

January 28, 1998

HOUSE BILL No. 1205

DIGEST OF HB 1205 (Updated January 27, 1998 3:05 pm - DI 97)

Citations Affected: IC 27-1; IC 27-8.

Synopsis: Insurance agent as beneficiary of policy. Prohibits an insurance agent from making application for, procuring, negotiating, or placing a life insurance policy or annuity contract if the agent is designated as the beneficiary of the life insurance policy or annuity contract unless the agent has an insurable interest. Authorizes the insurance commissioner to suspend, revoke, or refuse to renew the license of an insurance agent who violates this prohibition. Prohibits issuance of a life insurance policy or annuity contract in which the payee or beneficiary has no insurable interest.

Effective: July 1, 1998.

Becker, Fry, Budak

January 8, 1998, read first time and referred to Committee on Insurance, Corporations and Small Business.
January 27, 1998, amended, reported — Do Pass.

HB 1205—LS 6755/DI 55



C
O
P
Y

January 28, 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.

HOUSE BILL No. 1205

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 27-1-12-14, AS AMENDED BY P.L.253-1995,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 1998]: Sec]. 14. (a) As used in this section, "premium"
4 includes any deposit or contribution.

5 (b) As used in this section, "proceeds or avails" means death
6 benefits, cash surrender and loan values, premiums waived, and
7 dividends whether used in reduction of the premiums or in whatsoever
8 manner used or applied, excepting only where the debtor has,
9 subsequent to the issuance of the policy, actually elected to receive the
10 dividends in cash.

11 (c) ~~Any person whose life is insured by any life insurance company~~
12 ~~may name as his payee or beneficiary any person or persons, natural or~~
13 ~~artificial; with or without an insurable interest; or his estate. A~~
14 ~~corporation, association, or society shall not issue any life~~
15 ~~insurance, policy of life insurance, policy, or annuity contract in~~
16 ~~which the payee or beneficiary named has no insurable interest.~~
17 ~~Any assignment of a policy or certificate to a person having no~~

HB 1205—LS 6755/DI 55



C
O
P
Y

1 **insurable interest, except as security for actual debt with**
 2 **remainder over to the beneficiary or to the estate of the insured,**
 3 **renders the policy or certificate void.**

4 **(d) Such A designation of a person as a payee or beneficiary**
 5 **under subsection (c)** at the option of the insured may be made either
 6 revocable or irrevocable, and the option elected shall be set out in and
 7 shall be made a part of the application for the certificate or policy of
 8 insurance. When the right of revocation has been reserved, the person
 9 whose life is insured, subject to any existing assignment of the policy,
 10 may at any time designate a new payee or beneficiary, with or without
 11 reserving the right of revocation, by filing written notice thereof at the
 12 home office of the corporation, accompanied by the policy for suitable
 13 indorsement thereon.

14 ~~(d)~~ **(e)** Any person may effect an insurance on his life, for any
 15 definite period of time, or for the term of his natural life, to inure to the
 16 sole benefit of the spouse and children, or of either, or other relative or
 17 relatives dependent upon such person or any creditor or creditors as he
 18 may cause to be appointed and provided in the policy.

19 ~~(e)~~ **(f)** Except as provided in subsection ~~(g)~~, **(h)**, all policies of life
 20 insurance upon the life of any person, which name as beneficiary, or
 21 are bona fide assigned to, the spouse, children, or any relative
 22 dependent upon such person, or any creditor, shall be held, subject to
 23 change of beneficiary from time to time, if desired, for the benefit of
 24 such spouse, children, other relative or creditor, free and clear from all
 25 claims of the creditors of such insured person or of the person's spouse;
 26 and the proceeds or avails of all such life insurance shall be exempt
 27 from all liabilities from any debt or debts of such insured person or of
 28 the person's spouse.

29 ~~(f)~~ **(g)** A premium paid for an individual life insurance policy that
 30 names as a beneficiary, or is legally assigned to, a spouse, child, or
 31 relative who is dependent upon the policy owner is not exempt from the
 32 claims of the creditors of the policy owner if the premium is paid:

- 33 (1) not more than one (1) year before the date of the filing of a
 34 voluntary or involuntary bankruptcy petition by; or
 35 (2) to defraud the creditors of;

36 the policy owner.

37 ~~(g)~~ **(h)** The insurer issuing the policy is discharged from all liability
 38 by payment of the proceeds and avails of the policy in accordance with
 39 the terms of the policy unless, before payment, the insurer has received
 40 at the insurer's home office, written notice by or on behalf of a creditor
 41 of the policy owner that specifies the amount claimed against the policy
 42 owner.



