

January 28, 1998

HOUSE BILL No. 1375

DIGEST OF HB 1375 (Updated January 27, 1998 3:04 pm - DI 97)

Citations Affected: IC 10-1; IC 27-1; IC 27-7; IC 27-8; IC 27-12; IC 27-13.

Synopsis: Various insurance matters. Makes the following changes in the insurance law: (1) Requires the filing of the annual report on the state police pension trust with the state board of accounts rather than the insurance commissioner. (2) Requires an insurance agent whose license is expired for more than 24 months to retake the licensure examination before the license may be renewed. (Current law provides a limit of 60 months.) (3) Authorizes the insurance commissioner to suspend, revoke, or refuse to renew the license of an insurance agent who pleads guilty or no contest to a felony or a misdemeanor involving moral turpitude. (4) Requires insurers to file quarterly statements, at no charge, with the department of insurance. (5) Requires the department of insurance, which is required to prepare an annual report concerning worker's compensation insurance rates based on information reported by insurers to the worker's compensation rating bureau, to make the
(Continued next page)

Effective: July 1, 1998.

Porter, Fry

January 13, 1998, read first time and referred to Committee on Insurance, Corporations and Small Business.
January 27, 1998, amended, reported — Do Pass.

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report available to the public upon request. (6) Amends the law on mine subsidence insurance to require an insurer to provide information on the availability of mine subsidence coverage only when proposing to issue a new policy. (7) Relieves an insurer of the duty to inform the policyholder of the availability of mine subsidence coverage when proposing to renew a policy already in force. (8) Provides that an insurer is not required to inform a prospective policyholder of the availability of mine subsidence coverage if the issuance of the policy will take place after June 30, 2000. (Under current law, an insurer is not required to inform a prospective policyholder of the availability of mine subsidence coverage if the issuance of the policy will take place after June 30, 1997.) (9) Authorizes the insurance commissioner to disapprove an accident and sickness policy, application, rider, endorsement, or premium rate filing under certain circumstances. (10) Makes a limited service health maintenance organization subject to the law on unfair methods of competition and unfair and deceptive acts and practices. (11) Provides that a health care provider for whom an insurer submits proof of financial responsibility and payment of the surcharge to the department of insurance in an untimely manner may be in compliance with patient compensation fund requirements if certain conditions are met by the insurer.

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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.

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HOUSE BILL No. 1375

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 10-1-2-2, AS AMENDED BY P.L.40-1997,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 1998]: Sec. 2. (a) Authority is granted to the department to
4 establish and operate an actuarially sound pension plan governed by a
5 pension trust and to make the necessary annual contribution in order to
6 prevent any deterioration in the actuarial status of the trust fund.
7 (b) Contributions shall be made to the trust fund by the department
8 and by each employee beneficiary through authorized monthly
9 deductions from wages.
10 (c) The trust fund may not be commingled with any other funds and
11 shall be invested only in accordance with Indiana laws for the
12 investment of trust funds, together with such other investments as are
13 specifically designated in the pension trust. Subject to the terms of the
14 pension trust, the trustee, with the approval of the Department and the
15 Pension Advisory Board, may establish investment guidelines and

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1 limits on all types of investments (including, but not limited to, stocks
 2 and bonds) and take other action necessary to fulfill its duty as a
 3 fiduciary for the trust fund. However, the trustee shall invest the trust
 4 fund assets with the same care, skill, prudence, and diligence that a
 5 prudent person acting in a like capacity and familiar with such matters
 6 would use in the conduct of an enterprise of a like character with like
 7 aims. The trustee shall also diversify such investments in accordance
 8 with prudent investment standards. The investment of trust funds is
 9 subject to section 2.5 of this chapter.

10 (d) The trustee shall receive and hold as trustee for the uses and
 11 purposes set forth in the pension trust any and all funds paid by the
 12 department, the employee beneficiaries, or by any other person or
 13 persons.

14 (e) The trustee shall engage pension consultants to supervise and
 15 assist in the technical operation of the pension plan in order that there
 16 may be no deterioration in the actuarial status of the plan.

17 (f) Before October 1 of each year, the trustee, with the aid of the
 18 pension consultants, shall prepare and file a report with the department
 19 and the ~~insurance commissioner~~ **state board of accounts**. The report
 20 must include the following with respect to the fiscal year ending on the
 21 preceding June 30:

22 SCHEDULE I. Receipts and disbursements.

23 SCHEDULE II. Assets of the pension trust, listing investments as
 24 to book value and current market value at the end of the fiscal
 25 year.

26 SCHEDULE III. List of terminations, showing cause and amount
 27 of refund.

28 SCHEDULE IV. The application of actuarially computed "reserve
 29 factors" to the payroll data, properly classified for the purpose of
 30 computing the reserve liability of the trust fund as of the end of
 31 the fiscal year.

32 SCHEDULE V. The application of actuarially computed "current
 33 liability factors" to the payroll data, properly classified for the
 34 purpose of computing the liability of the trust fund for the end of
 35 the fiscal year.

