

## LEGISLATIVE BILL 234

Approved by the Governor April 10, 1991

Introduced by Landis, 46; Lindsay, 9; Conway, 17;  
Wesely, 26; Schmit, 23; Haberman, 44

AN ACT relating to insurance; to amend sections 44-10,105, 44-1522, 44-1524, 44-1526 to 44-1532, 44-1534, 44-1535, 44-1925, 44-3610, 44-4028, and 44-4031, Reissue Revised Statutes of Nebraska, 1943, sections 44-1523, 44-1525, 44-1533, 44-1803 to 44-1805, 44-32,179, and 44-4607, Revised Statutes Supplement, 1990, section 44-320, Reissue Revised Statutes of Nebraska, 1943, as amended by section 59, Legislative Bill 237, Ninety-second Legislature, First Session, 1991, section 44-4407, Reissue Revised Statutes of Nebraska, 1943, as amended by section 49, Legislative Bill 236, Ninety-second Legislature, First Session, 1991, section 44-1908, Revised Statutes Supplement, 1990, as amended by section 30, Legislative Bill 235, Ninety-second Legislature, First Session, 1991, and section 44-4711, Revised Statutes Supplement, 1990, as amended by section 58, Legislative Bill 236, Ninety-second Legislature, First Session, 1991; to name provisions relating to unfair trade practices as the Unfair Insurance Trade Practices Act; to define and redefine terms; to change provisions relating to unfair trade practices; to change penalty provisions; to adopt the Unfair Insurance Claims Settlement Practices Act; to harmonize provisions; to provide a duty for the Revisor of Statutes; to provide severability; and to repeal the original sections.

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

Section 1. That section 44-320, Reissue Revised Statutes of Nebraska, 1943, as amended by section 59, Legislative Bill 237, Ninety-second Legislature, First Session, 1991, be amended to read as follows:

44-320. (1) Except as provided in subsections (2) through (6) of this section, no director or officer

of any domestic insurance company shall directly or indirectly receive any money or valuable consideration for negotiating any loan for the company or for selling or aiding in the sale of any property to or by the company and no such director or officer shall directly or indirectly borrow money from, purchase any property from, or sell any property to the company.

(2)(a) Nothing in this section shall prevent any domestic insurance company from making a loan to an officer of the company for the purchase of a principal residence or acquiring the principal residence of an officer in connection with the relocation of the officer's place of employment at the request of the company either during the course of employment or upon initial employment of such officer. Any loan permitted under this subsection shall be secured by a first trust deed or first mortgage and shall not exceed seventy-five percent of the fair market value of the property. Any acquisition permitted under this subsection shall not exceed the fair market value of the property.

(b) For purposes of this subsection, fair market value shall mean the market value of real estate as determined by a licensed real estate appraiser who is recognized as a Member of the Appraisal Institute, a Residential Member by the American Institute of Real Estate Appraisers, a Senior Real Estate Analyst, a Senior Real Property Appraiser, or a Senior Residential Appraiser by the Society of Real Estate Appraisers, or an American Society Appraiser by the American Society of Appraisers.

(c) Any loan or acquisition permitted under this subsection shall be subject to (i) the approval of the domestic insurance company's board of directors or a delegated committee of the company and (ii) prior written approval of the Director of Insurance based upon written application by the company including full and fair disclosure of the terms of the transaction. Approval of such transaction by the Director of Insurance shall be presumed unless notice of disapproval is received by the applicant within thirty days of the filing of the application. Approval of such transaction may be denied if the director finds that it is not in the best interest of the company or that the terms of the transaction are not fair and reasonable to the company.

(3) Nothing in this section shall prevent any director or officer of any domestic insurance company from purchasing from his or her company an insurance policy or annuity contract if (a) the purchase is in the

ordinary course of the company's business and subject to all of the requirements normally imposed by the company in the sale of such policies and contracts and (b) no discount granted to the director or officer in connection with the purchase is greater than discounts provided to other employees of the company in connection with the sale of similar policies and contracts.

(4) Nothing in this section shall prevent any director or officer of any domestic insurance company from purchasing from his or her company surplus personal property having a total purchase price not in excess of ten thousand dollars in any calendar year if the personal property is sold to the director or officer at not less than its fair market value.

(5) Nothing in this section shall prevent any director or officer of any domestic insurance company from selling to his or her company property of any type or nature having a total purchase price not in excess of ten thousand dollars in any calendar year if the sale is in the ordinary course of business of the director's or officer's business and if the property is sold to the company at not more than its fair market value.

(6) Except as otherwise provided in this section, if any director or officer of any domestic insurance company desires to borrow money from, purchase any property from, or sell any property to the company in excess of ten thousand dollars in any calendar year, the company shall file an application with the Director of Insurance requesting written approval to engage in such transaction. The application shall set out the names of all of the parties interested in the transaction and the respective percentage of interest of each party, a brief description of the nature of the transaction, and a full disclosure of all consideration given or received by the company in connection with such transaction. The application shall be a public record open to public inspection from the date of filing. If the transaction is not approved or disapproved by the director within thirty days from the date of filing, the transaction shall be deemed disapproved. In determining whether to approve or disapprove such transaction, the director shall consider the following factors:

(a)(i) The fact that the transaction has been disclosed or made known to the board of directors of the company or a delegated committee of the company which must authorize approval or ratify the transaction by a vote or consent sufficient for the purpose without counting the vote or consent of any interested director or officer; and

(ii) If applicable, the fact of such transaction has been disclosed or made known to the shareholders entitled to vote and they authorize approval or ratify such transaction by vote or written consent; or

(b)(i) The transaction is fair and reasonable to the company; and

(ii) The transaction is of a nature normally engaged in by the company and the consideration is fair and reasonable.

