
SENATE BILL No. 291

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-13-2; IC 9-25; IC 27-7-12.

Synopsis: Motor vehicle financial responsibility. Prohibits the bureau of motor vehicles from denying reinstatement of a driver's license because of failure to pay the reinstatement fee if a person demonstrates financial responsibility and agrees to pay the fee according to a schedule adopted by rule of the bureau of motor vehicles. Requires an insurer, upon the cancellation of a motor vehicle policy that covered a motor vehicle registered in Indiana, to notify the bureau of motor vehicles of the cancellation of the policy. Creates the Indiana comprehensive automobile insurance association (the association) to assure that automobile insurance is made available to eligible Indiana residents. Requires every insurer that is authorized to transact
(Continued next page)

Effective: July 1, 1998.

Miller

January 7, 1998, read first time and referred to Committee on Insurance and Interstate Cooperation.

C
O
P
Y



automobile insurance business in Indiana to be a member of the association. Requires the association to design a plan of operation and to submit it to the insurance commissioner for approval. Sets forth minimum requirements for the plan of operation. Requires rates of coverage to be reasonable and limits rates to 150% of the average rate for that class. Requires the association to assess members for expenses of operation and losses incurred. Allows members to offset association assessments against taxes. Requires the association to offer to eligible persons an insurance policy sufficient to operate a motor vehicle in Indiana. Requires a person to have been rejected by at least one other automobile insurance carrier to be eligible for an association policy. Requires an association policy to have provisions under which the association is obligated to renew the contract.

C
o
p
y



Introduced

Second Regular Session 110th General Assembly (1998)

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

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

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

SENATE BILL No. 291

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

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

- 1 SECTION 1. IC 9-13-2-39.2 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 1998]: **Sec. 39.2. "Covered motor vehicle", for purposes of**
4 **IC 9-25-10, has the meaning set forth in IC 9-25-10-2.**
- 5 SECTION 2. IC 9-13-2-77.5 IS ADDED TO THE INDIANA CODE
6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
7 1, 1998]: **Sec. 77.5. "Indiana motor vehicle policy", for purposes of**
8 **IC 9-25-10, has the meaning set forth in IC 9-25-10-3.**
- 9 SECTION 3. IC 9-13-2-82.5 IS ADDED TO THE INDIANA CODE
10 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
11 1, 1998]: **Sec. 82.5. "Insurer", for purposes of IC 9-25-10, has the**
12 **meaning set forth in IC 9-25-10-4.**
- 13 SECTION 4. IC 9-13-2-127.5 IS ADDED TO THE INDIANA
14 CODE AS A NEW SECTION TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 1998]: **Sec. 127.5. "Policyholder", for**

1998

IN 291—LS 6905/DI 93+



C
O
P
Y

1 **purposes of IC 9-25-10, has the meaning set forth in IC 9-25-10-5.**

2 SECTION 5. IC 9-25-6-15 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 15. (a) A person:

4 (1) whose current driving license is suspended under this chapter;

5 and

6 (2) who seeks the reinstatement of the driving license;

7 must pay a reinstatement fee to the bureau as provided in IC 9-29-10-1.

8 **The bureau may not refuse to reinstate the driving license because**
9 **of nonpayment of the reinstatement fee set forth by IC 9-29-10-1**
10 **if the person proves that financial responsibility is in effect as**
11 **described by IC 9-25-4-4 and agrees to pay the fee according to a**
12 **schedule adopted under subsection (b).**

13 (b) **The bureau shall adopt criteria and procedures that allow a**
14 **person described in subsection (a) to pay the reinstatement fee set**
15 **forth by IC 9-29-10-1 according to a schedule that allows gradual**
16 **payment of the fee.**

17 SECTION 6. IC 9-25-10 IS ADDED TO THE INDIANA CODE AS
18 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
19 1, 1998]:

20 **Chapter 10. Notification of Insurance Cancellation**

21 **Sec. 1. For purposes of this chapter, a motor vehicle liability**
22 **policy is canceled if the policy:**

