April 6, 1999

ENGROSSED
SENATE BILL No. 559

DIGEST OF SB 559 (Updated March 30, 1999 4:39 pm - DI 97)

Citations Affected: IC 2-3; IC 22-4; IC 27-1; IC 27-6; IC 27-7; IC 27-8; IC 27-9; IC 27-11; noncode.

Synopsis: Various insurance matters. Requires a political subdivision or a state educational institution that employs a legislator to provide the same insurance and other benefits at all times. Increases the from $4,500,000 to $5,500,000 the amount that the commissioner of the department of labor may use from the special employment and training services fund per year. Removes fees collected by the commissioner associated with the commissioner's duties as agent for service of process. Provides that an officer, employee, or representative of a travel

(Continued next page)

Effective: Upon passage; July 1, 1999; January 1, 2000; January 1, 2001.

Clark

(HOUSE SPONSOR — SMITH M, HERRELL)

January 21, 1999, read first time and referred to Committee on Insurance and Financial Institutions.
March 1, 1999, amended, reported favorably — Do Pass.
March 4, 1999, read second time, amended, ordered engrossed.
March 5, 1999, engrossed.
March 8, 1999, read third time, passed. Yeas 45, nays 5. Rule 33(c) technical correction adopted. Engrossed.

HOUSE ACTION

March 10, 1999, read first time and referred to Committee on Insurance, Corporations and Small Business.
April 5, 1999, amended, reported — Do Pass.

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Digest Continued

agency who negotiates or solicits insurance only incidental to the purchase of an air transportation ticket is exempt from the insurance agent continuing education requirements. Requires an insurance agent who is licensed after January 1, 2001 to be licensed and serve as an "associate insurance agent". Provides that various insurers must appoint an individual or corporate resident of Indiana, or an authorized Indiana insurer, as the insurer's agent for service of process. Makes certain changes to the composition of the board of directors of the Indiana insurance guaranty association. Removes the requirement that information concerning premiums and losses, jury awards, court awards, and negotiated settlements be filed with the annual financial statement of insurers selling certain lines of insurance. Changes the requirements for annual information filing with the National Association of Insurance Commissioners (NAIC) from diskette to electronic filings. Provides for the treatment of nonconforming policies. Defines "exempt commercial policyholder" and "risk manager". Provides for the deregulation of exempt commercial policyholder insurance transactions. Adds certain provisions related to reinsurance. Provides that a named insured on a motor vehicle policy may reject uninsured and underinsured coverage for all named insured's. Provides that the commissioner will continue as agent of service of process until a different designation is received by the commissioner. Makes certain changes to the preexisting conditions requirements for certain group insurers. Makes conforming amendments. Establishes an interim study committee to study the Indiana Comprehensive Health Insurance Association.

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April 6, 1999

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

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ENGROSSED
SENATE BILL No. 559

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

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

SECTION 1. IC 2-3-3-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: **Sec. 2.5. (a) For purposes of this section, "employer" refers to an employer that is any of the following:**

(1) A political subdivision (as defined in IC 36-1-2-13).

(2) A state educational institution.

(b) An employer of an individual who is a member of the general assembly shall provide to the individual at all times during which the individual is serving as a member of the general assembly:

(1) the same insurance and other benefits; and

(2) at the same cost to the individual;

as is provided to the individual by the employer when the individual is not serving as a member of the general assembly.

SECTION 2. IC 22-4-25-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) There is created

in the state treasury a special fund to be known as the special employment and training services fund. All interest on delinquent contributions and penalties collected under this article, together with any voluntary contributions tendered as a contribution to this fund, shall be paid into this fund. The money shall not be expended or available for expenditure in any manner which would permit their substitution for (or a corresponding reduction in) federal funds which would in the absence of said money be available to finance expenditures for the administration of this article, but nothing in this section shall prevent said money from being used as a revolving fund to cover expenditures necessary and proper under the law for which federal funds have been duly requested but not yet received, subject to the charging of such expenditures against such funds when received. The money in this fund shall be used by the board for the payment of refunds of interest on delinquent contributions and penalties so collected, for the payment of costs of administration which are found not to have been properly and validly chargeable against federal grants or other funds received for or in the employment and training services administration fund, on and after July 1, 1945. Such money shall be available either to satisfy the obligations incurred by the board directly, or by transfer by the board of the required amount from the special employment and training services fund to the employment and training services administration fund. No expenditure of this fund shall be made unless and until the board finds that no other funds are available or can properly be used to finance such expenditures, except that expenditures from said fund may be made for the purpose of acquiring lands and buildings or for the erection of buildings on lands so acquired which are deemed necessary by the board for the proper administration of this article. The board shall order the transfer of such funds or the payment of any such obligation or expenditure and such funds shall be paid by the treasurer of state on requisition drawn by the board directing the auditor of state to issue the auditor's warrant therefor. Any such warrant shall be drawn by the state auditor based upon vouchers certified by the board or the commissioner. The money in this fund is hereby specifically made available to replace within a reasonable time any money received by this state pursuant to 42 U.S.C. 502, as amended, which, because of any action or contingency, has been lost or has been expended for purposes other than or in amounts in excess of those approved by the bureau of employment security. The money in this fund shall be continuously available to the board for expenditures in accordance with the provisions of this section and shall not lapse at any time or be transferred to any other fund, except as provided in this

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article. Nothing in this section shall be construed to limit, alter, or amend the liability of the state assumed and created by IC 22-4-28, or to change the procedure prescribed in IC 22-4-28 for the satisfaction of such liability, except to the extent that such liability may be satisfied by and out of the funds of such special employment and training services fund created by this section.

(b) The board, subject to the approval of the budget agency and governor, is authorized and empowered to use all or any part of the funds in the special employment and training services fund for the purpose of acquiring suitable office space for the department by way of purchase, lease, contract, or in any part thereof to purchase land and erect thereon such buildings as the board determines necessary or to assist in financing the construction of any building erected by the state or any of its agencies wherein available space will be provided for the department under lease or contract between the department and the state or such other agency. The commissioner may transfer from the employment and training services administration fund to the special employment and training services fund amounts not exceeding funds specifically available to the commissioner for that purpose equivalent to the fair, reasonable rental value of any land and buildings acquired for its use until such time as the full amount of the purchase price of such land and buildings and such cost of repair and maintenance thereof as was expended from the special employment and training services fund has been returned to such fund.

(c) The board may also transfer from the employment and training services administration fund to the special employment and training services fund amounts not exceeding funds specifically available to the commissioner for that purpose equivalent to the fair, reasonable rental value of space used by the department in any building erected by the state or any of its agencies until such time as the department's proportionate amount of the purchase price of such building and the department's proportionate amount of such cost of repair and maintenance thereof as was expended from the special employment and training services fund has been returned to such fund.

(d) Whenever the balance in the special employment and training services fund is deemed excessive by the board, the board shall order payment into the unemployment insurance benefit fund of the amount of the special employment and training services fund deemed to be excessive.

(e) Subject to the approval of the board, the commissioner may use not more than ~~four~~ **five** million five hundred thousand dollars ~~($4,500,000)~~ **($5,500,000)** during a program year for:

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(1) training and counseling assistance under IC 22-4-14-2 provided by state educational institutions (as defined in IC 20-12-0.5-1) or counseling provided by the department for individuals who:

(A) have been unemployed for at least four (4) weeks;

(B) are not otherwise eligible for training and counseling assistance under any other program; and

(C) are not participating in programs that duplicate those programs described in subdivision (2); or

(2) training provided by the state educational institution established under IC 20-12-61 to participants in joint labor and management apprenticeship programs approved by the United States Department of Labor's Bureau of Apprenticeship Training.

During a particular program year, at least ninety percent (90%) of the money used under this subsection shall be allocated for training programs described in subdivision (2), divided equally between industrial programs and building trade programs. During a particular program year, not more than ten percent (10%) of the money used under this subsection may be allocated for training and counseling assistance under subdivision (1). In addition, not more than fifteen percent (15%) of the money used for training and counseling assistance under subdivision (1) may be used for administrative expenses of the department. Training or counseling provided under IC 22-4-14-2 does not excuse the claimant from complying with the requirements of IC 22-4-14-3. Eligibility for training and counseling assistance under subdivision (1) shall not be determined until after the fourth week of eligibility for unemployment training compensation benefits.

SECTION 3. IC 27-1-3-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 15. (a) Except as provided in subsection ~~(g),~~ **(f),** the commissioner shall collect the following **filing** fees: ~~when the documents described in this subsection are delivered to the commissioner for filing:~~

Document	Fee
Articles of incorporation	$ 350
Amendment of articles of incorporation	$ 10
Filing of annual statement and consolidated statement	$ 100
Annual renewal of company license fee	$ 50
~~Appointment of commissioner for service of process~~	~~$ 10~~

Copy

Withdrawal of certificate
of authority . . . . . $ 25
Certified statement of condition . . . . . $ 5
Any other document required to be
filed by this article . . . . . $ 25

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

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

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.

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

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

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

SECTION 4. IC 27-1-3-29 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 29. (a) Except as otherwise provided by statute, a policy is enforceable against the insurer according to its terms, even if the policy exceeds the authority of the insurer.**

(b) A policy that violates a statute or rule is enforceable against the insurer as if the policy conformed to the statute or rule.

(c) Upon the written request of the policyholder or the insured whose rights under the policy are continuing and not transitory, an insurer shall reform and reissue its written policy to comply with

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the requirements of the law existing at the date of issue or last renewal of the policy.

SECTION 5. IC 27-1-15.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) The definitions set forth in this section apply throughout this chapter.

(b) "Insurance agent" means any individual, corporation, or limited liability company who, for compensation, acts or aids in any manner in:

(1) soliciting applications for insurance; or

(2) negotiating a policy of insurance on behalf of an insurer.

(c) An individual, a corporation, or a limited liability company:

(1) who is not licensed as an insurance agent, surplus lines insurance agent, or limited insurance representative; and

(2) who meets the definition of insurance agent in subsection (b);

shall be an insurance agent within the intent of this chapter, and shall thereby become liable for all the duties, requirements, liabilities, and penalties to which such licensed agents are subject.

(d) "Surplus lines insurance agent" means an individual, a corporation, or a limited liability company who solicits, negotiates, or procures from an insurance company not licensed to transact business in Indiana an insurance policy that cannot be procured from insurers licensed to do business in Indiana.

(e) "Limited insurance representative" means an individual, a corporation, or a limited liability company authorized by the commissioner to solicit or negotiate contracts for a particular line of insurance:

(1) that:

(A) is designated in this chapter; or

(B) the commissioner may by regulation consider essential for the transaction of business in this state; and

(2) that does not require the professional competency demanded for an insurance agent's license.

(f) "Consultant" means an individual, a corporation, or a limited liability company who:

(1) holds himself or itself out to the public as being engaged in the business of offering; or

(2) for a fee, offers;

any advice, counsel, opinion or service with respect to the benefits, advantages, or disadvantages promised under any policy of insurance that could be issued in Indiana.

(g) "Bureau" refers to the child support bureau of the division of family and children established in IC 12-17-2-5.

(h) "Delinquent" means at least:

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(1) two thousand dollars ($2,000); or
(2) three (3) months;
past due on payment of court ordered child support.

(i) "License" has the meaning set forth in IC 25-1-2-6.

(j) "Associate insurance agent" means an individual, a corporation, or a limited liability company that is authorized to perform the functions of an insurance agent only under the direction of an insurance agent who is licensed under this chapter.

SECTION 6. IC 27-1-15.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 3. (a) A person may not act as or hold himself out to be an **associate insurance agent,** insurance agent, surplus lines insurance agent, limited insurance representative, or consultant unless he is duly licensed. An **associate insurance agent,** insurance agent, surplus lines insurance agent, or limited insurance representative may not make application for, procure, negotiate for, or place for others any policies for any kinds of insurance as to which he is not then qualified and duly licensed. An **associate insurance agent,** insurance agent, and a limited insurance representative may receive qualification for a license in one (1) or more of the kinds of insurance defined in Class I, Class II, and Class III of IC 27-1-5-1. A surplus lines insurance agent may receive qualification for a license in one (1) or more of the kinds of insurance defined in Class II and Class III of IC 27-1-5-1 from insurers that are authorized to do business in one (1) or more states of the United States of America but which insurers are not authorized to do business in Indiana, whenever, after diligent effort, as determined to the satisfaction of the insurance department, such licensee is unable to procure the amount of insurance desired from insurers authorized and licensed to transact business in Indiana. The commissioner may issue a limited insurance representative's license to the following without examination:

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

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demonstrate professional competency.

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

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

(1) insurance written on the interests of the licensee or those of his immediate family or of his employer; or

(2) insurance covering himself or members of his immediate family or a corporation, limited liability company, association, or partnership, or the officers, directors, substantial stockholders, partners, members, managers, employees of such a corporation, limited liability company, association, or partnership, of which he is or a member of his immediate family is an officer, director, substantial stockholder, partner, member, manager, associate, or employee.

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

(d) An insurer, **associate insurance agent,** insurance agent, surplus lines insurance agent, or limited insurance representative may not pay any commission, brokerage, or other valuable consideration to any person for services as an **associate insurance agent,** insurance agent, surplus lines insurance agent, or limited insurance representative within Indiana, unless the person held, at the time the services were performed, a valid license for that kind of insurance as required by the laws of Indiana for such services. A person, other than a person duly

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licensed by the state of Indiana as an **associate insurance agent,** insurance agent, surplus lines insurance agent, or limited insurance representative, may not, at the time such services were performed, accept any such commission, brokerage, or other valuable consideration. However, any such person duly licensed under this chapter may:

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

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

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

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

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

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

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

(1) A person who applies for a license renewal not more than twenty-four (24) months after the person's license expires must:

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

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

(2) A person who applies for a license renewal more than twenty-four (24) months after it expires must successfully complete the education requirements of IC 27-1-15.5-4(e) and pass to the department's satisfaction the examination required of an applicant for the type of license for which the person seeks renewal.

All license renewals must be accompanied by payment of the renewal

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fee as provided in section 4(d) of this chapter.

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

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

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

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

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

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

(j) An insurance agent that is licensed under this chapter after January 1, 2001, must first:

(1) be licensed; and

(2) serve;

as an associate insurance agent for a period to be determined by the department.

SECTION 7. IC 27-1-15.5-7.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7.1. (a) This section does not apply to:

(1) a nonresident licensee that:

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~~(1)~~ **(A)** is licensed as a resident insurance agent by another state that has a continuing education requirement as a condition for license renewals; and

~~(2)~~ **(B)** meets all the requirements for licensure in the resident state of the nonresident licensee; **or**

(2) an officer, an employee, or a representative of a travel agency who negotiates or solicits insurance only incidental to and in connection with the purchase of an air transportation ticket.

(b) To renew a license issued under this chapter:

(1) an insurance agent (as defined in section 2(b) of this chapter) must complete at least thirty (30) hours of credit in continuing education courses; and

(2) a limited insurance representative (as defined in section 2(e) of this chapter) must complete at least ten (10) hours of credit in continuing education.

(c) To satisfy the requirements of subsection (b), a licensee may use only those credit hours earned in continuing education courses completed by the licensee:

(1) after the date on which the licensee last renewed a license under this chapter; or

(2) if the licensee is renewing a license for the first time, after the date on which the licensee was issued the license under this chapter.

(d) If an insurance agent (as defined in section 2(b) of this chapter) holds more than one (1) license under this chapter, the licensee may not be required to complete a total of more than thirty (30) hours of credit in continuing education courses to renew all of the licenses.

(e) A licensee may receive credit only for completing continuing education courses that have been approved by the commissioner under section 7.3 of this chapter.

(f) A licensee who teaches a course approved by the commissioner under section 7.3 of this chapter may receive continuing education credit for teaching the course.

(g) When a licensee renews a license issued under this chapter, the licensee must submit:

(1) a continuing education statement that:

(A) is on a form provided by the commissioner;

(B) is signed by the licensee under oath; and

(C) lists the continuing education courses completed by the licensee to satisfy the continuing education requirements under this section; and

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(2) any other information required by the commissioner.

(h) A continuing education statement submitted under subsection (g) may be reviewed and audited by the department of insurance.

(i) A licensee shall retain a copy of the original certificate of completion received by the licensee for completion of a continuing education course.

(j) The commissioner may adopt rules under IC 4-22-2 to implement this section.

SECTION 8. IC 27-1-15.5-8 AND P.L.91-1998, SECTION 6, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The commissioner may suspend, revoke, refuse to continue, renew, or issue any license issued under this chapter, or impose any of the disciplinary sanctions under subsection (f) if, after notice to the licensee and to the insurer represented and a hearing, the commissioner finds as to the licensee any one (1) or more of the following conditions:

(1) Any materially untrue statement in the license application.

(2) Any cause for which issuance of the license could have been refused had it then existed and been known to the commissioner at the time of issuance.

(3) Violation of or noncompliance with any insurance laws, violation of any provision of IC 28 concerning the sale of a life insurance policy or an annuity contract, or violation of any lawful rule, regulation, or order of the commissioner or of a commissioner of another state.

(4) Obtaining or attempting to obtain any such license through misrepresentation or fraud.

(5) Improperly withholding, misappropriating, or converting to the licensee's own use any money belonging to policyholders, insurers, beneficiaries, or others received in the course of the licensee's insurance business.

(6) Misrepresentation of the terms of any actual or proposed insurance contract.

(7) *A:*

(A) conviction of; *or*

(B) plea of guilty, no contest, or nolo contendere to;

a felony or misdemeanor involving moral turpitude.

(8) The licensee has been found guilty of any unfair trade practice or of fraud.

(9) In the conduct of the licensee's affairs under the license, the licensee has used fraudulent, coercive, or dishonest practices, or has shown himself to be incompetent, untrustworthy, or

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financially irresponsible, or not performing in the best interests of the insuring public.

(10) The licensee's license has been suspended or revoked in any ~~*other*~~ state, province, district, or territory.

(11) The licensee has forged another's name to an application for insurance.

(12) An applicant has been found to have been cheating on an examination for an insurance license.