(7) The Director of Insurance may proceed in a court of competent jurisdiction against a domestic insurance company to reverse or hold invalid a transaction made in violation of subsection (6) of this section unless the transaction was approved pursuant to such subsection.

(8) In addition to other remedies and penalties available under the law of this state, each violation of this section shall be an unfair or deceptive act or trade practice in the business of insurance subject to ~~sections 44-1522 to 44-1535~~ the Unfair Insurance Trade Practices Act.

Sec. 2. That section 44-10,105, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-10,105. Every society authorized to do business in this state shall be subject to ~~sections 44-1522 to 44-1535~~ the Unfair Insurance Trade Practices Act, except that nothing in ~~such sections~~ the act shall be construed as applying to or affecting the right of any society to determine its eligibility requirements for membership or be construed as applying to or affecting the offering of benefits exclusively to members or persons eligible for membership in the society by a subsidiary corporation or affiliated organization of the society.

Sec. 3. This section and sections 44-1522 to 44-1535 shall be known and may be cited as the Unfair Insurance Trade Practices Act.

Sec. 4. That section 44-1522, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1522. The purpose of ~~sections 44-1522 to 44-1535~~ the Unfair Insurance Trade Practices Act is to regulate unfair trade practices in the business of insurance, in accordance with the intent of the Congress of the United States as expressed in Public Law 79-15, by defining, or providing for the determination of, all acts and practices in this state which constitute unfair

methods of competition or unfair or deceptive acts or trade practices and by prohibiting the trade acts and practices so defined or determined.

Sec. 5. That section 44-1523, Revised Statutes Supplement, 1990, be amended to read as follows:

44-1523. For purposes of sections 44-1522 to 44-1535, unless the context otherwise requires the Unfair Insurance Trade Practices Act:

(1) Department shall mean the Department of Insurance; Person shall mean any individual, corporation, association, partnership, reciprocal exchange, interinsurer, Lloyds-type insurer, fraternal benefit society, and other legal entity engaged in the business of insurance, including agents, brokers, and adjusters;

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

(3) Insured shall mean the party named on a policy or certificate as the individual with legal rights to the benefits provided by such policy or certificate;

(4) Insurer shall mean any person, reciprocal exchange, interinsurer, Lloyds-type insurer, fraternal benefit society, and other legal entity engaged in the business of insurance, including agents, brokers, insurance consultants, adjusters, and third-party administrators. Insurer shall also mean health maintenance organizations, prepaid limited health service organizations, and dental, optometric, and other similar health service plans. For purposes of the act, all such insurers shall be deemed to be engaged in the business of insurance;

(5) Person shall mean any natural or artificial entity, including, but not limited to, an individual, partnership, association, trust, or corporation; and

(6) Policy or certificate insurance policy or insurance contract shall mean include any contract of insurance, indemnity, suretyship, or annuity issued, proposed for issuance, or intended for issuance by any person insurer.

Sec. 6. That section 44-1524, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1524. No person shall engage in this state in any trade practice which is defined in sections 44-1522 to 44-1535 as an unfair method of competition or an unfair or deceptive act or practice in the business

of insurance It shall be an unfair trade practice in the business of insurance for any insurer to commit any act or practice defined in section 44-1525 if the act or practice (1) is committed flagrantly and in conscious disregard of the Unfair Insurance Trade Practices Act or any rule or regulation adopted pursuant to the act or (2) has been committed with such frequency as to indicate a general business practice to engage in that type of conduct.

Sec. 7. That section 44-1525, Revised Statutes Supplement, 1990, be amended to read as follows:

44-1525. The Any of the following acts or practices, if committed in violation of section 44-1524, shall be unfair methods of competition and unfair or deceptive acts or trade 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 insurer 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 purchase, lapse, forfeiture, exchange, conversion, or surrender of any insurance policy, including intentionally misquotes any premium rate;

(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 insurer 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 insurer and which is calculated to injure such person insurer;

(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 Knowingly filing with any supervisory or other public official, or knowingly making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or knowingly 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 an insurer; or

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

(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 policy 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 policy or annuity;

(b) Making or permitting any unfair discrimination between individuals of the same class involving essentially the same ~~hazard~~ hazards in the amount of premium, policy fees, or rates charged for any policy or contract of sickness and accident or health insurance policy or in the benefits payable thereunder, in any of the terms or conditions of such contract policy, 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 or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a property or casualty risk because of the geographic location of the risk unless:

(i) The refusal, cancellation, or limitation is for a business purpose which is not a pretext for unfair discrimination; or

(ii) The refusal, cancellation, or limitation is required by law, rule, or regulation;

(d) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, canceling, or limiting the amount of insurance coverage on a residential property risk, or the personal property contained therein, because of the age of the residential property unless:

(i) The refusal, cancellation, or limitation is for a business purpose which is not a pretext for unfair discrimination; or

(ii) The refusal, cancellation, or limitation is required by law, rule, or regulation;

(e) Refusing to insure, refusing to continue to insure, or limiting the amount of coverage available to an individual solely because of the sex or marital status of the individual. This subdivision shall not prohibit an insurer from taking marital status into account for the purpose of defining individuals eligible for dependent benefits; or

(f) Terminating or modifying coverage or refusing to issue or refusing to renew any property or casualty insurance policy solely because the applicant or insured or any employee of the applicant or insured is mentally or physically impaired unless:



(i) The termination, modification, or refusal is for a business purpose which is not a pretext for unfair discrimination; or

(ii) The termination, modification, or refusal is required by law, rule, or regulation.

