect.

15 16 (3) If the surviving organization is to be created by the
15 17 merger, the surviving organization's organizational documents
15 18 that are proposed to be in a record.

15 19 (4) If the surviving organization is not to be created by
15 20 the merger, any amendments to be made by the merger to the
15 21 surviving organization's organizational documents that are, or
15 22 are proposed to be, in a record.

15 23 (5) The terms and conditions of the merger, including the
15 24 manner and basis for converting the interests in each
15 25 constituent organization into any combination of money,
15 26 interests in the surviving organization, and other
15 27 consideration except that the plan of merger may not permit
15 28 members of an unincorporated nonprofit association to receive
15 29 merger consideration if a distribution of such consideration
15 30 would not be permitted in the absence of a merger under
15 31 section 501B.26 or 501B.29.

15 32 c. The plan of merger must be approved by the members of
15 33 each unincorporated nonprofit association that is a
15 34 constituent organization in the merger. If a plan of merger
15 35 would impose personal liability for an obligation of a



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16 1 constituent or surviving organization on a member of an
16 2 association that is a party to the merger, the plan may not
16 3 take effect unless it is approved in a record by the member.
16 4 d. Subject to the contractual rights of third parties,
16 5 after a plan of merger is approved and at any time before the
16 6 merger is effective, a constituent organization may amend the
16 7 plan or abandon the merger as provided in the plan, or except
16 8 as otherwise prohibited in the plan, with the same consent as
16 9 was required to approve the plan.
16 10 e. Following approval of the plan, a merger under this
16 11 section is effective as follows:
16 12 (1) If a constituent organization is required to give
16 13 notice to or obtain the approval of a governmental agency or
16 14 officer in order to be a party to a merger, when the notice
16 15 has been given and the approval has been obtained.
16 16 (2) For the surviving organization the following apply:
16 17 (a) If the surviving organization is an unincorporated
16 18 nonprofit association, as specified in the plan of merger and
16 19 upon compliance by any constituent organization that is not an
16 20 association with any requirements, including any required
16 21 filings in the office of the secretary of state, of the
16 22 organization's governing statute.
16 23 (b) If the surviving organization is not an unincorporated
16 24 nonprofit association, as provided by the statute governing
16 25 the surviving organization.
16 26 4. When a merger becomes effective all of the following
16 27 apply:
16 28 a. The surviving organization continues or comes into
16 29 existence.
16 30 b. Each constituent organization that merges into the
16 31 surviving organization ceases to exist as a separate entity.
16 32 c. All property owned by each constituent organization
16 33 that ceases to exist vests in the surviving organization.
16 34 d. All debts, obligations, or other liabilities of each
16 35 nonsurviving organization continue as debts, obligations, or



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17 1 other liabilities of the surviving organization.
17 2 e. An action or proceeding pending by or against any
17 3 nonsurviving organization may be continued as if the merger
17 4 had not occurred.
17 5 f. Except as prohibited by law other than this chapter,
17 6 all of the rights, privileges, immunities, powers, and
17 7 purposes of each constituent organization that ceases to exist
17 8 vest in the surviving organization.
17 9 g. Except as otherwise provided in the plan of merger, the
17 10 terms and conditions of the plan of merger take effect.
17 11 h. The merger does not affect the personal liability, if
17 12 any, of a member or manager of a constituent organization for
17 13 a debt, obligation, or other liability incurred before the
17 14 merger is effective.
17 15 i. A surviving organization that is not organized in this
17 16 state is subject to the jurisdiction of the courts of this
17 17 state to enforce any debt, obligation, or other liability owed
17 18 by a constituent organization, if before the merger the
17 19 constituent organization was subject to suit in this state for
17 20 the debt, obligation, or other liability.
17 21 5. Property held for a charitable purpose under the law of
17 22 this state by a constituent organization immediately before a
17 23 merger under this section becomes effective may not, as a
17 24 result of the merger, be diverted from the objects for which
17 25 it was given, unless, to the extent required by or pursuant to
17 26 the law of this state concerning cy pres or other law dealing
17 27 with nondiversion of charitable assets, the organization
17 28 obtains an appropriate order from the district court
17 29 specifying the disposition of the property.
17 30 6. A bequest, devise, gift, grant, or promise contained in
17 31 a will or other instrument of donation, subscription, or
17 32 conveyance that is made to a nonsurviving organization and
17 33 that takes effect or remains payable after the merger inures
17 34 to the surviving organization. A trust obligation that would
17 35 govern property if transferred to the nonsurviving



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18 1 organization applies to property that is transferred to the
18 2 surviving organization under this section.
18 3 Sec. 31. NEW SECTION. 501B.31 UNIFORMITY OF APPLICATION
18 4 AND CONSTRUCTION.
18 5 In applying and construing this chapter, consideration
18 6 shall be given to the need to promote uniformity of the law
18 7 with respect to its subject matter among states that enact the
18 8 revised uniform unincorporated nonprofit association Act as
18 9 recommended by the national conference of commissioners on
18 10 uniform state laws.
18 11 Sec. 32. NEW SECTION. 501B.32 RELATION TO ELECTRONIC
18 12 SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.
18 13 This chapter modifies, limits, and supersedes the federal
18 14 Electronic Signatures in Global and National Commerce Act, 15
18 15 U.S.C. } 7001, et seq., but does not modify, limit, or
18 16 supersede section 101(c) of that Act, 15 U.S.C. } 7001(c), or
18 17 authorize electronic delivery of any of the notices described
18 18 in section 103(b) of that Act, 15 U.S.C. } 7003(b).
18 19 Sec. 33. SAVINGS CLAUSE. This division of this Act does
18 20 not affect an action or proceeding commenced or right accrued
18 21 before the effective date of this division of this Act.
18 22 DIVISION II
18 23 OTHER AMENDMENTS
18 24 Sec. 34. Section 9H.1, Code 2009, is amended by adding the
18 25 following new subsections:
18 26 NEW SUBSECTION. 5A. "Authorized unincorporated nonprofit
18 27 association" means an unincorporated nonprofit association to
18 28 which all of the following apply:
18 29 a. The members do not exceed twenty-five in number.
18 30 b. The members are all natural persons or persons acting
18 31 in a fiduciary capacity for the benefit of a natural person or
18 32 unincorporated nonprofit association.
18 33 NEW SUBSECTION. 11A. "Family farm unincorporated
18 34 nonprofit association" means an unincorporated nonprofit
18 35 association to which all of the following apply:



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19 1 a. The association is founded for the purpose of farming
19 2 and the ownership of agricultural land and the majority of the
19 3 members are persons related to each other as spouse, parent,
19 4 grandparent, lineal ascendants of grandparents or their
19 5 spouses and other lineal descendants of the grandparents or
19 6 their spouses, or persons acting in a fiduciary capacity for
19 7 persons so related.

19 8 b. All of its members are natural persons or persons
19 9 acting in a fiduciary capacity for the benefit of natural
19 10 persons or family trusts.

19 11 c. Sixty percent of the gross revenues of the
19 12 unincorporated nonprofit association over the last consecutive
19 13 three-year period comes from farming.

19 14 NEW SUBSECTION. 23. "Unincorporated nonprofit
19 15 association" means the same as defined in section 501B.2.

19 16 Sec. 35. Section 9H.4, subsection 1, unnumbered paragraph
19 17 1, Code 2009, is amended to read as follows:

19 18 A corporation, limited liability company, ~~or~~ trust, or
19 19 unincorporated nonprofit association, other than a family farm
19 20 corporation, authorized farm corporation, family farm limited
19 21 liability company, authorized limited liability company,
19 22 family trust, authorized trust, revocable trust, ~~or~~
19 23 testamentary trust, family farm unincorporated nonprofit
19 24 association, or authorized unincorporated nonprofit

19 25 association shall not, either directly or indirectly, acquire
19 26 or otherwise obtain or lease any agricultural land in this
19 27 state. However, the restrictions provided in this section
19 28 shall not apply to the following:

19 29 Sec. 36. Section 9H.4, subsection 1, Code 2009, is amended
19 30 by adding the following new paragraph:

19 31 NEW PARAGRAPH. 1. Agricultural land that is owned,
19 32 leased, or otherwise held by an unincorporated nonprofit
19 33 association on the effective date of this Act, as long as the
19 34 unincorporated nonprofit association continues to hold or
19 35 lease such agricultural land.



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20 1 Sec. 37. Section 9H.4, subsection 2, Code 2009, is amended
20 2 to read as follows:

20 3 2. A corporation, limited liability company, ~~or~~ trust, or
20 4 unincorporated nonprofit association, other than a family farm
20 5 corporation, authorized farm corporation, family farm limited
20 6 liability company, authorized limited liability company,
20 7 family trust, authorized trust, revocable trust, ~~or~~
20 8 testamentary trust, family farm unincorporated nonprofit
20 9 association, or authorized unincorporated nonprofit

20 10 association, violating this section shall be assessed a civil
20 11 penalty of not more than twenty-five thousand dollars and
20 12 shall divest itself of any land held in violation of this
20 13 section within one year after judgment. The courts of this
20 14 state may prevent and restrain violations of this section
20 15 through the issuance of an injunction. The attorney general
20 16 or a county attorney shall institute suits on behalf of the
20 17 state to prevent and restrain violations of this section.

20 18 Sec. 38. Section 9H.5, subsection 1, Code 2009, is amended
20 19 to read as follows:

20 20 1. An authorized farm corporation, authorized limited
20 21 liability company, or authorized trust shall not, on or after
20 22 July 1, 1987, ~~and~~ a limited partnership other than a family
20 23 farm limited partnership shall not, on or after July 1, 1988,
20 24 and an authorized unincorporated nonprofit association shall
20 25 not, on or after the effective date of this Act, either

20 26 directly or indirectly, acquire or otherwise obtain or lease
20 27 agricultural land, if the total agricultural land either
20 28 directly or indirectly owned or leased by the authorized farm
20 29 corporation, authorized limited liability company, limited
20 30 partnership, ~~or~~ authorized trust, or authorized unincorporated
20 31 nonprofit association would then exceed one thousand five
20 32 hundred acres.

20 33 a. However, the restrictions provided in this subsection
20 34 do not apply to agricultural land that is leased by an
20 35 authorized farm corporation, authorized trust, ~~or~~ limited



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21 1 partnership, or authorized unincorporated nonprofit
21 2 association to the immediate prior owner of the land for the
21 3 purpose of farming, as defined in section 9H.1. Upon
21 4 cessation of the lease to the immediate prior owner, the
21 5 authorized farm corporation, authorized trust, ~~or~~ limited
21 6 partnership, or authorized unincorporated nonprofit
21 7 association shall, within three years following the date of
21 8 the cessation, sell or otherwise dispose of the agricultural
21 9 land leased to the immediate prior owner.
21 10 b. This subsection also does not apply to land that is
21 11 held or acquired and maintained by an authorized farm
21 12 corporation, authorized trust, ~~or~~ limited partnership, or
21 13 authorized unincorporated nonprofit association to protect
21 14 significant elements of the state's natural open space
21 15 heritage, including but not limited to significant river,
21 16 lake, wetland, prairie, forest areas, other biologically
21 17 significant areas, land containing significant archaeological,
21 18 historical, or cultural value, or fish or wildlife habitats,
21 19 as defined in rules adopted by the department of natural
21 20 resources.
21 21 Sec. 39. Section 9H.5, Code 2009, is amended by adding the
21 22 following new subsection:
21 23 NEW SUBSECTION. 2A. a. A person shall not, after the
21 24 effective date of this Act, become a member of an authorized
21 25 unincorporated nonprofit association, that owns or leases
21 26 agricultural land if the person is also any of the following:
21 27 (1) A stockholder of an authorized farm corporation.
21 28 (2) A beneficiary of an authorized trust.
21 29 (3) A limited partner in a limited partnership which owns
21 30 or leases agricultural land.
21 31 (4) A member of an authorized limited liability company.
21 32 (5) A member of another authorized unincorporated
21 33 nonprofit association.
21 34 b. A person shall not, after the effective date of this
21 35 Act, become a stockholder of an authorized farm corporation, a



