Adopted	Rejected

COMMITTEE REPORT

YES:	12
NO:	0

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 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 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 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

(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 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 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.

(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

(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 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)**".

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**

(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 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 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, 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 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 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

(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 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 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;

(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.

(Reference is to SB 559 as reprinted March 5, 1999.)

and when so amended that said bill do pass.

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Representative Fry