

LEGISLATIVE BILL 92

Approved by the Governor March 6, 1989

Introduced by Landis, 46

AN ACT relating to insurance; to amend sections
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to records required for certain disbursements; to require approval of policies, bonds, and certificates as prescribed; to provide grounds for the suspension of a license; to require filing of contracts of association; to change a provision relating to valuation of reserves; to authorize variances from standard policies as prescribed; to restrict certain provisions relating to life and endowment insurance; to change the requirements for mailed notices; to change provisions relating to fire marine or liability insurance; to eliminate a requirement of notice of cancellation or nonrenewal; to require a notice on each policy stating that the policy may be returned and premiums refunded; to change the time limit for certain defenses as prescribed; to change the time limit for nonrenewal of policies as prescribed; to provide for the direct payment of certain benefits to health care providers; to change a provision relating to reciprocal insurance; to change provisions relating to adoption and promulgation of rules and regulations; to change the amount payable for funeral and illness expenses as prescribed; to provide for issuance of life insurance on a franchise or wholesale basis; to eliminate an exemption from certificate of authority requirements; to change requirements for insurance consultant licensure as prescribed; to change the expiration date of certain licenses; to require the filing of medicare supplement policy advertising materials; to eliminate a provision relating to offering of prepaid dental service prior to July 17, 1982; to transfer and change provisions relating to education requirements for certain licensees; to exempt certain persons from examination requirements; to change provisions of the Insurance Producers Licensing Act; to eliminate an audit provision; to change references to funds; to transfer sections as prescribed; to change provisions relating to foreign and alien insurance companies, lines of insurance, annual meetings, appeals, and hearings; to provide powers and duties for the Director of Insurance; to change penalty provisions; to provide for the valuation of

loss reserves; to change sickness and accident policy provisions and requirements; to change group life insurance provisions; to change duties relating to listing reciprocal states; to provide duties for the Revisor of Statutes; to eliminate provisions relating to unauthorized insurers; to eliminate a provision applicable to companies licensed on July 16, 1913; to eliminate a prohibition on scaled contracts; to eliminate certain liability provisions; to eliminate provisions relating to guaranty capital certificates; to eliminate provisions relating to false statements, misrepresentation, twisting, discrimination, inducements, and rebates; to eliminate provisions relating to cash surrender values, reserves, and the exchange of certain certificates without a loss; to eliminate provisions regulating issuance of insurance as a condition of a loan or financing a sale; to eliminate provisions relating to workers' compensation companies, adjuster's investigations, and unlawful combinations; to eliminate provisions relating to participating and nonparticipating business; to eliminate provisions relating to misleading or deceptive advertising; to eliminate exemptions of benefits from legal process; to eliminate provisions relating to assessment hail associations; to eliminate a provision relating to study materials; to eliminate a provision relating to health maintenance organizations; to eliminate provisions which authorize nonprofit hospital service corporations; to harmonize provisions; to provide severability; and to repeal the original sections, and also sections 21-1509, 21-1509.01, 21-1510, 21-1512, 21-1514, 21-1515, 21-1516, 21-1518, 44-137.09, 44-148, 44-153, 44-158, 44-203.01, 44-209, 44-219.04, 44-219.05, 44-219.06, 44-219.07, 44-219.08, 44-219.09, 44-306, 44-323, 44-324, 44-362, 44-363, 44-364, 44-365, 44-366, 44-368, 44-382, 44-383, 44-384, 44-385, 44-3,100, 44-3,101, 44-3,104, 44-3,105, 44-3,106, 44-410, 44-411, 44-412, 44-413, 44-604, 44-624, 44-625, 44-626, 44-627, 44-708, 44-750, 44-751, 44-752, 44-754, 44-813, 44-813.01, 44-814, 44-815, 44-816, 44-817,

44-818, 44-819, 44-820, 44-3212, and 44-4021, Reissue Revised Statutes of Nebraska, 1943, and sections 21-1513, 21-1519, 21-1520, and 21-1521, Revised Statutes Supplement, 1988.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 44-101.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-101.01. The Department of Insurance shall have general supervision, control, and regulation of insurance companies, associations, and societies; and the business of insurance in Nebraska, including companies in process of organization. The Director of Insurance shall be the chief administrative officer of the department. The director and shall have the power and duty to enforce and execute all the insurance laws of this state and to make adopt and promulgate all needful rules and regulations for the purpose of carrying out the true spirit and meaning of this enactment Chapter 44 and all laws relating to the business of insurance and, to that end, may authorize and empower an assistant or employee to do any and all things that he or she may do and on his or her behalf, and he or she shall see that all laws respecting insurance companies and insurance agents are faithfully executed. The director or his or her representative shall issue all certificates and licenses as provided for in Chapter 44. The director and his or her authorized representative shall have the power and authority to do all things and to perform all acts the department is given the power and authority to do. The director shall adopt and promulgate rules and regulations pursuant to section 44-3719, and shall execute and enforce the provisions of sections 44-3701 to 44-3721.

Sec. 2. That section 44-102, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-102. Insurance is For purposes of Chapter 44, unless the context otherwise requires, insurance shall mean a contract whereby one party, called the insurer, for a consideration, undertakes to pay money or its equivalent; or to do an act valuable to another party, called the insured, or to his or her beneficiary, upon the happening of the hazard or peril insured against whereby the party insured or his or her beneficiary suffers loss or injury.

Sec. 3. That section 44-103, Reissue Revised

Statutes of Nebraska, 1943, be amended to read as follows:

44-103. For purposes of Chapter 44, unless the context otherwise requires:

(1) The terms company, corporation, insurance company, or insurance corporation; ~~unless the context otherwise requires;~~ shall include all corporations, associations, partnerships, or individuals engaged as insurers in the business of insurance; -

(2) Domestic designates those companies incorporated or formed in this state; -

(3) Foreign designates those companies incorporated or formed under the laws of the United States or any other state in the United States and alien designates those companies incorporated or formed under the laws of any country other than the United States; -

(4) Admitted company or authorized company designates ~~companies a company~~ qualified and licensed to transact business under the provisions of this chapter- Chapter 44;

(5) Nonadmitted ~~companies~~ company or unauthorized company designates ~~companies a company~~ not licensed to transact business in this state under the provisions of this chapter- Chapter 44;

(6) Unearned premiums and net value of policies severally shall mean the liability of an insurance company upon its insurance contracts, other than accrued claims, computed by rules of valuation established herein; -

(7) Profits of a mutual company ~~means~~ shall mean that portion of its cash funds not required for payment of losses and expenses nor set apart for any purpose allowed by law; -

(8) Agent or insurance agent shall mean any individual, whether compensated or not, who solicits, negotiates, effects, procures, renews, continues, or binds policies or certificates of insurance covering property or risks located in Nebraska, except that any individual exempted by section 44-4006 shall not be deemed an agent or insurance agent; -

(9) Broker or insurance broker shall mean any individual who acts or aids in any manner in negotiating contracts for insurance, in placing risks, or in soliciting or effecting contracts of insurance as an agent for an insured other than himself or herself and not as an agent of an insurance company or any other type of insurance carrier, Broker or insurance broker shall not include (a) a person working as an officer for an insurance carrier, (b) a person in a clerical,

administrative, or service capacity for an insurance carrier, licensed agent, or broker if the person does not solicit contracts of insurance, (c) an attorney in the performance of his or her duties, (d) an insured who places or negotiates the placement of his or her own insurance, or (e) any employee of an insured engaged in placing or negotiating for placement of insurance for his or her employer; -

(10) Adjuster or insurance adjuster is shall mean a person, copartnership, or corporation who undertakes to ascertain and report the actual loss or damage to the subject matter of the insurance due to the hazard or peril insured against; -

(11) Director shall mean the Director of Insurance; -

(12) Insurable interest is shall mean every interest in property or any relation thereto, or liability in respect thereof, of such a nature that a contemplated peril might directly damnify the insured.

~~(13)~~ Insurable interest, in the matter of life and health insurance, exists when the beneficiary because of relationship, either pecuniary or from ties of blood or marriage, has reason to expect some benefit from the continuance of the life of the insured; -

~~(14)~~ (13) Double insurance exists where when the same party is insured by several insurers separately in respect to the same subject and interest; -

~~(15)~~ (14) Overinsurance exists where when a party having an insurable interest in property has insurance thereon against the same hazard or peril in excess of the actual value of his or her interest therein; -

~~(16)~~ (15) Reinsurance means shall mean a contract by which an insurer procures a third party to insure it against loss or liability by reason of such original insurance; -

~~(17)~~ (16) Department shall mean the Department of Insurance; -

~~(18)~~ (17) Rebate means shall mean anything of value or the making of an agreement, expressed or implied, that will directly or indirectly diminish any premium below the amount specified in the policy, but does shall not include the dividend or refund paid or allowed on participating policies nor bonuses paid or allowed directly by any company upon nonparticipating policies which have been in force at least five years; -

~~(19)~~ (18) Stock company is one shall mean a company with a capital stock that charges a fixed premium and is required to maintain the reserve provided

by this chapter- Chapter 44:

~~(20)~~ (19) Mutual company is one shall mean a company without capital stock that charges a fixed premium and is required to maintain the same reserve as a stock company; -

~~(21)~~ (20) Assessment association is one shall mean a company that meets its losses and expenses from assessment levied upon its members; and -

(21) Insurer shall include all companies, exchanges, societies, or associations whether organized on the stock, mutual, assessment, or fraternal plan of insurance and reciprocal insurance exchanges.

Sec. 4. That section 44-105, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-105. Before granting certificates a certificate of authority to any insurance company to issue policies or make contracts of insurance in this state, the Department of Insurance shall be satisfied by such examination as it may cause to be made or such evidence as it may require that such company is duly qualified under the laws of this state to transact business herein in this state. The department shall examine a corporation which has received a permit from the department to complete its organization as an insurance company whenever it deems it necessary or prudent to protect stockholders shareholders, applicants for membership or for insurance, creditors, or the public.

Sec. 5. That section 44-107, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-107. The Department of Insurance shall cause each domestic company to be examined at least once every four years and cause its affairs to be thoroughly inspected and examined to ascertain its true financial condition, its ability to meet and to fulfill its obligations, whether it has complied with the provisions of the law, and all other facts that may be required relating to its business, methods, and management and its dealings with its policyholders. Whenever necessary to supplement its examination procedures, the department may engage the services of independent actuaries, independent certified public accountants, loss reserve specialists, or other experts deemed competent by the director. The reasonable costs of such services shall be paid by the company being examined. Whenever it deems it advisable, it shall cause a complete audit of the books and accounts of the company to be made by a

disinterested expert accountant-

Sec. 6. That section 44-107.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-107.03. Domestic insurance companies shall reimburse the Department of Insurance for the expense of examination, to be collected and paid as is provided in section 44-107.02. PROVIDED, said reimbursement Reimbursement shall be limited to a reasonable allocation for the salary of each examiner not to exceed the limits of compensation established by section 44-119-01, as now existing or as hereafter amended, plus actual expenses. All such salaries and expenses shall be paid in the manner provided by section 44-117.

Sec. 7. That section 44-108, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-108. The director or any person making an examination required or provided by law may require the insurer, and its officers, and agents, general agents, managing agents, attorneys in fact, organizers and promoters, and loss adjusters, and any person having a contract, written or oral, pertaining to the management or control of an insurer or any function thereof to exhibit its assets, books, and papers, and shall have free access to all the books, records, accounts, vouchers, papers, and files of such insurer which relate to its business. The director or any person conducting an examination or a hearing on a report of examination shall have power to subpoena witnesses, compel their attendance at the place of hearing or examination, administer oaths, and examine any person under oath relative to the subject of the hearing or examination, and, in connection therewith, to require the production of any books, papers, records, correspondence, or other documents which he or she deems relevant to the inquiry.

Sec. 8. That section 44-108.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-108.01. Upon completion of the examination required or provided by law of any domestic insurance company, fraternal benefit society, reciprocal exchange, nonprofit hospital service corporation, burial association, governmental retirement system, rating bureau, or any other firm, corporation, individual, or partnership, whose financial condition is now or may hereafter be required to be examined by the Department of Insurance, hereinafter referred to as insurer, the

examiner or other person making the examination shall sign his or her report and cause it to be filed with the Director of Insurance for acceptance thereby. Such report of examination shall contain only such facts appearing upon the books, records, or other documents of the insurer, its agents, or other persons examined; or as ascertained from the statements or sworn testimony of its officers or agents or other persons examined concerning its affairs. Such report, verified under oath, shall be prima facie evidence in any action or proceeding for the conservation or liquidation of the insurer brought in the name of the state against the insurer, or its officers or agents upon the facts stated therein.

Sec. 9. (1) All financial analysis ratios and examination synopses concerning insurance companies that are submitted to the director by the National Association of Insurance Commissioners which are determined by such association to be confidential may not be disclosed or released for public inspection by the director.

(2) In the absense of actual malice, members of the National Association of Insurance Commissioners, the association's duly authorized committees, subcommittees, task forces, delegates, and employees, and all others charged with the responsibility of collecting, reviewing, analyzing, and disseminating the information developed from the filing of the annual statement convention blanks are acting as agents of the director and shall not be subject to civil liability for libel, slander, or any cause of action by virtue of their collection, review, and analysis or dissemination of the data and information collected from the filings required of insurance companies under the insurance laws of this state or similar laws of other states.

Sec. 10. That section 44-114, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-114. In addition to any other fees and charges provided by law, the following shall be due and payable to the Department of Insurance: (1) For filing the documents, papers, statements, and information required by law upon the organization of domestic or the entry of foreign or alien insurers or rating bureaus, one three hundred dollars; ; except assessment associations, which shall pay a fee of fifty dollars only; (2) for filing each amendment of articles of incorporation, ten twenty dollars; (3) for filing restated articles of incorporation, ten twenty dollars;

(4) for renewing each certificate of authority of insurers or rating bureaus, ~~fifty one hundred dollars~~, except domestic assessment associations which do business in less than thirty-one counties in Nebraska, which shall pay ~~five twenty~~ dollars; (5) for issuance of an amended certificate of authority, ~~fifty one hundred~~ dollars; (6) for filing a certified copy of articles of merger involving a domestic or foreign insurance corporation holding a certificate of authority to transact insurance business in this state, ~~thirty fifty~~ dollars; (7) for filing an annual statement, ~~one two~~ hundred dollars; (8) ~~for copies of annual statements, which shall be made available to any person, persons, or corporation making request therefor, the fee shall be the actual cost;~~ (9) ~~for filing power of attorney, ten~~ dollars; (10) ~~for each certificate of valuation, deposit, or compliance, or other certificate for whomsoever issued, five dollars;~~ (11) ~~(9) for filing any report which may be required by the department from any unincorporated mutual association, five dollars;~~ (12) ~~for copying official records or documents, other than annual statements of authorized insurers, fifty cents per page; and (11) for a preadmission review of documents required to be filed for the admission of a foreign insurer or for the organization and licensing of a domestic insurer other than an assessment association, a nonrefundable fee of one thousand dollars.~~ (13) ~~for each resident consultant's license issued, thirty~~ dollars; (14) ~~for each nonresident consultant's license issued, thirty-six dollars; and (15) for each license issued pursuant to section 44-139 as now existing or as hereafter amended, one hundred dollars.~~

Sec. 11. That section 44-116, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-116. All money collected by the Department of Insurance for examination of the affairs of domestic, foreign, or alien insurance companies, reciprocal exchanges, fraternal benefit societies, nonprofit hospital service corporations, burial associations, governmental retirement systems, and rating bureaus or for valuing the reserve liabilities of life insurance companies, burial associations, or governmental retirement systems shall be paid ~~remitted~~ by the department ~~into to~~ the state treasury and deposited ~~credited~~ by the State Treasurer ~~in to~~ a fund to be known as the Department of Insurance Cash Fund, ~~which fund is hereby created.~~ Money in the Department of Insurance Cash Fund may be used for transfers to the General Fund

at the direction of the Legislature. Any money in the Department of Insurance Cash Fund available for investment shall be invested by the state investment officer pursuant to the provisions of sections 72-1237 to 72-1269 72-1276.

Sec. 12. That section 44-117, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-117. The Director of Administrative Services is, upon presentation of a voucher properly countersigned by the Director of Insurance, authorized to draw his warrants against the Insurance Examination Department of Insurance Cash Fund only for the purpose of paying the salaries and expenses of the personnel of the actuarial and examining staff of the Department of Insurance.

Sec. 13. That section 44-119, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-119. There In order to discharge the responsibilities of the department, including the requirements of section 44-107, there shall be appointed a sufficient staff of actuaries and examiners which shall include:

(1) One or more life insurance actuaries;
(2) One or more property and casualty insurance actuaries;

(3) One or more actuarial examiners;
(4) A chief financial examiner and one or more assistant chief financial examiners;

(5) One or more financial examiners;
(6) A chief market conduct examiner; and
(7) One or more market conduct examiners.

as follows: (1) An actuary, who shall have a degree with a major in actuarial science from a college or university offering courses leading to such degree, and two years' experience in life actuarial work or, in lieu thereof, who shall have had at least ten years' experience in actuarial work in either a life insurance company or office of a consulting actuary, or both; (2) one or more actuarial examiners, each of whom shall have a degree with a major in actuarial science from a college or university offering courses leading to such degree or, in lieu thereof, at least five years' experience in actuarial work in either a life insurance company or office of a consulting actuary or both; an actuary or actuarial examiner who is an associate or fellow of the American Institute of Actuaries, the Actuarial Society of America, or other recognized actuarial body of

comparable professional standing may be considered as qualified for the positions of actuary or actuarial examiner and may be eligible to receive from the beginning of his employment the maximum salary for which he would be eligible after five years¹ service with the department, as hereinafter provided; (3) a chief examiner, who shall have at least a bachelor's degree in accounting, or business administration with an accounting or actuarial science major, from a college or university offering courses leading to such degree, and who shall have had at least four years¹ experience as an insurance department examiner or, in lieu thereof, who shall have had at least eight years¹ experience as an insurance department examiner; PROVIDED; that each two years¹ experience in insurance accounting in an administrative capacity other than as an insurance examiner may be considered as the equivalent of one year's experience as an insurance examiner; (4) a sufficient number of senior examiners, each of whom shall have a bachelor's degree in accounting, or business administration with an accounting major, from a college or university offering courses leading to such a degree, and have had at least two years¹ experience as an insurance department examiner or, in lieu thereof, who shall have had at least four years¹ experience as an insurance department examiner or as an officer or employee in charge of the accounting department of an insurance company; and (5) a sufficient number of junior examiners, each of whom shall be a graduate of a school or college requiring at least two years¹ study of accounting or, in lieu thereof, shall have had at least four years¹ experience in the accounting department of an insurance company.

Sec. 14. That section 44-120, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-120. Whenever it appears to the Department of Insurance, from any proper showing or from any examination made, that the capital stock of any domestic stock insurance company is impaired, or that its assets are insufficient to justify its continuance in business, the department, in lieu of proceeding immediately in the manner authorized by sections 44-125 to 44-132, may at once determine the amount of such impairment or deficiency; and thereupon issue a written notice to the company, requiring its stockholders shareholders to make good the amount of the impairment or deficiency with cash or authorized investments; or to reduce its capital stock, not below statutory requirements, within a

reasonable time, not to exceed ninety days from the service of the notice.

Sec. 15. That section 44-122, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-122. No reduction of stock shall be made except upon the vote of the stockholders, approved by approval of at least two-thirds of the directors. The directors, after such reduction of capital stock, may require such stockholder shareholder to surrender his or her stock, and in lieu thereof may issue a new certificate for such number of shares as each shall be entitled to. A duly certified copy of the proceedings shall be filed in the office of the Secretary of State, in the office of the county clerk of the county in which the principal office of the company is located, and in the office of the Department of Insurance.

Sec. 16. That section 44-125, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-125. Whenever any domestic insurance company is insolvent, or has refused to submit its books, papers, accounts, or affairs to the reasonable inspection and examination of the Department of Insurance, or has neglected or refused to observe an order of the department to make good any impairment or deficiency of capital stock or minimum surplus, or whenever its capital stock or minimum surplus has shall have become impaired or deficient, whenever or it has by contract of reinsurance, or otherwise, transferred or attempted to transfer substantially its entire property or business, or entered into any transaction the effect of which is to merge substantially its entire property or business in the property or business of any other company, without first having obtained the written approval of the department, whenever it or is determined to be in such condition that its further transaction of business would be hazardous to its policyholders, or to its creditors, or to its stockholders shareholders, or to the public, whenever it or has willfully violated its articles of incorporation or associations, or any law of any state, or whenever any trustee, director, manager, or officer thereof has refused to be examined under oath touching its affairs, the department may apply to the district court, or any judge thereof, in the county or judicial district in which the principal office of such company is located, for an order directing such company to show cause why the department should not take possession of its property, records, and effects; and

conduct or close its business, and for such other relief as the nature of the case and the interest of its policyholders, creditors, ~~stockholders~~ or shareholders or the public may require.

Sec. 17. That section 44-127.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-127.04. Unless a claim is filed in the manner and within the time provided in section 44-127.01, it shall not be entitled to filing or allowance, and no action may be maintained thereon. In a liquidation, pursuant to ~~the provisions of sections 44-127 to 44-127-11, 44-127.10~~ of any domestic insurer which has issued policies insuring the lives of persons, the liquidator shall, within thirty days after the last day set for the filing of claims, make a list of the persons who have not filed proofs of claim with him or her and to whom, according to the records of ~~said the~~ insurer, there are amounts owing under such policies, and he or she shall set opposite the name of each person the amount so owing to such person. Each person whose name shall appear upon ~~said the~~ list shall be deemed to have duly filed, prior to the last day set for the filing of claims, a claim for the amount set opposite his or her name on ~~said the~~ list.

Sec. 18. That section 44-127.08, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-127.08. Every person so subpoenaed anywhere within the state shall be obliged to attend as a witness at the place specified in the subpoena. He or she shall be entitled to the same fees and mileage, if claimed, as a witness in the district court with mileage to be computed at the rate provided in section 81-1176 ~~for state employees,~~ regardless of where he or she resides or was served in the state. ~~The provisions of sections Sections~~ Sections 44-109 and 44-110 shall apply to persons subpoenaed pursuant to ~~the provisions of sections 44-127 to 44-127-11 44-127.10.~~

Sec. 19. That section 44-127.14, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-127.14. As used in sections 44-127.13 to 44-127.24, unless the context otherwise requires:

(1) Insurance company or insurer shall mean any person, organization, association, or company, acting as an insurer, or as principal or agent of an insurer, including stock companies, reciprocals, or interinsurance exchanges, Lloyds associations, fraternal

benefit societies, and mutual companies of all kinds, including statewide mutual assessment corporations, local mutual aids, ~~burial associations~~, and county mutual insurance companies, and farm mutual insurance companies;

(2) Insolvent and the phrases in further identity of insurer delinquency and threatened insurer delinquency shall mean and include, but are not limited to, any one or more of the following circumstances or conditions:

(a) If an insurance company's required surplus, capital, or capital stock is impaired to an extent prohibited by law;

(b) If an insurance company continues to write new business when it is not possessed of the surplus, capital, or capital stock which is required of it by law to permit it to do so;

(c) If the business of any such insurance company is being conducted fraudulently; or

(d) If any such insurance company attempts to dissolve or liquidate without first having made provisions, satisfactory to the Director of Insurance, for liabilities arising from policies of insurance issued by such company;

(3) Exceeded its powers shall mean, but is not be limited to, the following circumstances:

(a) If an insurance company has refused to permit examination of its books, papers, accounts, records, or affairs by the Director of Insurance, his or her duly appointed representative, or duly commissioned examiners, ; or if any insurance company, organized in the State of Nebraska, has removed from the state such books, papers, accounts, or records necessary for an examination of such insurance company;

(b) If an insurance company has failed to promptly answer inquiries authorized by any provisions of the Nebraska statutes;

(c) If an insurance company has neglected or refused to observe an order of the director to make good, within the time prescribed by law, any prohibited deficiency in its capital, capital stock, or surplus;

(d) If an insurance company without first having obtained written approval of the director has by contract or otherwise: (i) Substantially reinsured its entire outstanding business; ; or (ii) substantially merged or consolidated its entire property or business with another insurer; or

(e) If any insurance company is continuing to write business after its license has been revoked or

suspended; and

(4) Consent shall mean an agreement to either supervision or conservatorship by the insurance company.

Sec. 20. That section 44-127.30, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-127.30. Notice of such an application pursuant to section 44-127.26 shall be given to the associations in and to the commissioners or directors of insurance of each of the states. Any such notice shall be deemed to have been given when deposited in the United States first-class mail, postage prepaid, at least thirty days prior to submission of such application to the district court. Action on the application may be taken by the district court if the required notice has been given and if the director's proposal complies with subsections subdivisions (1) and (2) of section 44-127.27.

Sec. 21. That section 44-129, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-129. For the purpose of taking possession of and liquidating a domestic company, the Department of Insurance shall have power, subject to the approval of the court; and in accordance with sections 44-127.26 to 44-127.31, to make such rules and regulations as the department may deem proper. Such rules shall not be subject to the Administrative Procedure Act.

Sec. 22. That section 44-130, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-130. The Department of Insurance shall transmit to the Clerk of the Legislature, in its annual report, the names of the companies so taken possession of, whether the same have resumed business or have been liquidated, and such other facts as shall acquaint the policyholders, creditors, stockholders shareholders, and the public, with its proceedings. Each member of the Legislature shall receive a copy of such report by making a request for it to the director.

Sec. 23. That section 44-133.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-133.01. Sections 44-133.01 to 44-133.08 shall be known and may be cited as the Insurance Company Plan of Exchange Act.

Sec. 24. That section 44-133.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-133.04. (1) Such plan of exchange shall then be submitted to the Director of Insurance for his or her approval after a hearing at which the steekholders shareholders of the company to be acquired shall have an opportunity to be heard upon at least ten days' notice to be given by the company to its steekholders shareholders of record at the time of mailing such notice. The director shall approve such plan within twenty days after such hearing unless he or she finds that the terms and conditions thereof for the issuance and exchange of securities or other consideration are unfair to the shareholders of the company to be acquired or if he or she finds that any of the conditions set forth in subsection (1) of section 44-2108 exist.

(2) After having obtained the approval of the Director of Insurance, the plan of exchange shall be submitted to a vote at a meeting of the shareholders of the company to be acquired. Such meeting may be either an annual or a special meeting. Notice shall be given not less than twenty days before such meeting to each shareholder of record as of the time of mailing such notice. Such notice shall be deemed to be delivered when deposited in the United States mail with postage prepaid, addressed to the shareholder at his or her address as it appears on the records of the company. A copy or summary of the plan of exchange shall be included in or enclosed with such notice. Each outstanding share of such company shall be entitled to vote on the proposed plan, whether or not such share has voting rights under the provisions of the articles of incorporation of such company. The affirmative vote of two-thirds of all of the outstanding shares, in person or by proxy, shall be necessary for the approval of any such plan by such shareholders.

Sec. 25. That section 44-137.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~44-137-01-~~ The purpose of ~~sections 44-137-01~~ ~~to 44-137-10~~ the Unauthorized Insurers Process Act is to subject certain insurers to the jurisdiction of courts of this state in suits by or on behalf of insureds or beneficiaries under insurance contracts. The Legislature declares that it is a subject of concern that many residents of this state hold policies of insurance issued or delivered in this state by insurers while such insurers are not authorized to do business in this state, thus presenting to such residents the often insuperable obstacle of resorting to distant forums for

the purpose of asserting legal rights under such policies. In furtherance of such state interest, the Legislature exercises its power to protect its residents.

Sec. 26. That section 44-137.08, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~44-137-08-~~ The provisions of sections 44-137-01 to 44-137-10 Unauthorized Insurers Process Act shall not apply to any action, suit, or proceeding against any nonadmitted foreign or alien insurer arising out of any contract of insurance (1) effected in accordance with sections 44-139 to ~~44-147~~ 44-147.06, (2) covering reinsurance, ocean marine, aircraft, or railway insurance risks, (3) against legal liability arising out of the ownership, operation, or maintenance of any property having a permanent situs outside this state, or (4) against loss of or damage to any property having a permanent situs outside this state, where when such contract of insurance contains a provision designating a Nebraska resident agent duly licensed under the provisions of sections 44-139 to 44-147; such sections to be the true and lawful attorney of such nonadmitted insurer upon whom may be served all lawful process in any action, suit, or proceeding instituted by or on behalf of an insured or beneficiary arising out of any such contract of insurance; or where when the insurer enters a general appearance in any action, suit, or proceeding.

Sec. 27. That section 44-137.10, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~44-137-10-~~ Sections 44-137.01 to 44-137.10 shall be known and may be cited as the Unauthorized Insurers Process Act.

Sec. 28. That section 44-138, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-138. The Department of Insurance shall cause to be examined; ~~by its officers~~; the proceedings of every domestic insurance company to increase or reduce its capital stock; and; ~~if found conformable to law and approved by the department~~; shall issue a certificate of authority to such company to transact business upon such increased or reduced capital. It shall require a vote of one-half of the capital stock to increase or decrease the same for compliance with the requirements of law.

Sec. 29. That section 44-139, Reissue Revised

Statutes of Nebraska, 1943, be amended to read as follows:

44-139. The Department of Insurance, in consideration of a yearly payment as otherwise provided by law and the furnishing of a bond as provided in section 44-140, may issue to any person a resident surplus lines license, revocable at any time, to any individual who currently holds a resident agent's license or resident broker's license a license, revocable at any time, permitting the party or to a foreign or domestic corporation. The surplus lines license shall permit an individual named in such license to place or effect insurance upon risks located in this state with companies not licensed to do business in this state. Such license shall be known as a surplus lines agent's license. The corporate surplus lines license shall list all individuals who are officers or employees of the corporation and who currently hold a resident agent's license or resident broker's license. Only individuals listed on the corporate surplus lines license shall transact surplus lines business on behalf of the corporate licensee.

Sec. 30. That section 44-140, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-140. (1) No person shall place, procure, or effect insurance upon any risk located in this state in any company not licensed to do business in this state until such person shall have first procured a license from the Department of Insurance as provided in section 44-139.

(2) Application for a surplus lines agent's license shall be made to the Department of Insurance on forms designated and furnished by the department and shall be accompanied by a license fee as established by the director not to exceed one hundred twenty-five dollars for each individual surplus lines license and not to exceed two hundred fifty dollars for each corporate surplus lines license and on and after April 30, 1990, a license fee as established by the director not to exceed two hundred fifty dollars for each individual surplus lines license and for each corporate surplus lines license. The license fees shall be as specified in subdivision (13) of section 44-114. Before the issuance of a surplus lines agent's license, the applicant therefor shall file with the director and thereafter maintain in force while so licensed a bond in favor of the State of Nebraska in the penal sum of not less than ten thousand dollars with authorized surety

insurers approved by the director. The director may require a bond in an amount greater than ten thousand dollars if he or she determines that the volume of business written or to be written by an agent a licensee warrants the maintenance of such a bond. In no event shall the director require a bond greater than fifty one hundred thousand dollars. The bond shall be conditioned that the surplus lines licensee shall: (a) Conduct business under such license in accordance with the provisions of sections 44-139 to 44-147.06; (b) duly account for and pay to persons entitled thereto funds received by him or her the licensee in transactions under the license; and (c) pay the taxes required by section 44-142. The bond shall remain in force until released by the director or until canceled by the surety. Without prejudice to any liability previously incurred thereunder, the surety may cancel the bond upon thirty days' written notice to the agent licensee and the director. The form of bond must shall have the prior written approval of the director.

(3) All individual and corporate surplus lines licenses shall expire on April 30 of each year, except that all individual surplus lines licenses issued on or after April 30, 1990, shall expire on the licensee's birthday in the first year after issuance in which his or her age is divisible by two and such individual surplus lines licenses may be renewed within the ninety-day period before their expiration dates. The department shall establish procedures for the renewal of surplus lines licenses. Every licensee shall notify the department within thirty days of any changes in the licensee's residential or business address.

Sec. 31. That section 44-141, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-141. Each surplus lines agent licensee shall keep in his the licensee's office in this state a true and complete record of the business transacted by the agent licensee, showing (1) the exact amount of insurance or limits of exposure, ; (2) the gross premiums charged therefor, ; (3) the return premium paid thereon, ; (4) the rate of premium charged for such insurance, ; (5) the date of such insurance, ; and terms thereof, ; (6) the name and address of the company making such insurance, ; (7) a copy of the declaration page of each policy and a copy of each policy form issued by the agent, licensee, (8) a copy of the written statement described in subdivision (2) of section 44-147.02 or, in lieu thereof, a copy of the application

containing such written statement, and (9) the name and address of the insured, and (10) a brief and general description of the risk or exposure insured, and where located, and (11) such other facts and information as the Department of Insurance may direct and require. Such records shall be kept by the agent licensee in his the licensee's office within the state for not less than five years and shall at all times be open and subject to the inspection and examination of the department or its officers. The expense of any examination shall be paid by the agent licensee.

Sec. 32. That section 44-142, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-142. Every agent surplus lines licensee who places, effects, or delivers any insurance or insurance policy, as provided in sections 44-139 to ~~44-142, 44-145, and 44-147~~ to 44-147.06, shall annually, on or before February 15 in each year, make and file with the Department of Insurance a verified statement upon a form prescribed by the department, which shall exhibit the true amount of all such business transacted during the year ending on December 31 next preceding the making thereof. The agent licensee shall, at the time such statement is submitted, pay to the department a tax of three percent on the total gross amount of direct writing premiums received by the agent licensee on such business and the fire insurance tax prescribed in section 81-523. In no event shall such taxes be determined on a retaliatory basis pursuant to section 44-150. For purposes of this section, ~~unless the context otherwise requires,~~ direct writing and premiums shall be as defined in section 77-907.

Sec. 33. That section 44-147, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-147. Every surplus lines agent licensee, transacting business under the provisions of sections 44-139 to 44-147.06, shall ascertain the financial condition of each insurer before ~~he~~ such licensee procures a policy of insurance therefrom or places any insurance with such insurer. No such agent licensee shall knowingly, or without proper investigation, place any insurance with or procure any insurance from any nonadmitted foreign insurer that does not have surplus, capital, and reserves in amounts equal to or greater than the aggregate requirements of surplus, capital, and reserves placed on companies admitted to do business in this state which write the same kinds of insurance; or

place any insurance with or procure any insurance from nonadmitted alien insurers who do not maintain in the United States adequate guaranty deposits for the protection of policyholders in the United States. Any person licensee violating the provisions of this section shall be guilty of a Class V misdemeanor.

Sec. 34. That section 44-147.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-147.01. A surplus lines agent licensee shall stamp or type upon the declaration page of each policy procured and delivered under the provisions of sections 44-139 to 44-147.06 the following information: (1) His The licensee's name, business address, and surplus lines license number; (2) the name under which he the licensee conducts business if different than his the licensee's own name; and (3) the language: This policy is issued by a nonadmitted insurance company, and in the event of the insolvency of such company, this policy will not be covered by the Nebraska Property and Liability Insurance Guaranty Association.

Sec. 35. That section 44-147.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-147.02. If an applicant for insurance is unable to procure such insurance as he or she deems reasonably necessary to insure a risk or exposure from an admitted insurer, such insurance may be procured from an insurer not admitted to do business in this state; upon the following terms and conditions:

(1) The insurance shall be procured from a licensed surplus lines agent licensee;

(2) Prior to Not later than thirty days after the effective date of such insurance, the insured shall provide, in writing, his or her permission for such insurance to be written in an insurance company that is not licensed to do business in Nebraska and his or her acknowledgment that, in the event of the insolvency of such company, the policy will not be covered by the Nebraska Property and Liability Insurance Guaranty Association; and

(3) Compliance with section 44-147.03.

