

Adopted	Rejected
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# COMMITTEE REPORT

<b>YES:</b>	<b>14</b>
<b>NO:</b>	<b>1</b>

## MR. SPEAKER:

*Your Committee on Insurance, Corporations and Small Business, to which was referred Senate Bill 372, 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:*

- 1           Page 1, between the enacting clause and line 1, begin a new
- 2           paragraph and insert:
- 3           "SECTION 1. IC 2-5-23-8, AS ADDED BY P.L.11-1995,
- 4           SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5           APRIL 1, 1998]: Sec. 8. Beginning May 1, 1997, the health policy
- 6           advisory committee is established. At the request of the chairman, the
- 7           health policy advisory committee shall provide information and
- 8           otherwise assist the commission to perform the duties of the
- 9           commission under this chapter. The health policy advisory committee
- 10          members are ex officio and may not vote. The health policy advisory
- 11          committee members shall be appointed from the general public and
- 12          must include one (1) individual who represents each of the following:
- 13               (1) The interests of public hospitals.
- 14               (2) The interests of community mental health centers.
- 15               (3) The interests of community health centers.
- 16               (4) The interests of the long term care industry.

- 1 (5) The interests of health care professionals licensed under
- 2 IC 25, but not licensed under IC 25-22.5.
- 3 (6) The interests of rural hospitals. An individual appointed
- 4 under this subdivision must be licensed under IC 25-22.5.
- 5 (7) The interests of health maintenance organizations (as defined
- 6 in IC 27-13-1-19).
- 7 (8) The interests of for-profit health care facilities (as defined in
- 8 ~~IC 27-8-10-1(g)~~; **IC 27-8-10-1(l)**).
- 9 (9) A statewide consumer organization.
- 10 (10) A statewide senior citizen organization.
- 11 (11) A statewide organization representing people with
- 12 disabilities.
- 13 (12) Organized labor.
- 14 (13) The interests of businesses that purchase health insurance
- 15 policies.
- 16 (14) The interests of businesses that provide employee welfare
- 17 benefit plans (as defined in 29 U.S.C. 1002) that are self-funded.
- 18 (15) A minority community.
- 19 (16) The uninsured. An individual appointed under this
- 20 subdivision must be and must have been chronically uninsured.
- 21 (17) An individual who is not associated with any organization,
- 22 business, or profession represented in this subsection other than
- 23 as a consumer.

24 SECTION 2. IC 10-1-2-2, AS AMENDED BY P.L.40-1997,  
 25 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 26 JULY 1, 1998]: Sec. 2. (a) Authority is granted to the department to  
 27 establish and operate an actuarially sound pension plan governed by a  
 28 pension trust and to make the necessary annual contribution in order to  
 29 prevent any deterioration in the actuarial status of the trust fund.

30 (b) Contributions shall be made to the trust fund by the department  
 31 and by each employee beneficiary through authorized monthly  
 32 deductions from wages.

33 (c) The trust fund may not be commingled with any other funds  
 34 and shall be invested only in accordance with Indiana laws for the  
 35 investment of trust funds, together with such other investments as are  
 36 specifically designated in the pension trust. Subject to the terms of the  
 37 pension trust, the trustee, with the approval of the Department and the  
 38 Pension Advisory Board, may establish investment guidelines and

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  
24 as 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  
29 "reserve factors" to the payroll data, properly classified for the  
30 purpose of computing the reserve liability of the trust fund as of  
31 the end of 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  
37 liability for all employees retired before the close of the fiscal  
38 year.

1 (g) The minimum annual contribution by the department must be  
 2 of sufficient amount, as determined by the pension consultants, to  
 3 prevent any deterioration in the actuarial status of the pension plan  
 4 during that year. If the department fails to make the minimum  
 5 contribution for five (5) successive years, the pension trust terminates  
 6 and the trust fund shall be liquidated.

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

14 SECTION 3. IC 22-3-5-6 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE APRIL 1, 1998]: Sec. 6. (a) The worker's  
 16 compensation supplemental administrative fund is established for the  
 17 purpose of carrying out the administrative purposes and functions of  
 18 the worker's compensation board. The fund consists of fees collected  
 19 from employers under sections 1 through 2 of this chapter. ~~and from~~  
 20 ~~fees collected under IC 22-3-2-14.5 and IC 22-3-7-34.5.~~ The fund shall  
 21 be administered by the worker's compensation board. ~~Money in the~~  
 22 ~~fund is annually appropriated to the worker's compensation board for~~  
 23 ~~its use in carrying out the administrative purposes and functions of the~~  
 24 ~~worker's compensation board.~~

25 (b) The money in the fund is not to be used to replace funds  
 26 otherwise appropriated to the board. Money in the fund at the end of  
 27 the state fiscal year does not revert to the state general fund.

28 SECTION 4. IC 22-3-6-1, AS AMENDED BY P.L.258-1997(ss),  
 29 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 30 APRIL 1, 1998]: Sec. 1. In IC 22-3-2 through IC 22-3-6, unless the  
 31 context otherwise requires:

32 (a) "Employer" includes the state and any political subdivision,  
 33 any municipal corporation within the state, any individual or the legal  
 34 representative of a deceased individual, firm, association, limited  
 35 liability company, or corporation or the receiver or trustee of the same,  
 36 using the services of another for pay. If the employer is insured, the  
 37 term includes the employer's insurer so far as applicable. However, the  
 38 inclusion of an employer's insurer within this definition does not allow

1 an employer's insurer to avoid payment for services rendered to an  
2 employee with the approval of the employer.

3 (b) "Employee" means every person, including a minor, in the  
4 service of another, under any contract of hire or apprenticeship, written  
5 or implied, except one whose employment is both casual and not in the  
6 usual course of the trade, business, occupation, or profession of the  
7 employer.

8 (1) An executive officer elected or appointed and empowered in  
9 accordance with the charter and bylaws of a corporation, other  
10 than a municipal corporation or governmental subdivision or a  
11 charitable, religious, educational, or other nonprofit corporation,  
12 is an employee of the corporation under IC 22-3-2 through  
13 IC 22-3-6.

14 (2) An executive officer of a municipal corporation or other  
15 governmental subdivision or of a charitable, religious,  
16 educational, or other nonprofit corporation may, notwithstanding  
17 any other provision of IC 22-3-2 through IC 22-3-6, be brought  
18 within the coverage of its insurance contract by the corporation  
19 by specifically including the executive officer in the contract of  
20 insurance. The election to bring the executive officer within the  
21 coverage shall continue for the period the contract of insurance  
22 is in effect, and during this period, the executive officers thus  
23 brought within the coverage of the insurance contract are  
24 employees of the corporation under IC 22-3-2 through IC 22-3-6.

25 (3) Any reference to an employee who has been injured, when  
26 the employee is dead, also includes the employee's legal  
27 representatives, dependents, and other persons to whom  
28 compensation may be payable.

29 (4) An owner of a sole proprietorship may elect to include the  
30 owner as an employee under IC 22-3-2 through IC 22-3-6 if the  
31 owner is actually engaged in the proprietorship business. If the  
32 owner makes this election, the owner must serve upon the  
33 owner's insurance carrier and upon the board written notice of  
34 the election. No owner of a sole proprietorship may be  
35 considered an employee under IC 22-3-2 through IC 22-3-6 until  
36 the notice has been received. ~~If the owner of a sole  
37 proprietorship is an independent contractor in the construction  
38 trades and does not make the election provided under this~~

- 1           ~~subdivision, the owner must obtain an affidavit of exemption~~  
 2           ~~under IC 22-3-2-14.5.~~
- 3           (5) A partner in a partnership may elect to include the partner as  
 4           an employee under IC 22-3-2 through IC 22-3-6 if the partner is  
 5           actually engaged in the partnership business. If a partner makes  
 6           this election, the partner must serve upon the partner's insurance  
 7           carrier and upon the board written notice of the election. No  
 8           partner may be considered an employee under IC 22-3-2 through  
 9           IC 22-3-6 until the notice has been received. ~~If a partner in a~~  
 10          ~~partnership is an independent contractor in the construction~~  
 11          ~~trades and does not make the election provided under this~~  
 12          ~~subdivision, the partner must obtain an affidavit of exemption~~  
 13          ~~under IC 22-3-2-14.5.~~
- 14          (6) Real estate professionals are not employees under IC 22-3-2  
 15          through IC 22-3-6 if:
- 16               (A) they are licensed real estate agents;
  - 17               (B) substantially all their remuneration is directly related to  
 18               sales volume and not the number of hours worked; and
  - 19               (C) they have written agreements with real estate brokers  
 20               stating that they are not to be treated as employees for tax  
 21               purposes.
- 22          ~~(7) A person is an independent contractor in the construction~~  
 23          ~~trades and not an employee under IC 22-3-2 through IC 22-3-6~~  
 24          ~~if the person is an independent contractor under the guidelines~~  
 25          ~~of the United States Internal Revenue Service.~~
- 26          ~~(8)~~ (7) An owner-operator that provides a motor vehicle and the  
 27          services of a driver under a written contract that is subject to  
 28          IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 1057, to a motor  
 29          carrier is not an employee of the motor carrier for purposes of  
 30          IC 22-3-2 through IC 22-3-6. The owner-operator may elect to be  
 31          covered and have the owner-operator's drivers covered under a  
 32          worker's compensation insurance policy or authorized  
 33          self-insurance that insures the motor carrier if the  
 34          owner-operator pays the premiums as requested by the motor  
 35          carrier. An election by an owner-operator under this subdivision  
 36          does not terminate the independent contractor status of the  
 37          owner-operator for any purpose other than the purpose of this  
 38          subdivision.

1           ~~(9)~~ (8) A member or manager in a limited liability company may  
2           elect to include the member or manager as an employee under  
3           IC 22-3-2 through IC 22-3-6 if the member or manager is  
4           actually engaged in the limited liability company business. If a  
5           member or manager makes this election, the member or manager  
6           must serve upon the member's or manager's insurance carrier and  
7           upon the board written notice of the election. A member or  
8           manager may not be considered an employee under IC 22-3-2  
9           through IC 22-3-6 until the notice has been received.

10          (c) "Minor" means an individual who has not reached seventeen  
11          (17) years of age.

12           (1) Unless otherwise provided in this subsection, a minor  
13           employee shall be considered as being of full age for all  
14           purposes of IC 22-3-2 through IC 22-3-6.

15           (2) If the employee is a minor who, at the time of the accident,  
16           is employed, required, suffered, or permitted to work in violation  
17           of IC 20-8.1-4-25, the amount of compensation and death  
18           benefits, as provided in IC 22-3-2 through IC 22-3-6, shall be  
19           double the amount which would otherwise be recoverable. The  
20           insurance carrier shall be liable on its policy for one-half (1/2) of  
21           the compensation or benefits that may be payable on account of  
22           the injury or death of the minor, and the employer shall be liable  
23           for the other one-half (1/2) of the compensation or benefits. If  
24           the employee is a minor who is not less than sixteen (16) years  
25           of age and who has not reached seventeen (17) years of age and  
26           who at the time of the accident is employed, suffered, or  
27           permitted to work at any occupation which is not prohibited by  
28           law, this subdivision does not apply.

29           (3) A minor employee who, at the time of the accident, is a  
30           student performing services for an employer as part of an  
31           approved program under IC 20-10.1-6-7 shall be considered a  
32           full-time employee for the purpose of computing compensation  
33           for permanent impairment under IC 22-3-3-10. The average  
34           weekly wages for such a student shall be calculated as provided  
35           in subsection (d)(4).

36           (4) The rights and remedies granted in this subsection to a minor  
37           under IC 22-3-2 through IC 22-3-6 on account of personal injury  
38           or death by accident shall exclude all rights and remedies of the

1 minor, the minor's parents, or the minor's personal  
2 representatives, dependents, or next of kin at common law,  
3 statutory or otherwise, on account of the injury or death. This  
4 subsection does not apply to minors who have reached seventeen  
5 (17) years of age.

6 (d) "Average weekly wages" means the earnings of the injured  
7 employee in the employment in which the employee was working at the  
8 time of the injury during the period of fifty-two (52) weeks  
9 immediately preceding the date of injury, divided by fifty-two (52),  
10 except as follows:

11 (1) If the injured employee lost seven (7) or more calendar days  
12 during this period, although not in the same week, then the  
13 earnings for the remainder of the fifty-two (52) weeks shall be  
14 divided by the number of weeks and parts thereof remaining  
15 after the time lost has been deducted.

16 (2) Where the employment prior to the injury extended over a  
17 period of less than fifty-two (52) weeks, the method of dividing  
18 the earnings during that period by the number of weeks and parts  
19 thereof during which the employee earned wages shall be  
20 followed, if results just and fair to both parties will be obtained.  
21 Where by reason of the shortness of the time during which the  
22 employee has been in the employment of the employee's  
23 employer or of the casual nature or terms of the employment it  
24 is impracticable to compute the average weekly wages, as  
25 defined in this subsection, regard shall be had to the average  
26 weekly amount which during the fifty-two (52) weeks previous  
27 to the injury was being earned by a person in the same grade  
28 employed at the same work by the same employer or, if there is  
29 no person so employed, by a person in the same grade employed  
30 in the same class of employment in the same district.

31 (3) Wherever allowances of any character made to an employee  
32 in lieu of wages are a specified part of the wage contract, they  
33 shall be deemed a part of his earnings.

34 (4) In computing the average weekly wages to be used in  
35 calculating an award for permanent impairment under  
36 IC 22-3-3-10 for a student employee in an approved training  
37 program under IC 20-10.1-6-7, the following formula shall be  
38 used. Calculate the product of:

1 (A) the student employee's hourly wage rate; multiplied by

2 (B) forty (40) hours.

3 The result obtained is the amount of the average weekly wages  
4 for the student employee.

5 (e) "Injury" and "personal injury" mean only injury by accident  
6 arising out of and in the course of the employment and do not include  
7 a disease in any form except as it results from the injury.

8 (f) "Billing review service" refers to a person or an entity that  
9 reviews a medical service provider's bills or statements for the purpose  
10 of determining pecuniary liability. The term includes an employer's  
11 worker's compensation insurance carrier if the insurance carrier  
12 performs such a review.

13 (g) "Billing review standard" means the data used by a billing  
14 review service to determine pecuniary liability.

15 (h) "Community" means a geographic service area based on zip  
16 code districts defined by the United States Postal Service according to  
17 the following groupings:

18 (1) The geographic service area served by zip codes with the first  
19 three (3) digits 463 and 464.

20 (2) The geographic service area served by zip codes with the first  
21 three (3) digits 465 and 466.

22 (3) The geographic service area served by zip codes with the first  
23 three (3) digits 467 and 468.

24 (4) The geographic service area served by zip codes with the first  
25 three (3) digits 469 and 479.

26 (5) The geographic service area served by zip codes with the first  
27 three (3) digits 460, 461 (except 46107), and 473.

28 (6) The geographic service area served by the 46107 zip code  
29 and zip codes with the first three (3) digits 462.

30 (7) The geographic service area served by zip codes with the first  
31 three (3) digits 470, 471, 472, 474, and 478.

32 (8) The geographic service area served by zip codes with the first  
33 three (3) digits 475, 476, and 477.

34 (i) "Medical service provider" refers to a person or an entity that  
35 provides medical services, treatment, or supplies to an employee under  
36 IC 22-3-2 through IC 22-3-6.

37 (j) "Pecuniary liability" means the responsibility of an employer  
38 or the employer's insurance carrier for the payment of the charges for

1 each specific service or product for human medical treatment provided  
 2 under IC 22-3-2 through IC 22-3-6 in a defined community, equal to or  
 3 less than the charges made by medical service providers at the eightieth  
 4 percentile in the same community for like services or products.

5 SECTION 5. IC 22-3-7-9, AS AMENDED BY P.L.258-1997(ss),  
 6 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 7 APRIL 1, 1998]: Sec. 9. (a) As used in this chapter, "employer"  
 8 includes the state and any political subdivision, any municipal  
 9 corporation within the state, any individual or the legal representative  
 10 of a deceased individual, firm, association, limited liability company,  
 11 or corporation or the receiver or trustee of the same, using the services  
 12 of another for pay. If the employer is insured, the term includes his  
 13 insurer so far as applicable. However, the inclusion of an employer's  
 14 insurer within this definition does not allow an employer's insurer to  
 15 avoid payment for services rendered to an employee with the approval  
 16 of the employer.

