

HOUSE BILL No. 2043

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-10-8-7.2; IC 22-3-6-2.1; IC 27-1; IC 27-4; IC 27-6-6-4; IC 27-7; IC 27-8; IC 27-11-9-1; IC 27-13; IC 34-18-15-3; IC 34-30-2; IC 36-8-10-12.

Synopsis: Various insurance matters. Makes certain changes to requirements for breast cancer screening coverage by group insurance for public employees, group insurers, and health maintenance organizations (HMOs). Removes fees collected by the commissioner associated with the commissioner's duties as agent for service of process. Requires limited service health maintenance organizations (LSHMOs) to remit annual internal audit fees to the department of insurance. Provides that the commissioner of the department of insurance may order penalties against an insurance company that is operating contrary to law and may bring an action in the Marion County circuit court to compel compliance. Adds provisions regarding
(Continued next page)

Effective: Upon passage; June 30, 1999; July 1, 1999; January 1, 2000; July 1, 2000.

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January 27, 1999, read first time and referred to Committee on Insurance, Corporations and Small Business.



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regulation of worker's compensation coverage providers. 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 regarding continuing education requirements and licensure of insurance agents. Allows the commissioner to order a penalty for nonpayment of premium taxes by an insurance company. 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. Changes the definition of "insurer" in the holding company law to include HMOs and LSHMOs. Exempts insurance purchased by exempt commercial policyholders from the application of the law concerning the regulation of rates for casualty insurance. Removes a requirement for at least \$5,000,000 to remain in the reserve account for the political subdivision catastrophic liability fund. Increases monetary amounts and adds restitution to the civil penalties that can be ordered by the commissioner for an unfair or deceptive act in the business of insurance. Adds HMOs and LSHMOs to the types of insurers to which the unauthorized insurers statute applies. Adds requirements for insurance companies when terminating a homeowner's policy. Removes provisions allowing insurers to exclude or limit coverage based on evidence of insurability in group accident and sickness insurance policies. Amends the definition of "long term care insurance policy" in the long term care insurance statute. Makes certain changes to the small employer group insurance statute. Contains certain requirements for insurer preauthorization of health care services. Adds LSHMOs as insurers to which the provisions of the medical child support statute apply. Defines "grievance" under the HMO statute as a written or an oral complaint. Provides certain restrictions on an HMO's or LSHMO's assumption of a corporate name. Allows an HMO or LSHMO to assume and take credit for reinsurance. Contains certain provisions regarding HMO and LSHMO dividends. Requires HMOs to provide coverage for newly born children. Contains certain provisions regarding HMO and LSHMO financial statement filings including: (1) actuarial opinions; (2) minimum qualifications of an actuary; (3) National Association of Insurance Commissioners (NAIC) annual statement blanks; (4) conformity with accounting practices; (5) annual and quarterly filings with the NAIC; and (6) civil penalties. Requires an HMO or LSHMO to file with the commissioner a copy of an examination report filed by the insurance commissioner of another state. Allows the department of insurance to review changes in control of an HMO or LSHMO that is owned by a foreign corporation. Provides requirements for notice of voluntary dissolution by an HMO or LSHMO. Increases the settlement procedure amount under the medical malpractice act from \$100,000 to \$250,000. Makes conforming amendments.

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Introduced

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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HOUSE BILL No. 2043

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 5-10-8-7.2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.2. (a) As used in
3 this section, "breast cancer diagnostic service" means a procedure
4 intended to aid in the diagnosis of breast cancer. The term includes
5 procedures performed on an inpatient basis and procedures performed
6 on an outpatient basis, including the following:
7 (1) Breast cancer screening mammography.
8 (2) Surgical breast biopsy.
9 (3) Pathologic examination and interpretation.
10 (b) As used in this section, "breast cancer outpatient treatment
11 services" means procedures that are intended to treat cancer of the
12 human breast and that are delivered on an outpatient basis. The term
13 includes the following:
14 (1) Chemotherapy.
15 (2) Hormonal therapy.



- 1 (3) Radiation therapy.
 2 (4) Surgery.
 3 (5) Other outpatient cancer treatment services prescribed by a
 4 physician.
 5 (6) Medical follow-up services related to the procedures set forth
 6 in subdivisions (1) through (5).
- 7 (c) As used in this section, "breast cancer rehabilitative services"
 8 means procedures that are intended to improve the results of or to
 9 ameliorate the debilitating consequences of the treatment of breast
 10 cancer and that are delivered on an inpatient or outpatient basis. The
 11 term includes the following:
 12 (1) Physical therapy.
 13 (2) Psychological and social support services.
 14 (3) Reconstructive plastic surgery.
- 15 (d) As used in this section, "breast cancer screening mammography"
 16 means a standard, two (2) view per breast, low-dose radiographic
 17 examination of the breasts that is:
 18 (1) furnished to an asymptomatic woman; and
 19 (2) performed by a mammography services provider using
 20 equipment designed by the manufacturer for and dedicated
 21 specifically to mammography in order to detect unsuspected
 22 breast cancer.
- 23 The term includes the interpretation of the results of a breast cancer
 24 screening mammography by a physician.
- 25 (e) As used in this section, "covered individual" means a female
 26 individual who is:
 27 (1) covered under a self-insurance program established under
 28 section 7(b) of this chapter to provide group health coverage; or
 29 (2) entitled to services under a contract with a health maintenance
 30 organization (as defined in IC 27-13-1-19) that is entered into or
 31 renewed under section 7(c) of this chapter.
- 32 (f) As used in this section, "mammography services provider" means
 33 an individual or facility that:
 34 (1) has been accredited by the American College of Radiology;
 35 (2) meets equivalent guidelines established by the state
 36 department of health; or
 37 (3) is certified by the federal Department of Health and Human
 38 Services for participation in the Medicare program (42 U.S.C.
 39 1395 et seq.).
- 40 (g) As used in this section, "woman at risk" means a woman who
 41 meets at least one (1) of the following descriptions:
 42 (1) A woman who has a personal history of breast cancer.