Sec. 36. That section 44-147.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-147.03. No later than thirty days after the last day of each calendar quarter, every licensed surplus lines agent licensee shall file with the department a report, containing such information as the

department may require, including, but not limited to, the following: (1) The name of the nonadmitted insurer; (2) the name of the agent licensee; (3) the number of policies issued by each nonadmitted insurer; (4) a sworn statement by the agent licensee with regard to the coverages described in the quarterly report that, to the best of ~~his or her~~ the licensee's knowledge and belief, ~~he or she~~ the licensee could not reasonably procure such coverage from a company admitted to do business in Nebraska; and (5) the premium volume for each nonadmitted insurer by line of business.

Sec. 37. That section 44-147.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-147.04. (1) Whenever the Director of Insurance shall have reason to believe that a ~~surplus lines agent~~ any person has violated the provisions of sections 44-139 to 44-147.06, he ~~shall~~ shall have the authority to ~~or she may~~ hold a hearing to determine whether or not such violation occurred.

(2) Such hearing, and any appeal therefrom, shall be ~~conducted~~ conducted in accordance with ~~section~~ section 44-2312 the Administrative Procedure Act.

(3) If, after such hearing, the Director of Insurance ~~shall find~~ finds that the person charged has committed the violations as alleged, he ~~or she~~ shall reduce his ~~or her~~ findings to writing and serve a copy of the ~~same~~ findings on the person charged and, in addition, the Director of Insurance ~~director~~ may order any one or more of the following:

(a) That such person cease and desist from engaging in such activities;

(b) Payment of a fine of not more than five thousand dollars; and

(c) Suspension or revocation of the agent's surplus lines ~~license~~ license for such period of time as the director ~~shall determine~~ determines.

(4) Any person who violates a cease and desist order may, after notice and hearing ~~as provided in this section~~, and upon order of the director, be subject to:

(a) Payment of a fine of not more than ten thousand dollars; and

(b) Suspension or revocation of each insurance license held by such person for such period of time as the director ~~shall determine~~ determines.

Sec. 38. That section 44-147.06, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-147.06. The director shall have the

authority to adopt and promulgate reasonable rules and regulations as may be reasonably necessary to carry out the provisions of sections 44-139 to 44-147.06.

Sec. 39. That section 44-152, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-152. Whenever it ~~shall appear~~ appears to the Director of Insurance that permission to transact business within any state of the United States, or within any foreign country, is refused to a company organized under the laws of this state after a certificate of compliance the solvency and good management of such company has been issued to ~~it~~ the company by the said director, and after such company has complied with all laws of such state or foreign country, then and in every such case, the director may forthwith cancel the authority of every company organized under the laws of such state, or foreign government, licensed to do business in this state, and may refuse a certificate of authority to every such company thereafter applying to him or her for authority to do business in this state, until his or her certificate ~~shall have~~ has been duly recognized by the government of such state or country.

Sec. 40. That section 44-157, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-157. All fees and charges required by the provisions of sections ~~21-1514, 44-114, 44-139, 44-155, 44-158, 44-1418, and 44-1461~~ Chapter 44 shall be paid in the manner and within the time prescribed by the Director of Insurance as approved by the Tax Commissioner. All such fees and charges, including fees and charges collected pursuant to the retaliatory statutes of this such chapter, which are in excess of or in addition to the fees and charges collected pursuant to the provisions of such sections such chapter, shall be deposited by the State Treasurer to the account of and for the use of a ~~fund to be known~~ as the Department of Insurance Cash Fund, to be appropriated and expended for the supervision, control, and regulation of the business of insurance in Nebraska. If payment of any such fee or charge is not made within the time prescribed, as approved, the director shall report such failure or neglect to the Attorney General who shall institute an action in the name of the State of Nebraska for the purpose of recovering the money due. All fees and charges of any nature whatsoever, which are paid to the Department of Insurance or to the Director of

Insurance by virtue of his or her office, shall be paid forthwith into the state treasury and deposited by the State Treasurer to the Department of Insurance Cash Fund.

Sec. 41. That section 44-201, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-201. An insurance corporation may be formed for the following purposes or may insure the following lines:

(1) LIFE INSURANCE. Insurance upon lives of persons, including endowments and annuities, and every insurance pertaining thereto and disability benefits, except that life insurance shall not include variable life insurance specified in subdivision (2) of this section and variable annuities specified in subdivision (3) of this section;

(2) VARIABLE LIFE INSURANCE. Insurance on the lives of individuals, the amount or duration of which varies according to the investment experience of any separate account or accounts established and maintained by the insurer as to such insurance;

(3) VARIABLE ANNUITIES. Insurance policies issued on an individual or group basis by which an insurer promises to pay a variable sum of money either in a lump sum or periodically for life or for some other specified period;

(4) SICKNESS AND ACCIDENT INSURANCE. Insurance against loss or expense resulting from the sickness of the insured, from bodily injury or death of the insured by accident, or both, and every insurance pertaining thereto;

(5) PROPERTY INSURANCE. Insurance against loss or damage, including consequential loss or damage, to real or personal property of every kind and any interest in such property from any and all hazards or causes, except that property insurance shall not include title insurance specified in subdivision (15) of this section and marine insurance specified in subdivision (18) of this section;

(6) CREDIT PROPERTY INSURANCE. Insurance against loss or damage to personal property used as collateral for securing a loan or to personal property purchased pursuant to a credit transaction, but only insofar as it applies to property sold to or pledged by individual consumers for personal use;

(7) GLASS INSURANCE. Insurance against loss or damage to glass, including its lettering, ornamentation, and fittings;

(8) BURGLARY AND THEFT INSURANCE. Insurance against loss or damage by burglary, theft, larceny, robbery, forgery, fraud, vandalism, malicious mischief, confiscation or wrongful conversion, disposal, or concealment or from any attempt at any of the foregoing;

(9) BOILER AND MACHINERY INSURANCE. Insurance against any liability and loss or damage to life, person, property, or interest resulting from accidents to or explosions of boilers, pipes, pressure containers, machinery, or apparatus;

(10) LIABILITY INSURANCE. Insurance against legal liability for the death, injury, or disability of any person, for injury or damage to any person, or for damage to property, and the providing of medical, hospital, surgical, or disability benefits to injured persons and funeral and death benefits to dependents, beneficiaries, or personal representatives of persons killed, irrespective of legal liability of the insured, when issued as an incidental coverage with or supplemental to liability insurance, except that liability insurance shall not include workers' compensation and employers' liability insurance specified in subdivision (11) of this section;

(11) WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY INSURANCE. Insurance against the legal liability of any employer for the death or disablement of or injury to an employee whether imposed by common law or statute or assumed by contract, except that workers' compensation and employers' liability insurance shall not include liability insurance specified in subdivision (10) of this section;

(12) VEHICLE INSURANCE. Insurance against any loss or damage to any land vehicle, other than railroad rolling stock, or any draft animal, from any hazard or cause, and against any loss, liability, or expense resulting from or incidental to ownership, maintenance, or use of any such vehicle or animal, together with insurance against accidental injury to or death of any person, irrespective of legal liability of the insured, if such insurance is issued as an incidental part of insurance on the vehicle or draft animal;

(13) FIDELITY INSURANCE. Insurance guaranteeing the fidelity of persons holding positions of public or private trust;

(14) SURETY INSURANCE. Insurance guaranteeing the performance of contracts other than insurance policies or guaranteeing and executing all bonds, undertakings, and contracts of suretyship, except that surety insurance shall not include title insurance

specified in subdivision (15) of this section and financial guaranty insurance specified in subdivision (19) of this section:

(15) TITLE INSURANCE. Insurance guaranteeing or indemnifying owners of real property or others interested therein against loss or damage suffered by reason of (a) liens, encumbrances upon, defects in, or the unmarketability of title to such real property, or adverse claim to title in real property with reasonable examination of title guaranteeing, warranting, or otherwise insuring by a title insurance company the correctness of searches relating to the title to real property and (b) defects in the authorization, execution, or delivery of an encumbrance upon such real property, or any share, participation, or other interest in such encumbrance, guaranteeing, warranting, or otherwise insuring by a title insurance company the validity and enforceability of evidences of indebtedness secured by an encumbrance upon or interest in such real property:

(16) CREDIT INSURANCE. Insurance against loss or damage from the failure of persons indebted to or to become indebted to the insured to meet existing or contemplated liabilities, including agreements to purchase uncollectible debts, except that credit insurance shall not include mortgage guaranty insurance specified in subdivision (17) of this section and financial guaranty insurance specified in subdivision (19) of this section:

(17) MORTGAGE GUARANTY INSURANCE. Insurance against financial loss by lenders by reason of nonpayment of principal, interest, or other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust, or other instrument constituting a lien or charge on real estate:

(18) MARINE INSURANCE. Insurance against loss or damage, including consequential loss or damage, to vessels, craft, aircraft, automobiles, and vehicles of every kind as well as goods, freights, cargoes, merchandise, effects, disbursements, profits, money, bullion, precious stones, securities, choses in action, evidences of debt, valuable papers, bottomry, and respondentia interests, and all kinds of property and interests therein in respect to, pertaining to, or in connection with any or all risks or perils of navigation, transit, or transportation, including war risks, on or under any seas, or waters, on land or in the air, or while being assembled, packed, crated,

baled, compressed, or similarly prepared for shipment or while awaiting the same, or during any delays, storage, transshipment, or reshipment incidental thereto; including marine builders' risks and war risks; and against loss or damage to persons or property in connection with or appertaining to marine, inland marine, transit, or transportation insurance, including loss or damage to either, arising out of or in connection with the construction, repair, operation, maintenance, or use of the subject matter of such primary insurance, but not including life insurance or surety bonds; but, except as specified in this subdivision, marine insurance shall not include insurance against loss by reason of bodily injury to the person:

(19) FINANCIAL GUARANTY INSURANCE. (1)

Insurance issued in the form of a surety bond, insurance policy, or, when issued by an insurer, an indemnity contract and any guaranty similar to the foregoing types, against financial loss to an insured claimant, obligee, or indemnitee as a result of any of the following events:

(a) Failure of any obligor on any debt instrument or other monetary obligation, including common or preferred stock guaranteed under a surety bond, insurance policy, or indemnity contract, to pay when due principal, interest, premium, dividend, or purchase price of or on such instrument or obligation, when such failure is the result of a financial default or insolvency, regardless of whether such obligation is incurred directly or as guarantor by or on behalf of another obligor that has also defaulted;

(b) Changes in the levels of interest rates, whether short or long term, or the differential in interest rates between various markets or products;

(c) Changes in the rate of exchange of currency;

(d) Inconvertibility of one currency into another for any reason or inability to withdraw funds held in a foreign country resulting from restrictions imposed by a governmental authority;

(e) Changes in the value of specific assets or commodities, financial or commodity indices, or price levels in general; or

(f) Other events which the Director of Insurance determines are substantially similar to any of the events described in subdivisions (a) through (e) of this subdivision.

(2) Financial guaranty insurance shall not

include:

(a) Insurance of any loss resulting from any event described in subdivisions (19)(1)(a) through (e) of this section if the loss is payable only upon the occurrence of any of the following, as specified in a surety bond, insurance policy, or indemnity contract:

(i) A fortuitous physical event;

(ii) A failure of or deficiency in the operation of equipment; or

(iii) An inability to extract or recover a natural resource;

(b) Any individual or schedule public official bond;

(c) Any contract bond, including bid, payment, or maintenance bond, or a performance bond when the bond is guarantying the execution of any contract other than a contract of indebtedness or other monetary obligation;

(d) Any court bond required in connection with judicial, probate, bankruptcy, or equity proceedings, including waiver, probate, open estate, and life tenant bond;

(e) Any bond running to the federal, state, county, or municipal government or other political subdivision as a condition precedent to granting of a license to engage in a particular business or of a permit to exercise a particular privilege;

(f) Any loss security bond or utility payment indemnity bond running to a governmental unit, railroad, or charitable organization;

(g) Any lease, purchase, and sale or concessionaire surety bond;

(h) Credit unemployment insurance, meaning insurance on a debtor, in connection with a specific loan or other credit transaction, to provide payments to creditor in the event of unemployment of the debtor for the installments or other periodic payments becoming due while a debtor is unemployed;

(i) Credit insurance, meaning insurance indemnifying manufacturers, merchants, or educational institutions extending credit against loss or damage resulting from nonpayment of debts owed to them for goods or services provided in the normal course of their business;

(j) Guaranteed investment contracts issued by life insurance companies which provide that the life insurer itself will make specified payments in exchange for specific premiums or contributions;

(k) Surety insurance as specified in subdivision (14) of this section and mortgage guaranty

insurance as specified in subdivision (17) of this section;

(l) Indemnity contracts or similar guaranties to the extent that they are not otherwise limited or proscribed by Chapter 44 in which a life insurer;

(i) Guaranties its obligations or indebtedness or the obligations or indebtedness of a subsidiary of which it owns more than fifty percent, other than a financial guaranty insurance corporation, except that:

(A) To the extent that any such obligations or indebtedness are backed by specific assets, such assets shall at all times be owned by the insurer or the subsidiary; and

(B) In the case of the guaranty of the obligations or indebtedness of the subsidiary that is not backed by specific assets of the life insurer, such guaranty terminates once the subsidiary ceases to be a subsidiary; or

(ii) Guaranties obligations or indebtedness, including the obligation to substitute assets where appropriate, with respect to specific assets acquired by a life insurer in the course of normal investment activities and not for the purpose of resale with credit enhancement, or guaranties obligations or indebtedness acquired by its subsidiary if such assets have been:

(A) Acquired by a special purpose entity, the sole purpose of which is to acquire specific assets of the life insurer or the subsidiary and issue securities or participation certificates backed by such assets; or

(B) Sold to an independent third party; or

(iii) Guaranties obligations or indebtedness of an employee or agent of the life insurer; and

(m) Any other form of insurance covering risks which the director determines to be substantially similar to any of the risks described in subdivisions (a) through (l) of this subdivision; and

(20) MISCELLANEOUS INSURANCE. Insurance upon any risk, including but not limited to legal expense insurance and mechanical breakdown insurance, not included within subdivisions (1) to (19) of this section, and which is a proper subject for insurance, not prohibited by law or contrary to sound public policy, to be determined by the Department of Insurance.

(f) FIRE MARINE--(a) To make insurance upon property, or any valuable interest therein, against loss or damage caused by fire, lightning or other electrical disturbances, earthquake, windstorm, cyclone, tornado, tempest, hail, frost, snow, ice, sleet, weather, or climatic condition, including excess or deficiency of

moisture, flood, rain, or drought, a rising of the waters of the ocean or its tributaries, bombardment, invasion, insurrection, riot, civil war or commotion, military or usurped power, explosion, other than the explosion of steam boilers, or the breaking of engines, turbines, flywheels or electrical machinery on the premises insured, against loss or damage from any cause to trees, crops, and farm products, (b) to make insurance against loss or damage to property and against the liability of the insured for loss or damage to the property of others caused by smoke and smudge, or by water entering through leaks or openings in buildings or from the breakage or leakage of sprinklers, pumps, water pipes, plumbing, and all tanks, apparatus, conduits, and containers designed to bring water into buildings or for its storage or utilization therein, or caused by the falling of a tank, tank platform or supports, and against loss or damage from any cause to such sprinklers, pumps, water pipes, plumbing, tanks, apparatus, conduits, or containers, (c) to make insurance upon teams, farm tractors, farm machinery, and other equipment, airplanes, seaplanes, dirigibles, and other aircraft (i) against all loss or damage to the same, their fittings and contents, from any cause, including the hazards of burglary, theft, or other criminal act, vandalism or malicious mischief, or (ii) against loss or damage to property, including legal liability therefor, caused by the operation, maintenance, and use of the same, (d) to make insurance against loss or damage to vessels, craft, aircraft, automobiles, and vehicles of every kind as well as goods, freights, cargoes, merchandise, effects, disbursements, profits, money, bullion, precious stones, securities, choses in action, evidences of debt, valuable papers, bottomry, and respondentia interests, and all kinds of property and interests therein in respect to, pertaining to, or in connection with any or all risks or perils of navigation, transit, or transportation, including war risks, on or under any seas, or waters, on land or in the air, or while being assembled, packed, crated, baled, compressed, or similarly prepared for shipment or while awaiting the same, or during any delays, storage, transshipment, or reshipment incidental thereto, including marine builders' risks and war risks, and from loss or damage to persons or property in connection with or appertaining to marine, inland marine, transit or transportation insurance, including loss or damage to either, arising out of or in connection with the

construction, repair, operation, maintenance or use of the subject matter of such primary insurance, but not including life insurance or surety bonds, but, except as herein specified, shall not mean insurance against loss by reason of bodily injury to the person; (e) against consequential loss or damage arising from any of the causes above enumerated; (f) against loss or damage to horses, cattle, other livestock, and domestic animals; by accident, theft, or death, or against any known or contingent event whatever, which may lawfully be the subject of insurance; and (g) against other loss or damage to property not prohibited by law or contrary to public policy to be determined by the Department of Insurance;

(2) LIFE INSURANCE--Upon lives of persons, including endowments and annuities, and every insurance pertaining thereto and disability benefits;

(3) SICKNESS AND ACCIDENT INSURANCE--Against loss or expense resulting from the sickness of the insured, or from bodily injury or death of the insured by accident, or both, and every insurance pertaining thereto, including quarantine;

(4) FIDELITY INSURANCE--Guaranteeing the fidelity of persons holding places of public or private trust; guaranteeing the performance of contracts other than insurance policies, or guaranteeing and executing all bonds, undertakings, and contracts of suretyship;

(5) LIABILITY INSURANCE--Against loss or damage resulting from accident to, or injury, fatal or nonfatal, suffered by an employee or other person for which the insured is liable;

(6) PLATE GLASS INSURANCE--Against breakage of glass, whether local or in transit;

(7) BOILER AND MACHINE INSURANCE--Upon steam boilers and upon pipes, engines, and machinery connected therewith and operated thereby, against explosion and accident, and against loss or damage to life, person, or property resulting therefrom;

(8) BURGLARY INSURANCE--Against loss by burglary, housebreaking, or theft;

(9) VARIABLE ANNUITIES--Policies issued on an individual or group basis by which an insurer promises to pay a variable sum of money either in a lump sum, or periodically for life or for some other specified period;

(10) CREDIT INSURANCE--Guaranteeing either by agreement to purchase uncollectible debts, or otherwise to insure against loss or damage from the failure of persons indebted to or to become indebted to the

insured, or to meet existing or contemplated liabilities;

(11) TITLE INSURANCE--(a) Insuring, guaranteeing or indemnifying owners of real property or others interested therein against loss or damage suffered by reason of liens, encumbrances upon, defects in or the unmarketability of title to such real property, or adverse claim to title in real property with reasonable examination of title guaranteeing, warranting or otherwise insuring by a title insurance company the correctness of searches relating to the title to real property;

(b) Insuring, guaranteeing, or indemnifying owners of real property or others interested therein against loss or damage suffered by reason of defects in the authorization, execution, or delivery of an encumbrance upon such real property, or any share, participation, or other interest in such encumbrance; guaranteeing, warranting, or otherwise insuring by a title insurance company the validity and enforceability of evidences of indebtedness secured by an encumbrance upon or interest in such real property;

(12) AUTOMOBILE, ENGINE, ELEVATOR INSURANCE--Against any hazard resulting from the ownership, operation, maintenance or use of any automobile, and against loss or legal liability for loss resulting from accident or injury to person or persons, fatal or nonfatal, because of damage to property caused by the use of teams or vehicles, whether by fire, accident, collision, or by the explosion of any engine, tank, boiler, pipe, or tire of any vehicle, and against all loss or damage to vehicles, their fittings and contents, from any cause, including the hazards of burglary, theft or other criminal act, vandalism or malicious mischief, and the term vehicle, as herein used, includes in addition to its ordinary meaning, elevators, automobiles, traction engines, motorcycles and bicycles, but does not include ships, vessels, boats, or railroad rolling stock, or

(13) MISCELLANEOUS INSURANCE--Upon any risk, including but not limited to legal expense insurance and mechanical breakdown insurance, not included within any of the foregoing classes and which is a proper subject for insurance, not prohibited by law or contrary to sound public policy, to be determined by the Department of Insurance.

Sec. 42. Any insurance company which is, on the effective date of this act, the holder of a valid certificate of authority issued by the Department of

Insurance in effect immediately prior to such date may, on and after such date, subject to compliance with Chapter 44 and the rules and regulations of the department, continue to transact any insurance business in this state authorized by such certificate of authority and shall thereafter be eligible to have such certificate of authority renewed pursuant to Chapter 44. The Director of Insurance shall determine what line or lines of insurance as specified in section 44-201 each renewed certificate of authority shall include. Any certificate of authority valid on the effective date of this act shall expire on April 30, 1990, as provided in section 44-303.

Sec. 43. That section 44-202, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-202. (1) Companies may be formed upon the stock or mutual plan to transact any kind line or lines of insurance authorized by section 44-201, or upon the assessment plan to transact the kinds any line or lines of insurance described specified in subdivisions (1), (3), and (6) thereof (4), (5), (7), and (18) of such section, or upon the fraternal plan to transact the kind of insurance described in subdivision (2) thereof insurance as authorized in Chapter 44, article 10. An assessment association may, in addition to the kinds any line or lines of insurance described in subdivisions (1), (3), and (6) (4), (5), (7), and (18) of section 44-201, be authorized to transact any kinds line or lines of insurance which a mutual company may transact when such association has accumulated and thereafter at all times maintains the same reserves, surplus, and contingency funds required to be maintained by a mutual company organized to transact the same kinds line or lines of insurance.

(2) A domestic company, including a nonprofit hospital service corporation, may, notwithstanding limitations otherwise applicable, and provided if it maintains books and records which account for such business, engage directly in any of the following businesses: (a) Rendering investment advice; (b) rendering services related to the functions involved in the operation of its insurance business, including, but not limited to, actuarial, loss prevention, marketing and sales, safety engineering, data processing, accounting, claims, appraisal, and collection services; (c) acting as trustee or fiduciary in the administration of pension, profit-sharing, and other benefit plans for employees, and self-employed persons and individual

retirement accounts or annuities, if, in the judgment of the company, such plans constitute qualified plans under the provisions of the Internal Revenue Code of 1954 1986, as amended; (d) acting as administrative agent for a government governmental instrumentality which is performing an insurance function for a health or welfare program; and (e) any other business activity reasonably complementary or supplementary to its insurance business, either to the extent necessarily or properly incidental to the insurance business which the company, including a nonprofit hospital service corporation, is authorized to do in this state or to the extent approved by the Director of Insurance and subject to any limitations he or she may prescribe for the protection of the interests of the policyholders of the company taking into account the effect of such business on the company's existing insurance business and its surplus, the proposed allocation of the estimated cost of such business, and the risks inherent in such business as well as the relative advantages to the company and its policyholders of conducting such business directly instead of through a subsidiary.

Sec. 44. That section 44-202.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-202.01. An insurer holding a valid certificate of authority to transact insurance in this state immediately prior to June 23, 1967 the effective date of this act, may continue to be authorized to transact the same kinds lines of insurance permitted by such certificate of authority by maintaining thereafter the same amount of paid-in capital stock, if a stock insurer, or the same amount of surplus, if a mutual insurer, as required by the laws of this state for such authority immediately prior to June 23, 1967; but such such date, except that if such insurer, on or after such date, is determined by the director to be maintaining an amount which complies with the requirements as to capital and surplus as provided in sections 44-214, 44-219, and 44-243, then such insurer shall continue to comply with such requirements. On and after such date the insurer shall not hereafter be granted authority to transact any other or additional kind line of insurance unless it then fully complies with the requirements as to capital and surplus as provided by this act sections 44-214, 44-219, and 44-243 with respect to insurers applying for original certificates of authority, under this act.

Sec. 45. That section 44-203, Reissue Revised

Statutes of Nebraska, 1943, be amended to read as follows:

44-203. A company may be formed or an existing company may be authorized to transact any one or more of the kinds lines of insurance specified in section 44-201, except that any company formed or authorized for the purposes specified in subdivision ~~{1}~~ (15) of section 44-201 shall transact no other kinds lines of insurance.

Sec. 46. That section 44-205, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-205. Five Nine or more natural persons may form act as incorporators of an insurance corporation. The They shall execute articles of incorporation and submit them shall be signed by each incorporator and delivered to the Department of Insurance for examination approval or disapproval, and if approved and found by it to be in accordance with the laws of this state, the department shall so certify. When such articles are thus approved, they shall be filed in the office of the Secretary of State and a duplicate copy bearing the date of filing in the office of the Secretary of State shall be recorded in the office of the county clerk of the county in which the principal registered office of the company is to be established located in this state, and a copy as filed and recorded shall be thereof filed in the office of the department. The articles shall not be considered filed until they have been filed in each of said offices as above provided Upon the filing and recording of the articles of incorporation as provided in this section corporate existence shall commence.

Sec. 47. That section 44-205.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-205.01. (1) The articles of incorporation filed pursuant to section 44-205 shall state ~~{1}~~ (a) the corporate name, which shall not so nearly resemble the name of an existing corporation as, in the opinion of the Director of Insurance, will mislead the public or cause confusion, ~~7~~ {2} (b) the place in Nebraska where the registered office and principal office will be located, ~~7~~ {3} (c) the purposes, which shall be restricted to the kind or kinds of insurance to be undertaken, such other kinds of business which it shall be empowered to undertake, and the powers necessary and incidental to carrying out such purposes, ~~7~~ and {4} (d) such other particulars as are required ~~or permitted~~ by the Nebraska Business Corporation Act and Chapter

Chapters 21 and 44.

(2) The articles of incorporation may state such other particulars as are permitted by the Nebraska Business Corporation Act and Chapter 44, including the mode and manner in which the corporate powers are to be exercised; provisions relating to the management of the business and regulation of the affairs of the corporation and defining, limiting, and regulating the powers of the corporation, its board of directors, and the shareholders of a stock corporation or the members of a mutual or assessment corporation.

Sec. 48. That section 44-206, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-206. Within the earlier of thirty days after receiving the certificate of authority to transact business, and within or four months after filing its articles as aforesaid of incorporation, such corporation shall publish a notice in some legal newspaper, which notice shall contain the same information, as far as practicable, as that required under the general incorporation laws of this state Nebraska Business Corporation Act.

Sec. 49. That section 44-208, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-208. No domestic insurance company shall issue, cause, or allow to be issued any stock or stock subscriptions at any time upon which all expenses of distribution and sale, including promotion, commissions, and underwriting fees, exceed ten percent of the amount paid in money upon such stock or stock subscriptions. All persons incorporating a stock insurance company shall sign a statement before a notary public stating that no one person or group of persons shall receive directly or indirectly any money or securities whatsoever for promoting and organizing any such company in excess of that amount provided for in the insurance laws of this state pertaining to the promotion and organization of insurance companies, and such statement shall be filed in the office of the Department of Insurance.

Sec. 50. That section 44-208.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-208.01. (1) In addition to the statement required by section 44-208 of persons incorporating stock companies, the incorporators of all domestic stock, mutual, and assessment insurers shall file with

the Department of Insurance (a) copies of the proposed bylaws, 7 (b) forms of subscriptions for capital stock or forms of application for membership or for insurance, 7 and (c) a bond payable to the Director of Insurance and his or her successors, as trustees, in the penal sum to be determined by the Director of Insurance and in no event to be less than ten thousand dollars, with corporate surety, and conditioned upon the faithful accounting to the corporation on completion of its organization and the receipt of its certificate of authority from the Department of Insurance, ~~or~~ to the ~~stockholders~~ shareholders, applicants for membership or for policies, or creditors, or to the trustee, receiver, or assignee of the corporation, duly appointed in any court of competent jurisdiction in this state, in accordance with their respective rights in the event the organization of the corporation is not completed and a certificate of authority to do business is not procured.

(2) In addition to the requirements of subsection (1) of this section, the incorporators of stock insurers ~~must~~ shall file an application to solicit subscriptions for stock which shall include (a) the correct names and addresses of the incorporators and promoters, 7 (b) a detailed statement of the plan upon which the corporation will operate, 7 (c) the names, the addresses, and a brief description of the business experience of the proposed executive officers, including supervisory and administrative personnel, 7 (d) the par value of the stock, 7 (e) the subscription price of the stock, 7 (f) the amount to be expended for organization and promotion expenses, expressed in a percentage of the subscription price of the stock, 7 (g) the proposed plan of soliciting subscriptions for stock, 7 (h) the place and manner in which the proceeds from full and partial subscriptions for stock will be held pending the corporation's organization, 7 (i) an outline of the manner in which the corporation proposes to maintain its books and records, including the records pertaining to the solicitation of subscriptions for stock, 7 (j) duplicate copies of all advertising matter which is to be used in connection with the sale of stock, 7 (k) duplicate copies of all contracts to be entered into with persons employed to solicit subscriptions, 7 and (l) such other information as may be required by the Department of Insurance.

Sec. 51. That section 44-208.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-208.02. If the Director of Insurance ~~shall~~

~~approve~~ approves the forms of subscriptions for capital stock or the forms of application for membership or for insurance, the corporate surety on the bond required by section 44-208.01, and, in the case of stock insurers, the application to solicit subscriptions for stock, he ~~or she~~ shall deliver to the promoter or incorporators a permit in the name of the corporation, authorizing it to complete its organization. Upon receiving such permit, the corporation shall have authority to solicit subscriptions and payments for capital stock, if a stock insurer, and applications and premiums or advance assessments for insurance if other than a stock insurer, and to exercise such powers, subject to the limitations imposed by Chapters 21 and the Nebraska Business Corporation Act and Chapter 44, as may be necessary and proper in completing its organization and qualifying for a license to transact the kind or kinds of insurance proposed in its articles of incorporation. No corporation shall issue policies or enter into contracts of insurance until it receives a certificate of authority permitting it to do so.

Sec. 52. That section 44-208.05, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-208.05. (1) If a corporation does not qualify for a certificate of authority within one year from the date it receives its permit to complete its organization or if an agent of the corporation employed to solicit subscriptions or applications has violated the insurance laws of the state, the Director of Insurance may revoke such permit and order the assets of the corporation to be distributed to the persons or legal entities entitled thereto or proceed against the corporation as an insolvent insurance company in the manner authorized and directed by sections 44-125 to 44-132.

(2) If any corporation hereafter organized does not qualify to receive its certificate of authority within two years from the date it receives its permit to complete organization, ~~its corporate existence shall automatically terminate.~~ In such event the Director of Insurance shall order the assets of the corporation to be distributed to the persons or legal entities entitled thereto or proceed against the corporation as an insolvent insurance company in the manner authorized and directed by sections 44-125 to 44-132.

Sec. 53. That section 44-208.06, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-208.06. Until a certificate of authority is issued to a corporation to transact business on the stock plan, and for three years thereafter, no shares of stock shall be issued by the corporation or sold or transferred by the promoters, incorporators, or other persons engaged in soliciting subscriptions or in organizing or promoting the corporation, without approval of the Department of Insurance, for an amount in excess of the original subscription price as stated in the application required by section 44-208.01. Except to the extent ~~herein~~ provided in this section, sales and transfers of shares of stock by the record owner or owners ~~are not~~ shall not be subject to sections ~~44-105, 44-205-01, 44-208.01 to 44-208.08, 44-219, 44-303, and 44-801-~~

Sec. 54. That section 44-208.07, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-208.07. The Director of Insurance shall have authority to adopt and promulgate rules and regulations ~~rules~~ to regulate all other matters in connection with the organization of domestic insurers for the purpose of protecting the public or preventing fraud.

Sec. 55. That section 44-208.08, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-208.08. Any person, firm, association, partnership, or corporation which solicits any subscriptions for stock or any application for membership or for a policy, or sells any surplus note ~~or guaranty capital certificates~~ for any insurer in process of organization, in violation of law, shall be personally liable to any person from whom he or she may have solicited such subscription for stock, or application, or to whom he or she may have sold such surplus note, or guaranty capital certificate in an amount equal to that paid by the purchaser or applicant. Suit to recover the same may be brought by such purchasers or applicants, jointly or severally, in any court of competent jurisdiction in this state.

Sec. 56. That section 44-210, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-210. Every domestic stock and mutual company and assessment association shall hold an annual meeting of its ~~stockholders~~ shareholders, if a stock company, or of its members, if a mutual company or an assessment association, on or before the ~~31st~~ 30th day

of ~~May~~ June in each and every calendar year, for the purpose of receiving the report of its officers and directors, to elect directors whose terms expire, and to transact such other business as may be lawful for it to do. Special meetings of the ~~steekholders~~ shareholders or members may be held as may be provided in ~~its~~ the articles of incorporation or the bylaws and as otherwise provided by law. Each outstanding share of stock in a stock company, and each member in a mutual company or assessment association, shall be entitled to one vote on each matter submitted to a vote at an annual or special meeting of the ~~steekholders~~ shareholders or members, except as otherwise provided by law, PROVIDED, and except that any such stock company in its articles of incorporation may provide that the holders of preferred steekholders shares of stock shall have no right to vote and, in such event, such shares of stock shall not be entitled to vote. A ~~steekholder~~ shareholder or member may vote either in person or by proxy executed in writing by the ~~steekholder~~ shareholder or member or by his or her duly authorized attorney in fact appointing any director, officer, ~~steekholder~~ shareholder, or member for such purpose. In the case of a mutual company or an assessment association, such proxy may be incorporated into a member's application for insurance or policy. All such proxies shall be filed or on file with the stock or mutual company or assessment association at least five days prior to the day of the meeting, and they shall expire eleven months from their effective date, unless otherwise provided in such proxy, application, or policy. Nothing in this section ~~PROVIDED, that nothing herein~~ shall be construed to prohibit or limit the right of a ~~steekholder~~ shareholder or member to vote in person or otherwise revoke any such proxy at any time prior to any exercise thereof.

Sec. 57. That section 44-211, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-211. The business and affairs of an ~~incorporated insurer~~ insurance corporation shall be managed by the incorporators until the first meeting of ~~steekholders~~ shareholders or members and then and thereafter by a board of directors elected by the ~~steekholders~~ shareholders or members and as otherwise provided by law. The board of directors shall consist of not less than five nor more than twenty-one persons, and a majority one of them must shall be residents a ~~resident~~ of the State of Nebraska. The board of directors may consist of less than a majority who are

residents of this state, but not less than three resident directors; if the articles of incorporation or bylaws so provide and if the company has admitted assets in excess of fifty million dollars and has been a domestic insurer for seven years. A person convicted of a felony may not be a director, and all directors shall be of good moral character and known professional, administrative, or business ability, such business ability to include a practical knowledge of insurance, finance, or investment. No person shall hold the office of director unless he or she is a policyholder if the company is a mutual company or assessment association. Unless otherwise provided in the articles of incorporation, the board of directors shall make all bylaws.

Sec. 58. That section 44-212, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-212. The directors of every stock company, and the board of directors or ~~policyholders~~ members of every mutual company or assessment association, as provided in the articles of incorporation, may elect such officers as are necessary to conduct the business of the company, including a president, secretary, and treasurer, thereof, and employ such other officers and employees as may be required to carry on the business of the company, and may fix their terms of office or employment, and their salaries and compensation, but such action shall not be in conflict with the provisions of law relating thereto.