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22 1 beneficiary of an authorized trust, a limited partner in a
22 2 limited partnership, or a member of an authorized limited
22 3 liability company that owns or leases agricultural land, if
22 4 the person is a member of an authorized unincorporated
22 5 nonprofit association.

22 6 c. This subsection shall not apply to limited partners in
22 7 a family farm limited partnership.

22 8 Sec. 40. Section 9H.5, subsection 3, paragraph a, Code
22 9 2009, is amended to read as follows:

22 10 a. An authorized farm corporation, authorized trust,
22 11 authorized limited liability company, ~~or~~ limited partnership,
22 12 or unincorporated nonprofit association violating this section
22 13 shall be assessed a civil penalty of not more than twenty-five
22 14 thousand dollars and shall divest itself of any land held in
22 15 violation of this section within one year after judgment. A
22 16 civil penalty of not more than one thousand dollars may be
22 17 imposed on a person who becomes a stockholder of an authorized
22 18 farm corporation, beneficiary of an authorized trust, member
22 19 of an authorized limited liability company, ~~or~~ limited partner
22 20 in a limited partnership, or member in an unincorporated
22 21 nonprofit association in violation of this section. The
22 22 person shall divest the interest held by the person in the
22 23 corporation, trust, limited liability company, ~~or~~ limited
22 24 partnership, or unincorporated nonprofit association to comply
22 25 with this section. The court may determine the method of
22 26 divesting an interest held by a person found to be in
22 27 violation of this chapter. A financial gain realized by a
22 28 person who disposes of an interest held in violation of this
22 29 chapter shall be forfeited to the state's general fund. All
22 30 court costs and fees shall be paid by the person holding the
22 31 interest in violation of this chapter.

22 32 EXPLANATION

22 33 DIVISION I == REVISED UNIFORM UNINCORPORATED NONPROFIT
22 34 ASSOCIATION ACT. This bill creates a new Code chapter 501B
22 35 which creates the "Revised Uniform Unincorporated Nonprofit



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23 1 Association Act" (new Code section 501B.1). The provisions
23 2 are based on those drafted by the national conference of
23 3 commissioners on uniform state laws and approved for enactment
23 4 by states by that organization in 2008.

23 5 DESCRIPTION. An unincorporated nonprofit association (UNA)
23 6 is a nonprofit entity created to carry out a philanthropic,
23 7 beneficial, or religious purpose, which may or may not be
23 8 tax-exempt, and which is not organized under another statute
23 9 (new Code section 501B.2). Moreover, it excludes certain
23 10 relationships which are based on the special legal status of
23 11 the parties, including a domestic relationship (e.g.,
23 12 marriage) or a property holding relationship (e.g., joint
23 13 tenancy). A UNA may engage in profit-making activities so
23 14 long as the profits are set aside for nonprofit purposes. The
23 15 parties to an agreement may specifically provide that they are
23 16 not subject to the new Code chapter's provisions (new Code
23 17 section 501B.2(8)).

23 18 GOVERNING PRINCIPLES AND ORGANIZATION. A UNA is subject to
23 19 "governing principles" that govern the internal affairs of the
23 20 organization (new Code section 501B.2(2)). A UNA's governing
23 21 principles are not required to be in writing. An agreement to
23 22 form a UNA may be in writing (in a "record"), or may be by
23 23 oral consent or implied from "established practices". The
23 24 agreement to form a UNA becomes part of its governing
23 25 principles.

23 26 MEMBERS AND MANAGERS. A distinction is created between a
23 27 UNA's members and managers (new Code section 501B.2(3),(4)).
23 28 A manager is authorized to make decisions affecting the
23 29 policies of the UNA and the conduct of its affairs.

23 30 APPLICATION OF OTHER LAW. The provisions of the new Code
23 31 chapter are to be supplemented by other principles of law and
23 32 equity (new Code section 501B.3). If another statute
23 33 governing a specific type of UNA conflicts with a provision in
23 34 the new Code chapter, the other statute prevails. The law of
23 35 Iowa governs the operation of all UNAs formed or operating in