This subdivision (f) shall not apply to any sickness and accident insurance policy sold by a casualty insurer and shall not be interpreted to modify any other provision of law relating to the termination, modification, issuance, or renewal of any policy; 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, 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: (i) Knowingly, knowingly permitting or offering to make or making any contract of life insurance policy, life annuity, or sickness and accident and health insurance policy, or agreement as to any such contract policy or annuity, other than as plainly expressed in the insurance contract policy or annuity issued thereon, or paying, allowing, or giving, or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance policy or annuity, any rebate of premiums payable on the contract policy or annuity, 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 policy or annuity; or (ii) giving, selling, purchasing, or offering to give, sell, or purchase as inducement to such insurance contract policy or annuity or in connection therewith any stocks, bonds, or other securities of any insurance company insurer or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value not specified in the contract policy or annuity.

(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 acts or practices: (i) In the case of any contract of life insurance policy 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 insurer 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) (9) Failing of any person insurer to maintain a complete record of all the complaints received since the date of its last examination pursuant to section 44-107 or 44-107.01. This record shall indicate the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition thereof of each complaint, 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) (10) Making false or fraudulent statements or representations on or relative to an application for an insurance a policy for the purpose of obtaining a fee, commission, money, or other benefit from any insurers insurer, agent, broker, or individual person; and

(12) Failing of any insurer, upon receipt of a written inquiry from the department, to respond to such inquiry or request additional reasonable time to respond within fifteen working days; and

(13) Violating any provision of section 44-348, 44-360, 44-361, 44-369, 44-392, 44-393, 44-515 to 44-518, 44-522, 44-523, 44-1412, 44-1455, 44-1498, 44-3606, 44-4809, 44-4812, or 44-4817 or section 38 or 39, Legislative Bill 235, Ninety-second Legislature, First Session, 1991.

Sec. 8. That section 44-1526, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1526. (1) No person who lends money or extends credit shall:

(a) Require, as a condition precedent to the lending of money or extension of credit, or any renewal thereof, that the person borrower, mortgagor, or purchaser to whom such money or credit is extended or whose obligation the creditor is to acquire or finance, negotiate any policy or contract of insurance renewal thereof through a particular insurer or group of insurers or agent or broker or group of agents or brokers;

(b) Solicit insurance for the protection of real property after a borrower, mortgagor, or purchaser indicates interest in securing a first mortgage credit extension until such borrower, mortgagor, or purchaser has received a commitment in writing from the lender as to a loan or credit extension. This requirement for a commitment shall not apply when the premium for the required insurance is to be financed as part of the loan or extension of credit involving personal property transactions;

(c) Unreasonably reject a policy furnished by the borrower, mortgagor, or purchaser for the protection of the property securing the credit or lien. A rejection shall not be deemed unreasonable if it is based on reasonable standards, uniformly applied, relating to the extent of coverage required and the financial soundness and the services of an insurer. Such standards shall not discriminate against any particular type of insurer and shall not call for rejection of a policy because it contains coverage in addition to that required in the credit transaction;

(d) Require that any borrower, mortgagor, purchaser, insurer, broker, or agent pay a separate charge in connection with the handling of any policy required as security for a loan on real property or pay a separate charge to substitute the policy of one insurer for that of another. This subdivision shall not include the interest which may be charged on premium loans or premium advancements in accordance with the terms of the loan or credit document;

(e) Use or disclose, without the prior written consent of the borrower, mortgagor, or purchaser taken at a time other than the making of the loan or extension of credit, information relative to a policy which is required by the credit transaction for the purpose of replacing such insurance; or

(f) Require any procedures or conditions of duly licensed agents, brokers, or insurers not

customarily required of those agents, brokers, or insurers affiliated or in any way connected with the person who lends money or extends credit.

(2) The director may examine and investigate those insurance-related activities of any person who the director believes may be in violation of this section. Any affected person may submit to the director a complaint or material pertinent to the enforcement of this section.

(3) Nothing in this section shall prevent a person who lends money or extends credit from placing insurance on real or personal property in the event the borrower, mortgagor, or purchaser has failed to provide required insurance in accordance with the terms of the loan or credit document.

(4) Nothing in this section shall apply to credit life or credit accident and health insurance.

(b) Unreasonably disapprove the insurance policy provided by a borrower for the protection of the property securing any credit or lien;

(c) Require directly or indirectly that any borrower, mortgagor, purchaser, insurer, broker, or agent pay a separate charge in connection with the handling of any insurance policy required as security for a loan on real estate, or pay a separate charge to substitute the insurance policy of one insurer for that of another; or

(d) Use or disclose information resulting from a requirement that a borrower, mortgagor or purchaser furnish insurance of any kind on real property being conveyed or used as collateral security to a loan, when such information is to the advantage of the mortgagee, vendor, or lender, or is to the detriment of the borrower, mortgagor, purchaser, insurer, or the agent or broker complying with such a requirement.