Sec. 59. That section 44-213, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-213. No domestic insurance company shall pay any salary, compensation, or emolument to any salaried employee, or to any officer, trustee, or director thereof in excess of a reasonable return for the services performed or to be performed by such person. The ~~stockholders~~ shareholders of stock companies and the ~~policyholders~~ members of other companies shall retain the power at any regular meeting to alter or discontinue any employment agreement. No such company shall make an agreement with any salaried employee, or with any officer, trustee, or director, whereby it agrees that, for any services to be rendered, he or she shall receive any salary, compensation, or emolument that will extend beyond a period of five years from the date of such agreement, ; but any such company may make a conditional or unconditional agreement with

any such person whereby it agrees that, in consideration of a current salary, compensation, or emolument of any amount less than a reasonable return for the services performed or to be performed by such person, he or she shall at specified future time or times, without regard to the five-year limitation set out above in this section, receive, either without further condition or subject to reasonable contingencies, additional deferred salary, compensation, or emolument of any amount adequate to make the total thereof received by such person a reasonable return for the services performed by such person. ~~The words salary~~ Salary, compensation, and emolument as used in ~~sections 44-213 to 44-213-07~~ this section shall not include payments made pursuant to a plan for retirement, disability, sickness, accident, or death benefits.

Sec. 60. That section 44-213.06, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-213.06. In the event the Director of Insurance disapproves any proposed or existing plan, modification thereof, or amendment thereto for providing benefits upon or after retirement, he or she shall, after a hearing thereon has been held, and prior written notice of such hearing having been given to the company concerned, issue a written order specifying the reasons for disapproval. An appeal may be taken from the decision of the director, and the appeal shall be in accordance with the Administrative Procedure Act, pursuant to Chapter 44.

Sec. 61. That section 44-214, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-214. Except as provided in section 44-202.01, no No stock insurance company shall, on and after the effective date of this act, hereafter transact any kind line of insurance specified in section 44-201 in this state unless it maintains a capital stock, actually paid in cash or invested as provided by law, of at least five hundred thousand one million dollars, nor shall it, on or after such date, hereafter transact the kind line or lines of insurance specified in subdivision subdivisions (1) and (2) of section 44-201 and in addition thereto one or more kinds lines of insurance other than those specified in subdivisions (3) and (9) thereof (4) of such section in this state unless it maintains a capital stock, actually paid in cash or invested as provided by law, of at least one two million dollars. No stock insurance company shall, on and after

the effective date of this act, hereafter begin to transact any kind line of insurance as specified in section 44-201 unless it has a surplus of at least five hundred thousand one million dollars, nor shall it, on and after such date, hereafter begin to transact the kind line or lines of insurance specified in subdivision subdivisions (1) and (2) of section 44-201 and in addition thereto one or more kinds lines of insurance other than those specified in subdivisions (3) and (9) thereof (4) of such section in this state unless it has a surplus of at least one two million dollars.

Sec. 62. That section 44-216, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-216. The articles of incorporation of a mutual company or an assessment association may limit the insurance to specified kinds or classes of property, lives, individuals, or liabilities within any subdivision of section 44-201, or the territory within which insurance shall be granted, and they shall provide the manner in which policyholders of a mutual company shall participate in the profits of the company.

Sec. 63. That section 44-217, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-217. The articles of a mutual company or an assessment association shall provide that every Each person, corporation, association, or partnership insured owning a policy or policies of insurance issued by a mutual company or an assessment association shall be a member thereof and have one vote.

Sec. 64. That section 44-218, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-218. The liability of a member of a mutual company shall be limited to the premiums stated in the policy. Any assessment association organized to insure property, except assessment associations organized to issue policies on growing crops insuring against loss or damage by hail as provided by Chapter 44, article 8, may, in its bylaws, limit the liability of its members for assessment upon the amount of insurance to not less than one-half of one percent per year; after the first assessment; upon dwelling houses and contents and all farm properties insured; and to not less than three-fourths of one percent per year; after the first assessment; upon all other properties insured. If the amount collected in any one year, including the amount in the contingent funds, be insufficient to pay all

losses sustained and expenses incurred during that year; the members sustaining losses shall receive their proportionate share of such funds in full satisfaction of their losses. Every bylaw limiting the liability shall contain the above provision for prorating losses, and shall be printed on the back of each policy or certificate of membership.

Sec. 65. That section 44-219, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-219. (1) No domestic mutual insurance company shall begin to transact the business of insurance until ~~(1)~~ (a) it has received not less than one hundred applications for insurance unless organized to write ~~(a)~~ (i) workers' compensation and employer's employers' liability insurance, in which case it shall receive applications from at least twenty employers covering in the aggregate five hundred employees, or ~~(b)~~ (ii) the class line or lines of insurance specified in subdivision ~~(4)~~ subdivisions (13) and (14) of section 44-201, in which case no application shall be required, and in addition thereto ~~(2)~~ (b) it shall have received in cash one annual premium for each application for insurance.

(2) Except as provided in section 44-202.01, no No mutual insurance company shall, on and after the effective date of this act, hereafter transact any kind line of insurance as specified in section 44-201 in this state unless it has and maintains a minimum surplus, in cash or invested as provided by law, of at least five hundred thousand one million dollars, nor shall it, on and after such date, hereafter transact the kind line or lines of insurance specified in subdivision subdivisions (1) and (2) of section 44-201 and in addition thereto one or more kinds lines of insurance other than those specified in subdivisions (3) and ~~(9)~~ (4) thereof of such section in this state unless it has and maintains a minimum surplus, in cash or invested as provided by law, of at least one two million dollars.

Sec. 66. That section 44-220, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-220. In addition to the general power and authority to borrow money for its regular business purposes, any domestic insurance company may borrow money without discount or the payment of commission: (1) To ~~to~~ defray the reasonable expenses of its organization; (2) to provide special contingency loss funds; (3) to provide additional surplus funds; (4) to

make good any deficiency; and (5) to provide the amount of minimum surplus required by Chapter 44 stated in subdivision (2) of section 44-219, and may issue its notes therefor, to be known as surplus notes, which shall fully recite the purpose for which the money was borrowed, if ; ~~PROVIDED~~, application has been made to the Department of Insurance, and approval in writing is had obtained from the Director of Insurance, for the issuance of such surplus notes in a stated maximum amount. The amount thereof outstanding, with the unpaid interest, shall be stated in each annual report.

Sec. 67. That section 44-221, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-221. Except as herein provided in this section, such surplus notes and the indebtedness which they represent shall not be a liability or claim against any of the assets of the company. The principal of such notes may be paid from time to time, either in full or in part, from available surplus funds of the company only when the amount of the surplus of the company over all liabilities is double that of the principal amount then being paid. The corporation shall have the right to make such repayments whenever it ~~shall be~~ is able to do so, ; ~~PROVIDED~~, except that the corporation shall first ~~receives~~ receive the prior approval of the Director of Insurance for any such repayments. The director shall use the standards set forth in sections 44-2101 to 44-2119 relating to adequacy of surplus in determining whether or not to approve such repayments. The interest on such notes shall only be payable from the surplus and shall not exceed such sum as may be fixed, nor in any case six percent per annum. Upon a dissolution of the company, the principal and accrued and unpaid interest shall be payable from the surplus.

Sec. 68. That section 44-222, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-222. (1) Except as otherwise provided by law, no insurance company shall expose itself to any loss on any one risk in an amount exceeding ten percent of its surplus to policyholders as reflected by the last annual statement of the company, except that domestic assessment associations organized for the primary purpose of writing insurance coverage on farm properties and which write such insurance in less than thirty-one counties in Nebraska shall not write any policy for an amount in excess of one-eighth of one percent of its insurance in force. The term loss shall mean the

incremental decrease in surplus resulting from payment of a claim equal to the maximum liability of the insurer on any one risk. The term any one risk shall mean, in the case of property insurance, all properties insured by the same insurance company which are customarily considered by underwriters to be subject to loss or destruction from the same hazard or occurrence except hazards or occurrences of a catastrophic nature. The term surplus to policyholders shall mean the amount obtained by subtracting, from the admitted assets, actual liabilities, including any reserves which by law must be maintained. In the case of a stock company, surplus to policyholders shall also include the paid-up and outstanding capital stock. Any reinsurance, taking effect simultaneously with the policy or bond, shall be deducted in determining whether any one risk or policy exceeds the limitation of risk or policy prescribed in this section. This section shall not be applicable to marine insurance, as distinguished from inland marine insurance, title insurance, or workers' compensation or ~~employer's~~ employers' liability insurance, nor to any policy or type of coverage as to which the maximum possible loss to the insurance company is not ascertainable on issuance of the policy.

(2) Upon the written consent of the Director of Insurance, any insurance company chartered and licensed in Nebraska and writing coverage pursuant to the federal Liability Risk Retention Act of 1986 and the Risk Retention Act may be exempted from the provisions of this section. Prior to any approval of such exemption, such insurance company shall submit to the director an application setting forth its proposed plan of operation, as defined in section 44-4403, and detailing the reasons why such exemption should be granted. After review of the application and any other material the director may require, the director, upon a determination that the capital and surplus of such insurance company will be reasonable in relation to the insurer's outstanding liabilities and adequate to meet its financial needs, may grant such exemption.

Sec. 69. That section 44-222.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-222.01. For the purpose of determining whether any one risk exceeds the limitation imposed by section 44-222, reinsurance shall be in a company acceptable to the Director of Insurance. The If requested by the director, the original company writing the risk or policy shall file with the Director of

Insurance evidence of such reinsurance listing the name of the reinsurer and such other information pertaining thereto as may be required by the director.

Sec. 70. That section 44-222.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-222.02. The Director of Insurance may, if he or she finds that any person or insurer has violated any of the provisions of sections 44-222 and 44-222.01, report the facts to the Attorney General for prosecution in accordance with the provisions of section 44-394 ~~44-395~~. In lieu of the criminal prosecution provided herein or in addition thereto the Director of Insurance may suspend such insurer's authority to do business in Nebraska for such length of time as the director may prescribe. An appeal may be taken from the decision of the director, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 71. That section 44-223, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-223. The original incorporators, until the election of directors, and thereafter the directors, shall be jointly and severally liable for any losses incurred during the following time or times: ~~hereinafter mentioned:~~ (1) For the excess of any policy above the maximum single risks prescribed by section 44-222 during the time that such policy exceeds such maximum single risks; (2) for any losses occurring upon any new risk taken after the expiration of the period designated by the Department of Insurance in accordance with sections 44-120 to 44-124 in which to make good any deficiency; and (3) for all debts and liabilities contracted prior to the time the company ~~was an admitted company~~ received its certificate of authority.

Sec. 72. That section 44-224.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-224.01. As used in For purposes of sections 44-224.01 to 44-224.10, unless the context otherwise requires:

(1) Director shall mean the Director of Insurance or his or her authorized representative;

(2) Policyholders shall mean the ~~policyholders~~ members of mutual insurance companies, the members of assessment associations, and the subscribers to reciprocal insurance exchanges;

(3) Merger or contract of merger shall mean a merger or consolidation agreement between stock

insurance companies as authorized by Chapter 21 the Nebraska Business Corporation Act;

(4) Consolidation or contract of consolidation shall mean a merger or consolidation agreement between companies operating on other than the stock plan of insurance; and

(5) Bulk reinsurance or contract of bulk reinsurance shall mean an agreement whereby one company cedes by an assumption reinsurance agreement fifty percent or more of its risks and business to another company.

Sec. 73. That section 44-224.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-224.03. (1) Any domestic stock insurance company may cede its business to another licensed insurer by a contract of bulk reinsurance, but such contract shall not become effective unless first filed with and approved by the director and thereafter approved by a majority vote of the stockholders shareholders of the ceding company present in person or by proxy and voting at an annual meeting, or at a special meeting called for that purpose.

(2) The director shall approve such contract within a reasonable time after such filing unless he or she finds it is inequitable to the stockholders shareholders or policyholders of both insurers. If the director does not approve the contract, he or she shall so notify the respective insurers in writing specifying his or her reasons therefor. If approved by the director, the contract shall then be submitted to the stockholders shareholders of the ceding company for their approval as provided in subsection (1) of this section. If approved by the required vote of the stockholders, said shareholders, the contract shall then become effective.

Sec. 74. That section 44-224.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-224.04. Any domestic stock insurance company may merge with another stock insurer after the contract of merger ~~shall first be~~ is approved by the director. The director shall not approve any such contract of merger unless the interests of the policyholders or stockholders shareholders of both parties thereto are properly protected. If the director does not approve the contract of merger, he or she shall issue a written order of disapproval setting forth his or her findings. After having obtained the approval of

the director, the contract of merger shall be consummated in the manner set forth in Chapter 21 the Nebraska Business Corporation Act for the merger or consolidation of stock corporations.

Sec. 75. That section 44-224.05, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-224.05. (1) Any domestic insurance company operating on other than the stock plan may cede its business to another licensed insurer, whether stock, mutual, assessment, or reciprocal exchange, by a contract of bulk reinsurance upon compliance with this section.

(2) Such contract of bulk reinsurance shall not become effective unless first filed with and approved by the director, and thereafter approved by a majority vote of the ~~policyholders~~ members of the ceding company present in person, or by proxy, and voting at an annual meeting, or at a special meeting called for that purpose. The director shall not approve such contract unless he or she finds it to be fair and equitable to the policyholders of each insurer involved. If the director does not so approve, he or she shall notify each insurer involved in writing, specifying his or her reasons therefor.

(3) Contracts of bulk reinsurance whereby an insurer operating on other than the stock plan of insurance cedes its business to a stock insurer, must shall provide for distribution to each policyholder of the ceding company of his or her equity in the surplus funds, if any, of such ceding company as determined under a fair and equitable formula approved by the director.

Sec. 76. That section 44-224.07, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-224.07. (1) A contract of consolidation involving a domestic insurance company must shall be approved by a majority vote of the board of directors or other governing body of each of the respective parties thereto, as well as by a majority vote of the ~~policyholders~~, members present in person or by proxy at an annual meeting, or at a special meeting called for that purpose. Such contract of consolidation must shall be approved by the director prior to submission to the ~~policyholders~~ members for approval. After approval by the ~~policyholders~~ members, the officers of the respective parties thereto may enter into and consummate such contract of consolidation, and do, and perform all

acts necessary to the final and complete consummation thereof. Such contract of consolidation shall designate the corporation which is to continue or survive, and which shall thereafter be licensed retain a certificate of authority issued by the department. The said surviving company may assume, in whole, or in part, the name of the retiring company. Such contract of consolidation, upon becoming effective, shall have the effect of transferring the assets, rights, franchises, and interests of the companies so consolidated to the continuing or surviving company, and simultaneously therewith, such surviving or continuing company shall be deemed to have assumed all the liabilities of the consolidated companies. A contract of consolidation need not require a disposition or other distribution of the surplus assets of either party thereto to their respective policyholders. No action or proceeding, pending at the time of such consolidation to which either of the consolidating parties may be a party, shall be abated or discontinued by reason of such consolidation, but the same may be prosecuted to final judgment in the same manner as if the consolidation had not taken place, or the continuing or surviving company may be substituted in place of any such company so consolidated, as the case may be, by order of the court in which the action or proceeding is pending.

(2) Any assessment association which has accumulated and maintains the same reserve for liabilities that is required of a mutual company transacting the same kind or kinds of business, and which has a surplus or contingency funds equal to, or in excess of that required of a mutual company transacting the same kind or kinds of business may, in any consolidation agreement in which it is to continue or survive as an assessment association, agree to limit its assessments to the premium stated in the policies issued by the retiring company.

Sec. 77. That section 44-224.08, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-224.08. All special meetings of ~~stockholders or policyholders~~ shareholders or members called pursuant to sections 44-224.03, 44-224.05, and 44-224.07 shall be called upon a printed notice which shall contain (1) the time, place, and purpose of the meeting, and (2) a brief statement of the substance of the contract and, in the case of the type of a bulk reinsurance contract contemplated by subsection (3) of section 44-224.05, a brief statement of the plan for

distributing or otherwise disposing of the surplus assets, if any, of the ceding company, and (3) a copy of the order of the director approving the contract. Such notice shall be mailed at least ten days prior to the date the special meeting is called and shall be directed to the ~~stockholder or policyholder~~ shareholder or member at his or her last post office address appearing on the records of the company.

Sec. 78. That section 44-231, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-231. Any domestic insurance company, association, or society, hereinafter called company, may change amend its articles of incorporation only in the manner and upon the conditions hereinafter set forth from time to time without limitation so long as the articles as amended contain only such provisions as are authorized in original articles of incorporation under Chapter 44. Proposed amendments to the articles shall be made in the following manner:

(1) The board of directors of such company shall adopt, by a two-thirds vote of all of the directors thereof, amended the proposed amendments to the articles of incorporation;

(2) Prior to - (2) Not less than forty-five days before the meeting of the stockholders shareholders or members at which the proposed amendments are to be considered, such amended articles the proposed amendments, with all matters relating thereto, shall be submitted to the Department of Insurance for examination, and orders thereon. If satisfied that the interests of the policyholders of such company, and all concerned, are properly protected, and that no reasonable objections exist to such amended the proposed amendments to the articles, the department may approve the same, or it may modify or change them require change or modification prior to any approval, as it may deem best for the interest of those affected. If the proposed amendment of the articles of incorporation effects a change in the corporate structure from that of a mutual company to a stock company, the department shall also make such orders with reference to the distribution of any existing or future surplus of such company as may be just and equitable to the policyholders. The department shall duly safeguard the interests of all parties affected, and especially the interests of the policyholders; and -

(3) If the Department of Insurance proposes requires any changes or modifications of the amended

articles proposed amendments to the articles of incorporation, they such amendments shall be in turn submitted to and be adopted by a two-thirds vote of all the directors of such company. Such amended articles The proposed amendments to the articles of incorporation as originally adopted, or readopted, as the case may be, shall then be submitted to the stockholders shareholders or members of the company entitled to vote for approval adoption at a regular meeting, or a special meeting thereof.

Except as hereinafter provided, notice of such a special meeting, together with a description of the proposed amendment to the articles of incorporation shall be mailed given to each stockholder shareholder or member at his last-known address entitled to vote in the manner authorized or approved by the department at least thirty days prior thereto.

If such amended the proposed amendments to the articles of incorporation are to be considered at a regular annual meeting of the members or stockholders shareholders, the Director of Insurance may, in his or her discretion, require the giving of the same notice as is required for a special meeting.

If such amended the proposed amendments to the articles of incorporation are to be considered at a special meeting of the members of a mutual or assessment company or at a regular annual meeting thereof, notice of which has been required, the Director of Insurance may, upon application of the board of directors of such company, permit the company to exclude from the members entitled to notice those who in the opinion of the Director of Insurance director are not reasonably ascertainable.

If the proposed amendment of the articles of incorporation effects a change in the corporate structure from that of a mutual company to a stock company, there shall also be enclosed with included in such notice a copy of the approval of the Department of Insurance and its orders as to the disposition and distribution of the surplus assets of such company. If such amended articles are approved the proposed amendments to the articles of incorporation are adopted by a two-thirds vote of all the stock, if a stock of the company, or by a vote of two-thirds of all the members voting at such meeting, in person or by proxy, if a mutual or assessment company, then they shall be filed in the same office as if they were offices as original articles of incorporation, and the same notice shall be published.

Sec. 79. That section 44-232, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-232. If any such company, operating upon what is known as either a mutual or assessment plan, desires to change to a stock basis, it shall, in addition to the requirements of section 44-231, comply with the conditions hereinafter set forth in this section. (1) The board of directors of such company shall submit, with its amended proposed amendments to the articles of incorporation as provided in subdivision (2) of section 44-231, a comprehensive plan of such change specifically setting forth the following information: (a) A true and complete statement of the several funds and all of the tangible property and assets of such company; and the fair and actual cash value of each item thereof; (b) the number of members of such company; and the fair actual value of the surplus of each member in the property and assets of such company; (c) the number of shares of capital stock to be issued under the new plan, the amount of each share, and the manner of converting the interest in the surplus of each member of the company into shares of the company under the stock plan; (d) the manner of compensating members of the company who refuse or fail to convert their interests in the surplus in the company into stock under the new plan; and the amount of such compensation; and (e) the amount of the new capital for which each member may subscribe; and how and when the same shall be payable. Each ~~PROVIDED~~; each member shall have the full right to subscribe at par for his or her proportionate share of the new stock to be issued. (2) If satisfied that no reasonable objections exist to ~~such amended articles~~ the proposed amendments to the articles of incorporation and the plan proposed for such change to a stock basis, the Department of Insurance may approve the same or it may propose modifications or changes in ~~said amended articles; the proposed amendments to the articles of incorporation~~ or proposed plan for changing to a stock basis, as in its judgment will safeguard the best interests of all concerned; and may make orders relating thereto as it ~~shall deem~~ deems just and equitable. (3) If changes in ~~such amended articles~~ the proposed amendments to the articles of incorporation are proposed by the Department of Insurance, ~~they~~ such changes shall be referred to the board of directors of ~~said~~ the company for readoption by a two-thirds vote of the members thereof. On approval of ~~such amended articles~~ the proposed amendments to the

articles of incorporation by the board of directors and the department, the same shall be submitted to the members of the company for approval and ratification at a regular annual or special meeting called for that purpose. Thirty days prior to such meeting, the company shall forward by ~~either~~ registered or certified mail, return receipt requested, directed to addressee only, to each member who shall be entitled to vote, at his or her last-known address, a notice of said the meeting, a resume of the amended articles, and proposed amendments to the articles of incorporation, the plan proposed for making the change to a stock basis, and a copy of the approval of the Director of Insurance of such amended articles proposed amendments and proposed plan, together with a ballot, prepared and approved by the director, upon which to register his or her vote for or against the adoption of such amended proposed amendments to the articles of incorporation and plan. Such company shall attach to each ballot so forwarded a letter of instruction, signed by the president of the company, instructing the members or ~~stockholders~~ shareholders to mark or cast their ballots and forward the same by mail to the Director of Insurance, State of Nebraska, State Capitol, Lincoln, Nebraska, at least five days before said the meeting. Upon receipt of said the ballots so cast, the director shall prepare an abstract of the votes cast for and against said the proposed amended amendments to the articles of incorporation and plan, and shall certify the same to the president of such company. Said The abstract shall be spread at large by the secretary of such company upon its corporate record, immediately following the minutes of said the meeting, and the same shall be and be considered a part of the record thereof. The abstract, so certified, shall determine the election, and if the same discloses that three-fourths of the members of such company cast ballots or voted upon the proposition, and that two-thirds of such voting members cast their ballots for adopting such amended articles proposed amendments and plan, then the secretary shall record in the minutes of the meeting that the proposed amended amendments to the articles of incorporation and plan are adopted, and such articles as amended shall thereafter be the articles of incorporation of such company. If the abstract discloses that a proper majority, as provided above in this section, have not voted in favor of the proposed amended articles amendments to the articles of incorporation and plan, then the secretary shall record in the minutes of the meeting that the proposal is

rejected, and that the original articles of incorporation shall continue to be in full force and effect. If such amended articles proposed amendments are adopted, they shall be duly filed according to law, and notice thereof published as required by law in cases of original articles of incorporation, the same shall be deemed effective and the company shall be deemed duly incorporated and shall then open books for the members to subscribe to the stock of such new company. The books shall remain open for at least sixty days after the election resulting in favor of such proposed change, and each member shall have the full right to subscribe at par for his or her proportionate share of the new stock to be issued. Such subscription for stock shall be duly made in writing, and filed with the proper officer of the company, in accordance with the plan outlined, to be sent with the notice of election to approve and ratify such change. All stock not duly subscribed for at the end of sixty days after the books shall have been opened shall be at the disposal of the board of directors in accordance with the plan to be contained in the proposed plan submitted to the Department of Insurance and the members of the company, except that, PROVIDED, no stock shall be issued or sold for less than par value thereof in money, and each subscriber for stock shall pay the same price. When all the provisions have been complied with, such company shall enjoy the same rights and be subject to the same liabilities as if it had been originally incorporated under sections 44-202 to 44-209 ~~44-208, 08~~. All officers and directors shall serve through their respective terms but their successors shall be elected and serve as provided in the amended articles and bylaws. Such change shall in no way prejudice or impair any pending action or right previously acquired, or annul or change any existing contract of such company.

Sec. 80. That section 44-234, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-234. The board of directors shall submit to the Director of Insurance:

(1) Two copies of the proposed amendments to its articles of incorporation as provided for in section 44-231, duly certified by the secretary of the company, for filing in the office of the director, and as many additional copies thereof as there are ~~stockholders~~ shareholders of the company;

(2) Two copies of a comprehensive plan for the mutualization of the company as approved by the board of

directors, duly certified by the secretary of the company, for filing in the office of the director, and as many additional copies thereof or copies of an adequate summary of the plan as there are stockholders shareholders of the company; and

(3) A complete list of the stockholders shareholders of the company showing the name of, number of shares owned by, and the latest address of each shareholder as shown by the company's records.

Sec. 81. That section 44-235, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-235. The plan for the mutualization of the company shall among other things include:

(1) A statement of the value of the interest of the stockholders shareholders in the company, as ascertained by the company, which value shall not exceed the fair value thereof, and the amount proposed to be paid to each stockholder shareholder upon retirement of his or her shares of stock;

(2) A statement of the method of ascertaining the said value of the interest of the stockholders shareholders;

(3) A statement of the procedure proposed for paying the stockholders shareholders for their stock, which may be done over a period of time and performed with due regard for the interest of the policyholders, and for retiring and canceling the said stock;

(4) A statement of the method to be followed in continuing the management of the company during any period intervening between the inception of the plan and the retirement of the stock, and in instituting management by the policyholders; and

(5) A provision for approval of the plan for mutualization by at least two-thirds of the policyholders voting in person or by proxy at a meeting of policyholders called by the company upon at least thirty days' written notice mailed to the policyholders at their latest addresses as shown by the company's records, and containing an adequate summary of the essential provisions of the plan.

Sec. 82. That section 44-236, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-236. Upon receipt of the documents described in section 44-234, the Director of Insurance shall promptly forward by mail to each stockholder shareholder of the company a copy of the proposed amendments to the articles of incorporation, a copy of

the plan for mutualization or a summary thereof, and a written notice of hearing. The notice of hearing shall contain:

(1) A notification of the time, which shall be at least thirty days from the time of mailing the notice, and place for the hearing of objections to the plan for mutualization; and

(2) A statement that, upon the hearing and due consideration of the proposed plan and amendments to the articles of incorporation, the director may either disapprove the plan, approve the plan as submitted, including the value of the interest of the stockholders shareholders in the company as ascertained and stated in the plan, or approve the plan only subject to such modifications as he or she may propose, in which event it shall be returned to the company for approval by the board of directors, and that upon final approval in either event the plan shall, subject to approval by the owners of at least two-thirds of the stock of the company at a regular or special meeting called for the purpose, be placed in effect and the stock of the company retired and canceled and the value ascertained by the director paid to the stockholders shareholders all as provided in the plan, provided-

Sec. 83. That section 44-237, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-237. The Director of Insurance shall hold the hearing on objections as provided by sections 44-233 to 44-241 and shall receive written objections to the plan and amendments from any policyholder or stockholder shareholder and any evidence offered in support thereof. He or she may employ such actuaries, appraisers, and other experts, and make such examinations of the company and its books, records, and property as he or she deems may deem necessary. The Director of Insurance shall cause a full and complete written record of the hearing to be made. Any interested party having objections to the plan or any part thereof shall fully state such objections in written form and file them with the director prior to the hearing. Upon the hearing any objector may offer such evidence as may be determined by the Director of Insurance to be relevant and proper. Upon appeal from the order of the director, the value of each stockholder's shareholder's interest in the company and the amount to be paid therefor shall not be increased or decreased by reason of any change of circumstances occurring after the filing of such order.

Sec. 84. That section 44-238, Reissue Revised

Statutes of Nebraska, 1943, be amended to read as follows:

44-238. If, upon the hearing, the Director of Insurance disapproves the plan, he or she shall enter a written order fully stating the reason therefor. If he or she approves the proposed plan and amendments, he or she shall (1) make and enter an appropriate order approving them, (2) make a finding that the provisions of the plan are in conformity with the requirements of sections 44-231 and 44-235, (3) make a specific finding as to the fair value of the ~~stockholders'~~ shareholders' interest in the company as of the date of the order, (4) find the value of each ~~stockholder's~~ shareholder's interest as represented by his or her shares therein and the amount to be paid therefor, and (5) order that, conditioned upon the approval and adoption of the plan and amendments to the articles of incorporation by the ~~stockholders~~ shareholders at a regular or special meeting duly called for the purpose as provided in section 44-231, (a) the plan shall be placed in effect, (b) all ~~stockholders~~ shareholders of the company shall surrender their stock for cancellation pursuant to the plan and receive payment therefor in accordance therewith, and (c) upon any ~~stockholder's~~ shareholder's failing or neglecting to so surrender his or her stock, all of his or her rights, powers, and privileges as such ~~stockholder~~ shareholder shall nevertheless terminate and be extinguished, excepting only his or her right to receive payment for his or her stock. The order shall recite that appeal may be had and that the appeal shall be in accordance with the Administrative Procedure Act. A copy of the order, duly certified by the director, shall be promptly forwarded by mail to each of the ~~stockholders~~ shareholders of the company at his or her latest address as shown on the records of the company.

Sec. 85. That section 44-239, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-239. If the Director of Insurance proposes modifications in the proposed plan for mutualization or amendments to the articles of incorporation, he or she shall make such proposals in the form of a written order approving the plan only upon the condition that such modifications be promptly made thereto and approved by a two-thirds vote of the board of directors and adopted by the owners of at least two-thirds of the stock of the company. The order shall in all other respects follow the form and contain the provisions of an order approving such plan as set out in section 44-238 and

shall be similarly forwarded to the steekholders shareholders of the company.

Sec. 86. That section 44-240, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-240. Any plan for mutualization approved by the Director of Insurance shall be submitted to the policyholders of the company at a meeting held pursuant to the plan and shall be adopted only upon the affirmative vote of two-thirds of the policyholders present and voting in person or by proxy at the meeting as provided in the plan. The plan and amendments to the articles of incorporation shall also be submitted to the steekholders shareholders of the company as provided in section 44-231, and upon affirmative vote of at least two-thirds of the steekholders shareholders, the plan shall be placed in full effect and operation and the amendments to the articles shall be deemed adopted to become fully effective upon filing at the time specified in the plan and as provided for in section 44-205, and upon such filing being made, the company shall forthwith become and be a mutual insurance company for all purposes. The company shall ~~duy~~ publish notice of the amendments to its articles of incorporation as provided in section 44-206.

Sec. 87. That section 44-242, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-242. As used in For purposes of sections 44-242 to 44-247, unless the context otherwise requires:

(1) An all-lines insurer shall mean an insurer authorized to write more than one kind line of insurance included in a life insurance class of insurance and one or more kinds lines of insurance included in a property and liability class of insurance;

(2) Life insurance class of insurance shall mean the kinds lines of insurance specified in subdivisions {2}; {3}; and {9} (1) through (4) of section 44-201; and

(3) Property and liability class of insurance shall mean the kinds lines of insurance specified in subdivisions {1}; {3} ~~to~~ {8}; {10}; {12}; and {13} (4) through (14) and (16) through (20) of section 44-201, except that, with respect to any particular all-lines insurer, the kind line of insurance described specified in subdivision {3} {4} of section 44-201, may be included in either the life insurance class of insurance or property and liability class of insurance, but shall not be included in both classes or, without the approval

of the department, transferred from one class to another.

Sec. 88. That section 44-243, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-243. An Except as provided in section 44-202.01, an all-lines insurer shall maintain a minimum surplus to policyholders, as defined in section 44-222, of at least one two million dollars in the form of capital, if a stock insurance company, or in the form of surplus, if a mutual insurance company, in accordance with sections 44-214 and 44-219, respectively. Such an insurer shall not be subject to section 44-245 so long as its surplus to policyholders exceeds such minimum. Whenever the surplus to policyholders of such an insurer falls below such minimum, it shall be deemed to be an impaired insurer and shall automatically be subject to the provisions of section 44-245.

Sec. 89. That section 44-244, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-244. Each kind line of insurance written by an all-lines insurer which is included in the life insurance class of insurance or the property and liability class of insurance shall be accounted for separately in life and accident and health annual statement blanks and fire and casualty annual statement blanks, respectively. Nothing in this section shall prohibit the writing of combination policy forms by an all-lines insurer combining any kind or kinds line or lines of insurance included in the life insurance class of insurance with any kind or kinds line or lines of insurance included in the property and liability class of insurance, but the allocable and separately stated premiums for each kind line of insurance shall be accounted for separately according to its classification.

Sec. 90. That section 44-246, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-246. All requirements, limitations, and restrictions of Chapter 44 which apply to specific kinds lines of insurance or to companies identified by the specific kinds lines of insurance transacted by them shall apply to such companies and to all persons or agents thereof with respect to such specific kind line of insurance only to the extent transacted or conducted by such companies notwithstanding the fact that companies authorized under this section are formed or

authorized to transact ~~kinds~~ lines of insurance included in both the life insurance and property and casualty classes of insurance. If any provisions of sections 44-242 to 44-247 ~~conflicts~~ conflict with any other provisions of Chapter 44, the provisions of sections 44-242 to 44-247 shall prevail.

Sec. 91. That section 44-247, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-247. The department shall adopt and promulgate ~~such~~ rules and regulations ~~as may be~~ necessary to carry out the ~~provisions of~~ sections 44-242 to 44-247.

Sec. 92. That section 44-301, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-301. The ~~general provisions of law, relating to the powers, privileges, immunities, duties, and liabilities of corporations, and the incorporation thereof, excepting Nebraska Business Corporation Act,~~ except as otherwise provided in Chapter 44, shall apply to all domestic incorporated insurance companies so far as ~~such provisions are~~ the act is applicable or pertinent to and not in conflict with other provisions of the law relating to such companies. An assessment association that has accumulated and continues to maintain (1) reserves and (2) surplus or contingency funds at least equal to those required of a mutual insurance company; shall, unless otherwise provided by law, be deemed to have all the powers and privileges in transacting its business and managing its affairs as those possessed by a mutual insurance company qualified to transact the same ~~kind or kinds~~ line or lines of insurance as the assessment association.

Sec. 93. That section 44-303, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-303. No insurance company shall transact any insurance business in this state unless it has received a certificate of authority from the Department of Insurance to do so. This certificate shall expire on the last day of April in each year and shall be renewed annually if the company has continued to comply with the laws of this state, and the rules and regulations of the department. ~~No stock insurance company, domestic or otherwise, whether organized before or after June 6, 1965, whose total organization and promotion expenses, including commissions and underwriting fees, exceed ten percent of the money paid upon stock subscriptions,~~

shall be authorized to do an insurance business in this state within five years from the date of authorization to do business in the state of such company's domicile. No domestic insurance company shall issue, cause, or allow to be issued, any stock or stock subscriptions at any time upon which all expenses of distribution and sale, including promotion, commissions, and underwriting fees, exceed ten percent of the amount paid in money upon such stock or stock subscriptions. Authority to do an insurance business shall be refused any company which contracts to pay or does pay any part of the premiums arising from insurance it has written or may write as compensation, directly or indirectly, for promoting or organizing the company.

Sec. 94. That section 44-304, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-304. Every insurance company before engaging in transacting the business of insurance in this state ~~must~~ shall file in the office of the Department of Insurance a legally authenticated copy of its charter, articles of incorporation ~~or association~~, or record of its organization, and bylaws as follows: (1) If a domestic company, a copy of its articles of incorporation ~~or association~~, together with any amendments ~~or alterations~~ made therein; and (2) if a foreign or alien company, a copy of its articles of incorporation or charter and bylaws, including all amendments ~~or alterations~~ made therein, with a certificate duly executed by the officer having the custody of such articles or charter, under his or her seal of office, that such company is duly authorized under the laws of such state or country to do business therein, and a certificate showing the amount of issued and outstanding capital stock and assets as required by section 44-305, ~~together with a copy of its last annual statement made in the state or country where it is organized, duly certified,~~ (3) Such company shall furnish such other information and copies of all other papers which the department may require.

