

# HOUSE BILL No. 1205

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 27-1-15.5.

**Synopsis:** Insurance agent as beneficiary of policy. Prohibits an insurance agent from making application for, procuring, negotiating, or placing a life insurance policy or annuity contract if the agent is designated as the beneficiary of the life insurance policy or annuity contract. Authorizes the insurance commissioner to suspend, revoke, or refuse to renew the license of an insurance agent who violates this prohibition.

**Effective:** July 1, 1998.

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**Becker, Fry, Budak**

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January 8, 1998, read first time and referred to Committee on Insurance, Corporations and Small Business.

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Second Regular Session 110th General Assembly (1998)

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

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

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

# HOUSE BILL No. 1205



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

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

1 SECTION 1. IC 27-1-15.5-8, AS AMENDED BY P.L.253-1997(ss),  
2 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 1998]: Sec. 8. (a) The commissioner may suspend, revoke,  
4 refuse to continue, renew, or issue any license issued under this  
5 chapter, or impose any of the disciplinary sanctions under subsection  
6 (f) if, after notice to the licensee and to the insurer represented and a  
7 hearing, the commissioner finds as to the licensee any one (1) or more  
8 of the following conditions:  
9 (1) Any materially untrue statement in the license application.  
10 (2) Any cause for which issuance of the license could have been  
11 refused had it then existed and been known to the commissioner  
12 at the time of issuance.  
13 (3) Violation of or noncompliance with any insurance laws,  
14 violation of any provision of IC 28 concerning the sale of a life  
15 insurance policy or an annuity contract, or violation of any lawful  
16 rule, regulation, or order of the commissioner or of a  
17 commissioner of another state.



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- 1 (4) Obtaining or attempting to obtain any such license through  
 2 misrepresentation or fraud.
- 3 (5) Improperly withholding, misappropriating, or converting to  
 4 the licensee's own use any money belonging to policyholders,  
 5 insurers, beneficiaries, or others received in the course of the  
 6 licensee's insurance business.
- 7 (6) Misrepresentation of the terms of any actual or proposed  
 8 insurance contract.
- 9 (7) Conviction of a felony or misdemeanor involving moral  
 10 turpitude.
- 11 (8) The licensee has been found guilty of any unfair trade practice  
 12 or of fraud.
- 13 (9) In the conduct of the licensee's affairs under the license, the  
 14 licensee has used fraudulent, coercive, or dishonest practices, or  
 15 has shown himself to be incompetent, untrustworthy, or  
 16 financially irresponsible, or not performing in the best interests of  
 17 the insuring public.
- 18 (10) The licensee's license has been suspended or revoked in any  
 19 other state, province, district, or territory.
- 20 (11) The licensee has forged another's name to an application for  
 21 insurance.
- 22 (12) An applicant has been found to have been cheating on an  
 23 examination for an insurance license.
- 24 (13) The applicant or licensee is on the most recent tax warrant  
 25 list supplied to the commissioner by the department of state  
 26 revenue.
- 27 (14) The licensee has failed to satisfy the continuing education  
 28 requirements under section 7.1 of this chapter.
- 29 **(15) The licensee has violated section 24 of this chapter.**
- 30 (b) The commissioner shall refuse to:
- 31 (1) issue a license; or
- 32 (2) renew a license issued;
- 33 under this chapter to any person who is the subject of an order issued  
 34 by a court under IC 31-14-12-7 or IC 31-16-12-10 (or  
 35 IC 31-1-11.5-13(m) or IC 31-6-6.1-16(m) before their repeal).
- 36 (c) In the event that the action by the commissioner is to not renew  
 37 or to deny an application for a license, the commissioner shall notify  
 38 the applicant or licensee and advise, in writing, the applicant or  
 39 licensee of the reasons for the denial or nonrenewal of the applicant's  
 40 or licensee's license. Not later than sixty (60) days after receiving a  
 41 notice from the commissioner under this subsection, the applicant or  
 42 licensee may make written demand upon the commissioner for a

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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, or  
11 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 the  
22 commissioner. The fixed period may not exceed ten (10) years.

23 (3) Suspend a licensee's certificate.

24 (4) Censure a licensee.

25 (5) Issue a letter of reprimand.

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

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

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

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

36 The commissioner may withdraw the probation if the  
37 commissioner finds that the deficiency that required disciplinary  
38 action has been remedied.

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

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

5 SECTION 2. IC 27-1-15.5-24 IS ADDED TO THE INDIANA  
6 CODE AS A NEW SECTION TO READ AS FOLLOWS  
7 [EFFECTIVE JULY 1, 1998]: **Sec. 24. (a) As used in this section,**  
8 **"annuity contract" means an individual annuity contract.**

9 **(b) As used in this section, "life insurance policy" means an**  
10 **insurance policy that:**

11 **(1) provides the type of insurance described in Class 1(a) of**  
12 **IC 27-1-5-1; and**

13 **(2) is written on an individual basis.**

14 **(c) An agent may not:**

15 **(1) make application for;**

16 **(2) procure;**

17 **(3) negotiate; or**

18 **(4) place;**

19 **a life insurance policy or an annuity contract if the agent is**  
20 **designated as the beneficiary of the life insurance policy or annuity**  
21 **contract.**

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