17 (b) As used in this chapter, "employee" means every person,  
 18 including a minor, in the service of another, under any contract of hire  
 19 or apprenticeship written or implied, except one whose employment is  
 20 both casual and not in the usual course of the trade, business,  
 21 occupation, or profession of the employer. For purposes of this chapter  
 22 the following apply:

23 (1) Any reference to an employee who has suffered disablement,  
 24 when the employee is dead, also includes his legal  
 25 representative, dependents, and other persons to whom  
 26 compensation may be payable.

27 (2) An owner of a sole proprietorship may elect to include  
 28 himself as an employee under this chapter if he is actually  
 29 engaged in the proprietorship business. If the owner makes this  
 30 election, he must serve upon his insurance carrier and upon the  
 31 board written notice of the election. No owner of a sole  
 32 proprietorship may be considered an employee under this  
 33 chapter unless the notice has been received. ~~If the owner of a  
 34 sole proprietorship is an independent contractor in the  
 35 construction trades and does not make the election provided  
 36 under this subdivision, the owner must obtain an affidavit of  
 37 exemption under IC 22-3-7-34.5.~~

38 (3) A partner in a partnership may elect to include himself as an

1 employee under this chapter if he is actually engaged in the  
 2 partnership business. If a partner makes this election, he must  
 3 serve upon his insurance carrier and upon the board written  
 4 notice of the election. No partner may be considered an  
 5 employee under this chapter until the notice has been received.  
 6 ~~If a partner in a partnership is an independent contractor in the~~  
 7 ~~construction trades and does not make the election provided~~  
 8 ~~under this subdivision, the partner must obtain an affidavit of~~  
 9 ~~exemption under IC 22-3-7-34.5.~~

10 (4) Real estate professionals are not employees under this  
 11 chapter if:

12 (A) they are licensed real estate agents;

13 (B) substantially all their remuneration is directly related to  
 14 sales volume and not the number of hours worked; and

15 (C) they have written agreements with real estate brokers  
 16 stating that they are not to be treated as employees for tax  
 17 purposes.

18 ~~(5) A person is an independent contractor in the construction~~  
 19 ~~trades and not an employee under this chapter if the person is an~~  
 20 ~~independent contractor under the guidelines of the United States~~  
 21 ~~Internal Revenue Service.~~

22 ~~(6)~~ (5) An owner-operator that provides a motor vehicle and the  
 23 services of a driver under a written contract that is subject to  
 24 IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 1057, to a motor  
 25 carrier is not an employee of the motor carrier for purposes of  
 26 this chapter. The owner-operator may elect to be covered and  
 27 have the owner-operator's drivers covered under a worker's  
 28 compensation insurance policy or authorized self-insurance that  
 29 insures the motor carrier if the owner-operator pays the  
 30 premiums as requested by the motor carrier. An election by an  
 31 owner-operator under this subdivision does not terminate the  
 32 independent contractor status of the owner-operator for any  
 33 purpose other than the purpose of this subdivision.

34 (c) As used in this chapter, "minor" means an individual who has  
 35 not reached seventeen (17) years of age. A minor employee shall be  
 36 considered as being of full age for all purposes of this chapter.  
 37 However, if the employee is a minor who, at the time of the last  
 38 exposure, is employed, required, suffered, or permitted to work in

1 violation of the child labor laws of this state, the amount of  
2 compensation and death benefits, as provided in this chapter, shall be  
3 double the amount which would otherwise be recoverable. The  
4 insurance carrier shall be liable on its policy for one-half (1/2) of the  
5 compensation or benefits that may be payable on account of the  
6 disability or death of the minor, and the employer shall be wholly liable  
7 for the other one-half (1/2) of the compensation or benefits. If the  
8 employee is a minor who is not less than sixteen (16) years of age and  
9 who has not reached seventeen (17) years of age, and who at the time  
10 of the last exposure is employed, suffered, or permitted to work at any  
11 occupation which is not prohibited by law, the provisions of this  
12 subsection prescribing double the amount otherwise recoverable do not  
13 apply. The rights and remedies granted to a minor under this chapter on  
14 account of disease shall exclude all rights and remedies of the minor,  
15 his parents, his personal representatives, dependents, or next of kin at  
16 common law, statutory or otherwise, on account of any disease.

17 (d) This chapter does not apply to casual laborers as defined in  
18 subsection (b), nor to farm or agricultural employees, nor to household  
19 employees, nor to railroad employees engaged in train service as  
20 engineers, firemen, conductors, brakemen, flagmen, baggagemen, or  
21 foremen in charge of yard engines and helpers assigned thereto, nor to  
22 their employers with respect to these employees. Also, this chapter  
23 does not apply to employees or their employers with respect to  
24 employments in which the laws of the United States provide for  
25 compensation or liability for injury to the health, disability, or death by  
26 reason of diseases suffered by these employees.

27 (e) As used in this chapter, "disablement" means the event of  
28 becoming disabled from earning full wages at the work in which the  
29 employee was engaged when last exposed to the hazards of the  
30 occupational disease by the employer from whom he claims  
31 compensation or equal wages in other suitable employment, and  
32 "disability" means the state of being so incapacitated.

33 (f) For the purposes of this chapter, no compensation shall be  
34 payable for or on account of any occupational diseases unless  
35 disablement, as defined in subsection (e), occurs within two (2) years  
36 after the last day of the last exposure to the hazards of the disease  
37 except for the following:

38 (1) In all cases of occupational diseases caused by the inhalation

1 of silica dust or coal dust, no compensation shall be payable  
2 unless disablement, as defined in subsection (e), occurs within  
3 three (3) years after the last day of the last exposure to the  
4 hazards of the disease.

5 (2) In all cases of occupational disease caused by the exposure  
6 to radiation, no compensation shall be payable unless  
7 disablement, as defined in subsection (e), occurs within two (2)  
8 years from the date on which the employee had knowledge of the  
9 nature of his occupational disease or, by exercise of reasonable  
10 diligence, should have known of the existence of such disease  
11 and its causal relationship to his employment.

12 (3) In all cases of occupational diseases caused by the inhalation  
13 of asbestos dust, no compensation shall be payable unless  
14 disablement, as defined in subsection (e), occurs within three (3)  
15 years after the last day of the last exposure to the hazards of the  
16 disease if the last day of the last exposure was before July 1,  
17 1985.

18 (4) In all cases of occupational disease caused by the inhalation  
19 of asbestos dust in which the last date of the last exposure occurs  
20 on or after July 1, 1985, and before July 1, 1988, no  
21 compensation shall be payable unless disablement, as defined in  
22 subsection (e), occurs within twenty (20) years after the last day  
23 of the last exposure.

24 (5) In all cases of occupational disease caused by the inhalation  
25 of asbestos dust in which the last date of the last exposure occurs  
26 on or after July 1, 1988, no compensation shall be payable unless  
27 disablement (as defined in subsection (e)) occurs within  
28 thirty-five (35) years after the last day of the last exposure.

29 (g) For the purposes of this chapter, no compensation shall be  
30 payable for or on account of death resulting from any occupational  
31 disease unless death occurs within two (2) years after the date of  
32 disablement. However, this subsection does not bar compensation for  
33 death:

34 (1) where death occurs during the pendency of a claim filed by  
35 an employee within two (2) years after the date of disablement  
36 and which claim has not resulted in a decision or has resulted in  
37 a decision which is in process of review or appeal; or

38 (2) where, by agreement filed or decision rendered, a

1           compensable period of disability has been fixed and death occurs  
2           within two (2) years after the end of such fixed period, but in no  
3           event later than three hundred (300) weeks after the date of  
4           disablement.

5           (h) As used in this chapter, "billing review service" refers to a  
6           person or an entity that reviews a medical service provider's bills or  
7           statements for the purpose of determining pecuniary liability. The term  
8           includes an employer's worker's compensation insurance carrier if the  
9           insurance carrier performs such a review.

10          (i) As used in this chapter, "billing review standard" means the  
11          data used by a billing review service to determine pecuniary liability.

12          (j) As used in this chapter, "community" means a geographic  
13          service area based on zip code districts defined by the United States  
14          Postal Service according to the following groupings:

15               (1) The geographic service area served by zip codes with the first  
16               three (3) digits 463 and 464.

17               (2) The geographic service area served by zip codes with the first  
18               three (3) digits 465 and 466.

19               (3) The geographic service area served by zip codes with the first  
20               three (3) digits 467 and 468.

21               (4) The geographic service area served by zip codes with the first  
22               three (3) digits 469 and 479.

23               (5) The geographic service area served by zip codes with the first  
24               three (3) digits 460, 461 (except 46107), and 473.

25               (6) The geographic service area served by the 46107 zip code  
26               and zip codes with the first three (3) digits 462.

27               (7) The geographic service area served by zip codes with the first  
28               three (3) digits 470, 471, 472, 474, and 478.

29               (8) The geographic service area served by zip codes with the first  
30               three (3) digits 475, 476, and 477.

31          (k) As used in this chapter, "medical service provider" refers to a  
32          person or an entity that provides medical services, treatment, or  
33          supplies to an employee under this chapter.

34          (l) As used in this chapter, "pecuniary liability" means the  
35          responsibility of an employer or the employer's insurance carrier for the  
36          payment of the charges for each specific service or product for human  
37          medical treatment provided under this chapter in a defined community,  
38          equal to or less than the charges made by medical service providers at

1 the eightieth percentile in the same community for like services or  
2 products.

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

9 Document	10 Fee
11 Articles of incorporation . . . . .	12 \$ 350
13 Amendment of articles of 14 incorporation . . . . .	15 \$ 10
16 Filing of annual statement 17 and consolidated statement . . . . .	18 \$ 100
19 Annual renewal of company license 20 fee . . . . .	21 \$ 50
22 Appointment of commissioner for 23 service of process . . . . .	24 \$ 10
25 Withdrawal of certificate 26 of authority . . . . .	27 \$ 25
28 Certified statement of condition . . . . .	29 \$ 5
30 Any other document required to be 31 filed by this article . . . . .	32 \$ 25

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

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

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

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

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

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

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

13 SECTION 7. IC 27-1-3-20 IS AMENDED TO READ AS  
 14 FOLLOWS [EFFECTIVE APRIL 1, 1998]: Sec. 20. (a) The  
 15 commissioner may issue a certificate of authority to any company when  
 16 it shall have complied with the requirements of the laws of this state so  
 17 as to entitle it to do business herein. The certificate shall be issued  
 18 under the seal of the department authorizing and empowering the  
 19 company to make the kind or kinds of insurance specified in the  
 20 certificate. No certificate of authority shall be issued until the  
 21 commissioner has found that:

22 ~~(a)~~ (1) the company has submitted a sound plan of operation; and  
 23 ~~(b)~~ (2) the general character and experience of the incorporators,  
 24 directors, and proposed officers is such as to assure reasonable  
 25 promise of a successful operation, based on the fact that such  
 26 persons are of known good character and that there is no good  
 27 reason to believe that they are affiliated, directly or indirectly,  
 28 through ownership, control, management, reinsurance  
 29 transactions, or other insurance or business relations with any  
 30 person or persons known to have been involved in the improper  
 31 manipulation of assets, accounts, or reinsurance.

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

35 (b) Every company possessing a certificate of authority shall notify  
 36 the commissioner of the election or appointment of every new director  
 37 or principal officer, within thirty (30) days thereafter. If in the  
 38 commissioner's opinion such a new principal officer or director does

1 not meet the standards set forth in this section, he shall request that the  
 2 company effect the removal of such persons from office. If such  
 3 removal is not accomplished as promptly as under the circumstances  
 4 and in the opinion of the commissioner is possible, then upon notice to  
 5 both the company and such principal officer or director and after  
 6 notice, hearing, and right of appeal pursuant to IC 4-21.5, and after a  
 7 finding that such person is incompetent or untrustworthy or of known  
 8 bad character, the commissioner may order the removal of such person  
 9 from office and may, unless such removal is promptly accomplished,  
 10 suspend the company's certificate of authority until there is compliance  
 11 with such order.

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

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

19 SECTION 8. IC 27-1-15.5-3, AS AMENDED BY P.L.185-1996,  
 20 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 21 JULY 1, 1998]: Sec. 3. (a) A person may not act as or hold himself out  
 22 to be an insurance agent, surplus lines insurance agent, limited  
 23 insurance representative, or consultant unless he is duly licensed. An  
 24 insurance agent, surplus lines insurance agent, or limited insurance  
 25 representative may not make application for, procure, negotiate for, or  
 26 place for others any policies for any kinds of insurance as to which he  
 27 is not then qualified and duly licensed. An insurance agent and a  
 28 limited insurance representative may receive qualification for a license  
 29 in one (1) or more of the kinds of insurance defined in Class I, Class II,  
 30 and Class III of IC 27-1-5-1. A surplus lines insurance agent may  
 31 receive qualification for a license in one (1) or more of the kinds of  
 32 insurance defined in Class II and Class III of IC 27-1-5-1 from insurers  
 33 that are authorized to do business in one (1) or more states of the  
 34 United States of America but which insurers are not authorized to do  
 35 business in Indiana, whenever, after diligent effort, as determined to  
 36 the satisfaction of the insurance department, such licensee is unable to  
 37 procure the amount of insurance desired from insurers authorized and  
 38 licensed to transact business in Indiana. The commissioner may issue

1 a limited insurance representative's license to the following without  
2 examination:

- 3 (1) a person who is a ticket-selling agent of a common carrier  
4 who will act only with reference to the issuance of insurance on  
5 personal effects carried as baggage, in connection with the  
6 transportation provided by such common carrier;  
7 (2) a person who will only negotiate or solicit limited travel  
8 accident insurance in transportation terminals;  
9 (3) a person who will only negotiate or solicit insurance covered  
10 by IC 27-8-4;  
11 (4) a person who will only negotiate or solicit insurance under  
12 Class II(j); or  
13 (5) to any person who will negotiate or solicit a kind of insurance  
14 that the commissioner finds does not require an examination to  
15 demonstrate professional competency.

16 (b) A corporation or limited liability company may be licensed as  
17 an insurance agent, surplus lines insurance agent, or limited insurance  
18 representative. Every officer, director, stockholder, or employee of the  
19 corporation or limited liability company personally engaged in Indiana  
20 in soliciting or negotiating policies of insurance shall be registered with  
21 the commissioner as to its license, and each such member, officer,  
22 director, stockholder, or employee shall also qualify as an individual  
23 licensee. However, this section does not apply to a management  
24 association, partnership, or corporation whose operations do not entail  
25 the solicitation of insurance from the public.

26 (c) The commissioner may not grant, renew, continue or permit to  
27 continue any license if he finds that the license is being or will be used  
28 by the applicant or licensee for the purpose of writing controlled  
29 business. "Controlled business" means:

- 30 (1) insurance written on the interests of the licensee or those of  
31 his immediate family or of his employer; or  
32 (2) insurance covering himself or members of his immediate  
33 family or a corporation, limited liability company, association,  
34 or partnership, or the officers, directors, substantial stockholders,  
35 partners, members, managers, employees of such a corporation,  
36 limited liability company, association, or partnership, of which  
37 he is or a member of his immediate family is an officer, director,  
38 substantial stockholder, partner, member, manager, associate, or

1           employee.  
 2           However, this section does not apply to insurance written or interests  
 3           insured in connection with or arising out of credit transactions. Such a  
 4           license shall be deemed to have been or intended to be used for the  
 5           purpose of writing controlled business, if the commissioner finds that  
 6           during any twelve (12) month period the aggregate commissions earned  
 7           from such controlled business has exceeded twenty-five percent (25%)  
 8           of the aggregate commission earned on all business written by such  
 9           applicant or licensee during the same period.

10           (d) An insurer, insurance agent, surplus lines insurance agent, or  
 11           limited insurance representative may not pay any commission,  
 12           brokerage, or other valuable consideration to any person for services as  
 13           an insurance agent, surplus lines insurance agent, or limited insurance  
 14           representative within Indiana, unless the person held, at the time the  
 15           services were performed, a valid license for that kind of insurance as  
 16           required by the laws of Indiana for such services. A person, other than  
 17           a person duly licensed by the state of Indiana as an insurance agent,  
 18           surplus lines insurance agent, or limited insurance representative, may  
 19           not, at the time such services were performed, accept any such  
 20           commission, brokerage, or other valuable consideration. However, any  
 21           such person duly licensed under this chapter may:

- 22           (1) pay or assign his commissions or direct that his commissions
- 23           be paid:
  - 24           (A) to a partnership of which he is a member, an employee,
  - 25           or an agent; or
  - 26           (B) to a corporation of which he is an officer, employee, or
  - 27           agent; or
- 28           (2) pay, pledge, assign, or grant a security interest in the person's
- 29           commission to a lending institution as collateral for a loan if the
- 30           payment, pledge, assignment, or grant of a security interest is
- 31           not, directly or indirectly, in exchange for insurance services
- 32           performed.