(13) The applicant or licensee is on the most recent tax warrant list supplied to the commissioner by the department of state revenue.

(14) The licensee has failed to satisfy the continuing education requirements under section 7.1 of this chapter.

(15) The licensee has violated section 24 of this chapter.

(b) The commissioner shall refuse to:

(1) issue a license; or

(2) renew a license issued;

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

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

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

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

(f) The commissioner may impose any of the following sanctions,

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singly or in combination, when the commissioner finds that a licensee is guilty of any offense under subsection (a):

(1) Permanently revoke (as defined in subsection (i)) a licensee's certificate.

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

(3) Suspend a licensee's certificate.

(4) Censure a licensee.

(5) Issue a letter of reprimand.

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

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

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

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

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

(g) *The commissioner may order the licensee to make restitution if the commissioner finds that the licensee has violated:*

(1) subsection (a)(5);

(2) subsection (a)(8);

(3) subsection (a)(9); or

(4) section 24 of this chapter.

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

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

SECTION 9. IC 27-1-17-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. Whenever a foreign or an alien insurance company desires to be admitted to do an insurance business in this state, it shall execute in the English language and present the following to the department, at its office, accompanied

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by the fees prescribed by law:

(a) A copy of its articles of incorporation or association, with all amendments thereto, duly authenticated by the proper officer of the state, country, province, or government wherein it is incorporated or organized, or the state in which it is domiciled in the United States.

(b) An application for admission, executed in the manner provided in this chapter, setting forth:

(1) the name of such company;

(2) the location of its principal office or place of business without this state;

(3) the names of the states in which it has been admitted or qualified to do business;

(4) the character of insurance business under its articles of incorporation or association which it intends to transact in this state, which must conform to the class or classes set forth in the provisions of IC 27-1-5-1;

(5) the total authorized capital stock of the company and the amount thereof issued and outstanding, and the surplus required of such company by the laws of the state, country, province, or government under which it is organized, or the state in which it is domiciled in the United States, if a stock company, which shall equal at least the requirements set forth in section 5(a) of this chapter;

(6) the total amount of assets and the surplus of assets over all its liabilities, if other than a stock company, which shall equal at least the requirements set forth in section 5(b) of this chapter;

(7) if an alien company, the surplus of assets invested according to the laws of the state in the United States where it has its deposit, which shall equal at least the requirements set forth in section 5(c) of this chapter; and

(8) such further and additional information as the department may from time to time require.

The application shall be signed in duplicate, in the form prescribed by the department, by the president or a vice president and the secretary or an assistant secretary of the corporation, and verified under oath by the officers signing the same.

(c) A statement of its financial condition and business, in the form prescribed by law for annual statements, signed and sworn to by the president or secretary or other principal officers of the company; provided, however, that an alien company shall also

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furnish a separate statement comprising only its condition and business in the United States, which shall be signed and sworn to by its United States manager.

(d) A copy of the last report of examination certified to by the insurance commissioner or other proper supervisory official of the state in which such company is domiciled; provided, however, that the commissioner may cause an examination to be made of the condition and affairs of such company before authority to transact business in this state is given.

(e) A certificate from the proper official of the state, country, province, or government wherein it is incorporated or organized, or the state in which it is domiciled in the United States, that it is duly organized or incorporated under those laws and authorized to make the kind or kinds of insurance which it proposes to make in this state.

(f) A copy of its bylaws or regulations, if any, certified to by the secretary or similar officer of the insurance company.

(g) Copies of forms of all policies which the insurance company proposes to issue in this state and also copies of the forms of application for such policies.

(h) A duly executed power of attorney in a form prescribed by the department which constitutes and appoints ~~the commissioner or his successor, or successors,~~ **an individual or a corporate resident of Indiana, or an authorized Indiana insurer, as the insurance company's agent,** its true and lawful attorney upon whom all lawful processes in any action in law or in equity against it shall be served. Such power of attorney shall contain an agreement by the insurance company that any lawful process against it which may be served upon the ~~commissioner~~ **agent** as its attorney shall be of the same force and validity as if served upon the insurance company and that such power of attorney shall continue in force and be irrevocable so long as any liability of the insurance company remains outstanding in this state. Such power of attorney shall be executed by the president and secretary of the insurance company or other duly authorized officers under its seal and shall be accompanied by a certified copy of the resolution of the board of directors of the company making said appointment and authorizing the execution of said power of attorney. ~~Whether or not the power of attorney referred to in this subdivision shall have been executed, every foreign or alien insurance company admitted to do business in this state shall be deemed to have appointed the commissioner its true and lawful attorney upon~~

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~~whom all lawful processes in any action at law or in equity against it shall be served.~~ Service of any lawful process shall be by delivering to and leaving with the ~~commissioner~~ **agent** two (2) copies of such process, with copy of the pertinent complaint attached. ~~together with a fee as required under IC 27-1-3-15.~~ The ~~commissioner~~ **agent** shall forthwith transmit to the defendant company at its last known principal place of business by registered or certified mail, return receipt requested, one (1) of the copies of such process, with complaint attached, the other copy to be retained in a record which shall show all process served upon and transmitted by him. Such service shall be sufficient provided the returned receipt or, if the defendant company shall refuse to accept such mailing, the registered mail together with an affidavit of plaintiff or his attorney stating that service was made upon the ~~commissioner~~ **agent** and forwarded as above set forth but that such mail was returned by the post office department is filed with the court. The ~~department~~ **agent** shall make information and receipts available to plaintiff, defendant or their attorneys. No plaintiff or complainant shall be entitled to a judgment by default based on service authorized by this section until the expiration of at least thirty (30) days from the date on which either the post office receipt or the unclaimed mail together with affidavit is filed with the court. Nothing in this section shall limit or abridge the right to serve any process, notice or demand upon any company in any other manner permitted by law.

(i) Proof which satisfies the department that it has complied with the financial requirements imposed in this chapter upon foreign and alien insurance companies which transact business in this state and that it is entitled to public confidence and that its admission to transact business in this state will not be prejudicial to public interest.

SECTION 10. IC 27-1-18-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) Every insurance company not organized under the laws of this state, and each domestic company electing to be taxed under this section, and doing business within this state shall, on or before March 1 of each year, report to the department, under the oath of the president and secretary, the gross amount of all premiums received by it on policies of insurance covering risks within this state, or in the case of marine or transportation risks, on policies made, written, or renewed within this state during the twelve (12) month period ending on December 31 of the preceding calendar year. From the amount of gross premiums

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described in this subsection shall be deducted:

(1) considerations received for reinsurance of risks within this state from companies authorized to transact an insurance business in this state;

(2) the amount of dividends paid or credited to resident insureds, or used to reduce current premiums of resident insureds;

(3) the amount of premiums actually returned to residents on account of applications not accepted or on account of policies not delivered; and

(4) the amount of unearned premiums returned on account of the cancellation of policies covering risks within the state.

(b) A domestic company shall be taxed under this section only in each calendar year with respect to which it files a notice of election. The notice of election shall be filed with the insurance commissioner and the commissioner of the department of state revenue on or before November 30 in each year and shall state that the domestic company elects to submit to the tax imposed by this section with respect to the calendar year commencing January 1 next following the filing of the notice. The exemption from license fees, privilege, or other taxes accorded by this section to insurance companies not organized under the laws of this state and doing business within this state which are taxed under this chapter shall be applicable to each domestic company in each calendar year with respect to which it is taxed under this section. In each calendar year with respect to which a domestic company has not elected to be taxed under this section it shall be taxed without regard to this section.

(c)(1) For the privilege of doing business in this state, every insurance company required to file the report provided in this section shall pay into the treasury of this state an amount equal to two percent (2%) of the excess, if any, of the gross premiums over the allowable deductions.

(c)(2) Payments of the tax imposed by this section shall be made on a quarterly estimated basis. The amounts of the quarterly installments shall be computed on the basis of the total estimated tax liability for the current calendar year and the installments shall be due and payable on or before April 15, June 15, September 15, and December 15, of the current calendar year.

(c)(3) Any balance due shall be paid in the next succeeding calendar year at the time designated for the filing of the annual report with the department.

(c)(4) Any overpayment of the estimated tax during the preceding calendar year shall be allowed as a credit against the liability for the

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first installment of the current calendar year.

(c)(5) In the event a company subject to taxation under this section fails to make any quarterly payment in an amount equal to at least:

(i) twenty-five percent (25%) of the total tax paid during the preceding calendar year; or

(ii) twenty per cent (20%) of the actual tax for the current calendar year;

the company shall be liable, in addition to the amount due, for interest in the amount of one percent (1%) of the amount due and unpaid for each month or part of a month that the amount due, together with interest, remains unpaid. This interest penalty shall be exclusive of and in addition to any other fee, assessment, or charge made by the department.

(d) The taxes under this article shall be in lieu of all license fees or privilege or other tax levied or assessed by this state or by any municipality, county, or other political subdivision of this state. No municipality, county, or other political subdivision of this state shall impose any license fee or privilege or other tax upon any insurance company or any of its agents for the privilege of doing an insurance business therein, except the tax authorized by IC 22-12-6-5. However, the taxes authorized under IC 22-12-6-5 shall be credited against the taxes provided under this chapter. This section shall not be construed to prohibit the levy and collection of state, county, or municipal taxes upon real and tangible personal property of such company, or to prohibit the levy of any retaliatory tax, fine, penalty, or fee provided by law. However, all insurance companies, foreign or domestic, paying taxes in this state predicated in part on their premium income from policies sold and premiums received in Indiana, shall have the same rights and privileges from further taxation and shall be given the same credits wherever applicable, as those set out for those companies paying only a tax on premiums as set out in this section.

(e) Any insurance company failing or refusing, for more than thirty (30) days, to render an accurate account of its premium receipts as provided in this section and pay the tax due thereon shall be subject to a penalty of one hundred dollars ($100) for each additional day such report and payment shall be delayed, ~~to be recovered in an action in the name of the state of Indiana on the relation of the department of insurance, in any court of competent jurisdiction, and it shall be the duty of the department to~~ **not to exceed a maximum penalty of ten thousand dollars ($10,000). The penalty may be ordered by the commissioner after a hearing under IC 4-21.5-3. The commissioner may** revoke all authority of such defaulting company to do business

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within this state, or suspend such authority during the period of such default, in the discretion of the ~~department.~~ **commissioner**.

SECTION 11. IC 27-1-20-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. ~~(a)~~ Every company doing business in this state shall file with the department on or before March 1 in each year a financial statement for the year ending December 31 immediately preceding in a format in accordance with IC 27-1-3-13. For good and sufficient cause shown, the commissioner may grant to any individual company a reasonable extension of time not to exceed ninety (90) days within which such statement may be filed. Such statement shall be verified by the oaths of the president or a vice president and the secretary or an assistant secretary of the company. The statement of an alien company shall segregate and state separately its condition and transaction in the United States and such segregated and separated statement shall be verified by the oath of its resident manager or principal representative in the United States. The commissioner of insurance may, with the approval of the commission on public records, authorize the destruction of such annual statements which have been on file for two (2) years or more and microfilm copies of which have been made and filed.

~~(b) A company that during the previous calendar year provided:~~

~~(1) insurance of the type described in IC 27-1-5-1, Class 2(h), to one (1) or more Indiana political subdivisions (as defined in IC 34-6-2-110);~~

~~(2) insurance of the type described in IC 27-1-5-1, Class 2(h) type insurance covering liability risks related to the ownership or operation of establishments in Indiana at which alcoholic beverages are sold and consumed;~~

~~(3) recreational facilities liability insurance;~~

~~(4) lawyers professional liability insurance;~~

~~(5) product liability insurance;~~

~~(6) uninsured and underinsured motorist insurance;~~

~~(7) owners, landlords, and tenants liability insurance; or~~

~~(8) day care centers liability insurance;~~

~~shall file with the department, as an additional part of the financial statement required under subsection (a), an exhibit of premiums and losses reflecting the company's financial results exclusively in connection with that insurance.~~

~~(c) The exhibit required under subsection (b) must set forth figures indicating:~~

~~(1) direct premiums written;~~

~~(2) direct premiums earned;~~

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~~(3) direct losses paid;~~
~~(4) direct losses incurred;~~
~~(5) direct losses unpaid;~~
~~(6) allocated loss adjustment expenses; and~~
~~(7) unallocated loss adjustment expenses;~~
~~for the year of the financial statement in connection with all insurance described in subsection (b).~~

~~(d) This subsection applies to insurers that provide one (1) or more of the following types of insurance during a calendar year:~~

~~(1) Child care liability insurance.~~
~~(2) Political subdivision liability insurance, including public schools.~~
~~(3) Errors and omissions liability insurance.~~
~~(4) Officers and director liability insurance.~~
~~(5) Liquor liability insurance.~~
~~An insurer covered by this subsection shall file the exhibit described in subsection (e) with the department, as an additional part of the financial statement required under subsection (a) for the calendar year in which the insurance was provided.~~

~~(e) The exhibit required under subsection (d) must report:~~

~~(1) the number of jury awards paid under the provisions of the insurance during the calendar year, and the total amount paid for all jury awards;~~
~~(2) the number of court awards (other than jury awards) paid under the provisions of the insurance during the calendar year, and the total amount paid for all of those awards; and~~
~~(3) the number of negotiated settlements paid under the provisions of the insurance during the calendar year, and the total amount paid for all those negotiated settlements.~~

~~(f) The information described in subsection (e) shall be reported in each year after 1990.~~

~~(g) The information described in subsection (c) shall be reported in each year beginning in 1990 for the following lines of insurance:~~

~~(1) Recreational facilities liability insurance.~~
~~(2) Lawyers professional liability insurance.~~
~~(3) Product liability insurance.~~
~~(4) Uninsured and underinsured motorist insurance.~~
~~(5) Owners, landlords, and tenants liability insurance.~~
~~(6) Day care centers liability insurance.~~

SECTION 12. IC 27-1-20-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 33. (a) As used in this section, "insurer" refers to each:

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(1) domestic company;
(2) foreign company; and
(3) alien company;

that is authorized to transact business in Indiana.

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

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

(1) must be:
(A) in the same format; and
(B) of the same scope;

as is required by the commissioner under section 21 of this chapter;

(2) to the extent required by the NAIC, must include the signed jurat page and the actuarial certification; and
(3) must be filed ~~on diskette~~ **electronically** in accordance with NAIC ~~diskette~~ **electronic** filing specifications.

The commissioner may grant an exemption from the requirement of subdivision (3) to domestic companies that operate only in Indiana. If an insurer files any amendment or addendum to an insurer's annual statement convention blank or quarterly statement with the commissioner, the insurer shall also file a copy of the amendment or addendum with the NAIC. Annual and quarterly financial statements are deemed filed with the NAIC when delivered to the address designated by the NAIC for the filings regardless of whether the filing is accompanied by any applicable fee.

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

(e) A foreign company that:
(1) is domiciled in a state that has a law substantially similar to subsection (c); and
(2) complies with that law;

shall be considered to be in compliance with this section.

(f) In the absence of actual malice:
(1) members of the NAIC;
(2) duly authorized committees, subcommittees, and task forces

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of members of the NAIC;

(3) delegates of members of the NAIC;

(4) employees of the NAIC; and

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

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

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

SECTION 13. IC 27-1-20-34 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 34. An insurance company that insures a public entity as an exempt commercial policyholder (as defined in IC 27-1-22-2.5) must maintain at least an:**

(1) "A" rating by A.M. Best; or

(2) equivalent rating by another independent insurance rating organization.

SECTION 14. IC 27-1-22-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 2.5. (a) As used in this chapter, "exempt commercial policyholder" means an entity that:**

(1) makes written certification to the entity's insurer on a form prescribed by the department that the entity is an exempt commercial policyholder;

(2) has purchased the policy of insurance through an insurance agent licensed under IC 27-1-15.5-3; and

(3) meets any three (3) of the following criteria:

(A) Has a net worth of more than twenty-five million dollars ($25,000,000) at the time the policy of insurance is issued.

(B) Has a net revenue or sales of more than fifty million dollars ($50,000,000) in the preceding fiscal year.

(C) Has more than twenty-five (25) employees per individual company or fifty (50) employees per holding company aggregate at the time the policy of insurance is issued.

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(D) Has aggregate annual commercial premiums of more than seventy-five thousand dollars ($75,000) in the preceding fiscal year.

(E) Is a nonprofit or a public entity with an annual budget of at least twenty-five million dollars ($25,000,000) or assets of at least twenty-five million dollars ($25,000,000) in the preceding fiscal year.

(F) Procures insurance with the services of a risk manager.

An entity meets the written certification requirement under subdivision (1) if the entity provides a copy of a certification previously submitted under subdivision (1) and if there has been no significant material change in the entity's status.

(b) As used in this chapter, "risk manager" means:

(1) a full-time employee of, or a person retained by, an exempt commercial policyholder who complies with the continuing education requirements for licensed insurance agents under IC 27-1-15.5-7.1 and who is qualified through:

(A) education and experience; or

(B) training and experience; or

(2) an agent who holds a professional designation;

to assess an exempt commercial policyholder's insurance needs and analyze and negotiate a policy of insurance on behalf of an exempt commercial policyholder.

SECTION 15. IC 27-1-22-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) Every insurer shall file with the commissioner, ~~except as to inland marine risks which by general custom of the business are not written according to manual rates or rating plans;~~ every manual of classifications, rules, and rates, every rating schedule, every rating plan, and every modification of any of the foregoing which it proposes to use.

(b) The following types of insurance are exempt from the requirements of subsections (a) and (j):

(1) Inland marine risks which by general custom of the business are not written according to manual rates or rating plans.

(2) Insurance, other than workers compensation insurance or professional liability insurance, issued to exempt commercial policyholders.

~~(b)~~ **(c)** Every such filing shall indicate the character and extent of the coverage contemplated and shall be accompanied by the information upon which the filer supports such filing.

~~(c)~~ **(d)** The information furnished in support of a filing may include:

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(1) the experience and judgment of the insurer or rating organization making the filing;
(2) its interpretation of any statistical data it relies upon;
(3) the experience of other insurers or rating organizations; or
(4) any other relevant factors.