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24 1 this state, unless the UNA's main place of activities is
24 2 located in another state (new Code section 501B.4).
24 3 SEPARATE LEGAL ENTITY. A UNA is recognized as a distinct
24 4 legal entity separate from its members and managers and has
24 5 perpetual duration unless its governing principles specify
24 6 otherwise. This reverses the common law rule of aggregation
24 7 that recognizes the participants of the entity rather than the
24 8 entity. Two consequences result from this special
24 9 recognition:
24 10 1. HOLDING PROPERTY. A UNA may hold, convey, or encumber
24 11 real or personal property in its name (new Code section
24 12 501B.6). However, a UNA acquiring, disposing, or encumbering
24 13 real property must record a statement of authority with the
24 14 county recorder where the real property is located and the
24 15 county recorder may charge the UNA a filing fee (new Code
24 16 section 501B.7).
24 17 2. LEGAL ACTIONS. Code section 613.19 provides a limited
24 18 shield for persons associated with UNAs. The bill adds a
24 19 provision that shields a member or manager from personal
24 20 liability for breach of contract or for a tortious act or
24 21 omission solely because the person has a participatory
24 22 interest in the organization (new Code section 501B.8). A UNA
24 23 may sue or be sued in its own name (new Code section 501B.9),
24 24 and as a corollary to new Code section 501B.9, a judgment or
24 25 order against a UNA is not a judgment or order against a
24 26 member or manager (new Code section 501B.10).
24 27 A UNA is allowed but not required to file with the
24 28 secretary of state a statement appointing an agent authorized
24 29 to receive service of process, and the secretary of state is
24 30 authorized to charge a filing fee (new Code section 501B.11).
24 31 Since a UNA may elect not to file a statement of appointment,
24 32 process may be served on a manager of the UNA (new Code
24 33 section 501B.12).
24 34 Since a UNA is treated as a distinct entity with perpetual
24 35 duration, an action brought against a UNA is not abated merely



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25 1 because of a change in its members or managers (new Code
25 2 section 501B.13).

25 3 For purposes of venue, an action against a UNA is
25 4 determined in the same manner as the same action brought
25 5 against a nonprofit corporation under Code chapter 504 (new
25 6 Code section 501B.14).

25 7 Finally, a member of a UNA is not the agent of the
25 8 association, and therefore does not have apparent authority to
25 9 bind the UNA in a contractual relationship with another party
25 10 solely because of their status (new Code section 501B.15).

25 11 MEMBERS. A number of provisions control the conduct of
25 12 members. In most cases, the provisions may be altered by the
25 13 UNA's governing principles.

25 14 DECISION MAKING. By default, fundamental decisions
25 15 regarding the UNA are to be made by the members, including
25 16 those that affect the composition of the membership, the
25 17 governing principles, the disposition of the UNA's property
25 18 outside the ordinary course of its activities, or dissolving
25 19 the UNA or merging the UNA with another entity (new Code
25 20 section 501B.16). By default, the members vote on a per
25 21 capita basis and a majority of votes are required to approve
25 22 an action (new Code section 501B.17). The governing
25 23 principles may provide that these decisions may be made by
25 24 managers.

25 25 STANDARD OF CONDUCT. A member of a UNA does not have a
25 26 fiduciary duty to the UNA or to another member, but does have
25 27 an obligation to exercise rights and duties in accordance with
25 28 the UNA's governing principles and obligations of "good faith
25 29 and fair dealing" (new Code section 501B.18).

25 30 CHANGE IN COMPOSITION. A UNA may suspend, dismiss, or
25 31 expel a member upon a vote of the membership, unless the
25 32 governing principles provide otherwise (new Code section
25 33 501B.19). A member of a UNA may resign their membership at
25 34 any time unless the governing principles provide otherwise
25 35 (new Code section 501B.20).



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26 1 TRANSFERABILITY. A member cannot transfer an interest in a
26 2 UNA, unless otherwise provided in its governing principles
26 3 (new Code section 501B.20).

26 4 MANAGERS. A UNA must have one or more managers (new Code
26 5 section 501B.22). By default all members are managers,
26 6 although the members may select a manager or managers and in
26 7 that case a manager is not required to be a member.

26 8 1. DECISION MAKING. If there is more than one manager,
26 9 each manager has equal rights in the conduct of the UNA's
26 10 activities. If there are more than two managers, issues of
26 11 difference are to be decided by majority vote. However,
26 12 certain issues which fundamentally impact the UNA are reserved
26 13 to the members (new Code section 501B.16).

26 14 2. STANDARD OF CONDUCT. A manager has a fiduciary duty to
26 15 the UNA and its members which includes a duty of loyalty and
26 16 care (new Code section 501B.23). Nevertheless, a managerial
26 17 decision which would otherwise be a breach of a fiduciary duty
26 18 may be excused if the manager's decision is ratified by a
26 19 majority of the members, or the manager makes a business
26 20 judgment in good faith so long as the manager is not
26 21 personally interested in the outcome of the decision, is
26 22 reasonably informed, and believes that the decision is in the
26 23 UNA's best interest.

26 24 3. MEETING PROCEDURES. Manager meetings and the conduct
26 25 of such meetings are to be determined by the UNA's governing
26 26 principles which may be controlled by its (unwritten)
26 27 established practices (new Code section 501B.24).

26 28 ACCESS TO INFORMATION. Although a UNA is not required to
26 29 keep books or records, a member or manager has the right to
26 30 inspect any of them during regular operating hours at a
26 31 reasonable location as designated by the UNA (new Code section
26 32 501B.25).

26 33 DISTRIBUTIONS. An organization which made a distribution
26 34 (e.g., dividend) to a member or manager which was not
26 35 permitted by law would disqualify it as a UNA (in effect,



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House File 726 - Introduced continued

27 1 convert the organization to a general partnership) (new Code
27 2 sections 501B.26 and 501B.27). However, there are a number of
27 3 exceptions, including the payment of reasonable expenses to a
27 4 member or manager for services, to confer benefits on a member
27 5 or manager in conformity with the UNA's purpose, to repurchase
27 6 a membership or repay a member's capital contribution, or to
27 7 make distributions to a UNA's membership when the UNA is
27 8 winding up its affairs (new Code section 501B.29). A UNA may,
27 9 in accordance with its governing principles, pay a member's or
27 10 manager's reasonable litigation expenses and attorney fees
27 11 arising from their conduct as a member or manager and may make
27 12 such payments in advance upon approval by a majority of
27 13 disinterested managers.