23 (1) **is terminated at the election of the policyholder before the**
24 **expiration of the term for which the policy was issued or**
25 **renewed; or**

26 (2) **expires or is canceled by the insurer.**

27 **Sec. 2. As used in this chapter, "covered motor vehicle" means**
28 **a motor vehicle that is referred to specifically in a motor vehicle**
29 **liability policy by:**

30 (1) **the name of the manufacturer;**

31 (2) **the name of the model; and**

32 (3) **the identification number;**

33 **of the motor vehicle.**

34 **Sec. 3. As used in this chapter, "Indiana motor vehicle policy"**
35 **means a policy applying to at least one (1) covered motor vehicle**
36 **that is, according to the information possessed by the insurer,**
37 **registered in Indiana under IC 9-18.**

38 **Sec. 4. As used in this chapter, "insurer" has the meaning set**
39 **forth in IC 27-1-2-3(x).**

40 **Sec. 5. As used in this chapter, "policyholder" means a person**
41 **to whom a motor vehicle liability policy is issued.**

42 **Sec. 6. (a) If an insurer that issued an Indiana motor vehicle**

C
O
P
Y



1 policy is informed or decides that the policy:

2 (1) is canceled; or

3 (2) is to be canceled;

4 the insurer shall notify the bureau of the cancellation of the policy.

5 (b) A notice provided to the bureau under this section must
6 include the following information:

7 (1) The name and mailing address of the insurer.

8 (2) The date on which the cancellation of the policy took effect
9 or will take effect.

10 (3) The name and mailing address of each policyholder of the
11 policy.

12 (4) The following information about each motor vehicle that
13 is a covered motor vehicle under the policy and is, according
14 to the information possessed by the insurer, registered in
15 Indiana under IC 9-18:

16 (A) The name of the manufacturer of the motor vehicle.

17 (B) The name of the model of the motor vehicle.

18 (C) The identification number of the motor vehicle.

19 (c) An insurer shall provide a notice to the bureau under this
20 section not more than ten (10) days after the insurer is informed or
21 decides that the policy is canceled or is to be canceled.

22 (d) A notice required by this section must be sent to the bureau:

23 (1) by first class mail; or

24 (2) by any means that transmits the notice to the bureau at
25 least as quickly as first class mail.

26 SECTION 7. IC 27-7-12 IS ADDED TO THE INDIANA CODE AS
27 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
28 1, 1998]:

29 **Chapter 12. Comprehensive Automobile Insurance**

30 **Sec. 1. (a)** As used in this chapter, "association" means the
31 Indiana comprehensive automobile insurance association
32 established by section 2 of this chapter.

33 (b) As used in this chapter, "automobile insurance" means one
34 (1) or more of the types of insurance described in Class 2(f) of
35 IC 27-1-5-1. The term also includes the types of insurance
36 described in Class 3(d) of IC 27-1-5-1.

37 **Sec. 2. (a)** There is established a nonprofit legal entity to be
38 referred to as the Indiana comprehensive automobile insurance
39 association. The association must assure that automobile insurance
40 is made available throughout the year to each eligible Indiana
41 resident applying to the association for coverage. Every insurer
42 that is authorized to transact automobile insurance business in



C
O
P
Y

1 Indiana is a member of the association. The association shall
2 operate under a plan of operation established and approved under
3 subsection (c) and shall exercise its powers through a board of
4 directors established under this section.

5 (b) The board of directors of the association consists of five (5)
6 to nine (9) members selected by the members of the association,
7 subject to approval by the commissioner. To select the initial board
8 of directors and to initially organize the association, the
9 commissioner shall give notice to all members in Indiana of the
10 time and place of the organizational meeting. In determining
11 voting rights at the organizational meeting, each member is
12 entitled to one (1) vote in person or by proxy. If the board of
13 directors is not selected within sixty (60) days after the
14 organizational meeting, the commissioner shall appoint the initial
15 board. In approving or selecting members of the board, the
16 commissioner shall consider whether all members are fairly
17 represented. Members of the board may be reimbursed from the
18 money of the association for expenses incurred by them as
19 members but shall not be otherwise compensated by the association
20 for their services.