33           This section shall not prevent payment or receipt of renewal or other  
 34           deferred commissions to or by any person entitled thereto under this  
 35           section.

36           (e) The license shall state the name and resident address of the  
 37           licensee, date of issue, the renewal or expiration date, the line or lines  
 38           of insurance covered by the license, and such other information as the

1 commissioner considers proper for inclusion in the license.

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

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

9 pay a reinstatement fee of one hundred dollars ~~(\$100) plus~~  
10 ~~current fees; or~~

11 (A) **satisfy the requirements of IC 27-1-15.5-7.1(b); and**  
12 (B) pass to the department's satisfaction **the laws portion**  
13 **of** the examination required of an applicant **under**  
14 **IC 27-1-15.5-4(g)(5)** for the type of license for which the  
15 person seeks renewal.

16 (2) If A person **who** applies for a **license** renewal ~~of his license~~  
17 more than ~~sixty (60)~~ **twenty-four (24)** months after it expires ~~he~~  
18 must **successfully complete the education requirements of**  
19 **IC 27-1-15.5-4(e) and** pass to the department's satisfaction the  
20 examination required of an applicant for the type of license for  
21 which the person seeks renewal.

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

24 (g) A license as an insurance agent, surplus lines insurance agent,  
25 or limited insurance representative may not be required of the  
26 following:

27 (1) Any regular salaried officer or employee of an insurance  
28 company, or of a licensed insurance agent, surplus lines  
29 insurance agent, or limited insurance representative if such  
30 officer or employee's duties and responsibilities do not include  
31 the negotiation or solicitation of insurance.

32 (2) Persons who secure and furnish information for the purpose  
33 of group or wholesale life insurance, or annuities, or group,  
34 blanket, or franchise health insurance, or for enrolling  
35 individuals under such plans or issuing certificates thereunder or  
36 otherwise assisting in administering such plans, where no  
37 commission is paid for such service.

38 (3) Employers or their officers or employees, or the trustees of

1 any employee trust plan, to the extent that such employers,  
2 officers, employees, or trustees are engaged in the administration  
3 or operation of any program of employee benefits for their own  
4 employees or the employees of their subsidiaries or affiliates  
5 involving the use of insurance issued by a licensed insurance  
6 company, provided that such employers, officers, employees, or  
7 trustees are not in any manner compensated, directly or  
8 indirectly, by the insurance company issuing such insurance.

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

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

17 SECTION 9. IC 27-1-15.5-8, AS AMENDED BY  
18 P.L.253-1997(ss), SECTION 27, IS AMENDED TO READ AS  
19 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 8. (a) The  
20 commissioner may suspend, revoke, refuse to continue, renew, or issue  
21 any license issued under this chapter, or impose any of the disciplinary  
22 sanctions under subsection (f) if, after notice to the licensee and to the  
23 insurer represented and a hearing, the commissioner finds as to the  
24 licensee any one (1) or more of the following conditions:

- 25 (1) Any materially untrue statement in the license application.  
26 (2) Any cause for which issuance of the license could have been  
27 refused had it then existed and been known to the commissioner  
28 at the time of issuance.  
29 (3) Violation of or noncompliance with any insurance laws,  
30 violation of any provision of IC 28 concerning the sale of a life  
31 insurance policy or an annuity contract, or violation of any  
32 lawful rule, regulation, or order of the commissioner or of a  
33 commissioner of another state.  
34 (4) Obtaining or attempting to obtain any such license through  
35 misrepresentation or fraud.  
36 (5) Improperly withholding, misappropriating, or converting to  
37 the licensee's own use any money belonging to policyholders,  
38 insurers, beneficiaries, or others received in the course of the

- 1 licensee's insurance business.
- 2 (6) Misrepresentation of the terms of any actual or proposed
- 3 insurance contract.
- 4 (7) **A:**
- 5 (A) conviction of; or
- 6 (B) **plea of guilty, no contest, or nolo contendere to;**
- 7 a felony or misdemeanor involving moral turpitude.
- 8 (8) The licensee has been found guilty of any unfair trade
- 9 practice or of fraud.
- 10 (9) In the conduct of the licensee's affairs under the license, the
- 11 licensee has used fraudulent, coercive, or dishonest practices, or
- 12 has shown himself to be incompetent, untrustworthy, or
- 13 financially irresponsible, or not performing in the best interests
- 14 of the insuring public.
- 15 (10) The licensee's license has been suspended or revoked in any
- 16 other state, province, district, or territory.
- 17 (11) The licensee has forged another's name to an application for
- 18 insurance.
- 19 (12) An applicant has been found to have been cheating on an
- 20 examination for an insurance license.
- 21 (13) The applicant or licensee is on the most recent tax warrant
- 22 list supplied to the commissioner by the department of state
- 23 revenue.
- 24 (14) The licensee has failed to satisfy the continuing education
- 25 requirements under section 7.1 of this chapter.
- 26 (b) The commissioner shall refuse to:
- 27 (1) issue a license; or
- 28 (2) renew a license issued;
- 29 under this chapter to any person who is the subject of an order issued
- 30 by a court under IC 31-14-12-7 or IC 31-16-12-10 (or
- 31 IC 31-1-11.5-13(m) or IC 31-6-6.1-16(m) before their repeal).
- 32 (c) In the event that the action by the commissioner is to not renew
- 33 or to deny an application for a license, the commissioner shall notify
- 34 the applicant or licensee and advise, in writing, the applicant or
- 35 licensee of the reasons for the denial or nonrenewal of the applicant's
- 36 or licensee's license. Not later than sixty (60) days after receiving a
- 37 notice from the commissioner under this subsection, the applicant or
- 38 licensee may make written demand upon the commissioner for a

1 hearing to determine the reasonableness of the commissioner's action.  
2 Such hearing shall be held within thirty (30) days from the date of  
3 receipt of the written demand of the applicant.

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

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

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

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

20 (2) Revoke a licensee's certificate with a stipulation that the  
21 licensee may not reapply for a certificate for a period fixed by  
22 the commissioner. The fixed period may not exceed ten (10)  
23 years.

24 (3) Suspend a licensee's certificate.

25 (4) Censure a licensee.

26 (5) Issue a letter of reprimand.

27 (6) Place a licensee on probation status and require the licensee  
28 to:

29 (A) report regularly to the commissioner upon the matters  
30 that are the basis of probation;

31 (B) limit practice to those areas prescribed by the  
32 commissioner; or

33 (C) continue or renew professional education under a  
34 licensee approved by the commissioner until a satisfactory  
35 degree of skill has been attained in those areas that are the  
36 basis of the probation.

37 The commissioner may withdraw the probation if the  
38 commissioner finds that the deficiency that required disciplinary

1 action has been remedied.

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

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

10 SECTION 10. IC 27-1-20-33, AS AMENDED BY P.L.251-1995,  
11 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
12 JULY 1, 1998]: Sec. 33. (a) As used in this section, "insurer" refers to  
13 each:

- 14 (1) domestic company;
- 15 (2) foreign company; and
- 16 (3) alien company;

17 that is authorized to transact business in Indiana.

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

20 (c) On or before March 1 of each year, an insurer shall file with  
21 the National Association of Insurance Commissioners **and with the**  
22 **department** a copy of the insurer's annual statement convention blank  
23 and additional filings prescribed by the commissioner for the preceding  
24 year. An insurer shall also file quarterly statements with the NAIC **and**  
25 **with the department** on or before May 15, August 15, and November  
26 15 of each year in a form prescribed by the commissioner. The  
27 information filed with the NAIC under this subsection:

- 28 (1) must be:
  - 29 (A) in the same format; and
  - 30 (B) of the same scope;
- 31 as is required by the commissioner under section 21 of this  
32 chapter;
- 33 (2) to the extent required by the NAIC, must include the signed  
34 jurat page and the actuarial certification; and
- 35 (3) must be filed on diskette in accordance with NAIC diskette  
36 filing specifications.

37 The commissioner may grant an exemption from the requirement of  
38 subdivision (3) to domestic companies that operate only in Indiana. If

1 an insurer files any amendment or addendum to an insurer's annual  
 2 statement convention blank or quarterly statement with the  
 3 commissioner, the insurer shall also file a copy of the amendment or  
 4 addendum with the NAIC. Annual and quarterly financial statements  
 5 are deemed filed with the NAIC when delivered to the address  
 6 designated by the NAIC for the filings regardless of whether the filing  
 7 is accompanied by any applicable fee.

8 (d) The commissioner may, for good cause, grant an insurer an  
 9 extension of time for the filing required by subsection (c).

10 (e) A foreign company that:

11 (1) is domiciled in a state that has a law substantially similar to  
 12 subsection (c); and

13 (2) complies with that law;

14 shall be considered to be in compliance with this section.

15 (f) In the absence of actual malice:

16 (1) members of the NAIC;

17 (2) duly authorized committees, subcommittees, and task forces  
 18 of members of the NAIC;

19 (3) delegates of members of the NAIC;

20 (4) employees of the NAIC; and

21 (5) other persons responsible for collecting, reviewing,  
 22 analyzing, and disseminating information developed from the  
 23 filing of annual statement convention blanks under this section;

24 shall be considered to be acting as agents of the commissioner under  
 25 the authority of this section and are not subject to civil liability for  
 26 libel, slander, or any other cause of action by virtue of the collection,  
 27 review, analysis, or dissemination of the data and information collected  
 28 from the filings required by this section.

29 (g) The commissioner may suspend, revoke, or refuse to renew the  
 30 certificate of authority of an insurer that fails to file the insurer's annual  
 31 statement convention blank or quarterly statements with the NAIC **or**  
 32 **with the department** within the time allowed by subsection (c) or (d).

33 SECTION 11. IC 27-7-2-7 IS AMENDED TO READ AS  
 34 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 7. Stock companies and  
 35 nonstock companies shall be represented in the bureau management  
 36 and on all committees. **Participation in the bureau management and**  
 37 **its committees is restricted to those companies maintaining at least**  
 38 **five million dollars (\$5,000,000) in worker's compensation writings**

1 **in Indiana.** In case of a tie vote in any committee or governing body of  
2 said bureau, the insurance commissioner shall decide the matter.

3 SECTION 12. IC 27-7-2-8 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 8. The bureau shall  
5 admit to membership every company **holding a certificate of**  
6 **authority and** lawfully engaged in whole or in part in writing worker's  
7 compensation insurance in Indiana.

8 SECTION 13. IC 27-7-2-20 IS AMENDED TO READ AS  
9 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 20. (a) Every company  
10 shall adhere to manual rules, policy forms, a statistical plan, a  
11 classification system, and experience rating plan filed by the bureau  
12 and approved by the commissioner.

13 (b) The commissioner shall designate the bureau to assist in  
14 gathering, compiling, and reporting relevant statistical information.  
15 Every company shall record and report its worker's compensation  
16 experience to the bureau according to the statistical plan approved by  
17 the commissioner. The report shall include any deviation from the filed  
18 recommended minimum premiums and rates, in total and by  
19 classification. The bureau shall annually submit data concerning these  
20 deviations to the department. Upon receipt, the department shall  
21 evaluate the data and prepare a report concerning the effect of  
22 competitive rating in Indiana. The department shall ~~submit fifty (50)~~  
23 ~~copies of~~ **make** the report **available to the legislative services agency**  
24 ~~by no not~~ later than ~~October 31, 1990,~~ and ~~no later than~~ October 31 of  
25 each year. ~~thereafter. The department shall notify each member of the~~  
26 ~~general assembly that the report is available from the legislative~~  
27 ~~services agency and shall briefly summarize the conclusions of the~~  
28 ~~report for each member.~~

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

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

34 SECTION 14. IC 27-7-9-8, AS AMENDED BY P.L.116-1994,  
35 SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
36 JULY 1, 1998]: Sec. 8. (a) Coverage for damage due to mine  
37 subsidence must be available as an additional form of coverage under  
38 any insurance policy providing the type of insurance described in Class

1 3(a) of IC 27-1-5-1 to directly cover one (1) or more structures located  
 2 in a county identified under section 6 of this chapter. The mine  
 3 subsidence coverage must be available in an amount adequate to  
 4 indemnify the insured to the extent of the loss in actual cash value of  
 5 the covered structure due to mine subsidence, less a deductible equal  
 6 to two percent (2%) of the insured value of the structure under the  
 7 policy. However, the deductible must be no less than two hundred fifty  
 8 dollars (\$250) and no more than five hundred dollars (\$500).

9 (b) An insurer proposing to issue ~~or renew~~ a policy providing the  
 10 type of insurance described in Class 3(a) of IC 27-1-5-1 to cover one  
 11 (1) or more structures located in a county identified under section 6 of  
 12 this chapter shall inform the ~~policyholder~~ or prospective policyholder  
 13 of the availability of mine subsidence coverage under this section. An  
 14 insurer shall inform the ~~policyholder~~ or prospective policyholder of the  
 15 availability of mine subsidence coverage under this subsection when  
 16 a policy described in this subsection is issued. ~~and each time a policy~~  
 17 ~~described in this subsection is renewed.~~ However, an insurer is not  
 18 required to inform a ~~policyholder~~ or prospective policyholder of the  
 19 availability of mine subsidence coverage if ~~(1) the issuance or renewal~~  
 20 of the policy will take place after June 30, ~~1997; 2000.~~ ~~or (2) the policy~~  
 21 ~~to be renewed already includes mine subsidence coverage.~~

22 (c) When an insurer informs a ~~policyholder~~ or prospective  
 23 policyholder of the amount of the premium for the mine subsidence  
 24 coverage that is available as an additional form of coverage under a  
 25 policy as required by subsection (a), the premium for the mine  
 26 subsidence coverage must be stated separately from the premium for  
 27 the other coverage provided by the policy. The amount of the premium  
 28 for mine subsidence coverage provided by an insurer under this section  
 29 must be set according to the premium level set by the commissioner  
 30 under section 10 of this chapter.

31 (d) Except as provided in subsection (f), an insurance policy  
 32 providing the type of insurance described in Class 3(a) of IC 27-1-5-1  
 33 to directly cover one (1) or more structures located in a county  
 34 identified under section 6 of this chapter must include the mine  
 35 subsidence coverage provided for under subsection (a) if the  
 36 prospective insured (before issuance of the policy) or the insured  
 37 (before renewal of the policy) indicates that the coverage is to be  
 38 included in the policy.

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

5 (f) An insurer must decline to make the mine subsidence coverage  
 6 provided for under subsection (a) available to cover a structure  
 7 evidencing unrepaired mine subsidence damage, until necessary repairs  
 8 are made. An insurer may also decline to make the mine subsidence  
 9 coverage available under an insurance policy if the insurer has:

10 (1) declined to issue the policy;

11 (2) declined to renew the policy; or

12 (3) canceled all coverage under the policy for underwriting  
 13 reasons unrelated to mine subsidence.

14 SECTION 15. IC 27-8-5-1 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 1. (a) The term "policy  
 16 of accident and sickness insurance", as used in this chapter, includes  
 17 any policy or contract covering one (1) or more of the kinds of  
 18 insurance described in Class 1(b) or 2(a) of IC 27-1-5-1. Such policies  
 19 may be on the individual basis under this section and sections 2  
 20 through 9 of this chapter, on the group basis under this section and  
 21 sections 16 through 19 of this chapter, on the franchise basis under this  
 22 section and section 11 of this chapter, or on a blanket basis under  
 23 section 15 of this chapter and (except as otherwise expressly provided  
 24 in this chapter) shall be exclusively governed by this chapter.

25 (b) No policy of accident and sickness insurance may be issued or  
 26 delivered to any person in this state, nor may any application, rider, or  
 27 endorsement be used in connection with an accident and sickness  
 28 insurance policy until a copy of the form of the policy and of the  
 29 classification of risks and the premium rates, or, in the case of  
 30 assessment companies, the estimated cost pertaining thereto, have been  
 31 filed with the commissioner. This section is applicable also to  
 32 assessment companies and fraternal benefit associations or societies.

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

1 (d) The commissioner may, within thirty (30) days after the filing  
 2 of any **form policy, application, rider, or endorsement** under  
 3 subsection (b), disapprove the ~~form:~~ **filing:**

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

7 (2) if, in the case of an individual, blanket, or group accident and  
 8 sickness ~~form; filing~~, it contains a provision or provisions that  
 9 are unjust, unfair, inequitable, misleading, or deceptive or that  
 10 encourage misrepresentation of the policy.

