



Reprinted
March 4, 1999

HOUSE BILL No. 1372

DIGEST OF HB 1372 (Updated March 3, 1999 3:28 pm - DI 97)

Citations Affected: IC 27-8.

Synopsis: Group health insurance and preexisting conditions. Makes a provision allowing association group accident and sickness insurers to exclude or limit coverage based on evidence of individual insurability subject to certain limitations.

Effective: July 1, 1999.

Bischoff, Dillon, Fry

January 12, 1999, read first time and referred to Committee on Insurance, Corporations and Small Business.
February 24, 1999, reported — Do Pass.
March 3, 1999, read second time, amended, ordered engrossed.

HB 1372—LS 7647/DI 97+



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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.

HOUSE BILL No. 1372

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

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

1 SECTION 1. IC 27-8-5-16 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 16. Except as provided
3 in sections 17 and 24 of this chapter, no policy of group accident and
4 sickness insurance may be delivered or issued for delivery to a group
5 that has a legal situs in Indiana unless it conforms to one (1) of the
6 following descriptions:

7 (1) A policy issued to an employer or to the trustees of a fund
8 established by an employer (which employer or trustees must be
9 deemed the policyholder) to insure employees of the employer for
10 the benefit of persons other than the employer, subject to the
11 following requirements:

12 (A) The employees eligible for insurance under the policy
13 must be all of the employees of the employer, or all of any
14 class or classes of employees. The policy may provide that the
15 term "employees" includes the employees of one (1) or more
16 subsidiary corporations and the employees, individual
17 proprietors, members, and partners of one (1) or more

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1 affiliated corporations, proprietorships, limited liability
 2 companies, or partnerships if the business of the employer and
 3 of the affiliated corporations, proprietorships, limited liability
 4 companies, or partnerships is under common control. The
 5 policy may provide that the term "employees" includes retired
 6 employees, former employees, and directors of a corporate
 7 employer. A policy issued to insure the employees of a public
 8 body may provide that the term "employees" includes elected
 9 or appointed officials.

10 (B) The premium for the policy must be paid either from the
 11 employer's funds, from funds contributed by the insured
 12 employees, or from both sources of funds. Except as provided
 13 in clause (C), a policy on which no part of the premium is to
 14 be derived from funds contributed by the insured employees
 15 must insure all eligible employees, except those who reject the
 16 coverage in writing.

17 (C) An insurer may exclude or limit the coverage on any
 18 person as to whom evidence of individual insurability is not
 19 satisfactory to the insurer.

20 (2) A policy issued to a creditor or its parent holding company or
 21 to a trustee or trustees or agent designated by two (2) or more
 22 creditors (which creditor, holding company, affiliate, trustee,
 23 trustees, or agent must be deemed the policyholder) to insure
 24 debtors of the creditor, or creditors, subject to the following
 25 requirements:

26 (A) The debtors eligible for insurance under the policy must
 27 be all of the debtors of the creditor or creditors, or all of any
 28 class or classes of debtors. The policy may provide that the
 29 term "debtors" includes:

30 (i) borrowers of money or purchasers or lessees of goods,
 31 services, or property for which payment is arranged through
 32 a credit transaction;

33 (ii) the debtors of one (1) or more subsidiary corporations;
 34 and

35 (iii) the debtors of one (1) or more affiliated corporations,
 36 proprietorships, limited liability companies, or partnerships
 37 if the business of the policyholder and of the affiliated
 38 corporations, proprietorships, limited liability companies, or
 39 partnerships is under common control.

40 (B) The premium for the policy must be paid either from the
 41 creditor's funds, from charges collected from the insured
 42 debtors, or from both sources of funds. Except as provided in