27 14 DISSOLUTION AND WINDING UP. A UNA may be dissolved upon a
27 15 vote by the members, unless the UNA's governing principles
27 16 provide another mechanism (i.e., by the manager).
27 17 Alternatively the dissolution occurs upon the UNA's
27 18 discontinuance (e.g., no manager), or by court order (new Code
27 19 section 501B.28). During the dissolution process, the UNA's
27 20 assets are to be allocated according to a three-tier priority
27 21 system (new Code section 501B.29). The first tier recognizes
27 22 the rights of three classes without apparent order of
27 23 priority: satisfying the claims by creditors, giving back
27 24 property donated upon condition of return, and distributing
27 25 trust property in accordance with a trust agreement. The
27 26 second tier provides for two classes of recipients again
27 27 without apparent order of priority: to persons carrying out a
27 28 similar nonprofit purpose and members of the UNA (by default
27 29 on a per capita basis, or the affirmative action taken by the
27 30 members, or as otherwise specified in the governing
27 31 principles). The third tier provides that any of the UNA's
27 32 remaining assets are to be considered as unclaimed property
27 33 under Code chapter 556 and administered by the secretary of
27 34 state.

27 35 MERGERS. A UNA may merge into another UNA, if the merger



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28 1 complies with certain preconditions. First, the parties to
28 2 the merger, the "constituent organization" being absorbed, and
28 3 the "surviving organization" remaining after the merger must
28 4 both approve the plan of merger (new Code section 501B.30(2)).
28 5 The plan must be in a "record" (i.e., in writing), contain
28 6 information regarding the identify of the parties and account
28 7 for conversion of the interests of the membership, and be
28 8 approved by the members of the constituent organization in a
28 9 record. If a UNA merges with another UNA, the merger is
28 10 effective upon approval of the plan without further action.
28 11 There are no corresponding provisions for other entities that
28 12 would allow for a merger with a UNA.

28 13 SPECIAL PROVISIONS. The bill provides for a number of
28 14 special provisions.

28 15 1. TRANSFER OF INTERESTS. The bill departs from the model
28 16 Act by omitting an optional provision that accounts for
28 17 interests in real and personal property that have been
28 18 transferred to a UNA prior to the effective date of the bill
28 19 but are vested in another person.

28 20 2. UNIFORMITY OF APPLICATION. The new Code chapter is to
28 21 be construed to promote the uniformity of the law with respect
28 22 to the same law enacted in other states (new Code section
28 23 501B.32).

28 24 3. ELECTRONIC SIGNATURES. The new Code chapter limits the
28 25 application of the federal Electronic Signatures in Global and
28 26 National Commerce Act (new Code section 501B.33).

28 27 4. SAVINGS CLAUSE. The provisions of the division do not
28 28 affect an action or proceeding commenced or right accrued
28 29 prior to the bill's effective date.

28 30 DEPARTURES FROM THE UNIFORM ACT. The bill departs from the
28 31 uniform Act as follows:

28 32 1. The definition of UNA is changed to include a tenancy
28 33 by the entirety (new Code section 501B.2(8)(d)).

28 34 2. The shield against liability provided to a member or
28 35 manager of a UNA is extended to similarly shield an employee



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29 1 or volunteer of the UNA (new Code section 501B.8).
29 2 3. Express authorization is removed which would otherwise
29 3 allow a UNA's governing principles to limit or eliminate the
29 4 liability of a manager or members for acting or failing to act
29 5 in their capacities, but would prohibit the governing
29 6 principles from affecting their liability in cases involving
29 7 an improper financial benefit received by a manager, an
29 8 intentional infliction of harm on the association or its
29 9 members, an intentional violation of criminal law, a breach of
29 10 the duty of loyalty, or an improper distribution (new Code
29 11 section 501B.23(5) omitted).
29 12 4. Unless its governing principles provide otherwise, a
29 13 UNA must reimburse an employee or volunteer for authorized
29 14 expenses which is similar to its reimbursement of expenses for
29 15 a member or manager (new Code section 501B.27(1)). The UNA
29 16 may also indemnify a former or existing employee or volunteer
29 17 for liabilities assumed by the employee or volunteer and
29 18 purchase insurance on their behalf, similar to its right to
29 19 reimburse a member or manager and purchase insurance on their
29 20 behalf (new Code section 501B.27(2) through (5)).
29 21 DIVISION II == OTHER AMENDMENTS. The division amends
29 22 provisions in Code chapter 9H which restrict corporate
29 23 entities from holding agricultural land. The division
29 24 prohibits an unincorporated nonprofit association from
29 25 acquiring agricultural land to the same extent currently
29 26 applicable to other entities including nonprofit corporations
29 27 (Code section 9H.4). Code chapter 9H does allow certain
29 28 special types of corporate entities to hold agricultural land,
29 29 generally designated as a "family" entity. The division
29 30 provides for a family farm unincorporated nonprofit
29 31 association based on qualifications for family farm
29 32 corporations. In order to be exempt from the chapter's
29 33 restrictions, the UNA must be founded for the purpose of
29 34 farming, all of its members must be natural persons or persons
29 35 acting in a fiduciary capacity for its members, and 60 percent