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

18 (f) The commissioner may at any time, after a hearing of which not  
 19 less than twenty (20) days written notice has been given to the insurer,  
 20 withdraw his approval of any ~~form filed filing~~ under subsection (b) on  
 21 any of the grounds stated in this section. It is unlawful for the insurer  
 22 to issue ~~the form~~ or use ~~it the filing~~ in connection with any policy after  
 23 the effective date of the withdrawal of approval. The notice of any  
 24 hearing called under this subsection must specify the matters to be  
 25 considered at the hearing, and any decision affirming disapproval or  
 26 directing withdrawal of approval under this section must be in writing  
 27 and must specify the reasons for the decision.

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

30 SECTION 16. IC 27-8-5-3, AS AMENDED BY P.L.93-1995,  
 31 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 32 APRIL 1, 1998]: Sec. 3. (a) Except as provided in subsection (c), each  
 33 policy delivered or issued for delivery to any person in this state shall  
 34 contain the provisions specified in this subsection in the words in  
 35 which the same appear in this section. However, the insurer may, at its  
 36 option, substitute for one (1) or more of the provisions corresponding  
 37 provisions of different wording approved by the commissioner that are  
 38 in each instance no less favorable in any respect to the insured or the

1 beneficiary. The provisions shall be preceded individually by the  
2 caption appearing in this subsection or, at the option of the insurer, by  
3 appropriate individual or group captions or subcaptions as the  
4 commissioner may approve.

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

11 (2) A provision as follows: TIME LIMIT ON CERTAIN  
12 DEFENSES: (A) After two (2) years from the date of issue of this  
13 policy no misstatements, except fraudulent misstatements, made by the  
14 applicant in the application for such policy shall be used to void the  
15 policy or to deny a claim for loss incurred or disability (as defined in  
16 the policy) commencing after the expiration of such two (2) year  
17 period.

18 The foregoing policy provision shall not be so construed as to  
19 affect any legal requirement for avoidance of a policy of denial of a  
20 claim during such initial two (2) year period, nor to limit the  
21 application of subsection (b), (1), (2), (3), (4), and (5) in the event of  
22 misstatement with respect to age or occupation or other insurance.

23 A policy which the insured has the right to continue in force  
24 subject to its terms by the timely payment of premium:

- 25 (1) until at least age fifty (50); or
- 26 (2) in the case of a policy issued after forty-four (44) years of  
27 age, for at least five (5) years from its date of issue;

28 may contain in lieu of the foregoing the following provision (from  
29 which the clause in parentheses may be omitted at the insurer's option)  
30 under the caption "INCONTESTABLE": After this policy has been in  
31 force for a period of two (2) years during the lifetime of the insured  
32 (excluding any period during which the insured is disabled), it shall  
33 become incontestable as to the statements contained in the application.

34 (B) No claim for loss incurred or disability (as defined in the  
35 policy) commencing after two (2) years from the date of issue of this  
36 policy shall be reduced or denied on the ground that a disease or  
37 physical condition, not excluded from coverage by name or specific  
38 description effective on the date of loss, had existed prior to the

1 effective date of coverage of this policy.

2 (3) A provision as follows: GRACE PERIOD: A grace period of  
3 (insert a number not less than "7" for weekly premium policies, "10"  
4 for monthly premium policies and "31" for all other policies) days will  
5 be granted for the payment of each premium falling due after the first  
6 premium, during which grace period the policy shall continue in force.

7 A policy in which the insurer reserves the right to refuse renewal  
8 shall have, at the beginning of the above provision: "Unless not less  
9 than thirty (30) days prior to the premium due date the insurer has  
10 delivered to the insured or has mailed to the insured's last address as  
11 shown by the records of the insurer written notice of its intention not  
12 to renew this policy beyond the period for which the premium has been  
13 accepted."

14 Each policy in which the insurer reserves the right to refuse  
15 renewal on an individual basis shall provide, in substance, in a  
16 provision of the policy, in an endorsement on the policy, or in a rider  
17 attached to the policy, that subject to the right to terminate the policy  
18 upon non-payment of premium when due, such right to refuse renewal  
19 shall not be exercised before the renewal date occurring on, or after and  
20 nearest, each anniversary, or in the case of lapse and reinstatement at  
21 the renewal date occurring on, or after and nearest, each anniversary of  
22 the last reinstatement, and that any refusal or renewal shall be without  
23 prejudice to any claim originating while the policy is in force. The  
24 preceding sentence shall not apply to accident insurance only policies.

25 (4) A provision as follows: REINSTATEMENT: If any renewal  
26 premium is not paid within the time granted the insured for payment,  
27 a subsequent acceptance of premium by the insurer or by any agent  
28 authorized by the insurer to accept such premium, without requiring in  
29 connection therewith an application for reinstatement, shall reinstate  
30 the policy. Provided, that if the insurer or such agent requires an  
31 application for reinstatement and issues a conditional receipt for the  
32 premium tendered, the policy will be reinstated upon approval of such  
33 application by the insurer or, lacking such approval, upon the forty-fifth  
34 day following the date of such conditional receipt unless the insurer has  
35 previously notified the insured in writing of its disapproval of such  
36 application. The reinstated policy shall cover only loss resulting from  
37 such accidental injury as may be sustained after the date of  
38 reinstatement and loss due to such sickness as may begin more than ten

1 (10) days after such date. In all other respects the insured and insurer  
 2 shall have the same rights as they had under the policy immediately  
 3 before the due date of the defaulted premium, subject to any provisions  
 4 endorsed hereon or attached hereto in connection with the  
 5 reinstatement. Any premium accepted in connection with a  
 6 reinstatement shall be applied to a period for which premium has not  
 7 been previously paid, but not to any period more than sixty (60) days  
 8 prior to the date of reinstatement.

9 The last sentence of the above provision may be omitted from any  
 10 policy which the insured has the right to continue in force subject to its  
 11 terms by the timely payment of premiums:

12 (1) until at least fifty (50) years of age; or

13 (2) in the case of a policy issued after forty-four (44) years of  
 14 age, for at least five (5) years from its date of issue.

15 (5) A provision as follows: NOTICE OF CLAIM: Written notice  
 16 of claim must be given to the insurer within twenty (20) days after the  
 17 occurrence or commencement of any loss covered by the policy, or as  
 18 soon thereafter as is reasonably possible. Notice given by or on behalf  
 19 of the insured or the beneficiary to the insurer at \_\_\_\_\_ (insert the  
 20 location of such office as the insurer may designate for the purpose), or  
 21 to any authorized agent of the insurer, with information sufficient to  
 22 identify the insured, shall be deemed notice to the insurer.

23 In a policy providing a loss-of-time benefit which may be payable  
 24 for at least two (2) years, an insurer may insert the following between  
 25 the first and second sentences of the above provision:

26 Subject to the qualifications set forth below, if the insured suffers  
 27 loss of time on account of disability for which indemnity may be  
 28 payable for at least two (2) years, the insured shall, at least once in  
 29 every six (6) months after having given notice of claim, give to the  
 30 insurer notice of continuance of said disability, except in the event of  
 31 legal incapacity. The period of six (6) months following any filing of  
 32 proof by the insured or any payment by the insurer on account of such  
 33 claim or any denial of liability in whole or in part by the insurer shall  
 34 be excluded in applying this provision. Delay in the giving of such  
 35 notice shall not impair the insurer's right to any indemnity which would  
 36 otherwise have accrued during the period of six (6) months preceding  
 37 the date on which such notice is actually given.

38 (6) A provision as follows: CLAIM FORMS: The insurer, upon

1 receipt of a notice of claim, will furnish to the claimant such forms as  
2 are usually furnished by it for filing proofs of loss. If such forms are not  
3 furnished within fifteen (15) days after the giving of such notice, the  
4 claimant shall be deemed to have complied with the requirements of  
5 this policy as to proof of loss upon submitting, within the time fixed in  
6 the policy for filing proofs of loss, written proof covering the  
7 occurrence, the character, and the extent of the loss for which claim is  
8 made.

9 (7) A provision as follows: PROOFS OF LOSS: Written proof of  
10 loss must be furnished to the insurer at its said office in case of claim  
11 for loss for which this policy provides any periodic payment contingent  
12 upon continuing loss within ninety (90) days after the termination of  
13 the period for which the insurer is liable and in case of claim for any  
14 other loss within ninety (90) days after the date of such loss. Failure to  
15 furnish such proof within the time required shall not invalidate nor  
16 reduce any claim if it was not reasonably possible to give proof within  
17 such time, provided such proof is furnished as soon as reasonably  
18 possible and in no event, except in the absence of legal capacity, later  
19 than one (1) year from the time proof is otherwise required.

20 (8) A provision as follows: TIME OF PAYMENT OF CLAIMS:  
21 Indemnities payable under this policy for any loss other than loss for  
22 which this policy provides any periodic payment will be paid  
23 immediately upon receipt of due written proof of such loss. Subject to  
24 due written proof of loss, all accrued indemnities for loss for which this  
25 policy provides periodic payment will be paid \_\_\_\_\_ (insert period  
26 for payment which must not be less frequently than monthly) and any  
27 balance remaining unpaid upon the termination of liability will be paid  
28 immediately upon receipt of due written proof.

29 (9) A provision as follows: PAYMENT OF CLAIMS: Indemnity  
30 for loss of life will be payable in accordance with the beneficiary  
31 designation and the provisions respecting such payment which may be  
32 prescribed herein and effective at the time of payment. If no such  
33 designation or provision is then effective, such indemnity shall be  
34 payable to the estate of the insured. Any other accrued indemnities  
35 unpaid at the insured's death may, at the option of the insurer, be paid  
36 either to such beneficiary or to such estate. All other indemnities will  
37 be payable to the insured.

38 The following provisions, or either of them, may be included with

1 the foregoing provision at the option of the insurer:

2 If any indemnity of this policy shall be payable to the estate of the  
 3 insured, or to an insured or beneficiary who is a minor or otherwise not  
 4 competent to give a valid release, the insurer may pay such indemnity,  
 5 up to an amount not exceeding \$ \_\_\_\_\_ (insert an amount which  
 6 shall not exceed \$1,000), to any relative by blood or connection by  
 7 marriage of the insured or beneficiary who is deemed by the insurer to  
 8 be equitably entitled thereto. Any payment made by the insurer in good  
 9 faith pursuant to this provision shall fully discharge the insurer to the  
 10 extent of such payment.

11 Subject to any written direction of the insured in the application  
 12 or otherwise all or a portion of any indemnities provided by this policy  
 13 on account of hospital, nursing, medical, or surgical services may, at  
 14 the insurer's option and unless the insured requests otherwise in writing  
 15 not later than the time of filing proofs of such loss, be paid directly to  
 16 the hospital or person rendering such services; but it is not required that  
 17 the service be rendered by a particular hospital or person.

18 For the purposes of this section a "minor" is a person under the age  
 19 of eighteen (18) years. A person eighteen (18) years of age or over is  
 20 competent, insofar as the person's age is concerned, to sign a valid  
 21 release.

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

28 (11) A provision as follows: **LEGAL ACTIONS:** No action at law  
 29 or in equity shall be brought to recover on this policy prior to the  
 30 expiration of sixty (60) days after written proof of loss has been  
 31 furnished in accordance with the requirements of this policy. No such  
 32 action shall be brought after the expiration of three (3) years after the  
 33 time written proof of loss is required to be furnished.

34 (12) A provision as follows: **CHANGE OF BENEFICIARY:**  
 35 Unless the insured makes an irrevocable designation of beneficiary, the  
 36 right to change of beneficiary is reserved to the insured and the consent  
 37 of the beneficiary or beneficiaries shall not be requisite to surrender or  
 38 assignment of this policy or to any change of beneficiary or

1 beneficiaries, or to any other changes in this policy.

2 The first clause of this provision, relating to the irrevocable  
3 designation of beneficiary, may be omitted at the insurer's option.

4 **(13) A provision as follows: GUARANTEED**  
5 **RENEWABILITY: In compliance with the federal Health**  
6 **Insurance Portability and Accountability Act of 1996**  
7 **(P.L.104-191), renewability is guaranteed.**

8 (b) Except as provided in subsection (c), no policy delivered or  
9 issued for delivery to any person in Indiana shall contain provisions  
10 respecting the matters set forth below unless the provisions are in the  
11 words in which the provisions appear in this section. However, the  
12 insurer may use, instead of any provision, a corresponding provision of  
13 different wording approved by the commissioner which is not less  
14 favorable in any respect to the insured or the beneficiary. Any  
15 substitute provision contained in the policy shall be preceded  
16 individually by the appropriate caption appearing in this subsection or,  
17 at the option of the insurer, by appropriate individual or group captions  
18 or subcaptions as the commissioner may approve.

19 (1) A provision as follows: CHANGE OF OCCUPATION: If the  
20 insured be injured or contract sickness after having changed the  
21 insured's occupation to one classified by the insurer as more hazardous  
22 than that stated in this policy or while doing for compensation anything  
23 pertaining to an occupation so classified, the insurer will pay only such  
24 portion of the indemnities provided in this policy as the premium paid  
25 would have purchased at the rates and within the limits fixed by the  
26 insurer for such more hazardous occupation. If the insured changes the  
27 insured's occupation to one classified by the insurer as less hazardous  
28 than that stated in this policy, the insurer, upon receipt of proof of such  
29 change of occupation, will reduce the premium rate accordingly, and  
30 will return the excess pro rata unearned premium from the date of  
31 change of occupation or from the policy anniversary date immediately  
32 preceding receipt of such proof, whichever is the more recent. In  
33 applying this provision, the classification of occupational risk and the  
34 premium rates shall be such as have been last filed by the insurer prior  
35 to the occurrence of the loss for which the insurer is liable or prior to  
36 date of proof of change in occupation with the state official having  
37 supervision of insurance in the state where the insured resided at the  
38 time this policy was issued; but if such filing was not required, then the

1 classification of occupational risk and the premium rates shall be those  
2 last made effective by the insurer in such state prior to the occurrence  
3 of the loss or prior to the date of proof of change in occupation.

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

8 (3) A provision as follows: OTHER INSURANCE IN THIS  
9 INSURER: If an accident or sickness or accident and sickness policy  
10 or policies previously issued by the insurer to the insured are in force  
11 concurrently herewith, making the aggregate indemnity for \_\_\_\_\_  
12 (insert type of coverage or coverages) in excess of \$ \_\_\_\_\_ (insert  
13 maximum limit of indemnity or indemnities) the excess insurance shall  
14 be void and all premiums paid for such excess shall be returned to the  
15 insured or to the insured's estate. Or, instead of that provision:  
16 Insurance effective at any one (1) time on the insured under a like  
17 policy or policies, in this insurer is limited to the one (1) such policy  
18 elected by the insured, the insured's beneficiary or the insured's estate,  
19 as the case may be, and the insurer will return all premiums paid for all  
20 other such policies.

21 (4) A provision as follows: INSURANCE WITH OTHER  
22 INSURER: If there is other valid coverage, not with this insurer,  
23 providing benefits for the same loss on a provision of service basis or  
24 on an expense incurred basis and of which this insurer has not been  
25 given written notice prior to the occurrence or commencement of loss,  
26 the only liability under any expense incurred coverage of this policy  
27 shall be for such proportion of the loss as the amount which would  
28 otherwise have been payable hereunder plus the total of the like  
29 amounts under all such other valid coverages for the same loss of  
30 which this insurer had notice bears to the total like amounts under all  
31 valid coverages for such loss, and for the return of such portion of the  
32 premiums paid as shall exceed the pro-rata portion of the amount so  
33 determined. For the purpose of applying this provision when other  
34 coverage is on a provision of service basis, the "like amount" of such  
35 other coverage shall be taken as the amount which the services  
36 rendered would have cost in the absence of such coverage.

37 If the foregoing policy provision is included in a policy which also  
38 contains the next following policy provision there shall be added to the

1 caption of the foregoing provision the phrase "EXPENSE INCURRED  
2 BENEFITS". The insurer may, at its option, include in this provision  
3 a definition of "other valid coverage," approved as to form by the  
4 commissioner, which definition shall be limited in subject matter to  
5 coverage provided by organizations subject to regulation by insurance  
6 law or by insurance authorities of this or any other state of the United  
7 States or any province of Canada, and by hospital or medical service  
8 organizations, and to any other coverage the inclusion of which may be  
9 approved by the commissioner. In the absence of such definition such  
10 term shall not include group insurance, automobile medical payments  
11 insurance, or coverage provided by hospital or medical service  
12 organizations or by union welfare plans or employer or employee  
13 benefit organizations. For the purpose of applying the foregoing policy  
14 provision with respect to any insured, any amount of benefit provided  
15 for such insured pursuant to any compulsory benefit statute (including  
16 any worker's compensation or employer's liability statute) whether  
17 provided by a governmental agency or otherwise shall in all cases be  
18 deemed to be "other valid coverage" of which the insurer has had  
19 notice. In applying the foregoing policy provision no third party  
20 liability coverage shall be included as "other valid coverage".