Sec. 95. That section 44-305, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-305. No foreign or alien insurance company shall be permitted to transact any business of insurance in this state: (1) If a stock company, unless it possesses, in its own exclusive name and right, paid-up, unimpaired capital stock and surplus equal to the minimum amount required by section 44-214, to entitle

any domestic stock insurance company to transact a like kind or kinds of business; and (2) if a mutual company, unless it owns, has, and possesses, in its own exclusive name and right, surplus unimpaired of the kind and equal to the minimum amount required by section 44-219, to entitle any domestic mutual insurance company to transact a like kind or kinds of business. No part of such minimum capital or surplus shall consist of the capital stock of its own or any other insurance company. No alien insurance company shall be authorized to transact any business of insurance in this state unless it shall have deposited with the insurance department of some one state in the United States not less than two hundred thousand dollars in approved securities for the benefit of all its policyholders in the United States.

Sec. 96. That section 44-319.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-319.02. Every domestic insurer, hereafter organized to transact the business of insurance in this state, shall deposit and continually maintain with the Department of Insurance eligible securities for the benefit of all of its policyholders in the United States in an the amount equal to the minimum surplus, capital, or deposit requirements necessary for each kind of insurance it is licensed to write but in no event to exceed of one hundred thousand dollars.

Sec. 97. That section 44-319.05, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-319.05. Every domestic insurer and assessment association required by Chapter 44 to deposit securities with the Department of Insurance shall, in addition to the minimum deposits so required, continue to deposit all of its eligible securities until they aggregate the sum of one hundred thousand dollars.

Sec. 98. That section 44-319.11, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-319.11. The director may designate any bank or trust company domiciled in this state as the depository for the Department of Insurance to receive and hold for safekeeping purposes any securities deposited pursuant to sections 44-319.01 to 44-319.13 or any prior insurance law. The holding of any such securities shall be at the expense of the insurer or assessment association. The director is hereby relieved of all personal and official liability for securities held by or in transit to or from such authorized

depository. The director shall (1) adopt and promulgate reasonable rules and regulations relative to the manner in which securities may be deposited and withdrawn and (2) purchase such insurance as he or she may deem necessary for the protection of the State of Nebraska and its employees and agents. The premium for such insurance shall be paid from the Insurance Supervision Department of Insurance Cash Fund.

Sec. 99. That section 44-326, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-326. No domestic company shall make any disbursements of twenty-five disbursement of one hundred dollars or more unless the same be other than policy proceeds or benefits unless the disbursement is evidenced by an invoice, a statement of account, or a voucher signed issued by or on behalf of the person, firm, or corporation receiving the money, and correctly describing the consideration for the disbursement. If the invoice, statement of account, or voucher is unavailable, the disbursement shall be evidenced by an affidavit of some officer of the company identifying the disbursement and the consideration for the disbursement and stating the reason the invoice, statement of account, or voucher is unavailable. payment- if the expenditure be for both services and disbursements, the vouchers shall set forth the services rendered and an itemized statement of the disbursements made. If the expenditure be in connection with any matter pending before any legislature or public body, or before a department or officer of any state or government, the voucher shall correctly describe, in addition to the nature of the matter, the interest of such company therein. When such vouchers cannot be obtained, the expenditure shall be evidenced by an affidavit of some officer of the company, describing the character and object of the expenditure, and stating the reason for not obtaining such vouchers-

Sec. 100. That section 44-348, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-348. Except as otherwise provided by the Director of Insurance, no No insurance policy or certificate issued under such policy or bond of any kind shall be issued or delivered in this state unless and until a copy of the form thereof has been filed with the Department of Insurance, and approved by it. This section shall not apply to (1) contracts of suretyship or reinsurance, (2) bonds required by a court or

governmental entity, or (3) forms unique in character designed for and used with regard to a particular risk.

Sec. 101. That section 44-351, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-351. No company, association, or society organized under sections 44-202 to 44-209 44-208.08 shall take any name in use by any other company, association, or society, or so closely resembling such name as to mislead the public as to its identity.

Sec. 102. That section 44-352, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-352. It shall be unlawful for any insurance company to permit the use of its name or for any other company, person, or firm to use the name of any insurance company in such a way as to deceive or mislead the public. The violation of this section or section 44-351 by an insurance company will shall be grounds for the suspension or revocation of its license, and the person, firm, or corporation so using the name of an insurance company shall be punished by a fine of not exceeding one hundred dollars for each offense. An appeal of a suspension, revocation, or and fine may be taken, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 103. That section 44-356, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-356. Whoever violates any of the provisions of sections 44-351 to 44-354 44-353 to 44-355 shall be fined in any sum not less than twenty dollars nor more than one hundred dollars.

Sec. 104. That section 44-367, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-367. The license of any insurance company, agent, or broker found by the Department of Insurance, after hearing, to have violated any of the provisions of sections 44-361 to 44-364 section 44-361 may be revoked or suspended. Appeal may be taken from the decision of the Director of Insurance, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 105. That section 44-386.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-386.01. No such association described in section 44-386 as may hereafter be formed shall provide any insurance coverage until it shall have has filed

with and received the approval of the Department of Insurance, on such association's ~~its~~ contract of association containing the name of the association, the place in Nebraska where its principal office will be located, the method of electing its officers and directors, and the method and procedure of doing business, and copies of all contracts of association for insurance, applications, policies, certificates, and other evidence of insurance coverage to be used by such association in connection with its operation. No such association shall receive approval to operate if it has not filed its contract of association prior to the effective date of this act. All changes of, or any additions to ~~the foregoing~~ such information shall first be filed with and approved by the department before ~~they~~ such changes or additions are used or become effective.

Sec. 106. That section 44-386.05, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-386.05. Whenever, from an inspection of the books and records or a review of the annual report, the Director of Insurance deems it prudent for the protection of the members of any association, he or she may conduct a hearing on the business affairs of the association. Notice shall be given as provided in ~~Chapter 44, article 23 the Administrative Procedure Act.~~ Actual expenses of the Department of Insurance shall be paid by the association.

Sec. 107. That section 44-386.06, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-386.06. If, after such hearing the hearing provided for in section 44-386.05, the Director of Insurance finds that any rule or regulation adopted and promulgated pursuant to section 44-386.08, or any statute is being violated, he or she may issue an order to cease and desist all business of the association or any activity connected therewith until such time as corrective measures have been taken. If the director ~~shall determine~~ determines that any officer or member has misappropriated any funds, or wrongfully converted any funds to his or her own use, he or she shall refer the matter to the county attorney of the county in which the books of the association are kept for prosecution by the county attorney under the applicable criminal statutes.

Sec. 108. That section 44-386.08, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-386.08. The Director of Insurance may adopt and promulgate rules and regulations for the administration and enforcement of the provisions of sections 44-386.01 to 44-386.07, and for the procedures for examination of books and records, for the requirements of reports, and for procedures for approval of changes or additions of evidence of insurance coverage to be used by the associations.

Sec. 109. That section 44-3,111, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3,111. The provisions of sections 44-3,107 to 44-3,109 shall not apply to foreign or domestic arbitrage transactions unless made in contravention of such rules and regulations as the Director of Insurance may adopt and promulgate in order to carry out the purposes of sections 44-3,107 to 44-3,114.

Sec. 110. That section 44-3,112, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3,112. Equity security when used in sections 44-3,107 to 44-3,114 shall mean (1) any stock or similar security, (2) ~~or~~ any security convertible, with or without consideration, into such a security; or carrying any warrant or right to subscribe to or purchase such a security, (3) ~~or~~ any such warrant or right, ~~or~~ (4) any other security which the Director of Insurance ~~shall deem~~ deems to be of similar nature and ~~consider~~ considers necessary or appropriate, by such rules and regulations as he or she may adopt and promulgate may ~~prescribe~~ in the public interest or for the protection of investors, to treat as an equity security.

Sec. 111. That section 44-3,114, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3,114. The Director of Insurance shall have the power to make adopt and promulgate such rules and regulations as may be necessary for the execution of the functions vested in him or her by the provisions of sections 44-3,107 to 44-3,113; and may for such purpose classify domestic stock insurance companies, securities, and other persons or matters within his or her jurisdiction. No provision of sections 44-3,107 to 44-3,109; imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule or regulation of the Director of Insurance, notwithstanding that such rule or regulation may, after such act or omission, be amended, ~~or~~ rescinded, ~~or~~

determined by judicial or other authority to be invalid for any reason.

Sec. 112. That section 44-3,115, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3,115. Sections 44-3,115 to 44-3,118 shall apply to all domestic stock insurers having one hundred or more ~~stockholders~~ shareholders, except that such sections ~~44-3,115 to 44-3,118~~ shall not apply to any insurer if ninety-five percent or more of its stock is owned or controlled by a parent or an affiliated insurer and the remaining shares are held by less than five hundred ~~stockholders~~ shareholders. A domestic stock insurer which files with the Securities and Exchange Commission forms of proxies, consents, and authorizations complying with the requirements of the Securities Exchange Act of 1934, ~~and the~~ the Securities Exchange Act amendments of 1964, and the rules and regulations of the Securities and Exchange Commission promulgated thereunder shall file copies of all such documents with the Director of Insurance on the same date such documents are filed with the Securities and Exchange Commission.

Sec. 113. That section 44-3,116, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3,116. To insure that ~~stockholders~~ shareholders are provided with adequate information and to prevent fraud, deception, or dissemination of misleading information, a copy of every form of proxy, consent, or authorization for use at any meeting of ~~stockholders~~ shareholders and a copy of every solicitation, announcement, or other communication to ~~stockholders~~ shareholders under circumstances reasonably calculated to result in the procurement, withholding, or revocation of a proxy, consent, or authorization shall be filed with the director by the person intending to use, issue, publish, or circulate such document.

Sec. 114. That section 44-3,117, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3,117. Unless proxies, consents, or authorizations in respect of a stock of a domestic insurer subject to the provisions of section 44-3,115, are solicited by or on behalf of the management of such insurer from the holders of record of stock of such insurer in accordance with the rules and regulations adopted and promulgated by the Director of Insurance pursuant to sections 44-3,115 to 44-3,118 prior to any

annual or other meeting, such insurer shall, in accordance with the such rules and regulations, adopted by the director pursuant to the provisions of sections 44-3,115 to 44-3,118, file with the director and transmit to all stockholders shareholders of record information substantially equivalent to the information which would be required to be transmitted if such a solicitation were made.

Sec. 115. That section 44-3,118, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3,118. In accordance with the provisions of sections 44-3,115 to 44-3,116-01, 44-3,117, and 44-3,118, the Director of Insurance shall adopt and promulgate such rules and regulations as are reasonable, necessary, or appropriate in the public interest or for the protection of investors (1) to define the provisions and applicability of sections 44-3,115 to 44-3,118, (2) to require that information including proxy statements be transmitted to stockholders shareholders and to prescribe the kind, content, and form thereof of such information and the circumstances, time, and manner in which the same such information shall be transmitted, (3) to prescribe the content, form, and requirements of proxies, consents, and authorizations and the circumstances, time, and manner in which such proxies, consents, and authorizations the same may be solicited, and (4) to require that information, including forms of proxy statements, proxies, consents, and authorizations, be filed with the director and to prescribe the kind, content, and form thereof of such information and the circumstances, time, and manner in which the same such information shall be filed.

Sec. 116. That section 44-401, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-401. In ascertaining the condition of a domestic stock fire property or casualty insurance company, there shall be allowed as assets only such investments, cash, and accounts as are authorized by the laws of this state at the date of the examination, but premium notes not past due, and unpaid premiums on policies not more than ninety days past due, shall be admitted as available resources. In ascertaining its liabilities, there shall be charged in addition to the capital stock, all outstanding claims, and a sum equal to one hundred percent of the unearned premiums on the policies in force, after deducting credit for reinsurance authorized by sections 44-416.01 to

44-416.04, calculated on the gross sum without any deductions on any account, charged to the policyholder on each respective risk from the date of the issuance of the policy. In ascertaining the condition of a domestic mutual fire property or casualty insurance company, other than a company licensed solely to write the class line of insurance described specified in subdivision ~~(3)~~ (4) of section 44-201, there shall be allowed as assets only such investments, cash, and accounts as are authorized by the laws of this state at the date of examination, but premium notes not past due, and unpaid premiums on policies not more than ninety days past due, shall be admitted as available resources. In ascertaining its liabilities, there shall be charged all outstanding claims and a reserve in an amount equal to one hundred percent of the total unearned premium on all their policies in force. If the department finds this section to be impractical in ascertaining the condition of certain kinds of insurance companies, the department shall formulate adopt and promulgate such rules and regulations as it deems proper, efficient, and consistent with law. Such rules and regulations shall give due regard to the statutes, rules, and regulations, and established industry practices which may be used in other states or which are approved by the National Association of Insurance Commissioners.

Sec. 117. That section 44-402, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-402. The Department of Insurance shall annually value, or cause to be valued, the reserve liabilities, { hereinafter called reserves, } for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurance company doing business in this state, except that in the case of an alien company, such valuation shall be limited to its United States business, and shall certify issue a certificate as to the amount of any such reserves, and specifying the mortality table or tables, rate or rates of interest and methods (net level premium or other method) used in the calculation of such reserves- in calculating such reserves, it may use group methods and approximate averages for fractions of a year or otherwise. In lieu of the valuation of the reserves herein required of any foreign or alien company, it may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction, when such valuation complies with the minimum standard herein provided and if the official of

such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the department, when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction. The department may vary the standard of valuation in particular cases of invalid lives and other extra hazards. Any such company, which at any time shall have has adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard, herein provided; may, with the approval of the department, adopt any lower standard of valuation, but not lower than the minimum standard, herein provided.

Sec. 118. Loss reserves for domestic property and casualty insurance companies shall be set at the present value of estimated future payments if (1) a complete settlement between the claimant and the insured or insurer has been agreed upon, (2) all payments due the claimant have not yet been made, and (3) the payments are structured as an annuity.

Sec. 119. That section 44-501, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-501. No policy or contract of fire and lightning insurance, including a renewal thereof, shall be made, issued, used, or delivered by any insurer or by any agent or representative thereof, on property within this state other than such as shall conform as nearly as practicable to blanks, size of type, context, provisions, agreements, and conditions with the 1943 Standard Fire Insurance Policy of the State of New York, a copy of which shall be filed in the office of the Director of Insurance as standard policy for this state, and no other or different provision, agreement, condition, or clause shall in any manner be made a part of such contract or policy or be endorsed thereon or delivered therewith except as provided in subsections subdivisions (1) to (10) through (11) of this section.

(1) The name of the company, its location and place of business, the date of its incorporation or organization, and the state or country under which the same such company is organized, the amount of paid-up capital stock, whether it is a stock, mutual, reciprocal, or assessment company, the names of its officers, the number and date of the policy, and appropriate company emblems may be printed on policies

issued on property in this state. Any ; PROVIDED; that any insurer organized under special charter provisions may so indicate upon its policy; and may add a statement of the plan under which it operates in this state.

In lieu of the facsimile signatures of the president and secretary of the insurer on such policy, there may appear the signature or signatures of such persons as are duly authorized by the insurer to execute the contract. No such policy shall be void if the facsimile signature or signatures of any officer of the company shall not correspond with the actual persons who are such officers at the inception of the contract if such policy is countersigned by a duly authorized agent of the insurer.

(2) Printed or written forms of description and specifications or schedules of the property covered by any particular policy and any other matter necessary to express clearly all the facts and conditions of insurance on any particular risk, which facts or conditions shall in no case be inconsistent with or a waiver of any of the provisions or conditions of the standard policy herein provided for, may be written upon or attached or appended to any policy issued on property in this state. Appropriate forms of supplemental contracts, contracts, or endorsements, whereby the interest in the property described in such policy shall be insured against one or more of the perils which insurer is empowered to assume, may be used in connection with the standard policy. Such forms of contracts, supplemental contracts, or endorsements attached or printed thereon may contain provisions and stipulations inconsistent with the standard policy if applicable only to such other perils. The pages of the standard policy may be renumbered and rearranged for convenience in the preparation of individual contracts and to provide space for the listing of rates and premiums for coverages insured thereunder or under endorsements attached or printed thereon; and such other data as may be included for duplication on daily reports for office records.

(3) A company, corporation, or association organized or incorporated under and in pursuance of the laws of this state or elsewhere, if entitled to do business in this state, may with the approval of the Director of Insurance, if the same is not already included in the standard form as filed in the office of the Department of Insurance, print on its policies; any provision which it is required by law to insert therein; if said the provision is not in conflict with the laws

of this state or the United States, or ~~of~~ with the provisions of the standard form provided for ~~herein~~ in this section, but such provision shall be printed apart from the other provisions, agreements, or conditions of the policy and in type not smaller than the body of the policy and a separate title, as follows: Provisions required by law to be stated in this policy, and be a part of the policy.

(4) There may be endorsed on the outside of any policy provided for in this section for the name, with the word Agent or Agents and place of business, of any insurance agent or agents, either by writing, printing, stamping, or otherwise. There may also be added, with the approval of the Director of Insurance, a statement of the group of companies with which the company is financially affiliated, and the usual company medallion.

(5) When two or more companies, each having previously complied with the laws of this state, unite to issue a joint policy, there may be expressed in the headline of each policy the fact of the severality of the contract, and also the proportion of premiums to be paid to each company and the proportion of liability which each company agrees to assume. In the printed conditions of such policy, the necessary change may be made from the singular to plural number, when reference is ~~had~~ made to the companies issuing such policy.

(6) This section shall not apply to motor vehicle, inland marine, nor ocean marine insurance, nor shall it apply to reinsurance contracts between insurance companies. The Director of Insurance may approve any form of policy which includes, ~~either on an unspecified basis as to coverage or for an indivisible premium,~~ coverage against the peril of fire and substantial coverage against other perils, without complying with the provisions of this section if , ~~PROVIDED,~~ such policy with respect to the peril of fire includes provisions which are the substantial equivalent of the minimum provisions of the standard policy ~~herein~~ provided for in this section and if , ~~AND PROVIDED FURTHER,~~ the policy is complete as to all its terms without reference to any other document.

(7) If the policy ~~be~~ is made by a mutual assessment or other company having special regulations lawfully applicable to its organization, membership, policies, or contracts of insurance, such regulations shall apply to and form a part of the policy as the same may be written or printed upon, or attached or appended thereto.

(8) Policies of assessment associations may be issued with such modifications as shall be approved in writing by the Department of Insurance.

(9) Any other coverage which a company is authorized to write under the laws of this state may be written in combination with a fire insurance policy.

(10) The policy shall provide that claims involving total loss situations shall be paid in accordance with section 44-380 120 of this act.

(11) The Director of Insurance may approve any form of policy with variations in terms and conditions from the standard policy provided for in this section.

Sec. 120. That section 44-380, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~44-380-~~ Whenever any policy of insurance ~~shall be is~~ written to insure any real property in this state against loss by fire, tornado, windstorm, lightning, or explosion and the property insured ~~shall be is~~ wholly destroyed, without criminal fault on the part of the insured or his ~~or her~~ assignee, the amount of the insurance written in such policy shall be taken conclusively to be the true value of the property insured and the true amount of loss and measure of damages.

Sec. 121. That section 44-502.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-502.04. The provisions of sections 44-502.01 to 44-502.04 shall not apply to any insurance contract issued before August 30, 1981, unless the policyholder agrees in writing to the applicability of such provisions. Any such agreement shall be void unless it is entered into by the policyholder voluntarily and following full disclosure of its effects, pursuant to the rules and regulations of the Department of Insurance.

Sec. 122. That section 44-503, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-503. No policy of life or endowment insurance shall be issued or delivered in this state (1) if it contains in substance ~~{1}~~ a provision by which the policy shall purport to be issued, or to take effect, more than six months before the original application for the insurance was made, 7 (2) if it contains in substance a provision which excludes or restricts liability in the event of death by suicide if such death occurs more than two years after the policy date, (3) if

it contains in substance a provision, except such provisions as are authorized or required by section 44-502, by which the settlement at the maturity of any policy after the expiration of the contestable period thereof shall be of less value than the amount promised on the face of the policy plus dividend additions, if any, less any indebtedness to the company on or secured by the policy, and less any premium that may, by the terms of the policy, be deducted, ~~7~~ or ~~(3)~~ (4) if there are attached thereto or issued as a part thereof or in connection therewith any coupons, or other evidence of indebtedness by whatever name called, which coupons or other evidence of indebtedness are to be used in reducing the premiums on the policies, or for the purchase of additional insurance or any benefit whatever, or which are to be redeemed by the company in cash under any circumstances, in the nature of a rebate on the premium.

Sec. 123. That section 44-511, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-511. No Except as otherwise provided by the Director of Insurance, no policy of life insurance or annuity shall be delivered or issued for delivery in this state, nor shall any endorsement, rider, or application which becomes a part of any such policy be used, until a copy of the form has been filed with the Director of Insurance director. No such policy, endorsement, rider, or application shall be so used until the expiration of thirty days after the form has been received unless the director shall sooner give his or her written approval thereto. Such thirty-day period may be extended by the director for an additional period, not to exceed thirty days. Notice of such extension shall be mailed to the insurer involved. The director shall notify in writing the insurer which has filed any such form if such form or provision or language thereof is unjust, unfair, inequitable, misleading, or deceptive, encourages misrepresentation of the coverage, or is contrary to any provision of the statutes of this state or any rule or regulation adopted and promulgated thereunder, specifying the reasons for his or her opinion, and it shall thereafter be unlawful for such insurer to use such form in this state. In such notice, the director shall state that a hearing will be granted within thirty days upon written request of the insurer. In all other cases the director shall give his or her approval. The disapproval may be appealed, and the appeal shall be in accordance with the

Administrative Procedure Act.

Sec. 124. That section 44-514, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-514. As used in For purposes of sections 44-514 to 44-521, unless the context otherwise requires:

(1) Policy shall mean an automobile liability policy providing all or part of the coverage defined in subsection subdivision (2) of this section, delivered or issued for delivery in this state, insuring a natural person as named insured or one or more related individuals resident of the same household, and under which the insured vehicles therein designated in the policy are of the following types only: (a) A motor vehicle of the private passenger or station wagon type that is not used as a public or livery conveyance for passengers, nor rented to others; or (b) any other four-wheel motor vehicle of the pickup, panel, or delivery type which is not used in the occupation, profession, or business of the insured, except ; PROVIDED, that sections 44-514 to 44-521 shall not apply (i) to any policy issued under an automobile assigned-risk plan; (ii) to any policy insuring more than four automobiles; (iii) to any policy covering garage, automobile sales agency, repair shop, service station, or public parking place operation hazards; or (iv) to any policy of insurance issued principally to cover personal or premises liability of an insured even though such insurance may also provide some incidental coverage for liability arising out of the ownership, maintenance, or use of a motor vehicle on the premises of such insured or on the way immediately adjoining such premises;

(2) Automobile liability coverage shall include only coverage of bodily injury and property damage liability, medical payments, and uninsured motorists motorist coverage, and underinsured motorist coverage;

(3) Renewal or to renew shall mean the issuance and delivery by an insurer of a policy replacing at the end of the policy period a policy previously issued and delivered by the same insurer; or the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term, except ; PROVIDED, that (a) any policy with a policy period or term of less than six months shall be considered as if written for a policy period or term of six months; AND PROVIDED FURTHER, that and (b) any policy written for a term longer than one year or any

policy with no fixed expiration date shall be considered as if written for successive policy periods or terms of one year, and such policy may be terminated at the expiration of any annual period upon giving twenty days' notice of cancellation prior to such anniversary date, and such cancellation shall not be subject to any other provisions of sections 44-514 to 44-521; and

(4) Nonpayment of premium shall mean failure of the named insured to discharge when due any of his or her obligations in connection with the payment of any premium on a policy; or any installment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit.

Sec. 125. That section 44-519, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-519. Proof Evidence of mailing notice of cancellation, or of intention not to renew, or of reasons for cancellation; to the named insured at the insured's last mailing address shown in the policy known to the insurer shall be sufficient proof of receipt of notice.

Sec. 126. That section 44-379, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-379: (1) The Department of Insurance shall not approve any insurance policy filed for approval with the department, as required by Chapter 44, article 3, which insures against loss or damage to property or against legal liability from any cause unless such policy contains an appropriate provision for cancellation thereof by either the insurer or the insured.

(2) On any policy or binder of fire property, marine, or liability insurance, as defined specified in section 44-201, the insurer shall give the insured sixty days' written notice prior to cancellation or nonrenewal of such policy or binder, except that the insurer may cancel upon ten days' written notice to the insured in the event of nonpayment of premium or if such policy or binder has a specified term of sixty days or less unless the policy or binder has previously been renewed. The provisions of this subsection and subsection (4) of this section shall not apply to nonrenewal of a policy or binder which has a specified term of sixty days or less unless the policy or binder has previously been renewed. Such notice shall state the reason for cancellation or nonrenewal.

(3) Notwithstanding subsection (2) of this section, no policy of fire property, marine, or liability insurance, as defined specified in section 44-201, which has been in effect for more than sixty days shall be canceled by the insurer except for one of the following reasons:

- (a) Nonpayment of premium;
- (b) The policy was obtained through a material misrepresentation;
- (c) Any insured has submitted a fraudulent claim;
- (d) Any insured violating has violated any of the terms and conditions of the policy;
- ~~(d)~~ (e) The risk originally accepted has substantially increased;
- ~~(e)~~ (f) Certification to the Director of Insurance of loss of reinsurance by the insurer which provided coverage to the insurer for all or a substantial part of the underlying risk insured; or
- ~~(f)~~ (g) The determination by the director that the continuation of the policy could place the insurer in violation of the insurance laws of this state.

(4) Notice of cancellation or nonrenewal shall be sent by registered, certified, or first-class mail to the insured's last mailing address known to the insurer. If sent by first-class mail, a United States Postal Service certificate of mailing shall be sufficient proof of receipt of notice on the third calendar day after the date of the certificate.

(5) The requirements of subsections (2), and (3), and (4) of this section shall not apply to automobile insurance coverage, insurance coverage issued under the Nebraska Workers' Compensation Act, insurance coverage on growing crops, or insurance coverage which is for a specified season or event and which is not subject to renewal or replacement.

~~(5) Policy forms filed with the Department of Insurance on and after July 17, 1986, shall conform to this section; and all (6) All policy forms issued for delivery in Nebraska shall conform to this section, no later than January 1, 1987.~~

Sec. 127. That section 44-379.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

~~44-379.01.~~ A notice of cancellation, given for reasons other than for nonpayment of premium, of a policy of automobile liability insurance issued or delivered in this state, shall only be effective if mailed by registered or certified mail to the named

insured at the address shown in the policy at least thirty days prior to the effective date of such cancellation.

This section shall not apply (1) to any policy subject to sections 44-514 to 44-521, (2) to any policy issued under an automobile assigned-risk plan or to any policy of insurance issued principally to cover personal or premises liability of an insured even though such insurance may also provide some incidental coverage for liability arising out of the ownership, maintenance, or use of a motor vehicle on the premises of the insured or on the ways adjoining such premises, and (3) - ~~This section shall also not apply~~ to any policy or coverage which has been in effect less than sixty days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy. Any attempted cancellation in violation of the provisions of this section shall be void.

Sec. 128. Every individual life insurance or annuity policy, except a credit life policy, shall have printed on its face or attached to the policy a notice stating in substance that the person to whom the policy is issued shall be permitted to return the policy within ten days of its delivery to the purchaser and to have the premium paid refunded if, after examination of the policy, the purchaser is not satisfied with it for any reason. If a policyholder or a purchaser pursuant to such notice returns the policy to the insurer at its home office or branch office or to the agent or agency through which it was purchased, the policy shall be void from the beginning and the parties shall be in the same position as if no policy had been issued.

Sec. 129. That section 44-709, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-709. The term sickness and accident insurance, ~~or accident and sickness insurance~~ as used in sections 44-710 to 44-710-16, 44-711, 44-736, and 44-749 to 44-767 is defined as shall mean insurance against loss or expense resulting from the sickness of the insured, ~~or~~ from the bodily injury or death of the insured by accident, or both.

Sec. 130. That section 44-710, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-710. No Except as otherwise provided by the Director of Insurance, no policy of sickness and accident insurance shall be delivered or issued for delivery in this state, nor shall any endorsement,

rider, or application which becomes a part of any such policy be used, until a copy of the form and of the premium rates and of the classification of risks pertaining thereto have has been filed with the Director of Insurance. No ; nor shall any such policy, endorsement, rider, or application shall be so used until the expiration of thirty days after the form has been received by the director unless the director shall ~~sooner give~~ gives his or her written approval thereto prior to the expiration of the thirty-day period. The ; PROVIDED, said thirty-day period may be extended by the director for an additional period; not to exceed thirty days. Notice of such extension shall be mailed to the insurer involved. The director shall notify in writing the insurer which has filed any such form if it contains benefits that are unreasonable in relation to the premium charged or any provision which is unjust, unfair, inequitable, misleading, or contrary to the law of this state, specifying the reasons for his or her opinion, ; and it shall thereafter be unlawful for such insurer to use such form in this state. In such notice, the director shall state that a hearing will be granted within thirty days upon written request of the insurer. In all other cases the director shall give his or her approval. An appeal from the decision of the director may be taken pursuant to Chapter 44 The decision of the director may be appealed, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 131. That section 44-710.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-710.01. No policy of ~~accident and~~ and accident insurance shall be delivered or issued for delivery to any person in this state unless (1) the entire money and other considerations therefor are expressed therein, ; (2) the time at which the insurance takes effect and terminates is expressed therein, ; (3) it purports to insure only one person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family who shall be deemed the policyholder, any two or more eligible members of that family, including husband, wife, dependent children, any children enrolled on a full-time basis in any college, university, or trade school, or any children under a specified age which shall not exceed twenty-three years and any other person dependent upon the policyholder; any individual policy hereinafter delivered or issued for delivery in this state which provides that coverage of a dependent child

shall terminate upon the attainment of the limiting age for dependent children specified in the policy shall also provide in substance that attainment of such limiting age shall not operate to terminate the coverage of such child during the continuance of such policy and while the child is and continues to be both (a) incapable of self-sustaining employment by reason of mental retardation or physical handicap and (b) chiefly dependent upon the policyholder for support and maintenance, if proof of such incapacity and dependency is furnished to the insurer by the policyholder within thirty-one days of the child's attainment of the limiting age and subsequently as may be required by the insurer but not more frequently than annually after the two-year period following the child's attainment of the limiting age; PROVIDED, that such insurer may charge an additional premium for and with respect to any such continuation of coverage beyond the limiting age of the policy with respect to such child, which premium shall be determined by the insurer on the basis of the class of risks applicable to such child, ; (4) it contains a title on the face of the policy correctly describing the policy, the style, arrangement, and overall appearance of the policy give no undue prominence to any portion of the text, and unless every printed portion of the text of the policy and of any endorsements or attached papers is plainly printed in light-faced type of a style in general use, the size of which shall be uniform and not less than ten-point with a lower-case unspaced alphabet length not less than one hundred and twenty-point (the text shall include all printed matter except the name and address of the insurer, name or title of the policy, the brief description if any, and captions and subcaptions); (5) the exceptions and reductions of indemnity are set forth in the policy and, except those which are set forth in sections 44-710.03 and 44-710.04, are printed, at the insurer's option, either included with the benefit provision to which they apply, or under an appropriate caption such as EXCEPTIONS, or EXCEPTIONS AND REDUCTIONS; PROVIDED, that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of such exception or reduction shall be included with the benefit provision to which it applies, ; (6) each such form, including riders and endorsements, shall be identified by a form number in the lower left-hand corner of the first page thereof, ; and (7) it contains no provision purporting to make any portion of the charter, rules, constitution, or bylaws of the insurer a part of the policy unless

such portion is set forth in full in the policy, except in the case of the incorporation of, or reference to, a statement of rates or classification of risks, or short-rate table filed with the Director of Insurance.

Sec. 132. That section 44-710.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-710.02. If any policy of sickness and accident insurance is issued by an insurer domiciled in this state for delivery to a person residing in another state, and if the official having responsibility for the administration of the insurance laws of such other state ~~shall have~~ has advised the Director of Insurance that any such policy is not subject to approval or disapproval by such official, the Director of Insurance may by ruling require that such policy meet the standards set forth in sections 44-710.01 and 44-710.03 to 44-710.09.

Sec. 133. That section 44-710.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-710.03. Except as provided in section 44-710.05, each ~~such~~ policy of sickness and accident insurance delivered or issued for delivery to any person in this state shall contain the provisions specified in this section in the words in which the same appear in this section, except ; ~~PROVIDED~~, that the insurer may, at its option, substitute for one or more of such provisions corresponding provisions of different wording approved by the Director of Insurance which are in each instance not less favorable in any respect to the insured or the beneficiary. Such provisions shall be preceded individually by the caption appearing in this section or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the Director of Insurance may approve.

(1) A provision as follows: ENTIRE CONTRACT: CHANGES: This policy, including the endorsements and the attached papers, if any, constitutes the entire contract of insurance. No change in this policy shall be valid until approved by an executive officer of the insurer and unless such approval be endorsed hereon or attached hereto. No agent has authority to change this policy or to waive any of its provisions.

(2) A provision as follows: TIME LIMIT ON CERTAIN DEFENSES: (a) After ~~three~~ two years from the date of issue of this policy no misstatements, except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the

policy or to deny a claim for loss incurred or disability, as defined in the policy, commencing after the expiration of such ~~three-year~~ two-year period. The foregoing policy provision shall not be so construed as to affect any legal requirement for avoidance of a policy or denial of a claim during such initial ~~three-year~~ two-year period; nor to limit the application of subdivisions (1) ~~to~~ through (5) of section 44-710.04 in the event of misstatement with respect to age or occupation or other insurance. A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium until at least age fifty or, in the case of a policy issued after age forty-four, for at least five years from its date of issue, may contain in lieu of the foregoing the following provision, from which the clause "as defined in the policy" may be omitted at the insurer's option, under the caption INCONTESTABLE: After this policy has been in force for a period of ~~three~~ two years during the lifetime of the insured, excluding any period during which the insured is disabled, it shall become incontestable as to the statements contained in the application. (b) No claim for loss incurred or disability, as defined in the policy, commencing after ~~three~~ two years from the date of issue of this policy shall be reduced or denied on the ground that disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy.

(3) A provision as follows: GRACE PERIOD: A grace period of (insert a number not less than 7 for weekly premium policies, 10 for monthly premium policies, and 31 for all other policies) days will be granted for the payment of each premium falling due after the first premium, during which grace period the policy shall continue in force. A policy which contains a cancellation provision may add, at the end of the above provision: Subject to the right of the insurer to cancel in accordance with the cancellation provision hereof. A policy in which the insurer reserves the right to refuse any renewal shall have, at the beginning of the above provision: Unless not less than five ~~thirty~~ days prior to the premium due date the insurer has delivered to the insured or has mailed to his or her last address as shown by the records of the insurer written notice of its intention not to renew this policy beyond the period for which the premium has been accepted.