(2)(a) Subdivision (1)(c) of this section shall not include the interest which may be charged on premium loans or premium advancements in accordance with the security instrument;

(b) For purposes of subdivision (1)(b) of this section, disapproval shall be deemed unreasonable if it is not based solely on reasonable standards uniformly applied, relating to the extent of coverage required and the financial soundness and the services of an insurer. Such standards shall not discriminate against any particular type of insurer, nor shall such standards call for the disapproval of an insurance policy because such policy contains coverage in addition to that required;

(e) The director may investigate the affairs of any person to whom this subsection applies to determine whether such person has violated this subsection. If a violation is found, the violator shall be subject to the same procedures and penalties as are applicable to other provisions of sections 44-1522 to 44-1535, and

(d) For purposes of this section, person shall include any individual, corporation, association, partnership, or other legal entity.

Sec. 9. That section 44-1527, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1527. The Director of Insurance shall have power to director may examine and investigate the affairs of every person engaged in the business of insurance insurer doing business in this state in order to determine whether such person insurer has been or is engaged in any unfair method of competition or in any unfair or deceptive act or trade practice prohibited by defined in section 44-1524. An insurer other than an agent, broker, or insurance consultant shall reimburse the department for the expense of examination in the same manner as provided for examination of insurance companies in sections 44-107.02 and 44-107.03.

Sec. 10. That section 44-1528, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1528. (1) Whenever the Director of Insurance shall have director has reason to believe that any person insurer has engaged or is engaging in this state in any unfair method of competition or in any unfair or deceptive act or trade practice whether or not defined in section 44-1525 or 44-1526, the Unfair Insurance Trade Practices Act and that a proceeding by him or her in respect thereto would be to the interest of the public, he or she shall issue and serve upon such person insurer a statement of the charges in that respect and a notice of a hearing thereon to be held at a time and place fixed in the notice, which shall not be less than ten days after the date of the service thereof.

(2) At the time and place fixed for such hearing, such person insurer shall have an opportunity to be heard and to show cause why an order should not be made by the director requiring such person insurer to cease and desist from the acts, methods, or practices so complained of. Upon good cause shown, the director shall permit any person to intervene, appear, and be

heard at such hearing by counsel or in person.

(3) Nothing contained in ~~sections 44-1522 to 44-1535~~ the Unfair Insurance Trade Practices Act shall require the observance at any such hearing of formal rules of pleading or evidence.

(4) The director, upon such hearing, may administer oaths, examine and cross-examine witnesses, receive oral and documentary evidence, and ~~shall have the power to~~ subpoena witnesses, compel their attendance, and require the production of books, papers, records, correspondence, or other documents which he or she deems relevant to the inquiry. The director may, and upon the request of any interested party shall, cause to be made a stenographic record of all the evidence and all the proceedings had at such hearing. If no stenographic record is made and if a judicial review is sought, the director shall prepare a statement of the evidence and proceeding for use on review. In case of a refusal of any person to comply with any subpoena issued under this section or to testify with respect to any matter concerning which he or she may be lawfully interrogated, the district court of Lancaster County or the county where such party resides, on application of the director, may require such person to comply with such subpoena and to testify, and any failure to obey any such order of the court may be punished by the court as a contempt thereof.

(5) Statements of charges, notices, orders, and other processes of the director under ~~sections 44-1522 to 44-1535~~ the act may be served by anyone duly authorized by the director, either in the manner provided by law for service of process in civil actions or by mailing a copy thereof to the person affected by such statement, notice, order, or other process at his, her, or its residence or principal office or place of business by either certified or registered mail, return receipt requested. The verified return by the person so serving such statement, notice, order, or other process, setting forth the manner of such service, shall be proof of the same, and the return receipt for such statement, notice, order, or other process, registered and mailed, shall be proof of the service of the same.

Sec. 11. That section 44-1529, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1529. (1) If, after ~~such the~~ hearing, the director ~~shall find~~ finds that the person insurer charged has engaged in an unfair method of competition, or an unfair or deceptive act or trade practice, he or

she shall reduce his or her findings to writing and shall issue and cause to be served upon the person insurer charged with the violation a copy of such findings and an order requiring such person insurer to cease and desist from engaging in such method of competition, the act or practice, and if the act or practice is a violation of section 44-1525 or 44-1526, the director and he or she may order any one or more of the following:

{a} (1) Payment of a monetary penalty of not more than one thousand dollars for each act or violation, but not to exceed an aggregate penalty of ten thirty thousand dollars, unless the person knew or reasonably should have known that he was in violation of sections 44-1522 to 44-1535 violation was committed flagrantly in conscious disregard of the Unfair Insurance Trade Practices Act, in which case the penalty shall be not more than five fifteen thousand dollars for each act or violation, but not to exceed an aggregate penalty of one hundred fifty thousand dollars, and in any six-month period, or

{b} (2) Suspension or revocation of the person's license insurer's license or certificate of authority if he the insurer knew or reasonably should have known that he, she, or it was in violation of sections 44-1522 to 44-1535 the act.

{2} Until the expiration of the time allowed under section 44-1530 for filing a petition for review, if no such petition has been duly filed, or, if a petition for review has been filed within such time, then until the transcript of the record in the proceeding has been filed in the district court, the director may at any time, upon such notice and in such manner as he shall deem proper, modify or set aside in whole or in part any order issued by him under this section.

{3} After the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed, the director may at any time, after notice and opportunity for hearing, reopen and alter, modify, or set aside, in whole or in part, any order issued by him under this section whenever in his opinion conditions of fact or of law have so changed as to require such action or if the public interest shall so require.