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- 1 (2) A woman who has a personal history of breast disease that
2 was proven benign by biopsy.
- 3 (3) A woman whose mother, sister, or daughter has had breast
4 cancer.
- 5 (4) A woman who is at least thirty (30) years of age and has not
6 given birth.
- 7 ~~(h)~~ A self-insurance program established under section 7(b) of this
8 chapter to provide health care coverage must provide covered
9 individuals with coverage for breast cancer diagnostic services, breast
10 cancer outpatient treatment services, and breast cancer rehabilitative
11 services. The coverage must provide reimbursement for breast cancer
12 screening mammography at a level at least as high as:
- 13 (1) the limitation on payment for screening mammography
14 services established in 42 CFR 405.534(b)(3) according to the
15 Medicare Economic Index at the time the breast cancer screening
16 mammography is performed; or
- 17 (2) the rate negotiated by a contract provider according to the
18 provisions of the insurance policy;
- 19 whichever is lower. The costs of the coverage required by this
20 subsection ~~(h)~~ may be paid by the state or by the employee or by a
21 combination of the state and the employee.
- 22 ~~(i)~~ **(h)** A contract with a health maintenance organization that is
23 entered into or renewed under section 7(c) of this chapter must provide
24 covered individuals with breast cancer diagnostic services, breast
25 cancer outpatient treatment services, and breast cancer rehabilitative
26 services.
- 27 ~~(j)~~ **(i)** The coverage required by subsection ~~(h)~~ **(g)** and services
28 required by subsection ~~(i)~~ **(h)** may not be subject to dollar limits,
29 deductibles, or coinsurance provisions that are less favorable to
30 covered individuals than the dollar limits, deductibles, or coinsurance
31 provisions applying to physical illness generally under the
32 self-insurance program or contract with a health maintenance
33 organization.
- 34 ~~(k)~~ **(j)** The coverage for breast cancer diagnostic services required
35 by subsection ~~(h)~~ **(g)** and the breast cancer diagnostic services required
36 by subsection ~~(i)~~ **(h)** must include the following:
- 37 (1) In the case of a covered individual who is at least thirty-five
38 (35) years of age but less than forty (40) years of age, at least one
39 (1) baseline breast cancer screening mammography performed
40 upon the individual before she becomes forty (40) years of age.
- 41 (2) ~~In the case of a covered individual who is~~
42 ~~(A)~~ at least forty (40) but less than fifty (50) years of age and

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1 ~~(B)~~ not a woman at risk;
 2 at least one ~~(1)~~ breast cancer screening mammography performed
 3 upon the individual in every two ~~(2)~~ year period.
 4 ~~(3)~~ In the case of a covered individual who is:
 5 ~~(A)~~ at least forty ~~(40)~~ but less than fifty ~~(50)~~ years of age; and
 6 ~~(B)~~ a woman at risk;
 7 at least one ~~(1)~~ breast cancer screening mammography performed
 8 upon the covered individual every year.
 9 ~~(4)~~ In the case of a covered individual who is at least fifty ~~(50)~~
 10 **forty (40)** years of age, ~~whether or not a woman at risk~~, at least
 11 one (1) breast cancer screening mammography performed upon
 12 the individual every year.

13 **(3) Any additional views that are required for proper**
 14 **evaluation.**

15 **(4) Ultrasound services, if determined medically necessary by**
 16 **the physician treating the covered individual.**

17 ~~(j)~~ **(k)** The coverage for breast cancer diagnostic services required
 18 by subsection ~~(h)~~ **(g)** and the breast cancer diagnostic services required
 19 by subsection ~~(i)~~ **(h)** shall be provided in addition to any benefits
 20 specifically provided for x-rays, laboratory testing, or wellness
 21 examinations.

22 SECTION 2. IC 22-3-6-2.1 IS ADDED TO THE INDIANA CODE
 23 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
 24 **JANUARY 1, 2000]: Sec. 2.1. Notwithstanding section 2 of this**
 25 **chapter or any other law, any individual, organization, or entity**
 26 **that provides worker's compensation coverage under this article**
 27 **and that is not regulated by the department of insurance shall be**
 28 **regulated by the worker's compensation board established under**
 29 **IC 22-3-1-1 consistent with the requirements for regulation of**
 30 **insurance companies under IC 27.**

31 SECTION 3. IC 27-1-3-15 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 15. (a) Except as
 33 provided in subsection ~~(g)~~, ~~(f)~~, the commissioner shall collect the
 34 following **filing** fees: ~~when the documents described in this subsection~~
 35 **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	

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1 fee \$ 50
 2 ~~Appointment of commissioner for~~
 3 ~~service of process \$ 10~~
 4 Withdrawal of certificate
 5 of authority \$ 25
 6 Certified statement of condition \$ 5
 7 Any other document required to be
 8 filed by this article \$ 25
 9 (b) ~~The commissioner shall collect a fee of ten dollars (\$10) each~~
 10 ~~time process is served on the commissioner under this title.~~
 11 (c) The commissioner shall collect the following fees for copying
 12 and certifying the copy of any filed document relating to a domestic or
 13 foreign corporation:
 14 Per page for copying As determined by
 15 the commissioner but not to exceed actual cost
 16 For the certificate \$10
 17 (d) (c) Each domestic and foreign insurer shall remit annually to the
 18 commissioner for deposit into the department of insurance fund
 19 established by IC 27-1-3-28 three hundred fifty dollars (\$350) as an
 20 internal audit fee. All assessment insurers, farm mutuals, fraternal
 21 benefit societies, ~~and~~ health maintenance organizations, **and limited**
 22 **service health maintenance organizations** shall remit to the
 23 commissioner for deposit into the department of insurance fund one
 24 hundred dollars (\$100) annually as an internal audit fee.
 25 (e) (d) Beginning July 1, 1994, each insurer shall remit to the
 26 commissioner for deposit into the department of insurance fund
 27 established by IC 27-1-3-28 a fee of thirty-five dollars (\$35) for each
 28 policy, rider, and endorsement filed with the state. However, each
 29 policy, rider, and endorsement filed as part of a particular product
 30 filing and associated with that product filing shall be considered to be
 31 a single filing and subject only to one (1) thirty-five dollar (\$35) fee.
 32 (f) (e) The commissioner shall pay into the state general fund by the
 33 end of each calendar month the amounts collected during that month
 34 under subsections (a) **and** (b). ~~and (c):~~
 35 (g) (f) The commissioner may not collect fees for quarterly
 36 statements filed under IC 27-1-20-33.
 37 SECTION 4. IC 27-1-3-19 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 19. (a) Whenever the
 39 commissioner determines that any ~~insurance~~ company ~~to which this~~
 40 ~~article is applicable:~~ **(as defined in IC 27-1-3.1-2):**
 41 (1) is conducting its business contrary to law or in an unsafe or
 42 unauthorized manner;

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1 (2) has had its capital or surplus fund impaired or reduced below
2 the amount required by law; or

3 (3) has failed, neglected, or refused to observe and comply with
4 any order or rule of the department or commissioner;

5 then the commissioner may, by an order in writing addressed to the
6 board of directors, board of trustees, attorney in fact, partners, or
7 owners of or in any such insurance company, to direct the
8 discontinuance of any such illegal, unauthorized, or unsafe practice, the
9 restoration of an impairment to the capital or the surplus fund, or the
10 compliance with any such law, order, or rule of the department or
11 commissioner. The order shall be mailed to the last known principal
12 office of the insurance company by certified or registered mail or
13 delivered to an officer of the company and shall be considered to be
14 received by the insurance company three (3) days after mailing or on
15 the date of delivery.