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30 1 of its revenue must come from farming (Code section 9H.1).
30 2 Code chapter 9H creates a special classification for
30 3 certain "authorized" entities including authorized
30 4 corporations, but also including authorized limited liability
30 5 companies, and authorized trusts. These authorized entities
30 6 along with limited partnerships (other than family farm
30 7 limited partnerships) cannot hold more than 1,500 acres of
30 8 agricultural land. Moreover a person belonging to an
30 9 authorized entity or limited partnership cannot belong to a
30 10 second authorized entity or limited partnership (Code section
30 11 9H.5). The division creates a new entity referred to as an
30 12 authorized unincorporated nonprofit corporation based on the
30 13 qualifications for an authorized corporation. In order to
30 14 qualify, the UNA's membership cannot exceed 25 in number and
30 15 the members must all be natural persons or persons acting in a
30 16 fiduciary capacity (Code section 9H.1). An authorized
30 17 unincorporated nonprofit association cannot hold more than
30 18 1,500 acres. In addition, a member of an authorized
30 19 unincorporated nonprofit association cannot belong to another
30 20 authorized entity or limited partnership.
30 21 Persons who violate Code chapter 9H are subject to a civil
30 22 penalty of up to \$25,000 and must divest themselves of any
30 23 prohibited interest.
30 24 LSB 1166HV 83
30 25 da/nh/5



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House File 727 - Introduced

HOUSE FILE
BY COMMITTEE ON LABOR

(SUCCESSOR TO HF 222)

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

A BILL FOR

- 1 An Act relating to safe walkways for railroad workers and making
- 2 penalties applicable.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4 TLSB 1420HV 83
- 5 ec/nh/8



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House File 727 - Introduced continued

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1 1 Section 1. NEW SECTION. 327F.21 RAILROAD WORKER
1 2 WALKWAYS.
1 3 1. The state department of transportation shall adopt
1 4 rules requiring the provision of safe walkways for railroad
1 5 workers in areas where work is regularly performed on the
1 6 ground. The rules shall provide, at a minimum, that a
1 7 railroad walkway shall have a reasonably uniform surface, be
1 8 maintained in a safe condition, and be reasonably free of
1 9 obstacles, debris, and other hazards.
1 10 2. Violation of a rule adopted under this section is, upon
1 11 conviction, subject to a schedule "one" penalty as provided
1 12 under section 327C.5.
1 13 EXPLANATION
1 14 This bill provides that the department of transportation
1 15 shall adopt rules providing for safe walkways for railroad
1 16 workers in areas where work is regularly performed. The bill
1 17 provides that a violation of a rule adopted concerning
1 18 walkways shall be subject to a penalty of \$100 per violation
1 19 pursuant to Code section 327C.5.
1 20 LSB 1420HV 83
1 21 ec/nh/8



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House File 728 - Introduced

HOUSE FILE
BY COMMITTEE ON REBUILD IOWA
AND DISASTER RECOVERY

(SUCCESSOR TO HSB 238)

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

A BILL FOR

- 1 An Act creating a disaster assistance loan and credit guarantee
- 2 program and fund, making appropriations, and providing an
- 3 effective date.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 5 TLSB 1844HV 83
- 6 tm/nh/8



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House File 728 - Introduced continued

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1 1 Section 1. DISASTER ASSISTANCE LOAN AND CREDIT GUARANTEE
1 2 PROGRAM.
1 3 1. The department of economic development shall establish
1 4 and administer a disaster assistance loan and credit guarantee
1 5 program by investing the assets of the disaster assistance
1 6 loan and credit guarantee fund in order to provide loan and
1 7 credit guarantees to all of the following qualifying
1 8 businesses:
1 9 a. Businesses directly impacted by a natural disaster
1 10 occurring after May 24, 2008, and before August 14, 2008.
1 11 b. Businesses either locating an existing business or
1 12 starting a new business in a disaster=impacted space in an
1 13 area which was declared a natural disaster area by the
1 14 president of the United States due to a natural disaster
1 15 occurring after May 24, 2008, and before August 14, 2008. For
1 16 purposes of this paragraph, "disaster=impacted space" means a
1 17 building damaged by a natural disaster occurring after May 24,
1 18 2008, and before August 14, 2008, including undamaged upper
1 19 floors of a building that was damaged by the natural disaster.
1 20 c. Businesses filling a critical community need in
1 21 conformance with the comprehensive plan of the city as
1 22 determined by resolution of the city council of the city in
1 23 which the business is located. For purposes of this
1 24 paragraph, a business shall be deemed to be located in a city
1 25 if it is located within two miles of the city limits.
1 26 2. a. The department, pursuant to agreements with
1 27 financial institutions, shall provide loan and credit
1 28 guarantees to qualifying businesses described in subsection 1.
1 29 A loan or credit guarantee under the program shall not exceed
1 30 ten percent of the loan amount or twenty=five thousand
1 31 dollars, whichever is less. Not more than one loan or credit
1 32 guarantee shall be awarded per federal employer identification
1 33 number.
1 34 b. A loan or credit guarantee provided under the program
1 35 may stand alone or may be used in conjunction with or to



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2 1 enhance other loan or credit guarantees offered by a financial
2 2 institution. The department may purchase insurance to cover
2 3 defaulted loans meeting the requirements of the program.
2 4 However, the department shall not in any manner directly or
2 5 indirectly pledge the credit of the state.
2 6 c. Eligible project costs include expenditures for
2 7 productive equipment and machinery, land and real estate,
2 8 working capital for operations, research and development,
2 9 marketing, engineering and architectural fees, and such other
2 10 costs as the department may so designate.
2 11 d. A loan or credit guarantee under the program shall not
2 12 be used for purposes of debt refinancing.
2 13 3. Each participating financial institution shall identify
2 14 and underwrite potential lending opportunities with qualifying
2 15 businesses. Upon a determination by a participating financial
2 16 institution that a qualifying business meets the underwriting
2 17 standards of the financial institution, subject to the
2 18 approval of a loan or credit guarantee, the financial
2 19 institution shall submit the underwriting information and a
2 20 loan or credit guarantee application to the department.
2 21 4. Upon approval of a loan or credit guarantee, the
2 22 department shall enter into a loan or credit guarantee
2 23 agreement with the participating financial institution. The
2 24 agreement shall specify all of the following:
2 25 a. The fee to be charged to the financial institution.
2 26 b. The evidence of debt assurance of, and security for,
2 27 the loan or credit guarantee.
2 28 c. A loan or credit guarantee that does not exceed fifteen
2 29 years.
2 30 d. Any other terms and conditions considered necessary or
2 31 desirable by the department.
2 32 e. That the loan or credit guarantee does not invoke or
2 33 pledge the credit or the taxing power of the state and that
2 34 any claim made pursuant to the loan or credit guarantee shall
2 35 be limited to the terms and amount of the loan or credit