C
O
P
Y

1 SECTION 2. IC 27-1-15.5-8, AS AMENDED BY P.L.253-1997(ss),
2 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 1998]: Sec. 8. (a) The commissioner may suspend, revoke,
4 refuse to continue, renew, or issue any license issued under this
5 chapter, or impose any of the disciplinary sanctions under subsection
6 (f) if, after notice to the licensee and to the insurer represented and a
7 hearing, the commissioner finds as to the licensee any one (1) or more
8 of the following conditions:

- 9 (1) Any materially untrue statement in the license application.
10 (2) Any cause for which issuance of the license could have been
11 refused had it then existed and been known to the commissioner
12 at the time of issuance.
13 (3) Violation of or noncompliance with any insurance laws,
14 violation of any provision of IC 28 concerning the sale of a life
15 insurance policy or an annuity contract, or violation of any lawful
16 rule, regulation, or order of the commissioner or of a
17 commissioner of another state.
18 (4) Obtaining or attempting to obtain any such license through
19 misrepresentation or fraud.
20 (5) Improperly withholding, misappropriating, or converting to
21 the licensee's own use any money belonging to policyholders,
22 insurers, beneficiaries, or others received in the course of the
23 licensee's insurance business.
24 (6) Misrepresentation of the terms of any actual or proposed
25 insurance contract.
26 (7) Conviction of a felony or misdemeanor involving moral
27 turpitude.
28 (8) The licensee has been found guilty of any unfair trade practice
29 or of fraud.
30 (9) In the conduct of the licensee's affairs under the license, the
31 licensee has used fraudulent, coercive, or dishonest practices, or
32 has shown himself to be incompetent, untrustworthy, or
33 financially irresponsible, or not performing in the best interests of
34 the insuring public.
35 (10) The licensee's license has been suspended or revoked in any
36 other state, province, district, or territory.
37 (11) The licensee has forged another's name to an application for
38 insurance.
39 (12) An applicant has been found to have been cheating on an
40 examination for an insurance license.
41 (13) The applicant or licensee is on the most recent tax warrant
42 list supplied to the commissioner by the department of state

C
O
P
Y



- 1 revenue.
- 2 (14) The licensee has failed to satisfy the continuing education
- 3 requirements under section 7.1 of this chapter.
- 4 **(15) The licensee has violated section 24 of this chapter.**
- 5 (b) The commissioner shall refuse to:
- 6 (1) issue a license; or
- 7 (2) renew a license issued;
- 8 under this chapter to any person who is the subject of an order issued
- 9 by a court under IC 31-14-12-7 or IC 31-16-12-10 (or
- 10 IC 31-1-11.5-13(m) or IC 31-6-6.1-16(m) before their repeal).
- 11 (c) In the event that the action by the commissioner is to not renew
- 12 or to deny an application for a license, the commissioner shall notify
- 13 the applicant or licensee and advise, in writing, the applicant or
- 14 licensee of the reasons for the denial or nonrenewal of the applicant's
- 15 or licensee's license. Not later than sixty (60) days after receiving a
- 16 notice from the commissioner under this subsection, the applicant or
- 17 licensee may make written demand upon the commissioner for a
- 18 hearing to determine the reasonableness of the commissioner's action.
- 19 Such hearing shall be held within thirty (30) days from the date of
- 20 receipt of the written demand of the applicant.
- 21 (d) The license of a corporation may be suspended, revoked, or
- 22 refused if the commissioner finds, after hearing, that an individual
- 23 licensee's violation was known or should have been known by one (1)
- 24 or more of the officers or managers acting on behalf of the corporation
- 25 and such violation was not reported to the insurance department nor
- 26 corrective action taken in relation to the violation.
- 27 (e) In addition to or in lieu of any applicable denial, suspension, or
- 28 revocation of a license, any person violating this chapter may, after
- 29 hearing, be subject to a civil penalty of not less than fifty dollars (\$50)
- 30 nor more than ten thousand dollars (\$10,000). Such a penalty may be
- 31 enforced in the same manner as civil judgments.
- 32 (f) The commissioner may impose any of the following sanctions,
- 33 singly or in combination, when the commissioner finds that a licensee
- 34 is guilty of any offense under subsection (a):
- 35 (1) Permanently revoke (as defined in subsection (h)) a licensee's
- 36 certificate.
- 37 (2) Revoke a licensee's certificate with a stipulation that the
- 38 licensee may not reapply for a certificate for a period fixed by the
- 39 commissioner. The fixed period may not exceed ten (10) years.
- 40 (3) Suspend a licensee's certificate.
- 41 (4) Censure a licensee.
- 42 (5) Issue a letter of reprimand.