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- 1 clause (C), a policy on which no part of the premium is to be
 2 derived from the funds contributed by insured debtors
 3 specifically for their insurance must insure all eligible debtors.
 4 (C) An insurer may exclude any debtors as to whom evidence
 5 of individual insurability is not satisfactory to the insurer.
 6 (D) The amount of the insurance payable with respect to any
 7 indebtedness may not exceed the greater of the scheduled or
 8 actual amount of unpaid indebtedness to the creditor. The
 9 insurer may exclude any payments that are delinquent on the
 10 date the debtor becomes disabled as defined in the policy.
 11 (E) The insurance may be payable to the creditor or any
 12 successor to the right, title, and interest of the creditor. Each
 13 payment under this clause must reduce or extinguish the
 14 unpaid indebtedness of the debtor to the extent of the payment,
 15 and any excess of the insurance must be payable to the insured
 16 or the estate of the insured.
 17 (F) Notwithstanding clauses (A) through (E), insurance on
 18 agricultural credit transaction commitments may be written up
 19 to the amount of the loan commitment on a nondecreasing or
 20 level term plan, and insurance on educational credit
 21 transaction commitments may be written up to the amount of
 22 the loan commitment less the amount of any repayments made
 23 on the loan.
- 24 (3) A policy issued to a labor union or similar employee
 25 organization (which must be deemed to be the policyholder) to
 26 insure members of the union or organization for the benefit of
 27 persons other than the union or organization or any of its officials,
 28 representatives, or agents, subject to the following requirements:
- 29 (A) The members eligible for insurance under the policy must
 30 be all of the members of the union or organization, or all of
 31 any class or classes of members.
 32 (B) The premium for the policy must be paid either from funds
 33 of the union or organization, from funds contributed by the
 34 insured members specifically for their insurance, or from both
 35 sources of funds. Except as provided in clause (C), a policy on
 36 which no part of the premium is to be derived from funds
 37 contributed by the insured members specifically for their
 38 insurance must insure all eligible members, except those who
 39 reject the coverage in writing.
 40 (C) An insurer may exclude or limit the coverage on any
 41 person as to whom evidence of individual insurability is not
 42 satisfactory to the insurer.

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1 (4) A policy issued to a trust or to one (1) or more trustees of a
 2 fund established or adopted by two (2) or more employers, or by
 3 one (1) or more labor unions or similar employee organizations,
 4 or by one (1) or more employers and one (1) or more labor unions
 5 or similar employee organizations (which trust or trustees must be
 6 deemed the policyholder) to insure employees of the employers
 7 or members of the unions or organizations for the benefit of
 8 persons other than the employers or the unions or organizations,
 9 subject to the following requirements:

10 (A) The persons eligible for insurance must be all of the
 11 employees of the employers or all of the members of the
 12 unions or organizations, or all of any class or classes of
 13 employees or members. The policy may provide that the term
 14 "employees" includes the employees of one (1) or more
 15 subsidiary corporations and the employees, individual
 16 proprietors, and partners of one (1) or more affiliated
 17 corporations, proprietorships, limited liability companies, or
 18 partnerships if the business of the employer and of the
 19 affiliated corporations, proprietorships, limited liability
 20 companies, or partnerships is under common control. The
 21 policy may provide that the term "employees" includes retired
 22 employees, former employees, and directors of a corporate
 23 employer. The policy may provide that the term "employees"
 24 includes the trustees or their employees, or both, if their duties
 25 are principally connected with the trusteeship.

26 (B) The premium for the policy must be paid from funds
 27 contributed by the employer or employers of the insured
 28 persons, by the union or unions or similar employee
 29 organizations, or by both, or from funds contributed by the
 30 insured persons or from both the insured persons and one (1)
 31 or more employers, unions, or similar employee organizations.
 32 Except as provided in clause (C), a policy on which no part of
 33 the premium is to be derived from funds contributed by the
 34 insured persons specifically for their insurance must insure all
 35 eligible persons, except those who reject the coverage in
 36 writing.

37 (C) An insurer may exclude or limit the coverage on any
 38 person as to whom evidence of individual insurability is not
 39 satisfactory to the insurer.

40 (5) A policy issued to an association or to a trust or to one (1) or
 41 more trustees of a fund established, created, or maintained for the
 42 benefit of members of one (1) or more associations. The

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1 association or associations must have at the outset a minimum of
 2 one hundred (100) persons, must have been organized and
 3 maintained in good faith for purposes other than that of obtaining
 4 insurance, must have been in active existence for at least one (1)
 5 year, and must have a constitution and bylaws that provide that
 6 the association or associations hold regular meetings not less than
 7 annually to further purposes of the members, that, except for
 8 credit unions, the association or associations collect dues or
 9 solicit contributions from members, and that the members have
 10 voting privileges and representation on the governing board and
 11 committees. The policy must be subject to the following
 12 requirements:

13 (A) The policy may insure members or employees of the
 14 association or associations, employees of members, one (1) or
 15 more of the preceding, or all of any class or classes of
 16 members, employees, or employees of members for the benefit
 17 of persons other than the employee's employer.

18 (B) The premium for the policy must be paid from funds
 19 contributed by the association or associations, by employer
 20 members, or by both, from funds contributed by the covered
 21 persons, or from both the covered persons and the association,
 22 associations, or employer members.