(4) A provision as follows: REINSTATEMENT:

If any renewal premium be not paid within the time granted the insured for payment, a subsequent acceptance of premium by the insurer or by any agent duly authorized by the insurer to accept such premium, without requiring in connection therewith an application for reinstatement, shall reinstate the policy, except ~~PROVIDED~~, that if the insurer or such agent requires an application for reinstatement and issues a conditional receipt for the premium tendered, the policy will be reinstated upon approval of such application by the insurer or, lacking such approval, upon the forty-fifth day following the date of such conditional receipt unless the insurer has previously notified the insured in writing of its disapproval of such application. The reinstated policy shall cover only loss resulting from such accidental injury as may be sustained after the date of reinstatement and loss due to such sickness as may begin more than ten days after such date. In all other respects the insured and insurer shall have the same rights thereunder as they had under the policy immediately before the due date of the defaulted premium, subject to any provisions endorsed hereon or attached hereto in connection with the reinstatement. Any premium accepted in connection with a reinstatement shall be applied to a period for which premium has not been previously paid, but not to any period more than sixty days prior to the date of reinstatement. (The last sentence of the above provision may be omitted from any policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums (a) until at least age fifty or (b) in the case of a policy issued after age forty-four, for at least five years from its date of issue.)

(5) A provision as follows: NOTICE OF CLAIM:

Written notice of claim must be given to the insurer within twenty days after the occurrence or commencement of any loss covered by the policy, or as soon thereafter as is reasonably possible. Notice given by or on behalf of the insured or the beneficiary to the insurer at (insert the location of such office as the insurer may designate for the purpose), or to any authorized agent of the insurer, with information sufficient to identify the insured, shall be deemed notice to the insurer. In a policy providing a loss-of-time benefit which may be payable for at least two years, an insurer may at its option insert the following between the first and second sentences of the above provision: Subject to the qualifications set

forth below, if the insured suffers loss of time on account of disability for which indemnity may be payable for at least two years, he or she shall, at least once in every six months after having given notice of claim, give to the insurer notice of continuance of said such disability, except in the event of legal incapacity. The period of six months following any filing of proof by the insured or any payment by the insurer on account of such claim or any denial of liability in whole or in part by the insurer shall be excluded in applying this provision. Delay in the giving of such notice shall not impair the insured's right to any indemnity which would otherwise have accrued during the period of six months preceding the date on which such notice is actually given.

(6) A provision as follows: CLAIM FORMS: The insurer, upon receipt of a notice of claim, will furnish to the claimant such forms as are usually furnished by it for filing proofs of loss. If such forms are not furnished within fifteen days after the giving of such notice, the claimant shall be deemed to have complied with the requirements of this policy as to proof of loss upon submitting, within the time fixed in the policy for filing proofs of loss, written proof covering the occurrence, the character, and the extent of the loss for which claim is made.

(7) A provision as follows: PROOFS OF LOSS: Written proof of loss must be furnished to the insurer at its said office in case of claim for loss for which the policy provides any periodic payment contingent upon continuing loss within ninety days after the termination of the period for which the insurer is liable and in case of claim for any other loss within ninety days after the date of such loss. Failure to furnish such proof within the time required shall not invalidate nor reduce any claim if it was not reasonably possible to give proof within such time, provided and if such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity, later than one year from the time proof is otherwise required.

(8) A provision as follows: TIME OF PAYMENT OF CLAIMS: Indemnities payable under this policy for any loss other than loss for which this policy provides any periodic payment will be paid immediately upon receipt of due written proof of such loss. Subject to due written proof of loss, all accrued indemnities for loss for which this policy provides periodic payment will be paid (insert period for payment which must not be less frequently than monthly)

and any balance remaining unpaid upon the termination of liability will be paid immediately upon receipt of due written proof.

(9) A provision as follows: PAYMENT OF CLAIMS: Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting such payment which may be prescribed herein and effective at the time of payment. If no such designation or provision is then effective, such indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the insured's death may, at the option of the insurer, be paid either to such beneficiary or to such estate. All other indemnities will be payable to the insured. The following provisions, or either of them, may be included with the foregoing provision at the option of the insurer: (a) If any indemnity of this policy shall be payable to the estate of the insured, or to an insured or beneficiary who is a minor or otherwise not competent to give a valid release, the insurer may pay such indemnity, up to an amount not exceeding \$..... (insert an amount which shall not exceed ~~one~~ five thousand dollars), to any relative by blood or connection by marriage of the insured or beneficiary who is deemed by the insurer to be equitably entitled thereto. Any payment made by the insurer in good faith pursuant to this provision shall fully discharge the insurer to the extent of such payment. (b) Subject to any written direction of the insured in the application or otherwise all or a portion of any indemnities provided by this policy on account of hospital, nursing, medical, or surgical services may, at the insurer's option and unless the insured requests otherwise in writing not later than the time of filing proofs of such loss, be paid directly to the hospital or person rendering such services; but it is not required that the service be rendered by a particular hospital or person.

(10) A provision as follows: PHYSICAL EXAMINATIONS AND AUTOPSY: The insurer at its own expense shall have the right and opportunity to examine the person of the insured when and as often as it may reasonably require during the pendency of a claim hereunder and to make an autopsy in case of death where it is not forbidden by law.

(11) A provision as follows: LEGAL ACTIONS: No action at law or in equity shall be brought to recover on this policy prior to the expiration of sixty days after written proof of loss has been furnished in accordance with the requirements of this policy. No

such action shall be brought after the expiration of three years after the time written proof of loss is required to be furnished.

(12) A provision as follows: CHANGE OF BENEFICIARY: Unless the insured makes an irrevocable designation of beneficiary, the right to change of beneficiary is reserved to the insured and the consent of the beneficiary or beneficiaries shall not be requisite to surrender or assignment of this policy, or to any change of beneficiary or beneficiaries, or to any other changes in this policy. The first clause of this provision, relating to the irrevocable designation of beneficiary, may be omitted at the insurer's option.

Sec. 134. That section 44-710.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-710.04. Except as provided in section 44-710.05, no such policy of sickness and accident insurance delivered or issued for delivery to any person in this state shall contain provisions respecting the matters set forth below unless such provisions are in the words in which the same appear in this section, except that the insurer may, at its option, use in lieu of any such provision a corresponding provision of different wording approved by the Director of Insurance which is not less favorable in any respect to the insured or the beneficiary. Any such provision contained in the policy shall be preceded individually by the appropriate caption appearing in this section or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the Director of Insurance may approve.

(1) A provision as follows: CHANGE OF OCCUPATION: If the insured be injured or contract sickness after having changed his or her occupation to one classified by the insurer as more hazardous than that stated in this policy or while doing for compensation anything pertaining to an occupation so classified, the insurer will pay only such portion of the indemnities provided in this policy as the premium paid would have purchased at the rates and within the limits fixed by the insurer for such more hazardous occupation. If the insured changes his or her occupation to one classified by the insurer as less hazardous than that stated in this policy, the insurer, upon receipt of proof of such change of occupation, will reduce the premium rate accordingly, and will return the excess pro rata unearned premium from the date of change of occupation or from the policy anniversary date

immediately preceding receipt of such proof, whichever is the more recent. In applying this provision, the classification of occupational risk and the premium rates shall be such as have been last filed by the insurer prior to the occurrence of the loss for which the insurer is liable or prior to date of proof of change in occupation with the state official having supervision of insurance in the state where the insured resided at the time this policy was issued; but if such filing was not required, then the classification of occupational risk and the premium rates shall be those last made effective by the insurer in such state prior to the occurrence of the loss or prior to the date of proof of change of occupation.

(2) A provision as follows: MISSTATEMENT OF AGE: If the age of the insured has been misstated, all amounts payable under this policy shall be such as the premium paid would have purchased at the correct age.

(3) A provision as follows: OTHER INSURANCE IN THIS INSURER: If an accident or sickness or accident and sickness policy or policies previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity for (insert type of coverage or coverages) in excess of \$..... (insert maximum limit of indemnity or indemnities), the excess insurance shall be void and all premiums paid for such excess shall be returned to the insured or to his or her estate; ~~or~~ or in lieu thereof: Insurance effective at any one time on the insured under a like policy or policies in this insurer is limited to the one such policy elected by the insured, his or her beneficiary, or his or her estate, as the case may be, and the insurer will return all premiums paid for all other such policies.

(4) A provision as follows: INSURANCE WITH OTHER INSURERS: If there be other valid coverage, not with this insurer, providing benefits for the same loss on a provision-of-service basis or on an expense-incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability under any expense-incurred coverage of this policy shall be for such proportion of the loss as the amount which would otherwise have been payable hereunder plus the total of the like amounts under all such other valid coverages for the same loss of which this insurer had notice bears to the total like amounts under all valid coverages for such loss; and for the return of such portion of the premiums paid as shall exceed the pro rata portion for

the amount so determined. For the purpose of applying this provision when other coverage is on a provision-of-service basis, the like amount of such other coverage shall be taken as the amount which the services rendered would have cost in the absence of such coverage. If the foregoing policy provision is included in a policy which also contains the next following policy provision there shall be added to the caption of the foregoing provision the phrase . . .EXPENSE INCURRED BENEFITS. The insurer may, at its option, include in this provision a definition of other valid coverage, approved as to form by the Director of Insurance, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and by hospital or medical service organizations, and to any other coverage the inclusion of which may be approved by the Director of Insurance. In the absence of such definition such term shall not include group insurance, automobile medical payments insurance, or coverage provided by hospital or medical service organizations or by union welfare plans or employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute, including any workers' compensation or employer's employers' liability statute, whether provided by a governmental agency or otherwise shall in all cases be deemed to be other valid coverage of which the insurer has had notice. In applying the foregoing policy provision no third-party liability coverage shall be included as other valid coverage.

(5) A provision as follows: INSURANCE WITH OTHER INSURERS: If there be other valid coverage, not with this insurer, providing benefits for the same loss on other than an expense-incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability for such benefits under this policy shall be for such proportion of the indemnities otherwise provided hereunder for such loss as the like indemnities of which the insurer had notice (including the indemnities under this policy) bear to the total amount of all like indemnities for such loss, and for the return of such portion of the premium paid as shall exceed the pro rata portion for the indemnities thus determined. If the foregoing policy provision is

included in a policy which also contains the next preceding policy provision, there shall be added to the caption of the foregoing provision the phrase ...OTHER BENEFITS. The insurer may, at its option, include in this provision a definition of other valid coverage, approved as to form by the Director of Insurance, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and to any other coverage the inclusion of which may be approved by the Director of Insurance. In the absence of such definition such term shall not include group insurance, or benefits provided by union welfare plans or by employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute, including any workers' compensation or ~~employer's~~ **employers'** liability statute, whether provided by a governmental agency or otherwise shall in all cases be deemed to be other valid coverage of which the insurer has had notice. In applying the foregoing policy provision no third-party liability coverage shall be included as other valid coverage.

(6) A provision as follows: RELATION OF EARNINGS TO INSURANCE: If the total monthly amount of loss-of-time benefits promised for the same loss under all valid loss-of-time coverage upon the insured, whether payable on a weekly or monthly basis, shall exceed the monthly earnings of the insured at the time disability commenced or his or her average monthly earnings for the period of two years immediately preceding a disability for which claim is made, whichever is the greater, the insurer will be liable only for such proportionate amount of such benefits under this policy as the amount of such monthly earnings or such average monthly earnings of the insured bears to the total amount of monthly benefits for the same loss under all such coverage upon the insured at the time such disability commences and for the return of such part of the premiums paid during such two years as shall exceed the pro rata amount of the premiums for the benefits actually paid hereunder; but this shall not operate to reduce the total monthly amount of benefits payable under all such coverage upon the insured below the sum of two hundred dollars or the sum of the monthly benefits specified in such coverages, whichever is the lesser, nor shall it operate to reduce benefits other

than those payable for loss of time. The foregoing policy provision may be inserted only in a policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums (a) until at least age fifty or (b) in the case of a policy issued after age forty-four for at least five years from its date of issue. The insurer may, at its option, include in this provision a definition of valid loss-of-time coverage, approved as to form by the Director of Insurance, which definition shall be limited in subject matter to coverage provided by governmental agencies or by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, or to any other coverage the inclusion of which may be approved by the Director of Insurance or any combination of such coverages. In the absence of such definition such term shall not include any coverage provided for such insured pursuant to any compulsory benefit statute, including any workers' compensation or ~~employer's~~ employers' liability statute, or benefits provided by union welfare plans or by employer or employee benefit organizations.

(7) A provision as follows: UNPAID PREMIUM: Upon the payment of a claim under this policy, any premium then due and unpaid or covered by any note or written order may be deducted therefrom.

(8) A provision as follows: CANCELLATION: The insurer may cancel this policy at any time by written notice delivered to the insured which shall be effective only if mailed by certified or registered mail to the named insured at his or her last-known address, as shown by the records of the insurer, at least thirty days prior to the effective date of cancellation, except that cancellation due to failure to pay the premium or in cases of fraud or misrepresentation shall not require that such notice be given at least thirty days prior to cancellation. Subject to any provisions in the policy or a grace period, cancellation for failure to pay a premium shall be effective as of midnight of the last day for which the premium has been paid. In cases of fraud or misrepresentation, coverage shall be canceled upon the date of the notice or any later date designated by the insurer. After the policy has been continued beyond its original term the insured may cancel this policy at any time by written notice delivered or mailed to the insurer, effective upon receipt or on such later date as may be specified in such notice. In the event of cancellation, the insurer will return promptly the

unearned portion of any premium paid. If the insured cancels, the earned premium shall be computed by the use of the short-rate table last filed with the state official having supervision of insurance in the state where the insured resided when the policy was issued. If the insurer cancels, the earned premium shall be computed pro rata. Cancellation shall be without prejudice to any claim originating prior to the effective date of cancellation.

(9) A provision as follows: CONFORMITY WITH STATE STATUTES: Any provision of this policy which, on its effective date, is in conflict with the statutes of the state in which the insured resides on such date is hereby amended to conform to the minimum requirements of such statutes.

(10) A provision as follows: ILLEGAL OCCUPATION: The insurer shall not be liable for any loss to which a contributing cause was the insured's commission of or attempt to commit a felony or to which a contributing cause was the insured's being engaged in an illegal occupation.

(11) A provision as follows: INTOXICANTS AND NARCOTICS: The insurer shall not be liable for any loss sustained or contracted in consequence of the insured's being intoxicated or under the influence of any narcotic unless administered on the advice of a physician.

Sec. 135. That section 44-710.05, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-710.05. If any provision of sections 44-710.03 and 44-710.04 is in whole or in part inapplicable to or inconsistent with the coverage provided by a particular form of policy of sickness and accident insurance, the insurer, with the approval of the Director of Insurance, shall omit from such policy any inapplicable provision or part of a provision; and shall modify any inconsistent provision or part of the provision in such manner as to make the provision as contained in the policy consistent with the coverage provided by the policy.

Sec. 136. That section 44-710.06, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-710.06. The provisions which are the subject of sections 44-710.03 and 44-710.04, or any corresponding provisions which are used in lieu thereof in accordance with such sections, shall be printed in the consecutive order of the provisions in such sections, or, at the option of the insurer, any such

provision may appear as a unit in any part of the policy, of sickness and accident insurance with other provisions to which it may be logically related, provided if the resulting policy ~~shall~~ is not be in whole or in part unintelligible, uncertain, ambiguous, abstruse, or likely to mislead a person to whom the policy is offered, delivered, or issued.

Sec. 137. That section 44-710.07, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-710.07. The word insured, as used in sections 44-709 ~~to 44-710-16, 44-711, 44-736, and 44-749~~ to 44-767, shall not be construed as preventing a person other than the insured with a proper insurable interest from making application for and owning a policy of sickness and accident insurance covering the insured or from being entitled under such a policy to any indemnities, benefits, and rights provided therein.

Sec. 138. That section 44-710.08, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-710.08. (1) Any policy of sickness and accident insurance of a foreign or alien insurer, when delivered or issued for delivery to any person in this state, may contain any provision which is not less favorable to the insured or the beneficiary than the provisions of sections 44-709, 44-710-01 ~~to 44-710-16, 44-736, 44-758, 44-766, and to~~ 44-767 and which is prescribed or required by the law of the state under which the insurer is organized.

(2) Any policy of sickness and accident insurance of a domestic insurer may, when issued for delivery in any other state or country, contain any provision permitted or required by the laws of such other state or country.

Sec. 139. That section 44-710.09, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-710.09. The Director of Insurance may make adopt and promulgate such reasonable rules and regulations concerning the procedure for the filing or submission of policies of sickness and accident insurance subject to sections 44-709, 44-710-01 ~~to 44-710-16, 44-736, 44-758, 44-766, and to~~ 44-767 as are necessary, proper, or advisable to the administration of such sections. This provision shall not abridge any other authority granted the Director of Insurance by law.

Sec. 140. That section 44-710.10, Reissue

Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-710.10. No policy provision which is not subject to sections 44-710.03 and 44-710.04 shall make a policy of sickness and accident insurance, or any portion thereof, less favorable in any respect to the insured or the beneficiary than the provisions thereof which are subject to sections 44-709, ~~44-710-01 to 44-710-16, 44-736, 44-758, 44-766, and to 44-767.~~

Sec. 141. That section 44-710.11, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-710.11. A policy of sickness and accident insurance delivered or issued for delivery to any person in this state in violation of sections 44-709, ~~44-710-01 to 44-710-16, 44-736, 44-758, 44-766, and to 44-767~~ shall be held valid but shall be construed as provided in such sections. When any provision in a policy subject to such sections is in conflict with any provision of such sections, the rights, duties, and obligations of the insurer, the insured, and the beneficiary shall be governed by the provisions of such sections.

Sec. 142. That section 44-710.12, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-710.12. The insured shall not be bound by any statement made in an application for a policy of sickness and accident insurance unless a copy of such application is attached to or endorsed on the policy when issued as a part thereof. If any such policy delivered or issued for delivery to any person in this state ~~shall be is~~ reinstated or renewed, and the insured or the beneficiary or assignee of such policy ~~shall make~~ makes written request to the insurer for a copy of the application, if any, for such reinstatement or renewal, the insurer shall, within fifteen days after the receipt of such request at its home office or any branch office of the insurer, deliver or mail to the person making such request, a copy of such application. If such copy ~~shall is~~ not be so delivered or mailed, the insurer shall be precluded from introducing such application as evidence in any action or proceeding based upon or involving such policy or its reinstatement or renewal.

Sec. 143. That section 44-710.13, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-710.13. No alteration of any written application for any ~~such~~ policy of sickness and accident

insurance shall be made by any person other than the applicant without his or her written consent, except that insertions may be made by the insurer, for administrative purposes only, in such manner as to indicate clearly that such insertions are not to be ascribed to the applicant.

Sec. 144. That section 44-710.14, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-710.14. The falsity of any statement in the application for any policy of sickness and accident insurance covered by sections 44-709, ~~44-710-01 to 44-710-16~~, 44-736, 44-758, 44-766, and ~~to 44-767~~ may not bar the right to recovery thereunder unless such false statement materially affected either the acceptance of the risk or the hazard assumed by the insurer.

Sec. 145. That section 44-710.15, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-710.15. The acknowledgment by an insurer of the receipt of notice given under any policy ~~covered by this chapter~~ of sickness and accident insurance, ~~or~~ the furnishing of forms for filing proofs of loss, ~~or~~ the acceptance of such proofs, or the investigation of any claim thereunder shall not operate as a waiver of any of the rights of the insurer in defense of any claim arising under such policy.

Sec. 146. That section 44-710.16, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-710.16. If any ~~such~~ policy of sickness and accident insurance contains a provision establishing, as an age limit or otherwise, a date after which the coverage provided by the policy will not be effective, and if such date falls within a period for which premium is accepted by the insurer or if the insurer accepts a premium after such date, the coverage provided by the policy will continue in force subject to any right of cancellation until the end of the period for which premium has been accepted. In the event the age of the insured has been misstated and if, according to the correct age of the insured, the coverage provided by the policy would not have become effective, or would have ceased prior to the acceptance of such premium or premiums, then the liability of the insurer shall be limited to the refund, upon request, of all premiums paid for the period not covered by the policy.

Sec. 147. That section 44-710.18, Reissue Revised Statutes of Nebraska, 1943, be amended to read

as follows:

44-710.18. Except as provided in section 44-3608, every individual ~~sickness and accident~~ policy hereinafter issued of sickness and accident insurance, except single-premium nonrenewable policies, shall have printed on its face or attached thereto a notice stating in substance that the person to whom the policy is issued shall be permitted to return the policy within ten days of its delivery to the purchaser and to have the premium paid refunded if, after examination of the policy, the purchaser is not satisfied with it for any reason. If a policyholder or a purchaser pursuant to such notice returns the policy to the insurer at its home office or branch office or to the agent or agency through which it was purchased, it shall be void from the beginning and the parties shall be in the same position as if no policy had been issued.

Sec. 148. That section 44-710.19, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-710.19. (1) All individual and group ~~health insurance~~ policies of sickness and accident insurance providing coverage on an expense-incurred basis and individual and group service or indemnity type contracts, which provide coverage for a family member of the insured or subscriber shall, as to such family members' coverage, also provide that the ~~health insurance~~ benefits applicable for children shall be payable, with respect to a newly born child of the insured or subscriber, from the moment of birth.

(2) The coverage for newly born children shall consist of coverage of injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities.

(3) A policy or contract may require that notification of birth of a newly born child and payment of the required premium or fees shall be furnished to the insurer or nonprofit service or indemnity corporation within thirty-one days after the date of birth in order to have the coverage continue beyond such thirty-one-day period.

(4) The requirements of this section shall apply to all insurance policies and subscriber contracts delivered or issued for delivery in this state on or after January 1, 1976.

Sec. 149. That section 44-736, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-736. Any policy of sickness and accident

and sickness insurance may contain a provision for paying not exceeding two hundred dollars as an extended disability benefit upon the insured's death from any cause, which benefit shall not be construed as life insurance.

Sec. 150. That section 44-749, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-749. No sickness and accident and health insurer shall make or permit any unfair discrimination between individuals of substantially the same hazard in the amount of premium rates charged for any policy or contract of such insurance or in the benefits payable thereunder. This section shall not prohibit different premium rates, different benefits, or different underwriting procedure for individuals insured under group, family expense, franchise, or blanket plans of insurance. This section shall not limit the negotiation of preferred provider policies and contracts under sections 44-4101 to 44-4113.

Sec. 151. That section 44-756, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-756. Any insurer authorized to write sickness and accident insurance in this state shall have power to issue policies of industrial sickness and accident policies insurance.

Sec. 152. That section 44-758, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-758. Each policy of industrial sickness and accident insurance shall be subject to the provisions of sections 44-709 ~~to~~ ~~44-710-16,~~ ~~44-711,~~ ~~44-736,~~ and 44-749 to 44-767, except that no such policy shall be required to contain any of the provisions set forth in sections 44-710.03 and 44-710.04. No ~~PROVIDED,~~ ~~no~~ such policy shall contain any provision relative to notice of proof of loss, ~~or~~ the time for paying benefits, or the time within which suit may be brought upon the policy, which in the opinion of the Director of Insurance is less favorable to the insured than would be permitted by ~~said~~ such standard provisions. Such ~~;~~ ~~AND PROVIDED FURTHER,~~ ~~such~~ policy may contain a provision that upon proper written request, a named beneficiary shall be designated in or by endorsement on the policy to receive the proceeds thereof on the death of the insured, and there shall be reserved to the insured the power to change the beneficiary at any time by written notice to the insurer

at its home office, accompanied by the policy for endorsement of the change thereon by the insurer. The insurer shall have the right to refuse to designate a beneficiary if evidence satisfactory to the company of such beneficiary's insurable interest in the life of the insured is not furnished on request. Any such policy may provide in substance that any payment thereunder may be made to the insured or to the insured's estate or to any relative by blood or connection by marriage of the insured or, to the extent of such portion of any payment under the policy as may reasonably appear to the insurer to be due to such person, ~~or~~ to any other person equitably entitled thereto by reason of having incurred expense occasioned by the maintenance or illness or burial of the insured, except, ~~PROVIDED~~, that if the policy ~~shall be~~ is in force at the death of the insured, the proceeds thereof shall be payable to the named beneficiary if living, but upon the expiration of fifteen days after the death of the insured, unless proof of claim in the manner and form required by the policy, accompanied by the policy for surrender, has theretofore been made by such beneficiary, the insurer may pay to any other person permitted by the policy.

Sec. 153. That section 44-761, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-761. Each such group policy of sickness and accident insurance shall contain in substance the following provisions:

(1) A provision that the policy, the application of the policyholder, if such application or copy thereof is attached to such policy, and the individual applications, if any, submitted in connection with such policy by the employees or members, shall constitute the entire contract between the parties, and that all statements, in the absence of fraud, made by any applicant or applicants shall be deemed representations and not warranties, and that no such statement shall avoid the insurance or reduce benefits thereunder unless contained in a written application of which a copy is attached to the policy;

(2) A provision that the insurer will furnish to the policyholder, for delivery to each employee or member of the insured group, an individual certificate setting forth in summary form a statement of the essential features of the insurance coverage of such employee or member and to whom benefits thereunder are payable. If dependents are included in the coverage, only one certificate need be issued for each family

unit;

(3) A provision that to the group originally insured may be added from time to time eligible new employees or members or dependents, as the case may be, in accordance with the terms of the policy; and

(4) A provision that the insurance coverage of the employee or member may include, originally or by subsequent amendment, upon the application of the employee or member, any two or more eligible members of his or her family, including husband, wife, dependent children, any children enrolled on a full-time basis in any college, university, or trade school, or any children under a specified age which shall not exceed twenty-three years, and any other person dependent upon the policyholder. Any policy which provides that coverage of an unmarried dependent child shall terminate upon the attainment of the limiting age for unmarried dependent children specified in the policy shall also provide that attainment of such limiting age shall not operate to terminate the coverage of such child during the continuance of the insurance coverage of the employee or member under such policy and while such child is and continues to be (a) incapable of self-sustaining employment by reason of mental or physical handicap, and (b) chiefly dependent upon the policyholder for support and maintenance, if proof of such incapacity and dependency is furnished to the insurer by the policyholder within thirty-one days of such child's attainment of the limiting age and subsequently as may be required by the insurer but not more frequently than annually after the two-year period following such child's attainment of the limiting age. The insurer may charge an additional premium for and with respect to any such continuation of coverage beyond the limiting age of the policy, which premium shall be determined by the insurer on the basis of the class of risks applicable to such child. The provisions of this subdivision shall be contained in all new policies of group sickness and accident insurance delivered or issued for delivery to any person in this state, and in all existing policies of group sickness and accident insurance upon renewal of such policies or within one year of February 19, 1976, whichever is earlier.

Sec. 154. That section 44-763, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-763. An individual application shall not be required from a person covered under a blanket ~~sickness or accident~~ policy or contract, of sickness and

accident insurance nor shall it be necessary for the insurer to furnish each person a certificate.

Sec. 155. That section 44-764, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-764. All benefits under any blanket sickness and accident policy of sickness and accident insurance shall be payable to the person insured, or to his or her designated beneficiary or beneficiaries, or to his or her estate, except that if the person insured be is a minor, such benefits may be made payable to his or her parent, guardian, or other person actually supporting him or her. All or a portion of any benefits payable under such a policy on account of hospital, nursing, medical, or surgical services may, at the insurer's option, be paid directly to the hospital or person rendering such services, but it shall not be required that the services be rendered by a particular hospital or person.

Sec. 156. That section 44-766, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-766. Any person, partnership, or corporation who or which willfully delivers or issues for delivery in this state any such policy of sickness and accident insurance on a form which shall have been disapproved by the Director of Insurance or willfully violates any provision of sections 44-709 to ~~44-710-17~~ ~~or 44-711 to~~ 44-767 or an order of the director made in accordance with sections 44-710 ~~and 44-711~~ to 44-767 shall forfeit to the people of the state a sum not to exceed one hundred dollars for each such violation, which may be recovered by a civil action. The director may after notice and hearing revoke the license of an insurer or agent for any such willful violation. Any person aggrieved by any action of the Director of Insurance may appeal, and the appeal shall be in accordance with the Administrative Procedure Act.

Sec. 157. That section 44-767, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-767. Nothing in sections 44-709 ~~to 44-710-16, 44-711, 44-736, or 44-749~~ to 44-767, shall apply to or affect (1) any policy of workers' compensation insurance or any policy of liability insurance with or without supplementary coverage therein, (2) any policy or contract of reinsurance, or (3) life insurance, endowment or annuity contracts, or contracts supplemental thereto which contain only such

provisions relating to sickness and accident insurance as (a) provide additional benefits in case of death, dismemberment, or loss of sight by accident and (b) operate to safeguard such contracts against lapse, or to give a special surrender value or special benefit or annuity in the event that the insured or annuitant shall become totally and permanently disabled, as defined by the contract or supplemental contract. Sections 44-710.03 to 44-710.09, 44-710.12, and 44-710.16 shall not apply to those forms of sickness and accident policies enumerated in section 44-758 or sections 44-760 to 44-765, except that no such policy shall contain any provision relative to notice or proof of loss, or the time for paying benefits, or the time within which suit may be brought upon the policy, which in the opinion of the Director of Insurance is less favorable to the insured than would be permitted by the policy provisions set forth in sections 44-710.03 and 44-710.04.

Sec. 158. That section 44-769, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-769. The Legislature hereby declares and finds that alcoholism is a disease which, if untreated, is highly disruptive of family life and employment and costs the state, its political subdivisions, insurers, employers, and taxpayers millions of dollars annually because of highway deaths and injuries, lost wages, lower productivity, welfare and unemployment compensation, greater utilization of health insurance benefits and premature death, alcohol-related crimes, and the corresponding costs to the criminal justice and penal systems. The Legislature further finds that while most health benefit plans pay the high cost of treating the symptoms, injuries, and diseases associated with alcoholism many exclude coverage for treatment of the disease itself, or limit coverage to acute portions of hospitals which do not generally treat the disease. The Legislature therefore declares that group subscribers and insureds should have information concerning the scope of alcoholism benefits being offered and access to coverage for treatment of the disease on such terms and conditions as may be agreed upon between the subscriber or insured and the insurer, ~~hospital service corporation~~, or health maintenance organization.

Sec. 159. That section 44-779, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-779. After January 1, 1981, all policies or contracts of group sickness and accident insurance

written or issued by insurance companies; all group contracts and subscription agreements written or issued by a hospital service corporation chartered under Chapter 21, article 15, and all group contracts or certificates written or issued by a health maintenance organization as to which there is a premium change or which are delivered or issued for delivery in this state, which do not provide at least basic coverage for the treatment of alcoholism, shall be subject to the following:

(1) The written sales and advertising literature, the descriptive brochures, and the exclusion sections of such policy, contract, or certificate shall contain a notice in all capital letters in the following language or in words of similar effect as approved by the Director of Insurance: This agreement does not provide basic coverage for the treatment of alcoholism. Coverage for treatment of alcoholism is available if you specifically request it and then only upon such terms and conditions as you and the company agree;

(2) The written sales and advertising literature, the descriptive brochures, and such policy, contract, or subscription agreement itself shall not, in describing the plan, contract, coverage, or benefits, use the words comprehensive;

(3) The definition of a facility, program, or agency in or through which covered alcoholism services may be rendered contained in any optional coverage shall not be more restrictive than the definitions contained in sections 44-771 to 44-775 if the effect of such definitions would be to limit, deny, or withhold benefits which would be available if the definitions used in sections 44-769 to 44-781 were applied;

(4) Such policy, contract, or subscription agreement shall provide benefits to any person covered thereunder for the treatment of alcoholism under such terms and conditions as may be agreed upon between the subscriber or insured and the insurer, hospital service corporation, or health maintenance organization; and

(5) In the case of policies, contracts, and subscription agreements issued before January 1, 1981, as to which there is a premium change after January 1, 1981, the notification requirements of this section may be met by written endorsement to such policy, contract, or subscription agreement.

Sec. 160. That section 44-780, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-780. An insurance company; hospital

~~service corporation~~, or health maintenance organization will be considered to be providing basic coverage for treatment of alcoholism if it makes benefits available for the treatment described in section 44-778 on terms involving durational limits, dollar limits, deductibles, and coinsurance which are no less favorable than the terms on which it makes benefits available for the treatment of physical illness generally.

Sec. 161. That section 44-781, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-781. An insurance company, ~~hospital service corporation~~, or health maintenance organization which does not provide basic coverage for treatment of alcoholism may nevertheless provide different or lesser benefits. Nothing in sections 44-769 to 44-781 is intended to limit any insurance company, ~~hospital service corporation~~, or health maintenance organization from providing more coverage for the treatment of alcoholism than is described in section 44-778.

Sec. 162. That section 44-782, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-782. No insurance company, ~~hospital service corporation~~, health maintenance organization, or other health insurance provider shall deny payment for treatment of mental or nervous disorders under a policy, contract, certificate, or other evidence of coverage issued or delivered in Nebraska on the basis that the hospital or state institution licensed as a hospital by the Department of Health and described in subdivision (2) of section 71-2017.01 providing such treatment is publicly funded and charges are reduced or no fee is charged depending on the patient's ability to pay.

Sec. 163. That section 44-805, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-805. Any member may withdraw by surrendering his or her policy for cancellation at any time by giving notice in writing to the secretary of the association and paying a ~~cancellation fee of fifty cents~~ and the amount of his or her share of all claims then existing against the company, which amount shall not exceed his contingent liability in accordance with the bylaws of the company.

Sec. 164. That section 44-808, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-808. If the officers and directors of any

such an assessment association shall fail or refuse, after receiving notice of a loss, to take the necessary steps to provide for the payment of the same act upon the notice of loss, they shall render themselves individually liable therefor, and an action may be maintained against them to collect such amount.

Sec. 165. That section 44-1203, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1203. Such subscribers so contracting among themselves shall, through their attorney, file with the Department of Insurance a declaration verified by the oath of such attorney, or, where when such attorney is a corporation, by the oath of the chief officer thereof setting forth: (1) The the name or title adopted by such subscribers proposing to exchange such indemnity contracts, which name or title shall not be so similar to any other name or title previously adopted by a similar organization or by any insurance corporation or association as in the opinion of the department is likely to result in confusion or deception; (2) the kind or kinds of insurance to be effected or exchanged; (3) a copy of the form of policy contract or agreement under or by which such insurance is to be effected or exchanged, which policy contract or agreement shall state the minimum and maximum liability of subscribers for the payment of losses occurring under its contracts; (4) a copy of the form of power of attorney, or other authority of such attorney, under which such insurance is to be effected or exchanged; (5) the location of the office or offices from which such contracts or agreements are to be issued; (6) that applications have been made for indemnity upon at least seventy-five separate risks, aggregating not less than one and one-half million dollars, as represented by executed contracts or bona fide applications to become effective concurrently or, in the case of employer's employers' liability or workers' compensation insurance, at least seventy-five separate risks covering a total payroll of not less than one and one-half million dollars; and (7) that there is on deposit and thereafter maintained with such attorney, and available for the payment of losses, a fund, in cash or invested as provided by law, of not less than five hundred thousand one million dollars. Reissues A reciprocal doing business in this state on June 23, 1967 the effective date of this act, shall not be subject to the foregoing deposit requirements requirement insofar as such requirement would increase the amount of deposit

necessary for the issuance of contracts on those classes of insurance being issued by them it on such date, except that if such reciprocal, on and after such date, is determined by the director to be maintaining an amount which complies with such deposit requirement, then such reciprocal shall continue to be subject to such requirement. On and after such date, 7 PROVIDED; any reciprocal desiring to write any additional kind line of insurance as specified in section 44-201 shall thereupon deposit and maintain funds of at least five hundred thousand one million dollars as provided herein. The provisions of this in this section. This section shall be applicable to a reciprocal exchange issuing assessable or nonassessable policy contracts or agreements.