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

- 41 (1) establish procedures for the handling and accounting of
42 assets and money of the association;



- 1 (2) establish the amount and method of reimbursing members
2 of the board;
- 3 (3) establish regular times and places for meetings of the
4 board of directors;
- 5 (4) establish procedures for records to be kept of all financial
6 transactions and for the annual fiscal reporting to the
7 commissioner;
- 8 (5) establish procedures whereby selections for the board of
9 directors will be made and submitted to the commissioner for
10 approval;
- 11 (6) contain additional provisions necessary or proper for the
12 execution of the powers and duties of the association; and
- 13 (7) establish procedures for the periodic advertising of the
14 general availability of the automobile insurance coverages
15 from the association.
- 16 (d) The plan of operation may provide that any of the powers
17 and duties of the association may be delegated to a person who will
18 perform functions similar to those of this association. A delegation
19 under this section takes effect only with the approval of both the
20 board of directors and the commissioner. The commissioner may
21 not approve a delegation unless the protections afforded to the
22 insured are substantially equivalent to or greater than those
23 provided under this chapter.
- 24 (e) The association has the general powers and authority
25 enumerated by this subsection in accordance with the plan of
26 operation approved by the commissioner under subsection (c). The
27 association has the general powers and authority granted under the
28 laws of Indiana to insurers licensed to issue automobile insurance
29 and also has the specific authority to do the following:
- 30 (1) Enter into contracts that are necessary or proper to carry
31 out this chapter.
- 32 (2) Sue or be sued, including taking any legal actions
33 necessary or proper for recovery of any assessments for, on
34 behalf of, or against participating carriers.
- 35 (3) Take legal action necessary to avoid the payment of
36 improper claims against the association or the coverage
37 provided by or through the association.
- 38 (4) Appoint from among members appropriate legal,
39 actuarial, and other committees as necessary to provide
40 technical assistance in the operation of the association, policy
41 and other contract design, and any other function within the
42 authority of the association.

C
O
P
Y

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

13 (g) Following the close of the association's fiscal year, the
14 association shall determine the net premiums, the expenses of
15 administration, and the incurred losses for the year. Any net loss
16 shall be assessed by the association to all members in proportion to
17 their respective shares of total automobile insurance premiums
18 received in Indiana during the calendar year (or with paid losses
19 in the year) coinciding with or ending during the fiscal year of the
20 association or any other equitable basis as may be provided in the
21 plan of operation. In sharing losses, the association may abate or
22 defer in any part the assessment of a member if, in the opinion of
23 the board, payment of the assessment would endanger the ability
24 of the member to fulfill the member's contractual obligations. The
25 association may also provide for interim assessments against
26 members of the association, if necessary, to assure the financial
27 capability of the association to meet the incurred or estimated
28 claims expenses or operating expenses of the association until the
29 association's next fiscal year is completed. Net gains, if any, must
30 be held at interest to offset future losses or allocated to reduce
31 future premiums.

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

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

41 (j) All policy forms issued by the association must:

42 (1) conform in substance to prototype forms developed by the

C
O
P
Y



1 association;

2 (2) conform in all other respects to the requirements of this
3 chapter; and

4 (3) be filed with and approved by the commissioner before
5 their use.

6 (k) The association may not issue an association policy to any
7 individual who, on the effective date of the coverage applied for,
8 does not meet the eligibility requirements of section 5 of this
9 chapter.

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

13 (m) The association and the premium collected by the
14 association shall be exempt from the premium tax, the gross
15 income tax, the adjusted gross income tax, supplemental corporate
16 net income tax, or any combination of these, or similar taxes upon
17 revenues or income that may be imposed by the state.