21 (5) A provision as follows: INSURANCE WITH OTHER  
22 INSURERS: If there is other valid coverage, not with this insurer,  
23 providing benefits for the same loss on other than an expense incurred  
24 basis and of which this insurer has not been given written notice prior  
25 to the occurrence or commencement of loss, the only liability for such  
26 benefits under this policy shall be for such proportion of the  
27 indemnities otherwise provided hereunder for such loss as the like  
28 indemnities of which the insurer had notice (including the indemnities  
29 under this policy) bear to the total amount of all like indemnities for  
30 such loss, and for the return of such portion of the premium paid as  
31 shall exceed the pro-rata portion for the indemnities thus determined.  
32 If the foregoing policy provision is included in a policy which also  
33 contains the next preceding policy provision, there shall be added to the  
34 caption of the foregoing provision the phrase "-OTHER BENEFITS."  
35 The insurer may, at its option, include in this provision a definition of  
36 "other valid coverage," approved as to form by the commissioner,  
37 which definition shall be limited in subject matter to coverage provided  
38 by organizations subject to regulation by insurance law or by insurance

1 authorities of this or any other state of the United States or any  
2 province of Canada, and to any other coverage to the inclusion of  
3 which may be approved by the commissioner. In the absence of such  
4 definition such term shall not include group insurance or benefits  
5 provided by union welfare plans or by employer or employee benefit  
6 organizations. For the purpose of applying the foregoing policy  
7 provision with respect to any insured, any amount of benefit provided  
8 for such insured pursuant to any compulsory benefit statute (including  
9 any worker's compensation or employer's liability statute) whether  
10 provided by a governmental agency or otherwise shall in all cases be  
11 deemed to be "other valid coverage" of which the insurer has had  
12 notice. In applying the foregoing policy provision no third party  
13 liability coverage shall be included as "other valid coverage".

14 (6) A provision as follows: **RELATION OF EARNINGS TO**  
15 **INSURANCE:** If the total monthly amount of loss of time benefits  
16 promised for the same loss under all valid loss of time coverage upon  
17 the insured, whether payable on a weekly or monthly basis, shall  
18 exceed the monthly earnings of the insured at the time disability  
19 commenced or the insured's average monthly earnings for the period of  
20 two (2) years immediately preceding a disability for which claim is  
21 made, whichever is the greater, the insurer will be liable only for such  
22 proportionate amount of such benefits under this policy as the amount  
23 of such monthly earnings or such average monthly earnings of the  
24 insured bears to the total amount of monthly benefits for the same loss  
25 under all such coverage upon the insured at the time such disability  
26 commences and for the return of such part of the premiums paid during  
27 such two (2) years as shall exceed the pro rata amount of the premiums  
28 for the benefits actually paid; but this shall not operate to reduce the  
29 total monthly amount of benefits payable under all such coverage upon  
30 the insured below the sum of two hundred dollars (\$200) or the sum of  
31 the monthly benefits specified in such coverages, whichever is the  
32 lesser, nor shall it operate to reduce benefits other than those payable  
33 for loss of time.

34 The foregoing policy provision may be inserted only in a policy  
35 which the insured has the right to continue in force subject to its terms  
36 by the timely payment of premiums:

- 37 (1) until at least fifty (50) years of age; or  
38 (2) in the case of a policy issued after forty-four (44) years of

1           age, for at least five (5) years from its date of issue.  
2           The insurer may, at its option, include in this provision a definition of  
3           "valid loss of time coverage", approved as to form by the  
4           commissioner, which definition shall be limited in subject matter to  
5           coverage provided by governmental agencies or by organizations  
6           subject to regulation by insurance law or by insurance authorities of  
7           this or any other state of the United States or any province of Canada,  
8           or to any other coverage the inclusion of which may be approved by the  
9           commissioner or any combination of such coverages. In the absence of  
10          such definition the term shall not include any coverage provided for the  
11          insured pursuant to any compulsory benefit statute (including any  
12          worker's compensation or employer's liability statute), or benefits  
13          provided by union welfare plans or by employer or employee benefit  
14          organizations.

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

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

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

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

33          (c) If any provision of this section is in whole or in part  
34          inapplicable to or inconsistent with the coverage provided by a  
35          particular form of policy the insurer, with the approval of the  
36          commissioner, shall omit from such policy any inapplicable provision  
37          or part of a provision, and shall modify any inconsistent provision or  
38          part of the provision in such manner as to make the provision as

1 contained in the policy consistent with the coverage provided by the  
2 policy.

3 (d) The provisions which are the subject of subsections (a) and (b),  
4 or any corresponding provisions which are used in lieu thereof in  
5 accordance with such subsections, shall be printed in the consecutive  
6 order of the provisions in such subsections or, at the option of the  
7 insurer, any such provision may appear as a unit in any part of the  
8 policy, with other provisions to which it may be logically related,  
9 provided the resulting policy shall not be in whole or in part  
10 unintelligible, uncertain, ambiguous, abstruse, or likely to mislead a  
11 person to whom the policy is offered, delivered, or issued.

12 (e) "Insured", as used in this chapter, shall not be construed as  
13 preventing a person other than the insured with a proper insurable  
14 interest from making application for and owning a policy covering the  
15 insured or from being entitled under such a policy to any indemnities,  
16 benefits, and rights provided therein.

17 (f)(1) Any policy of a foreign or alien insurer, when delivered or  
18 issued for delivery to any person in this state, may contain any  
19 provision which is not less favorable to the insured or the beneficiary  
20 than is provided in this chapter and which is prescribed or required by  
21 the law of the state under which the insurer is organized.

22 (f)(2) Any policy of a domestic insurer may, when issued for  
23 delivery in any other state or country, contain any provision permitted  
24 or required by the laws of such other state or country.

25 (g) The commissioner may make reasonable rules under IC 4-22-2  
26 concerning the procedure for the filing or submission of policies  
27 subject to this chapter as are necessary, proper, or advisable to the  
28 administration of this chapter. This provision shall not abridge any  
29 other authority granted the commissioner by law.

30 SECTION 17. IC 27-8-5-19, AS AMENDED BY P.L.185-1996,  
31 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
32 APRIL 1, 1998]: Sec. 19. (a) **As used in this chapter, "late enrollee"**  
33 **has the meaning set forth in 26 U.S.C. 9801(b)(3).**

34 (b) A policy of group accident and sickness insurance may not be  
35 issued to a group that has a legal situs in Indiana unless it contains in  
36 substance:

- 37 (1) the provisions described in subsection ~~(b)~~ (c); or  
38 (2) provisions that, in the opinion of the commissioner, are:

- 1 (A) more favorable to the persons insured; or  
 2 (B) at least as favorable to the persons insured and more  
 3 favorable to the policyholder;  
 4 than the provisions set forth in subsection ~~(b)~~ (c).

5 ~~(b)~~ (c) The provisions referred to in subsection ~~(a)(1)~~ (b)(1) are as  
 6 follows:

7 (1) A provision that the policyholder is entitled to a grace period  
 8 of thirty-one (31) days for the payment of any premium due  
 9 except the first, during which grace period the policy will  
 10 continue in force, unless the policyholder has given the insurer  
 11 written notice of discontinuance in advance of the date of  
 12 discontinuance and in accordance with the terms of the policy.  
 13 The policy may provide that the policyholder is liable to the  
 14 insurer for the payment of a pro rata premium for the time the  
 15 policy was in force during the grace period. A provision under  
 16 this subdivision may provide that the insurer is not obligated to  
 17 pay claims incurred during the grace period until the premium  
 18 due is received.

19 (2) A provision that the validity of the policy may not be  
 20 contested, except for nonpayment of premiums, after the policy  
 21 has been in force for two (2) years after its date of issue, and that  
 22 no statement made by a person covered under the policy relating  
 23 to the person's insurability may be used in contesting the validity  
 24 of the insurance with respect to which the statement was made,  
 25 unless:

- 26 (A) the insurance has not been in force for a period of two  
 27 (2) years or longer during the person's lifetime; or  
 28 (B) the statement is contained in a written instrument signed  
 29 by the insured person.

30 However, a provision under this subdivision may not preclude  
 31 the assertion at any time of defenses based upon a person's  
 32 ineligibility for coverage under the policy or based upon other  
 33 provisions in the policy.

34 (3) A provision that a copy of the application, if there is one, of  
 35 the policyholder must be attached to the policy when issued, that  
 36 all statements made by the policyholder or by the persons  
 37 insured are to be deemed representations and not warranties, and  
 38 that no statement made by any person insured may be used in

1 any contest unless a copy of the instrument containing the  
 2 statement is or has been furnished to the insured person or, in the  
 3 event of death or incapacity of the insured person, to the insured  
 4 person's beneficiary or personal representative.

5 (4) A provision setting forth the conditions, if any, under which  
 6 the insurer reserves the right to require a person eligible for  
 7 insurance to furnish evidence of individual insurability  
 8 satisfactory to the insurer as a condition to part or all of the  
 9 person's coverage.

10 (5) A provision specifying any additional exclusions or  
 11 limitations applicable under the policy with respect to a disease  
 12 or physical condition of a person that existed before the effective  
 13 date of the person's coverage under the policy and that is not  
 14 otherwise excluded from the person's coverage by name or  
 15 specific description effective on the date of the person's loss. An  
 16 exclusion or limitation that must be specified in a provision  
 17 under this subdivision:

18 (A) may apply only to a disease or physical condition for  
 19 which medical advice, **diagnosis, care,** or treatment was  
 20 received by the person, **or recommended to the person,**  
 21 during the ~~three hundred sixty-five (365) days~~ **six (6)**  
 22 **months** before the ~~effective enrollment~~ date of the person's  
 23 coverage; and

24 (B) may not apply to a loss incurred or disability beginning  
 25 after the earlier of:

26 (i) the end of a continuous period of ~~three hundred~~  
 27 ~~sixty-five (365) days;~~ **twelve (12) months** beginning  
 28 on or after the ~~effective enrollment~~ date of the person's  
 29 coverage; ~~during all of which the person received no~~  
 30 ~~medical advice or treatment in connection with the~~  
 31 ~~disease or physical condition;~~ or

32 (ii) the end of ~~the two (2) year~~ **a continuous period of**  
 33 **eighteen (18) months** beginning on the ~~effective~~  
 34 **enrollment** date of the person's coverage **if the person**  
 35 **is a late enrollee.**

36 (6) If premiums or benefits under the policy vary according to a  
 37 person's age, a provision specifying an equitable adjustment of:

38 (A) premiums;

- 1 (B) benefits; or  
2 (C) both premiums and benefits;  
3 to be made if the age of a covered person has been misstated. A  
4 provision under this subdivision must contain a clear statement  
5 of the method of adjustment to be used.
- 6 (7) A provision that the insurer will issue to the policyholder, for  
7 delivery to each person insured, a certificate setting forth a  
8 statement that:
- 9 (A) explains the insurance protection to which the person  
10 insured is entitled;  
11 (B) indicates to whom the insurance benefits are payable;  
12 and  
13 (C) explains any family member's or dependent's coverage  
14 under the policy.
- 15 (8) A provision stating that written notice of a claim must be  
16 given to the insurer within twenty (20) days after the occurrence  
17 or commencement of any loss covered by the policy, but that a  
18 failure to give notice within the twenty (20) day period does not  
19 invalidate or reduce any claim if it can be shown that it was not  
20 reasonably possible to give notice within that period and that  
21 notice was given as soon as was reasonably possible.
- 22 (9) A provision stating that:
- 23 (A) the insurer will furnish to the person making a claim, or  
24 to the policyholder for delivery to the person making a  
25 claim, forms usually furnished by the insurer for filing proof  
26 of loss; and  
27 (B) if the forms are not furnished within fifteen (15) days  
28 after the insurer received notice of a claim, the person  
29 making the claim will be deemed to have complied with the  
30 requirements of the policy as to proof of loss upon  
31 submitting, within the time fixed in the policy for filing  
32 proof of loss, written proof covering the occurrence,  
33 character, and extent of the loss for which the claim is  
34 made.
- 35 (10) A provision stating that:
- 36 (A) in the case of a claim for loss of time for disability,  
37 written proof of the loss must be furnished to the insurer  
38 within ninety (90) days after the commencement of the

- 1 period for which the insurer is liable, and that subsequent  
2 written proofs of the continuance of the disability must be  
3 furnished to the insurer at reasonable intervals as may be  
4 required by the insurer;
- 5 (B) in the case of a claim for any other loss, written proof of  
6 the loss must be furnished to the insurer within ninety (90)  
7 days after the date of the loss; and
- 8 (C) the failure to furnish proof within the time required  
9 under clause (A) or (B) does not invalidate or reduce any  
10 claim if it was not reasonably possible to furnish proof  
11 within that time, and if proof is furnished as soon as  
12 reasonably possible but (except in case of the absence of  
13 legal capacity of the claimant) no later than one (1) year  
14 from the time proof is otherwise required under the policy.
- 15 (11) A provision that:
- 16 (A) all benefits payable under the policy (other than  
17 benefits for loss of time) will be paid within forty-five (45)  
18 days after the insurer receives all information required to  
19 determine liability under the terms of the policy; and
- 20 (B) subject to due proof of loss, all accrued benefits under  
21 the policy for loss of time will be paid not less frequently  
22 than monthly during the continuance of the period for which  
23 the insurer is liable, and any balance remaining unpaid at  
24 the termination of the period for which the insurer is liable  
25 will be paid as soon as possible after receipt of the proof of  
26 loss.
- 27 (12) A provision that benefits for loss of life of the person  
28 insured are payable to the beneficiary designated by the person  
29 insured. However, if the policy contains conditions pertaining to  
30 family status, the beneficiary may be the family member  
31 specified by the policy terms. In either case, payment of benefits  
32 for loss of life is subject to the provisions of the policy if no  
33 designated or specified beneficiary is living at the death of the  
34 person insured. All other benefits of the policy are payable to the  
35 person insured. The policy may also provide that if any benefit  
36 is payable to the estate of a person, or to a person who is a minor  
37 or otherwise not competent to give a valid release, the insurer  
38 may pay the benefit, up to an amount of five thousand dollars

- 1 (\$5,000), to any relative by blood or connection by marriage of  
2 the person who is deemed by the insurer to be equitably entitled  
3 to the benefit.
- 4 (13) A provision that the insurer has the right and must be  
5 allowed the opportunity to:
- 6 (A) examine the person of the individual for whom a claim  
7 is made under the policy when and as often as the insurer  
8 reasonably requires during the pendency of the claim; and  
9 (B) conduct an autopsy in case of death if it is not  
10 prohibited by law.
- 11 (14) A provision that no action at law or in equity may be  
12 brought to recover on the policy less than sixty (60) days after  
13 proof of loss is filed in accordance with the requirements of the  
14 policy, and that no action may be brought at all more than three  
15 (3) years after the expiration of the time within which proof of  
16 loss is required by the policy.
- 17 (15) In the case of a policy insuring debtors, a provision that the  
18 insurer will furnish to the policyholder, for delivery to each  
19 debtor insured under the policy, a certificate of insurance  
20 describing the coverage and specifying that the benefits payable  
21 will first be applied to reduce or extinguish the indebtedness.
- 22 (16) If the policy provides that hospital or medical expense  
23 coverage of a dependent child of a group member terminates  
24 upon the child's attainment of the limiting age for dependent  
25 children set forth in the policy, a provision that the child's  
26 attainment of the limiting age does not terminate the hospital and  
27 medical coverage of the child while the child is:
- 28 (A) incapable of self-sustaining employment because of  
29 mental retardation or a physical disability; and  
30 (B) chiefly dependent upon the group member for support  
31 and maintenance.
- 32 A provision under this subdivision may require that proof of the  
33 child's incapacity and dependency be furnished to the insurer by  
34 the group member within one hundred twenty (120) days of the  
35 child's attainment of the limiting age and, subsequently, at  
36 reasonable intervals during the two (2) years following the  
37 child's attainment of the limiting age. The policy may not require  
38 proof more than once per year in the time more than two (2)

1 years after the child's attainment of the limiting age. This  
 2 subdivision does not require an insurer to provide coverage to a  
 3 mentally retarded or physically disabled child who does not  
 4 satisfy the requirements of the group policy as to evidence of  
 5 insurability or other requirements for coverage under the policy  
 6 to take effect. In any case, the terms of the policy apply with  
 7 regard to the coverage or exclusion from coverage of the child.