16 (b) If the insurance company fails, neglects, or refuses to comply
17 with the terms of that order within thirty (30) days after its receipt by
18 the insurance company, or within a shorter period set out in the order
19 if the commissioner determines that an emergency exists, the
20 commissioner may, in addition to any other remedy conferred upon the
21 department or the commissioner by law ~~bring an action against any~~
22 ~~such insurance company, its officers, and agents to compel that~~
23 ~~compliance: and after a hearing under IC 4-21.5-3, order one (1) or~~
24 ~~more of the penalties listed in IC 27-4-1-6.~~

25 (c) **In addition to the remedy described in subsection (b), the**
26 **commissioner may bring an action against the company and the**
27 **company's officers or agents to compel compliance with an order**
28 **issued under subsection (a).** The action shall be brought by the
29 commissioner in the Marion County circuit court. **The commissioner**
30 **is not required to commence an administrative hearing under**
31 **IC 4-21.5-3 before bringing an action in the Marion County circuit**
32 **court.** The action shall be commenced and prosecuted in accordance
33 with the Indiana Rules of Trial Procedure, and relief for noncompliance
34 of the order includes any remedy appropriate under the facts, including
35 injunction, preliminary injunction, and temporary restraining order. In
36 that action, a change of venue from the judge, but no change of venue
37 from the county, is permitted.

38 SECTION 5. IC 27-1-3-28 IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 28. (a) The department
40 of insurance fund is established for the following purposes:

41 (1) To provide supplemental funding for the operations of the
42 department of insurance.

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1 (2) To pay the costs of hiring and employing staff.

2 (3) To provide staff salary differentials as necessary to equalize
3 the average salaries and staffing levels of the department of
4 insurance with the average salaries and staffing levels reported in
5 the most recent Insurance Department Resources Report
6 published by the National Association of Insurance
7 Commissioners.

8 (4) To enable the department of insurance to maintain
9 accreditation by the National Association of Insurance
10 Commissioners.

11 **(5) To administer IC 22-3-6-2.1 concerning the regulation of**
12 **entities that provide worker's compensation coverage.**

13 (b) The fund shall be administered by the commissioner. The
14 following shall be deposited in the department of insurance fund:

15 (1) Audit fees remitted by insurers to the commissioner under
16 ~~IC 27-1-3-15(d)~~: **IC 27-1-3-15(c)**.

17 (2) Filing fees remitted by insurers to the commissioner under
18 ~~IC 27-1-3-15(e)~~: **IC 27-1-3-15(d)**.

19 (3) Any other amounts remitted to the commissioner or the
20 department that are required by rule or statute to be deposited into
21 the department of insurance fund.

22 (c) The expenses of administering the fund shall be paid from
23 money in the fund.

24 (d) The treasurer of state shall invest the money in the fund not
25 currently needed to meet the obligations of the fund in the same
26 manner as other public funds may be invested. Interest that accrues
27 from these investments shall be deposited in the fund.

28 (e) Money in the fund at the end of a particular fiscal year does not
29 revert to the state general fund.

30 (f) There is annually appropriated to the department of insurance,
31 for the purposes set forth in subsection (a), the entire amount of money
32 deposited in the fund in each year.

33 SECTION 6. IC 27-1-15.5-4 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) The
35 commissioner may not issue, continue, or permit to continue any
36 license of an insurance agent, surplus lines insurance agent, or limited
37 insurance representative, except in compliance with this section.

38 (b) Application shall be made to the commissioner by the applicant
39 on a form prescribed by the commissioner.

40 (c) Every applicant for an insurance agent or limited insurance
41 representative license under this chapter must be eighteen (18) years
42 or more of age.

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1 (d) Each applicant shall pay a fee for each examination and license
2 issued under this chapter.

3 (e) Each applicant for an insurance agent license shall file with the
4 commissioner on a form prescribed by the commissioner a certification
5 of completion certifying that the applicant has completed an insurance
6 agent program of study registered with the commissioner under section
7 19 of this chapter not more than six (6) months before the application
8 for the license is received by the commissioner. This subsection does
9 not apply to applicants who are exempt from the examination under
10 section 6 of this chapter and to applicants for a limited license under
11 section 13 of this chapter.

12 (f) The department shall revoke the license of a person who fails to
13 pay the required license fee when it is due.

14 (g) The commissioner may issue an insurance agent's license, or a
15 limited insurance representative's license, to any duly qualified resident
16 or nonresident of the state as follows:

17 (1) Resident. An applicant may qualify as a resident if he resides
18 in Indiana or maintains his principal place of business in Indiana.
19 Any license issued pursuant to any such application claiming
20 residency for licensing purposes, as defined in this subdivision,
21 in Indiana shall constitute an election of residency in Indiana and
22 shall be void if the licensee, while holding a resident license in
23 Indiana, also holds or makes application for a license, other than
24 a nonresident license, in, or thereafter claims to be a resident of,
25 any other state or other jurisdiction or ceases to be a resident of
26 Indiana.

27 (2) Nonresident. Except as provided in section 4.1 of this chapter,
28 an applicant may qualify for a license under this chapter as a
29 nonresident only if he holds a resident license in another state of
30 the United States or province of Canada. A license issued to a
31 nonresident of Indiana shall grant the same rights and privileges
32 afforded a resident licensee, except as otherwise provided. **The**
33 **following additional requirements apply to nonresident**
34 **licensee:**

35 (A) The commissioner shall not issue a license to any
36 nonresident applicant until he files with the commissioner his
37 designation of ~~the commissioner, and his successors in office,~~
38 **an individual or corporate resident of Indiana, or an**
39 **authorized Indiana insurer, as the applicant's agent,** to be
40 his true and lawful attorney, upon whom may be served all
41 lawful process in any action, suit, or proceeding instituted by
42 or on behalf of any interested person arising out of the



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1 applicant's insurance business in Indiana. Such designation
 2 shall constitute an agreement that such service of process is of
 3 the same legal force and validity as personal service of process
 4 in Indiana upon such person.

5 **(B) ~~Such~~ Service of process under this subdivision upon any**
 6 **~~such a~~ licensee in any such an** action or proceeding in any a
 7 court of competent jurisdiction of Indiana may be made by
 8 serving the **commissioner licensee's agent** with appropriate
 9 copies thereof. **and the payment to him of a fee of two dollars**
 10 **(\$2).**

11 **(C) The commissioner licensee's agent** shall forward a copy
 12 of ~~such~~ process **served under this subdivision** by registered
 13 or certified mail to the licensee at his last known address of
 14 record or principal place of business, and shall keep a record
 15 of all processes so served upon him.

16 **(D) Service of process upon any such a licensee in any an**
 17 **action or proceeding instituted by the commissioner under this**
 18 **subdivision shall be made by the commissioner by mailing**
 19 **such process by registered or certified mail to the licensee at**
 20 **his last known address of record or principal place of business.**
 21 **Such service of process is sufficient; provided notice of such**
 22 **service and a copy of the process are sent within ten (10) days**
 23 **thereafter to the licensee at his last known address of record or**
 24 **principal place of business by registered or certified mail;**
 25 **return receipt requested.**

26 **(E) If the commissioner revokes or suspends any nonresident's**
 27 **license through a formal proceeding under this chapter, he**
 28 **shall promptly notify the appropriate commissioner of the**
 29 **licensee's residence of such action and of the particulars**
 30 **thereof.**

31 **(F) A nonresident of Indiana may be licensed without taking**
 32 **an otherwise required written examination if the commissioner**
 33 **of the state of the applicant's residence certifies, by facsimile**
 34 **signature and seal, that the applicant has passed a similar**
 35 **written examination, or has been a continuous holder prior to**
 36 **the time such written examination was required, of a license**
 37 **like the license being applied for in Indiana.**

38 **(G) An individual who is a nonresident of Indiana and is**
 39 **renewing the individual's nonresident license in Indiana shall,**
 40 **at the time of the renewal, provide to the department a**
 41 **certificate from the individual's state of residence affirming**
 42 **that the individual remains licensed and in good standing in**

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1 the individual's state of residence.