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3 1 guarantee and to the moneys in the disaster assistance loan
3 2 and credit guarantee fund.
3 3 5. The department shall charge a nonrefundable application
3 4 fee for each application under the program. The department
3 5 shall include the fee information in the application
3 6 materials. The fee is payable upon submission of an
3 7 application for a loan or credit guarantee from a financial
3 8 institution or a qualifying business. The application fee
3 9 shall be not less than five hundred dollars and not more than
3 10 one thousand dollars. Moneys received from fees are
3 11 appropriated to the department for purposes of administering
3 12 this section.
3 13 6. The department may adopt loan and credit guarantee
3 14 application procedures that allow a qualifying business to
3 15 apply directly to the department for a preliminary guarantee
3 16 commitment. A preliminary guarantee commitment may be issued
3 17 by the department subject to the qualifying business securing
3 18 a commitment for financing from a financial institution. The
3 19 application procedures shall specify the process by which a
3 20 financial institution may obtain a final loan or credit
3 21 guarantee.
3 22 7. a. A disaster assistance loan and credit guarantee
3 23 fund is created and established as a separate and distinct
3 24 fund in the state treasury. Moneys in the fund shall only be
3 25 used for purposes provided in this section. The moneys in the
3 26 fund are appropriated to the department to be used for all of
3 27 the following purposes:
3 28 (1) Payment of claims pursuant to loan and credit
3 29 guarantee agreements entered into under this section.
3 30 (2) Payment of administrative costs of the department for
3 31 actual and necessary administrative expenses incurred by the
3 32 department in administering the disaster assistance loan and
3 33 credit guarantee program.
3 34 (3) Purchase or buyout of superior or prior liens,
3 35 mortgages, or security interests.



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4 1 (4) Purchase of insurance to cover the default of loans
4 2 made pursuant to the requirements of the disaster assistance
4 3 loan and credit guarantee program.
4 4 b. Moneys in the disaster assistance loan and credit
4 5 guarantee fund shall consist of all of the following:
4 6 (1) Moneys appropriated by the general assembly for that
4 7 purpose and any other moneys available to and obtained or
4 8 accepted by the department for placement in the fund.
4 9 (2) Proceeds from collateral assigned to the department,
4 10 fees for guarantees, gifts, and moneys from any grant made to
4 11 the fund by any federal agency.
4 12 c. Moneys in the fund are not subject to section 8.33.
4 13 Notwithstanding section 12C.7, interest or earnings on the
4 14 moneys in the fund shall be credited to the fund.
4 15 d. (1) The department shall only pledge moneys in the
4 16 disaster assistance loan and credit guarantee fund and not any
4 17 other moneys under the control of the department. In a fiscal
4 18 year, the department may pledge an amount not to exceed the
4 19 total amount appropriated to the fund for the same fiscal year
4 20 to assure the repayment of loan and credit guarantees or other
4 21 extensions of credit made to or on behalf of qualified
4 22 businesses for eligible project costs.
4 23 (2) The department shall not pledge the credit or taxing
4 24 power of this state or any political subdivision of this state
4 25 or make debts payable out of any moneys except for those in
4 26 the disaster assistance loan and credit guarantee fund.
4 27 8. For purposes of this section, "financial institution"
4 28 means a bank incorporated pursuant to chapter 524 or a credit
4 29 union organized pursuant to chapter 533.
4 30 9. The department of economic development may adopt
4 31 emergency rules under section 17A.4, subsection 3, and section
4 32 17A.5, subsection 2, paragraph "b", to implement the
4 33 provisions of this section and the rules shall be effective
4 34 immediately upon filing unless a later date is specified in
4 35 the rules. Any rules adopted in accordance with this section



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House File 728 - Introduced continued

6 1 credit guarantee provided under the program may stand alone or
6 2 may be used in conjunction with or to enhance other loan or
6 3 credit guarantees offered by a financial institution. The
6 4 bill allows the department to purchase insurance to cover
6 5 defaulted loans.

6 6 The bill provides that eligible project costs include
6 7 expenditures for productive equipment and machinery, land and
6 8 real estate, working capital for operations, research and
6 9 development, marketing, engineering and architectural fees,
6 10 and such other costs as the department may so designate. The
6 11 bill prohibits the use of loan or credit guarantees for
6 12 purposes of debt refinancing.

6 13 The bill requires that each participating financial
6 14 institution shall identify and underwrite potential lending
6 15 opportunities with qualifying businesses. Upon a
6 16 determination that a qualifying business meets the
6 17 underwriting standards of the financial institutions, the
6 18 underwriting information and an application shall be submitted
6 19 to the department.

6 20 The bill specifies terms that must be included in a loan or
6 21 credit guarantee agreement between the department and a
6 22 participating financial institution. The bill allows a
6 23 nonrefundable application fee to be charged.

6 24 The bill allows the department to adopt procedures that
6 25 would allow a qualifying business to apply directly to the
6 26 department for a preliminary guarantee commitment.