The commissioner shall have the right to request any additional relevant information. A filing and any supporting information shall be open to public inspection as soon as stamped "filed" within a reasonable time after receipt by the commissioner, and copies may be obtained by any person on request and upon payment of a reasonable charge therefor.

~~(d)~~ **(e)** Filings shall become effective upon the date of filing by delivery or upon date of mailing by registered mail to the commissioner, or on a later date specified in the filing.

~~(e)~~ **(f)** Specific inland marine rates on risks specially rated, made by a rating organization, shall be filed with the commissioner.

~~(f)~~ **(g)** Any insurer may satisfy its obligation to make any such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings and by authorizing the commissioner to accept such filings on its behalf, provided that nothing contained in this chapter shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization or as requiring any member or subscriber to authorize the commissioner to accept such filings on its behalf.

~~(g)~~ **(h)** Every insurer which is a member of or a subscriber to a rating organization shall be deemed to have authorized the commissioner to accept on its behalf all filings made by the rating organization which are within the scope of its membership or subscribership, provided:

(1) that any subscriber may withdraw or terminate such authorization, either generally or for individual filings, by written notice to the commissioner and to the rating organization and may then make its own independent filings for any kinds of insurance, or subdivisions, or classes of risks, or parts or combinations of any of the foregoing, with respect to which it has withdrawn or terminated such authorization, or may request the rating organization, within its discretion, to make any such filing on an agency basis solely on behalf of the requesting subscriber; and
(2) that any member may proceed in the same manner as a subscriber unless the rating organization shall have adopted a rule, with the approval of the commissioner:
(A) requiring a member, before making an independent filing,

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first to request the rating organization to make such filing on its behalf and requiring the rating organization, within thirty (30) days after receipt of such request, either:

(i) to make such filing as a rating organization filing;

(ii) to make such filing on an agency basis solely on behalf of the requesting member; or

(iii) to decline the request of such member; and

(B) excluding from membership any insurer which elects to make any filing wholly independently of the rating organization.

~~(h)~~ **(i)** Under such rules as he shall adopt, the commissioner may, by written order, suspend or modify the requirement of filing as to any kinds of insurance, or subdivision, or classes of risk, or parts or combinations of any of the foregoing, the rates for which can not practicably be filed before they are used. Such orders and rules shall be made known to insurers and rating organizations affected thereby. The commissioner may make such examination as he may deem advisable to ascertain whether any rates affected by such order are excessive, inadequate, or unfairly discriminatory.

~~(i)~~ **(j)** Upon the written application of the insured, stating his reasons therefor, filed with the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

~~(j) Except as to contracts or policies for inland marine risks as to which filings are not required, no~~ **(k) An** insurer shall **not** make or issue a policy or contract except in accordance with filings which are in effect for that insurer or in accordance with the provisions of this chapter. Subject to the provisions of section 6 of this chapter, any rates, rating plans, rules, classifications, or systems in effect on May 31, 1967, shall be continued in effect until withdrawn by the insurer or rating organization which filed them.

~~(k)~~ **(l)** The commissioner shall have the right to make an investigation and to examine the pertinent files and records of any insurer, insurance agent, or insured in order to ascertain compliance with any filing for rate or coverage which is in effect. He shall have the right to set up procedures necessary to eliminate noncompliance, whether on an individual policy, or because of a system of applying charges or discounts which results in failure to comply with such filing.

(m) The department may adopt rules to:

(1) implement the exemption under IC 27-1-22-4(b);

(2) impose disclosure requirements the commissioner determines are necessary to adequately protect exempt

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commercial policyholders; and

(3) establish the form of the report required by subsection (n).

(n) Each insurer who issues insurance to an exempt commercial policyholder shall file an annual report with the department by February 1 of each year. The annual report may not disclose the identity of an exempt commercial policyholder and must include only the following information regarding each exempt commercial policyholder:

(1) The account number, policy number, or other number used by the insurer to identify the insured.

(2) The amount of aggregate annual commercial premium.

(3) The inception date and expiration date of commercial insurance coverage provided by the insurer.

(o) The annual report filed under subsection (n) must be accompanied by the fee prescribed by IC 27-1-3-15(e). For purposes of calculating the required fee, each policy purchased by an exempt commercial policyholder shall be considered a product filing under IC 27-1-3-15(e).

SECTION 16. IC 27-1-22-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11. (a) Any subscriber which has authorized a rating organization to making filings on its behalf and any member thereof which does not wish to act under sections ~~4(f)~~ **4(g)** and ~~4(g)~~ **4(h)** of this chapter may appeal to the commissioner from the action or decision of such rating organization in approving or rejecting any proposed change in or addition to the filings of such rating organization and the commissioner shall, after a hearing held upon not less than ten (10) days written notice to the appellant and to such rating organization, issue an order approving the action or decision of such rating organization or directing it to give further consideration to such proposal, or, if such appeal is from the action or decision of the rating organization in rejecting a proposed addition to its filings, he may, in the event he finds that such action or decision was unreasonable, issue an order directing the rating organization to make an addition to its filings in a manner consistent with his findings within a reasonable time after the issuance of such order.

(b) If such appeal is based upon the failure of the rating organization to make a filing on behalf of such member or subscriber which is based on a system of expense provisions which differs, in accordance with the right granted in section 3(a)(3) of this chapter from the system of expense provisions included in a filing made by the rating organization, the commissioner shall, if he grants the appeal, order the rating

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organization to make the requested filing for use by the appellant. In deciding such appeal the commissioner shall apply the standards set forth in section 3 of this chapter.

SECTION 17. IC 27-1-27-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) The commissioner may not issue a certificate of authority to a nonresident applicant until that nonresident files with the commissioner, in a form prescribed by the commissioner, a designation ~~that the commissioner (and his successors in office) is~~ **of an individual resident of Indiana, a corporate resident of Indiana, or an authorized Indiana insurer as** the nonresident applicant's legal representative upon whom may be served all lawful process in any action, suit, or proceeding:

(1) instituted by or on behalf of an interested person; and

(2) arising out of the nonresident applicant's public adjuster's insurance business.

(b) The designation required by subsection (a) constitutes an agreement that service of process upon the ~~commissioner~~ **nonresident applicant's legal representative** is of the same legal force and validity as personal service of process upon an Indiana resident.

(c) Service upon a nonresident may be made by

~~(1)~~ serving the ~~commissioner~~ **nonresident applicant's legal representative** with an appropriate number of copies of the process. ~~and~~

~~(2) payment to the commissioner of a fee as required under IC 27-1-3-15.~~

(d) The ~~commissioner~~ **nonresident applicant's legal representative** shall forward a copy of the process by registered mail to the nonresident at his last known address of record or principal place of business, keeping a record of such process and service.

(e) Service of process is sufficient as long as notice of the service and a copy of the process are sent not more than ten (10) days after the ~~commissioner~~ **nonresident applicant's legal representative** received the service of process on behalf of the nonresident.

(f) Service of process upon a nonresident in any action instituted by the commissioner under this chapter shall be made by the commissioner by mailing the process to the **nonresident applicant's legal representative or the** nonresident by registered mail at his last known address of record or principal place of business.

SECTION 18. IC 27-6-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) Concurrently with the filing of the declaration provided for by the terms of section 3 of this chapter, the attorney (as defined in section 2 of this chapter)

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shall file with the department of insurance, state of Indiana, an instrument in writing, executed by him for said subscribers, conditioned that, upon the issuance of a certificate of authority provided for in section 9 of this chapter, service of process may be had upon the ~~commissioner of insurance~~ **individual resident of Indiana, corporate resident of Indiana, or authorized Indiana insurer, appointed by the subscribers as the subscribers' agent for service of process** in all suits in this state arising out of such policies, contracts, or agreements, which service shall be valid and binding upon all subscribers exchanging at any time reciprocal or interinsurance contracts through such attorney.

(b) Service of process under subsection (a) shall be made by delivering to the ~~commissioner of insurance~~ **subscribers' agent** two (2) copies of process with a complaint attached. ~~A fee as required under IC 27-1-3-15 shall be paid to the commissioner at the time of service. A writ against the commissioner of insurance shall not be returnable until thirty (30) days after service.~~

(c) It shall be the duty of the ~~commissioner of insurance,~~ **subscribers' agent,** upon service, to promptly send one (1) copy of such summons, by registered letter, to the attorney specified in subsection (a) and to file the other copy of summons in the office of the ~~commissioner.~~ **subscribers' agent**.

SECTION 19. IC 27-6-8-6 IS AMENDED TO READ AS FOLLOWS: Sec. 6. (a) The board of directors of the association shall consist of nine (9) member insurers one (1) of whom shall be selected by or from among each of the following groups representative of member insurers, such selection to be subject to the approval of the commissioner:

(i) One (1) person representing the American Insurance Association.

(ii) One (1) person representing the Alliance of American Insurers.

(iii) One (1) person representing the National Association of Independent Insurers.

(iv) One (1) person representing the National Association of Mutual Insurance Companies.

(v) One (1) person representing the Insurance Institute of Indiana.

(vi) ~~One (1) person representing the domestic stock companies.~~ **Three (3) persons representing the domestic stock, domestic mutual, or domestic reciprocal insurers, with no more than two (2) persons representing each category**.

~~(vii) One (1) person representing the domestic mutual companies~~.

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~~(viii) One (1) person representing the domestic reciprocal insurers~~.

~~(ix)~~ **(vii)** One (1) person representing independent unaffiliated stock, fire, and casualty companies to be appointed by the commissioner.

(b) Not more than one (1) member insurer in a group of insurers under the same management or ownership shall serve as a director at the same time.

(c) Directors shall serve such terms as shall be established in the plan of operation.

(d) Vacancies on the board shall be filled for the remaining period of the term in the same manner as the initial selection.

(e) If no directors are selected by March 1, 1972, the commissioner may appoint the initial members of the board of directors.

(f) In approving selections to the board, the commissioner shall consider among other things whether all member insurers are fairly represented.

(g) Directors may be reimbursed from the assets of the association for expenses incurred by them as members of the board of directors.

SECTION 20. IC 27-6-10-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. Credit for reinsurance shall be allowed ~~a~~ **to any** domestic ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only when:

(1) the reinsurer meets the requirements of:

~~(1)~~ **(A)** section 8 of this chapter;

~~(2)~~ **(B)** section 9 of this chapter;

~~(3)~~ **(C)** sections 10 and 12 of this chapter;

~~(4)~~ **(D)** sections 11 and 12 of this chapter; or

~~(5)~~ **(E)** section 13 of this chapter; **and**

(2) the reinsurance contract provides in substance that, in the event of the insolvency of the ceding insurer, the reinsurance is payable under a contract reinsured by the assuming insurer on the basis of reported claims allowed in the liquidation proceedings, subject to court approval, without diminution because of the insolvency of the ceding insurer. Payments under this subdivision must be made directly to the ceding insurer or to the ceding insurer's domiciliary liquidator except as provided in IC 27-9-3-30. The reinsurance agreement may provide that the domiciliary liquidator of an insolvent ceding insurer shall give written notice to an assuming insurer of the pendency of a claim against the

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ceding insurer on the contract reinsured within a reasonable time after the claim is filed in the liquidation proceeding. During the pendency of the claim, any assuming insurer may investigate the claim and interpose in the proceeding where the claim is to be adjudicated, at the assuming insurer's expense, any defenses that the assuming insurer considers available to the ceding insurer or the liquidator. If two (2) or more assuming insurers are involved in the same claim and a majority in interest elect to interpose a defense to the claim, the expense must be apportioned under the terms of the reinsurance agreement as though the expense had been incurred by the ceding insurer.

SECTION 21. IC 27-7-2-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 24. Every person lawfully engaged wholly or in part in writing worker's compensation insurance in this state shall, upon July 1, 1935, by written notice to the insurance commissioner, appoint ~~the insurance commissioner~~ **an individual resident of Indiana, a corporate resident of Indiana, or an authorized Indiana insurer as** the person's resident agent in Indiana upon whom service of process may be had for the enforcement of this chapter.

SECTION 22. IC 27-7-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) The insurer shall make available, in each automobile liability or motor vehicle liability policy of insurance which is delivered or issued for delivery in this state with respect to any motor vehicle registered or principally garaged in this state, insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any person and for injury to or destruction of property to others arising from the ownership, maintenance, or use of a motor vehicle, or in a supplement to such a policy, the following types of coverage:

(1) in limits for bodily injury or death and for injury to or destruction of property not less than those set forth in IC 9-25-4-5 under policy provisions approved by the commissioner of insurance, for the protection of persons insured under the policy who are legally entitled to recover damages from owners or operators of uninsured or underinsured motor vehicles because of bodily injury, sickness or disease, including death, and for the protection of persons insured under the policy who are legally entitled to recover damages from owners or operators of uninsured motor vehicles for injury to or destruction of property resulting therefrom; or

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(2) in limits for bodily injury or death not less than those set forth in IC 9-25-4-5 under policy provisions approved by the commissioner of insurance, for the protection of persons insured under the policy provisions who are legally entitled to recover damages from owners or operators of uninsured or underinsured motor vehicles because of bodily injury, sickness or disease, including death resulting therefrom.

The uninsured and underinsured motorist coverages must be provided by insurers for either a single premium or for separate premiums, in limits at least equal to the limits of liability specified in the bodily injury liability provisions of an insured's policy, unless such coverages have been rejected in writing by the insured. However, underinsured motorist coverage must be made available in limits of not less than fifty thousand dollars ($50,000). At the insurer's option, the bodily injury liability provisions of the insured's policy may be required to be equal to the insured's underinsured motorist coverage. Insurers may not sell or provide underinsured motorist coverage in an amount less than fifty thousand dollars ($50,000). Insurers must make underinsured motorist coverage available to all existing policyholders on the date of the first renewal of existing policies that occurs on or after January 1, 1995, and on any policies newly issued or delivered on or after January 1, 1995. Uninsured motorist coverage or underinsured motorist coverage may be offered by an insurer in an amount exceeding the limits of liability specified in the bodily injury and property damage liability provisions of the insured's policy.

(b) ~~The~~ **Any** named insured of an automobile or motor vehicle liability policy has the right, **on behalf of all other named insureds and all other insureds,** in writing, to:

(1) reject both the uninsured motorist coverage and the underinsured motorist coverage provided for in this section; or

(2) reject either the uninsured motorist coverage alone or the underinsured motorist coverage alone, if the insurer provides the coverage not rejected separately from the coverage rejected.

No insured may have uninsured motorist property damage liability insurance coverage under this section unless the insured also has uninsured motorist bodily injury liability insurance coverage under this section. Following rejection of either or both uninsured motorist coverage or underinsured motorist coverage, unless later requested in writing, the insurer need not offer uninsured motorist coverage or underinsured motorist coverage in or supplemental to a renewal **or replacement** policy ~~in connection with a policy previously~~ issued to the same insured **by the same insurer or a subsidiary or an affiliate**

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of the originally issuing insurer. Renewals of policies issued or delivered in this state which have undergone interim policy endorsement or amendment do not constitute newly issued or delivered policies for which the insurer is required to provide the coverages described in this section.

SECTION 23. IC 27-8-1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13. Any corporation, association or society, organized under the laws of any other state or government to insure lives on the assessment plan, or any corporation carrying on the business of life or accident insurance on the assessment plan, shall be licensed by the auditor of state, upon the payment to ~~him~~ **the auditor of state** of a fee of twenty-five dollars ($25.00), to do business in this state. ~~Provided, Such~~ **However, the** corporation or association shall first deposit with the auditor of state a certified copy of its charter or articles of incorporation, a copy of its statement of business for the preceding year, with the names and residence of its officers, sworn to by the president and secretary, or like officers, showing a detailed account of expenses and income, the amount of insurance in force, its assets and liabilities in detail, and setting forth that it has the ability to pay its policies or certificates to the full limit named therein; a certificate from the insurance commissioner or from a judge or clerk of a court of record of its home state, certifying that corporations or associations insuring life in the assessment plan, and paying policies in full, or providing accident indemnities, and chartered under the laws of this state are legally entitled to do business in its home state; a copy of its policy or certificate of membership, application and by-laws, which must show that death losses are, in the main, provided for by assessment upon the surviving members; and it shall legally designate ~~a person,~~ **an individual resident of Indiana, a corporate resident of Indiana, or an authorized Indiana insurer as its** agent or attorney in fact, residing in this state, upon whom service of process for said company or association may be made, ~~and, in default of such designation, service of process may be made upon the auditor of state of this state, who shall be deemed its agent for that purpose,~~ and ~~he~~ **the agent or attorney in fact** shall immediately notify any corporation or association thus served.

SECTION 24. IC 27-8-3-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 19. Any corporation, association, or society organized under the authority of another state or government to issue, or which is engaged in the business of issuing, policies or certificates of life or accident or life and accident insurance, and for the payment of total and permanent disability claims to living

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members on the assessment plan, as a condition precedent to transacting business in this state, shall deposit with the insurance commissioner:

(1) a certified copy of its articles of incorporation or association;

(2) a certified copy of a vote or resolution of the board of directors of said company consenting that service of process in any suit against such company may be served upon ~~the commissioner~~ **an individual resident of Indiana, a corporate resident of Indiana, or an authorized Indiana insurer, appointed by the company as the company's agent for service of process,** with like effect as if such company was chartered, organized, or incorporated in the state of Indiana, and agreeing that any process served upon such ~~commissioner~~ **agent** shall be of the same legal force and validity as if served upon said company, and agreeing that such service may be so made with such effect while any liability remains outstanding against such company in this state;

(3) a statement, under oath of its president and secretary, in the form by the commissioner required, of its business for the preceding year;

(4) a certificate, under oath of its president and secretary, that it is paying, and for the twelve (12) months then next preceding, has paid, the maximum amount named in its policies or certificates in full;

(5) a certificate from the proper authority in its home state that corporations, associations or societies of this state, engaged according to the provisions of this chapter in life or accident, or life and accident insurance, and for the payment of total and permanent disability claims to living members upon the assessment plan, are legally entitled to do business in such state;

(6) a copy of its policy or certificate, application, and bylaws, which must show that the insured's liability to contribute to the payments of benefits is not limited to the payment of a fixed periodical sum; and

(7) evidence satisfactory to the commissioner that the corporation, association, or society accumulates a fund equal in amount to that required of similar corporations, associations, or societies of this state and that such accumulation is permitted by the law of the corporation, association, or society and is for the benefit of policy or certificate-holders only, and is invested in securities authorized under the law of its incorporation or association.