Sec. 166. That section 44-1402, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1402. Sections 44-1401 to 44-1442 apply to all kind lines of insurance authorized under specified in subdivisions {4}, {5}, {6}, {7}, {8}, {10}, {12}, and {13} (7) through (14), (16), (17), (19), and (20) of section 44-201 and to all forms of motor vehicle insurance and insurance on farm tractors, farm machinery, and other equipment authorized under subdivision {1} specified in subdivision (12) of section 44-201, including such insurance written by the exchange of reciprocal or interinsurance contracts, on risks or operations in this state, except:

(1) Reinsurance, other than joint reinsurance to the extent stated in sections 44-1429 and 44-1430;

(2) Accident and health insurance; and

(3) Insurance against loss of or damage to aircraft or against liability, other than workers' compensation and employers' liability, arising out of the ownership, maintenance, or use of aircraft.

If any kind line of insurance, subdivision or combination thereof, or type of coverage, subject to sections 44-1401 to 44-1442, is also subject to regulation by another rate regulatory act of this state, an insurer to which both acts are otherwise applicable shall file with the Director of Insurance, hereinafter referred to as director, a designation as to which rate regulatory act shall be applicable to it with respect to such kind line of insurance, subdivision or combination thereof, or type of coverage.

Sec. 167. That section 44-1410, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1410. Under such rules and regulations as he or she adopts and promulgates, shall ~~adopt~~ the director may, by written order, suspend or modify the requirement of filing as to any kind of insurance, or any subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. Such orders, rules, and regulations shall be made known to insurers and rating organizations affected thereby. The director may make such examination as he or she deems may deem advisable to ascertain whether any rates affected by such order meet the standards set forth in subsection subdivision (4) of section 44-1403.

Sec. 168. That section 44-1435, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1435. The director may make adopt and promulgate reasonable rules and regulations necessary to effect the purposes of sections 44-1401 to 44-1442.

Sec. 169. That section 44-1444, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1444. Except as hereinafter provided, sections 44-1443 to 44-1486 apply to fire property and allied lines, and marine and inland marine insurance as defined specified in subsection (1) subdivisions (5), (6), and (18) of section 44-201, written by all classes and kinds of insurance companies and carriers, including the exchange of reciprocal or interinsurance contracts, on risks located in this state. Inland marine insurance shall be deemed to include insurance now or hereafter defined by statute, or by interpretation thereof, or if not so defined or interpreted, by ruling of the Director of Insurance, hereinafter referred to as director, or as established by general custom of the business, as inland marine insurance. Sections 44-1443 to 44-1486 shall not apply: (1) To reinsurance, other than joint reinsurance to the extent stated in sections 44-1474 and 44-1475; (2) to insurance of vessels or crafts, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance policies; (3) to insurance of hulls of aircraft, including their accessories and equipment, or against liability arising out of the ownership, maintenance, or use of aircraft; (4) to motor vehicle insurance, nor to insurance against liability arising out of the ownership, maintenance, or use of motor vehicles; and (5) to assessment associations doing business under Chapter 44, article 8,

except assessment hail associations.

If any ~~kind line~~ of insurance, subdivision or combination thereof, or type of coverage, subject to sections 44-1443 to 44-1486, is also subject to regulation by another rate regulatory act of this state, an insurer to which both acts are otherwise applicable shall file with the director, a designation as to which rate regulatory act shall be applicable to it with respect to such ~~kind line~~ of insurance, subdivision or combination thereof, or type of coverage.

Sec. 170. That section 44-1453, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1453. Under such rules and regulations as he ~~shall adopt or she adopts and promulgates~~, the director may, by written order, suspend or modify the requirement of filing as to any kind of insurance, ~~or any~~ subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. Such orders, rules, and regulations shall be made known to insurers and rating organizations affected thereby. The director may make such examination as he ~~may deem or she deems~~ advisable to ascertain whether any rates affected by such order meet the standards set forth in ~~subsection~~ subdivision (2) of section 44-1445.

Sec. 171. That section 44-1465.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1465.01. The Department of Insurance may inspect the policies, daily reports, binders, renewal certificates, endorsements, or other evidences of insurance, or the cancellation thereof, of domestic companies, and may ~~make adopt and promulgate~~ reasonable rules and regulations governing their submission to the department, except that nothing in this section ; PROVIDED, nothing herein shall prevent any domestic company from complying with section 44-1465 by filing with the rating organization its written consent to comply therewith with such section and an agreement to pay its proportionate costs incurred therefor for compliance. All information so submitted for examination shall be confidential.

Sec. 172. That section 44-1480, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1480. The director may make adopt and promulgate reasonable rules and regulations necessary to effect the purposes of sections 44-1443 to 44-1486.

Sec. 173. That section 44-1523, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1523. As used in For purposes of sections 44-1522 to 44-1535, unless the context otherwise requires:

(1) Person shall mean any individual, corporation, association, partnership, reciprocal exchange, interinsurer, Lloyds-type insurer, fraternal benefit society, and any other legal entity engaged in the business of insurance, including agents, brokers, and adjusters; ~~and shall also mean medical service corporations and hospital service corporations as defined in section 21-1509, and for purposes of sections 44-1522 to 44-1535, such medical and hospital service corporations shall be deemed to be engaged in the business of insurance;~~

(2) Director shall mean the Director of Insurance; and

(3) Insurance policy or insurance contract shall mean any contract of insurance, indemnity, ~~medical or hospital service,~~ suretyship, or annuity issued, proposed for issuance, or intended for issuance by any person.

Sec. 174. That section 44-1525, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1525. The following shall be unfair methods of competition and unfair or deceptive acts or practices in the business of insurance:

(1) Making, issuing, circulating, or causing to be made, issued, or circulated any estimate, illustration, circular, statement, sales presentation, omission, or comparison which:

(a) Misrepresents the benefits, advantages, conditions, or terms of any insurance policy;

(b) Misrepresents the dividends or share of the surplus to be received on any insurance policy;

(c) Makes any false or misleading statements as to the dividends or share of surplus previously paid on any insurance policy;

(d) Misleads as to or misrepresents the financial condition of any person or the legal reserve system upon which any life insurer operates;

(e) Uses any name or title of any insurance policy or class of insurance policies which misrepresents the true nature thereof;

(f) Misrepresents for the purpose of inducing or tending to induce the lapse, forfeiture, exchange,

conversion, or surrender of any insurance policy;

(g) Misrepresents for the purpose of effecting a pledge or assignment of or effecting a loan against any insurance policy; or

(h) Misrepresents any insurance policy as being shares of stock;

(2) Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to the business of insurance or with respect to any person in the conduct of his or her insurance business, which is untrue, deceptive, or misleading;

(3) Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature which is false, or maliciously critical of or derogatory to the financial condition of any person, and which is calculated to injure such person;

(4) Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion, or intimidation resulting in or tending to result in unreasonable restraint of or monopoly in the business of insurance;

(5)(a) Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false material statement of fact as to the financial condition of a person; or

(b) Making any false entry of a material fact in any book, report, or statement of any person or omitting to make a true entry of any material fact pertaining to the business of such person in any book, report, or statement of such person;

(6) Issuing or delivering or permitting agents, officers, or employees to issue or deliver agency company stock or other capital stock, or benefit certificates or shares in any common-law corporation, or

securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance;

(7)(a) Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract;

(b) Making or permitting any unfair discrimination between individuals of the same class involving essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner, except that this subdivision shall not limit the negotiation of preferred provider policies and contracts under sections 44-4101 to 44-4113; or

(c) Making or permitting any unfair discrimination between individuals, risks, or insurance policies of the same class involving essentially the same hazards in the amount of premium, policy fees, or rates charged for any risks or insurance policies as described in section 44-1402, 44-1444, or 44-1901 or in the coverages provided, or in any of the terms or conditions of such contracts, or in any other manner. Any rate or classification approved by the Director of Insurance shall be presumed to be nondiscriminatory;

(8)(a) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract of life insurance, life annuity, or sickness and accident and health insurance, or agreement as to any such contract other than as plainly expressed in the insurance contract issued thereon, or paying, allowing, or giving, or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; or giving, selling, purchasing, or offering to give, sell, or purchase as inducement to such insurance contract or annuity or in connection therewith; any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value not specified in the contract.

(b) Nothing in subdivision (7)(a) or (b) or (8)(a) of this section shall be construed as including within the definition of discrimination or rebates any of the following practices: (i) In the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance if such bonuses or abatement of premiums are fair and equitable to policyholders and for the best interests of the company and its policyholders; (ii) in the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expenses; or (iii) readjustment of the rate of premium for a group insurance policy based on the loss or expense thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year;

(9) Committing or performing with such frequency as to indicate a general business practice any act which:

(a) Misrepresents pertinent facts or insurance policy provisions relating to coverage at issue;

(b) Fails to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;

(c) Fails to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;

(d) Refuses to pay claims without conducting a reasonable investigation based upon all available information;

(e) Fails to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;

(f) Does not attempt in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear;

(g) Compels an insured to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by insureds;

(h) Attempts to settle a claim for less than the amount to which a reasonable person would have believed he or she was entitled by reference to written or printed advertising material accompanying or made

part of an application;

(i) Attempts to settle claims on the basis of an application which was altered without notice to or knowledge or consent of the insured;

(j) Makes claims payments to an insured or beneficiary not accompanied by a statement setting forth the coverage under which the payments are being made;

(k) Makes known to an insured or claimant a policy of appealing from arbitration awards in favor of the insured or claimant for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration;

(l) Delays the investigation or payment of claims by requiring an insured or claimant or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information;

(m) Fails to promptly settle claims, when liability has become clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage; or

(n) Fails to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement;

(10) Failing of any person to maintain a complete record of all the complaints received since the date of its last examination pursuant to section 44-107. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition thereof, and the time it took to process each complaint. For purposes of this subdivision, complaint shall mean any written communication primarily expressing a grievance;

(11) Making false or fraudulent statements or representations on or relative to an application for an insurance policy for the purpose of obtaining a fee, commission, money, or other benefit from any insurers, agent, broker, or individual; and

(12) Violating any provision of section 44-125, 44-348, 44-360, 44-361, 44-362 to 44-365, 44-369, 44-392, 44-393, 44-1412, 44-1455, or 44-1498.

Sec. 175. That section 44-1533, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1533. The director may, after notice and hearing, adopt and promulgate reasonable rules and

regulations as are necessary or proper to identify specific methods of competition or acts or practices which are prohibited by section 44-1525 or 44-1526, but such rules and regulations shall not enlarge upon or extend the provisions of sections 44-1525 and 44-1526. Such rules and regulations shall be subject to review in accordance with the Administrative Procedure Act.

Sec. 176. That section 44-1605, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1605. A policy issued to the trustees of a fund established by two or more employers ~~in the same industry~~ or by one or more labor unions, or by one or more employers and one or more labor unions, which trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions for the benefit of persons other than the employers or the unions shall be subject to the following requirements:

(1) The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the unions, or to both. The policy may provide that the term employees shall include retired employees, and the individual proprietor or partners if an employer is an individual proprietor or a partnership. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employee of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he or she is actively engaged in and devotes a substantial part of his or her time to the conduct of the business of the proprietorship or partnership. The policy may provide that the term employees shall include the trustees or their employees, or both, if their duties are principally connected with such trusteeship; -

(2) The premium for the policy shall be paid by the trustees wholly from funds contributed by the employer or employers of the insured persons, or by the union or unions, or by both. No policy may be issued on which any part of the premium is to be derived from funds contributed by the insured persons specifically for their insurance. The policy ~~must~~ shall insure all eligible persons, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer; -

(3) The policy ~~must~~ shall cover at date of issue at least fifty persons and not less than an average of three persons per employer unit. ~~If ; and if~~ the fund is established by the members of an association of employers, the policy may be issued only if (a) either the participating employers constitute at the date of issue at least sixty percent of those employer members whose employees are not already covered for group life insurance or the total number of persons covered at date of issue exceeds six hundred; and (b) the policy shall not require that, if a participating employer discontinues membership in the association, the insurance of his or her employees shall cease solely by reason of such discontinuance; ~~and ;~~

(4) The amount of insurance under the policy ~~must~~ shall be based upon some plan precluding individual selection either by the insured persons or by the policyholder, employers, or unions.

Sec. 177. That section 44-1607, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1607. No policy of group life insurance shall be delivered in this state unless it contains in substance the following provisions; or provisions which in the opinion of the Director of Insurance are more favorable to the persons insured; or at least as favorable to the persons insured and more favorable to the policyholder, except ; PROVIDED; that provisions of subdivisions (6) ~~to~~ through (10) of this section shall not apply to policies issued to a creditor to insure debtors of such creditor; ; that the standard provisions required for individual life insurance policies shall not apply to group life insurance policies; ; and that if the group life insurance policy is on a plan of insurance other than the term plan, it shall contain a nonforfeiture provision or provisions which in the opinion of the Director of Insurance is or are equitable to the insured persons and to the policyholder, but nothing herein in this section shall be construed to require that group life insurance policies contain the same nonforfeiture provisions as are required for individual life insurance policies:

(1) A provision that the policyholder is entitled to a grace period of thirty-one days for the payment of any premium due except the first, during which grace period the death benefit coverage shall continue in force, unless the policyholder shall have given the insurer written notice of discontinuance in advance of the date of discontinuance and in accordance

with the terms of the policy. The policy may provide that the policyholder shall be liable to the insurer for the payment of a pro rata premium for the time the policy was in force during such grace period;

(2) A provision that the validity of the policy shall not be contested, except for nonpayment of premiums, after it has been in force for two years from its date of issue; and that no statement made by any person insured under the policy relating to his or her insurability shall be used in contesting the validity of the insurance with respect to which such statement was made after such insurance has been in force prior to the contest for a period of two years during such person's lifetime nor unless it is contained in a written instrument signed by him or her;

(3) A provision that a copy of the application, if any, of the policyholder shall be attached to the policy when issued, that all statements made by the policyholder or by the persons insured shall be deemed representations and not warranties, and that no statement made by any person insured shall be used in any contest unless a copy of the instrument containing the statement is or has been furnished to such person or to his or her beneficiary;

(4) A provision setting forth the conditions, if any, under which the insurer reserves the right to require a person eligible for insurance to furnish evidence of individual insurability satisfactory to the insurer as a condition to part or all of his or her coverage;

(5) A provision specifying that an equitable adjustment of premiums, of benefits, or of both is to be made in the event the age of a person insured has been misstated, such provision to contain a clear statement of the method of adjustment to be used;

(6) A provision that any sum becoming due by reason of the death of the person insured shall be payable to the beneficiary designated by the person insured, subject to the provisions of the policy in the event there is no designated beneficiary, as to all or any part of such sum, living at the death of the person insured, and subject to any right reserved by the insurer in the policy and set forth in the certificate to pay at its option a part of such sum not exceeding five hundred two thousand dollars to any person appearing to the insurer to be equitably entitled thereto by reason of having incurred funeral or other expenses incident to the last illness or death of the person insured;

(7) A provision that the insurer will issue to the policyholder for delivery to each person insured an individual certificate setting forth a statement as to the insurance protection to which he or she is entitled, to whom the insurance benefits are payable, and the rights and conditions set forth in subdivisions (8), (9), and (10) of this section;

(8) A provision that if the insurance, or any portion of it, on a person covered under the policy ceases because of termination of employment or of membership in the class or classes eligible for coverage under the policy, such person shall be entitled to have issued to him or her by the insurer, without evidence of insurability, an individual policy of life insurance without disability or other supplementary benefits; ~~PROVIDED, if application for the individual policy shall be is made,~~ and the first premium paid to the insurer; within thirty-one days after such termination; ~~AND PROVIDED FURTHER, and if~~ (a) the individual policy shall, at the option of such person, be on any one of the forms, except term insurance, then customarily issued by the insurer at the age and for the amount applied for; (b) the individual policy shall be in an amount not in excess of the amount of life insurance which ceases because of such termination, except that any amount of insurance which shall have matured on or before the date of such termination as an endowment payable to the person insured, whether in one sum or in installments or in the form of an annuity, shall not, for the purposes of this subdivision, be included in the amount which is considered to cease because of such termination; and (c) the premium on the individual policy shall be at the insurer's then customary rate applicable to the form and amount of the individual policy, to the class of risk to which such person then belongs, and to his or her age attained on the effective date of the individual policy;

(9) A provision that if the group policy terminates or is amended so as to terminate the insurance of any class of insured persons, every person insured thereunder at the date of such termination whose insurance terminates and who has been so insured for at least five years prior to such termination date shall be entitled to have issued to him or her by the insurer an individual policy of life insurance, subject to the same conditions and limitations as are provided by subdivision (8) of this section, except that the group policy may provide that the amount of such individual policy shall not exceed the smaller of the amount of the

person's life insurance protection ceasing because of the termination or amendment of the group policy, less the amount of any life insurance for which he or she is or becomes eligible under any group policy issued or reinstated by the same or another insurer within thirty-one days after such termination, and three thousand dollars;

(10) A provision that if a person insured under the group policy dies during the period within which he or she would have been entitled to have an individual policy issued to him or her in accordance with subdivisions subdivision (8) or (9) of this section and before such an individual policy shall have become effective, the amount of life insurance which he or she would have been entitled to have issued to him or her under such individual policy shall be payable as a claim under the group policy, whether or not application for the individual policy or the payment of the first premium therefor has been made; and

(11) In the case of a policy issued to a creditor to insure debtors of such creditor, a provision that the insurer will furnish to the policyholder for delivery to each debtor insured under the policy a form which will contain a statement that the life of the debtor is insured under the policy and that any death benefit paid thereunder by reason of his or her death shall be applied to reduce or extinguish the indebtedness.

Sec. 178. That section 44-1607.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1607.01. Individual life insurance policies, uniform as to amounts of insurance for each reasonable class eligible therefor, may be issued on a franchise or wholesale basis to five or more the employees of a common employer on a wholesale basis, covering at the date of issue not less than five nor more than forty employees. The premium for such policies shall in no event be paid in whole by the insured employees. Term life insurance shall not be issued to any employee on a wholesale basis as a supplement to an existing group term life insurance policy issued to his employer; nor shall any group life insurance policy providing term insurance be issued to any employer to supplement term life insurance issued on a wholesale basis to his employees. No policy may be issued on a wholesale basis which, together with any other term life insurance policy or policies issued on a wholesale basis, provides term life insurance coverage

for an amount in excess of twenty thousand dollars or ten or more members of any trade or professional association, of a labor union, or of any other association having had an active existence for at least two years when such association or union has a constitution or bylaws and is formed in good faith for purposes other than that of obtaining insurance. Nothing in this section shall be construed to prohibit the issuance of individual life insurance policies on a salary savings, bank draft, or similar type plans.

Sec. 179. That section 44-1614, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1614. (1) Insurance, further referred to in subsection (2) of this section, under any group life insurance policy issued pursuant to section 44-1602, 44-1604, 44-1605, or 44-1606.01 may be extended to insure the spouse and minor dependent children, or any class or classes thereof, of each insured employee or member. Premiums for the insurance on such spouse and minor dependent children shall be paid by the policyholder, either from the policyholder's fund or funds contributed by him or her, or from funds contributed by the insured employees or members, or from both.

(2) Upon termination of the insurance, referred to in subsection (1) of this section, with respect to the spouse or minor dependent children of any employee or member by reason of termination of employment, termination of membership in the class or classes eligible for coverage under the policy, or death, the spouse shall be entitled to have issued by the insurer, without evidence of insurability, an individual policy of life insurance without disability or other supplementary benefits, if application for the individual policy ~~shall~~ is made, and the first premium paid to the insurer, within thirty-one days after such termination, subject to the requirements of subdivision (8) of section 44-1607. If the group policy terminates or is amended so as to terminate the insurance of any class of employees or members, and the employee or member is entitled to have issued an individual policy under subdivision (9) of section 44-1607, the spouse shall also be entitled to have issued by the insurer an individual policy, subject to the conditions and limitations provided above in this section. If the spouse dies within the period during which he or she would have been entitled to have an individual policy issued in accordance with this

section, the amount of life insurance which he or she would have been entitled to have issued under such individual policy shall be payable as a claim under the group policy, whether or not application for the individual policy or the payment of the first premium therefor has been made. Notwithstanding subdivision (7) of section 44-1607 only one certificate need be issued for delivery to an insured person if a statement concerning any dependents' coverage is included in such certificate.

Sec. 180. That section 44-1708, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1708. (1) All Except as otherwise provided by the director, all policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements, and riders, to be delivered in this state, shall be filed with the director who shall acknowledge receipt of the filings and shall, within thirty days after the receipt of any such policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements, and riders, disapprove any such form if the benefits provided therein are not reasonable in relation to the premium charge, or if it contains provisions which are unjust, unfair, inequitable, misleading, or deceptive, or encourage misrepresentation of the coverage, or are contrary to any provision of the statutes of the State of Nebraska or of any rule or regulation adopted and promulgated thereunder. The ~~PROVIDED~~, the director shall have an additional thirty days to examine the proposed policies, certificates of insurance, notices of proposed insurance, applications for insurance, endorsements, and riders, upon notifying the issuing company within the first thirty-day period that such additional time is needed.

(2) If the director notifies the insurer that the form is disapproved, it shall be unlawful thereafter for such insurer to issue or use such form. In such notice, the director shall specify the reason for his or her disapproval and state that a hearing will be granted within twenty days after request in writing by the insurer. The request shall ~~which request must~~ be received by the director not more than ten days after the date of the notice of disapproval. No such policy, certificate of insurance, notice of proposed insurance, ~~nor any~~ application, endorsement, or rider, shall be issued or used until the expiration of thirty days after it has been so filed, or until the expiration of the

additional thirty days ~~hereinbefore~~ provided in this section, unless the director shall give his or her prior written approval thereto.

(3) The director may, at any time after a hearing held not less than twenty days after written notice to the insurer, withdraw his or her approval of any such form for any reason set forth in subsection (1) of this section. The written notice of such hearing shall state the reason for the proposed withdrawal.

(4) It shall be unlawful for an insurer to issue or use such forms after the effective date of such withdrawal.

Sec. 181. That section 44-1806, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1806. Sections 44-1801 to 44-1806 shall be known and may be cited as the Unauthorized Insurers False Advertising Process Act.

Sec. 182. That section 44-1908, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1908. A title insurance agent or title insurance company may engage in the business of handling escrows of real property transactions. In so acting the agent or the company shall:

(1) Maintain a separate record of all receipts and disbursements of escrow funds and shall not commingle any such funds with the agent's or the company's own funds or with funds held by the agent or the company in any other capacity; and

(2) Obtain and maintain a fidelity bond, letter of credit, certificate of deposit, or deposit of cash or securities, in the form and amount required by the director, for such title insurance company and for each officer or employee of such agent who shall perform any escrow service.

Sec. 183. That section 44-1911, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1911. (1) Every title insurance company shall file with the Director of Insurance its schedules of fees, every manual of classifications, rules and plans pertaining thereto, and every modification of any of the foregoing which it proposes to use in this state. Every such filing shall state the proposed effective date thereof, and shall indicate the character and extent of the coverage contemplated.

(2) A title insurance company may satisfy its obligations to make such filings by becoming a member

of, or a subscriber to, a licensed title insurance rating organization which makes such filings, and by authorizing the director to accept such filings on its behalf.

(3) The director shall make such review of the filings as may be necessary to carry out the provisions of sections 44-201, 44-309-02, 44-413-01, and 44-1901 to 44-1917 Nebraska Title Insurance Act.

(4) Subject to the provisions of subsection (6) of this section, each filing shall be on file for a period of fifteen days before it becomes effective. The director may, upon written notice given within such period to the person making the filing, extend such waiting period for an additional period, not to exceed fifteen days, to enable him or her to complete the review of the filing. Further extensions of such waiting period may also be made with the consent of the title insurance company or rating organization making the filing. Upon written application by the title insurance company or rating organization making the filing, the director may authorize a filing or any part thereof which he or she has reviewed to become effective before the expiration of the waiting period or any extension thereof.

(5) Except in the case of rates filed under subsection (6) of this section, a filing which has become effective shall be deemed to meet the requirements of the provisions of sections 44-201, 44-309-02, 44-413-01, and 44-1901 to 44-1917 Nebraska Title Insurance Act.

(6) When the director finds that any rate for a particular kind or class of risk cannot practically be filed before it is used, or any contract or kind of title insurance, by reason of rarity or peculiar circumstances, does not lend itself to advance determination and filing of rates, he or she may, under such rules and regulations as he or she may prescribe adopt and promulgate, permit such rate to be used without a previous filing and waiting period.

(7) No title insurance company or agent of a title insurance company shall charge any fee for any policy or contract of title insurance except in accordance with filings or rates which are in effect for such title insurance company as provided in sections 44-201, 44-309-02, 44-413-01, and 44-1901 to 44-1917, the Nebraska Title Insurance Act or in accordance with subsection (6) of this section.

(8) The director shall not have the power to regulate or require the filing of rates or fees for

reinsurance contracts or agreements or policies of excess coinsurance.

Sec. 184. That section 44-1914, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1914. (1) If within the waiting period or any extension thereof, the director finds that a filing does not meet the requirements of sections 44-201, 44-309-02, 44-413-01, and 44-1901 to 44-1917 the Nebraska Title Insurance Act, he or she shall send to the title insurance company or the title insurance rating organization which made such filing written notice of disapproval of such filing specifying therein in the notice in what respects he or she finds such filing fails to meet the requirements of sections 44-201, 44-309-02, 44-413-01, and 44-1901 to 44-1917 the act and stating that such filing shall not become effective.

(2) Upon review of a filing by the director at any time after the waiting period, he or she shall, before issuing an order of disapproval, hold a hearing upon not less than ten days' written notice, specifying in reasonable detail the matters to be considered at such hearing, to every title insurance company or title insurance rating organization which made such filing. If, and if, after such hearing, he or she finds that such filing or a part thereof does not meet the requirements of sections 44-201, 44-309-02, 44-413-01, and 44-1901 to 44-1917 the Nebraska Title Insurance Act, he or she shall issue an order specifying in what respects he or she finds that it so fails, and stating when, within a reasonable period thereafter, such filing or a part thereof shall be deemed no longer effective if the filing or a part thereof has become effective under the provisions of sections 44-201, 44-309-02, 44-413-01, and 44-1901 to 44-1917 act. A title insurance company or title insurance rating organization shall have the right at any time to withdraw a filing or a part thereof. Copies of the order shall be sent to every title insurance company or title insurance rating organization affected. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in such order.

(3) Any person or organization aggrieved with respect to any filing which is in effect may make written application to the Director of Insurance for a hearing thereon. The title insurance company or title insurance rating organization that made the filing shall not be authorized to proceed under this subsection.

Such application shall specify in reasonable detail the grounds to be relied upon by the applicant. If the director ~~shall find~~ finds that the application is made in good faith, that the applicant would be so aggrieved if his or her grounds are established, and that such grounds otherwise justify holding such a hearing, he the director shall, within thirty days after receipt of such application, hold a hearing upon not less than ten days' written notice to the applicant and to every title insurance company and title insurance rating organization which made such a filing. If, after such hearing, the director finds that the filing or a part thereof does not meet the requirements of sections 44-201, 44-309-02, 44-413-01, and 44-1901 to 44-1917 the Nebraska Title Insurance Act, he or she shall issue an order specifying in what respects he or she finds that such filing or a part thereof fails to meet the requirements of sections 44-201, 44-309-02, 44-413-01, and 44-1901 to 44-1917, the act and stating when within a reasonable period thereafter such filing or a part thereof shall be deemed no longer effective. Copies of such order shall be sent to the applicant and to every such title insurance company and title insurance rating organization. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order.

(4) No filing or any modification thereof shall be disapproved if the rates in connection therewith meet the requirements of sections 44-201, 44-309-02, 44-413-01, and 44-1901 to 44-1917 the Nebraska Title Insurance Act.

Sec. 185. That section 44-1915, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1915. The director may make adopt and promulgate reasonable rules and regulations necessary to effect the purposes of sections 44-201, 44-309-02, 44-413-01, and 44-1901 to 44-1917 the Nebraska Title Insurance Act.

Sec. 186. That section 44-1916, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1916. Nothing contained in sections 44-201, 44-309-02, 44-413-01, and 44-1901 to 44-1917 the Nebraska Title Insurance Act shall require the observance at any hearing of formal rules of pleading or evidence.

Sec. 187. That section 44-2002, Reissue Revised Statutes of Nebraska, 1943, be amended to read

as follows:

44-2002. (1) It shall be unlawful for any insurer to transact insurance business in this state, as set forth in subsection (2) of this section, without a certificate of authority from the director. This section shall not apply to:

(a) The lawful transaction of surplus lines insurance;

(b) The lawful transaction of reinsurance by insurers;

(c) Transactions in this state involving a policy lawfully solicited, written, and delivered outside of this state covering only subjects of insurance not resident, located, or expressly to be performed in this state at the time of issuance, and which transactions are subsequent to the issuance of such policy;

(d) Attorneys acting in the ordinary relation of attorney and client in the adjustment of claims or losses;

(e) Transactions in this state involving group life and group sickness and accident or blanket sickness and accident insurance or group annuities when the master policy of such groups was lawfully issued and delivered in and pursuant to the laws of a state in which the insurer was authorized to do an insurance business, to a group organized for purposes other than the procurement of insurance, and when the policyholder is domiciled or otherwise has a bona fide situs;

(f) ~~Transactions in this state involving any policy of insurance or annuity contract issued prior to December 25, 1969;~~

~~(g) Transactions in this state relative to a policy issued or to be issued outside this state involving insurance on vessels, craft or hulls, cargoes, marine builder's risk, marine protection, and indemnity or other risk, including strikes and war risks commonly insured under ocean or wet marine forms of policy; or~~

~~(h) (g) Transactions in this state involving contracts of insurance issued to one or more industrial insureds, which is hereby defined as an insured, which procures the insurance of any risk or risks other than life and annuity contracts by use of the services of a full-time employee acting as an insurance manager or buyer or the services of a regularly and continuously retained qualified licensed insurance consultant, whose aggregate annual premiums for insurance on all risks, other than workers' compensation insurance, total at least twenty-five thousand dollars; and who has at least~~

twenty-five full-time employees.

(2) Any of the following acts in this state effected by mail or otherwise by or on behalf of an unauthorized insurer ~~is deemed to shall~~ constitute the transaction of an insurance business in this state. The venue of an act committed by mail is at the point where the matter transmitted by mail is delivered and takes effect. ~~Unless For purposes of this section, unless~~ the context otherwise requires, insurer, ~~as used in this section,~~ shall include all corporations, associations, partnerships, and individuals, engaged as principals in the business of insurance and ~~shall also includes~~ include interinsurance exchanges and mutual benefit societies:

(a) The making of or proposing to make, as an insurer, an insurance contract;

(b) The making of or proposing to make, as guarantor or surety, any contract of guaranty or suretyship as a vocation and not merely incidental to any other legitimate business or activity of the guarantor or surety;

(c) The taking or receiving of any application for insurance;

(d) The receiving or collection of any premium, commission, membership fees, assessments, dues, or other consideration for any insurance or any part thereof;

(e) The issuance or delivery of contracts of insurance to residents of this state or to persons authorized to do business in this state;

(f) Directly or indirectly acting as an agent for or otherwise representing or aiding on behalf of another any person or insurer in the solicitation, negotiation, procurement, or effectuation of insurance or renewals thereof or in the dissemination of information as to coverage or rates, or forwarding of applications, or delivery of policies or contracts, or inspection of risks, a fixing of rates or investigation or adjustment of claims or losses or in the transaction of matters subsequent to effectuation of the contract and arising out of it, or in any other manner representing or assisting a person or insurer in the transaction of insurance with respect to subjects of insurance resident, located, or to be performed in this state. This subsection shall not operate to prohibit full-time salaried employees of a corporate insured from acting in the capacity of an insurance manager or buyer in placing insurance in behalf of such employer;

(g) The transaction of any kind of insurance

business specifically recognized as transacting an insurance business within the meaning of the statutes relating to insurance; or

(h) The transacting or proposing to transact any insurance business in substance equivalent to any of the foregoing provisions of subdivisions (a) through (g) of this subsection in a manner designed to evade the provisions of the statutes.

(3)(a) The failure of an insurer transacting insurance business in this state to obtain a certificate of authority shall not impair the validity of any act or contract of such insurer and shall not prevent such insurer from defending any action at law or suit in equity in any court of this state, but no insurer transacting insurance business in this state without a certificate of authority shall be permitted to maintain an action in any court of this state to enforce any right, claim, or demand arising out of the transaction of such business until such insurer shall have obtained a certificate of authority.

(b) In the event of failure of any such unauthorized insurer to pay any claim or loss within the provisions of any insurance contract, any person who assisted or in any manner aided directly or indirectly in the procurement of such insurance contract shall be liable to the insured for the full amount of the claim or loss in the manner provided by the provisions of such insurance contract.

Sec. 188. That section 44-2008, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2008. Sections 44-2001 to 44-2008 shall be known and may be cited as the Uniform Unauthorized Insurers Act.

Sec. 189. That section 44-2106, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2106. All requests or invitations for tenders or advertisements making a tender offer or requesting or inviting tenders of such voting securities for actual control of a domestic insurer made by or on behalf of any such person shall be filed with the director, shall contain such of the information as the director may by rule or regulation prescribe, and shall be filed with the director simultaneously with filing with the Securities and Exchange Commission or at least ten days prior to the time such material is first published or sent or given to security holders. Copies of any additional material soliciting or requesting such

tender offers subsequent to the initial solicitation or request shall contain such information as the director may by rule or regulation prescribe as necessary or appropriate in the public interest or for the protection of policyholders and ~~steekholders~~, shareholders and shall be filed with the director simultaneously with filing with the Securities and Exchange Commission, or at least ten days prior to the time copies of such material are first published or sent or given to security holders.

Sec. 190. That section 44-2112, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2112. No insurer subject to registration under ~~the provisions of~~ sections 44-2101 to 44-2119 shall pay any extraordinary dividend or make any other extraordinary distribution to its ~~steekholders~~ shareholders until thirty days after the director has received notice of the declaration thereof and has not within such period disapproved such payment, or until the director ~~shall have~~ has approved such payment within such thirty-day period. For purposes of this section, an extraordinary dividend or distribution ~~is~~ shall mean any dividend or distribution which, together with other dividends or distributions made within the preceding twelve months, exceeds the greater of ten percent of such insurer's surplus to policyholders as of December 31 of the year immediately preceding, or the net gain from operations of such insurer if such insurer is a life insurer, or the net investment income if such insurer is not a life insurer, for the twelve-month period ending December 31 of the year immediately preceding. Notwithstanding any other provision of law, an insurer may declare an extraordinary dividend or distribution which is conditional upon the director's approval thereof, and such a declaration shall confer no rights upon ~~steekholders~~ shareholders until the director has approved the payment of such dividend or distribution or the director has not disapproved such payment within the thirty-day period referred to ~~above~~ in this section.

Sec. 191. That section 44-2117, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2117. The director may, upon notice and opportunity for all interested parties to be heard, ~~issue~~ adopt and promulgate such rules, and regulations and ~~issue~~ such orders as shall be necessary to carry out ~~the provisions of~~ sections 44-2101 to 44-2119.

Sec. 192. That section 44-2201, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2201. An insurance corporation may be formed for the purpose of issuing variable annuities. Variable annuities are policies issued on an individual or group basis by which an insurer promises to pay a variable sum of money either in a lump sum, or periodically for life or for some other specified period. No company shall issue or offer to issue variable annuities in this state until it has received a certificate of authority from the Director of Insurance to do so. The certificate of authority shall expire on the last day of April each year and shall be renewed annually if the company has continued to comply with the laws of this state and the rules and regulations adopted and promulgated by the director and the director has not issued an order suspending, revoking, or refusing to renew the company's certificate of authority.