6 27 The bill creates a disaster assistance loan and credit
6 28 guarantee fund. The bill provides that the department shall
6 29 only pledge moneys in the disaster assistance loan and credit
6 30 guarantee fund and not any other moneys under the control of
6 31 the department.

6 32 The bill allows the department to adopt emergency rules.

6 33 The bill appropriates \$1.8 million from any interest or
6 34 earnings on moneys in the 2003 federal economic stimulus and
6 35 jobs holding fund to the department of economic development



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House File 728 - Introduced continued

7 1 for FY 2008=2009 for deposit in the disaster assistance loan
7 2 and credit guarantee fund.
7 3 The bill takes effect upon enactment.
7 4 LSB 1844HV 83
7 5 tm/nh/8



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House Joint Resolution 6 - Introduced

HOUSE JOINT RESOLUTION
BY ALONS and MERTZ

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

HOUSE JOINT RESOLUTION

1 A Joint Resolution proposing an amendment to the Constitution of
2 the State of Iowa specifying marriage between one man and one
3 woman as the only legal union that is valid or recognized in
4 the state.
5 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TL5B 1191YH 83
7 pf/rj/14



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House Joint Resolution 6 - Introduced continued

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1 1 Section 1. The following amendment to the Constitution of
1 2 the State of Iowa is proposed:
1 3 Article I of the Constitution of the State of Iowa is
1 4 amended by adding the following new section:
1 5 MARRIAGE. SEC. 26. Marriage between one man and one woman
1 6 shall be the only legal union valid or recognized in this
1 7 state.
1 8 Sec. 2. REFERRAL AND PUBLICATION. The foregoing amendment
1 9 to the Constitution of the State of Iowa is referred to the
1 10 General Assembly to be chosen at the next general election for
1 11 members of the General Assembly and the Secretary of State is
1 12 directed to cause the same to be published for three
1 13 consecutive months previous to the date of that election as
1 14 provided by law.

1 15 EXPLANATION

1 16 This joint resolution proposes an amendment to the
1 17 Constitution of the State of Iowa specifying that marriage
1 18 between one man and one woman shall be the only legal union
1 19 valid or recognized in this state.
1 20 The joint resolution, if adopted, would be referred to the
1 21 next general assembly for adoption a second time before being
1 22 submitted to the electorate for ratification.
1 23 LSB 1191YH 83
1 24 pf/rj/14.1



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House Resolution 29 - Introduced

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H.R. _____ S.R. _____

1 1 HOUSE RESOLUTION NO.
 1 2 BY HEATON, HEDDENS, MASCHER, HUNTER,
 1 3 STECKMAN, THEDE, WENDT, WESSEL=KROESCHELL,
 1 4 ALONS, KOESTER, PETERSEN, SODERBERG, T. OLSON,
 1 5 BAUDLER, UPMEYER, and L. MILLER
 1 6 A Resolution urging the United States Congress to take
 1 7 action to shorten the almost two-year delay in
 1 8 resolving claims for Social Security disability
 1 9 benefits.
 1 10 WHEREAS, 7.2 million Americans collect Social
 1 11 Security disability benefits because of a medical
 1 12 condition that prevents them from working for at least
 1 13 one year; and
 1 14 WHEREAS, more than 2.5 million Americans file
 1 15 disability claims with the federal Social Security
 1 16 Administration each year and then wait, often unable
 1 17 to work; and
 1 18 WHEREAS, nationally, the average wait for an
 1 19 administrative law judge's decision on disability
 1 20 benefits has now stretched to 502 days, compared with
 1 21 258 days in 2000; and
 1 22 WHEREAS, it is clear that a large part of the
 1 23 problem is that the federal Social Security
 1 24 Administration is underfunded, with Congress
 1 25 appropriating an average of \$150 million less than the
 1 26 president requested each year since 2001; NOW
 1 27 THEREFORE,
 1 28 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES,
 1 29 That the House of Representatives calls upon the
 1 30 United States Congress to take action to shorten the



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House Resolution 29 - Introduced continued

2 1 almost two-year delay in resolving claims for Social
2 2 Security disability benefits; and
2 3 BE IT FURTHER RESOLVED, That upon passage of this
2 4 resolution, suitable copies of the resolution shall be
2 5 transmitted to the members of Iowa's congressional
2 6 delegation and the President of the United States.
2 7 LSB 1670YH 83
2 8 jr/nh/5



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House Resolution 30 - Introduced

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H.R. _____ S.R. _____

1 1 HOUSE RESOLUTION NO.
 1 2 BY COMMITTEE ON REBUILD
 1 3 IOWA AND DISASTER RECOVERY
 1 4 (SUCCESSOR TO HSB 265)
 1 5 A Resolution requesting the legislative council to
 1 6 authorize a study of the county emergency
 1 7 management system for the 2009 interim.
 1 8 WHEREAS, the effective management of emergency
 1 9 services in counties is a key element to protecting
 1 10 the safety of citizens when emergencies and disasters
 1 11 occur; and
 1 12 WHEREAS, while Iowa has a strong record of
 1 13 community involvement in responding to emergencies and
 1 14 disaster situations, there is potential for improving
 1 15 the formal systems for responding; NOW THEREFORE,
 1 16 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES,
 1 17 That the legislative council is requested to authorize
 1 18 a study of county emergency management systems for the
 1 19 2009 interim; and
 1 20 BE IT FURTHER RESOLVED, That the study should
 1 21 address all areas with potential for improving county
 1 22 emergency management systems, including but not
 1 23 limited to efficiencies, cost-saving measures such as
 1 24 service sharing between and within counties,
 1 25 communications systems, and training programs.
 1 26 LSB 2589HV 83
 1 27 jp/rj/8