The insurance commissioner shall thereupon issue or renew the authority of such corporation, association, or society to do business in

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this state, and such authority shall be revoked whenever the commissioner, on investigation, is satisfied that such corporation, association, or society is not paying the maximum amount named in its policies or certificates in full. Upon such revocation, the commissioner shall cause notice thereof to be published in a newspaper of general circulation, published in the city of Indianapolis, Indiana, and no new business shall be thereafter done by its agents in this state. If any such corporation, association, or society is authorized by the law under which it is incorporated to issue contracts of insurance not contemplated in this chapter, it shall nevertheless be permitted to transact in this state the character of business authorized by this chapter upon complying in all other respects with the requirements thereof and filing with the commissioner an agreement duly executed by the proper officers that such corporation, association, or society will not enter into or issue within this state any contract of insurance, policy, or agreement not authorized by this chapter. Upon a breach of such agreement by any such corporation, association, or society, the commissioner shall forthwith revoke and cancel its authority to transact business in this state. When any other state or country shall impose any obligation upon any such corporation, association, or society of this state, the like obligation shall be imposed upon similar corporations, associations, or societies and their agents of such state or country doing business in this state. If the laws of such state where such corporation, association, or society is organized will not admit corporations, associations, or societies organized in this state, or doing business under this chapter, to do business in such state, then such corporations, associations, or societies shall not be admitted to do business in this state.

SECTION 25. IC 27-8-3-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 20. All processes in any action or proceeding against any foreign corporation, association, or society doing business in this state under the provisions of this chapter may be served upon ~~the insurance commissioner,~~ **an individual resident of Indiana, a corporate resident of Indiana, or an authorized Indiana insurer, appointed by the corporation, association, or society as its agent for service of process,** and any lawful process against it which is served on the ~~commissioner~~ **agent** shall be of the same legal force and validity as if served on the corporation, association, or society, and this provision shall continue in force so long as any liability remains outstanding against the corporation, association, or society in this state, service upon such ~~commissioner~~ **agent** shall be deemed sufficient service upon the principal. When legal process against any such corporation,

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association, or society is served upon such ~~commissioner,~~ **agent,** ~~he~~ **the agent** shall immediately notify the corporation, association, or society of such service by registered letter, prepaid, directed to its secretary, or, in case of a corporation, association or society of a foreign country, to the resident manager, if any, in this country, and shall, within two (2) days after such service, forward in the same manner a copy of the process served on ~~him~~ **the agent** to such secretary or manager, or to any person previously designated by the corporation, association, or society, in writing. ~~The plaintiff in each process so served shall pay to the commissioner at the time of service a fee as required under IC 27-1-3-15, which shall be recovered by him as a part of the taxable costs if he prevails in the suit.~~ The ~~commissioner~~ **agent** shall keep a record of all processes served upon ~~him,~~ **the agent** which record shall show the day and hour when such service was made.

SECTION 26. IC 27-8-5-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 19. (a) As used in this chapter, "late enrollee" has the meaning set forth in 26 U.S.C. 9801(b)(3).

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

(1) the provisions described in subsection (c); or

(2) provisions that, in the opinion of the commissioner, are:

(A) more favorable to the persons insured; or

(B) at least as favorable to the persons insured and more favorable to the policyholder;

than the provisions set forth in subsection (c).

(c) The provisions referred to in subsection (b)(1) are as follows:

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

(2) A provision that the validity of the policy may not be contested, except for nonpayment of premiums, after the policy

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has been in force for two (2) years after its date of issue, and that no statement made by a person covered under the policy relating to the person's insurability may be used in contesting the validity of the insurance with respect to which the statement was made, unless:

(A) the insurance has not been in force for a period of two (2) years or longer during the person's lifetime; or

(B) the statement is contained in a written instrument signed by the insured person.

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

(3) A provision that a copy of the application, if there is one, of the policyholder must be attached to the policy when issued, that all statements made by the policyholder or by the persons insured are to be deemed representations and not warranties, and that no statement made by any person insured may be used in any contest unless a copy of the instrument containing the statement is or has been furnished to the insured person or, in the event of death or incapacity of the insured person, to the insured person's beneficiary or personal representative.

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

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

(A) may apply only to a disease or physical condition for which medical advice, diagnosis, care, or treatment was received by the person, or recommended to the person, during the six (6) months before the enrollment date of the person's coverage; and

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

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(i) the end of a continuous period of twelve (12) months beginning on or after the enrollment date of the person's coverage; or

(ii) the end of a continuous period of eighteen (18) months beginning on the enrollment date of the person's coverage if the person is a late enrollee.

This subdivision applies only to group policies of accident and sickness insurance other than those described in section 2.6(a)(1) through 2.6(a)(9) of this chapter.

(6) A provision specifying any additional exclusions or limitations applicable under the policy with respect to a disease or physical condition of a person that existed before the effective date of the person's coverage under the policy. An exclusion or limitation that must be specified in a provision under this subdivision:

(A) may apply only to a disease or physical condition for which medical advice or treatment was received by the person during a period of three hundred sixty-five (365) days before the effective date of the person's coverage; and

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

(i) The end of a continuous period of three hundred sixty-five (365) days, beginning on or after the effective date of the person's coverage, during which the person did not receive medical advice or treatment in connection with the disease or physical condition.

(ii) The end of the two (2) year period beginning on the effective date of the person's coverage.

This subdivision applies only to group policies of accident and sickness insurance described in section 2.6(a)(1) through 2.6(a)(9) of this chapter.

~~(6)~~ **(7)** If premiums or benefits under the policy vary according to a person's age, a provision specifying an equitable adjustment of:

(A) premiums;

(B) benefits; or

(C) both premiums and benefits;

to be made if the age of a covered person has been misstated. A provision under this subdivision must contain a clear statement of the method of adjustment to be used.

~~(7)~~ **(8)** A provision that the insurer will issue to the policyholder, for delivery to each person insured, a certificate setting forth a statement that:

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(A) explains the insurance protection to which the person insured is entitled;

(B) indicates to whom the insurance benefits are payable; and

(C) explains any family member's or dependent's coverage under the policy.

~~(8)~~ **(9)** A provision stating that written notice of a claim must be given to the insurer within twenty (20) days after the occurrence or commencement of any loss covered by the policy, but that a failure to give notice within the twenty (20) day period does not invalidate or reduce any claim if it can be shown that it was not reasonably possible to give notice within that period and that notice was given as soon as was reasonably possible.

~~(9)~~ **(10)** A provision stating that:

(A) the insurer will furnish to the person making a claim, or to the policyholder for delivery to the person making a claim, forms usually furnished by the insurer for filing proof of loss; and

(B) if the forms are not furnished within fifteen (15) days after the insurer received notice of a claim, the person making the claim will be deemed to have complied with the requirements of the policy as to proof of loss upon submitting, within the time fixed in the policy for filing proof of loss, written proof covering the occurrence, character, and extent of the loss for which the claim is made.

~~(10)~~ **(11)** A provision stating that:

(A) in the case of a claim for loss of time for disability, written proof of the loss must be furnished to the insurer within ninety (90) days after the commencement of the period for which the insurer is liable, and that subsequent written proofs of the continuance of the disability must be furnished to the insurer at reasonable intervals as may be required by the insurer;

(B) in the case of a claim for any other loss, written proof of the loss must be furnished to the insurer within ninety (90) days after the date of the loss; and

(C) the failure to furnish proof within the time required under clause (A) or (B) does not invalidate or reduce any claim if it was not reasonably possible to furnish proof within that time, and if proof is furnished as soon as reasonably possible but (except in case of the absence of legal capacity of the claimant) no later than one (1) year from the time proof is otherwise required under the policy.

~~(11)~~ **(12)** A provision that:

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(A) all benefits payable under the policy (other than benefits for loss of time) will be paid within forty-five (45) days after the insurer receives all information required to determine liability under the terms of the policy; and

(B) subject to due proof of loss, all accrued benefits under the policy for loss of time will be paid not less frequently than monthly during the continuance of the period for which the insurer is liable, and any balance remaining unpaid at the termination of the period for which the insurer is liable will be paid as soon as possible after receipt of the proof of loss.

~~(12)~~ **(13)** A provision that benefits for loss of life of the person insured are payable to the beneficiary designated by the person insured. However, if the policy contains conditions pertaining to family status, the beneficiary may be the family member specified by the policy terms. In either case, payment of benefits for loss of life is subject to the provisions of the policy if no designated or specified beneficiary is living at the death of the person insured. All other benefits of the policy are payable to the person insured. The policy may also provide that if any benefit is payable to the estate of a person, or to a person who is a minor or otherwise not competent to give a valid release, the insurer may pay the benefit, up to an amount of five thousand dollars ($5,000), to any relative by blood or connection by marriage of the person who is deemed by the insurer to be equitably entitled to the benefit.

~~(13)~~ **(14)** A provision that the insurer has the right and must be allowed the opportunity to:

(A) examine the person of the individual for whom a claim is made under the policy when and as often as the insurer reasonably requires during the pendency of the claim; and

(B) conduct an autopsy in case of death if it is not prohibited by law.

~~(14)~~ **(15)** A provision that no action at law or in equity may be brought to recover on the policy less than sixty (60) days after proof of loss is filed in accordance with the requirements of the policy, and that no action may be brought at all more than three (3) years after the expiration of the time within which proof of loss is required by the policy.

~~(15)~~ **(16)** In the case of a policy insuring debtors, a provision that the insurer will furnish to the policyholder, for delivery to each debtor insured under the policy, a certificate of insurance describing the coverage and specifying that the benefits payable will first be applied to reduce or extinguish the indebtedness.

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~~(16)~~ **(17)** If the policy provides that hospital or medical expense coverage of a dependent child of a group member terminates upon the child's attainment of the limiting age for dependent children set forth in the policy, a provision that the child's attainment of the limiting age does not terminate the hospital and medical coverage of the child while the child is:

(A) incapable of self-sustaining employment because of mental retardation or a physical disability; and

(B) chiefly dependent upon the group member for support and maintenance.

A provision under this subdivision may require that proof of the child's incapacity and dependency be furnished to the insurer by the group member within one hundred twenty (120) days of the child's attainment of the limiting age and, subsequently, at reasonable intervals during the two (2) years following the child's attainment of the limiting age. The policy may not require proof more than once per year in the time more than two (2) years after the child's attainment of the limiting age. This subdivision does not require an insurer to provide coverage to a mentally retarded or physically disabled child who does not satisfy the requirements of the group policy as to evidence of insurability or other requirements for coverage under the policy to take effect. In any case, the terms of the policy apply with regard to the coverage or exclusion from coverage of the child.

~~(17)~~ **(18)** A provision that complies with the group portability and guaranteed renewability provisions of the federal Health Insurance Portability and Accountability Act of 1996 (P.L.104-191).

(d) Subsection (c)(5), ~~(c)(7),~~ **(c)(8),** and ~~(c)(12)~~ **(c)(13)** do not apply to policies insuring the lives of debtors. The standard provisions required under section 3(a) of this chapter for individual accident and sickness insurance policies do not apply to group accident and sickness insurance policies.

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

SECTION 27. IC 27-9-3-30.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 30.1. (a) Reinsurance must be**

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payable under a contract reinsured by an assuming insurer on the basis of reported claims allowed in the liquidation proceedings, subject to court approval, without diminution because of the insolvency of the ceding insurer. Payments must be made directly to the ceding insurer or to the ceding insurer's domiciliary liquidator except when:

(1) the contract or other written agreement specifically provides another payee of the reinsurance in the event of the insolvency of the ceding insurer; or

(2) before the initiation of the insolvency proceedings, the assuming insurer, with the consent of the direct insured, has assumed the policy obligations of the ceding insurer as direct obligations of the assuming insurer to policy payees and in substitution for the obligations of the ceding insurer to the payees.

(b) During the pendency of a receivership proceeding, an assuming insurer, with the consent of the direct insured and the receiver, subject to court approval, may assume policy obligations of the ceding insurer as direct obligations of the assuming insurer to the policy payees and in substitution for the obligations of the ceding insurer to the payees.

SECTION 28. IC 27-11-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) Every society authorized to do business in Indiana shall appoint in writing ~~the commissioner and each successor in office~~ **an individual resident of Indiana, a corporate resident of Indiana, or an authorized Indiana insurer** to be its true and lawful attorney upon whom all lawful process in any action or proceeding against it shall be served and shall agree in such writing that:

(1) any lawful process against it that is served on the attorney shall be of the same legal force and validity as if served upon the society; and

(2) the authority shall continue in force so long as any liability remains outstanding in this state.

Copies of the appointment, certified by the commissioner, shall be considered sufficient evidence thereof and shall be admitted in evidence with the same force and effect as the original might be admitted.

(b) Service shall only be made upon the ~~commissioner~~ **attorney** or, if absent, upon the person in charge of the ~~commissioner's~~ **attorney's** office. It shall be made in duplicate and shall constitute sufficient service upon the society. When legal process against a society is served

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upon the ~~commissioner,~~ **attorney,** the ~~commissioner~~ **attorney** shall immediately forward one (1) of the duplicate copies by registered mail, prepaid, directed to the secretary or corresponding officer. No service shall require a society to file its answer, pleading, or defense in less than thirty (30) days from the date of mailing the copy of the service to a society. Legal process shall not be served upon a society except in the manner provided in this section. ~~At the time of serving any process upon the commissioner, the plaintiff or complainant in the action shall pay to the commissioner a fee as required under IC 27-1-3-15.~~

SECTION 29. [EFFECTIVE JULY 1, 1999] **(a) The legislative council shall establish an interim study committee to do the following:**

(1) Study the following issues related to the Indiana comprehensive health insurance association established under IC 27-8-10:

(A) Borrowing from financial institutions to provide working capital.

(B) Premium rates, including:

(i) a maximum premium rate or range for premium rates;

(ii) consideration of health maintenance organization premiums in rate determination;

(iii) annual premium rate determination and adjustment; and

(iv) a policy providing for reduced premium rates for insureds who have Medicare coverage.

(C) The effect of Medicaid eligibility on eligibility for coverage under an association policy.

(D) A maximum total annual assessment to members, the remainder of the cost to be paid by the state.

(E) Appeals procedures allowing members to:

(i) defer assessment payments for not more than one (1) year;

(ii) make assessment payments on a monthly or quarterly basis for cause; or

(iii) reduce or suspend an assessment if payment would cause the member's net worth or reserves to decrease below statutory requirements.

(F) Membership of self-insurance plans, including:

(i) conflicts with the federal Employee Retirement Income Security Act (29 U.S.C. 1001 et seq.); and

(ii) mechanisms for identifying self-insurance plans.

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(G) Periodic audits to ensure that all entities that assume risk for accident or sickness of individuals in Indiana are members for purposes of the annual assessment.

(H) Penalties for late payment or nonpayment of assessments.

(I) Strategies to increase the base of insured individuals and decrease costs.

(J) Establishment of an independent administrative agency.

(2) Make recommendations to the legislative council regarding the issues specified in subdivision (1).

(b) The committee shall:

(1) operate under the direction and rules of the legislative council; and

(2) issue a final report when directed to do so by the legislative council.

(c) This SECTION expires November 1, 1999.

SECTION 30. [EFFECTIVE JULY 1, 1999] **The Indiana department of insurance shall adopt rules to regulate the licensure and practice of an associate insurance agent as defined in IC 27-1-15.5-2(j), as added by this act.**

SECTION 31. IC 27-9-3-30 IS REPEALED [EFFECTIVE JULY 1, 1999].

SECTION 32. [EFFECTIVE JULY 1, 1999] **(a) IC 27-1-3-15, IC 27-1-3-28, IC 27-1-15.5-4, IC 27-1-17-4, IC 27-1-20-21.3, IC 27-1-27-5, IC 27-6-6-4, IC 27-7-2-24, IC 27-8-1-13, IC 27-8-3-19, IC 27-8-3-20, and IC 27-11-9-1, all as amended by this act, apply upon receipt by the commissioner of the department of insurance of the designation from the insurer of an agent for service of process.**

(b) This SECTION expires June 30, 2004.

SECTION 33. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. President: The Senate Committee on Insurance and Financial Institutions, to which was referred Senate Bill No. 559, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 27-1-3-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 15. (a) Except as provided in subsection ~~(g),~~ **(f),** the commissioner shall collect the following **filing** fees: ~~when the documents described in this subsection are delivered to the commissioner for filing:~~

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

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

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

Per page for copying . . . . . As determined by the commissioner but not to exceed actual cost

For the certificate $10

~~(d)~~ **(c)** 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

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hundred dollars ($100) annually as an internal audit fee.

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

~~(f)~~ **(e)** The commissioner shall pay into the state general fund by the end of each calendar month the amounts collected during that month under subsections (a) **and** (b). ~~and (c).~~

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

SECTION 2. IC 27-1-3-29 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 29. (a) Except as otherwise provided by statute, a policy is enforceable against the insurer according to its terms, even if the policy exceeds the authority of the insurer.**

(b) A policy that violates a statute or rule is enforceable against the insurer as if the policy conformed to the statute or rule.

(c) Upon the written request of the policyholder or the insured whose rights under the policy are continuing and not transitory, an insurer shall reform and reissue its written policy to comply with the requirements of the law existing at the date of issue or last renewal of the policy.

SECTION 3. IC 27-1-15.5-7.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7.1. (a) This section does not apply to a nonresident licensee that:

(1) is licensed as a resident insurance agent by another state that has a continuing education requirement as a condition for license renewals; and

(2) meets all the requirements for licensure in the resident state of the nonresident licensee.

(b) To renew a license issued under this chapter:

(1) an insurance agent (as defined in section 2(b) of this chapter) must complete at least thirty (30) hours of credit in continuing education courses; and

(2) a limited insurance representative (as defined in section 2(e) of this chapter) must complete at least ten (10) hours of credit in continuing education.