Sec. 193. That section 44-2204, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2204. For the purposes of sections 44-2201 to 44-2221, ~~the applicant shall be deemed to include all of the officers, directors, and stockholders shareholders.~~ as defined in section 44-2205-

Sec. 194. That section 44-2205, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2205. For the purposes of sections 44-2201 to 44-2221, shareholder shall mean a person a stockholder is defined as one owning, directly or indirectly, whether through another person or a holding company, beneficial interest, including such interest of any member of his or her immediate family, of more than ten percent of the outstanding equity securities of the applicant.

Sec. 195. That section 44-2206, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2206. The Director of Insurance may issue an order denying the application for authority to issue variable annuities if:

- (1) The applicant has failed to comply with any prerequisite of law for the issuance of such license;
- (2) The applicant is insolvent or has failed to submit a satisfactory financial statement;
- (3) The applicant's condition or method of

operation in connection with the issuance of variable annuities is such as to render its operation hazardous to the public, its ~~stockholders~~ shareholders, or other policyholders;

(4) The applicant's previous conduct indicates that it is untrustworthy;

(5) The applicant has attempted to obtain such license through willful misrepresentation or fraud;

(6) The applicant has been denied a similar license in any other state; or

(7) The applicant's license to conduct a similar business has been suspended or revoked in any other state.

Sec. 196. That section 44-2219, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2219. Upon the entry of an order suspending, denying, revoking, or refusing to renew a company's certificate of authority to issue variable annuities in this state, the Director of Insurance shall promptly notify the company, by registered or certified mail, that the order has been entered, and the reasons therefor and that within fifteen days after the receipt of a written request the matter will be set down for hearing. If no hearing is requested within fifteen days and none is ordered by the director, the director shall enter his or her written findings of fact and conclusions of law and the order will remain in effect until it is modified or vacated by the director. If a hearing is requested or ordered, it shall be held pursuant to the provisions of Chapter 44 the Administrative Procedure Act.

Sec. 197. That section 44-2220, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2220. The Director of Insurance shall have the authority to adopt ~~such~~ and promulgate rules and regulations as are reasonable, necessary, and appropriate for the effective administration of sections 44-2201 to 44-2221. Such rules and regulations may relate to include, but shall not be limited to, (1) qualifications to issue variable annuities, (2) requirements as to advertising, sales promotion, and contract provisions, (3) accounting, (4) the filing of contracts and certificates, and (5) the licensing of annuity agents.

Sec. 198. That section 44-2402, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2402. Sections 44-2401 to 44-2418 The Nebraska Property and Liability Insurance Guaranty Association Act shall apply to all kinds of direct insurance except mortgage guaranty, ocean marine, and those lines of insurance described specified in subdivisions (2), (3), (4), (10), (11) and (13) (1) through (4), (13) through (17), (19), and (20) of section 44-201.

Sec. 199. That section 44-2407, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2407. (1) The association shall:

(a) Allocate claims paid and expenses incurred among the three accounts separately and assess member insurers separately for each account in the amounts necessary to pay the obligations of the association under section 44-2406, the expenses of handling covered claims, the cost of examinations under sections 44-2412 and 44-2413, and other expenses authorized by the Nebraska Property and Liability Insurance Guaranty Association Act. The assessments of each member insurer shall be in the proportion that the net direct written premiums of such member insurer, on the basis of the insurance in the account involved, bears to the net direct written premiums of all member insurers for the same period and in the same account for the calendar year preceding the date the member insurer becomes an insolvent insurer. After an initial assessment has been made for an insolvency, any subsequent assessments for that insolvency may be calculated in the same manner as the initial assessment and may use the same calendar year's net direct written premiums as were used in determining the original assessment. The association may make an assessment for the purpose of meeting administrative costs and other general expenses not related to a particular impaired insurer, not to exceed fifty dollars per member company in any one year. Each member insurer shall be notified of the assessment not later than thirty days before it is due. Except for such administrative assessment, no member insurer may be assessed in any year on any account an amount greater than one percent of that member insurer's net direct written premiums for the preceding calendar year on the kinds of insurance in the account. The association may defer, in whole or in part, the assessment of any member insurer if the assessment would cause the member insurer's financial statement to reflect amounts of capital or surplus less than the minimum required for a certificate of authority by any jurisdiction in which

the member insurer is authorized to transact business as an insurer. Deferred assessments shall be paid when such payment will not reduce capital or surplus below such required minimum amounts. Such deferred assessments when paid shall be refunded to those member companies that received larger assessments by virtue of such deferment or, in the discretion of any such company, credited against future assessments. No member insurer may pay a dividend to ~~stockholders~~ shareholders or policyholders while such insurer has an unpaid deferred assessment;

(b) Handle claims through its employees or through one or more insurers or other persons designated by the association as a servicing facility, except that the designation of a servicing facility shall be subject to the approval of the director and such designation may be declined by a member insurer;

(c) Reimburse any servicing facility for obligations of the association paid by the facility and for expenses incurred by the facility while handling claims on behalf of the association and such other expenses of the association as are authorized by the Nebraska Property and Liability Insurance Guaranty Association Act; and

(d) Issue to each insurer paying an assessment under this section a certificate of contribution in appropriate form and terms as prescribed by the director for the amount so paid. All outstanding certificates shall be of equal dignity and priority without reference to amounts or dates of issue. Such certificate of contribution shall be shown by the insurer in its financial statement as an admitted asset. The insurer shall have the right to show a certificate of contribution as an admitted asset at percentages of original face amount for calendar years not to exceed the following: One hundred percent for the calendar year of issuance; eighty percent for the first calendar year after the year of issuance; sixty percent for the second calendar year after the year of issuance; forty percent for the third calendar year after the year of issuance; and twenty percent for the fourth calendar year after the year of issuance. The insurer shall offset not to exceed the amount written off by it in a calendar year under this section against its premium and related retaliatory tax liability imposed by sections 44-150 and 77-908 to the state accrued with respect to business transacted in such year. Should the association recover any sum representing amounts previously written off by member insurers and offset

against premium and related retaliatory taxes imposed by sections 44-150 and 77-908, such recovered sum shall be paid by the association to the Director of Insurance who shall handle such funds in the same manner as provided in Chapter 77, article 9.

(2) The association may:

(a) Appear in, defend, and appeal any action;

(b) Employ or retain such persons as are necessary to handle claims and perform other duties of the association;

(c) Borrow funds necessary to effect the purposes of the Nebraska Property and Liability Insurance Guaranty Association Act in accord with the plan of operation;

(d) Sue or be sued;

(e) Negotiate and become a party to such contracts as are necessary to carry out the purpose of such act;

(f) Perform such other acts as are necessary or proper to effectuate the purpose of such act; and

(g) Refund to the member insurers in proportion to the contribution of each member insurer to any account that amount by which the assets of the account exceed the liabilities if, at the end of any calendar year, the board of directors finds that the assets of the association in the account exceed the liabilities of that account as estimated by the board of directors for the coming year.

Sec. 200. That section 44-2408, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2408. (1)(a) The association shall submit to the director a plan of operation and any amendments thereto necessary or suitable to assure the fair, reasonable, and equitable administration of the affairs of the association. The plan of operation and any amendments thereto shall become effective upon approval in writing by the director.

(b) If the association fails to submit a suitable plan of operation within ninety days following May 26, 1971, or if at any time thereafter the association fails to submit suitable amendments to the plan, the director shall, after allowing the association the opportunity to present its views, adopt and promulgate such reasonable rules and regulations as are necessary and advisable to effectuate the provisions of sections 44-2401 to 44-2418 Nebraska Property and Liability Insurance Guaranty Association Act. Such rules and regulations shall continue in force until

modified by the director or superseded by a plan submitted by the association and approved by the director.

(2) All member insurers shall comply with the plan of operation.

(3) The plan of operation shall:

(a) Establish the procedures whereby all the powers and duties of the association under the provisions of sections 44-2401 to 44-2418 act will be performed;

(b) Establish procedures for handling the assets of the association;

(c) Establish the amount and method of reimbursing members of the board of directors under the provisions of section 44-2405;

(d) Establish procedures by which claims may be filed with the association and establish acceptable forms of proof of covered claims;

(e) Establish regular places and times for meetings of the board of directors;

(f) Establish procedures for records to be kept of all financial transactions of the association, its agents, and the board of directors;

(g) Provide that any member insurer aggrieved by any final action or decision of the association may appeal to the director within sixty days after the action or decision;

(h) Establish the procedures whereby selection of the board of directors will be submitted to the director for approval; and

(i) Contain additional provisions necessary or proper for the execution of the powers and duties of the association.

(4) The plan of operation may provide that any or all powers and duties of the association are delegated to a corporation, association, or other organization which performs, or will perform, functions similar to those of the association, or its equivalent, in two or more states. Such corporation, association, or organization, shall be reimbursed as a servicing facility would be reimbursed and shall be paid for its performance of any other functions of the association. A delegation under this subsection shall take effect only with the approval of both the board of directors and the director, and may be made only to a corporation, association, or organization which extends protection not substantially less favorable and effective than that provided by sections 44-2401 to 44-2418 the act.

Sec. 201. That section 44-2502, Reissue

Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2502. ~~Reciprocal~~ For purposes of sections 44-2501 to 44-2504, reciprocal state as used in sections 44-2501 to 44-2504 shall mean any state, the laws of which impose substantially similar restrictions upon an insurer organized under the laws of that state as are imposed upon domestic insurers by section 44-2501. prohibit an insurer organized under the laws of that state from insuring the lives or property of persons resident or located in Nebraska, unless such insurer is authorized pursuant to the laws of this state to do business in this state.

Sec. 202. That section 44-2503, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2503. The department shall make available annually mail to every any domestic insurer upon request a netice listing specifying the several reciprocal states.

Sec. 203. That section 44-2606, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2606. For the purpose of sections 44-114 and 44-2606 to 44-2635, unless the context otherwise requires, the definitions found in sections 44-2607 to 44-2613 shall be used.

Sec. 204. That section 44-2609, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2609. Agent shall mean and include insurance agent, surplus lines ~~agent~~ licensee, and broker.

Sec. 205. That section 44-2614, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2614. No person shall, in or on advertisements, cards, signs, circulars, letterheads, or elsewhere, or in any other manner by which public announcements are made, use the title insurance consultant, public adjustor, or any similar title, or any title, word, combination of words, or abbreviation indicating that he or she gives, or is engaged in the business of offering to the public any advice, counsel, opinion, or service with respect to insurable risks, or concerning the benefits, coverages, or provisions under any policy of insurance that could be issued in this state, or involving the advantages or disadvantages of any such policy of insurance, unless such person holds a

license as an insurance consultant under the provisions of sections 44-114 and 44-2606 to 44-2635.

Sec. 206. That section 44-2615, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2615. No person shall act as an insurance consultant until he or she has been licensed as provided by sections 44-114 and 44-2606 to 44-2635. Any person violating this section shall be guilty of a Class IV misdemeanor.

Sec. 207. That section 44-2618, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2618. A nonresident applicant may qualify for a license under sections 44-114 and 44-2606 to 44-2635 as a nonresident consultant. A license issued to a nonresident shall grant the same rights and privileges offered a resident licensee, except that whenever, by the laws, rules, or regulations of any other state or jurisdiction, any limitation of rights and privileges, conditions precedent, or any other requirements are imposed upon residents of Nebraska who are nonresident applicants or licensees of such other state or jurisdiction in addition to or in excess of those imposed on nonresidents under sections 44-114 and 44-2606 to 44-2635, the same requirements shall be imposed upon the residents of such other state or jurisdiction.

Sec. 208. That section 44-2621, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2621. Every individual applicant for a license under sections 44-114 and 44-2606 to 44-2635 shall have attained the age of majority, shall be competent, trustworthy, financially responsible, and of good personal and business reputation, and shall have been licensed as an agent, broker, or consultant in this state or another state for the three years immediately preceding the date of application or have successfully completed a specific program of study which has a broad national or regional recognition as determined by the director. Application shall be made to the director on forms prescribed by the director and shall be accompanied by the a license fee prescribed by section 44-114 as established by the director not to exceed thirty dollars for each resident license and not to exceed thirty-six dollars for each nonresident license and on or after June 30, 1990, a license fee as established by the director not to exceed sixty dollars

for each resident individual license, not to exceed seventy-two dollars for each nonresident individual license, not to exceed thirty dollars for each resident corporate or partnership license, and not to exceed thirty-six dollars for each nonresident corporate or partnership license. The director may issue an insurance consultant's license in two areas: Property and casualty insurance; and life, health, and annuities. A person may become licensed in either one or both of such areas.

Sec. 209. That section 44-2622, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2622. All individual applicants for licensure under sections ~~44-114~~ and 44-2606 to 44-2635 shall be examined by the director in such manner and form as the director prescribes. The applicant shall pass the examination with a grade determined by the director to indicate satisfactory knowledge and understanding of the area of insurance for which the applicant seeks qualification as a consultant.

Sec. 210. That section 44-2623, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2623. An applicant for a license under sections 44-2606 to 44-2635 shall pay or cause to be paid an examination fee as established by the director in advance of such examination. The fee shall not exceed one hundred dollars and shall cover all of the examinations given to the applicant at the same time and place. The fee shall not be refunded to the applicant. Examination fees collected under sections 44-2606 to 44-2635 shall be remitted to the State Treasurer for credit to the Department of Insurance Cash Fund unless the director contracts with an independent testing organization, in which case the applicant shall pay the examination fee directly to such independent testing organization and the fee shall be the amount charged by the testing organization. Applicants shall remit with their application an examination fee of ten dollars which shall entitle the applicant to take the examination once. If an applicant fails the examination, such applicant may be reexamined upon payment of a ten-dollar examination fee. The director may require a reasonable waiting period, not to exceed sixty days, before reexamination of an applicant. An applicant who has failed to pass two examinations in the same area of insurance shall be required to wait at least sixty days before reexamination in such area.

Sec. 211. That section 44-2627, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2627. The license shall state the name and resident address of the licensee, date of issuance, whether the licensee is qualified to consult in property and casualty, ~~or~~ life, health, and annuities, or both, and such other information as the director considers proper. All individual, corporate, and partnership licenses shall expire on June 30 of each year, except that all individual licenses issued on or after June 30, 1990, shall expire on the licensee's birthday in the first year after issuance in which his or her age is divisible by two and such individual licenses may be reissued within the ninety-day period before their expiration dates. The department shall establish procedures for the reissuance of licenses. Every licensed consultant shall notify the department within thirty days of any change in his or her residential or business address.

Sec. 212. That section 44-2628, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2628. A person holding a license issued under sections ~~44-114 and~~ 44-2606 to 44-2635 shall annually pay to the department the required license fee as prescribed by section ~~44-114~~ 44-2621. The department shall not issue a license to any person who fails to pay the required license fee when it becomes due.

Sec. 213. That section 44-2633, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2633. The director may revoke, suspend, or place on probation, for such period as he or she may determine, the license of any consultant if, after notice and hearing, he or she determines that the licensee has:

(1) Violated any of the provisions of sections 44-~~114~~ and 44-2606 to 44-2635, any insurance laws, or any lawful rule, regulation, or order of the director or of a director or commissioner of another state or province;

(2) Recommended the purchase of insurance, annuities, or securities from any authorized insurer in which the consultant or any member of his or her immediate family holds an executive position or holds a substantial interest;

(3) Received compensation in any form from any agency or other insurance organization for recommending

such agency or organization to the consultant's client;

(4) Knowingly and willfully misrepresented the terms of any actual or proposed insurance contract;

(5) Been found guilty of any unfair trade practice or of fraud;

(6) Been convicted of any felony, or convicted of a Class I, II, or III misdemeanor evidencing that such licensee is not worthy of the public trust;

(7) Had a consultant's license suspended, revoked, or placed on probation in any other state;

(8) Failed to submit to a reexamination for competence, or has failed to pass such examination;

(9) Demonstrated incompetency, untrustworthiness, or failure to comply with the provisions of his or her insurance consultant's contract; or

(10) Obtained the license through misrepresentation, fraud, or any cause for which issuance could have been refused had it been known to the director at the time of issuance.

Sec. 214. That section 44-2634, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2634. Any person violating the provisions of sections ~~44-114~~ and 44-2606 to 44-2635 may after notice and hearing be subject to an administrative fine of not more than five hundred dollars per violation. Such fine may be enforced in the same manner as civil judgments and may be in addition to any denial, suspension, probation, or revocation of a license. Any person charged with a violation of sections ~~44-114~~ and 44-2606 to 44-2635 may waive his or her right to a hearing and consent to such discipline as the director determines to be appropriate. All hearings held pursuant to sections ~~44-114~~ and 44-2606 to 44-2635 shall be governed by the Administrative Procedure Act.

Sec. 215. That section 44-2635, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2635. The director may adopt and promulgate reasonable rules and regulations for the implementation and administration of sections 44-2606 to ~~44-2635~~ and ~~44-114~~.

Sec. 216. That section 44-2705, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2705. (1) There is hereby created a nonprofit unincorporated legal entity to be known as the Nebraska Life and Health Insurance Guaranty Association.

All member insurers shall be members of the association as a condition of their authority to transact the business of insurance in this state. The association shall perform its functions under the plan of operation established and approved according to section 44-2708 44-2709 and shall exercise its powers through a board of directors established pursuant to the provisions of section 44-2706. For purposes of administration and assessment, the association shall maintain three accounts: (a) A health insurance account; (b) a life insurance account; and (c) an annuity account.

(2) The association shall be under the direct supervision of the director and shall be subject to the applicable provisions of the insurance laws of this state.

Sec. 217. That section 44-2713, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2713. (1) Nothing in the Nebraska Life and Health Insurance Guaranty Association Act shall be construed to reduce the liability for unpaid assessments of the insureds of an impaired or insolvent insurer operating under a plan with assessment liability.

(2) Records shall be kept of all negotiations and meetings in which the association or its representatives are involved to discuss the activities of the association in carrying out its powers and duties pursuant to section 44-2707. Records of such negotiations or meetings shall be made public only upon the termination of a liquidation, rehabilitation, or conservation proceeding involving the impaired or insolvent insurer, upon the termination of the impairment or insolvency of the insurer, or upon the order of a court of competent jurisdiction. Nothing in this subsection shall limit the duty of the association to render a report of its activities as provided in section 44-2714.

(3) For the purpose of carrying out its obligations under the Nebraska Life and Health Insurance Guaranty Association Act, the association shall be deemed to be a creditor of the impaired or insolvent insurer to the extent of assets attributable to covered policies reduced by any amounts to which the association is entitled as subrogee pursuant to subdivision (8) of section 44-2707. All assets of the impaired or insolvent insurer attributable to covered policies shall be used to continue all covered policies and pay all contractual obligations of the impaired or insolvent insurer as required by the act. Assets attributable to

covered policies, as used in this subsection, are that proportion of the assets which the reserves that should have been established for such policies bear to the reserve that should have been established for all policies of insurance written by the impaired or insolvent insurer.

(4)(a) Prior to the termination of any liquidation, rehabilitation, or conservation proceeding, the court may take into consideration the contributions of the respective parties, including the association, the shareholders and policyowners of the impaired or insolvent insurer, and any other party with a bona fide interest in making an equitable distribution of the ownership rights of such impaired or insolvent insurer. In such a determination, consideration shall be given to the welfare of the policyholders of the continuing or successor insurer.

(b) No distribution to stockholders shareholders, if any, of an impaired or insolvent insurer shall be made until and unless the total amount of assessments levied by the association with respect to such insurer have been fully recovered by the association.

(5) It shall be a prohibited unfair trade practice for any person to make use in any manner of the protection afforded by the Nebraska Life and Health Insurance Guaranty Association Act in the sale of insurance.

(6)(a) If an order for liquidation or rehabilitation of an insurer domiciled in this state has been entered, the receiver appointed under such order shall have a right to recover on behalf of the insurer, from any affiliate, the amount of distributions, other than stock dividends paid by the insurer on its capital stock, made at any time during the five years preceding the petition for liquidation or rehabilitation subject to the limitations of subdivisions (b), (c), and (d) of this subsection.

(b) No such dividend shall be recoverable if the insurer shows that when paid the distribution was lawful and reasonable and that the insurer did not know and could not reasonably have known that the distribution might adversely affect the ability of the insurer to fulfill its contractual obligations.

(c) Any person who was an affiliate of the insurer at the time the distributions were paid shall be liable up to the amount of distributions such person received. Any person who was an affiliate of the insurer at the time the distributions were declared

shall be liable up to the amount of distributions such person would have received if they had been paid immediately. If two persons are liable with respect to the same distributions, they shall be jointly and severally liable.

(d) The maximum amount recoverable under this subsection shall be the amount needed in excess of all other available assets of the impaired or insolvent insurer to pay the contractual obligations of the impaired or insolvent insurer.

(e) If any person liable under subdivision (c) of this subsection is insolvent, all affiliates of such person at the time the dividend was paid shall be jointly and severally liable for any resulting deficiency in the amount recovered from the insolvent affiliate.

Sec. 218. That section 44-2916, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-2916. To the extent applicable and when not in conflict with the Nebraska Hospital and Physicians Mutual Insurance Association Act, the provisions of sections 44-2901 to 44-2918, Chapters 21, the Nebraska Business Corporation Act and Chapters 44 and 77 relating to corporations and insurance shall apply to associations incorporated pursuant to sections 44-2901 to 44-2918 the Nebraska Hospital and Physicians Mutual Insurance Association Act.

Sec. 219. That section 44-3112, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3112. To the extent applicable and when not in conflict with the Nebraska Professional Association Mutual Insurance Company Act, the provisions of sections 44-3101 to 44-3112, Chapters 21, the Nebraska Business Corporation Act and Chapters 44, and 77 relating to corporations and insurance shall apply to companies incorporated pursuant to sections 44-3101 to 44-3112 the Nebraska Professional Association Mutual Insurance Company Act.

Sec. 220. That section 44-3211, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3211. Notwithstanding any law of this state to the contrary, any person may apply to the director for and obtain a certificate of authority to establish and operate a health maintenance organization in compliance with sections 44-3201 to 44-3291 the Model Health Maintenance Organization Act. No person shall

establish or operate a health maintenance organization in this state without obtaining a certificate of authority under ~~sections 44-3201 to 44-3291~~ such act. A foreign corporation may qualify under ~~sections 44-3201 to 44-3291~~ the Model Health Maintenance Organization Act, subject to its registration to do business in this state as a foreign corporation under ~~Chapter 21, article 20~~ the Nebraska Business Corporation Act. Before any certificate of authority is issued, a certificate of need pursuant to the requirements of the National Health Planning and Resources Development Act and applicable state law shall be issued when such a certificate is required by such laws.

Sec. 221. That section 44-3231, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3231. The director may adopt and promulgate rules and regulations exempting from the filing requirements of section 44-3230 those items he or she deems shall deem unnecessary.

Sec. 222. That section 44-3233, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3233. The Director of Health shall determine whether the applicant for a certificate of authority, with respect to health care services to be furnished:

(1) Demonstrates the willingness and potential ability to assure that such health care services shall be provided in a manner to assure both availability and accessibility of adequate personnel and facilities and in a manner enhancing availability, accessibility, and continuity of service;

(2) Establishes arrangements in accordance with rules and regulations adopted and promulgated by the Department of Health for an ongoing quality of health care assurance program; and

(3) Establishes a procedure in accordance with rules and regulations of the Department of Health to develop, compile, evaluate, and report statistics relating to the cost of its operations, the pattern of utilization of its services, the availability and accessibility of its services, and such other related matters as may be reasonably required by rules and regulations of the Department of Health.

Sec. 223. That section 44-3236, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3236. The director shall issue or deny a

certificate of authority to any person filing an application pursuant to sections 44-3211 to 44-3231 within thirty days of receipt of the certification from the Director of Health. Issuance of a certificate of authority shall be granted upon payment of the application fee prescribed in section 44-3279 if the director shall be satisfied that the following conditions are met:

(1) The persons responsible for the conduct of the affairs of the applicant are competent, trustworthy, and possess good reputations;

(2) The Director of Health certifies, in accordance with section ~~44-3232~~ 44-3235, that the health maintenance organization's proposed plan of operation meets the requirements of section 44-3233. Such certification or lack thereof shall be conclusive and binding upon the Director of Insurance;

(3) The health care plan constitutes an appropriate mechanism whereby the health maintenance organization shall effectively provide or arrange for the provision of basic health care services on a prepaid basis, through insurance or otherwise, except to the extent of reasonable requirements for copayments;

(4) The health maintenance organization is financially responsible and shall reasonably be expected to meet its obligations to enrollees and prospective enrollees. In making this determination, the director may consider:

(a) The financial soundness of the health care plan arrangements for health care services and the schedule of charges used in connection therewith;

(b) The adequacy of working capital;

(c) Any agreement with an insurer, a ~~hospital or medical service corporation~~, a government, or any other organization for insuring the payment of the cost of health care services or the provision for automatic applicability of an alternative coverage in the event of the discontinuance of the plan;

(d) Any agreement with providers for the provision of health care services; and

(e) Any surety bond or deposit of cash or securities submitted in accordance with section 44-3263, as a guarantee that the obligations will be duly performed;

(5) The enrollees will be afforded an opportunity to participate in matters of policy and operation pursuant to section 44-3241;

(6) Nothing in the proposed method of operation, as shown by the information submitted

pursuant to sections 44-3211 to 44-3231 or by independent investigation, is contrary to the public interest;

(7) Any deficiencies certified by the Director of Health shall have been corrected and such corrections certified by the Director of Health; and

(8) A certificate of need pursuant to the requirements of the National Health Planning and Resources Development Act and applicable state laws has been issued in all such cases when such a certificate is required by such laws.

Sec. 224. That section 44-3239, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3239. The powers of a health maintenance organization shall include, but are not limited to, the following:

(1) To purchase, lease, construct, renovate, operate, or maintain hospitals, medical facilities, or both, and their ancillary equipment, appropriately licensed as required by law, and such property as may reasonably be required for its principal office or for such other purposes as may be necessary in the transaction of the business of the organization;

(2) To make loans to a medical group under contract with it in furtherance of its program or to make loans to a corporation or corporations under its control for the purpose of acquiring or constructing medical facilities and hospitals or in furtherance of a program providing health care services to enrollees;

(3) To furnish health care services through providers which are under contract with or employed by the health maintenance organization;

(4) To contract with any person for the performance on its behalf of certain functions such as marketing, enrollment, and administration;

(5) To contract with an insurance company licensed in this state, ~~or with a hospital or medical service corporation authorized to do business in this state,~~ for the provision of insurance, indemnity, or reimbursement against the cost of health care services provided by the health maintenance organization; and

(6) To offer, in addition to basic health care services:

(a) Additional health care services;

(b) Indemnity benefits covering out-of-area or emergency services; and

(c) Indemnity benefits, in addition to those relating to out-of-area and emergency services, provided

through insurers, ~~or hospitals or medical service corporations.~~

Sec. 225. That section 44-3244, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3244. Any enrollee residing in this state shall be entitled to evidence of coverage under a health care plan. If the enrollee obtains coverage under a health care plan through an insurance policy, ~~or a contract issued by a hospital or medical service corporation,~~ whether by option or otherwise, the insurer ~~or the hospital or medical service corporation~~ shall issue the evidence of coverage. In other cases, the health maintenance organization shall issue the evidence of coverage.

Sec. 226. That section 44-3247, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3247. A copy of the form of the evidence of coverage to be used in this state, and any amendment thereto, shall be subject to the filing and approval requirements of section 44-3245, unless it is subject to the jurisdiction of the director under the laws governing health insurance, ~~or hospital or medical service corporations~~ in which event the filing and approval provisions of such laws shall apply. To the extent that such provisions do not apply, the requirements in section 44-3246 shall be applicable.

Sec. 227. That section 44-3263, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3263. (1) Any health maintenance organization shall furnish a surety bond in an amount satisfactory to the director or deposit with the director cash or securities acceptable to him or her in at least the same amount as a guarantee that the obligations to the enrollees shall be performed. The director may waive this requirement whenever satisfied that the assets of the organization or its contracts with insurers, ~~hospital or medical service corporations,~~ governments, or other organizations shall be sufficient to reasonably assure the performance of its obligations.

(2) Every health maintenance organization shall be responsible for providing or arranging for the provision of basic health services to its enrollees, except that such health maintenance organization may reinsure its risk with solvent reinsurers who qualify to transact reinsurance in this state.

Sec. 228. That section 44-3270, Reissue

Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3270. (1) An insurance company licensed in this state or a hospital or medical service corporation authorized to do business in this state may, either directly or through a subsidiary or affiliate, organize and operate a health maintenance organization under the provisions of sections 44-3201 to 44-3291 Model Health Maintenance Organization Act. Notwithstanding any other law which may be inconsistent with the provisions of sections 44-3201 to 44-3291 act, any two or more such insurance companies, hospital or medical service corporations, or subsidiaries or affiliates thereof, may jointly organize and operate a health maintenance organization. The business of insurance shall be deemed to include the providing of health care services by a health maintenance organization owned or operated by an insurer or a subsidiary thereof.

(2) Notwithstanding any provision of insurance law, and hospital or medical service corporation laws as provided by Chapter 21, article 15, an insurer or a hospital or medical service corporation may contract with a health maintenance organization to provide insurance or similar protection against the cost of care provided through health maintenance organizations and to provide coverage in the event of the failure of the health maintenance organization to meet its obligations. The enrollees of a health maintenance organization constitute a permissible group under such laws. Under such contracts, the insurer or hospital or medical service corporation may make benefit payments to health maintenance organizations for health care services rendered by providers pursuant to the health care plan.

Sec. 229. That section 44-3277, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3277. The director may, after notice and hearing, adopt and promulgate reasonable rules and regulations as are necessary or proper to carry out the provisions of sections 44-3201 to 44-3291 Model Health Maintenance Organization Act. Such rules and regulations shall be subject to review in accordance with the Administrative Procedure Act.

Sec. 230. That section 44-3285, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3285. Except as otherwise provided in sections 44-3201 to 44-3291 the Model Health Maintenance Organization Act, provisions of the insurance law and

provisions of hospital service corporation or medical service corporation laws shall not be applicable to any health maintenance organization granted a certificate of authority under sections 44-3201 to 44-3291. Sections 44-3201 to 44-3291 the act. The act shall not apply to an insurer or hospital service corporation or medical service corporation licensed and regulated pursuant to the insurance laws or the hospital service corporation or medical service corporation laws of this state, except with respect to its health maintenance organization activities authorized and regulated pursuant to sections 44-3201 to 44-3291 the act.

Sec. 231. That section 44-3310, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3310. Insurers may contract with other insurers, including insurance companies organized under any of the laws of the State of Nebraska, for partial or total administrative services, or for joint participation through contractual agreements, or otherwise cede or accept legal expense insurance obligations from such insurers on the whole or any part of such legal expense insurance obligations. Such contract forms, documents, treaties, or agreement forms shall be filed with and approved by the director to be in accordance with the plan of operation of such insurer prior to their effectiveness. The director may issue adopt and promulgate rules and regulations concerning such participation contracts and agreements with insurers.

Sec. 232. That section 44-3403, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3403. As used in sections 44-3401 to 44-3408 For purposes of the Nebraska Life, Sickness and Accident Insurance Policy Readability Act, unless the context otherwise requires:

- (1) Director shall mean the Director of Insurance;
- (2) Insurer shall mean any company, corporation, exchange, society, or association whether organized on the stock, mutual, assessment, or fraternal plan of insurance, which is authorized under the laws of this state to provide life insurance, sickness and accident insurance, credit life insurance, or credit accident and health insurance, including, but not limited to, fraternal benefit societies, nonprofit health service corporations, nonprofit hospital service corporations, and health maintenance organizations; and

(3) Policy shall mean any contract of life insurance, sickness and accident insurance, credit life insurance, or credit accident and health insurance delivered or issued for delivery in this state by any insurer subject to ~~sections 44-3401 to 44-3408~~ the act.

Sec. 233. That section 44-3501, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3501. As used in For purposes of sections 44-3501 to 44-3519, unless the context otherwise requires:

(1) Person shall include any individual, partnership, association, corporation, administrator, and any other legal entity;

(2) Insurer shall mean any insurance corporation authorized to transact business under subdivision ~~(20)~~ ~~(13)~~ of section 44-201;

(3) Service contract shall mean any contract or agreement whether designated as a service contract, maintenance agreement, warranty, extended warranty, or any similar term, whereby a person undertakes to furnish, arrange for, or, in limited circumstances, reimburse for service, repair, or replacement of any or all of the components, parts, or systems of any covered residential dwelling or consumer product, when such service, repair, or replacement is necessitated by wear and tear, by inherent defect, or by the failure of an inspection to detect the likelihood of failure;

(4) Consumer product shall mean any tangible personal property which is distributed in commerce and which is normally used for personal, family, or household purposes, including, but not limited to, any such property intended to be attached to or installed in any real property without regard to whether it is so attached or installed;

(5) Agent shall mean any person with whom a service company has a contract and who is utilized by such service company for the purpose of selling or issuing service contracts. The term shall include all employees of any service company engaged directly in the sale or issuance of service contracts and all employees or agents of such agent;

(6) Contract fee shall mean the consideration received or to be received by a service company for the issuance and delivery of any service contract;

(7) Department shall mean the Department of Insurance;

(8) Director shall mean the Director of Insurance;

(9) Insolvent shall mean the inability to pay debts as they become due in the usual course of business; and

(10) Impaired shall mean an excess of liabilities over assets.

Sec. 234. That section 44-3502, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3502. The department shall administer sections 44-3501 to 44-3519 and shall adopt, promulgate, and enforce rules ~~or~~ and regulations as it deems necessary to carry out sections 44-3501 to 44-3519.

Sec. 235. That section 44-3602, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3602. As used in For purposes of the Medicare Supplement Insurance Minimum Standards Act, unless the context otherwise requires:

(1) Applicant shall mean:

(a) In the case of an individual medicare supplement policy or subscriber contract, the person who seeks to contract for insurance benefits; and

(b) In the case of a group medicare supplement policy or subscriber contract, the proposed certificate holder;

(2) Policy shall mean the entire contract between the insurer and the insured, including the policy riders, the endorsements, and the application, if attached, and shall also include subscriber contracts issued by ~~nonprofit hospital and medical service associations and by~~ health maintenance organizations;

(3) Certificate shall mean any certificate issued under a group medicare supplement policy or subscriber contract, which certificate has been delivered or issued for delivery in this state;

(4) Medicare shall mean the Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965, as then constituted or later amended;

(5) Medicare supplement policy shall mean a group or individual policy of sickness and accident and sickness insurance or a subscriber contract of ~~hospital and medical service associations or~~ health maintenance organizations which is advertised, marketed, or designed primarily as a supplement to reimbursements under medicare for the hospital, medical, or surgical expenses of persons eligible for medicare by reason of age, except that such term shall not include a policy or contract of one or more employers or labor organizations

or of the trustees of a fund established by one or more employers or labor organizations, or combination thereof, for employees or former employees, or combination thereof, or for members or former members, or combination thereof, of the labor organizations;

(6) Director shall mean the Director of Insurance; and

(7) Department shall mean the Department of Insurance.

Sec. 236. Every insurer, health care service plan, or other entity providing medicare supplement policies or benefits in this state shall provide a copy of any advertisement for medicare supplement policies intended for use in this state whether through written, radio, or television medium to the director for review or approval by him or her to the extent review or approval may be required under state law.