2 (H) Whenever, by the laws, rules, or regulations of any other
3 state or jurisdiction, any limitation of rights and privileges,
4 conditions precedent, or other requirements are imposed upon
5 residents of Indiana who are nonresident applicants or
6 licensees of such other state or jurisdiction in addition to or in
7 excess of those imposed on nonresidents under this chapter,
8 the same such requirements shall be imposed upon such
9 residents of such other state or jurisdiction.

10 (3) An applicant for a surplus lines insurance agent's license must
11 be licensed in Indiana as a resident insurance agent qualified as
12 to the line or lines to be written.

13 (4) An applicant for any license under this chapter must be
14 deemed by the commissioner to be competent, trustworthy,
15 financially responsible, and of good personal and business
16 reputation.

17 (5) Except as provided in section 6 of this chapter, the
18 commissioner shall subject each applicant for license as an
19 insurance agent, surplus lines insurance agent, limited insurance
20 representative, or consultant to a written examination as to his
21 competence to act as such licensee which he must personally take
22 and pass to the satisfaction of the commissioner. If the applicant
23 is a corporation, the examination shall be taken by each individual
24 who is to be named in or registered as to the corporation. Each
25 examination for a license shall be approved for use by the
26 commissioner and shall reasonably test the applicant's knowledge
27 as to the lines of insurance, policies, and transactions to be
28 handled under the license applied for, of the duties and
29 responsibilities of such a licensee, and of the pertinent insurance
30 laws of Indiana. Examination for licensing shall be at such
31 reasonable times and places as are designated by the
32 commissioner. The commissioner or a person selected by him
33 shall give, conduct, and grade all examinations in a fair and
34 impartial manner and without discrimination as between
35 individuals examined. The applicant must pass the examination
36 with a grade determined by the commissioner to indicate
37 satisfactory knowledge and understanding of the line or lines of
38 insurance for which the applicant seeks qualification. Within ten
39 (10) days after the examination, the commissioner shall inform
40 the applicant as to whether or not the applicant has passed. Upon
41 filing of the certificate of completion required under subsection
42 (e) with the commissioner and the payment of a fee of five dollars

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1 (\$5) to the commissioner, formal evidence of said licensing shall
 2 be issued by the commissioner to the licensee within a reasonable
 3 time. An applicant who has failed to pass the examination for the
 4 license applied for may take a subsequent examination.
 5 Examination fees for subsequent examinations shall not be
 6 waived. The commissioner may by rule prescribe a course of
 7 study to be completed by each applicant prior to taking the written
 8 examination.

9 (6) If the commissioner finds that the applicant has not fully met
 10 the requirements for licensing, he shall refuse to issue the license
 11 and promptly notify the applicant, in writing, of such denial,
 12 stating the grounds therefor. If a license is refused, the
 13 commissioner shall promptly refund the license fee tendered with
 14 the license application. All examination fees accompanying the
 15 application for license as insurance agent, surplus lines insurance
 16 agent, limited insurance representative, and consultant shall be
 17 deemed earned and shall not be refundable.

18 (7) Every licensed agent shall notify the commissioner of any
 19 change in his residential or business address within thirty (30)
 20 days of the change.

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

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

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

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

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

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

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

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

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

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- 1 chapter.
- 2 (d) If an insurance agent (as defined in section 2(b) of this chapter)
- 3 holds more than one (1) license under this chapter, the licensee may not
- 4 be required to complete a total of more than thirty (30) hours of credit
- 5 in continuing education courses to renew all of the licenses.
- 6 (e) A licensee may receive credit only for completing continuing
- 7 education courses that have been approved by the commissioner under
- 8 section 7.3 of this chapter.
- 9 (f) A licensee who teaches a course approved by the commissioner
- 10 under section 7.3 of this chapter may receive continuing education
- 11 credit for teaching the course.
- 12 (g) When a licensee renews a license issued under this chapter, the
- 13 licensee must submit **information required by the commissioner**
- 14 **evidencing completion of continuing education requirements and**
- 15 **any other information required by the commissioner. This**
- 16 **information may include a statement signed under oath by the**
- 17 **licensee that the licensee has completed continuing education**
- 18 **requirements.**
- 19 (1) a continuing education statement that:
- 20 (A) is on a form provided by the commissioner;
- 21 (B) is signed by the licensee under oath; and
- 22 (C) lists the continuing education courses completed by the
- 23 licensee to satisfy the continuing education requirements
- 24 under this section; and
- 25 (2) any other information required by the commissioner.
- 26 (h) A continuing education statement **Information** submitted under
- 27 subsection (g) may be reviewed and audited by the department of
- 28 insurance.
- 29 (i) A licensee shall retain a copy of the original certificate of
- 30 completion received by the licensee for completion of a continuing
- 31 education course.
- 32 (j) The commissioner may adopt rules under IC 4-22-2 to implement
- 33 this section.
- 34 SECTION 8. IC 27-1-15.5-7.3 IS AMENDED TO READ AS
- 35 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7.3. (a) The
- 36 commissioner shall approve and disapprove continuing education
- 37 courses after considering recommendations made by the insurance
- 38 agent education and continuing education advisory council under
- 39 section 20(h) of this chapter.
- 40 (b) The commissioner may not approve a course under this section
- 41 that:
- 42 (1) is designed to prepare an individual to receive an initial