36 SCHEDULE VI. An actuarial computation of the pension liability
 37 for all employees retired before the close of the fiscal year.

38 (g) The minimum annual contribution by the department must be of
 39 sufficient amount, as determined by the pension consultants, to prevent
 40 any deterioration in the actuarial status of the pension plan during that
 41 year. If the department fails to make the minimum contribution for five
 42 (5) successive years, the pension trust terminates and the trust fund



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1 shall be liquidated.

2 (h) In the event of liquidation, all expenses of the pension trust shall
3 be paid, adequate provision shall be made for continuing pension
4 payments to retired persons, and each employee beneficiary shall
5 receive the net amount paid into the trust fund from wages. Any
6 remaining sum shall be equitably divided among employee
7 beneficiaries in proportion to the net amount paid from their wages into
8 the trust fund.

9 SECTION 2. IC 27-1-3-15, AS AMENDED BY P.L.116-1994,
10 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 1998]: Sec. 15. (a) **Except as provided in subsection (g)**, the
12 commissioner shall collect the following fees when the documents
13 described in this subsection are delivered to the commissioner for
14 filing:

Document	Fee
Articles of incorporation	\$ 350
Amendment of articles of incorporation	\$ 10
Filing of annual statement and consolidated statement	\$ 100
Annual renewal of company license fee	\$ 50
Appointment of commissioner for service of process	\$ 10
Withdrawal of certificate of authority	\$ 25
Certified statement of condition	\$ 5
Any other document required to be filed by this article	\$ 25

30 (b) The commissioner shall collect a fee of ten dollars (\$10) each
31 time process is served on the commissioner under this title.

32 (c) The commissioner shall collect the following fees for copying
33 and certifying the copy of any filed document relating to a domestic or
34 foreign corporation:

Per page for copying	As determined by the commissioner but not to exceed actual cost
For the certificate	\$10

37 (d) Each domestic and foreign insurer shall remit annually to the
38 commissioner for deposit into the department of insurance fund
39 established by IC 27-1-3-28 three hundred fifty dollars (\$350) as an
40 internal audit fee. All assessment insurers, farm mutuals, fraternal
41 benefit societies, and health maintenance organizations shall remit to
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1 the commissioner for deposit into the department of insurance fund one
2 hundred dollars (\$100) annually as an internal audit fee.

3 (e) Beginning July 1, 1994, each insurer shall remit to the
4 commissioner for deposit into the department of insurance fund
5 established by IC 27-1-3-28 a fee of thirty-five dollars (\$35) for each
6 policy, rider, and endorsement filed with the state. However, each
7 policy, rider, and endorsement filed as part of a particular product
8 filing and associated with that product filing shall be considered to be
9 a single filing and subject only to one (1) thirty-five dollar (\$35) fee.

10 (f) The commissioner shall pay into the state general fund by the
11 end of each calendar month the amounts collected during that month
12 under subsections (a), (b), and (c). ~~of this section.~~

13 **(g) The commissioner may not collect fees for quarterly**
14 **statements filed under IC 27-1-20-33.**

15 SECTION 3. IC 27-1-15.5-3, AS AMENDED BY P.L. 185-1996,
16 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 1998]: Sec. 3. (a) A person may not act as or hold himself out
18 to be an insurance agent, surplus lines insurance agent, limited
19 insurance representative, or consultant unless he is duly licensed. An
20 insurance agent, surplus lines insurance agent, or limited insurance
21 representative may not make application for, procure, negotiate for, or
22 place for others any policies for any kinds of insurance as to which he
23 is not then qualified and duly licensed. An insurance agent and a
24 limited insurance representative may receive qualification for a license
25 in one (1) or more of the kinds of insurance defined in Class I, Class II,
26 and Class III of IC 27-1-5-1. A surplus lines insurance agent may
27 receive qualification for a license in one (1) or more of the kinds of
28 insurance defined in Class II and Class III of IC 27-1-5-1 from insurers
29 that are authorized to do business in one (1) or more states of the
30 United States of America but which insurers are not authorized to do
31 business in Indiana, whenever, after diligent effort, as determined to
32 the satisfaction of the insurance department, such licensee is unable to
33 procure the amount of insurance desired from insurers authorized and
34 licensed to transact business in Indiana. The commissioner may issue
35 a limited insurance representative's license to the following without
36 examination:

37 (1) a person who is a ticket-selling agent of a common carrier
38 who will act only with reference to the issuance of insurance on
39 personal effects carried as baggage, in connection with the
40 transportation provided by such common carrier;

41 (2) a person who will only negotiate or solicit limited travel
42 accident insurance in transportation terminals;