8 **(17) A provision that complies with the group portability and**  
 9 **guaranteed renewability provisions of the federal Health**  
 10 **Insurance Portability and Accountability Act of 1996**  
 11 **(P.L.104-191).**

12 ~~(c)~~ **(d)** Subsection ~~(b)(5); (b)(7); (c)(5), (c)(7), and (b)(12)~~ **(c)(12)**  
 13 do not apply to policies insuring the lives of debtors. The standard  
 14 provisions required under section 3(a) of this chapter for individual  
 15 accident and sickness insurance policies do not apply to group accident  
 16 and sickness insurance policies.

17 ~~(d)~~ **(e)** If any policy provision required under subsection ~~(b)~~ **(c)** is  
 18 in whole or in part inapplicable to or inconsistent with the coverage  
 19 provided by an insurer under a particular form of policy, the insurer,  
 20 with the approval of the commissioner, shall delete the provision from  
 21 the policy or modify the provision in such a manner as to make it  
 22 consistent with the coverage provided by the policy.

23 SECTION 18. IC 27-8-10-1, AS AMENDED BY P.L.188-1995,  
 24 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 25 APRIL 1, 1998]: Sec. 1. (a) The definitions in this section apply  
 26 throughout this chapter.

27 (b) "Association" means the Indiana comprehensive health  
 28 insurance association established under section 2.1 of this chapter.

29 (c) "Association policy" means a policy issued by the association  
 30 that provides coverage specified in section 3 of this chapter. The term  
 31 does not include a Medicare supplement policy that is issued under  
 32 section 9 of this chapter.

33 (d) "Carrier" means an insurer providing medical, hospital, or  
 34 surgical expense incurred health insurance policies.

35 **(e) "Church plan" means a plan defined in the federal**  
 36 **Employee Retirement Income Security Act of 1974 under 26 U.S.C.**  
 37 **414(e).**

38 ~~(e)~~ **(f)** "Commissioner" refers to the insurance commissioner.

1           (g) "Creditable coverage" has the meaning set forth in the  
2 federal Health Insurance Portability and Accountability Act of  
3 1996 (26 U.S.C. 9801(c)(1)).

4           (f) (h) "Eligible expenses" means those charges for health care  
5 services and articles provided for in section 3 of this chapter.

6           (i) "Federally eligible individual" means an individual:

7           (1) for whom, as of the date on which the individual seeks  
8 coverage under this chapter, the aggregate period of  
9 creditable coverage is at least eighteen (18) months and  
10 whose most recent prior creditable coverage was under a:

11           (A) group health plan;

12           (B) governmental plan; or

13           (C) church plan;

14           or health insurance coverage in connection with any of these  
15 plans;

16           (2) who is not eligible for coverage under:

17           (A) a group health plan;

18           (B) Part A or Part B of Title XVIII of the federal Social  
19 Security Act; or

20           (C) a state plan under Title XIX of the federal Social  
21 Security Act (or any successor program);

22           and does not have other health insurance coverage;

23           (3) with respect to whom the individual's most recent  
24 coverage was not terminated for factors relating to  
25 nonpayment of premiums or fraud;

26           (4) who, if after being offered the option of continuation  
27 coverage under the Consolidated Omnibus Budget  
28 Reconciliation Act of 1985 (COBRA) (29 U.S.C. 1191b(d)(1)),  
29 or under a similar state program, elected such coverage; and  
30           (5) who, if after electing continuation coverage described in  
31 subdivision (4), has exhausted continuation coverage under  
32 the provision or program.

33           (j) "Governmental plan" means a plan as defined under the  
34 federal Employee Retirement Income Security Act of 1974 (26  
35 U.S.C. 414(d)) and any plan established or maintained for its  
36 employees by the United States government or by any agency or  
37 instrumentality of the United States government.

38           (k) "Group health plan" means an employee welfare benefit

1 **plan (as defined in 29 U.S.C. 1167(1)) to the extent that the plan**  
 2 **provides medical care payments to, or on behalf of, employees or**  
 3 **their dependents, as defined under the terms of the plan, directly**  
 4 **or through insurance, reimbursement, or otherwise.**

5 ~~(g)~~ **(l)** "Health care facility" means any institution providing health  
 6 care services that is licensed in this state, including institutions  
 7 engaged principally in providing services for health maintenance  
 8 organizations or for the diagnosis or treatment of human disease, pain,  
 9 injury, deformity, or physical condition, including a general hospital,  
 10 special hospital, mental hospital, public health center, diagnostic  
 11 center, treatment center, rehabilitation center, extended care facility,  
 12 skilled nursing home, nursing home, intermediate care facility,  
 13 tuberculosis hospital, chronic disease hospital, maternity hospital,  
 14 outpatient clinic, home health care agency, bioanalytical laboratory, or  
 15 central services facility servicing one (1) or more such institutions.

16 ~~(h)~~ **(m)** "Health care institutions" means skilled nursing facilities,  
 17 home health agencies, and hospitals.

18 ~~(i)~~ **(n)** "Health care provider" means any physician, hospital,  
 19 pharmacist, or other person who is licensed in Indiana to furnish health  
 20 care services.

21 ~~(j)~~ **(o)** "Health care services" means any services or products  
 22 included in the furnishing to any individual of medical care, dental  
 23 care, or hospitalization, or incident to the furnishing of such care or  
 24 hospitalization, as well as the furnishing to any person of any other  
 25 services or products for the purpose of preventing, alleviating, curing,  
 26 or healing human illness or injury.

27 ~~(k)~~ **(p)** "Health insurance" means hospital, surgical, and medical  
 28 expense incurred policies, nonprofit service plan contracts, health  
 29 maintenance organizations, limited service health maintenance  
 30 organizations, and self-insured plans. However, the term "health  
 31 insurance" does not include short term travel accident policies,  
 32 accident only policies, fixed indemnity policies, automobile medical  
 33 payment, or incidental coverage issued with or as a supplement to  
 34 liability insurance.

35 ~~(l)~~ **(q)** "Insured" means all individuals who are provided qualified  
 36 comprehensive health insurance coverage under an individual policy,  
 37 including all dependents and other insured persons, if any.

38 ~~(m)~~ **(r)** "Medicaid" means medical assistance provided by the state

1 under the Medicaid program under IC 12-15.

2 **(s) "Medical care payment" means amounts paid for:**

3 **(1) the diagnosis, care, mitigation, treatment, or prevention**  
 4 **of disease or amounts paid for the purpose of affecting any**  
 5 **structure or function of the body;**

6 **(2) transportation primarily for and essential to Medicare**  
 7 **services referred to in subdivision (1); and**

8 **(3) insurance covering medical care referred to in**  
 9 **subdivisions (1) and (2).**

10 ~~(n)~~ **(t) "Medically necessary"** means health care services that the  
 11 association has determined:

12 (1) are recommended by a legally qualified physician;

13 (2) are commonly and customarily recognized throughout the  
 14 physician's profession as appropriate in the treatment of the  
 15 patient's diagnosed illness; and

16 (3) are not primarily for the scholastic education or vocational  
 17 training of the provider or patient.

18 ~~(o)~~ **(u) "Medicare"** means Title XVIII of the federal Social  
 19 Security Act (42 U.S.C. 1395 et seq.).

20 ~~(p)~~ **(v) "Policy"** means a contract, policy, or plan of health  
 21 insurance.

22 ~~(q)~~ **(w) "Policy year"** means a twelve (12) month period during  
 23 which a policy provides coverage or obligates the carrier to provide  
 24 health care services.

25 **(x) "Preexisting condition" means:**

26 **(1) a condition that manifested itself within a period of six (6)**  
 27 **months before the effective date of coverage in such a**  
 28 **manner as would cause an ordinarily prudent person to seek**  
 29 **diagnosis, care, or treatment; or**

30 **(2) medical advice or treatment was recommended or**  
 31 **received within a period of six (6) months before the effective**  
 32 **date of coverage.**

33 ~~(r)~~ **(y) "Health maintenance organization"** has the meaning set out  
 34 in IC 27-13-1-19.

35 ~~(s)~~ **(z) "Self-insurer"** means an employer who provides services,  
 36 payment for, or reimbursement of any part of the cost of health care  
 37 services other than payment of insurance premiums or subscriber  
 38 charges to a carrier. However, the term "self-insurer" does not include

1 an employer who is exempt from state insurance regulation by federal  
 2 law, or an employer who is a political subdivision of the state of  
 3 Indiana.

4 ~~(t)~~ **(aa)** "Services of a skilled nursing facility" means services that  
 5 must commence within fourteen (14) days following a confinement of  
 6 at least three (3) consecutive days in a hospital for the same condition.

7 ~~(u)~~ **(bb)** "Skilled nursing facility", "home health agency",  
 8 "hospital", and "home health services" have the meanings assigned to  
 9 them in 42 U.S.C. 1395x.

10 ~~(v)~~ **(cc)** "Medicare supplement policy" means an individual policy  
 11 of accident and sickness insurance that is designed primarily as a  
 12 supplement to reimbursements under Medicare for the hospital,  
 13 medical, and surgical expenses of individuals who are eligible for  
 14 Medicare benefits.

15 ~~(w)~~ **(dd)** "Limited service health maintenance organization" has  
 16 the meaning set forth in IC 27-13-34-4.

17 SECTION 19. IC 27-8-10-2.1, AS AMENDED BY P.L.255-1995,  
 18 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 19 SEPTEMBER 1, 1998]: Sec. 2.1. (a) There is established a nonprofit  
 20 legal entity to be referred to as the Indiana comprehensive health  
 21 insurance association, which must assure that health insurance is made  
 22 available throughout the year to each eligible Indiana resident applying  
 23 to the association for coverage. All carriers, health maintenance  
 24 organizations, limited service health maintenance organizations, and  
 25 self-insurers providing health insurance or health care services in  
 26 Indiana must be members of the association. The association shall  
 27 operate under a plan of operation established and approved under  
 28 subsection (c) and shall exercise its powers through a board of directors  
 29 established under this section.

30 (b) The board of directors of the association consists of ~~five (5) to~~  
 31 ~~nine (9)~~ **seven (7) members whose principal residence is in Indiana**  
 32 ~~selected by the members of the association, subject to approval by the~~  
 33 ~~commissioner. as follows:~~

34 **(1) Three (3) members to be appointed by the commissioner**  
 35 **from the members of the association, one (1) of which must**  
 36 **be a representative of a health maintenance organization.**

37 **(2) Two (2) members to be appointed by the commissioner**  
 38 **shall be consumers representing policyholders.**

1           **(3) Two (2) members shall be the state budget director or**  
2           **designee and the commissioner of the department of**  
3           **insurance or designee.**

4           **The commissioner shall appoint the chairman of the board, and the**  
5           **board shall elect a secretary from its membership. To select the**  
6           **initial board of directors and to initially organize the association, the**  
7           **commissioner shall give notice to all members in Indiana of the time**  
8           **and place of the organizational meeting. In determining voting rights**  
9           **at the organizational meeting, each member is entitled to one (1) vote**  
10           **in person or by proxy. If the board of directors is not selected within**  
11           **sixty (60) days after the organizational meeting, the commissioner shall**  
12           **appoint the initial board. In approving or selecting members of the**  
13           **board, the commissioner shall consider whether all members are fairly**  
14           **represented. The term of office of each appointed member is three**  
15           **(3) years, subject to eligibility for reappointment. Members of the**  
16           **board who are not state employees may be reimbursed from the**  
17           **money of the association association's funds for expenses incurred by**  
18           **them as members but shall not be otherwise compensated by the**  
19           **association for their services. in attending meetings. The board shall**  
20           **meet at least semiannually, with the first meeting to be held not**  
21           **later than May 15 of each year.**

22           (c) The association shall submit to the commissioner a plan of  
23           operation for the association and any amendments to the plan necessary  
24           or suitable to assure the fair, reasonable, and equitable administration  
25           of the association. The plan of operation becomes effective upon  
26           approval in writing by the commissioner consistent with the date on  
27           which the coverage under this chapter must be made available. The  
28           commissioner shall, after notice and hearing, approve the plan of  
29           operation if the plan is determined to be suitable to assure the fair,  
30           reasonable, and equitable administration of the association and  
31           provides for the sharing of association losses on an equitable,  
32           proportionate basis among the member carriers, health maintenance  
33           organizations, limited service health maintenance organizations, and  
34           self-insurers. If the association fails to submit a suitable plan of  
35           operation within one hundred eighty (180) days after the appointment  
36           of the board of directors, or at any time thereafter the association fails  
37           to submit suitable amendments to the plan, the commissioner shall  
38           adopt rules under IC 4-22-2 necessary or advisable to implement this

1 section. These rules are effective until modified by the commissioner  
2 or superseded by a plan submitted by the association and approved by  
3 the commissioner. The plan of operation must:

4 (1) establish procedures for the handling and accounting of  
5 assets and money of the association;

6 (2) establish the amount and method of reimbursing members of  
7 the board;

8 (3) establish regular times and places for meetings of the board  
9 of directors;

10 (4) establish procedures for records to be kept of all financial  
11 transactions, and for the annual fiscal reporting to the  
12 commissioner;

13 (5) establish procedures whereby selections for the board of  
14 directors will be made and submitted to the commissioner for  
15 approval;

16 (6) contain additional provisions necessary or proper for the  
17 execution of the powers and duties of the association; and

18 (7) establish procedures for the periodic advertising of the  
19 general availability of the health insurance coverages from the  
20 association.

21 (d) The plan of operation may provide that any of the powers and  
22 duties of the association be delegated to a person who will perform  
23 functions similar to those of this association. A delegation under this  
24 section takes effect only with the approval of both the board of  
25 directors and the commissioner. The commissioner may not approve a  
26 delegation unless the protections afforded to the insured are  
27 substantially equivalent to or greater than those provided under this  
28 chapter.

29 (e) The association has the general powers and authority  
30 enumerated by this subsection in accordance with the plan of operation  
31 approved by the commissioner under subsection (c). The association  
32 has the general powers and authority granted under the laws of Indiana  
33 to carriers licensed to transact the kinds of health care services or  
34 health insurance described in section 1 of this chapter and also has the  
35 specific authority to do the following:

36 (1) Enter into contracts as are necessary or proper to carry out  
37 this chapter, **subject to the approval of the commissioner.**

38 (2) Sue or be sued, including taking any legal actions necessary

- 1 or proper for recovery of any assessments for, on behalf of, or  
2 against participating carriers.
- 3 (3) Take legal action necessary to avoid the payment of improper  
4 claims against the association or the coverage provided by or  
5 through the association.
- 6 (4) Establish a medical review committee to determine the  
7 reasonably appropriate level and extent of health care services in  
8 each instance.
- 9 (5) Establish appropriate rates, scales of rates, rate classifications  
10 and rating adjustments, such rates not to be unreasonable in  
11 relation to the coverage provided and the reasonable operational  
12 expenses of the association.
- 13 (6) Pool risks among members.
- 14 (7) Issue policies of insurance on an indemnity or provision of  
15 service basis providing the coverage required by this chapter.
- 16 (8) Administer separate pools, separate accounts, or other plans  
17 or arrangements considered appropriate for separate members or  
18 groups of members.
- 19 (9) Operate and administer any combination of plans, pools, or  
20 other mechanisms considered appropriate to best accomplish the  
21 fair and equitable operation of the association.
- 22 (10) Appoint from among members appropriate legal, actuarial,  
23 and other committees as necessary to provide technical  
24 assistance in the operation of the association, policy and other  
25 contract design, and any other function within the authority of  
26 the association.
- 27 (11) Hire an independent consultant.
- 28 (12) Develop a method of advising applicants of the availability  
29 of other coverages outside the association and may promulgate  
30 a list of health conditions the existence of which would deem an  
31 applicant eligible without demonstrating a rejection of coverage  
32 by one (1) carrier.
- 33 (13) Provide for the use of managed care plans for insureds,  
34 including the use of:
- 35 (A) health maintenance organizations; and  
36 (B) preferred provider plans.
- 37 (14) Solicit bids directly from providers for coverage under this  
38 chapter.

1 (f) Rates for coverages issued by the association may not be  
2 unreasonable in relation to the benefits provided, the risk experience,  
3 and the reasonable expenses of providing the coverage. Separate scales  
4 of premium rates based on age apply for individual risks. Premium  
5 rates must take into consideration the extra morbidity and  
6 administration expenses, if any, for risks insured in the association. The  
7 rates for a given classification may not be more than one hundred fifty  
8 percent (150%) of the average premium rate for that class charged by  
9 the five (5) carriers with the largest premium volume in the state during  
10 the preceding calendar year. In determining the average rate of the five  
11 (5) largest carriers, the rates charged by the carriers shall be actuarially  
12 adjusted to determine the rate that would have been charged for  
13 benefits identical to those issued by the association. All rates adopted  
14 by the association must be submitted to the commissioner for approval.