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- 1 license under this chapter;
- 2 (2) deals only with office skills;
- 3 (3) concerns sales promotion and sales techniques;
- 4 (4) deals with motivation, psychology, or time management; or
- 5 (5) may be completed by a licensee without any supervision by an
- 6 instructor unless the course involves an examination process:
 - 7 (A) completed and passed by the licensee as determined by the
 - 8 provider of the course; and
 - 9 (B) approved by the commissioner.
- 10 (c) **The commissioner may enter into reciprocal agreements**
- 11 **with other states for the approval and disapproval of continuing**
- 12 **education courses. The commissioner may approve or disapprove**
- 13 **a course on the basis of a reciprocal state's approval or disapproval**
- 14 **of the course. The reciprocal agreement may not permit approval**
- 15 **of a course described in subsection (b).**
- 16 (d) The commissioner shall adopt rules under IC 4-22-2 to establish
- 17 procedures for approving continuing education courses.
- 18 SECTION 9. IC 27-1-15.5-8, AS AMENDED BY P.L.82-1998,
- 19 SECTION 3, AND P.L.91-1998, SECTION 6, IS CORRECTED AND
- 20 AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON
- 21 PASSAGE]: Sec. 8. (a) The commissioner may suspend, revoke, refuse
- 22 to continue, renew, or issue any license issued under this chapter, or
- 23 impose any of the disciplinary sanctions under subsection (f) if, after
- 24 notice to the licensee and to the insurer represented and a hearing, the
- 25 commissioner finds as to the licensee any one (1) or more of the
- 26 following conditions:
 - 27 (1) Any materially untrue statement in the license application.
 - 28 (2) Any cause for which issuance of the license could have been
 - 29 refused had it then existed and been known to the commissioner
 - 30 at the time of issuance.
 - 31 (3) Violation of or noncompliance with any insurance laws,
 - 32 violation of any provision of IC 28 concerning the sale of a life
 - 33 insurance policy or an annuity contract, or violation of any lawful
 - 34 rule, regulation, or order of the commissioner or of a
 - 35 commissioner of another state.
 - 36 (4) Obtaining or attempting to obtain any such license through
 - 37 misrepresentation or fraud.
 - 38 (5) Improperly withholding, misappropriating, or converting to
 - 39 the licensee's own use any money belonging to policyholders,
 - 40 insurers, beneficiaries, or others received in the course of the
 - 41 licensee's insurance business.
 - 42 (6) Misrepresentation of the terms of any actual or proposed

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1 insurance contract.

2 (7) A:

3 (A) conviction of; or

4 (B) *plea of guilty, no contest, or nolo contendere to;*
5 a felony or misdemeanor involving moral turpitude.

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

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

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

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

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

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

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

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

25 (b) The commissioner shall refuse to:

26 (1) issue a license; or

27 (2) renew a license issued;

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

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

41 (d) The license of a corporation may be suspended, revoked, or
42 refused if the commissioner finds, after hearing, that an individual

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1 licensee's violation was known or should have been known by one (1)
 2 or more of the officers or managers acting on behalf of the corporation
 3 and such violation was not reported to the insurance department nor
 4 corrective action taken in relation to the violation.

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

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

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

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

18 (3) Suspend a licensee's certificate.

19 (4) Censure a licensee.

20 (5) Issue a letter of reprimand.

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

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

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

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

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

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

36 (1) *subsection (a)(5);*

37 (2) *subsection (a)(8);*

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

39 (4) *section 24 of this chapter.*

40 (h) The insurance commissioner shall notify the securities
 41 commissioner when an administrative action or civil proceeding is filed
 42 under this section and when an order is issued under this section

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1 denying, suspending, or revoking a license.

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

6 SECTION 10. IC 27-1-15.5-11.1 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11.1. (a) Each insurer
8 ~~or group of affiliated insurers~~ authorized to transact business within
9 Indiana shall ~~report to~~ **notify** the commissioner ~~annually on January 1,~~
10 ~~the names of all of the insurer's~~ corporate or individual agents ~~with~~
11 ~~whom the insurer or group of affiliated insurers has contracted for~~
12 ~~representation~~ within Indiana.

13 **(b) The notification must be in a format prescribed by the**
14 **commissioner and must be filed with the department within thirty**
15 **(30) days after the date the insurer appoints or terminates a**
16 **corporate or individual agent.**

17 **(c) An appointment of a corporate or an individual agent is for**
18 **twelve (12) months and must be renewed thirty (30) days before its**
19 **expiration.**

20 **(d) The annual report shall be accompanied by department shall**
21 **collect a fee of two dollars and fifty cents (\$2.50) for each corporate or**
22 **individual agent: from the insurer for each initial appointment,**
23 **renewal, or termination.**

24 ~~(b)~~ **(e)** Each insurer which has appointed a licensed insurance agent
25 or limited insurance representative to solicit or negotiate insurance on
26 its behalf shall notify the commissioner of a termination of that
27 appointment if that termination is for any of the causes listed under
28 section 8 of this chapter. Any information, document, record, or
29 statement provided under this section may be used by the
30 commissioner in any action taken under section 8 of this chapter.
31 However, the information shall be considered privileged between the
32 reporting insurer and the commissioner or his representative.

33 ~~(c)~~ **(f)** An insurer (or a person acting on its behalf) who releases or
34 provides evidence or information under this section shall be immune
35 from any civil or criminal liability for providing such evidence or
36 information.

37 ~~(d)~~ **(g)** Each licensed insurance agent or limited insurance
38 representative shall, within ten (10) days of signing for receipt of a
39 ~~registered~~ **certified** letter from the commissioner, furnish the
40 commissioner with a full and complete report listing each insurer with
41 which the licensee has held an appointment during the year preceding
42 the request.



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1 ~~(e)~~ **(h)** In the event that a licensee fails to comply within ten (10)
2 days after receipt of a request from the commissioner made under
3 subsection ~~(d)~~ **(g)**, the commissioner may, in his sole discretion,
4 without hearing, and in addition to any other sanctions allowed by law,
5 suspend any insurance licenses held by that licensee pending receipt of
6 the appointment report.

7 **(i) If the certified letter is undeliverable, the commissioner may,**
8 **without a hearing, and in addition to any other sanctions allowed**
9 **by law, suspend any insurance licenses held by that licensee**
10 **pending receipt of the appointment report. The commissioner shall**
11 **not take action until thirty (30) days after the mailing of the**
12 **certified letter to the licensee's last known address.**

13 SECTION 11. IC 27-1-17-4 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. Whenever a foreign
15 or an alien insurance company desires to be admitted to do an
16 insurance business in this state, it shall execute in the English language
17 and present the following to the department, at its office, accompanied
18 by the fees prescribed by law:

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

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

- 26 (1) the name of such company;
- 27 (2) the location of its principal office or place of business
- 28 without this state;
- 29 (3) the names of the states in which it has been admitted or
- 30 qualified to do business;
- 31 (4) the character of insurance business under its articles of
- 32 incorporation or association which it intends to transact in this
- 33 state, which must conform to the class or classes set forth in
- 34 the provisions of IC 27-1-5-1;
- 35 (5) the total authorized capital stock of the company and the
- 36 amount thereof issued and outstanding, and the surplus
- 37 required of such company by the laws of the state, country,
- 38 province, or government under which it is organized, or the
- 39 state in which it is domiciled in the United States, if a stock
- 40 company, which shall equal at least the requirements set forth
- 41 in section 5(a) of this chapter;
- 42 (6) the total amount of assets and the surplus of assets over all