(c) To satisfy the requirements of subsection (b), a licensee may use only those credit hours earned in continuing education courses

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completed by the licensee:

(1) after the date on which the licensee last renewed a license under this chapter; or

(2) if the licensee is renewing a license for the first time, after the date on which the licensee was issued the license under this chapter.

(d) If an insurance agent (as defined in section 2(b) of this chapter) holds more than one (1) license under this chapter, the licensee may not be required to complete a total of more than thirty (30) hours of credit in continuing education courses to renew all of the licenses.

(e) A licensee may receive credit only for completing continuing education courses that have been approved by the commissioner under section 7.3 of this chapter.

(f) A licensee who teaches a course approved by the commissioner under section 7.3 of this chapter may receive continuing education credit for teaching the course.

(g) When a licensee renews a license issued under this chapter, the licensee must submit **information required by the commissioner evidencing completion of continuing education requirements and any other information required by the commissioner. This information may include a statement signed under oath by the licensee that the licensee has completed continuing education requirements.**

~~(1) a continuing education statement that:~~

~~(A) is on a form provided by the commissioner;~~

~~(B) is signed by the licensee under oath; and~~

~~(C) lists the continuing education courses completed by the licensee to satisfy the continuing education requirements under this section; and~~

~~(2) any other information required by the commissioner.~~

(h) ~~A continuing education statement~~ **Information** submitted under subsection (g) may be reviewed and audited by the department of insurance.

(i) A licensee shall retain a copy of the original certificate of completion received by the licensee for completion of a continuing education course.

(j) The commissioner may adopt rules under IC 4-22-2 to implement this section.

SECTION 4. IC 27-1-15.5-7.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7.3. (a) The commissioner shall approve and disapprove continuing education courses after considering recommendations made by the insurance

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agent education and continuing education advisory council under section 20(h) of this chapter.

(b) The commissioner may not approve a course under this section that:

(1) is designed to prepare an individual to receive an initial license under this chapter;

(2) deals only with office skills;

(3) concerns sales promotion and sales techniques;

(4) deals with motivation, psychology, or time management; or

(5) may be completed by a licensee without any supervision by an instructor unless the course involves an examination process:

(A) completed and passed by the licensee as determined by the provider of the course; and

(B) approved by the commissioner.

(c) **The commissioner may enter into reciprocal agreements with other states for the approval and disapproval of continuing education courses. The commissioner may approve or disapprove a course on the basis of a reciprocal state's approval or disapproval of the course. The reciprocal agreement may not permit approval of a course described in subsection (b).**

(d) The commissioner shall adopt rules under IC 4-22-2 to establish procedures for approving continuing education courses.

SECTION 5. IC 27-1-15.5-8 AND P.L.91-1998, SECTION 6, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The commissioner may suspend, revoke, refuse to continue, renew, or issue any license issued under this chapter, or impose any of the disciplinary sanctions under subsection (f) if, after notice to the licensee and to the insurer represented and a hearing, the commissioner finds as to the licensee any one (1) or more of the following conditions:

(1) Any materially untrue statement in the license application.

(2) Any cause for which issuance of the license could have been refused had it then existed and been known to the commissioner at the time of issuance.

(3) Violation of or noncompliance with any insurance laws, violation of any provision of IC 28 concerning the sale of a life insurance policy or an annuity contract, or violation of any lawful rule, regulation, or order of the commissioner or of a commissioner of another state.

(4) Obtaining or attempting to obtain any such license through misrepresentation or fraud.

(5) Improperly withholding, misappropriating, or converting to

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the licensee's own use any money belonging to policyholders, insurers, beneficiaries, or others received in the course of the licensee's insurance business.

(6) Misrepresentation of the terms of any actual or proposed insurance contract.

(7) *A:*

(A) conviction of; *or*

(B) plea of guilty, no contest, or nolo contendere to;

a felony or misdemeanor involving moral turpitude.

(8) The licensee has been found guilty of any unfair trade practice or of fraud.

(9) In the conduct of the licensee's affairs under the license, the licensee has used fraudulent, coercive, or dishonest practices, or has shown himself to be incompetent, untrustworthy, or financially irresponsible, or not performing in the best interests of the insuring public.

(10) The licensee's license has been suspended or revoked in any ~~*other*~~ state, province, district, or territory.

(11) The licensee has forged another's name to an application for insurance.

(12) An applicant has been found to have been cheating on an examination for an insurance license.

(13) The applicant or licensee is on the most recent tax warrant list supplied to the commissioner by the department of state revenue.

(14) The licensee has failed to satisfy the continuing education requirements under section 7.1 of this chapter.

(15) The licensee has violated section 24 of this chapter.

(b) The commissioner shall refuse to:

(1) issue a license; or

(2) renew a license issued;

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

(c) In the event that the action by the commissioner is to not renew or to deny an application for a license, the commissioner shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reasons for the denial or nonrenewal of the applicant's or licensee's license. Not later than sixty (60) days after receiving a notice from the commissioner under this subsection, the applicant or licensee may make written demand upon the commissioner for a hearing to determine the reasonableness of the commissioner's action.

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Such hearing shall be held within thirty (30) days from the date of receipt of the written demand of the applicant.

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

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

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

(1) Permanently revoke (as defined in subsection (i)) a licensee's certificate.

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

(3) Suspend a licensee's certificate.

(4) Censure a licensee.

(5) Issue a letter of reprimand.

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

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

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

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

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

(g) *The commissioner may order the licensee to make restitution if the commissioner finds that the licensee has violated:*

(1) subsection (a)(5);

(2) subsection (a)(8);

(3) subsection (a)(9); or

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(4) section 24 of this chapter.

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

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

SECTION 6. IC 27-1-17-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. Whenever a foreign or an alien insurance company desires to be admitted to do an insurance business in this state, it shall execute in the English language and present the following to the department, at its office, accompanied by the fees prescribed by law:

(a) A copy of its articles of incorporation or association, with all amendments thereto, duly authenticated by the proper officer of the state, country, province, or government wherein it is incorporated or organized, or the state in which it is domiciled in the United States.

(b) An application for admission, executed in the manner provided in this chapter, setting forth:

(1) the name of such company;

(2) the location of its principal office or place of business without this state;

(3) the names of the states in which it has been admitted or qualified to do business;

(4) the character of insurance business under its articles of incorporation or association which it intends to transact in this state, which must conform to the class or classes set forth in the provisions of IC 27-1-5-1;

(5) the total authorized capital stock of the company and the amount thereof issued and outstanding, and the surplus required of such company by the laws of the state, country, province, or government under which it is organized, or the state in which it is domiciled in the United States, if a stock company, which shall equal at least the requirements set forth in section 5(a) of this chapter;

(6) the total amount of assets and the surplus of assets over all its liabilities, if other than a stock company, which shall equal at least the requirements set forth in section 5(b) of this chapter;

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(7) if an alien company, the surplus of assets invested according to the laws of the state in the United States where it has its deposit, which shall equal at least the requirements set forth in section 5(c) of this chapter; and

(8) such further and additional information as the department may from time to time require.

The application shall be signed in duplicate, in the form prescribed by the department, by the president or a vice president and the secretary or an assistant secretary of the corporation, and verified under oath by the officers signing the same.

(c) A statement of its financial condition and business, in the form prescribed by law for annual statements, signed and sworn to by the president or secretary or other principal officers of the company; provided, however, that an alien company shall also furnish a separate statement comprising only its condition and business in the United States, which shall be signed and sworn to by its United States manager.

(d) A copy of the last report of examination certified to by the insurance commissioner or other proper supervisory official of the state in which such company is domiciled; provided, however, that the commissioner may cause an examination to be made of the condition and affairs of such company before authority to transact business in this state is given.

(e) A certificate from the proper official of the state, country, province, or government wherein it is incorporated or organized, or the state in which it is domiciled in the United States, that it is duly organized or incorporated under those laws and authorized to make the kind or kinds of insurance which it proposes to make in this state.

(f) A copy of its bylaws or regulations, if any, certified to by the secretary or similar officer of the insurance company.

(g) Copies of forms of all policies which the insurance company proposes to issue in this state and also copies of the forms of application for such policies.

(h) A duly executed power of attorney in a form prescribed by the department which constitutes and appoints ~~the commissioner or his successor, or successors,~~ **an individual or a corporate resident of Indiana, or an authorized Indiana insurer, as the insurance company's agent,** its true and lawful attorney upon whom all lawful processes in any action in law or in equity against it shall be served. Such power of attorney shall contain an agreement by the insurance company that any lawful process

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against it which may be served upon the ~~commissioner~~ **agent** as its attorney shall be of the same force and validity as if served upon the insurance company and that such power of attorney shall continue in force and be irrevocable so long as any liability of the insurance company remains outstanding in this state. Such power of attorney shall be executed by the president and secretary of the insurance company or other duly authorized officers under its seal and shall be accompanied by a certified copy of the resolution of the board of directors of the company making said appointment and authorizing the execution of said power of attorney. ~~Whether or not the power of attorney referred to in this subdivision shall have been executed, every foreign or alien insurance company admitted to do business in this state shall be deemed to have appointed the commissioner its true and lawful attorney upon whom all lawful processes in any action at law or in equity against it shall be served.~~ Service of any lawful process shall be by delivering to and leaving with the ~~commissioner~~ **agent** two (2) copies of such process, with copy of the pertinent complaint attached. ~~together with a fee as required under IC 27-1-3-15.~~ The ~~commissioner~~ **agent** shall forthwith transmit to the defendant company at its last known principal place of business by registered or certified mail, return receipt requested, one (1) of the copies of such process, with complaint attached, the other copy to be retained in a record which shall show all process served upon and transmitted by him. Such service shall be sufficient provided the returned receipt or, if the defendant company shall refuse to accept such mailing, the registered mail together with an affidavit of plaintiff or his attorney stating that service was made upon the ~~commissioner~~ **agent** and forwarded as above set forth but that such mail was returned by the post office department is filed with the court. The ~~department~~ **agent** shall make information and receipts available to plaintiff, defendant or their attorneys. No plaintiff or complainant shall be entitled to a judgment by default based on service authorized by this section until the expiration of at least thirty (30) days from the date on which either the post office receipt or the unclaimed mail together with affidavit is filed with the court. Nothing in this section shall limit or abridge the right to serve any process, notice or demand upon any company in any other manner permitted by law.

(i) Proof which satisfies the department that it has complied with the financial requirements imposed in this chapter upon foreign and alien insurance companies which transact business in this

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state and that it is entitled to public confidence and that its admission to transact business in this state will not be prejudicial to public interest.

SECTION 7. IC 27-1-18-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) Every insurance company not organized under the laws of this state, and each domestic company electing to be taxed under this section, and doing business within this state shall, on or before March 1 of each year, report to the department, under the oath of the president and secretary, the gross amount of all premiums received by it on policies of insurance covering risks within this state, or in the case of marine or transportation risks, on policies made, written, or renewed within this state during the twelve (12) month period ending on December 31 of the preceding calendar year. From the amount of gross premiums described in this subsection shall be deducted:

(1) considerations received for reinsurance of risks within this state from companies authorized to transact an insurance business in this state;

(2) the amount of dividends paid or credited to resident insureds, or used to reduce current premiums of resident insureds;

(3) the amount of premiums actually returned to residents on account of applications not accepted or on account of policies not delivered; and

(4) the amount of unearned premiums returned on account of the cancellation of policies covering risks within the state.

(b) A domestic company shall be taxed under this section only in each calendar year with respect to which it files a notice of election. The notice of election shall be filed with the insurance commissioner and the commissioner of the department of state revenue on or before November 30 in each year and shall state that the domestic company elects to submit to the tax imposed by this section with respect to the calendar year commencing January 1 next following the filing of the notice. The exemption from license fees, privilege, or other taxes accorded by this section to insurance companies not organized under the laws of this state and doing business within this state which are taxed under this chapter shall be applicable to each domestic company in each calendar year with respect to which it is taxed under this section. In each calendar year with respect to which a domestic company has not elected to be taxed under this section it shall be taxed without regard to this section.

(c)(1) For the privilege of doing business in this state, every insurance company required to file the report provided in this section

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shall pay into the treasury of this state an amount equal to two percent (2%) of the excess, if any, of the gross premiums over the allowable deductions.

(c)(2) Payments of the tax imposed by this section shall be made on a quarterly estimated basis. The amounts of the quarterly installments shall be computed on the basis of the total estimated tax liability for the current calendar year and the installments shall be due and payable on or before April 15, June 15, September 15, and December 15, of the current calendar year.

(c)(3) Any balance due shall be paid in the next succeeding calendar year at the time designated for the filing of the annual report with the department.

(c)(4) Any overpayment of the estimated tax during the preceding calendar year shall be allowed as a credit against the liability for the first installment of the current calendar year.

(c)(5) In the event a company subject to taxation under this section fails to make any quarterly payment in an amount equal to at least:

(i) twenty-five percent (25%) of the total tax paid during the preceding calendar year; or

(ii) twenty per cent (20%) of the actual tax for the current calendar year;

the company shall be liable, in addition to the amount due, for interest in the amount of one percent (1%) of the amount due and unpaid for each month or part of a month that the amount due, together with interest, remains unpaid. This interest penalty shall be exclusive of and in addition to any other fee, assessment, or charge made by the department.

(d) The taxes under this article shall be in lieu of all license fees or privilege or other tax levied or assessed by this state or by any municipality, county, or other political subdivision of this state. No municipality, county, or other political subdivision of this state shall impose any license fee or privilege or other tax upon any insurance company or any of its agents for the privilege of doing an insurance business therein, except the tax authorized by IC 22-12-6-5. However, the taxes authorized under IC 22-12-6-5 shall be credited against the taxes provided under this chapter. This section shall not be construed to prohibit the levy and collection of state, county, or municipal taxes upon real and tangible personal property of such company, or to prohibit the levy of any retaliatory tax, fine, penalty, or fee provided by law. However, all insurance companies, foreign or domestic, paying taxes in this state predicated in part on their premium income from policies sold and premiums received in Indiana, shall have the same

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rights and privileges from further taxation and shall be given the same credits wherever applicable, as those set out for those companies paying only a tax on premiums as set out in this section.

(e) Any insurance company failing or refusing, for more than thirty (30) days, to render an accurate account of its premium receipts as provided in this section and pay the tax due thereon shall be subject to a penalty of one hundred dollars ($100) for each additional day such report and payment shall be delayed, ~~to be recovered in an action in the name of the state of Indiana on the relation of the department of insurance, in any court of competent jurisdiction, and it shall be the duty of the department to~~ **not to exceed a maximum penalty of ten thousand dollars ($10,000). The penalty may be ordered by the commissioner after a hearing under IC 4-21.5-3. The commissioner may** revoke all authority of such defaulting company to do business within this state, or suspend such authority during the period of such default, in the discretion of the ~~department.~~ **commissioner**.

SECTION 8. IC 27-1-20-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. ~~(a)~~ Every company doing business in this state shall file with the department on or before March 1 in each year a financial statement for the year ending December 31 immediately preceding in a format in accordance with IC 27-1-3-13. For good and sufficient cause shown, the commissioner may grant to any individual company a reasonable extension of time not to exceed ninety (90) days within which such statement may be filed. Such statement shall be verified by the oaths of the president or a vice president and the secretary or an assistant secretary of the company. The statement of an alien company shall segregate and state separately its condition and transaction in the United States and such segregated and separated statement shall be verified by the oath of its resident manager or principal representative in the United States. The commissioner of insurance may, with the approval of the commission on public records, authorize the destruction of such annual statements which have been on file for two (2) years or more and microfilm copies of which have been made and filed.

~~(b) A company that during the previous calendar year provided:~~

~~(1) insurance of the type described in IC 27-1-5-1, Class 2(h), to one (1) or more Indiana political subdivisions (as defined in IC 34-6-2-110);~~

~~(2) insurance of the type described in IC 27-1-5-1, Class 2(h) type insurance covering liability risks related to the ownership or operation of establishments in Indiana at which alcoholic beverages are sold and consumed;~~

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~~(3) recreational facilities liability insurance;~~
~~(4) lawyers professional liability insurance;~~
~~(5) product liability insurance;~~
~~(6) uninsured and underinsured motorist insurance;~~
~~(7) owners, landlords, and tenants liability insurance; or~~
~~(8) day care centers liability insurance;~~

~~shall file with the department, as an additional part of the financial statement required under subsection (a), an exhibit of premiums and losses reflecting the company's financial results exclusively in connection with that insurance.~~

~~(c) The exhibit required under subsection (b) must set forth figures indicating:~~

~~(1) direct premiums written;~~
~~(2) direct premiums earned;~~
~~(3) direct losses paid;~~
~~(4) direct losses incurred;~~
~~(5) direct losses unpaid;~~
~~(6) allocated loss adjustment expenses; and~~
~~(7) unallocated loss adjustment expenses;~~

~~for the year of the financial statement in connection with all insurance described in subsection (b).~~

~~(d) This subsection applies to insurers that provide one (1) or more of the following types of insurance during a calendar year:~~

~~(1) Child care liability insurance.~~
~~(2) Political subdivision liability insurance, including public schools.~~
~~(3) Errors and omissions liability insurance.~~
~~(4) Officers and director liability insurance.~~
~~(5) Liquor liability insurance.~~

~~An insurer covered by this subsection shall file the exhibit described in subsection (e) with the department, as an additional part of the financial statement required under subsection (a) for the calendar year in which the insurance was provided.~~

~~(e) The exhibit required under subsection (d) must report:~~

~~(1) the number of jury awards paid under the provisions of the insurance during the calendar year, and the total amount paid for all jury awards;~~
~~(2) the number of court awards (other than jury awards) paid under the provisions of the insurance during the calendar year, and the total amount paid for all of those awards; and~~
~~(3) the number of negotiated settlements paid under the provisions of the insurance during the calendar year, and the total~~

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~~amount paid for all those negotiated settlements.~~

~~(f) The information described in subsection (e) shall be reported in each year after 1990.~~

~~(g) The information described in subsection (c) shall be reported in each year beginning in 1990 for the following lines of insurance:~~

~~(1) Recreational facilities liability insurance.~~

~~(2) Lawyers professional liability insurance.~~

~~(3) Product liability insurance.~~

~~(4) Uninsured and underinsured motorist insurance.~~

~~(5) Owners, landlords, and tenants liability insurance.~~

~~(6) Day care centers liability insurance.~~

SECTION 9. IC 27-1-20-33 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 33. (a) As used in this section, "insurer" refers to each:

(1) domestic company;

(2) foreign company; and

(3) alien company;

that is authorized to transact business in Indiana.