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- 1 (3) a person who will only negotiate or solicit insurance covered
 2 by IC 27-8-4;
- 3 (4) a person who will only negotiate or solicit insurance under
 4 Class II(j); or
- 5 (5) to any person who will negotiate or solicit a kind of insurance
 6 that the commissioner finds does not require an examination to
 7 demonstrate professional competency.
- 8 (b) A corporation or limited liability company may be licensed as
 9 an insurance agent, surplus lines insurance agent, or limited insurance
 10 representative. Every officer, director, stockholder, or employee of the
 11 corporation or limited liability company personally engaged in Indiana
 12 in soliciting or negotiating policies of insurance shall be registered with
 13 the commissioner as to its license, and each such member, officer,
 14 director, stockholder, or employee shall also qualify as an individual
 15 licensee. However, this section does not apply to a management
 16 association, partnership, or corporation whose operations do not entail
 17 the solicitation of insurance from the public.
- 18 (c) The commissioner may not grant, renew, continue or permit to
 19 continue any license if he finds that the license is being or will be used
 20 by the applicant or licensee for the purpose of writing controlled
 21 business. "Controlled business" means:
- 22 (1) insurance written on the interests of the licensee or those of
 23 his immediate family or of his employer; or
- 24 (2) insurance covering himself or members of his immediate
 25 family or a corporation, limited liability company, association,
 26 or partnership, or the officers, directors, substantial stockholders,
 27 partners, members, managers, employees of such a corporation,
 28 limited liability company, association, or partnership, of which
 29 he is or a member of his immediate family is an officer, director,
 30 substantial stockholder, partner, member, manager, associate, or
 31 employee.
- 32 However, this section does not apply to insurance written or interests
 33 insured in connection with or arising out of credit transactions. Such a
 34 license shall be deemed to have been or intended to be used for the
 35 purpose of writing controlled business, if the commissioner finds that
 36 during any twelve (12) month period the aggregate commissions earned
 37 from such controlled business has exceeded twenty-five percent (25%)
 38 of the aggregate commission earned on all business written by such
 39 applicant or licensee during the same period.
- 40 (d) An insurer, insurance agent, surplus lines insurance agent, or
 41 limited insurance representative may not pay any commission,
 42 brokerage, or other valuable consideration to any person for services as

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1 an insurance agent, surplus lines insurance agent, or limited insurance
 2 representative within Indiana, unless the person held, at the time the
 3 services were performed, a valid license for that kind of insurance as
 4 required by the laws of Indiana for such services. A person, other than
 5 a person duly licensed by the state of Indiana as an insurance agent,
 6 surplus lines insurance agent, or limited insurance representative, may
 7 not, at the time such services were performed, accept any such
 8 commission, brokerage, or other valuable consideration. However, any
 9 such person duly licensed under this chapter may:

10 (1) pay or assign his commissions or direct that his commissions
 11 be paid:

12 (A) to a partnership of which he is a member, an employee,
 13 or an agent; or

14 (B) to a corporation of which he is an officer, employee, or
 15 agent; or

16 (2) pay, pledge, assign, or grant a security interest in the person's
 17 commission to a lending institution as collateral for a loan if the
 18 payment, pledge, assignment, or grant of a security interest is
 19 not, directly or indirectly, in exchange for insurance services
 20 performed.

21 This section shall not prevent payment or receipt of renewal or other
 22 deferred commissions to or by any person entitled thereto under this
 23 section.

24 (e) The license shall state the name and resident address of the
 25 licensee, date of issue, the renewal or expiration date, the line or lines
 26 of insurance covered by the license, and such other information as the
 27 commissioner considers proper for inclusion in the license.

28 (f) All licenses issued under this chapter shall continue in force
 29 not longer than twenty-four (24) months. The insurance department
 30 shall establish procedures for the renewal of licenses. **A license may**
 31 **be renewed after it expires as follows:**

32 (1) If A person **who** applies for a **license** renewal of his license
 33 **not** more than twenty-four (24) months **but no more than sixty**
 34 ~~(60)~~ **months after it the person's license** expires ~~he~~ must:

35 pay a reinstatement fee of one hundred dollars (\$100) plus
 36 current fees; or

37 (A) **satisfy the requirements of IC 27-1-15.5-7.1(b); and**

38 (B) **pass to the department's satisfaction the laws portion**
 39 **of the examination required of an applicant under**
 40 **IC 27-1-15.5-4(g)(5) for the type of license for which the**
 41 **person seeks renewal.**

42 (2) If A person **who** applies for a **license** renewal of his license

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1 more than ~~sixty (60)~~ **twenty-four (24)** months after it expires ~~he~~
 2 must pass to the department's satisfaction the examination
 3 required of an applicant for the type of license for which the
 4 person seeks renewal.

5 All license renewals must be accompanied by payment of the renewal
 6 fee as provided in section 4(d) of this chapter.

7 (g) A license as an insurance agent, surplus lines insurance agent,
 8 or limited insurance representative may not be required of the
 9 following:

10 (1) Any regular salaried officer or employee of an insurance
 11 company, or of a licensed insurance agent, surplus lines
 12 insurance agent, or limited insurance representative if such
 13 officer or employee's duties and responsibilities do not include
 14 the negotiation or solicitation of insurance.