23 (C) Except as provided in clause (D), a policy on which no
 24 part of the premium is to be derived from funds contributed by
 25 the covered persons specifically for the insurance must insure
 26 all eligible persons, except those who reject such coverage in
 27 writing.

28 (D) An insurer may exclude or limit the coverage on any
 29 person as to whom evidence of individual insurability is not
 30 satisfactory to the insurer **to the extent consistent with**
 31 **IC 27-8-5-19(c)(5).**

32 (6) A policy issued to a credit union, or to one (1) or more trustees
 33 or an agent designated by two (2) or more credit unions (which
 34 credit union, trustee, trustees, or agent must be deemed the
 35 policyholder) to insure members of the credit union or credit
 36 unions for the benefit of persons other than the credit union or
 37 credit unions, trustee, trustees, or agent, or any of their officials,
 38 subject to the following requirements:

39 (A) The members eligible for insurance must be all of the
 40 members of the credit union or credit unions, or all of any
 41 class or classes of members.

42 (B) The premium for the policy shall be paid by the

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1 policyholder from the credit union's funds and except as
2 provided in clause (C), must insure all eligible members.

3 (C) An insurer may exclude or limit the coverage on any
4 member as to whom evidence of individual insurability is not
5 satisfactory to the insurer.

6 (7) A policy issued to cover persons in a group specifically
7 described by another law of Indiana as a group that may be
8 covered for group life insurance. The provisions of the group life
9 insurance law relating to eligibility and evidence of insurability
10 apply to a group health policy to which this subdivision applies.

11 SECTION 2. IC 27-8-5-19 IS AMENDED TO READ AS
12 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 19. (a) As used in this
13 chapter, "late enrollee" has the meaning set forth in 26 U.S.C.
14 9801(b)(3).

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

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

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

20 (A) more favorable to the persons insured; or

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

23 than the provisions set forth in subsection (c).

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

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

37 (2) A provision that the validity of the policy may not be
38 contested, except for nonpayment of premiums, after the policy
39 has been in force for two (2) years after its date of issue, and that
40 no statement made by a person covered under the policy relating
41 to the person's insurability may be used in contesting the validity
42 of the insurance with respect to which the statement was made,

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1 unless:

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

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

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

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

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

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

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

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

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

42 (ii) the end of a continuous period of eighteen (18) months

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

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- 1 continuation of the disability must be furnished to the insurer
 2 at reasonable intervals as may be required by the insurer;
 3 (B) in the case of a claim for any other loss, written proof of
 4 the loss must be furnished to the insurer within ninety (90)
 5 days after the date of the loss; and
 6 (C) the failure to furnish proof within the time required under
 7 clause (A) or (B) does not invalidate or reduce any claim if it
 8 was not reasonably possible to furnish proof within that time,
 9 and if proof is furnished as soon as reasonably possible but
 10 (except in case of the absence of legal capacity of the
 11 claimant) no later than one (1) year from the time proof is
 12 otherwise required under the policy.
- 13 (11) A provision that:
- 14 (A) all benefits payable under the policy (other than benefits
 15 for loss of time) will be paid within forty-five (45) days after
 16 the insurer receives all information required to determine
 17 liability under the terms of the policy; and
 18 (B) subject to due proof of loss, all accrued benefits under the
 19 policy for loss of time will be paid not less frequently than
 20 monthly during the continuance of the period for which the
 21 insurer is liable, and any balance remaining unpaid at the
 22 termination of the period for which the insurer is liable will be
 23 paid as soon as possible after receipt of the proof of loss.
- 24 (12) A provision that benefits for loss of life of the person insured
 25 are payable to the beneficiary designated by the person insured.
 26 However, if the policy contains conditions pertaining to family
 27 status, the beneficiary may be the family member specified by the
 28 policy terms. In either case, payment of benefits for loss of life is
 29 subject to the provisions of the policy if no designated or
 30 specified beneficiary is living at the death of the person insured.
 31 All other benefits of the policy are payable to the person insured.
 32 The policy may also provide that if any benefit is payable to the
 33 estate of a person, or to a person who is a minor or otherwise not
 34 competent to give a valid release, the insurer may pay the benefit,
 35 up to an amount of five thousand dollars (\$5,000), to any relative
 36 by blood or connection by marriage of the person who is deemed
 37 by the insurer to be equitably entitled to the benefit.
- 38 (13) A provision that the insurer has the right and must be
 39 allowed the opportunity to:
- 40 (A) examine the person of the individual for whom a claim is
 41 made under the policy when and as often as the insurer
 42 reasonably requires during the pendency of the claim; and