18 (n) Members who, after July 1, 1998, during any calendar year,
19 have paid one (1) or more assessments levied under this chapter
20 may either:

21 (1) take a credit against premium taxes, gross income taxes,
22 adjusted gross income taxes, supplemental corporate net
23 income taxes, or any combination of these, or similar taxes
24 upon revenues or income of member insurers that may be
25 imposed by the state, up to the amount of the taxes due for
26 each calendar year in which the assessments were paid and
27 for succeeding years until the aggregate of those assessments
28 have been offset by either credits against those taxes or
29 refunds from the association; or

30 (2) include in the rates for premiums charged for insurance
31 policies to which this chapter applies amounts sufficient to
32 recoup a sum equal to the amounts paid to the association by
33 the member, less any amounts returned to the member
34 insurer by the association, and the rates shall not be
35 considered excessive by virtue of including an amount
36 reasonably calculated to recoup assessments paid by the
37 member.

38 (o) The association shall provide for the option of monthly
39 collection of premiums.

40 Sec. 3. (a) The association shall offer to a person that meets the
41 eligibility requirements of section 5 of this chapter an insurance
42 policy that is sufficient to allow that person to operate a motor



C
O
P
Y

1 vehicle in Indiana.

2 (b) An association policy issued under this chapter may use
3 reimbursement systems that are consistent with ordinary
4 automobile insurance plans for insurance necessary for the
5 operation of a motor vehicle in Indiana that exceed the deductible
6 amounts applicable under section 4 of this chapter.

7 (c) Services for which a charge is not made in the absence of
8 insurance or for which there is no legal obligation on the part of
9 the insured to pay are not eligible expenses in any association
10 policy within the scope of this chapter.

11 (d) The coverage and benefit requirements of this section for
12 association policies may not be altered by any other inconsistent
13 state law without specific reference to this chapter indicating a
14 legislative intent to add or delete from the coverage requirements
15 of this chapter.

16 (e) This chapter does not prohibit the association from issuing
17 additional types of automobile insurance policies with different
18 types of benefits that, in the opinion of the board of directors, may
19 be of benefit to the citizens of Indiana.

20 (f) This chapter does not prohibit the association or its
21 administrator from implementing uniform procedures to review
22 the necessity of charges made for a claim against an association
23 policy.

24 **Sec. 4.** An association policy offered in accordance with this
25 chapter must impose a five hundred dollar (\$500) deductible on a
26 per person per policy year basis. The deductible must be applied to
27 the first five hundred dollars (\$500) of eligible expenses incurred
28 by the covered person.

29 **Sec. 5.** (a) Except as provided in subsections (b) and (c), a person
30 is not eligible for an association policy if, at the effective date of
31 coverage, the person has or is eligible for coverage under an
32 insurance plan that equals or exceeds the minimum requirements
33 necessary to operate a motor vehicle in Indiana. Coverage under
34 an association policy is in excess of, and may not duplicate,
35 coverage under any other form of automobile insurance.

36 (b) A person is eligible for an association policy upon a showing
37 that the person has been rejected by at least one (1) carrier for
38 coverage under any insurance plan that equals or exceeds the
39 minimum requirements necessary to operate a motor vehicle in
40 Indiana without material underwriting restriction at a rate equal
41 to or less than the association plan rate.

42 (c) The board of directors may establish procedures that would

C
O
P
Y



1 permit an association policy to be issued to a person who is covered
2 by an automobile insurance arrangement when that person's
3 coverage is scheduled to terminate for any reason beyond the
4 person's control.

5 Sec. 6. (a) An association policy offered under this chapter must
6 contain provisions under which the association is obligated to
7 renew the contract.

8 (b) The association may not change the rates for association
9 policies except on a class basis with a clear disclosure in the policy
10 of the association's right to do so.

11 Sec. 7. The commissioner may adopt rules under IC 4-22-2 to:

12 (1) provide for disclosure by carriers of the availability of
13 insurance coverage from the association; and

14 (2) implement this chapter.

15 Sec. 8. The participation by carriers or members in the
16 association, the establishment of rates, forms, or procedures for
17 coverages issued by the association, or any joint or collective action
18 required by this chapter may not be the basis of any legal action,
19 civil liability, or criminal liability against the association or its
20 members, either jointly or separately.

C
O
P
Y