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

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

(1) must be:

(A) in the same format; and

(B) of the same scope;

as is required by the commissioner under section 21 of this chapter;

(2) to the extent required by the NAIC, must include the signed jurat page and the actuarial certification; and

(3) must be filed ~~on diskette~~ **electronically** in accordance with NAIC ~~diskette~~ **electronic** filing specifications.

The commissioner may grant an exemption from the requirement of subdivision (3) to domestic companies that operate only in Indiana. If an insurer files any amendment or addendum to an insurer's annual statement convention blank or quarterly statement with the commissioner, the insurer shall also file a copy of the amendment or

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addendum with the NAIC. Annual and quarterly financial statements are deemed filed with the NAIC when delivered to the address designated by the NAIC for the filings regardless of whether the filing is accompanied by any applicable fee.

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

(e) A foreign company that:

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

(2) complies with that law;

shall be considered to be in compliance with this section.

(f) In the absence of actual malice:

(1) members of the NAIC;

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

(3) delegates of members of the NAIC;

(4) employees of the NAIC; and

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

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

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

SECTION 10. IC 27-1-22-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 2.5. (a) As used in this chapter, "exempt commercial policyholder" means an entity that:**

(1) makes written certification to the entity's insurer on a form prescribed by the department that the entity is an exempt commercial policyholder;

(2) procures insurance with the services of a risk manager;

(3) has purchased the policy of insurance through an insurance agent licensed under IC 27-1-15.5-3; and

(4) meets any two (2) of the following criteria:

(A) Has a net worth of more than twenty-five million dollars ($25,000,000) at the time the policy of insurance is

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issued.

(B) Has a net revenue or sales of more than fifty million dollars ($50,000,000) in the preceding fiscal year.

(C) Has more than twenty-five (25) employees per individual company or fifty (50) employees per holding company aggregate at the time the policy of insurance is issued.

(D) Has aggregate annual commercial premiums of more than fifty thousand dollars ($50,000) in the preceding fiscal year.

(E) Is a nonprofit or a public entity with an annual budget of at least twenty-five million dollars ($25,000,000) or assets of at least twenty-five million dollars ($25,000,000) in the preceding fiscal year.

(b) As used in this chapter, "risk manager" means a full-time employee of, or a person retained by, an exempt commercial policyholder who is qualified through:

(1) education and experience; or

(2) training and experience;

to assess an exempt commercial policyholder's insurance needs and analyze and negotiate a policy of insurance on behalf of an exempt commercial policyholder. A risk manager shall not receive commission, fees, or other consideration from the insurer in connection with the purchase of a commercial policy of insurance by the exempt commercial policyholder.".

Page 1, line 2, delete ":".

Page 1, line 3, reset in roman "shall file with the commissioner,".

Page 1, line 4, delete "(1)".

Page 1, line 4, strike "except as to inland marine risks which by general custom of".

Page 1, strike line 5.

Page 1, line 6, strike "plans;".

Page 1, line 6, delete "and".

Page 1, delete lines 7 through 8.

Page 1, line 9, delete "shall file with the commissioner".

Page 1, run in lines 3 through 9.

Page 1, between lines 11 and 12, begin a new paragraph and insert:

"**(b) The following types of insurance are exempt from the requirements of subsections (a) and (j):**

(1) Inland marine risks which by general custom of the business are not written according to manual rates or rating plans.

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(2) Insurance, other than workers compensation insurance or medical malpractice insurance, issued to exempt commercial policyholders.".

Page 1, line 12, strike "(b)" and insert "**(c)**".

Page 1, line 15, strike "(c)" and insert "**(d)**".

Page 2, line 10, strike "(d)" and insert "**(e)**".

Page 2, line 13, strike "(e)" and insert "**(f)**".

Page 2, line 15, strike "(f)" and insert "**(g)**".

Page 2, line 23, strike "(g)" and insert "**(h)**".

Page 3, line 8, strike "(h)" and insert "**(i)**".

Page 3, line 17, strike "(i)" and insert "**(j)**".

Page 3, strike line 20.

Page 3, line 21, strike "which filings are not required, no" and insert "**(k) An**".

Page 3, line 21, after "shall" insert "**not**".

Page 3, line 28, strike "(k)" and insert "**(l)**".

Page 3, between lines 34 and 35, begin a new paragraph and insert:

"**(m) The department may adopt rules to:**

(1) implement the exemption under IC 27-1-22-4(b);

(2) impose disclosure requirements the commissioner determines are necessary to adequately protect exempt commercial policyholders; and

(3) establish the form and content of the report required by subsection (o).

(n) Each insurer who issues insurance to an exempt commercial policyholder shall file an annual report with the department by February 1 of each year.

(o) An annual report must be accompanied by the fee prescribed by IC 27-1-3-15(e). For purposes of calculating the required fee, each policy purchased by an exempt commercial policyholder shall be considered a product filing under IC 27-1-3-15(e).".

Page 3, between lines 34 and 35, begin a new paragraph and insert:

"SECTION 12. IC 27-1-22-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11. (a) Any subscriber which has authorized a rating organization to making filings on its behalf and any member thereof which does not wish to act under sections ~~4(f)~~ **4(g)** and ~~4(g)~~ **4(h)** of this chapter may appeal to the commissioner from the action or decision of such rating organization in approving or rejecting any proposed change in or addition to the filings of such rating organization and the commissioner shall, after a hearing held upon not less than ten (10) days written notice to the appellant and to such rating organization, issue an order approving the

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action or decision of such rating organization or directing it to give further consideration to such proposal, or, if such appeal is from the action or decision of the rating organization in rejecting a proposed addition to its filings, he may, in the event he finds that such action or decision was unreasonable, issue an order directing the rating organization to make an addition to its filings in a manner consistent with his findings within a reasonable time after the issuance of such order.

(b) If such appeal is based upon the failure of the rating organization to make a filing on behalf of such member or subscriber which is based on a system of expense provisions which differs, in accordance with the right granted in section 3(a)(3) of this chapter from the system of expense provisions included in a filing made by the rating organization, the commissioner shall, if he grants the appeal, order the rating organization to make the requested filing for use by the appellant. In deciding such appeal the commissioner shall apply the standards set forth in section 3 of this chapter.

SECTION 13. IC 27-1-27-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) The commissioner may not issue a certificate of authority to a nonresident applicant until that nonresident files with the commissioner, in a form prescribed by the commissioner, a designation ~~that the commissioner (and his successors in office) is~~ **of an individual resident of Indiana, a corporate resident of Indiana, or an authorized Indiana insurer as** the nonresident applicant's legal representative upon whom may be served all lawful process in any action, suit, or proceeding:

(1) instituted by or on behalf of an interested person; and

(2) arising out of the nonresident applicant's public adjuster's insurance business.

(b) The designation required by subsection (a) constitutes an agreement that service of process upon the ~~commissioner~~ **nonresident applicant's legal representative** is of the same legal force and validity as personal service of process upon an Indiana resident.

(c) Service upon a nonresident may be made by

~~(1)~~ serving the ~~commissioner~~ **nonresident applicant's legal representative** with an appropriate number of copies of the process. ~~and~~

~~(2) payment to the commissioner of a fee as required under IC 27-1-3-15.~~

(d) The ~~commissioner~~ **nonresident applicant's legal representative** shall forward a copy of the process by registered mail to the nonresident at his last known address of record or principal place

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of business, keeping a record of such process and service.

(e) Service of process is sufficient as long as notice of the service and a copy of the process are sent not more than ten (10) days after the ~~commissioner~~ **nonresident applicant's legal representative** received the service of process on behalf of the nonresident.

(f) Service of process upon a nonresident in any action instituted by the commissioner under this chapter shall be made by the commissioner by mailing the process to the **nonresident applicant's legal representative or the** nonresident by registered mail at his last known address of record or principal place of business.".

Page 6, after line 9, begin a new paragraph and insert:

"SECTION 15. IC 27-6-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) Concurrently with the filing of the declaration provided for by the terms of section 3 of this chapter, the attorney (as defined in section 2 of this chapter) shall file with the department of insurance, state of Indiana, an instrument in writing, executed by him for said subscribers, conditioned that, upon the issuance of a certificate of authority provided for in section 9 of this chapter, service of process may be had upon the ~~commissioner of insurance~~ **individual resident of Indiana, corporate resident of Indiana, or authorized Indiana insurer, appointed by the subscribers as the subscribers' agent for service of process** in all suits in this state arising out of such policies, contracts, or agreements, which service shall be valid and binding upon all subscribers exchanging at any time reciprocal or interinsurance contracts through such attorney.

(b) Service of process under subsection (a) shall be made by delivering to the ~~commissioner of insurance~~ **subscribers' agent** two (2) copies of process with a complaint attached. ~~A fee as required under IC 27-1-3-15 shall be paid to the commissioner at the time of service. A writ against the commissioner of insurance shall not be returnable until thirty (30) days after service.~~

(c) It shall be the duty of the ~~commissioner of insurance,~~ **subscribers' agent,** upon service, to promptly send one (1) copy of such summons, by registered letter, to the attorney specified in subsection (a) and to file the other copy of summons in the office of the ~~commissioner.~~ **subscribers' agent**.

SECTION 16. IC 27-7-2-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 24. Every person lawfully engaged wholly or in part in writing worker's compensation insurance in this state shall, upon July 1, 1935, by written notice to the insurance commissioner, appoint ~~the insurance commissioner~~ **an**

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individual resident of Indiana, a corporate resident of Indiana, or an authorized Indiana insurer as the person's resident agent in Indiana upon whom service of process may be had for the enforcement of this chapter.

SECTION 17. IC 27-8-1-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13. Any corporation, association or society, organized under the laws of any other state or government to insure lives on the assessment plan, or any corporation carrying on the business of life or accident insurance on the assessment plan, shall be licensed by the auditor of state, upon the payment to ~~him~~ **the auditor of state** of a fee of twenty-five dollars ($25.00), to do business in this state. ~~Provided, Such~~ **However, the** corporation or association shall first deposit with the auditor of state a certified copy of its charter or articles of incorporation, a copy of its statement of business for the preceding year, with the names and residence of its officers, sworn to by the president and secretary, or like officers, showing a detailed account of expenses and income, the amount of insurance in force, its assets and liabilities in detail, and setting forth that it has the ability to pay its policies or certificates to the full limit named therein; a certificate from the insurance commissioner or from a judge or clerk of a court of record of its home state, certifying that corporations or associations insuring life in the assessment plan, and paying policies in full, or providing accident indemnities, and chartered under the laws of this state are legally entitled to do business in its home state; a copy of its policy or certificate of membership, application and by-laws, which must show that death losses are, in the main, provided for by assessment upon the surviving members; and it shall legally designate ~~a person,~~ **an individual resident of Indiana, a corporate resident of Indiana, or an authorized Indiana insurer as its** agent or attorney in fact, residing in this state, upon whom service of process for said company or association may be made, ~~and, in default of such designation, service of process may be made upon the auditor of state of this state, who shall be deemed its agent for that purpose,~~ and ~~he~~ **the agent or attorney in fact** shall immediately notify any corporation or association thus served.

SECTION 18. IC 27-8-3-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 19. Any corporation, association, or society organized under the authority of another state or government to issue, or which is engaged in the business of issuing, policies or certificates of life or accident or life and accident insurance, and for the payment of total and permanent disability claims to living members on the assessment plan, as a condition precedent to

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transacting business in this state, shall deposit with the insurance commissioner:

(1) a certified copy of its articles of incorporation or association;

(2) a certified copy of a vote or resolution of the board of directors of said company consenting that service of process in any suit against such company may be served upon ~~the commissioner~~ **an individual resident of Indiana, a corporate resident of Indiana, or an authorized Indiana insurer, appointed by the company as the company's agent for service of process,** with like effect as if such company was chartered, organized, or incorporated in the state of Indiana, and agreeing that any process served upon such ~~commissioner~~ **agent** shall be of the same legal force and validity as if served upon said company, and agreeing that such service may be so made with such effect while any liability remains outstanding against such company in this state;

(3) a statement, under oath of its president and secretary, in the form by the commissioner required, of its business for the preceding year;

(4) a certificate, under oath of its president and secretary, that it is paying, and for the twelve (12) months then next preceding, has paid, the maximum amount named in its policies or certificates in full;

(5) a certificate from the proper authority in its home state that corporations, associations or societies of this state, engaged according to the provisions of this chapter in life or accident, or life and accident insurance, and for the payment of total and permanent disability claims to living members upon the assessment plan, are legally entitled to do business in such state;

(6) a copy of its policy or certificate, application, and bylaws, which must show that the insured's liability to contribute to the payments of benefits is not limited to the payment of a fixed periodical sum; and

(7) evidence satisfactory to the commissioner that the corporation, association, or society accumulates a fund equal in amount to that required of similar corporations, associations, or societies of this state and that such accumulation is permitted by the law of the corporation, association, or society and is for the benefit of policy or certificate-holders only, and is invested in securities authorized under the law of its incorporation or association.

The insurance commissioner shall thereupon issue or renew the authority of such corporation, association, or society to do business in this state, and such authority shall be revoked whenever the

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commissioner, on investigation, is satisfied that such corporation, association, or society is not paying the maximum amount named in its policies or certificates in full. Upon such revocation, the commissioner shall cause notice thereof to be published in a newspaper of general circulation, published in the city of Indianapolis, Indiana, and no new business shall be thereafter done by its agents in this state. If any such corporation, association, or society is authorized by the law under which it is incorporated to issue contracts of insurance not contemplated in this chapter, it shall nevertheless be permitted to transact in this state the character of business authorized by this chapter upon complying in all other respects with the requirements thereof and filing with the commissioner an agreement duly executed by the proper officers that such corporation, association, or society will not enter into or issue within this state any contract of insurance, policy, or agreement not authorized by this chapter. Upon a breach of such agreement by any such corporation, association, or society, the commissioner shall forthwith revoke and cancel its authority to transact business in this state. When any other state or country shall impose any obligation upon any such corporation, association, or society of this state, the like obligation shall be imposed upon similar corporations, associations, or societies and their agents of such state or country doing business in this state. If the laws of such state where such corporation, association, or society is organized will not admit corporations, associations, or societies organized in this state, or doing business under this chapter, to do business in such state, then such corporations, associations, or societies shall not be admitted to do business in this state.

SECTION 19. IC 27-8-3-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 20. All processes in any action or proceeding against any foreign corporation, association, or society doing business in this state under the provisions of this chapter may be served upon ~~the insurance commissioner,~~ **an individual resident of Indiana, a corporate resident of Indiana, or an authorized Indiana insurer, appointed by the corporation, association, or society as its agent for service of process,** and any lawful process against it which is served on the ~~commissioner~~ **agent** shall be of the same legal force and validity as if served on the corporation, association, or society, and this provision shall continue in force so long as any liability remains outstanding against the corporation, association, or society in this state, service upon such ~~commissioner~~ **agent** shall be deemed sufficient service upon the principal. When legal process against any such corporation, association, or society is served upon such ~~commissioner,~~ **agent,** ~~he~~ **the**

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agent shall immediately notify the corporation, association, or society of such service by registered letter, prepaid, directed to its secretary, or, in case of a corporation, association or society of a foreign country, to the resident manager, if any, in this country, and shall, within two (2) days after such service, forward in the same manner a copy of the process served on ~~him~~ **the agent** to such secretary or manager, or to any person previously designated by the corporation, association, or society, in writing. ~~The plaintiff in each process so served shall pay to the commissioner at the time of service a fee as required under IC 27-1-3-15, which shall be recovered by him as a part of the taxable costs if he prevails in the suit.~~ The ~~commissioner~~ **agent** shall keep a record of all processes served upon ~~him,~~ **the agent** which record shall show the day and hour when such service was made.

SECTION 20. IC 27-11-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) Every society authorized to do business in Indiana shall appoint in writing ~~the commissioner and each successor in office~~ **an individual resident of Indiana, a corporate resident of Indiana, or an authorized Indiana insurer** to be its true and lawful attorney upon whom all lawful process in any action or proceeding against it shall be served and shall agree in such writing that:

(1) any lawful process against it that is served on the attorney shall be of the same legal force and validity as if served upon the society; and

(2) the authority shall continue in force so long as any liability remains outstanding in this state.

Copies of the appointment, certified by the commissioner, shall be considered sufficient evidence thereof and shall be admitted in evidence with the same force and effect as the original might be admitted.

(b) Service shall only be made upon the ~~commissioner~~ **attorney** or, if absent, upon the person in charge of the ~~commissioner's~~ **attorney's** office. It shall be made in duplicate and shall constitute sufficient service upon the society. When legal process against a society is served upon the ~~commissioner,~~ **attorney,** the ~~commissioner~~ **attorney** shall immediately forward one (1) of the duplicate copies by registered mail, prepaid, directed to the secretary or corresponding officer. No service shall require a society to file its answer, pleading, or defense in less than thirty (30) days from the date of mailing the copy of the service to a society. Legal process shall not be served upon a society except in the manner provided in this section. ~~At the time of serving any process upon the commissioner, the plaintiff or complainant in the action shall~~

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~~pay to the commissioner a fee as required under IC 27-1-3-15.~~

SECTION 21. IC 34-18-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. If a health care provider or its insurer has agreed to settle its liability on a claim by payment of its policy limits of ~~one~~ **two** hundred **fifty** thousand dollars ~~($100,000),~~ **($250,000),** and the claimant is demanding an amount in excess of that amount, the following procedure must be followed:

(1) A petition shall be filed by the claimant in the court named in the proposed complaint, or in the circuit or superior court of Marion County, at the claimant's election, seeking:

(A) approval of an agreed settlement, if any; or

(B) demanding payment of damages from the patient's compensation fund.