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- 1 its liabilities, if other than a stock company, which shall equal
 2 at least the requirements set forth in section 5(b) of this
 3 chapter;
 4 (7) if an alien company, the surplus of assets invested
 5 according to the laws of the state in the United States where it
 6 has its deposit, which shall equal at least the requirements set
 7 forth in section 5(c) of this chapter; and
 8 (8) such further and additional information as the department
 9 may from time to time require.
- 10 The application shall be signed in duplicate, in the form
 11 prescribed by the department, by the president or a vice president
 12 and the secretary or an assistant secretary of the corporation, and
 13 verified under oath by the officers signing the same.
- 14 (c) A statement of its financial condition and business, in the form
 15 prescribed by law for annual statements, signed and sworn to by
 16 the president or secretary or other principal officers of the
 17 company; provided, however, that an alien company shall also
 18 furnish a separate statement comprising only its condition and
 19 business in the United States, which shall be signed and sworn to
 20 by its United States manager.
- 21 (d) A copy of the last report of examination certified to by the
 22 insurance commissioner or other proper supervisory official of the
 23 state in which such company is domiciled; provided, however,
 24 that the commissioner may cause an examination to be made of
 25 the condition and affairs of such company before authority to
 26 transact business in this state is given.
- 27 (e) A certificate from the proper official of the state, country,
 28 province, or government wherein it is incorporated or organized,
 29 or the state in which it is domiciled in the United States, that it is
 30 duly organized or incorporated under those laws and authorized
 31 to make the kind or kinds of insurance which it proposes to make
 32 in this state.
- 33 (f) A copy of its bylaws or regulations, if any, certified to by the
 34 secretary or similar officer of the insurance company.
- 35 (g) Copies of forms of all policies which the insurance company
 36 proposes to issue in this state and also copies of the forms of
 37 application for such policies.
- 38 (h) A duly executed power of attorney in a form prescribed by the
 39 department which constitutes and appoints ~~the commissioner or~~
 40 ~~his successor, or successors,~~ **an individual or a corporate**
 41 **resident of Indiana, or an authorized Indiana insurer, as the**
 42 **insurance company's agent,** its true and lawful attorney upon

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

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

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

- 19 (1) considerations received for reinsurance of risks within this
- 20 state from companies authorized to transact an insurance business
- 21 in this state;
- 22 (2) the amount of dividends paid or credited to resident insureds,
- 23 or used to reduce current premiums of resident insureds;
- 24 (3) the amount of premiums actually returned to residents on
- 25 account of applications not accepted or on account of policies not
- 26 delivered; and
- 27 (4) the amount of unearned premiums returned on account of the
- 28 cancellation of policies covering risks within the state.

29 (b) A domestic company shall be taxed under this section only in
30 each calendar year with respect to which it files a notice of election.
31 The notice of election shall be filed with the insurance commissioner
32 and the commissioner of the department of state revenue on or before
33 November 30 in each year and shall state that the domestic company
34 elects to submit to the tax imposed by this section with respect to the
35 calendar year commencing January 1 next following the filing of the
36 notice. The exemption from license fees, privilege, or other taxes
37 accorded by this section to insurance companies not organized under
38 the laws of this state and doing business within this state which are
39 taxed under this chapter shall be applicable to each domestic company
40 in each calendar year with respect to which it is taxed under this
41 section. In each calendar year with respect to which a domestic
42 company has not elected to be taxed under this section it shall be taxed

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1 without regard to this section.

2 (c)(1) For the privilege of doing business in this state, every
3 insurance company required to file the report provided in this section
4 shall pay into the treasury of this state an amount equal to two percent
5 (2%) of the excess, if any, of the gross premiums over the allowable
6 deductions.

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

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

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

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

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

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

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

31 (d) The taxes under this article shall be in lieu of all license fees or
32 privilege or other tax levied or assessed by this state or by any
33 municipality, county, or other political subdivision of this state. No
34 municipality, county, or other political subdivision of this state shall
35 impose any license fee or privilege or other tax upon any insurance
36 company or any of its agents for the privilege of doing an insurance
37 business therein, except the tax authorized by IC 22-12-6-5. However,
38 the taxes authorized under IC 22-12-6-5 shall be credited against the
39 taxes provided under this chapter. This section shall not be construed
40 to prohibit the levy and collection of state, county, or municipal taxes
41 upon real and tangible personal property of such company, or to
42 prohibit the levy of any retaliatory tax, fine, penalty, or fee provided by

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1 law. However, all insurance companies, foreign or domestic, paying
 2 taxes in this state predicated in part on their premium income from
 3 policies sold and premiums received in Indiana, shall have the same
 4 rights and privileges from further taxation and shall be given the same
 5 credits wherever applicable, as those set out for those companies
 6 paying only a tax on premiums as set out in this section.

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

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

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

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

42 (2) insurance of the type described in IC 27-1-5-1, Class 2(h) type



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- 1 insurance covering liability risks related to the ownership or
 2 operation of establishments in Indiana at which alcoholic
 3 beverages are sold and consumed;
 4 (3) recreational facilities liability insurance;
 5 (4) lawyers professional liability insurance;
 6 (5) product liability insurance;
 7 (6) uninsured and underinsured motorist insurance;
 8 (7) owners, landlords, and tenants liability insurance; or
 9 (8) day care centers liability insurance;

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

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

- 16 (1) direct premiums written;
 17 (2) direct premiums earned;
 18 (3) direct losses paid;
 19 (4) direct losses incurred;
 20 (5) direct losses unpaid;
 21 (6) allocated loss adjustment expenses; and
 22 (7) unallocated loss adjustment expenses;

23 for the year of the financial statement in connection with all insurance
 24 described in subsection (b):

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

- 27 (1) Child care liability insurance;
 28 (2) Political subdivision liability insurance, including public
 29 schools;
 30 (3) Errors and omissions liability insurance;
 31 (4) Officers and director liability insurance;
 32 (5) Liquor liability insurance;

33 An insurer covered by this subsection shall file the exhibit described
 34 in subsection (c) with the department, as an additional part of the
 35 financial statement required under subsection (a) for the calendar year
 36 in which the insurance was provided:

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

- 38 (1) the number of jury awards paid under the provisions of the
 39 insurance during the calendar year; and the total amount paid for
 40 all jury awards;
 41 (2) the number of court awards (other than jury awards) paid
 42 under the provisions of the insurance during the calendar year;



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1 and the total amount paid for all of those awards; and
 2 (3) the number of negotiated settlements paid under the
 3 provisions of the insurance during the calendar year; and the total
 4 amount paid for all those negotiated settlements.

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

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

9 (1) Recreational facilities liability insurance.

10 (2) Lawyers professional liability insurance.

11 (3) Product liability insurance.

12 (4) Uninsured and underinsured motorist insurance.

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

14 (6) Day care centers liability insurance.

15 SECTION 14. IC 27-1-20-21.3 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 21.3. (a) Every
 17 domestic casualty insurance company, domestic fire and marine
 18 insurance company, and domestic life and health insurance company
 19 shall include an actuarial opinion as an additional part of the financial
 20 statement required under section ~~21(a)~~ **21** of this chapter. The
 21 commissioner shall adopt rules under IC 4-22-2 that:

22 (1) prescribe the form and content of the actuarial opinion
 23 required by this section; and

24 (2) establish minimum qualifications that an actuary must meet in
 25 order to provide the actuarial opinion required under this section.