Sec. 237. That section 44-3611, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3611. Sections 44-3601 to 44-3611 and section 236 of this act shall be known and may be cited as the Medicare Supplement Insurance Minimum Standards Act.

Sec. 238. That section 44-3714, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3714. The director may order the club to cease and desist, or may revoke, suspend, or refuse to continue the certificate of authority of a club whenever, after a hearing and for cause shown, he or she determines that any of the following circumstances exist:

(1) The club has violated or failed to comply with any provision of ~~sections 44-3701 to 44-3721~~ the Motor Club Services Act or any rule or regulation adopted and promulgated under ~~sections 44-3701 to 44-3721~~ such act;

(2) The club has obtained a certificate of authority through willful misrepresentation or fraud;

(3) The club has engaged in fraudulent or dishonest practices;

(4) The club has willfully, orally, or in writing, misrepresented the terms, benefits, privileges, and provisions of any motor club service contract issued or to be issued by it or any other club;

(5) The club is unable to meet its obligations as determined by generally accepted accounting principles; or

(6) The club has refused without just cause to submit relevant information to the director with respect to the motor club services within this state, after it has received notice of an alleged occurrence of any of the actions in subdivisions (1) ~~to~~ through (5) of this section.

Sec. 239. That section 44-3717, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3717. Upon satisfactory evidence that a club representative has violated or failed to comply with any provision of ~~sections 44-3701 to 44-3721~~ the Motor Club Services Act or any rule or regulation adopted and promulgated under sections 44-3701 to 44-3721 ~~such act~~, the director may issue an order requiring the club representative to cease and desist from engaging in such violation. After a hearing and for good cause shown, the director may revoke or suspend the club representative's authority.

Sec. 240. That section 44-3804, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3804. ~~(1)~~ No person may offer a prepaid dental service plan in this state unless authorized to do so by the director.

~~(2)~~ Subsection (1) of this This section shall not apply to any person issuing group policies if fewer than twenty-five percent of the certificate holders or insureds reside in this state and the person is regulated to a comparable extent by another state in which a larger number of certificate holders or insureds reside.

~~(3)~~ Any person offering a prepaid dental service on or before July 17, 1982, shall submit an application for a certificate of authority under ~~sections 44-3801 to 44-3826~~ within ninety days after July 17, 1982, and such applicant may continue to operate until the director acts upon the application. If the application is denied, the applicant shall be treated as a prepaid dental service corporation whose certificate of authority has been revoked.

Sec. 241. That section 44-3810, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3810. A prepaid dental service corporation may contract with others, including insurance companies organized under any of the laws of the State of Nebraska, for partial or total administrative services or for joint participation, or otherwise cede to or

accept from others the whole or any part of the corporation's dental service obligations. Such contracts shall be filed with and approved by the director as being in accordance with the plan of the corporation prior to their effectiveness. The director may issue adopt and promulgate rules and regulations concerning such contracts.

Sec. 242. That section 44-3902, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3902. As used in For purposes of sections 44-3901 to 44-3908, unless the context otherwise requires:

(1) Licensee shall mean a natural person who is licensed by the department as a resident agent, broker, or consultant;

(2) Director shall mean the Director of Insurance;

(3) Department shall mean the Department of Insurance; and

(4) Two-year period shall mean twenty-four months commencing on April 1 following either the date of licensing or July 17, 1982, whichever is later, and each succeeding twenty-four-month period, and on and after April 30, 1990, two-year period shall mean the period commencing on the date of licensing and ending on the date of expiration of the licensee's first license effective for not less than two years and each succeeding twenty-four-month period.

Sec. 243. That section 44-3903, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3903. Sections 44-3901 to 44-3908 shall not apply to the following persons:

(1) Licensees for whom an examination is not required under the laws of this state, except that persons who are excused from the examination under subdivisions (2), (8), and ~~(9)~~ (10) of section 44-4010 shall not be exempt;

(2) Licensees who sell or consult only in the areas of credit life insurance and credit accident and health insurance; and

(3) Any agent of a hospital service corporation licensed under section 21-1513 who ~~(a)~~ is licensed only as an agent of such corporation; ~~(b)~~ receives no commission or other compensation from such corporation; and ~~(c)~~ is not authorized to accept applications on behalf of such corporation; and

~~(4)~~ Licensees holding such limited or

restricted licenses as the director may exempt.

Sec. 244. That section 44-3904, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3904. All licensees qualified to solicit ~~personal lines property and casualty insurance or commercial lines property and casualty insurance~~ shall be required to complete twenty-four hours of approved continuing education activities in each two-year period. All licensees qualified to solicit assessment association insurance shall be required to complete twelve hours of approved continuing education activities in each two-year period. Licensees qualified to solicit only crop insurance, only fidelity and surety insurance, or only title insurance shall be required to complete three hours of approved continuing education activities in each two-year period. Licensees qualified to solicit any other lines of insurance shall be required to complete six hours of approved continuing education activities in each two-year period for each line of insurance, including each miscellaneous line, in which he or she is licensed. In each two-year period, every licensee shall furnish evidence to the director that he or she has satisfactorily completed the required hours of approved continuing education activities for each line of insurance in which he or she is licensed as a resident agent or broker, except that no licensee shall be required to complete more than twenty-four cumulative hours in any two-year period. Licensees who are neither agents nor brokers shall be required to complete twenty-four hours of continuing education activities in each two-year period. Evidence of completion for the current two-year period shall be retained by each licensee and submitted to the department when the requirements of this section have been met.

Sec. 245. That section 44-3905, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3905. (1) The director shall certify as approved continuing education activities those courses, lectures, seminars, or other instructional programs which he or she determines would be beneficial in improving the product knowledge or service capability of licensees. The director may require descriptive information about any continuing education activity and refuse approval of any continuing education activity that does not advance the purposes of sections 44-3901 to 44-3908. The director shall require a nonrefundable fee of twenty-five dollars for review of any continuing

education activity submitted for approval.

(2) The director shall certify the number of hours to be awarded for participation in an approved continuing education activity, based upon contact or classroom hours.

(3) The director shall certify the number of hours to be awarded for successful completion of a correspondence course or program of independent study, based upon the number of hours which would be awarded in an equivalent classroom course or program.

Sec. 246. That section 44-336, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-336- The Legislature finds that protection of consumers involved in various life and health insurance transactions is a worthwhile goal. One method of achieving such protection is to require that agents, brokers, and consultants selling sickness and accident and life insurance meet certain educational standards as provided by sections 44-336 to 44-336-06 section 248 of this act.

Sec. 247. That section 44-336.01, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-336-01- Sections 44-336 to 44-336-06 246 to 253 of this act shall apply to: (1) Individuals licensed as agents to write (a) life insurance and annuities as provided in subdivision (2) of section 44-4005 or (b) sickness, accident, and health insurance as provided in subdivision (4) of section 44-4005; (2) individuals licensed as life insurance brokers as provided in section 44-4011; and (3) individuals licensed as consultants in the area of life, health, and annuities as provided in section 44-2621. all persons engaging as agents in the sale of sickness and accident and life insurance-

Sec. 248. That section 44-336.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-336-02- Any Except as provided in sections 249 and 250 of this act, any agent, broker, or consultant to whom sections 44-336 to 44-336-06 246 to 253 of this act apply shall, within five years of receipt of his or her initial license, furnish evidence satisfactory to the Director of Insurance that he or she has successfully completed one of the following:

(1) Two parts of the Life Underwriter Training Council curriculum, one of which must shall be either Part One or Part Two of a Life Course;

(2) Either part of the Life Underwriter Training Council Life Course, and two parts of the American College of Life Underwriters, Certified Chartered Life Underwriter diploma curriculum;

(3) Any four parts of the American College of Life Underwriters, Certified Chartered Life Underwriter diploma curriculum;

(4) Six credit hours of insurance courses taught by an accredited college or university; or

(5) Such other courses as the Director of Insurance may approve.

Sec. 249. That section 44-336.03, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-336-03- All agents to whom sections 246 to 253 of this act apply licensed to sell sickness and accident and life insurance, on or after January 1, 1978, shall have five years to comply with the educational requirements contained in such sections. 44-336 to 44-336-06- All individuals licensed as life insurance brokers on or after January 1, 1990, and all individuals licensed as consultants in the area of life, health, and annuities on or after January 1, 1990, shall have five years to comply with the educational requirements contained in sections 246 to 253 of this act.

Sec. 250. That section 44-336.04, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-336-04- No such The requirements shall of section 248 of this act shall not be required of:

(1)(a) Any agent who is a current holder of a valid outstanding resident agent's license and has held an agent's license since January 1, 1972, (b) any individual who is the holder of a valid outstanding broker's license to act as a life insurance broker, and has held a broker's license since January 1, 1984, or (c) any individual who is the holder of a valid outstanding consultant's license to act in the area of life, health, and annuities and has held a consultant's license since January 1, 1984;

(2) Any (a) ticket-selling agent of a common carrier who acts thereunder only with reference to the issuance of accident insurance; or insurance on personal effects carried as baggage; in connection with the transportation provided by such common carrier; or (b) person who sells applicants selling limited travel accident insurance in transportation terminals;

(3) Home office or branch office employees of

insurers; or service representatives of insurers or of general agents who work with or through resident agents in the solicitation, negotiation, or effectuation of insurance; and who are compensated by salary only;

(4) Any persons involved in insurance solicitation solely through enrollment of individuals under a group insurance policy; or

(5) Any applicant person who solicits, negotiates, or procures credit life, credit sickness and accident, or other tangible personal property insurance other than automobile insurance coverages in connection with a loan or a retail time-sales transaction; or

(6) Any applicant whose application complies with the requirements of section 44-333-04 or 44-333-05; or

(7) Any agent of a hospital service corporation licensed under section 21-1513.

Sec. 251. That section 44-336.05, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-336-05- Any agent previously licensed to sell sickness, and accident, and health insurance and life insurance, and annuities under the laws of the State of Nebraska, whose license has expired and is not in effect on January 1, 1978, shall comply with the educational requirements provided by sections 246 to 253 of this act. 44-336 to 44-336-06- Any individual previously licensed as a life insurance broker under the Insurance Producers Licensing Act whose license has expired and is not in effect on January 1, 1990, or any individual previously licensed as a consultant in the area of life, health, and annuities under sections 44-2606 to 44-2635 whose license has expired and is not in effect on January 1, 1990, shall comply with the educational requirements provided by sections 246 to 253 of this act.

Sec. 252. That section 44-336.06, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-336-06- The director shall not renew the license of any agent, broker, or consultant who fails to comply with the provisions of sections 44-336 to 44-336-06 246 to 253 of this act.

Sec. 253. The director shall adopt and promulgate rules and regulations necessary for the effective administration of sections 246 to 253 of this act.

Sec. 254. That section 44-4002, Reissue Revised Statutes of Nebraska, 1943, be amended to read

as follows:

44-4002. As used in For purposes of the Insurance Producers Licensing Act, unless the context otherwise requires:

(1) Appointment shall mean written notification to the department by an insurance company that it will accept applications for insurance from a licensed agent named in such notification;

(2) Broker shall be defined as provided in section 44-103; mean any individual who acts or aids in any manner in negotiating contracts of insurance, in placing risks, or in soliciting or effecting contracts of insurance as an agent for an insured other than himself or herself and not as an agent of an insurance company or any other type of insurance carrier. Broker shall not include (a) a person working as an officer for an insurance carrier; (b) a person in a clerical, administrative, or service capacity for an insurance carrier, licensed agent, or broker if the person does not solicit contracts of insurance; (c) an attorney at law in the performance of his or her duties; (d) an insured who places or negotiates the placement of his or her own insurance; or (e) any employee of an insured engaged in placing or negotiating for placement of insurance for his or her employer;

(3) Department shall mean the Department of Insurance;

(4) Director shall mean the Director of Insurance;

(5) Insurance agent or agent shall be defined as provided in section 44-103; mean any individual, whether or not compensated, who solicits, negotiates, effects, procures, renews, continues, or binds policies or certificates of insurance covering property or risks located in Nebraska, except that any individual exempted by section 44-4006 shall not be deemed an insurance agent;

(6) Insurance agency shall mean any partnership, unincorporated association, or corporation transacting or doing business with the public or insurance companies as an insurance agent or broker;

(7) License or insurance license shall mean any agent's license, broker's license, or insurance agency's license; and

(8) Person shall mean any individual, corporation, partnership, or other entity.

Sec. 255. That section 44-4005, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-4005. An individual shall not act as or hold himself or herself out to be an agent unless such individual is duly licensed in this state. An agent shall not make application for, solicit applications for, or procure any policies for any kind of insurance for which such agent is not licensed and appointed by the insurance company. An agent may become licensed to write one or more of the following lines of insurance: (1) ~~Personal lines property~~ Property and casualty insurance; (2) ~~commercial lines property and casualty insurance;~~ (3) life insurance and annuities; (4) (3) variable contracts; (5) (4) sickness, accident, and health insurance; (6) (5) credit life and credit accident and health insurance; (7) (6) title insurance; (8) (7) crop insurance; (9) (8) assessment association insurance; and (10) (9) miscellaneous insurance.

A license issued for assessment association insurance shall entitle the licensed agent to solicit for and place business in any domestic assessment association regulated by Chapter 44, article 8, by which the licensee is appointed. Such license shall also entitle the licensee to solicit and place personal and general liability coverage, from any other admitted company by which the licensee is appointed, in connection with coverages placed with an assessment association. At least seventy-five percent of the annual premiums written by the licensee under such license shall be written directly with assessment associations.

Sec. 256. That section 44-4010, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-4010. The director shall issue an agent's license to the following persons without examination if such person meets all other license requirements:

- (1) Any applicant for a temporary license;
- (2) Any applicant for a license covering the same line or lines of insurance for which the applicant was licensed under a like license in this state, other than a temporary license, within the thirty-six months preceding the date of application unless such previous license was revoked or suspended by the director;
- (3) Any insurance agency which is required to be licensed under the Insurance Producers Licensing Act;
- (4) Any ticket-selling agent of a common carrier who acts only with reference to the issuance of accident insurance or insurance on personal effects carried as baggage, in connection with the transportation provided by such common carrier; or any

person selling limited travel insurance in transportation terminals;

(5) Any person involved in insurance solicitation solely through enrollment of individuals under a group insurance policy;

(6) Any applicant who only solicits or procures credit life or credit sickness and accident insurance in connection with a loan or a retail time-sales transaction;

(7) Home office or branch office employees of insurers or of general agents who work with or through resident agents in the solicitation, negotiation, or effectuation of insurance and who are compensated by salary only;

(8) Any officer, employee, or secretary of any fraternal benefit society who devotes substantially all of his or her time to activities other than the solicitation of insurance contracts and who receives no commission or other compensation directly dependent upon the number or amount of contracts solicited; or

(9) Any applicant for a license covering variable contracts who provides the director with a copy of his or her examination score indicating that he or she has successfully passed either the appropriate National Association of Securities Dealers or other national securities exchange examination; or

(10) Any person who solicits a kind of insurance that the director finds does not require an examination to demonstrate professional competency.

Sec. 257. That section 44-4015, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-4015. All licenses issued pursuant to the Insurance Producers Licensing Act shall state the name and business address of the licensed person, the date of issue, the expiration date, of April 30, the line or lines of insurance covered by the license, and such other information as the director considers proper for inclusion in the license. All agency, agent, and broker licenses issued under the Insurance Producers Licensing Act shall be valid for one year expire on April 30 of each year, except that all agent and broker licenses issued on or after April 30, 1990, shall expire on the licensed person's birthday in the first year after issuance in which his or her age is divisible by two and such agent and broker licenses may be renewed within the ninety-day period before their expiration dates. The department shall establish procedures for the renewal of licenses. Every person licensed under the Insurance

Producers Licensing Act shall notify the department within thirty days of any change in such person's residential or business address. Any person failing to provide such notification shall be subject to a fine by the director of not more than five hundred dollars per violation, ~~or~~ suspension of the person's license until the change of address is reported to the department, ~~or~~ both.

Sec. 258. That section 44-4017, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-4017. Application for any insurance license shall be made to the director by the applicant on a form prescribed by the director and shall be accompanied by a license fee as established ~~by the director in section 44-4019~~. An applicant for any license under the Insurance Producers Licensing Act shall be competent, trustworthy, and financially responsible and have a good personal and business reputation. An applicant for any agent's or broker's license shall be at least nineteen years of age.

Sec. 259. That section 44-4019, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-4019. (1) Before any license is issued or renewed under the Insurance Producers Licensing Act, the person requesting such license shall pay or cause to be paid to the department the following fee as established by the director: (a)(i) For each resident agent license, a fee not to exceed ten dollars; ~~(b)~~ (ii) for each nonresident agent license, a fee not to exceed twenty-five dollars; ~~(c)~~ (iii) for each resident broker license, a fee not to exceed fifty dollars; ~~(d)~~ (iv) for each nonresident broker license, a fee not to exceed fifty dollars; and ~~(e)~~ (v) for each agency license, a fee not to exceed ten dollars; and ~~(b) on and after April 30, 1990, (i) for each resident agent license, a fee not to exceed thirty dollars; (ii) for each nonresident agent license, a fee not to exceed seventy-five dollars; (iii) for each resident broker license, a fee not to exceed one hundred fifty dollars; (iv) for each nonresident broker license, a fee not to exceed one hundred fifty dollars; and (v) for each agency license, a fee not to exceed fifteen dollars.~~

(2) If a licensed person (a) desires to add a line or lines of insurance to his or her existing license, (b) seeks to change any other information contained in the license for any reason, or (c) applies for a duplicate license, such person shall pay to the

department a fee established by the director to cover the expense of replacing the license. The department shall not issue a license to any person who fails to pay the required license fee when it becomes due. No fee Fees established by the director pursuant to this section shall not exceed fifty dollars before April 30, 1990, and one hundred fifty dollars on and after April 30, 1990, except that if any other state imposes additional or greater fees, obligations, or prohibitions on Nebraska resident agents, brokers, or agencies, then such additional or greater fees, obligations, or prohibitions shall be imposed upon similar agents, brokers, or agencies of such other state applying for a license in Nebraska.

Sec. 260. That section 44-4020, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-4020. Except as permitted by section 44-4010, ~~after the completion and filing of the application for any license,~~ the director shall give each applicant a written examination to determine competence to act as a licensed agent or broker in those lines of insurance for which such applicant desires to become licensed. Each examination shall be approved for use by the director and shall reasonably test the applicant's knowledge of (1) the lines of insurance, policies, and transactions to be handled under the license applied for, (2) the duties and responsibilities of a licensed agent or broker, and (3) the pertinent insurance laws of Nebraska. Examination shall be at such reasonable times and places as designated by the director.

Sec. 261. That section 44-4022, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-4022. The applicant for any license under the Insurance Producers Licensing Act shall pay or cause to be paid an examination fee as established by the director in advance of such examination, which fee shall not exceed fifty one hundred dollars and shall cover all of the examinations given to the applicant at the same time and place. The fee shall not be refunded to the applicant. Examination fees collected under the Insurance Producers Licensing Act shall be deposited credited by the State Treasurer ~~in to~~ the Department of Insurance Cash Fund unless the director contracts with an independent testing organization in which case the applicant shall pay the examination fee directly to such independent testing organization and the fee shall be

the amount charged by the testing organization.

Sec. 262. That section 44-4033, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-4033. (1) If the director suspends or revokes a license or places a licensed person on probation, ~~or if a licensed person fails to have his, her, or its license reissued upon expiration,~~ the director shall so notify such licensed person and all appointing insurers of such agent, when applicable. Upon suspension, revocation, or termination of the license of a resident of Nebraska, the director may notify the director, commissioner, or superintendent of each state, district, or territory of the United States or any province of Canada with whom such licensed agent has executed a certificate as provided for in the Insurance Producers Licensing Act.

(2) Upon suspension or revocation of a license, the licensed person shall immediately deliver the license to the director by personal delivery or by certified mail within thirty days after suspension or revocation.

Sec. 263. That section 44-4035, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-4035. (1) Each insurer appointing a licensed agent shall notify the director of such appointment. Such appointment shall be valid upon execution if the appointment is mailed to the department within ten days of execution. The department shall make confirmation to the insurer of the receipt of notification of appointment. The notification shall be upon forms provided by the director indicating the lines of insurance the licensed agent will be authorized to write for the insurer, and the insurer shall be accompanied by pay a fee of five dollars. Such notification shall remain on record in the department until the appointment is terminated so long as the insurer pays the annual appointment fee, not to exceed five dollars, established by the director.

(2) If the appointment of a licensed agent by an insurance company is terminated, the insurer shall give written notice of the termination and the effective date of such termination to the director within five working days of the termination and to such agent when reasonably possible. The director may require the insurer to demonstrate that he or she has made a reasonable effort to give such notice to the licensed agent.

(3) All such notices of termination shall be filed on forms prescribed by the director stating the cause and circumstances of such termination, and the insurer shall be accompanied by pay a fee as prescribed by the director, not to exceed five dollars, to remove the licensed agent's name from the department's records. Any information, document, record, or statement provided under this section may be used by the director in any action taken against a licensed agent. However, such notice of termination shall be considered privileged in any civil action between the reporting insurer and the terminated licensed agent.

Sec. 264. That section 44-4037, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-4037. Unless otherwise authorized by law, an insurer, broker, or agent shall not pay any commission, brokerage, or other valuable consideration to any person for services rendered in this state as an agent or broker unless such person has been appointed by the insurer, or is licensed as a broker in this state, or held at the time such services were rendered a valid license for the line of insurance as required by the laws of this state for rendering such services. Any person licensed under the Insurance Producers Licensing Act may pay or assign any commissions or direct that any commissions be paid to a licensed insurance agency with which such person is associated. This section shall not prevent the payment or receipt of renewal or deferred commissions to or by any person entitled to such renewals or any valid collateral assignment of commissions by a licensed agent to satisfy a debt obligation.

Sec. 265. That section 44-4103, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-4103. Insurer shall mean any insurance company as defined by section 44-103, fraternal benefit society as defined by described in section 44-1072, ~~hospital service corporation formed pursuant to section 21-1509,~~ prepaid dental service plan as defined in section 44-3802, or health maintenance organization as defined by section 44-3208, authorized to transact health insurance business in the State of Nebraska.

Sec. 266. That section 44-4209, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-4209. Health insurance shall mean any hospital, surgical, or medical expense-incurred policy;

hospital service corporation plan contract, or health maintenance organization contract. Health insurance shall not include (1) accident only, disability income, hospital confinement indemnity, dental, or credit insurance, (2) coverage issued as a supplement to liability insurance, (3) medicare or insurance provided as a supplement to medicare, (4) insurance arising from workers' compensation provisions, (5) automobile medical payment insurance, (6) any other specific limited coverage, or (7) insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy.

Sec. 267. That section 44-4210, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-4210. Insurer shall mean any insurance company as defined by section 44-103, ~~hospital service corporation formed pursuant to section 21-1509,~~ or health maintenance organization as defined by section 44-3208 authorized to transact health insurance business in the State of Nebraska.

Sec. 268. That section 44-4307, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-4307. (1) A risk management pool shall not provide any form of group self-insurance to its members until it has received a certificate of authority to do so from the Department of Insurance. Such certificate shall expire on the last day of April in each year and shall be renewed annually thereafter if the risk management pool has continued to comply with the Intergovernmental Risk Management Act and the rules and regulations of the Department of Insurance adopted and promulgated thereunder.

(2) The Department of Insurance shall issue a certificate of authority to a risk management pool if the Director of Insurance determines:

(a) That the pool's financial plan and plan of management and any amendments thereto satisfy the requirements of section 44-4306;

(b) That the pool has adequate surplus and reserves and will receive adequate financial contributions from its members in order to operate in a manner which is not hazardous to the public; and

(c) That any individual, corporation, partnership, or other entity engaged by the pool to provide services in connection with its management or operation is capable of running the affairs of the pool,

is of good character and known business ability, and has a practical knowledge of the executive duties of conducting a risk management pool.

(3) The filing fee for a certificate of authority issued pursuant to the Intergovernmental Risk Management Act shall be one thousand dollars.

Sec. 269. That section 44-4421, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-4421. Any person other than a licensed surplus lines ~~agent or broker~~ licensee acting or offering to act as an agent or broker for a risk retention group or purchasing group which solicits members, sells insurance coverage, purchases coverage for its members located within this state, or otherwise does business in this state shall, before commencing any such activity, obtain a license from the director pursuant to the Insurance Producers Licensing Act.

Sec. 270. That section 44-4508, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-4508. Group policy shall mean a long-term care insurance policy which is delivered or issued for delivery in this state and issued to:

(1) One or more employers or labor organizations or a trust or the trustees of a fund established by one or more employers or labor organizations, or a combination thereof, for employees or former employees, or a combination thereof, or for members or former members, or a combination thereof, of the labor organizations;

(2) Any professional, trade, or occupational association for its members or former or retired members, or a combination thereof, if such association:

(a) Is composed of individuals all of whom are or were actively engaged in the same profession, trade, or occupation; and

(b) Has been maintained in good faith for purposes other than obtaining insurance;

(3) An association or a trust or the trustee of a fund established, created, or maintained for the benefit of members of one or more associations. Prior to advertising, marketing, or offering such policy within this state, the association or associations or the insurer of the association or associations shall file evidence with the director that the association or associations have at the outset a minimum of one hundred members, have been organized and maintained in good faith for purposes other than that of obtaining

insurance, have been in active existence for at least one year, and have a constitution and bylaws which provide that (a) the association or associations hold regular meetings not less than annually to further purposes of the members, (b) except for credit unions, the association or associations collect dues or solicit contributions from members, and (c) the members have voting privileges and representation on the governing board and committees. Thirty days after such filing, the association or associations shall be deemed to satisfy such organizational requirements unless the director makes a finding that the association or associations do not satisfy those organizational requirements; or

(4) A group other than as described in subdivision (1), (2), or (3) of this section, subject to a finding by the director that:

(a) The issuance of the group policy is not contrary to the best interest of the public;

(b) The issuance of the group policy would result in economies of acquisition or administration; and

(c) The benefits are reasonable in relation to the premiums charged.

Sec. 271. That section 44-4509, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-4509. Long-term care insurance shall mean any insurance policy or rider advertised, marketed, offered, or designed to provide coverage for not less than twelve consecutive months for each covered person on an expense-incurred, indemnity, prepaid, or other basis for one or more necessary or medically necessary diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services provided in a setting other than an acute care unit of a hospital. Long-term care insurance shall include group and individual policies or riders whether issued by insurers, fraternal benefit societies, nonprofit health, hospital, and medical service corporations, prepaid health plans, health maintenance organizations, or any similar organization. Long-term care insurance shall not include any insurance policy which is offered primarily to provide basic medicare supplement coverage, basic hospital expense coverage, basic medical or surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income protection coverage, accident only coverage, specified disease or specified accident

coverage, or limited benefit health coverage.

Sec. 272. That section 44-4510, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-4510. Policy shall mean any individual or group policy, contract, subscriber agreement, rider, or endorsement delivered or issued for delivery in this state by an insurer, fraternal benefit society, ~~nonprofit health, hospital, or medical service corporation,~~ prepaid health plan, health maintenance organization, or any similar organization.

Sec. 273. That section 44-4512, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-4512. The director may adopt and promulgate reasonable rules and regulations in accordance with the Administrative Procedure Act, that include standards for full and fair disclosure setting forth the manner, content, and required disclosures for the sale of long-term care insurance policies, terms of renewability, initial and subsequent conditions of eligibility, nonduplication of coverage provisions, coverage of dependents, preexisting conditions, termination of insurance, continuation or conversion, probationary periods, limitations, exceptions, reductions, elimination periods, requirements for replacement, recurrent conditions, and definitions of terms.

Sec. 274. That section 71-2069, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

71-2069. Insurer shall mean any insurance company as defined by section 44-103, fraternal benefit society as defined by described in section 44-1072, ~~hospital service corporation formed pursuant to section 21-1509,~~ or health maintenance organization as defined by section 44-3208, authorized to transact health insurance business in the State of Nebraska.

Sec. 275. That section 77-908, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

77-908. Every insurance company organized under the stock, mutual, assessment, or reciprocal plan, ~~and every nonprofit hospital service corporation,~~ except fraternal benefit societies, which are transacting business in this state shall on or before May 1, 1986, and March 1 of each year, ~~thereafter,~~ in lieu of any other intangible property tax, pay a tax to the director of one percent of the gross amount of direct writing

premiums received by it during the preceding calendar year for business done in this state, except that (1) for group sickness and accident insurance the rate of such tax shall be five-tenths of one percent and (2) for property and casualty insurance, excluding individual sickness and accident insurance, the rate of such tax shall be six-tenths of one percent for the 1985 taxable year, seven-tenths of one percent for the 1986 taxable year, eight-tenths of one percent for the 1987 taxable year, and one percent for the 1988 taxable year and each year thereafter. The taxable premiums shall include premiums paid on the lives of persons residing in this state and premiums paid for risks located in this state whether the insurance was written in this state or not, including that portion of a group premium paid which represents the premium for insurance on Nebraska residents or risks located in Nebraska included within the group when the number of lives in the group exceeds five hundred. The tax shall also apply to premiums received by domestic companies for insurance written on individuals residing outside this state or risks located outside this state if no comparable tax is paid by the direct writing domestic company to any other appropriate taxing authority. Companies whose scheme of operation contemplates the return of a portion of premiums to policyholders, without such policyholders being claimants under the terms of their policies, may deduct such return premiums or dividends from their gross premiums for the purpose of tax calculations. Any such insurance company shall receive a credit on the tax imposed as provided in the Community Development Assistance Act.

Sec. 276. The Revisor of Statutes shall:

(1) Transfer sections 44-133.01 to 44-133.08 and assign such sections to Chapter 44, article 2;

(2) Transfer sections 44-137.01, 44-137.02, 44-137.07, 44-137.08, and 44-137.10 and assign such sections to Chapter 44, article 20, except that such sections shall be kept separate from sections 44-2001 to 44-2008;

(3) Transfer sections 44-379, 44-379.01, and 44-380 and assign such sections to Chapter 44, article 5;

(4) Transfer sections 44-387 to 44-390 and assign such sections to Chapter 44, article 14;

(5) Transfer sections 44-1620, 44-1620.01, and 44-1621 to 44-1632, assign such sections to Chapter 84, and correct internal references accordingly;

(6) Assign sections 246 to 253 of this act to

Chapter 44, article 39, except that such sections shall be kept separate from sections 44-3901 to 44-3908; and (7) Assign sections 9, 42, 118, and 128 of this act to Chapter 44.

Sec. 277. If any section in this act or any part of any section shall be declared invalid or unconstitutional, such declaration shall not affect the validity or constitutionality of the remaining portions thereof.

Sec. 278. That original sections 44-101.01, 44-102, 44-103, 44-105, 44-107, 44-107.03, 44-108, 44-108.01, 44-114, 44-116, 44-117, 44-119, 44-120, 44-122, 44-125, 44-127.04, 44-127.08, 44-127.14, 44-127.30, 44-129, 44-130, 44-133.01, 44-133.04, 44-137.01, 44-137.08, 44-137.10, 44-138, 44-139, 44-140, 44-141, 44-142, 44-147, 44-147.01, 44-147.02, 44-147.03, 44-147.04, 44-147.06, 44-152, 44-157, 44-201, 44-202, 44-202.01, 44-203, 44-205, 44-205.01, 44-206, 44-208, 44-208.01, 44-208.02, 44-208.05, 44-208.06, 44-208.07, 44-208.08, 44-210, 44-211, 44-212, 44-213, 44-213.06, 44-214, 44-216, 44-217, 44-218, 44-219, 44-220, 44-221, 44-222, 44-222.01, 44-222.02, 44-223, 44-224.01, 44-224.03, 44-224.04, 44-224.05, 44-224.07, 44-224.08, 44-231, 44-232, 44-234, 44-235, 44-236, 44-237, 44-238, 44-239, 44-240, 44-242, 44-243, 44-244, 44-246, 44-247, 44-301, 44-303, 44-304, 44-305, 44-319.02, 44-319.05, 44-319.11, 44-326, 44-336, 44-336.01, 44-336.02, 44-336.03, 44-336.04, 44-336.05, 44-336.06, 44-348, 44-351, 44-352, 44-356, 44-367, 44-379, 44-379.01, 44-380, 44-386.01, 44-386.05, 44-386.06, 44-386.08, 44-3,111, 44-3,112, 44-3,114, 44-3,115, 44-3,116, 44-3,117, 44-3,118, 44-401, 44-402, 44-501, 44-502.04, 44-503, 44-511, 44-514, 44-519, 44-709, 44-710, 44-710.01, 44-710.02, 44-710.03, 44-710.04, 44-710.05, 44-710.06, 44-710.07, 44-710.08, 44-710.09, 44-710.10, 44-710.11, 44-710.12, 44-710.13, 44-710.14, 44-710.15, 44-710.16, 44-710.18, 44-710.19, 44-736, 44-749, 44-756, 44-758, 44-761, 44-763, 44-764, 44-766, 44-767, 44-769, 44-779, 44-780, 44-781, 44-782, 44-805, 44-808, 44-1203, 44-1402, 44-1410, 44-1435, 44-1444, 44-1453, 44-1465.01, 44-1480, 44-1523, 44-1525, 44-1533, 44-1605, 44-1607, 44-1607.01, 44-1614, 44-1708, 44-1806, 44-1908, 44-1911, 44-1914, 44-1915, 44-1916, 44-2002, 44-2008, 44-2106, 44-2112, 44-2117, 44-2201, 44-2204, 44-2205, 44-2206, 44-2219, 44-2220, 44-2402, 44-2407, 44-2408, 44-2502, 44-2503, 44-2606, 44-2609, 44-2614, 44-2615, 44-2618, 44-2621, 44-2622, 44-2623, 44-2627, 44-2628, 44-2633, 44-2634, 44-2635, 44-2705, 44-2713, 44-2916, 44-3112, 44-3211, 44-3231, 44-3233, 44-3236, 44-3239, 44-3244,

44-3247, 44-3263, 44-3270, 44-3277, 44-3285, 44-3310, 44-3403, 44-3501, 44-3502, 44-3602, 44-3611, 44-3714, 44-3717, 44-3804, 44-3810, 44-3902, 44-3903, 44-3904, 44-3905, 44-4002, 44-4005, 44-4010, 44-4015, 44-4017, 44-4019, 44-4020, 44-4022, 44-4033, 44-4035, 44-4037, 44-4103, 44-4209, 44-4210, 44-4307, 44-4421, 44-4508, 44-4509, 44-4510, 44-4512, 71-2069, and 77-908, Reissue Revised Statutes of Nebraska, 1943, and also sections 21-1509, 21-1509.01, 21-1510, 21-1512, 21-1514, 21-1515, 21-1516, 21-1518, 44-137.09, 44-148, 44-153, 44-158, 44-203.01, 44-209, 44-219.04, 44-219.05, 44-219.06, 44-219.07, 44-219.08, 44-219.09, 44-306, 44-323, 44-324, 44-362, 44-363, 44-364, 44-365, 44-366, 44-368, 44-382, 44-383, 44-384, 44-385, 44-3,100, 44-3,101, 44-3,104, 44-3,105, 44-3,106, 44-410, 44-411, 44-412, 44-413, 44-604, 44-624, 44-625, 44-626, 44-627, 44-708, 44-750, 44-751, 44-752, 44-754, 44-813, 44-813.01, 44-814, 44-815, 44-816, 44-817, 44-818, 44-819, 44-820, 44-3212, and 44-4021, Reissue Revised Statutes of Nebraska, 1943, and sections 21-1513, 21-1519, 21-1520, and 21-1521, Revised Statutes Supplement, 1988, are repealed.