Sec. 12. That section 44-1530, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1530. (1) Any person insurer subject to an



order of the director under section 44-1529 or 44-1532 may appeal the order. The 7 and the appeal shall be in accordance with the Administrative Procedure Act.

(2) An order issued by the director under section 44-1529 shall become final:

(a) Upon the expiration of the time allowed for filing a petition for review, if no such petition has been duly filed, except that the director may thereafter modify or set aside his or her order; or to the extent provided in subsection (2) of section 44-1529; or

(b) Upon the final decision of the court if the court directs that the order of the director be affirmed or the petition for review dismissed.

(3) No order of the director under sections 44-1522 to 44-1535 the Unfair Insurance Trade Practices Act or order of a court to enforce such order shall in any way relieve or absolve any person affected by such order from any liability under any other laws of this state.

Sec. 13. That section 44-1531, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1531. If, after any hearing as provided by section 44-1528 or 44-1532, the report of the director does not charge a violation of sections 44-1522 to 44-1535 the Unfair Insurance Trade Practices Act, then any intervenor as provided by section 44-1528 may, within ten days after the service of such report, appeal the findings of the director. The 7 and the appeal shall be in accordance with the Administrative Procedure Act. Upon such appeal, the court may issue appropriate orders and decrees in connection therewith, including, if the court finds that it is in the interest of the public, orders enjoining and restraining the continuance of any act or practice which it finds, notwithstanding such report of the director, constitutes a violation of the Uniform Insurance Trade Practices Act and containing penalties pursuant to section 44-1529.

Sec. 14. That section 44-1532, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1532. Any person insurer who violates a cease and desist order of the director under section 44-1529 may after notice and hearing and upon order of the director be subject to:

(1) A fine monetary penalty of not more than ten thirty thousand dollars for each and every act or violation, not to exceed an aggregate penalty of one

hundred fifty thousand dollars; and 7 or

(2) Suspension or revocation of such person's the insurer's license or certificate of authority.

Sec. 15. That section 44-1533, Revised Statutes Supplement, 1990, 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 to carry out the Unfair Insurance Trade Practices Act.

Sec. 16. That section 44-1534, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1534. The powers vested in the director by the Unfair Insurance Trade Practices Act sections 44-1522 to 44-1535 shall be additional to any other powers to enforce any penalties, fines, or forfeitures authorized by law with respect to the acts and practices defined and determined by such act to be unfair. methods, acts, and practices declared by sections 44-1522 to 44-1535 to be unfair or deceptive.

Sec. 17. That section 44-1535, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1535. If any person shall ask asks to be excused from attending and testifying or from producing any books, papers, records, correspondence, or other documents at any hearing on the ground that the testimony or evidence required of him may tend to incriminate him the person or subject him the person to a penalty or forfeiture; and shall be the person is directed to give such testimony or produce such evidence, he the person must comply with such direction; but he shall not thereafter be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he the person may testify or produce evidence thereto, and no testimony so given or evidence produced shall be received against him the person upon any criminal action, investigation, or proceeding. No such individual person so testifying shall be exempt from prosecution or punishment for any perjury committed by him while so testifying, and the testimony or evidence

so given or produced shall be admissible against him the person in any criminal action, investigation, or proceeding concerning such perjury, nor shall he the person be exempt from the refusal, revocation, or suspension of any license, permission, or authority conferred, or to be conferred, pursuant to the insurance laws of this state. Any such individual person may execute, acknowledge, and file in the office of the director a statement expressly waiving such immunity or privilege in respect to any transaction, matter, or thing specified in such statement, and thereupon the testimony of such person or such evidence in relation to such transaction, matter, or thing may be received or produced before any judge or justice, court, tribunal, grand jury, or otherwise, and if so received or produced such individual person shall not be entitled to any immunity or privilege on account of any testimony he the person may so give or evidence so produce produced.

Sec. 18. Sections 18 to 26 of this act shall be known and may be cited as the Unfair Insurance Claims Settlement Practices Act.

Sec. 19. The purpose of the Unfair Insurance Claims Settlement Practices Act is to set forth standards for the investigation and disposition of claims arising under policies issued to residents of this state.

Sec. 20. (1) For purposes of the Unfair Insurance Claims Settlement Practices Act:

(a) Director shall mean the Director of Insurance;

(b) Insured shall mean the party named on a policy or certificate as the individual with legal rights to the benefits provided by such policy or certificate;

(c) Insurer shall mean any person, reciprocal exchange, interinsurer, Lloyds-type insurer, fraternal benefit society, and other legal entity engaged in the business of insurance, including agents, brokers, insurance consultants, adjusters, and third-party administrators. Insurer shall also mean health maintenance organizations, prepaid limited health service organizations, and dental, optometric, and other similar health service plans. For purposes of the act, all such insurers shall be deemed to be engaged in the business of insurance;

(d) Person shall mean any natural or artificial entity, including, but not limited to, an individual, partnership, association, trust, or corporation; and

(e) Policy or certificate shall include any contract of insurance, indemnity, or annuity issued, proposed for issuance, or intended for issuance by any insurer. Policy or certificate shall not include contracts of workers' compensation, fidelity, suretyship, or boiler and machinery insurance.

(2) The purpose of the definitions in this section is to include within the act and any rules and regulations adopted pursuant to the act all entities and activities to the extent not preempted by the federal Employee Retirement Income Security Act of 1974, as amended.