26 (b) The actuarial opinion required by subsection (a) shall be
 27 included with every annual statement. ~~beginning with the statement for~~
 28 ~~calendar year 1994.~~

29 SECTION 15. IC 27-1-20-33 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 33. (a) As used in
 31 this section, "insurer" refers to each:

32 (1) domestic company;

33 (2) foreign company; and

34 (3) alien company;

35 that is authorized to transact business in Indiana.

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

38 (c) On or before March 1 of each year, an insurer shall file with the
 39 National Association of Insurance Commissioners and with the
 40 department a copy of the insurer's annual statement convention blank
 41 and additional filings prescribed by the commissioner for the preceding
 42 year. An insurer shall also file quarterly statements with the NAIC and



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1 with the department on or before May 15, August 15, and November
 2 15 of each year in a form prescribed by the commissioner. The
 3 information filed with the NAIC under this subsection:

4 (1) must be:

5 (A) in the same format; and

6 (B) of the same scope;

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

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

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

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

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

24 (e) A foreign company that:

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

27 (2) complies with that law;

28 shall be considered to be in compliance with this section.

29 (f) In the absence of actual malice:

30 (1) members of the NAIC;

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

33 (3) delegates of members of the NAIC;

34 (4) employees of the NAIC; and

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

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



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

5 SECTION 16. IC 27-1-22-2 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) **As used in this**
 7 **section, "exempt commercial policyholder" means an entity that:**

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

11 **(2) meets any two (2) of the following criteria:**

12 **(A) Has a net worth of more than fifty million dollars**
 13 **(\$50,000,000).**

14 **(B) Has a net revenue or sales of more than one hundred**
 15 **million dollars (\$100,000,000).**

16 **(C) Has more than five hundred (500) employees per**
 17 **individual company or one thousand (1,000) employees per**
 18 **holding company aggregate.**

19 **(D) Procures its insurance through use of an employed or**
 20 **a retained risk manager.**

21 **(E) Has aggregate premiums of more than five hundred**
 22 **thousand dollars (\$500,000).**

23 **(F) Is a nonprofit or public entity with an annual budget or**
 24 **assets of at least forty-five million dollars (\$45,000,000).**

25 (b) This chapter applies to all forms of casualty insurance including
 26 fidelity, surety, and guaranty bonds, to all forms of motor vehicle
 27 insurance, to all forms of fire, marine, and inland marine insurance, and
 28 to any and all combinations of the foregoing or parts thereof, on risks
 29 or operations in this state, except:

30 (1) reinsurance, other than joint reinsurance to the extent stated
 31 in section 14 of this chapter;

32 (2) accident and health insurance;

33 (3) insurance of vessels or craft, their cargoes, marine builders'
 34 risks, marine protection and indemnity, or other risks commonly
 35 insured under marine, as distinguished from inland marine,
 36 insurance policies;

37 (4) insurance against loss or damage to aircraft or against liability
 38 arising out of the ownership, maintenance, or use of aircraft;

39 (5) worker's compensation insurance; ~~and~~

40 (6) abstract and title insurance; **and**

41 **(7) insurance purchased by exempt commercial policyholders.**

42 (c) Inland marine insurance includes insurance defined by statute,

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1 or by interpretation of statute, or if not so defined or interpreted, by
 2 ruling of the commissioner of insurance (referred to as the
 3 commissioner), or as established by general custom of the business, as
 4 inland marine insurance.

5 ~~(c)~~ (d) This chapter shall not apply to farmers' mutual insurance
 6 companies organized and operating under IC 27-5 unless and only to
 7 the extent that IC 27-5 specifically provides that such companies are
 8 subject to:

- 9 (1) this chapter;
 10 (2) Acts 1947, c.60; or
 11 (3) Acts 1947, c.111.

12 SECTION 17. IC 27-1-23-1 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. As used in this
 14 chapter, the following terms shall have the respective meanings set
 15 forth in this section, unless the context shall otherwise require:

16 (a) An "acquiring party" is the specific person by whom an
 17 acquisition of control of a domestic insurer or of any corporation
 18 controlling a domestic insurer is to be effected, and each person who
 19 directly, or indirectly through one (1) or more intermediaries, controls
 20 the person specified.

21 (b) An "affiliate" of, or person "affiliated" with, a specific person,
 22 is a person that directly, or indirectly through one (1) or more
 23 intermediaries, controls, or is controlled by, or is under common
 24 control with, the person specified.

25 (c) A "beneficial owner" of a voting security includes any person
 26 who, directly or indirectly, through any contract, arrangement,
 27 understanding, relationship, revocable or irrevocable proxy, or
 28 otherwise has or shares:

- 29 (1) voting power including the power to vote, or to direct the
 30 voting of, the security; or
 31 (2) investment power which includes the power to dispose, or to
 32 direct the disposition, of the security.

33 (d) "Commissioner" means the insurance commissioner of this state.

34 (e) "Control" (including the terms "controlling", "controlled by", and
 35 "under common control with") means the possession, direct or indirect,
 36 of the power to direct or cause the direction of the management and
 37 policies of a person, whether through the beneficial ownership of
 38 voting securities, by contract other than a commercial contract for
 39 goods or nonmanagement services, or otherwise, unless the power is
 40 the result of an official position or corporate office. Control shall be
 41 presumed to exist if any person beneficially owns ten percent (10%) or
 42 more of the voting securities of any other person. The commissioner



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1 may determine this presumption has been rebutted only by a showing
 2 made in the manner provided by section 3(k) of this chapter that
 3 control does not exist in fact, after giving all interested persons notice
 4 and an opportunity to be heard. Control shall be presumed again to
 5 exist upon the acquisition of beneficial ownership of each additional
 6 five percent (5%) or more of the voting securities of the other person.
 7 The commissioner may determine, after furnishing all persons in
 8 interest notice and opportunity to be heard, that control exists in fact,
 9 notwithstanding the absence of a presumption to that effect.

10 (f) "Department" means the department of insurance created by
 11 IC 27-1-1-1.

12 (g) A "domestic insurer" is an insurer organized under the laws of
 13 this state.

14 (h) "Earned surplus" means an amount equal to the unassigned
 15 funds of an insurer as set forth in the most recent annual statement of
 16 an insurer that is submitted to the commissioner, excluding surplus
 17 arising from unrealized capital gains or revaluation of assets.

18 (i) An "insurance holding company system" consists of two (2) or
 19 more affiliated persons, one (1) or more of which is an insurer.

20 (j) "Insurer" has the same meaning as set forth in IC 27-1-2-3,
 21 except that it does not include:

22 (1) agencies, authorities, or instrumentalities of the United States,
 23 its possessions and territories, the Commonwealth of Puerto Rico,
 24 the District of Columbia, or a state or political subdivision of a
 25 state;

26 (2) fraternal benefit societies; or

27 (3) nonprofit medical and hospital service associations.

28 **The term includes a health maintenance organization (as defined**
 29 **in IC 27-13-1-19) and a limited service health maintenance**
 30 **organization (as defined in IC 27-13-1-27).**

31 (k) A "person" is an individual, a corporation, a limited liability
 32 company, a partnership, an association, a joint stock company, a trust,
 33 an unincorporated organization, any similar entity or any combination
 34 of the foregoing acting in concert, but shall not include any securities
 35 broker performing no more than the usual and customary broker's
 36 function.