15 (g) Following the close of the association's fiscal year, the  
16 association shall determine the net premiums, the expenses of  
17 administration, and the incurred losses for the year. Any net loss shall  
18 be assessed by the association to all members in proportion to their  
19 respective shares of total health insurance premiums, excluding  
20 premiums for Medicaid contracts with the state of Indiana, received in  
21 Indiana during the calendar year (or with paid losses in the year)  
22 coinciding with or ending during the fiscal year of the association or  
23 any other equitable basis as may be provided in the plan of operation.  
24 For self-insurers, health maintenance organizations, and limited service  
25 health maintenance organizations that are members of the association,  
26 the proportionate share of losses must be determined through the  
27 application of an equitable formula based upon claims paid, excluding  
28 claims for Medicaid contracts with the state of Indiana, or the value of  
29 services provided. In sharing losses, the association may abate or defer  
30 in any part the assessment of a member, if, in the opinion of the board,  
31 payment of the assessment would endanger the ability of the member  
32 to fulfill its contractual obligations. The association may also provide  
33 for interim assessments against members of the association if necessary  
34 to assure the financial capability of the association to meet the incurred  
35 or estimated claims expenses or operating expenses of the association  
36 until the association's next fiscal year is completed. Net gains, if any,  
37 must be held at interest to offset future losses or allocated to reduce  
38 future premiums. **Assessments must be determined by the board**

1 **members specified in subsection (b)(1), subject to final approval by**  
2 **the commissioner.**

3 (h) The association shall conduct periodic audits to assure the  
4 general accuracy of the financial data submitted to the association, and  
5 the association shall have an annual audit of its operations by an  
6 independent certified public accountant.

7 (i) The association is subject to examination by the department of  
8 insurance under IC 27-1-3.1. The board of directors shall submit, not  
9 later than March 30 of each year, a financial report for the preceding  
10 calendar year in a form approved by the commissioner.

11 (j) All policy forms issued by the association must conform in  
12 substance to prototype forms developed by the association, must in all  
13 other respects conform to the requirements of this chapter, and must be  
14 filed with and approved by the commissioner before their use.

15 (k) The association may not issue an association policy to any  
16 individual who, on the effective date of the coverage applied for, does  
17 not meet the eligibility requirements of section 5.1 of this chapter.

18 (l) The association shall pay an agent's referral fee of twenty-five  
19 dollars (\$25) to each insurance agent who refers an applicant to the  
20 association if that applicant is accepted.

21 (m) The association and the premium collected by the association  
22 shall be exempt from the premium tax, the gross income tax, the  
23 adjusted gross income tax, supplemental corporate net income, or any  
24 combination of these, or similar taxes upon revenues or income that  
25 may be imposed by the state.

26 (n) Members who after July 1, 1983, during any calendar year,  
27 have paid one (1) or more assessments levied under this chapter may  
28 either:

29 (1) take a credit against premium taxes, gross income taxes,  
30 adjusted gross income taxes, supplemental corporate net income  
31 taxes, or any combination of these, or similar taxes upon  
32 revenues or income of member insurers that may be imposed by  
33 the state, up to the amount of the taxes due for each calendar  
34 year in which the assessments were paid and for succeeding  
35 years until the aggregate of those assessments have been offset  
36 by either credits against those taxes or refunds from the  
37 association; or

38 (2) any member insurer may include in the rates for premiums

1 charged for insurance policies to which this chapter applies  
 2 amounts sufficient to recoup a sum equal to the amounts paid to  
 3 the association by the member less any amounts returned to the  
 4 member insurer by the association, and the rates shall not be  
 5 deemed excessive by virtue of including an amount reasonably  
 6 calculated to recoup assessments paid by the member.

7 (o) The association shall provide for the option of monthly  
 8 collection of premiums.

9 SECTION 20. IC 27-8-10-5.1, AS AMENDED BY P.L.2-1995,  
 10 SECTION 109, IS AMENDED TO READ AS FOLLOWS  
 11 [EFFECTIVE APRIL 1, 1998]: Sec. 5.1. (a) Except as provided in  
 12 subsections (b) and (c), a person is not eligible for an association policy  
 13 ~~who, if,~~ at the effective date of coverage, **the person** has or is eligible  
 14 for coverage under any insurance plan that equals or exceeds the  
 15 minimum requirements for accident and sickness insurance policies  
 16 issued in Indiana as set forth in IC 27. Coverage under any association  
 17 policy is in excess of, and may not duplicate, coverage under any other  
 18 form of health insurance.

19 (b) Except as provided in IC 27-13-16-4, a person is eligible for an  
 20 association policy upon a showing that:

21 **(1) the person has been rejected by one (1) carrier for coverage**  
 22 **under any insurance plan that equals or exceeds the minimum**  
 23 **requirements for accident and sickness insurance policies issued**  
 24 **in Indiana, as set forth in IC 27, without material underwriting**  
 25 **restriction at a rate equal to or less than the association plan rate.**  
 26 **restrictions;**

27 **(2) an insurer has refused to issue insurance except at a rate**  
 28 **exceeding the association plan rate; or**

29 **(3) the person is a federally eligible individual.**

30 For the purposes of this subsection, eligibility for Medicare coverage  
 31 does not disqualify a person who is less than sixty-five (65) years of  
 32 age from eligibility for an association policy.

33 (c) The board of directors may establish procedures that would  
 34 permit ~~(H)~~ an association policy to be issued to persons who are  
 35 covered by a group insurance arrangement when that person or a  
 36 dependent's health condition is such that the group's coverage is in  
 37 jeopardy of termination or material rate increases because of that  
 38 person's or dependent's medical claims experience. ~~and~~

1           ~~(2) an association policy to be issued without any limitation on~~  
 2           ~~preexisting conditions to a person who is covered by a health~~  
 3           ~~insurance arrangement when that person's coverage is scheduled~~  
 4           ~~to terminate for any reason beyond the person's control.~~

5           (d) An association policy must provide that coverage of a  
 6           dependent unmarried child terminates when the child becomes  
 7           nineteen (19) years of age (or twenty-five (25) years of age if the child  
 8           is enrolled full-time in an accredited educational institution). The  
 9           policy must also provide in substance that attainment of the limiting  
 10          age does not operate to terminate a dependent unmarried child's  
 11          coverage while the dependent is and continues to be both:

12           (1) incapable of self-sustaining employment by reason of mental  
 13           retardation or physical disability; and

14           (2) chiefly dependent upon the person in whose name the  
 15           contract is issued for support and maintenance.

16          However, proof of such incapacity and dependency must be furnished  
 17          to the carrier within one hundred twenty (120) days of the child's  
 18          attainment of the limiting age, and subsequently as may be required by  
 19          the carrier, but not more frequently than annually after the two (2) year  
 20          period following the child's attainment of the limiting age.

21          (e) An association policy that provides coverage for a family  
 22          member of the person in whose name the contract is issued must, as to  
 23          the family member's coverage, also provide that the health insurance  
 24          benefits applicable for children are payable with respect to a newly  
 25          born child of the person in whose name the contract is issued from the  
 26          moment of birth. The coverage for newly born children must consist of  
 27          coverage of injury or illness, including the necessary care and treatment  
 28          of medically diagnosed congenital defects and birth abnormalities. If  
 29          payment of a specific premium is required to provide coverage for the  
 30          child, the contract may require that notification of the birth of a child  
 31          and payment of the required premium must be furnished to the carrier  
 32          within thirty-one (31) days after the date of birth in order to have the  
 33          coverage continued beyond the thirty-one (31) day period.

34          ~~(f) Except as provided in subsection (g), an association policy may~~  
 35          ~~contain provisions under which coverage is excluded during a period~~  
 36          ~~of six (6) months following the effective date of coverage as to a given~~  
 37          ~~covered individual for preexisting conditions; as long as:~~

38           ~~(1) the condition manifested itself within a period of six (6)~~

1 months before the effective date of coverage in such a manner as  
 2 would cause an ordinarily prudent person to seek diagnosis, care,  
 3 or treatment; or  
 4 ~~(2)~~ medical advice or treatment was recommended or received  
 5 within a period of six ~~(6)~~ months before the effective date of  
 6 coverage.

7 This subsection may not be construed to prohibit preexisting condition  
 8 provisions in an insurance policy that are more favorable to the insured.

9 ~~(g)~~ **(f)** If a person applies for an association policy within six ~~(6)~~  
 10 months after termination of the person's coverage under a health  
 11 insurance arrangement and the person meets the eligibility  
 12 requirements of subsection (b), then an association policy may not  
 13 contain provisions under which:

14 (1) coverage as to a given individual is delayed to a date after the  
 15 effective date or excluded from the policy; or

16 (2) coverage as to a given condition is denied;

17 on the basis of a preexisting health condition. This subsection may not  
 18 be construed to prohibit preexisting condition provisions in an  
 19 insurance policy that are more favorable to the insured.

20 **(g) Subsection (f) does not apply to a person, other than a**  
 21 **federally eligible individual, who had previous coverage under an**  
 22 **association policy and terminated the coverage or allowed the**  
 23 **coverage to terminate for a period exceeding ninety (90) days.**

24 **(h) Coverage for a preexisting condition of a person described**  
 25 **in subsection (g) may not be delayed or restricted to a date later**  
 26 **than six (6) months after the effective date. However, the six (6)**  
 27 **months must be reduced by one (1) month for each thirty (30) day**  
 28 **period of continuous coverage under a health insurance plan, as**  
 29 **defined in IC 27-8-15-28(a), that the person had during the twelve**  
 30 **(12) months immediately preceding enrollment.**

31 ~~(h)~~ **(i)** For purposes of this section, coverage under a health  
 32 insurance arrangement includes, but is not limited to, coverage  
 33 pursuant to the Consolidated Omnibus Budget Reconciliation Act of  
 34 1985.

35 SECTION 21. IC 27-8-15-10.5, AS AMENDED BY  
 36 P.L.190-1996, SECTION 3, IS AMENDED TO READ AS FOLLOWS  
 37 [EFFECTIVE APRIL 1, 1998]: Sec. 10.5. (a) As used in this chapter,  
 38 "late enrollee" means an eligible employee or a dependent of an

1 eligible employee who did not request enrollment in a health insurance  
 2 plan of a small employer during the initial enrollment period during  
 3 which the individual was entitled to enroll under the health insurance  
 4 plan.

5 (b) The term "**late enrollee**" does not include an eligible  
 6 employee **or the dependent of an eligible employee: who meets any**  
 7 **of the following conditions:**

8 (1) ~~The eligible employee (A) who~~ was covered under a health  
 9 insurance plan ~~at the time of the initial enrollment;~~

10 ~~(B) lost coverage under a health insurance plan as a result~~  
 11 ~~of:~~

12 ~~(i) the termination of employment or eligibility;~~

13 ~~(ii) the involuntary termination of the health insurance~~  
 14 ~~plan;~~

15 ~~(iii) the death of a spouse; or~~

16 ~~(iv) the dissolution of marriage; and~~

17 ~~(C) requests enrollment not later than thirty (30) days after~~  
 18 ~~losing coverage under a health insurance plan;~~

19 **or had health insurance coverage at the time coverage was**  
 20 **previously offered to the employee or to the dependent of the**  
 21 **employee;**

22 **(2) who stated in writing at the time coverage was offered**  
 23 **that coverage under another health insurance plan was the**  
 24 **reason for declining the enrollment, but only if the insurer**  
 25 **required such a statement at the time and provided the**  
 26 **employee with notice of the requirement (and the**  
 27 **consequences of the requirement) at the time;**

28 **(3) whose coverage under this subsection:**

29 **(A) was under a COBRA continuation provision and the**  
 30 **coverage under the provision was exhausted; or**

31 **(B) was not under a COBRA continuation provision and**  
 32 **either the coverage was terminated as a result of loss of**  
 33 **eligibility for the coverage (including as a result of legal**  
 34 **separation, divorce, death, termination of employment,**  
 35 **or reduction in the number of hours of employment) or**  
 36 **employer contributions toward the coverage were**  
 37 **terminated; and**

38 **(4) who requests enrollment under the terms of the plan not**

1           **later than thirty (30) days after the date of exhaustion of**  
2           **coverage as described in subdivision (3)(A) or the**  
3           **termination of coverage or employer contributions as**  
4           **described in subdivision (3)(B).**

5           (⇒) (c) The term "**late enrollee**" **does not include an** eligible  
6           employee **who** is employed by a small employer that offers multiple  
7           health insurance plans and ~~the eligible employee who~~ elects a different  
8           plan during an open enrollment period.

9           (⇒) (d) **The term "late enrollee" does not include an eligible**  
10          **employee or the eligible employee's spouse or minor or dependent**  
11          **child where:**

12               (1) a court has ordered that health insurance coverage be  
13               provided for ~~a the~~ spouse or ~~a~~ minor or dependent child of an  
14               eligible employee under the eligible employee's insurance plan;  
15               and

16               (2) the request for enrollment is made not more than thirty (30)  
17               days after the issuance of the court order.

18           SECTION 21. IC 27-8-15-14, AS AMENDED BY P.L.190-1996,  
19           SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
20           APRIL 1, 1998]: Sec. 14. As used in this chapter, "small employer"  
21           means any person, firm, corporation, limited liability company,  
22           partnership, or association actively engaged in business who, on at least  
23           fifty percent (50%) of the working days of the employer during the  
24           preceding calendar year, employed at least ~~three~~ (⇒) **two (2)** but not  
25           more than fifty (50) eligible employees, the majority of whom work in  
26           Indiana. In determining the number of eligible employees, companies  
27           that are affiliated companies or that are eligible to file a combined tax  
28           return for purposes of state taxation are considered one (1) employer.

29           SECTION 22. IC 27-8-15-19, AS AMENDED BY P.L.93-1995,  
30           SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
31           APRIL 1, 1998]: Sec. 19. Except as provided in section 20 of this  
32           chapter, a small employer insurer may only cancel or refuse to renew  
33           a health insurance plan for the following reasons:

- 34               (1) Nonpayment of required premiums.  
35               (2) Fraud or misrepresentation of the small employer, or with  
36               respect to coverage of an insured individual, fraud or  
37               misrepresentation by the insured individual or the individual's  
38               representative.