15 (2) Persons who secure and furnish information for the purpose
 16 of group or wholesale life insurance, or annuities, or group,
 17 blanket, or franchise health insurance, or for enrolling
 18 individuals under such plans or issuing certificates thereunder or
 19 otherwise assisting in administering such plans, where no
 20 commission is paid for such service.

21 (3) Employers or their officers or employees, or the trustees of
 22 any employee trust plan, to the extent that such employers,
 23 officers, employees, or trustees are engaged in the administration
 24 or operation of any program of employee benefits for their own
 25 employees or the employees of their subsidiaries or affiliates
 26 involving the use of insurance issued by a licensed insurance
 27 company, provided that such employers, officers, employees, or
 28 trustees are not in any manner compensated, directly or
 29 indirectly, by the insurance company issuing such insurance.

30 (h) An insurer shall require that a person who, on behalf of the
 31 insurer, makes any oral, written, or electronic communication with an
 32 individual regarding insurance coverage, rates, benefits, or policy
 33 terms, for the purpose of soliciting insurance shall be licensed under
 34 this chapter.

35 (i) A violation of subsection (h) is deemed an unfair method of
 36 competition and an unfair and deceptive act and practice in the
 37 business of insurance subject to the provisions of IC 27-4-1-4.

38 SECTION 4. IC 27-1-15.5-8, AS AMENDED BY
 39 P.L.253-1997(ss), SECTION 27, IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 8. (a) The
 41 commissioner may suspend, revoke, refuse to continue, renew, or issue
 42 any license issued under this chapter, or impose any of the disciplinary

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1 sanctions under subsection (f) if, after notice to the licensee and to the
 2 insurer represented and a hearing, the commissioner finds as to the
 3 licensee any one (1) or more of the following conditions:

- 4 (1) Any materially untrue statement in the license application.
 5 (2) Any cause for which issuance of the license could have been
 6 refused had it then existed and been known to the commissioner
 7 at the time of issuance.
 8 (3) Violation of or noncompliance with any insurance laws,
 9 violation of any provision of IC 28 concerning the sale of a life
 10 insurance policy or an annuity contract, or violation of any
 11 lawful rule, regulation, or order of the commissioner or of a
 12 commissioner of another state.
 13 (4) Obtaining or attempting to obtain any such license through
 14 misrepresentation or fraud.
 15 (5) Improperly withholding, misappropriating, or converting to
 16 the licensee's own use any money belonging to policyholders,
 17 insurers, beneficiaries, or others received in the course of the
 18 licensee's insurance business.
 19 (6) Misrepresentation of the terms of any actual or proposed
 20 insurance contract.
 21 (7) **A:**
 22 (A) conviction of; or
 23 (B) **plea of guilty, no contest, or nolo contendere to;**
 24 a felony or misdemeanor involving moral turpitude.
 25 (8) The licensee has been found guilty of any unfair trade
 26 practice or of fraud.
 27 (9) In the conduct of the licensee's affairs under the license, the
 28 licensee has used fraudulent, coercive, or dishonest practices, or
 29 has shown himself to be incompetent, untrustworthy, or
 30 financially irresponsible, or not performing in the best interests
 31 of the insuring public.
 32 (10) The licensee's license has been suspended or revoked in any
 33 other state, province, district, or territory.
 34 (11) The licensee has forged another's name to an application for
 35 insurance.
 36 (12) An applicant has been found to have been cheating on an
 37 examination for an insurance license.
 38 (13) The applicant or licensee is on the most recent tax warrant
 39 list supplied to the commissioner by the department of state
 40 revenue.
 41 (14) The licensee has failed to satisfy the continuing education
 42 requirements under section 7.1 of this chapter.



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1 (b) The commissioner shall refuse to:

2 (1) issue a license; or

3 (2) renew a license issued;

4 under this chapter to any person who is the subject of an order issued
5 by a court under IC 31-14-12-7 or IC 31-16-12-10 (or
6 IC 31-1-11.5-13(m) or IC 31-6-6.1-16(m) before their repeal).

7 (c) In the event that the action by the commissioner is to not renew
8 or to deny an application for a license, the commissioner shall notify
9 the applicant or licensee and advise, in writing, the applicant or
10 licensee of the reasons for the denial or nonrenewal of the applicant's
11 or licensee's license. Not later than sixty (60) days after receiving a
12 notice from the commissioner under this subsection, the applicant or
13 licensee may make written demand upon the commissioner for a
14 hearing to determine the reasonableness of the commissioner's action.
15 Such hearing shall be held within thirty (30) days from the date of
16 receipt of the written demand of the applicant.

17 (d) The license of a corporation may be suspended, revoked, or
18 refused if the commissioner finds, after hearing, that an individual
19 licensee's violation was known or should have been known by one (1)
20 or more of the officers or managers acting on behalf of the corporation
21 and such violation was not reported to the insurance department nor
22 corrective action taken in relation to the violation.