C
O
P
Y

- 1 (6) Place a licensee on probation status and require the licensee
 2 to:
 3 (A) report regularly to the commissioner upon the matters that
 4 are the basis of probation;
 5 (B) limit practice to those areas prescribed by the
 6 commissioner; or
 7 (C) continue or renew professional education under a licensee
 8 approved by the commissioner until a satisfactory degree of
 9 skill has been attained in those areas that are the basis of the
 10 probation.
 11 The commissioner may withdraw the probation if the
 12 commissioner finds that the deficiency that required disciplinary
 13 action has been remedied.
 14 (g) The insurance commissioner shall notify the securities
 15 commissioner when an administrative action or civil proceeding is filed
 16 under this section and when an order is issued under this section
 17 denying, suspending, or revoking a license.
 18 (h) For purposes of subsection (f), "permanently revoke" means that
 19 the licensee's certificate shall never be reinstated and the licensee shall
 20 not be eligible to submit an application for a certificate to the
 21 department.
 22 SECTION 3. IC 27-1-15.5-24 IS ADDED TO THE INDIANA
 23 CODE AS A NEW SECTION TO READ AS FOLLOWS
 24 [EFFECTIVE JULY 1, 1998]: **Sec. 24. (a) As used in this section,**
 25 **"annuity contract" means an individual annuity contract.**
 26 **(b) As used in this section, "life insurance policy" means an**
 27 **insurance policy that:**
 28 **(1) provides the type of insurance described in Class 1(a) of**
 29 **IC 27-1-5-1; and**
 30 **(2) is written on an individual basis.**
 31 **(c) An agent may not, unless the agent has an insurable interest:**
 32 **(1) make application for;**
 33 **(2) procure;**
 34 **(3) negotiate; or**
 35 **(4) place;**
 36 **a life insurance policy or an annuity contract if the agent is**
 37 **designated as the beneficiary of the life insurance policy or annuity**
 38 **contract.**
 39 SECTION 4. IC 27-8-3-8 IS REPEALED [EFFECTIVE JULY 1,
 40 1998].

C
O
P
Y

COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, Corporations and Small Business, to which was referred House Bill 1205, 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 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 27-1-12-14, AS AMENDED BY P.L.253-1995, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec]. 14. (a) As used in this section, "premium" includes any deposit or contribution.

(b) As used in this section, "proceeds or avails" means death benefits, cash surrender and loan values, premiums waived, and dividends whether used in reduction of the premiums or in whatsoever manner used or applied, excepting only where the debtor has, subsequent to the issuance of the policy, actually elected to receive the dividends in cash.

(c) ~~Any person whose life is insured by any life insurance company may name as his payee or beneficiary any person or persons, natural or artificial, with or without an insurable interest, or his estate. A corporation, association, or society shall not issue any life insurance, policy of life insurance, policy, or annuity contract in which the payee or beneficiary named has no insurable interest. Any assignment of a policy or certificate to a person having no insurable interest, except as security for actual debt with remainder over to the beneficiary or to the estate of the insured, renders the policy or certificate void.~~

~~(d) Such~~ **A designation of a person as a payee or beneficiary under subsection (c)** at the option of the insured may be made either revocable or irrevocable, and the option elected shall be set out in and shall be made a part of the application for the certificate or policy of insurance. When the right of revocation has been reserved, the person whose life is insured, subject to any existing assignment of the policy, may at any time designate a new payee or beneficiary, with or without reserving the right of revocation, by filing written notice thereof at the home office of the corporation, accompanied by the policy for suitable indorsement thereon.

~~(d)~~ **(e)** Any person may effect an insurance on his life, for any definite period of time, or for the term of his natural life, to inure to the sole benefit of the spouse and children, or of either, or other relative or relatives dependent upon such person or any creditor or creditors as he may cause to be appointed and provided in the policy.

HB 1205—LS 6755/DI 55



C
O
P
Y

~~(e)~~ (f) Except as provided in subsection ~~(g)~~; (h), all policies of life insurance upon the life of any person, which name as beneficiary, or are bona fide assigned to, the spouse, children, or any relative dependent upon such person, or any creditor, shall be held, subject to change of beneficiary from time to time, if desired, for the benefit of such spouse, children, other relative or creditor, free and clear from all claims of the creditors of such insured person or of the person's spouse; and the proceeds or avails of all such life insurance shall be exempt from all liabilities from any debt or debts of such insured person or of the person's spouse.

~~(f)~~ (g) A premium paid for an individual life insurance policy that names as a beneficiary, or is legally assigned to, a spouse, child, or relative who is dependent upon the policy owner is not exempt from the claims of the creditors of the policy owner if the premium is paid:

- (1) not more than one (1) year before the date of the filing of a voluntary or involuntary bankruptcy petition by; or
- (2) to defraud the creditors of;

the policy owner.

~~(g)~~ (h) The insurer issuing the policy is discharged from all liability by payment of the proceeds and avails of the policy in accordance with the terms of the policy unless, before payment, the insurer has received at the insurer's home office, written notice by or on behalf of a creditor of the policy owner that specifies the amount claimed against the policy owner."

Page 4, line 14, after "not" insert ", **unless the agent has an insurable interest**".

Page 4, after line 21 begin a new paragraph and insert:

"SECTION 4. IC 27-8-3-8 IS REPEALED [EFFECTIVE JULY 1, 1998]."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to House Bill 1205 as introduced.)

FRY, Chair

Committee Vote: yeas 11, nays 0.



C
O
P
Y