Sec. 21. It shall be an unfair claims settlement practice for any domestic, foreign, or alien insurer transacting business in this state to commit an act or practice defined in section 22 of this act if the act or practice (1) is committed flagrantly and in conscious disregard of the Unfair Insurance Claims Settlement Practices Act or any rule or regulation adopted pursuant to the act or (2) has been committed with such frequency as to indicate a general business practice to engage in that type of conduct.

Sec. 22. Any of the following acts or practices by an insurer, if committed in violation of section 21 of this act, shall be an unfair claims settlement practice:

(1) Knowingly misrepresenting to claimants and insureds relevant facts or policy provisions relating to coverages at issue;

(2) Failing to acknowledge with reasonable promptness pertinent communications with respect to claims arising under its policies;

(3) Failing to adopt and implement reasonable standards for the prompt investigation and settlement of claims arising under its policies;

(4) Not attempting in good faith to effectuate prompt, fair, and equitable settlement of claims submitted in which liability has become reasonably clear;

(5) Compelling insureds or beneficiaries to institute litigation to recover amounts due under its policies by offering substantially less than the amounts ultimately recovered in litigation brought by them;

(6) Refusing to pay claims without conducting a reasonable investigation;

(7) Failing to affirm or deny coverage of a claim within a reasonable time after having completed its investigation related to such claim;

(8) Attempting to settle a claim for less than

the amount to which a reasonable person would believe the insured or beneficiary was entitled by reference to written or printed advertising material accompanying or made part of an application;

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

(10) Making a claims payment to an insured or beneficiary without indicating the coverage under which each payment is being made;

(11) Unreasonably delaying the investigation or payment of claims by requiring both a formal proof-of-loss form and subsequent verification that would result in duplication of information and verification appearing in the formal proof-of-loss form;

(12) Failing, in the case of the denial of a claim or the offer of a compromise settlement, to promptly provide a reasonable and accurate explanation of the basis for such action;

(13) Failing to provide forms necessary to present claims with reasonable explanations regarding their use within fifteen working days of a request; and

(14) Failing to adopt and implement reasonable standards to assure that the repairs of a repairer owned by or affiliated with the insurer are performed in a skillful manner. For purposes of this subdivision, a repairer is affiliated with the insurer if there is a preexisting arrangement, understanding, agreement, or contract between the insurer and repairer for services in connection with claims on policies issued by the insurer.

Sec. 23. If the director finds that any insurer doing business in this state is engaging in any unfair claims settlement practice and that a proceeding in respect thereto would be in the public interest, he or she shall issue and serve upon such insurer a statement of the charges in that respect and a notice of hearing thereon, which notice shall set a hearing date not less than ten days from the date of the notice.

Sec. 24. If, after the hearing, the director finds an insurer has engaged in an unfair claims settlement practice, he or she shall reduce his or her findings to writing and shall issue and cause to be served upon the insurer charged with the violation a copy of the findings and an order requiring the insurer to cease and desist from engaging in the act or practice and he or she may order any one or more of the following:

(1) Payment of a monetary penalty of not more

than one thousand dollars for each violation, not to exceed an aggregate penalty of thirty thousand dollars, unless the violation was committed flagrantly and in conscious disregard of the Unfair Insurance Claims Settlement Practices Act, in which case the penalty shall not be more than fifteen thousand dollars for each violation, not to exceed an aggregate penalty of one hundred fifty thousand dollars; and

(2) Suspension or revocation of the insurer's license or certificate of authority if the insurer knew or reasonably should have known it was in violation of the act.

Sec. 25. Any insurer who violates a cease and desist order of the director under section 24 of this act may after notice and hearing and upon order of the director be subject to:

(1) A monetary penalty of not more than thirty thousand dollars for each violation, not to exceed an aggregate penalty of one hundred fifty thousand dollars; and

(2) Suspension or revocation of the insurer's license or certificate of authority.

Sec. 26. The director may adopt and promulgate rules and regulations to carry out the Unfair Insurance Claims Settlement Practices Act.

Sec. 27. That section 44-1803, Revised Statutes Supplement, 1990, be amended to read as follows:

44-1803. No unauthorized foreign or alien insurer of the kind described in section 44-1801 shall make, issue, circulate, or cause to be made, issued, or circulated to residents of this state any estimate, illustration, circular, pamphlet, or letter or cause to be made in any newspaper, magazine, or other publication or over any radio or television station any announcement or statement to such residents misrepresenting its financial condition or the terms of any contracts issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon in violation of ~~sections 44-1522 to 44-1535~~ the Unfair Insurance Trade Practices Act. Whenever the director shall have has reason to believe that any such insurer is engaging in such unlawful advertising, it shall be his or her duty to give notice of such fact by either registered or certified mail to such insurer and to the insurance supervisory official of the domiciliary state of such insurer. For the purpose of this section, the domiciliary state of an alien insurer shall be deemed to be the state of entry

or the state of the principal office in the United States.

Sec. 28. That section 44-1804, Revised Statutes Supplement, 1990, be amended to read as follows:

44-1804. If after thirty days following the giving of the notice mentioned in section 44-1803 such insurer has failed to cease making, issuing, or circulating such false misrepresentations or causing the same to be made, issued, or circulated in this state; and if the director has reason to believe that a proceeding by him or her in respect to such matters would be to the interest of the public and that such insurer is issuing or delivering contracts of insurance to residents of this state or collecting premiums on such contracts or doing any of the acts enumerated in section 44-1805, he or she shall take action against such insurer under ~~sections 44-1522 to 44-1535~~ the Unfair Insurance Trade Practices Act.