23 (e) In addition to or in lieu of any applicable denial, suspension,
24 or revocation of a license, any person violating this chapter may, after
25 hearing, be subject to a civil penalty of not less than fifty dollars (\$50)
26 nor more than ten thousand dollars (\$10,000). Such a penalty may be
27 enforced in the same manner as civil judgments.

28 (f) The commissioner may impose any of the following sanctions,
29 singly or in combination, when the commissioner finds that a licensee
30 is guilty of any offense under subsection (a):

31 (1) Permanently revoke (as defined in subsection (h)) a licensee's
32 certificate.

33 (2) Revoke a licensee's certificate with a stipulation that the
34 licensee may not reapply for a certificate for a period fixed by
35 the commissioner. The fixed period may not exceed ten (10)
36 years.

37 (3) Suspend a licensee's certificate.

38 (4) Censure a licensee.

39 (5) Issue a letter of reprimand.

40 (6) Place a licensee on probation status and require the licensee
41 to:

42 (A) report regularly to the commissioner upon the matters

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- 1 that are the basis of probation;
- 2 (B) limit practice to those areas prescribed by the
- 3 commissioner; or
- 4 (C) continue or renew professional education under a
- 5 licensee approved by the commissioner until a satisfactory
- 6 degree of skill has been attained in those areas that are the
- 7 basis of the probation.

8 The commissioner may withdraw the probation if the
 9 commissioner finds that the deficiency that required disciplinary
 10 action has been remedied.

11 (g) The insurance commissioner shall notify the securities
 12 commissioner when an administrative action or civil proceeding is filed
 13 under this section and when an order is issued under this section
 14 denying, suspending, or revoking a license.

15 (h) For purposes of subsection (f), "permanently revoke" means
 16 that the licensee's certificate shall never be reinstated and the licensee
 17 shall not be eligible to submit an application for a certificate to the
 18 department.

19 SECTION 5. IC 27-1-20-33, AS AMENDED BY P.L.251-1995,
 20 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 1998]: Sec. 33. (a) As used in this section, "insurer" refers to
 22 each:

- 23 (1) domestic company;
- 24 (2) foreign company; and
- 25 (3) alien company;

26 that is authorized to transact business in Indiana.

27 (b) As used in this section, "NAIC" means the National
 28 Association of Insurance Commissioners.

29 (c) On or before March 1 of each year, an insurer shall file with
 30 the National Association of Insurance Commissioners **and with the**
 31 **department** a copy of the insurer's annual statement convention blank
 32 and additional filings prescribed by the commissioner for the preceding
 33 year. An insurer shall also file quarterly statements with the NAIC **and**
 34 **with the department** on or before May 15, August 15, and November
 35 15 of each year in a form prescribed by the commissioner. The
 36 information filed with the NAIC under this subsection:

- 37 (1) must be:
 - 38 (A) in the same format; and
 - 39 (B) of the same scope;
- 40 as is required by the commissioner under section 21 of this
- 41 chapter;
- 42 (2) to the extent required by the NAIC, must include the signed

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- 1 jurat page and the actuarial certification; and
 2 (3) must be filed on diskette in accordance with NAIC diskette
 3 filing specifications.
- 4 The commissioner may grant an exemption from the requirement of
 5 subdivision (3) to domestic companies that operate only in Indiana. If
 6 an insurer files any amendment or addendum to an insurer's annual
 7 statement convention blank or quarterly statement with the
 8 commissioner, the insurer shall also file a copy of the amendment or
 9 addendum with the NAIC. Annual and quarterly financial statements
 10 are deemed filed with the NAIC when delivered to the address
 11 designated by the NAIC for the filings regardless of whether the filing
 12 is accompanied by any applicable fee.
- 13 (d) The commissioner may, for good cause, grant an insurer an
 14 extension of time for the filing required by subsection (c).
- 15 (e) A foreign company that:
 16 (1) is domiciled in a state that has a law substantially similar to
 17 subsection (c); and
 18 (2) complies with that law;
 19 shall be considered to be in compliance with this section.
- 20 (f) In the absence of actual malice:
 21 (1) members of the NAIC;
 22 (2) duly authorized committees, subcommittees, and task forces
 23 of members of the NAIC;
 24 (3) delegates of members of the NAIC;
 25 (4) employees of the NAIC; and
 26 (5) other persons responsible for collecting, reviewing,
 27 analyzing, and disseminating information developed from the
 28 filing of annual statement convention blanks under this section;
 29 shall be considered to be acting as agents of the commissioner under
 30 the authority of this section and are not subject to civil liability for
 31 libel, slander, or any other cause of action by virtue of the collection,
 32 review, analysis, or dissemination of the data and information collected
 33 from the filings required by this section.
- 34 (g) The commissioner may suspend, revoke, or refuse to renew the
 35 certificate of authority of an insurer that fails to file the insurer's annual
 36 statement convention blank or quarterly statements with the NAIC **or**
 37 **with the department** within the time allowed by subsection (c) or (d).
- 38 SECTION 6. IC 27-7-2-20 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 20. (a) Every company
 40 shall adhere to manual rules, policy forms, a statistical plan, a
 41 classification system, and experience rating plan filed by the bureau
 42 and approved by the commissioner.