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

(14) 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) 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) 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) 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), and (c)(12) do not apply to policies

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1 insuring the lives of debtors. The standard provisions required under
2 section 3(a) of this chapter for individual accident and sickness
3 insurance policies do not apply to group accident and sickness
4 insurance policies.
5 (e) If any policy provision required under subsection (c) is in whole
6 or in part inapplicable to or inconsistent with the coverage provided by
7 an insurer under a particular form of policy, the insurer, with the
8 approval of the commissioner, shall delete the provision from the
9 policy or modify the provision in such a manner as to make it
10 consistent with the coverage provided by the policy.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, Corporations and Small Business, to which was referred House Bill 1372, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

FRY, Chair

Committee Vote: yeas 10, nays 4.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1372 be amended to read as follows:

- Page 2, line 12, reset in roman "Except as provided".
- Page 2, line 13, reset in roman "in clause (C),".
- Page 2, line 13, delete "A" and insert "a".
- Page 2, reset in roman lines 17 through 19.
- Page 2, line 42, reset in roman "Except as provided in".
- Page 3, line 1, reset in roman "clause (C),".
- Page 3, line 1, delete "A" and insert "a".
- Page 3, line 4, reset in roman "An insurer may exclude any debtors as to whom evidence".
- Page 3, reset in roman line 5.
- Page 3, line 6, reset in roman "(D)".
- Page 3, line 11, reset in roman "(E)".
- Page 3, line 11, delete "(D)".
- Page 3, line 17, reset in roman "(F)".
- Page 3, line 17, delete "(E)".
- Page 3, line 17, reset in roman "(E),".
- Page 3, line 17, delete "(D),".
- Page 3, line 35, reset in roman "Except as provided in clause (C),".
- Page 3, line 35, delete "A" and insert "a".
- Page 3, reset in roman lines 40 through 42.
- Page 4, line 32, reset in roman "Except as provided in clause (C),".
- Page 4, line 32, delete "A" and insert "a".
- Page 4, reset in roman lines 37 through 39.
- Page 5, line 23, reset in roman "Except as provided in clause (D),".
- Page 5, line 23, delete "A" and insert "a".
- Page 5, reset in roman lines 28 through 30.
- Page 5, line 30, delete "." and insert "**to the extent consistent with IC 27-8-5-19(c)(5).**".
- Page 5, line 42, reset in roman "except as".
- Page 6, line 1, reset in roman "provided in clause (C),".
- Page 6, reset in roman lines 2 through 4.
- Page 6, delete lines 10 through 42.
- Page 7, delete lines 1 through 3.
- Page 8, line 12, reset in roman "A provision setting forth the conditions, if any, under which".
- Page 8, reset in roman lines 13 through 16.
- Page 8, line 17, reset in roman "(5)".
- Page 8, line 17, reset in roman "additional".
- Page 8, line 38, reset in roman "(6)".

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Page 8, line 38, delete "(5)".
Page 9, line 4, reset in roman "(7)".
Page 9, line 4, delete "(6)".
Page 9, line 12, reset in roman "(8)".
Page 9, line 12, delete "(7)".
Page 9, line 19, reset in roman "(9)".
Page 9, line 19, delete "(8)".
Page 9, line 31, reset in roman "(10)".
Page 9, line 31, delete "(9)".
Page 10, line 6, reset in roman "(11)".
Page 10, line 6, delete "(10)".
Page 10, line 17, reset in roman "(12)".
Page 10, line 17, delete "(11)".
Page 10, line 31, reset in roman "(13)".
Page 10, line 31, delete "(12)".
Page 10, line 38, reset in roman "(14)".
Page 10, line 38, delete "(13)".
Page 11, line 2, reset in roman "(15)".
Page 11, line 2, delete "(14)".
Page 11, line 7, reset in roman "(16)".
Page 11, line 7, delete "(15)".
Page 11, line 31, reset in roman "(17)".
Page 11, line 31, delete "(16)".
Page 11, line 35, reset in roman "(c)(5), (c)(7), and (c)(12)".
Page 11, line 35, delete "(c)(4), (c)(6), and (c)(11)".
Re-number all SECTIONS consecutively.

(Reference is to HB 1372 as printed February 25, 1999.)

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