Sec. 29. That section 44-1805, Revised Statutes Supplement, 1990, be amended to read as follows:

44-1805. Any of the following acts in this state, effected by mail or otherwise, by any such unauthorized foreign or alien insurer: (1) The issuance or delivery of contracts of insurance to residents of this state; 7 (2) the solicitation of applications for such contracts; 7 (3) the collection of premiums, membership fees, assessments, or other considerations for such contracts; 7 or (4) any other transaction of insurance business, shall constitute sufficient contact with the state for the exercise of personal jurisdiction over such insurer in any proceeding instituted in respect to the misrepresentation set forth in section 44-1803 under ~~sections 44-1522 to 44-1535~~ the Unfair Insurance Trade Practices Act or in any action, suit, or proceeding for the recovery of any penalty provided in ~~such sections~~ the act.

Sec. 30. That section 44-1908, Revised Statutes Supplement, 1990, as amended by section 30, Legislative Bill 235, Ninety-second Legislature, First Session, 1991, be amended to read as follows:

(1) A title insurance agent or title insurer may engage in the business of handling escrows of real estate transactions subject to rules and regulations issued by the director. In so acting the title insurance agent or the title insurer shall:

(a) Maintain a separate record of all receipts and disbursements of escrow funds and shall not

commingle any such funds with the title insurance agent's or the title insurer's own funds or with funds held by the title insurance agent or the title insurer in any other capacity; and

(b) 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 insurer and for each officer or employee of such title insurance agent who shall perform any escrow service.

(2) In addition to other remedies and penalties available under the laws of this state, each violation of this section and any rules and regulations issued thereunder shall be an unfair ~~or deceptive act or trade~~ practice in the business of insurance subject to ~~sections 44-1522 to 44-1535~~ the Unfair Insurance Trade Practices Act.

Sec. 31. That section 44-1925, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1925. (1) Any violation of sections 44-1921 to 44-1924 shall constitute grounds for the suspension or revocation of a title insurance company's certificate of authority or a title insurance agent's license and shall constitute an unfair ~~method of competition and an unfair and deceptive act and trade~~ practice in the business of insurance under ~~sections 44-1522 to 44-1535~~ the Unfair Insurance Trade Practices Act.

(2) No title insurance company or title insurance agent may receive any fee or commission in connection with the sale of a title insurance policy in a transaction which such title insurance company or title insurance agent knows or has reason to believe will be in violation of the provisions of sections 44-1921 to 44-1924.

(3) Any title insurance company or title insurance agent that is a competitor of any title insurance company or title insurance agent that, subsequent to August 26, 1983, has violated or is violating sections 44-1921 to 44-1924 or subsection (1) or (2) of this section shall have a cause of action against such title insurance company or title insurance agent. Upon establishing the existence of a violation of any provision of sections 44-1921 to 44-1924 or subsection (1) or (2) of this section, such competitor shall be entitled, in addition to any other damages or remedies provided by law, to any equitable or injunctive relief as the court deems proper, except that an action



pursuant to this subsection may be instituted only if the complainant has first brought the alleged violation to the attention of the director within ninety days after the violation has occurred, and the director has failed to take action to remedy the alleged violation. In any action pursuant to this subsection, the court may award to the successful party the court costs of the action together with reasonable attorney's fees.

Sec. 32. That section 44-32,179, Revised Statutes Supplement, 1990, be amended to read as follows:

44-32,179. Sections 44-1522 to 44-1535 The Unfair Insurance Trade Practices Act and the Unfair Insurance Claims Settlement Practices Act shall apply to health maintenance organizations except to the extent that the director determines the nature of health maintenance organizations renders application of such sections either act clearly inappropriate.

Sec. 33. That section 44-3610, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3610. A violation of any provision of the Medicare Supplement Insurance Minimum Standards Act or any rule and regulation adopted and promulgated pursuant to such act shall be an unfair method of competition or an unfair or deceptive act or trade practice in the business of insurance subject to section 44-1529 the Unfair Insurance Trade Practices Act.

In addition to any other applicable penalties for violations of Chapter 44, the director may require insurers violating any provision of the act Medicare Supplement Insurance Minimum Standards Act or any rule or regulation adopted and promulgated pursuant to issued under the act to cease marketing any medicare supplement policy or certificate in this state which is related directly or indirectly to a violation or may require such insurer to take such actions as are necessary to comply with the act, or both.

Sec. 34. That section 44-4028, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-4028. The director may revoke or suspend any person's license or place a licensed person on probation for such period as may be determined to be appropriate if, after notice to the licensed person and hearing, the director determines such person has:

(1) Violated any insurance law or any lawful rule, regulation, or order of the director or of a director or commissioner of another state, district, or

territory of the United States or any province of Canada;

(2) Improperly withheld, misappropriated, or converted to his or her own use any money belonging to policyholders, insurers, beneficiaries, or others received in the course of business;

(3) Misrepresented the terms of any existing or proposed insurance contract to the detriment of the applicant or insured;

(4) Engaged in any unfair method of competition or an unfair or deceptive act or trade practice in the business of insurance as defined in Chapter 44, article 15 subject to the Unfair Insurance Trade Practices Act or any unfair claims settlement practice subject to the Unfair Insurance Claims Settlement Practices Act;

(5) Forged another person's name to an application for insurance or to any other document or fraudulently procured a forged signature to an insurance application or any other document, knowing such signature to be forged;