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1 (b) The commissioner shall designate the bureau to assist in
 2 gathering, compiling, and reporting relevant statistical information.
 3 Every company shall record and report its worker's compensation
 4 experience to the bureau according to the statistical plan approved by
 5 the commissioner. The report shall include any deviation from the filed
 6 recommended minimum premiums and rates, in total and by
 7 classification. The bureau shall annually submit data concerning these
 8 deviations to the department. Upon receipt, the department shall
 9 evaluate the data and prepare a report concerning the effect of
 10 competitive rating in Indiana. The department shall ~~submit fifty (50)~~
 11 ~~copies of~~ **make** the report **available** to the legislative services agency
 12 ~~by no not~~ later than ~~October 31, 1990; and no later than~~ October 31 of
 13 each year. ~~thereafter. The department shall notify each member of the~~
 14 ~~general assembly that the report is available from the legislative~~
 15 ~~services agency and shall briefly summarize the conclusions of the~~
 16 ~~report for each member.~~

17 (c) Every company shall adhere to the approved manual rules,
 18 policy forms, statistical plan, classification system, and experience
 19 rating plan in the recording and reporting of data to the bureau.

20 (d) Copies of all approved classifications, rules, and forms shall be
 21 provided to the worker's compensation board.

22 SECTION 7. IC 27-7-9-8, AS AMENDED BY P.L.116-1994,
 23 SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 1998]: Sec. 8. (a) Coverage for damage due to mine
 25 subsidence must be available as an additional form of coverage under
 26 any insurance policy providing the type of insurance described in Class
 27 3(a) of IC 27-1-5-1 to directly cover one (1) or more structures located
 28 in a county identified under section 6 of this chapter. The mine
 29 subsidence coverage must be available in an amount adequate to
 30 indemnify the insured to the extent of the loss in actual cash value of
 31 the covered structure due to mine subsidence, less a deductible equal
 32 to two percent (2%) of the insured value of the structure under the
 33 policy. However, the deductible must be no less than two hundred fifty
 34 dollars (\$250) and no more than five hundred dollars (\$500).

35 (b) An insurer proposing to issue ~~or renew~~ a policy providing the
 36 type of insurance described in Class 3(a) of IC 27-1-5-1 to cover one
 37 (1) or more structures located in a county identified under section 6 of
 38 this chapter shall inform the ~~policyholder or~~ prospective policyholder
 39 of the availability of mine subsidence coverage under this section. An
 40 insurer shall inform the ~~policyholder or~~ prospective policyholder of the
 41 availability of mine subsidence coverage under this subsection when
 42 a policy described in this subsection is issued. ~~and each time a policy~~



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1 ~~described in this subsection is renewed.~~ However, an insurer is not
 2 required to inform a ~~policyholder or~~ prospective policyholder of the
 3 availability of mine subsidence coverage if ~~(1) the issuance or renewal~~
 4 of the policy will take place after June 30, ~~1997; 2000.~~ ~~or (2) the policy~~
 5 ~~to be renewed already includes mine subsidence coverage.~~

6 (c) When an insurer informs a ~~policyholder or~~ prospective
 7 policyholder of the amount of the premium for the mine subsidence
 8 coverage that is available as an additional form of coverage under a
 9 policy as required by subsection (a), the premium for the mine
 10 subsidence coverage must be stated separately from the premium for
 11 the other coverage provided by the policy. The amount of the premium
 12 for mine subsidence coverage provided by an insurer under this section
 13 must be set according to the premium level set by the commissioner
 14 under section 10 of this chapter.

15 (d) Except as provided in subsection (f), an insurance policy
 16 providing the type of insurance described in Class 3(a) of IC 27-1-5-1
 17 to directly cover one (1) or more structures located in a county
 18 identified under section 6 of this chapter must include the mine
 19 subsidence coverage provided for under subsection (a) if the
 20 prospective insured (before issuance of the policy) or the insured
 21 (before renewal of the policy) indicates that the coverage is to be
 22 included in the policy.

23 (e) An insurer is not required to provide mine subsidence coverage
 24 under subsection (a) under any insurance policy in an amount
 25 exceeding the amount that is reimbursable from the fund under section
 26 9(a)(4) of this chapter.

27 (f) An insurer must decline to make the mine subsidence coverage
 28 provided for under subsection (a) available to cover a structure
 29 evidencing unrepaired mine subsidence damage, until necessary repairs
 30 are made. An insurer may also decline to make the mine subsidence
 31 coverage available under an insurance policy if the insurer has:

- 32 (1) declined to issue the policy;
- 33 (2) declined to renew the policy; or
- 34 (3) canceled all coverage under the policy for underwriting
 35 reasons unrelated to mine subsidence.