(2) A copy of the petition with summons shall be served on the commissioner, the health care provider, and the health care provider's insurer, and must contain sufficient information to inform the other parties about the nature of the claim and the additional amount demanded.

(3) The commissioner and either the health care provider or the insurer of the health care provider may agree to a settlement with the claimant from the patient's compensation fund, or the commissioner, the health care provider, or the insurer of the health care provider may file written objections to the payment of the amount demanded. The agreement or objections to the payment demanded shall be filed within twenty (20) days after service of summons with copy of the petition attached to the summons.

(4) The judge of the court in which the petition is filed shall set the petition for approval or, if objections have been filed, for hearing, as soon as practicable. The court shall give notice of the hearing to the claimant, the health care provider, the insurer of the health care provider, and the commissioner.

(5) At the hearing, the commissioner, the claimant, the health care provider, and the insurer of the health care provider may introduce relevant evidence to enable the court to determine whether or not the petition should be approved if the evidence is submitted on agreement without objections. If the commissioner, the health care provider, the insurer of the health care provider, and the claimant cannot agree on the amount, if any, to be paid out of the patient's compensation fund, the court shall, after hearing any relevant evidence on the issue of claimant's damage submitted by any of the parties described in this section,

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determine the amount of claimant's damages, if any, in excess of the ~~one~~ **two** hundred **fifty** thousand dollars ~~($100,000)~~ **($250,000)** already paid by the insurer of the health care provider. The court shall determine the amount for which the fund is liable and make a finding and judgment accordingly. In approving a settlement or determining the amount, if any, to be paid from the patient's compensation fund, the court shall consider the liability of the health care provider as admitted and established.

(6) A settlement approved by the court may not be appealed. A judgment of the court fixing damages recoverable in a contested proceeding is appealable pursuant to the rules governing appeals in any other civil case tried by the court.

(7) A release executed between the parties does not bar access to the patient's compensation fund unless the release specifically provides otherwise.

SECTION 22. [EFFECTIVE JULY 1, 1999] **(a) IC 27-1-3-15, IC 27-1-3-28, IC 27-1-15.5-4, IC 27-1-17-4, IC 27-1-20-21.3, IC 27-1-27-5, IC 27-6-6-4, IC 27-7-2-24, IC 27-8-1-13, IC 27-8-3-19, IC 27-8-3-20, and IC 27-11-9-1, all as amended by this act, apply upon receipt by the commissioner of the department of insurance of the designation from the insurer of an agent for service of process.**

(b) This SECTION expires June 30, 2004.

SECTION 23. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 559 as introduced.)

PAUL, Chairperson

Committee Vote: Yeas 8, Nays 0.

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SENATE MOTION

Mr. President: I move that Senate Bill 559 be amended to read as follows:

Page 21, delete lines 10 through 42.

Delete page 22.

Page 23, delete lines 1 through 26.

Renumber all SECTIONS consecutively.

(Reference is to SB 550 as printed March 2, 1999.)

CLARK

SENATE MOTION

Mr. President: I move that Senate Bill 559 be amended to read as follows:

Page 3, delete lines 3 through 42.

Page 4, delete lines 1 through 41.

Renumber all SECTIONS consecutively.

(Reference is to SB 559 as printed March 2, 1999.)

CLARK

SENATE MOTION

Mr. President: I move that Senate Bill 559 be amended to read as follows:

Page 2, line 6, reset in roman "The commissioner shall collect a fee of ten dollars ($10) each".

Page 2, reset in roman line 7.

Page 28, delete lines 17 through 42.

Page 29, delete lines 1 through 30.

Renumber all SECTIONS consecutively.

(Reference is to SB 559 as printed March 2, 1999.)

CLARK

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SENATE MOTION

Mr. President: I move that Senate Bill 559 be amended to read as follows:

Page 24, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 16. IC 27-6-8-6 IS AMENDED TO READ AS FOLLOWS: Sec. 6. (a) The board of directors of the association shall consist of nine (9) member insurers one (1) of whom shall be selected by or from among each of the following groups representative of member insurers, such selection to be subject to the approval of the commissioner:

(i) One (1) person representing the American Insurance Association.

(ii) One (1) person representing the Alliance of American Insurers.

(iii) One (1) person representing the National Association of Independent Insurers.

(iv) One (1) person representing the National Association of Mutual Insurance Companies.

(v) One (1) person representing the Insurance Institute of Indiana.

(vi) ~~One (1) person representing the domestic stock companies.~~ **Three (3) persons representing the domestic stock, domestic mutual, or domestic reciprocal insurers, with no more than two (2) persons representing each category.**

~~(vii) One (1) person representing the domestic mutual companies.~~

~~(viii) One (1) person representing the domestic reciprocal insurers.~~

~~(ix)~~ **(vii)** One (1) person representing independent unaffiliated stock, fire, and casualty companies to be appointed by the commissioner.

(b) Not more than one (1) member insurer in a group of insurers under the same management or ownership shall serve as a director at the same time.

(c) Directors shall serve such terms as shall be established in the plan of operation.

(d) Vacancies on the board shall be filled for the remaining period of the term in the same manner as the initial selection.

(e) If no directors are selected by March 1, 1972, the commissioner may appoint the initial members of the board of directors.

(f) In approving selections to the board, the commissioner shall consider among other things whether all member insurers are fairly represented.

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(g) Directors may be reimbursed from the assets of the association for expenses incurred by them as members of the board of directors.".

Renumber all SECTIONS consecutively.

(Reference is to SB 559 as printed March 2, 1999.)

CLARK

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, Corporations and Small Business, to which was referred Senate Bill 559, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 2-3-3-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2000]: **Sec. 2.5. (a) For purposes of this section, "employer" refers to an employer that is any of the following:**

(1) A political subdivision (as defined in IC 36-1-2-13).

(2) A state educational institution.

(b) An employer of an individual who is a member of the general assembly shall provide to the individual at all times during which the individual is serving as a member of the general assembly:

(1) the same insurance and other benefits; and

(2) at the same cost to the individual;

as is provided to the individual by the employer when the individual is not serving as a member of the general assembly.

SECTION 2. IC 22-4-25-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) There is created in the state treasury a special fund to be known as the special employment and training services fund. All interest on delinquent contributions and penalties collected under this article, together with any voluntary contributions tendered as a contribution to this fund, shall be paid into this fund. The money shall not be expended or available for expenditure in any manner which would permit their substitution for (or a corresponding reduction in) federal funds which would in the absence of said money be available to finance expenditures for the administration of this article, but nothing in this section shall prevent said money from being used as a revolving fund to cover expenditures necessary and proper under the law for which federal funds have been duly requested but not yet received, subject to the charging of such expenditures against such funds when received. The money in this fund shall be used by the board for the payment of refunds of interest on delinquent contributions and penalties so collected, for the payment of costs of administration which are found not to have been properly and validly chargeable against federal grants or other funds received for or in the employment and training services administration fund, on and after July 1, 1945. Such money shall be

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available either to satisfy the obligations incurred by the board directly, or by transfer by the board of the required amount from the special employment and training services fund to the employment and training services administration fund. No expenditure of this fund shall be made unless and until the board finds that no other funds are available or can properly be used to finance such expenditures, except that expenditures from said fund may be made for the purpose of acquiring lands and buildings or for the erection of buildings on lands so acquired which are deemed necessary by the board for the proper administration of this article. The board shall order the transfer of such funds or the payment of any such obligation or expenditure and such funds shall be paid by the treasurer of state on requisition drawn by the board directing the auditor of state to issue the auditor's warrant therefor. Any such warrant shall be drawn by the state auditor based upon vouchers certified by the board or the commissioner. The money in this fund is hereby specifically made available to replace within a reasonable time any money received by this state pursuant to 42 U.S.C. 502, as amended, which, because of any action or contingency, has been lost or has been expended for purposes other than or in amounts in excess of those approved by the bureau of employment security. The money in this fund shall be continuously available to the board for expenditures in accordance with the provisions of this section and shall not lapse at any time or be transferred to any other fund, except as provided in this article. Nothing in this section shall be construed to limit, alter, or amend the liability of the state assumed and created by IC 22-4-28, or to change the procedure prescribed in IC 22-4-28 for the satisfaction of such liability, except to the extent that such liability may be satisfied by and out of the funds of such special employment and training services fund created by this section.

(b) The board, subject to the approval of the budget agency and governor, is authorized and empowered to use all or any part of the funds in the special employment and training services fund for the purpose of acquiring suitable office space for the department by way of purchase, lease, contract, or in any part thereof to purchase land and erect thereon such buildings as the board determines necessary or to assist in financing the construction of any building erected by the state or any of its agencies wherein available space will be provided for the department under lease or contract between the department and the state or such other agency. The commissioner may transfer from the employment and training services administration fund to the special employment and training services fund amounts not exceeding funds specifically available to the commissioner for that purpose equivalent

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to the fair, reasonable rental value of any land and buildings acquired for its use until such time as the full amount of the purchase price of such land and buildings and such cost of repair and maintenance thereof as was expended from the special employment and training services fund has been returned to such fund.

(c) The board may also transfer from the employment and training services administration fund to the special employment and training services fund amounts not exceeding funds specifically available to the commissioner for that purpose equivalent to the fair, reasonable rental value of space used by the department in any building erected by the state or any of its agencies until such time as the department's proportionate amount of the purchase price of such building and the department's proportionate amount of such cost of repair and maintenance thereof as was expended from the special employment and training services fund has been returned to such fund.

(d) Whenever the balance in the special employment and training services fund is deemed excessive by the board, the board shall order payment into the unemployment insurance benefit fund of the amount of the special employment and training services fund deemed to be excessive.

(e) Subject to the approval of the board, the commissioner may use not more than ~~four~~ **five** million five hundred thousand dollars ~~($4,500,000)~~ **($5,500,000)** during a program year for:

(1) training and counseling assistance under IC 22-4-14-2 provided by state educational institutions (as defined in IC 20-12-0.5-1) or counseling provided by the department for individuals who:

(A) have been unemployed for at least four (4) weeks;

(B) are not otherwise eligible for training and counseling assistance under any other program; and

(C) are not participating in programs that duplicate those programs described in subdivision (2); or

(2) training provided by the state educational institution established under IC 20-12-61 to participants in joint labor and management apprenticeship programs approved by the United States Department of Labor's Bureau of Apprenticeship Training.

During a particular program year, at least ninety percent (90%) of the money used under this subsection shall be allocated for training programs described in subdivision (2), divided equally between industrial programs and building trade programs. During a particular program year, not more than ten percent (10%) of the money used under this subsection may be allocated for training and counseling

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assistance under subdivision (1). In addition, not more than fifteen percent (15%) of the money used for training and counseling assistance under subdivision (1) may be used for administrative expenses of the department. Training or counseling provided under IC 22-4-14-2 does not excuse the claimant from complying with the requirements of IC 22-4-14-3. Eligibility for training and counseling assistance under subdivision (1) shall not be determined until after the fourth week of eligibility for unemployment training compensation benefits.".

Page 3, between lines 2 and 3, begin a new paragraph and insert:

"SECTION 5. IC 27-1-15.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) The definitions set forth in this section apply throughout this chapter.

(b) "Insurance agent" means any individual, corporation, or limited liability company who, for compensation, acts or aids in any manner in:

(1) soliciting applications for insurance; or

(2) negotiating a policy of insurance on behalf of an insurer.

(c) An individual, a corporation, or a limited liability company:

(1) who is not licensed as an insurance agent, surplus lines insurance agent, or limited insurance representative; and

(2) who meets the definition of insurance agent in subsection (b);

shall be an insurance agent within the intent of this chapter, and shall thereby become liable for all the duties, requirements, liabilities, and penalties to which such licensed agents are subject.

(d) "Surplus lines insurance agent" means an individual, a corporation, or a limited liability company who solicits, negotiates, or procures from an insurance company not licensed to transact business in Indiana an insurance policy that cannot be procured from insurers licensed to do business in Indiana.

(e) "Limited insurance representative" means an individual, a corporation, or a limited liability company authorized by the commissioner to solicit or negotiate contracts for a particular line of insurance:

(1) that:

(A) is designated in this chapter; or

(B) the commissioner may by regulation consider essential for the transaction of business in this state; and

(2) that does not require the professional competency demanded for an insurance agent's license.

(f) "Consultant" means an individual, a corporation, or a limited liability company who:

(1) holds himself or itself out to the public as being engaged in the business of offering; or

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(2) for a fee, offers;

any advice, counsel, opinion or service with respect to the benefits, advantages, or disadvantages promised under any policy of insurance that could be issued in Indiana.

(g) "Bureau" refers to the child support bureau of the division of family and children established in IC 12-17-2-5.

(h) "Delinquent" means at least:

(1) two thousand dollars ($2,000); or

(2) three (3) months;

past due on payment of court ordered child support.

(i) "License" has the meaning set forth in IC 25-1-2-6.

(j) "Associate insurance agent" means an individual, a corporation, or a limited liability company that is authorized to perform the functions of an insurance agent only under the direction of an insurance agent who is licensed under this chapter.

SECTION 6. IC 27-1-15.5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2001]: Sec. 3. (a) A person may not act as or hold himself out to be an **associate insurance agent,** insurance agent, surplus lines insurance agent, limited insurance representative, or consultant unless he is duly licensed. An **associate insurance agent,** insurance agent, surplus lines insurance agent, or limited insurance representative may not make application for, procure, negotiate for, or place for others any policies for any kinds of insurance as to which he is not then qualified and duly licensed. An **associate insurance agent,** insurance agent, and a limited insurance representative may receive qualification for a license in one (1) or more of the kinds of insurance defined in Class I, Class II, and Class III of IC 27-1-5-1. A surplus lines insurance agent may receive qualification for a license in one (1) or more of the kinds of insurance defined in Class II and Class III of IC 27-1-5-1 from insurers that are authorized to do business in one (1) or more states of the United States of America but which insurers are not authorized to do business in Indiana, whenever, after diligent effort, as determined to the satisfaction of the insurance department, such licensee is unable to procure the amount of insurance desired from insurers authorized and licensed to transact business in Indiana. The commissioner may issue a limited insurance representative's license to the following without examination:

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

(2) a person who will only negotiate or solicit limited travel

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accident insurance in transportation terminals;

(3) a person who will only negotiate or solicit insurance covered by IC 27-8-4;

(4) a person who will only negotiate or solicit insurance under Class II(j); or

(5) to any person who will negotiate or solicit a kind of insurance that the commissioner finds does not require an examination to demonstrate professional competency.

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

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

(1) insurance written on the interests of the licensee or those of his immediate family or of his employer; or

(2) insurance covering himself or members of his immediate family or a corporation, limited liability company, association, or partnership, or the officers, directors, substantial stockholders, partners, members, managers, employees of such a corporation, limited liability company, association, or partnership, of which he is or a member of his immediate family is an officer, director, substantial stockholder, partner, member, manager, associate, or employee.

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

(d) An insurer, **associate insurance agent,** insurance agent, surplus

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

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

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

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

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

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

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

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

(1) A person who applies for a license renewal not more than twenty-four (24) months after the person's license expires must:

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

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

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(2) A person who applies for a license renewal more than twenty-four (24) months after it expires must successfully complete the education requirements of IC 27-1-15.5-4(e) and pass to the department's satisfaction the examination required of an applicant for the type of license for which the person seeks renewal.

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

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

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

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

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

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

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

(j) An insurance agent that is licensed under this chapter after January 1, 2001, must first:

(1) be licensed; and

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(2) serve;

as an associate insurance agent for a period to be determined by the department.

SECTION 7. IC 27-1-15.5-7.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7.1. (a) This section does not apply to:

(1) a nonresident licensee that:

~~(1)~~ **(A)** is licensed as a resident insurance agent by another state that has a continuing education requirement as a condition for license renewals; and

~~(2)~~ **(B)** meets all the requirements for licensure in the resident state of the nonresident licensee; **or**

(2) an officer, an employee, or a representative of a travel agency who negotiates or solicits insurance only incidental to and in connection with the purchase of an air transportation ticket.

(b) To renew a license issued under this chapter:

(1) an insurance agent (as defined in section 2(b) of this chapter) must complete at least thirty (30) hours of credit in continuing education courses; and

(2) a limited insurance representative (as defined in section 2(e) of this chapter) must complete at least ten (10) hours of credit in continuing education.

(c) To satisfy the requirements of subsection (b), a licensee may use only those credit hours earned in continuing education courses completed by the licensee:

(1) after the date on which the licensee last renewed a license under this chapter; or

(2) if the licensee is renewing a license for the first time, after the date on which the licensee was issued the license under this chapter.

(d) If an insurance agent (as defined in section 2(b) of this chapter) holds more than one (1) license under this chapter, the licensee may not be required to complete a total of more than thirty (30) hours of credit in continuing education courses to renew all of the licenses.

(e) A licensee may receive credit only for completing continuing education courses that have been approved by the commissioner under section 7.3 of this chapter.

(f) A licensee who teaches a course approved by the commissioner under section 7.3 of this chapter may receive continuing education credit for teaching the course.

(g) When a licensee renews a license issued under this chapter, the

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licensee must submit:

(1) a continuing education statement that:

(A) is on a form provided by the commissioner;

(B) is signed by the licensee under oath; and

(C) lists the continuing education courses completed by the licensee to satisfy the continuing education requirements under this section; and

(2) any other information required by the commissioner.

(h) A continuing education statement submitted under subsection (g) may be reviewed and audited by the department of insurance.

(i) A licensee shall retain a copy of the original certificate of completion received by the licensee for completion of a continuing education course.

(j) The commissioner may adopt rules under IC 4-22-2 to implement this section.".

Page 14, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 13. IC 27-1-20-34 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 34. An insurance company that insures a public entity as an exempt commercial policyholder (as defined in IC 27-1-22-2.5) must maintain at least an:**

(1) "A" rating by A.M. Best; or

(2) equivalent rating by another independent insurance rating organization.".

Page 14, delete line 17.