- 1           (3) Noncompliance with the plan's provisions.
- 2           (4) The number of individuals covered under the plan is less than
- 3           the number of percentage of eligible individuals required by
- 4           percentage requirements under the plan.
- 5           (5) The small employer is no longer actively engaged in the
- 6           business in which the small employer was engaged on the
- 7           effective date of the plan.
- 8           **(3) The small employer has failed to comply with a material**
- 9           **plan provision relating to employer contribution or group**
- 10           **participation rules.**
- 11           **(4) In the case of a small employer insurer that offers**
- 12           **coverage in a market through a network plan, there is no**
- 13           **longer any insured individual in connection with the plan**
- 14           **who lives, resides, or works:**
- 15                   (A) in the service area of the small employer insurer; or
- 16                   (B) in the area for which the issuer is authorized to do
- 17                   business.
- 18           **(5) In the case of coverage that is made available through one**
- 19           **(1) or more bona fide associations, the membership of the**
- 20           **small employer in the association ceases, but only if the**
- 21           **coverage is terminated under this subdivision uniformly**
- 22           **without regard to any health status related factor relating to**
- 23           **an insured individual.**
- 24           **(6) In a case in which an insurer decides to discontinue**
- 25           **offering a particular type of group health insurance coverage**
- 26           **offered in the small employer market, that coverage may be**
- 27           **discontinued by the insurer only if:**
- 28                   (A) the insurer provides notice of the insurer's intent to
- 29                   discontinue the coverage to each small employer
- 30                   provided with the coverage;
- 31                   (B) the insurer offers the option to purchase all other
- 32                   health insurance coverage currently being offered by the
- 33                   insurer to the small employer to each small employer
- 34                   that is provided with the coverage; and
- 35                   (C) in exercising the option to discontinue the coverage
- 36                   in offering the option of coverage under clause (B), the
- 37                   insurer acts uniformly without regard to:
- 38                           (i) the claims experience of the small employer

- 1                                    **groups; or**
- 2                                    **(ii) any health status related factor relating to any**
- 3                                    **eligible employee or dependent of an eligible**
- 4                                    **employee who is covered or who may become**
- 5                                    **eligible for the coverage.**

6                    SECTION 23. IC 27-8-15-27, AS ADDED BY P.L.93-1995,  
 7                    SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 8                    APRIL 1, 1998]: Sec. 27. A health insurance plan provided by a small  
 9                    employer insurer to a small employer must comply with the following:

- 10                    (1) The benefits provided by a plan to an eligible employee
- 11                    enrolled in the plan may not be excluded, limited, or denied for
- 12                    more than nine (9) months after the effective date of the
- 13                    coverage because of a preexisting condition of the eligible
- 14                    employee, the eligible employee's spouse, or the eligible
- 15                    employee's dependent.
- 16                    (2) The plan may not define a preexisting condition, rider, or
- 17                    endorsement more restrictively than as ~~(A) a condition that~~
- 18                    ~~would have caused an ordinarily prudent person to seek medical~~
- 19                    ~~advice, diagnosis, care, or treatment during the nine (9) months~~
- 20                    ~~immediately preceding the effective date of enrollment in the~~
- 21                    ~~plan; (B) a condition for which medical advice, diagnosis, care,~~
- 22                    ~~or treatment was recommended or received during the nine (9)~~
- 23                    ~~six (6) months immediately preceding the effective date of~~
- 24                    ~~enrollment in the plan. or~~
- 25                    ~~(C) a pregnancy existing on the effective date of enrollment~~
- 26                    ~~in the plan.~~

27                    SECTION 24. IC 27-8-15-28, AS AMENDED BY P.L.190-1996,  
 28                    SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 29                    APRIL 1, 1998]: Sec. 28. (a) As used in this section, "health insurance  
 30                    plan" means coverage provided under any of the following:

- 31                    (1) A hospital or medical expense incurred policy or certificate.
- 32                    (2) A hospital or medical service plan contract.
- 33                    (3) A health maintenance organization subscriber contract.
- 34                    (4) Medicare or Medicaid.
- 35                    (5) An employer based health insurance arrangement.
- 36                    (6) An individual health insurance policy.
- 37                    (7) A policy issued by the Indiana comprehensive health
- 38                    insurance association under IC 27-8-10.

1 (8) An employee welfare benefit plan (as defined in 29 U.S.C.  
2 1002) that is self-funded.

3 (9) A conversion policy issued under section 31 or 31.1 of this  
4 chapter.

5 (b) Except as provided in section 29 of this chapter, a small  
6 employer insurer shall waive the exclusion period described in section  
7 27 of this chapter applicable to a preexisting condition or the limitation  
8 period with respect to a particular service in a health insurance plan for  
9 the time an eligible employee or a dependent of an eligible employee  
10 was previously covered by a health insurance plan if the following  
11 conditions are met:

12 (1) The eligible employee or a dependent of the eligible  
13 employee was previously covered by a health insurance plan that  
14 provided benefits with respect to the particular service.

15 (2) Coverage under the health insurance plan was continuous to  
16 a date not more than ~~thirty (30)~~ **sixty-three (63)** days before the  
17 effective date of enrollment by:

18 (A) the eligible employee; or

19 (B) a dependent of the eligible employee.

20 (c) In determining whether an eligible employee or a dependent of  
21 the eligible employee meets the requirements of subsection (b)(2), a  
22 waiting period imposed by a small employer insurer or small employer  
23 before new coverage may become effective must be excluded from the  
24 calculation.

25 (d) This section does not preclude the application of any waiting  
26 period applicable to all new enrollees under a plan.

27 SECTION 25. IC 27-8-15-34.1 IS ADDED TO THE INDIANA  
28 CODE AS A NEW SECTION TO READ AS FOLLOWS  
29 [EFFECTIVE APRIL 1, 1998]: **Sec. 34.1. Except as provided in 29**  
30 **U.S.C. 1191a and 42 U.S.C. 300gg, a small employer insurer must:**

31 **(1) offer to any small employer all products that are**  
32 **approved for sale in the small group market and that the**  
33 **insurer is actively marketing; and**

34 **(2) accept any employer that applies for any of those**  
35 **products."**

36 Page 1, between lines 5 and 6, begin a new paragraph and insert:

37 "SECTION 27. IC 27-8-19.8-3, AS ADDED BY P.L.116-1994,  
38 SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

1 JANUARY 1, 1999]: Sec. 3. As used in this chapter, "~~an individual~~"  
 2 "**insured**" refers to an individual who has a catastrophic or life  
 3 threatening illness or condition.

4 SECTION 28. IC 27-8-19.8-4.3 IS ADDED TO THE INDIANA  
 5 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 6 [EFFECTIVE JANUARY 1, 1999]: **Sec. 4.3. As used in this chapter,**  
 7 **"viatical settlement agent" means a person that solicits, offers, or**  
 8 **attempts to negotiate a viatical settlement contract with a viator."**.

9 Page 1, line 12, delete "The".

10 Page 1, delete lines 13 through 17.

11 Page 2, delete line 1.

12 Page 2, line 4, strike ""

13 Page 2, line 5, before "viatical" insert ""

14 Page 2, line 5, after "person" insert ", **other than a viator,**".

15 Page 2, line 5, after "that" insert ":"

16 Page 2, line 5, strike "enters into".

17 Page 2, line 6, strike "a".

18 Page 2, line 6, delete "viatical settlement".

19 Page 2, line 6, strike "contract with a".

20 Page 2, delete line 7, begin a new line block indented, and insert:

21 **"(1) enters into a viatical settlement contract with a viator;**

22 **or**

23 **(2) obtains financing for the purchase, acquisition, transfer,**  
 24 **or other assignment of one (1) or more viatical settlement**  
 25 **contracts, viaticated policies, or interests therein, or**  
 26 **otherwise sells, assigns, transfers, pledges, hypothecates, or**  
 27 **disposes of one (1) or more viatical settlement contracts,**  
 28 **viaticated policies, or interests therein."**

29 Page 2, line 18, strike ""

30 Page 2, line 19, before "viatical" insert ""

31 Page 2, line 25, delete "or a part".

32 Page 2, between lines 29 and 30, begin a new paragraph and  
 33 insert:

34 "SECTION 5. IC 27-8-19.8-6.5 IS ADDED TO THE INDIANA  
 35 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 36 [EFFECTIVE JANUARY 1, 1999]: **Sec. 6.5. As used in this chapter,**  
 37 **"viaticated policy" means a life insurance policy or certificate that**  
 38 **has been acquired by a viatical settlement provider under a viatical**

1 **settlement contract."**

2 Page 2, line 40, strike "ill individual" and insert "**insured**".

3 Page 3, between lines 6 and 7, begin a new paragraph and insert:

4 "SECTION 8. IC 27-8-19.8-8.6 IS ADDED TO THE INDIANA  
5 CODE AS A NEW SECTION TO READ AS FOLLOWS  
6 [EFFECTIVE JANUARY 1, 1999]: **Sec. 8.6. The following are  
7 exempt from the licensing requirement under IC 27-8-19.8-8.5:**

8 (1) **An accountant, an attorney, or a financial planner  
9 retained to represent the viator, and whose compensation is  
10 paid directly by or at the direction of the viator.**

11 (2) **A regularly salaried officer or employee of a viatical  
12 settlement broker or viatical settlement provider, if the  
13 officer or employee's duties and responsibilities do not  
14 include the solicitation or negotiation of viatical settlement  
15 contracts.**

16 (3) **The following persons, to the extent that the person is  
17 engaged in the administration or operation of a program of  
18 employee benefits for the person's employees or the  
19 employees of the person's subsidiaries or affiliates involving  
20 the use of viatical settlement contracts issued by a licensed  
21 viatical settlement provider, if the person is not in any  
22 manner directly or indirectly compensated by the viatical  
23 settlement provider:**

24 (A) **An employer.**

25 (B) **An officer or employee of an employer.**

26 (C) **A trustee of an employee trust plan."**

27 Page 5, line 8, delete "ill" and insert "**insured**".

28 Page 5, delete line 9.

29 Page 6, line 15, after "viator" insert "**for the longer of the  
30 following**".

31 Page 6, between lines 15 and 16, begin a new line block indented  
32 and insert:

33 **"(1) the period ending not more than fifteen (15) days after  
34 the receipt of the viatical settlement proceeds by the viator;  
35 or"**

36 Page 6, line 16, strike "for".

37 Page 6, line 16, before "thirty" begin a new line block indented  
38 and insert:

- 1           **"(2) the period ending not more than".**
- 2           Page 6, line 17, delete "ill individual" and insert "**insured**".
- 3           Page 7, line 21, delete "ill individual under" and insert "**insured.**".
- 4           Page 7, delete line 22.
- 5           Page 7, line 29, delete "ill individual, A a" and insert "**insured, a**".
- 6           Page 7, line 30, delete "ill".
- 7           Page 7, line 30, strike "individual" and insert "**insured**".
- 8           Page 8, between lines 7 and 8, begin a new line double block
- 9           indented and insert:
- 10                   **"(F) Discloses the identity of any person that served as a**
- 11                   **viatical settlement broker in connection with the viatical**
- 12                   **settlement contract."**
- 13           Page 8, line 8, delete "ill individual" and insert "**insured**".
- 14           Page 8, line 9, delete "ill individual's" and insert "**insured's**".
- 15           Page 8, line 9, delete "IC 16-39 applies".
- 16           Page 8, delete lines 10 through 11.
- 17           Page 8, delete lines 28 through 36.
- 18           Page 9, line 2, delete "or".
- 19           Page 9, line 4, delete "." and insert "**; or**".
- 20           Page 9, between lines 4 and 5, begin a new line block indented and
- 21           insert:
- 22                   **"(3) in connection with a transfer of a viatical settlement**
- 23                   **contract or viaticated policy to another licensed viatical**
- 24                   **settlement provider or to an entity that provides financing to**
- 25                   **effect the viatical settlement contract under a written**
- 26                   **agreement with a licensed viatical settlement provider."**
- 27           Page 9, line 7, after "Sec. 24.9." insert "**(a)**".
- 28           Page 9, line 8, delete "ill" and insert "**insured**".
- 29           Page 9, line 9, delete "individual".
- 30           Page 9, line 10, delete "ill individual" and insert "**insured**".
- 31           Page 9, line 11, delete "ill individual" and insert "**insured**".
- 32           Page 9, line 13, delete "ill individual" and insert "**insured**".
- 33           Page 9, between lines 14 and 15, begin a new paragraph and
- 34           insert:
- 35                   **"(b) Contacts made with an insured under subsection (a) must**
- 36                   **be made by mail unless the parties agree to another method of**
- 37                   **contact.**
- 38           SECTION 55. IC 27-8-19.8-24.8 IS ADDED TO THE INDIANA

1 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 2 [EFFECTIVE JANUARY 1, 1999]: **Sec. 24.8. IC 16-39 applies to the**  
 3 **release of an insured's medical records under this chapter."**

4 Page 9, line 17, strike "shall" and insert "**may**".

5 Page 9, between lines 22 and 23, begin a new paragraph and and  
 6 insert:

7 "SECTION 57. IC 27-12-3-5 IS AMENDED TO READ AS  
 8 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5. (a) **Except as**  
 9 **provided in subsection (b)**, the receipt of proof of financial  
 10 responsibility and the surcharge constitutes compliance with section 2  
 11 of this chapter:

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

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

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

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

1           **commissioner at least one hundred twenty-one (121) days**  
2           **and not more than one hundred fifty (150) days after the**  
3           **original effective date of the policy.**

4           **(3) Fifty percent (50%) of the surcharge, if the proof of**  
5           **financial responsibility and surcharge are received by the**  
6           **commissioner at least one hundred fifty-one (151) days and**  
7           **not more than one hundred eighty (180) days after the**  
8           **original effective date of the policy.**

9           SECTION 58. IC 27-13-7-3, AS ADDED BY P.L.26-1994,  
10          SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
11          JULY 1, 1998]: Sec. 3. (a) A contract referred to in section 1 of this  
12          chapter must clearly state the following:

- 13           (1) The name and address of the health maintenance
- 14           organization.
- 15           (2) Eligibility requirements.
- 16           (3) Benefits and services within the service area.
- 17           (4) Emergency care benefits and services.
- 18           (5) Any out-of-area benefits and services.
- 19           (6) Copayments, deductibles, and other out-of-pocket costs.
- 20           (7) Limitations and exclusions.
- 21           (8) Enrollee termination provisions.
- 22           (9) Any enrollee reinstatement provisions.
- 23           (10) Claims procedures.
- 24           (11) Enrollee grievance procedures.
- 25           (12) Continuation of coverage provisions.
- 26           (13) Conversion provisions.
- 27           (14) Extension of benefit provisions.
- 28           (15) Coordination of benefit provisions.
- 29           (16) Any subrogation provisions.
- 30           (17) A description of the service area.
- 31           (18) The entire contract provisions.
- 32           (19) The term of the coverage provided by the contract.
- 33           (20) Any right of cancellation of the group or individual contract
- 34           holder.
- 35           (21) Right of renewal provisions.
- 36           (22) Provisions regarding reinstatement of a group or an
- 37           individual contract holder.
- 38           (23) Grace period provisions.

- 1 (24) A provision on conformity with state law.
- 2 **(25) A provision or provisions that comply with the:**
- 3 **(A) guaranteed renewability; and**
- 4 **(B) group portability;**
- 5 **requirements of the federal Health Insurance Portability and**
- 6 **Accountability Act of 1996 (26 U.S.C. 9801(c)(1)).**

7 (b) For purposes of subsection (a), an evidence of coverage which  
 8 is filed with a contract may be considered part of the contract.

9 SECTION 59. IC 27-13-29-1, AS AMENDED BY P.L.255-1995,  
 10 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 11 JULY 1, 1998]: Sec. 1. (a) Except as provided in subsection (b) or as  
 12 otherwise provided in this article or IC 27:

- 13 (1) IC 27; and
  - 14 (2) the provisions of IC 16 regulating hospitals;
- 15 do not apply to any health maintenance organization or limited service  
 16 health maintenance organization (as defined in IC 27-13-34-4) that is  
 17 granted a certificate of authority under this article. However, this  
 18 section does not apply to an insurer or a hospital that is licensed under  
 19 Indiana law, except with respect to the health maintenance organization  
 20 activities of the hospital or insurer that are authorized and regulated  
 21 under this article.

- 22 (b) Every:
  - 23 (1) health maintenance organization; and
  - 24 (2) limited service health maintenance organization (as
  - 25 defined in IC 27-13-34-4);
- 26 authorized to do business in Indiana is subject to IC 27-4-1 relating to  
 27 unfair methods of competition and unfair or deceptive acts or practices  
 28 to the extent that IC 27-4-1 does not conflict with this article. If a  
 29 provision in IC 27-4-1 conflicts with this article, this article governs  
 30 and controls.".

31 Page 9, after line 32, begin a new paragraph and insert:  
 32 "SECTION 62. THE FOLLOWING ARE REPEALED  
 33 [EFFECTIVE APRIL 1, 1998]: IC 6-3-7-5; IC 22-3-2-14.5;  
 34 IC 22-3-7-34.5; IC 27-8-15-34.

35 SECTION 63. [EFFECTIVE JULY 1, 1998] (a) **Notwithstanding**  
 36 **IC 27-8-10-2.1, the terms of the members of the Indiana**  
 37 **Comprehensive Health Insurance Association board of directors**  
 38 **-serving on August 31, 1998, expire August 31, 1998.**

1           **(b) The commissioner shall appoint, not later than September**  
2 **1, 1998, the members of the Indiana Comprehensive Health**  
3 **Insurance Association board of directors as required under**  
4 **IC 27-8-10-2.1(b), as amended by this act, for terms commencing**  
5 **on September 1, 1998.**

6           **(c) This SECTION expires January 1, 2000.**  
7           **SECTION 64. [EFFECTIVE APRIL 1, 1998] (a) IC 27-8-5-3 and**  
8 **IC 27-8-5-19, both as amended by this act, apply to all accident and**  
9 **sickness policies in force on April 1, 1998.**

10           **(b) IC 27-8-15-10.5, IC 27-8-15-14, IC 27-8-15-19,**  
11 **IC 27-8-15-27, IC 27-8-15-28, all as amended by this act, and**  
12 **IC 27-8-15-34.1, as added by this act, apply to all small employer**  
13 **health insurance plans in force under IC 27-8-15 on April 1, 1998.**

14           **SECTION 65. An emergency is declared for this act."**

15           Renumber all SECTIONS consecutively.

(Reference is to SB 372 as printed January 30, 1998.)

**and when so amended that said bill do pass.**

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Representative Fry