36 SECTION 8. IC 27-8-5-1 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. (a) The term "policy
 38 of accident and sickness insurance", as used in this chapter, includes
 39 any policy or contract covering one (1) or more of the kinds of
 40 insurance described in Class 1(b) or 2(a) of IC 27-1-5-1. Such policies
 41 may be on the individual basis under this section and sections 2
 42 through 9 of this chapter, on the group basis under this section and



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1 sections 16 through 19 of this chapter, on the franchise basis under this
 2 section and section 11 of this chapter, or on a blanket basis under
 3 section 15 of this chapter and (except as otherwise expressly provided
 4 in this chapter) shall be exclusively governed by this chapter.

5 (b) No policy of accident and sickness insurance may be issued or
 6 delivered to any person in this state, nor may any application, rider, or
 7 endorsement be used in connection with an accident and sickness
 8 insurance policy until a copy of the form of the policy and of the
 9 classification of risks and the premium rates, or, in the case of
 10 assessment companies, the estimated cost pertaining thereto, have been
 11 filed with the commissioner. This section is applicable also to
 12 assessment companies and fraternal benefit associations or societies.

13 (c) No policy of accident and sickness insurance may be issued,
 14 nor may any application, rider, or endorsement be used in connection
 15 with a policy of accident and sickness insurance, until the expiration of
 16 thirty (30) days after it has been filed under subsection (b), unless the
 17 commissioner gives his written approval to it before the expiration of
 18 the thirty (30) day period.

19 (d) The commissioner may, within thirty (30) days after the filing
 20 of any ~~form policy, application, rider, endorsement, or premium~~
 21 ~~rate filing~~ under subsection (b), disapprove the ~~form: filing:~~

22 (1) if, in the case of an individual accident and sickness ~~form;~~
 23 ~~filing~~, the benefits provided therein are unreasonable in relation
 24 to the premium charged; or

25 (2) if, in the case of an individual, blanket, or group accident and
 26 sickness ~~form: filing~~, it contains a provision or provisions that
 27 are unjust, unfair, inequitable, misleading, or deceptive or that
 28 encourage misrepresentation of the policy.

29 (e) If the commissioner notifies the insurer that ~~filed a form made~~
 30 ~~a filing~~ that the ~~form filing~~ does not comply with this section, it is
 31 unlawful thereafter for the insurer to issue ~~or use the form or use it~~
 32 ~~filing~~ in connection with any policy. In the notice given under this
 33 subsection, the commissioner shall specify the reasons for his
 34 disapproval and state that a hearing will be granted within twenty (20)
 35 days after request in writing by the insurer.

36 (f) The commissioner may at any time, after a hearing of which not
 37 less than twenty (20) days written notice has been given to the insurer,
 38 withdraw his approval of any ~~form filed filing~~ under subsection (b) on
 39 any of the grounds stated in this section. It is unlawful for the insurer
 40 to issue ~~the form~~ or use it ~~the filing~~ in connection with any policy after
 41 the effective date of the withdrawal of approval. The notice of any
 42 hearing called under this subsection must specify the matters to be



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1 considered at the hearing, and any decision affirming disapproval or
 2 directing withdrawal of approval under this section must be in writing
 3 and must specify the reasons for the decision.

4 (g) Any order or decision of the commissioner under this section
 5 is subject to review under IC 4-21.5.

6 SECTION 9. IC 27-12-3-5 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5. (a) **Except as**
 8 **provided in subsection (b)**, the receipt of proof of financial
 9 responsibility and the surcharge constitutes compliance with section 2
 10 of this chapter:

11 (1) as of the date on which they are received; or

12 (2) as of the effective date of the policy;

13 if this proof is filed with and the surcharge paid to the department of
 14 insurance not later than ninety (90) days after the effective date of the
 15 insurance policy. ~~If proof of financial responsibility and the payment~~
 16 ~~of the surcharge is not made within ninety (90) days after the policy~~
 17 ~~effective date, compliance occurs on the date when proof is filed and~~
 18 ~~the surcharge is paid.~~

19 (b) **If an insurer files proof of financial responsibility and**
 20 **makes payment of the surcharge to the department of insurance at**
 21 **least ninety-one (91) days but not more than one hundred eighty**
 22 **(180) days after the policy effective date, the health care provider**
 23 **is in compliance with section 2 of this chapter, if the insurer**
 24 **demonstrates to the satisfaction of the commissioner that the**
 25 **insurer:**

26 (1) received the premium and surcharge in a timely manner;
 27 and

28 (2) failed to transmit the surcharge in a timely manner.

