

February 17, 1998

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# ENGROSSED SENATE BILL No. 310

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DIGEST OF SB310 (Updated February 16, 1998 7:22 pm - DI 97)

**Citations Affected:** IC 27-1.

**Synopsis:** Selling insurance without state authorization. Prohibits a company from holding itself out as a company in the business of insurance in Indiana unless the company has received a certificate of authority. Prohibits the sale, issuance, delivery, or advertisement of any kind of insurance not specified in the certificate of authority. Requires the insurance commissioner to impose a civil penalty on an officer or director of a company conducting the business of insurance or holding itself out as a company in the business of insurance in Indiana without a certificate of authority. Establishes a criminal penalty for the officer or director of a company conducting the business of insurance or holding itself out as a company in the business of insurance in Indiana without a certificate of authority.

**Effective:** July 1, 1998.

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**Dempsey, Landske, Worman,  
O'Day**

(HOUSE SPONSORS — KUZMAN, FRY, FESKO)

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January 8, 1998, read first time and referred to Committee on Corrections, Criminal and Civil Procedures; reassigned to Committee on Insurance and Interstate Cooperation.  
January 29, 1998, amended, reported favorably — Do Pass.  
February 2, 1998, read second time, ordered engrossed. Engrossed.  
February 3, 1998, read third time, passed. Yeas 50, nays 0.

**HOUSE ACTION**

February 10, 1998, read first time and referred to Committee on Insurance, Corporations, and Small Business.  
February 16, 1998, amended, reported — Do Pass.

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ES 310—LS 7144/DI 97+



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February 17, 1998

Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

## ENGROSSED SENATE BILL No. 310

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A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 27-1-3-20 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 20. (a) The  
3 commissioner may issue a certificate of authority to any company when  
4 it shall have complied with the requirements of the laws of this state so  
5 as to entitle it to do business herein. The certificate shall be issued  
6 under the seal of the department authorizing and empowering the  
7 company to make the kind or kinds of insurance specified in the  
8 certificate. No certificate of authority shall be issued until the  
9 commissioner has found that:  
10 (a) (1) the company has submitted a sound plan of operation; and  
11 (b) (2) the general character and experience of the incorporators,  
12 directors, and proposed officers is such as to assure reasonable  
13 promise of a successful operation, based on the fact that such  
14 persons are of known good character and that there is no good  
15 reason to believe that they are affiliated, directly or indirectly,  
16 through ownership, control, management, reinsurance

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1 transactions, or other insurance or business relations with any  
 2 person or persons known to have been involved in the improper  
 3 manipulation of assets, accounts, or reinsurance.

4 No certificate of authority shall be denied, however, under subdivision  
 5 ~~(a)~~ (1) or ~~(b)~~ (2) until notice, hearing, and right of appeal has been  
 6 given as provided in IC 4-21.5.

7 (b) Every company possessing a certificate of authority shall notify  
 8 the commissioner of the election or appointment of every new director  
 9 or principal officer, within thirty (30) days thereafter. If in the  
 10 commissioner's opinion such a new principal officer or director does  
 11 not meet the standards set forth in this section, he shall request that the  
 12 company effect the removal of such persons from office. If such  
 13 removal is not accomplished as promptly as under the circumstances  
 14 and in the opinion of the commissioner is possible, then upon notice to  
 15 both the company and such principal officer or director and after  
 16 notice, hearing, and right of appeal pursuant to IC 4-21.5, and after a  
 17 finding that such person is incompetent or untrustworthy or of known  
 18 bad character, the commissioner may order the removal of such person  
 19 from office and may, unless such removal is promptly accomplished,  
 20 suspend the company's certificate of authority until there is compliance  
 21 with such order.

22 (c) No company shall transact any business of insurance **under**  
 23 **IC 22 or IC 27 or hold itself out as a company in the business of**  
 24 **insurance in this state Indiana** until it shall have received a certificate  
 25 of authority as prescribed in this section. ~~and:~~

26 (d) No company shall make, **issue, deliver, sell, or advertise** any  
 27 kind or kinds of insurance not specified in ~~such~~ **the company's**  
 28 certificate of authority.

29 (e) **Notwithstanding IC 27-1-2-4, a director or officer of a**  
 30 **company who knowingly, intentionally, or recklessly violates**  
 31 **subsection (c) or (d) commits a Class D felony.**

32 (f) **The commissioner shall impose a civil penalty of not more**  
 33 **than twenty-five thousand dollars (\$25,000) on a director or officer**  
 34 **of a company that violates subsection (c) or (d). The amount**  
 35 **imposed must be proportionate to the costs incurred by the**  
 36 **department of insurance, other governmental entities, and the**  
 37 **courts in regulating the activity of the director, officer, or company**  
 38 **who violates subsection (c) or (d). A civil penalty imposed under**  
 39 **this subsection may be enforced in the same manner as a civil**  
 40 **judgment.**



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SENATE MOTION

Mr. President: I move that Senators O'Day and Worman be added as coauthors of Senate Bill 310.

DEMPSEY

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SENATE MOTION

Mr. President: I move that Senate Bill 310, currently assigned to the Committee on Corrections, Criminal and Civil Procedures, be reassigned to the Committee on Insurance and Interstate Cooperation.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Insurance and Interstate Cooperation, to which was referred Senate Bill 310, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 28, delete "person" and insert: "**director or officer of a company**".

Page 2, line 32, delete "person" and insert "**director or officer of a company**".

Page 2, line 36, delete "person" and insert "**director, officer, or company**".

and when so amended that said bill do pass.

(Reference is to Senate Bill 310 as introduced.)

WORMAN, Chairperson

Committee Vote: Yeas 6, Nays 0.

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Y



SENATE MOTION

Mr. President: I move that Senator Landske be added as second author of Senate Bill 310.

DEMPSEY

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, Corporations and Small Business, to which was referred Senate Bill 310, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 21, after "insurance" insert "**under IC 22 or IC 27**".  
and when so amended that said bill do pass.

(Reference is to Senate Bill 310 as printed January 30, 1998.)

FRY, Chair

Committee Vote: yeas 14, nays 0.

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