Page 14, line 18, delete "(3)" and insert "**(2)**".

Page 14, line 20, delete "(4)" and insert "**(3)**".

Page 14, line 20, delete "two (2)" and insert "**three (3)**".

Page 14, line 31, delete "fifty" and insert "**seventy-five**".

Page 14, line 31, delete "($50,000)" and insert "**($75,000)**".

Page 14, between lines 36 and 37, begin a new line double block indented and insert:

"**(F) Procures insurance with the services of a risk manager.**

An entity meets the written certification requirement under subdivision (1) if the entity provides a copy of a certification previously submitted under subdivision (1) and if there has been no significant material change in the entity's status.".

Page 14, line 37, after "means" insert "**:**".

Page 14, line 37, before "a", begin a new line block indented and insert:

"**(1)**".

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Page 14, line 39, after "policyholder" insert "**who complies with the continuing education requirements for licensed insurance agents under IC 27-1-15.5-7.1 and**".

Page 14, line 40, delete "(1)", begin a new line double block indented and insert:

"**(A)**".

Page 14, line 41, delete "(2)", begin a new line double block indented and insert:

"**(B)**".

Page 14, line 41, after ";" insert "**or**".

Page 14, between lines 41 and 42, begin a new line block indented and insert:

"**(2) an agent who holds a professional designation;**".

Page 15, line 2, delete "A risk manager shall not receive".

Page 15, delete lines 3 through 5.

Page 15, line 19, delete "medical malpractice insurance," and insert "**professional liability insurance,**".

Page 17, line 26, delete "and content".

Page 17, line 27, delete "(o)." and insert "**(n).**".

Page 17, line 30, after "year." insert "**The annual report may not disclose the identity of an exempt commercial policyholder and must include only the following information regarding each exempt commercial policyholder:**

(1) The account number, policy number, or other number used by the insurer to identify the insured.

(2) The amount of aggregate annual commercial premium.

(3) The inception date and expiration date of commercial insurance coverage provided by the insurer.".

Page 17, line 31, delete "An" and insert "**The**".

Page 17, line 31, after "report" insert "**filed under subsection (n)**".

Page 20, between lines 35 and 36, begin a new paragraph and insert:

"SECTION 20. IC 27-6-10-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. Credit for reinsurance shall be allowed ~~a~~ **to any** domestic ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only when:

(1) the reinsurer meets the requirements of:

~~(1)~~ **(A)** section 8 of this chapter;

~~(2)~~ **(B)** section 9 of this chapter;

~~(3)~~ **(C)** sections 10 and 12 of this chapter;

~~(4)~~ **(D)** sections 11 and 12 of this chapter; or

~~(5)~~ **(E)** section 13 of this chapter; **and**

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(2) the reinsurance contract provides in substance that, in the event of the insolvency of the ceding insurer, the reinsurance is payable under a contract reinsured by the assuming insurer on the basis of reported claims allowed in the liquidation proceedings, subject to court approval, without diminution because of the insolvency of the ceding insurer. Payments under this subdivision must be made directly to the ceding insurer or to the ceding insurer's domiciliary liquidator except as provided in IC 27-9-3-30. The reinsurance agreement may provide that the domiciliary liquidator of an insolvent ceding insurer shall give written notice to an assuming insurer of the pendency of a claim against the ceding insurer on the contract reinsured within a reasonable time after the claim is filed in the liquidation proceeding. During the pendency of the claim, any assuming insurer may investigate the claim and interpose in the proceeding where the claim is to be adjudicated, at the assuming insurer's expense, any defenses that the assuming insurer considers available to the ceding insurer or the liquidator. If two (2) or more assuming insurers are involved in the same claim and a majority in interest elect to interpose a defense to the claim, the expense must be apportioned under the terms of the reinsurance agreement as though the expense had been incurred by the ceding insurer.".

Page 21, between lines 2 and 3, begin a new paragraph and insert:

"SECTION 22. IC 27-7-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) The insurer shall make available, in each automobile liability or motor vehicle liability policy of insurance which is delivered or issued for delivery in this state with respect to any motor vehicle registered or principally garaged in this state, insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any person and for injury to or destruction of property to others arising from the ownership, maintenance, or use of a motor vehicle, or in a supplement to such a policy, the following types of coverage:

(1) in limits for bodily injury or death and for injury to or destruction of property not less than those set forth in IC 9-25-4-5 under policy provisions approved by the commissioner of insurance, for the protection of persons insured under the policy who are legally entitled to recover damages from owners or operators of uninsured or underinsured motor vehicles because of bodily injury, sickness or disease, including death, and for the

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protection of persons insured under the policy who are legally entitled to recover damages from owners or operators of uninsured motor vehicles for injury to or destruction of property resulting therefrom; or

(2) in limits for bodily injury or death not less than those set forth in IC 9-25-4-5 under policy provisions approved by the commissioner of insurance, for the protection of persons insured under the policy provisions who are legally entitled to recover damages from owners or operators of uninsured or underinsured motor vehicles because of bodily injury, sickness or disease, including death resulting therefrom.

The uninsured and underinsured motorist coverages must be provided by insurers for either a single premium or for separate premiums, in limits at least equal to the limits of liability specified in the bodily injury liability provisions of an insured's policy, unless such coverages have been rejected in writing by the insured. However, underinsured motorist coverage must be made available in limits of not less than fifty thousand dollars ($50,000). At the insurer's option, the bodily injury liability provisions of the insured's policy may be required to be equal to the insured's underinsured motorist coverage. Insurers may not sell or provide underinsured motorist coverage in an amount less than fifty thousand dollars ($50,000). Insurers must make underinsured motorist coverage available to all existing policyholders on the date of the first renewal of existing policies that occurs on or after January 1, 1995, and on any policies newly issued or delivered on or after January 1, 1995. Uninsured motorist coverage or underinsured motorist coverage may be offered by an insurer in an amount exceeding the limits of liability specified in the bodily injury and property damage liability provisions of the insured's policy.

(b) ~~The~~ **Any** named insured of an automobile or motor vehicle liability policy has the right, **on behalf of all other named insureds and all other insureds,** in writing, to:

(1) reject both the uninsured motorist coverage and the underinsured motorist coverage provided for in this section; or

(2) reject either the uninsured motorist coverage alone or the underinsured motorist coverage alone, if the insurer provides the coverage not rejected separately from the coverage rejected.

No insured may have uninsured motorist property damage liability insurance coverage under this section unless the insured also has uninsured motorist bodily injury liability insurance coverage under this section. Following rejection of either or both uninsured motorist coverage or underinsured motorist coverage, unless later requested in

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writing, the insurer need not offer uninsured motorist coverage or underinsured motorist coverage in or supplemental to a renewal **or replacement** policy ~~in connection with a policy previously~~ issued to the same insured **by the same insurer or a subsidiary or an affiliate of the originally issuing insurer.** Renewals of policies issued or delivered in this state which have undergone interim policy endorsement or amendment do not constitute newly issued or delivered policies for which the insurer is required to provide the coverages described in this section.".

Page 24, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 26. IC 27-8-5-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 19. (a) As used in this chapter, "late enrollee" has the meaning set forth in 26 U.S.C. 9801(b)(3).

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

(1) the provisions described in subsection (c); or

(2) provisions that, in the opinion of the commissioner, are:

(A) more favorable to the persons insured; or

(B) at least as favorable to the persons insured and more favorable to the policyholder;

than the provisions set forth in subsection (c).

(c) The provisions referred to in subsection (b)(1) are as follows:

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

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

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unless:

(A) the insurance has not been in force for a period of two (2) years or longer during the person's lifetime; or

(B) the statement is contained in a written instrument signed by the insured person.

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

(3) A provision that a copy of the application, if there is one, of the policyholder must be attached to the policy when issued, that all statements made by the policyholder or by the persons insured are to be deemed representations and not warranties, and that no statement made by any person insured may be used in any contest unless a copy of the instrument containing the statement is or has been furnished to the insured person or, in the event of death or incapacity of the insured person, to the insured person's beneficiary or personal representative.

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

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

(A) may apply only to a disease or physical condition for which medical advice, diagnosis, care, or treatment was received by the person, or recommended to the person, during the six (6) months before the enrollment date of the person's coverage; and

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

(i) the end of a continuous period of twelve (12) months beginning on or after the enrollment date of the person's coverage; or

(ii) the end of a continuous period of eighteen (18) months

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beginning on the enrollment date of the person's coverage if the person is a late enrollee.

This subdivision applies only to group policies of accident and sickness insurance other than those described in section 2.6(a)(1) through 2.6(a)(9) of this chapter.

(6) A provision specifying any additional exclusions or limitations applicable under the policy with respect to a disease or physical condition of a person that existed before the effective date of the person's coverage under the policy. An exclusion or limitation that must be specified in a provision under this subdivision:

(A) may apply only to a disease or physical condition for which medical advice or treatment was received by the person during a period of three hundred sixty-five (365) days before the effective date of the person's coverage; and

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

(i) The end of a continuous period of three hundred sixty-five (365) days, beginning on or after the effective date of the person's coverage, during which the person did not receive medical advice or treatment in connection with the disease or physical condition.

(ii) The end of the two (2) year period beginning on the effective date of the person's coverage.

This subdivision applies only to group policies of accident and sickness insurance described in section 2.6(a)(1) through 2.6(a)(9) of this chapter.

~~(6)~~ **(7)** If premiums or benefits under the policy vary according to a person's age, a provision specifying an equitable adjustment of:

(A) premiums;

(B) benefits; or

(C) both premiums and benefits;

to be made if the age of a covered person has been misstated. A provision under this subdivision must contain a clear statement of the method of adjustment to be used.

~~(7)~~ **(8)** A provision that the insurer will issue to the policyholder, for delivery to each person insured, a certificate setting forth a statement that:

(A) explains the insurance protection to which the person insured is entitled;

(B) indicates to whom the insurance benefits are payable; and

(C) explains any family member's or dependent's coverage

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under the policy.

~~(8)~~ **(9)** A provision stating that written notice of a claim must be given to the insurer within twenty (20) days after the occurrence or commencement of any loss covered by the policy, but that a failure to give notice within the twenty (20) day period does not invalidate or reduce any claim if it can be shown that it was not reasonably possible to give notice within that period and that notice was given as soon as was reasonably possible.

~~(9)~~ **(10)** A provision stating that:

(A) the insurer will furnish to the person making a claim, or to the policyholder for delivery to the person making a claim, forms usually furnished by the insurer for filing proof of loss; and

(B) if the forms are not furnished within fifteen (15) days after the insurer received notice of a claim, the person making the claim will be deemed to have complied with the requirements of the policy as to proof of loss upon submitting, within the time fixed in the policy for filing proof of loss, written proof covering the occurrence, character, and extent of the loss for which the claim is made.

~~(10)~~ **(11)** A provision stating that:

(A) in the case of a claim for loss of time for disability, written proof of the loss must be furnished to the insurer within ninety (90) days after the commencement of the period for which the insurer is liable, and that subsequent written proofs of the continuance of the disability must be furnished to the insurer at reasonable intervals as may be required by the insurer;

(B) in the case of a claim for any other loss, written proof of the loss must be furnished to the insurer within ninety (90) days after the date of the loss; and

(C) the failure to furnish proof within the time required under clause (A) or (B) does not invalidate or reduce any claim if it was not reasonably possible to furnish proof within that time, and if proof is furnished as soon as reasonably possible but (except in case of the absence of legal capacity of the claimant) no later than one (1) year from the time proof is otherwise required under the policy.

~~(11)~~ **(12)** A provision that:

(A) all benefits payable under the policy (other than benefits for loss of time) will be paid within forty-five (45) days after the insurer receives all information required to determine liability under the terms of the policy; and

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(B) subject to due proof of loss, all accrued benefits under the policy for loss of time will be paid not less frequently than monthly during the continuance of the period for which the insurer is liable, and any balance remaining unpaid at the termination of the period for which the insurer is liable will be paid as soon as possible after receipt of the proof of loss.

~~(12)~~ **(13)** A provision that benefits for loss of life of the person insured are payable to the beneficiary designated by the person insured. However, if the policy contains conditions pertaining to family status, the beneficiary may be the family member specified by the policy terms. In either case, payment of benefits for loss of life is subject to the provisions of the policy if no designated or specified beneficiary is living at the death of the person insured. All other benefits of the policy are payable to the person insured. The policy may also provide that if any benefit is payable to the estate of a person, or to a person who is a minor or otherwise not competent to give a valid release, the insurer may pay the benefit, up to an amount of five thousand dollars ($5,000), to any relative by blood or connection by marriage of the person who is deemed by the insurer to be equitably entitled to the benefit.

~~(13)~~ **(14)** A provision that the insurer has the right and must be allowed the opportunity to:

(A) examine the person of the individual for whom a claim is made under the policy when and as often as the insurer reasonably requires during the pendency of the claim; and

(B) conduct an autopsy in case of death if it is not prohibited by law.

~~(14)~~ **(15)** A provision that no action at law or in equity may be brought to recover on the policy less than sixty (60) days after proof of loss is filed in accordance with the requirements of the policy, and that no action may be brought at all more than three (3) years after the expiration of the time within which proof of loss is required by the policy.

~~(15)~~ **(16)** In the case of a policy insuring debtors, a provision that the insurer will furnish to the policyholder, for delivery to each debtor insured under the policy, a certificate of insurance describing the coverage and specifying that the benefits payable will first be applied to reduce or extinguish the indebtedness.

~~(16)~~ **(17)** If the policy provides that hospital or medical expense coverage of a dependent child of a group member terminates upon the child's attainment of the limiting age for dependent children set forth in the policy, a provision that the child's attainment of the

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limiting age does not terminate the hospital and medical coverage of the child while the child is:

(A) incapable of self-sustaining employment because of mental retardation or a physical disability; and

(B) chiefly dependent upon the group member for support and maintenance.

A provision under this subdivision may require that proof of the child's incapacity and dependency be furnished to the insurer by the group member within one hundred twenty (120) days of the child's attainment of the limiting age and, subsequently, at reasonable intervals during the two (2) years following the child's attainment of the limiting age. The policy may not require proof more than once per year in the time more than two (2) years after the child's attainment of the limiting age. This subdivision does not require an insurer to provide coverage to a mentally retarded or physically disabled child who does not satisfy the requirements of the group policy as to evidence of insurability or other requirements for coverage under the policy to take effect. In any case, the terms of the policy apply with regard to the coverage or exclusion from coverage of the child.

~~(17)~~ **(18)** A provision that complies with the group portability and guaranteed renewability provisions of the federal Health Insurance Portability and Accountability Act of 1996 (P.L.104-191).

(d) Subsection (c)(5), ~~(c)(7),~~ **(c)(8),** and ~~(c)(12)~~ **(c)(13)** do not apply to policies insuring the lives of debtors. The standard provisions required under section 3(a) of this chapter for individual accident and sickness insurance policies do not apply to group accident and sickness insurance policies.

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

SECTION 27. IC 27-9-3-30.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 30.1. (a) Reinsurance must be payable under a contract reinsured by an assuming insurer on the basis of reported claims allowed in the liquidation proceedings, subject to court approval, without diminution because of the insolvency of the ceding insurer. Payments must be made directly**

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to the ceding insurer or to the ceding insurer's domiciliary liquidator except when:

(1) the contract or other written agreement specifically provides another payee of the reinsurance in the event of the insolvency of the ceding insurer; or

(2) before the initiation of the insolvency proceedings, the assuming insurer, with the consent of the direct insured, has assumed the policy obligations of the ceding insurer as direct obligations of the assuming insurer to policy payees and in substitution for the obligations of the ceding insurer to the payees.

(b) During the pendency of a receivership proceeding, an assuming insurer, with the consent of the direct insured and the receiver, subject to court approval, may assume policy obligations of the ceding insurer as direct obligations of the assuming insurer to the policy payees and in substitution for the obligations of the ceding insurer to the payees.".

Page 24, between lines 41 and 42, begin a new paragraph and insert:

"SECTION 29. [EFFECTIVE JULY 1, 1999] **(a) The legislative council shall establish an interim study committee to do the following:**

(1) Study the following issues related to the Indiana comprehensive health insurance association established under IC 27-8-10:

(A) Borrowing from financial institutions to provide working capital.

(B) Premium rates, including:

(i) a maximum premium rate or range for premium rates;

(ii) consideration of health maintenance organization premiums in rate determination;

(iii) annual premium rate determination and adjustment; and

(iv) a policy providing for reduced premium rates for insureds who have Medicare coverage.

(C) The effect of Medicaid eligibility on eligibility for coverage under an association policy.

(D) A maximum total annual assessment to members, the remainder of the cost to be paid by the state.

(E) Appeals procedures allowing members to:

(i) defer assessment payments for not more than one (1) year;

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(ii) make assessment payments on a monthly or quarterly basis for cause; or

(iii) reduce or suspend an assessment if payment would cause the member's net worth or reserves to decrease below statutory requirements.

(F) Membership of self-insurance plans, including:

(i) conflicts with the federal Employee Retirement Income Security Act (29 U.S.C. 1001 et seq.); and

(ii) mechanisms for identifying self-insurance plans.

(G) Periodic audits to ensure that all entities that assume risk for accident or sickness of individuals in Indiana are members for purposes of the annual assessment.

(H) Penalties for late payment or nonpayment of assessments.

(I) Strategies to increase the base of insured individuals and decrease costs.

(J) Establishment of an independent administrative agency.

(2) Make recommendations to the legislative council regarding the issues specified in subdivision (1).

(b) The committee shall:

(1) operate under the direction and rules of the legislative council; and

(2) issue a final report when directed to do so by the legislative council.

(c) This SECTION expires November 1, 1999.

SECTION 30. [EFFECTIVE JULY 1, 1999] **The Indiana department of insurance shall adopt rules to regulate the licensure and practice of an associate insurance agent as defined in IC 27-1-15.5-2(j), as added by this act.**

SECTION 22. IC 27-9-3-30 IS REPEALED [EFFECTIVE JULY 1, 1999].".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 559 as reprinted March 5, 1999.)

FRY, Chair

Committee Vote: yeas 12, nays 0.

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