29 (c) **If the commissioner accepts a filing as timely under**
 30 **subsection (b), the filing must be accompanied by a penalty amount**
 31 **as follows:**

32 (1) **Ten percent (10%) of the surcharge, if the proof of**
 33 **financial responsibility and surcharge are received by the**
 34 **commissioner at least ninety-one (91) days and not more**
 35 **than one hundred twenty (120) days after the original**
 36 **effective date of the policy.**

37 (2) **Twenty percent (20%) of the surcharge, if the proof of**
 38 **financial responsibility and surcharge are received by the**
 39 **commissioner at least one hundred twenty-one (121) days**
 40 **and not more than one hundred fifty (150) days after the**
 41 **original effective date of the policy.**

42 (3) **Fifty percent (50%) of the surcharge, if the proof of**

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1 **financial responsibility and surcharge are received by the**
 2 **commissioner at least one hundred fifty-one (151) days and**
 3 **not more than one hundred eighty (180) days after the**
 4 **original effective date of the policy.**
 5 SECTION 10. IC 27-13-29-1, AS AMENDED BY P.L.255-1995,
 6 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 1998]: Sec. 1. (a) Except as provided in subsection (b) or as
 8 otherwise provided in this article or IC 27:
 9 (1) IC 27; and
 10 (2) the provisions of IC 16 regulating hospitals;
 11 do not apply to any health maintenance organization or limited service
 12 health maintenance organization **(as defined in IC 27-13-34-4)** that is
 13 granted a certificate of authority under this article. However, this
 14 section does not apply to an insurer or a hospital that is licensed under
 15 Indiana law, except with respect to the health maintenance organization
 16 activities of the hospital or insurer that are authorized and regulated
 17 under this article.
 18 (b) Every:
 19 **(1) health maintenance organization; and**
 20 **(2) limited service health maintenance organization (as**
 21 **defined in IC 27-13-34-4);**
 22 authorized to do business in Indiana is subject to IC 27-4-1 relating to
 23 unfair methods of competition and unfair or deceptive acts or practices
 24 to the extent that IC 27-4-1 does not conflict with this article. If a
 25 provision in IC 27-4-1 conflicts with this article, this article governs
 26 and controls.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, Corporations and Small Business, to which was referred House Bill 1375, 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 6, line 35, delete "(A)".

Page 6, line 35, strike "pay a reinstatement fee of one hundred dollars (\$100)".

Page 6, line 36, strike "plus current fees; or", begin a new line double block indented and insert:

"(A) satisfy the requirements of IC 27-1-15.5-7.1(b); and".

Page 6, line 37, after "satisfaction" insert "**the laws portion of**".

Page 6, line 38, after "applicant" insert "**under IC 27-1-15.5-4(g)(5)**".

Page 12, line 9, strike "to the legislative services agency".

Page 12, line 10, delete "and, upon request, to the public".

Page 13, line 1, strike "or renewal".

Page 14, line 19, strike "form:" and insert "**filing:**".

Page 14, line 20, strike "form," and insert "**filing,**".

Page 14, line 24, strike "form," and insert "**filing,**".

Page 14, line 27, strike "filed a form" and insert "**made a filing**".

Page 14, line 28, strike "form" and insert "**filing**".

Page 14, line 29, after "issue" insert "**or use**".

Page 14, line 29, strike "form or use it" and insert "**filing**".

Page 14, line 35, strike "form filed" and insert "**filing**".

Page 14, line 37, strike "the form".

Page 14, line 37, strike "it" and insert "**the filing**".

Page 15, between lines 2 and 3, begin a new paragraph and insert:
"SECTION 9. IC 27-12-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5. (a) Except as provided in subsection (b), the receipt of proof of financial responsibility and the surcharge constitutes compliance with section 2 of this chapter:

(1) as of the date on which they are received; or

(2) as of the effective date of the policy;

if this proof is filed with and the surcharge paid to the department of insurance not later than ninety (90) days after the effective date of the insurance policy. **If proof of financial responsibility and the payment of the surcharge is not made within ninety (90) days after the policy effective date, compliance occurs on the date when proof is filed and**



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the surcharge is paid.

(b) If an insurer files proof of financial responsibility and makes payment of the surcharge to the department of insurance at least ninety-one (91) days but not more than one hundred eighty (180) days after the policy effective date, the health care provider is in compliance with section 2 of this chapter, if the insurer demonstrates to the satisfaction of the commissioner that the insurer:

- (1) received the premium and surcharge in a timely manner; and**
- (2) failed to transmit the surcharge in a timely manner.**

(c) If the commissioner accepts a filing as timely under subsection (b), the filing must be accompanied by a penalty amount as follows:

- (1) Ten percent (10%) of the surcharge, if the proof of financial responsibility and surcharge are received by the commissioner at least ninety-one (91) days and not more than one hundred twenty (120) days after the original effective date of the policy.**
- (2) Twenty percent (20%) of the surcharge, if the proof of financial responsibility and surcharge are received by the commissioner at least one hundred twenty-one (121) days and not more than one hundred fifty (150) days after the original effective date of the policy.**
- (3) Fifty percent (50%) of the surcharge, if the proof of financial responsibility and surcharge are received by the commissioner at least one hundred fifty-one (151) days and not more than one hundred eighty (180) days after the original effective date of the policy."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to House Bill 137 as introduced.)

FRY, Chair

Committee Vote: yeas 11, nays 0.



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