(6) Knowingly and willfully made or permitted a false or fraudulent statement or misrepresentation in or relative to an application for a policy of insurance;

(7) Been adjudged a bankrupt with debts related to the receipt or transmittal of insurance premiums or other funds to an insurer or insured in such agent's fiduciary capacity or has issued to the department an insufficient fund or no-fund check;

(8) Been convicted of any felony or a Class I, II, or III misdemeanor evidencing that such person is not worthy of the public trust;

(9) Obtained the license for the purpose of writing controlled business, as described in section 44-361.01;

(10) Had an agent's or broker's license suspended or revoked in any other state, district, or territory of the United States or any province of Canada;

(11) Not demonstrated trustworthiness and competency to transact business in such a manner as to safeguard the public;

(12) Failed to submit to a reexamination for competency or has failed to pass such examination as required by section 44-4025;

(13) Obtained the license through misrepresentation, fraud, or any other act for which issuance of the license could have been refused had it been known to the director at the time of issuance;

(14) Knowingly failed to report to the department the actions of any insurance company, licensed agent, broker, agency, or other person which violate Nebraska insurance laws; or

(15) Violated the terms of the department's order of probation as applied to such licensed person.

Sec. 35. That section 44-4031, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-4031. In addition to or in lieu of any applicable denial, suspension, probation, or revocation of a license, any person violating the Insurance Producers Licensing Act may, after notice and hearing, be subject to an administrative fine of not more than one thousand dollars per violation. Such fine may be enforced in the same manner as civil judgments. Any person charged with a violation of the Insurance Producers Licensing Act may waive his or her right to a hearing and consent to such discipline as the director determines is appropriate. All hearings held pursuant to such act shall be governed by the Administrative Procedure Act and ~~Chapter 44, article 15~~ the Unfair Insurance Trade Practices Act.

Sec. 36. That section 44-4407, Reissue Revised Statutes of Nebraska, 1943, as amended by section 49, Legislative Bill 236, Ninety-second Legislature, First Session, 1991, be amended to read as follows:

44-4407. Any risk retention group shall comply with and be subject to ~~sections 44-1522 to 44-1535 regarding deceptive, false, or fraudulent acts or practices~~ the Unfair Insurance Trade Practices Act and any rule or regulation ~~adopted under such sections issued under the act.~~ Any risk retention group and its agents and representatives shall comply with and be subject to the Unfair Insurance Claims Settlement Practices Act ~~such sections regarding unfair claims settlement practices~~ and any rule or regulation ~~adopted under such sections issued under the act.~~ If the director seeks an injunction regarding such conduct, the injunction shall be obtained from a court of competent jurisdiction.

Sec. 37. That section 44-4607, Revised Statutes Supplement, 1990, be amended to read as follows:

44-4607. Failure to file the information required by section 44-4604 and the rules and regulations adopted and promulgated under such section shall be an ~~unfair method of competition or an unfair or~~

~~deceptive act and trade~~ practice in the business of insurance subject to the provisions and penalties contained in ~~Chapter 44, article 15~~ the Unfair Insurance Trade Practices Act.

Sec. 38. That section 44-4711, Revised Statutes Supplement, 1990, as amended by section 58, Legislative Bill 236, Ninety-second Legislature, First Session, 1991, be amended to read as follows:

44-4711. (1) A prepaid limited health service organization shall be subject to ~~sections 44-1522 to 44-1535~~ the Unfair Insurance Trade Practices Act and the Unfair Insurance Claims Settlement Practices Act. No other provision of Chapter 44 shall apply unless specifically mentioned in the Prepaid Limited Health Service Organization Act or unless prepaid limited health service organizations are specifically mentioned in the provisions of Chapter 44.

(2) The provision of limited health services by a prepaid limited health service organization or other entity pursuant to the Prepaid Limited Health Service Organization Act shall not be deemed to be the practice of medicine or other healing arts.

(3) Solicitation to arrange for or provide limited health services in accordance with the Prepaid Limited Health Service Organization Act shall not be construed to violate any provision of law relating to solicitation or advertising by health professionals.

(4) A prepaid limited health service organization organized under the laws of this state shall be deemed to be a domestic insurer for purposes of the Insurance Holding Company System Act unless specifically exempted in writing from one or more of the provisions of the act by the director.

Sec. 39. The Revisor of Statutes shall assign sections 3 and 18 to 26 of this act to Chapter 44, article 15, and any reference to such article shall be construed to include such sections.

Sec. 40. 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. 41. That original sections 44-10,105, 44-1522, 44-1524, 44-1526 to 44-1532, 44-1534, 44-1535, 44-1925, 44-3610, 44-4028, and 44-4031, Reissue Revised Statutes of Nebraska, 1943, sections 44-1523, 44-1525, 44-1533, 44-1803 to 44-1805, 44-32,179, and 44-4607, Revised Statutes Supplement, 1990, section 44-320, Reissue Revised Statutes of Nebraska, 1943, as amended

by section 59, Legislative Bill 237, Ninety-second Legislature, First Session, 1991, section 44-4407, Reissue Revised Statutes of Nebraska, 1943, as amended by section 49, Legislative Bill 236, Ninety-second Legislature, First Session, 1991, section 44-1908, Revised Statutes Supplement, 1990, as amended by section 30, Legislative Bill 235, Ninety-second Legislature, First Session, 1991, and section 44-4711, Revised Statutes Supplement, 1990, as amended by section 58, Legislative Bill 236, Ninety-second Legislature, First Session, 1991, are repealed.