37 (l) A "policyholder" of a domestic insurer includes any person who
 38 owns an insurance policy or annuity contract issued by the domestic
 39 insurer, any person reinsured by the domestic insurer under a
 40 reinsurance contract or treaty between the person and the domestic
 41 insurer, and any health maintenance organization with which the
 42 domestic insurer has contracted to provide services or protection



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1 against the cost of care.

2 (m) A "subsidiary" of a specified person is an affiliate controlled by
3 that person directly or indirectly through one or more intermediaries.

4 (n) "Surplus" means the total of gross paid in and contributed
5 surplus, special surplus funds, and unassigned surplus, less treasury
6 stock at cost.

7 (o) "Voting security" includes any security convertible into or
8 evidencing a right to acquire a voting security.

9 SECTION 18. IC 27-1-27-4 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) Each applicant
11 for a certificate of authority as a public adjuster, shall file with the
12 commissioner of insurance his, or its, application therefor on forms
13 furnished by the commissioner of insurance, which application shall set
14 forth:

15 (1) the name and address of the applicant, and if the applicant be
16 a corporation, the name and address of each of its officers and
17 directors;

18 (2) whether the person is applying as a resident or nonresident;

19 (3) whether any license or certificate of authority as agent, broker,
20 public adjuster, or independent adjuster has been issued
21 previously by the commissioner of insurance of the state of
22 Indiana or by the insurance department of any other state, any
23 territorial possession of the United States, or any foreign country
24 to the applicant; and

25 (4) the business or employment in which the applicant has been
26 engaged for the five (5) years next preceding the date of the
27 application, and the name and address of such business and the
28 name or names and addresses of his employer or employers.

29 (b) An application for any certificate of authority must be signed
30 and verified under oath by the applicant.

31 (c) ~~An annual~~ **A biennial** fee of ~~fifty seventy-five~~ dollars ~~(\$50)~~
32 **(\$75)** is to be paid to the commissioner of insurance by the applicant
33 for such public adjuster's certificate of authority before the application
34 or ~~annual~~ renewal thereof is granted. However, the commissioner may,
35 by rule adopted under IC 4-22-2, change the amount of the fee to an
36 amount necessary to pay all of the direct and indirect costs of
37 administering this chapter. Fees collected shall be used by the
38 department to administer this chapter.

39 (d) Every public adjuster's certificate of authority shall **continue in**
40 **force for twenty-four (24) months and shall** expire on December 31,
41 ~~of the calendar year in which the same shall have been issued~~; but if an
42 application for the renewal of such certificate shall have been filed with

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1 the commissioner of insurance before January 1 of ~~any~~ **the renewal**
 2 year, the certificate of authority sought to be renewed shall continue in
 3 full force and effect until the issuance by the commissioner of
 4 insurance of the new certificate applied for, or until five (5) days after
 5 the commissioner of insurance shall have refused to issue such new
 6 certificate and shall have served notice of such refusal on the applicant
 7 therefor. Service of such notice shall be made by registered mail
 8 directed to the applicant at the place of business specified in the
 9 application.

10 (e) The applicant shall file with the commissioner of insurance a
 11 surety bond in a sum equal to ten thousand dollars (\$10,000), payable
 12 to the state of Indiana and conditioned on the principal's faithful
 13 performance and discharge of his duties under this title and under any
 14 rule of the department of insurance. The bond must be renewed
 15 ~~annually.~~ **when the license is renewed.**

16 SECTION 19. IC 27-1-27-5 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) The
 18 commissioner may not issue a certificate of authority to a nonresident
 19 applicant until that nonresident files with the commissioner, in a form
 20 prescribed by the commissioner, a designation ~~that the commissioner~~
 21 ~~(and his successors in office)~~ **is of an individual resident of Indiana,**
 22 **a corporate resident of Indiana, or an authorized Indiana insurer**
 23 **as** the nonresident applicant's legal representative upon whom may be
 24 served all lawful process in any action, suit, or proceeding:

- 25 (1) instituted by or on behalf of an interested person; and
 26 (2) arising out of the nonresident applicant's public adjuster's
 27 insurance business.

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

- 32 (c) Service upon a nonresident may be made by
 33 ~~(1)~~ **serv**ing the ~~commissioner nonresident applicant's legal~~
 34 **representative** with an appropriate number of copies of the
 35 process. ~~and~~
 36 ~~(2)~~ **paym**ent to the commissioner of a fee as required under
 37 ~~IC 27-1-3-15.~~

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

- 42 (e) Service of process is sufficient as long as notice of the service



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1 and a copy of the process are sent not more than ten (10) days after the
 2 ~~commissioner nonresident applicant's legal representative~~ received
 3 the service of process on behalf of the nonresident.

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

9 SECTION 20. IC 27-1-29.1-8 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The
 11 commission shall establish a reserve account in the fund. ~~A balance of~~
 12 ~~at least five million dollars (\$5,000,000) must remain in the reserve~~
 13 ~~account.~~ To provide money to establish the reserve account, the
 14 commission may issue bonds under IC 27-1-29-17(b)(1). The bonds
 15 issued to provide money for the establishment of the reserve account
 16 may not exceed a total amount of forty million dollars (\$40,000,000).

17 (b) Money in the reserve account shall be held and applied solely to
 18 pay claims against the fund that cannot be paid from other money in the
 19 fund.

20 SECTION 21. IC 27-4-1-4 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. The following are
 22 hereby defined as unfair methods of competition and unfair and
 23 deceptive acts and practices in the business of insurance:

24 (1) Making, issuing, circulating, or causing to be made, issued, or
 25 circulated, any estimate, illustration, circular, or statement:

26 (A) misrepresenting the terms of any policy issued or to be
 27 issued or the benefits or advantages promised thereby or the
 28 dividends or share of the surplus to be received thereon;

29 (B) making any false or misleading statement as to the
 30 dividends or share of surplus previously paid on similar
 31 policies;

32 (C) making any misleading representation or any
 33 misrepresentation as to the financial condition of any insurer,
 34 or as to the legal reserve system upon which any life insurer
 35 operates;

36 (D) using any name or title of any policy or class of policies
 37 misrepresenting the true nature thereof; or

38 (E) making any misrepresentation to any policyholder insured
 39 in any company for the purpose of inducing or tending to
 40 induce such policyholder to lapse, forfeit, or surrender his
 41 insurance.

42 (2) Making, publishing, disseminating, circulating, or placing

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- 1 before the public, or causing, directly or indirectly, to be made,
 2 published, disseminated, circulated, or placed before the public,
 3 in a newspaper, magazine, or other publication, or in the form of
 4 a notice, circular, pamphlet, letter, or poster, or over any radio or
 5 television station, or in any other way, an advertisement,
 6 announcement, or statement containing any assertion,
 7 representation, or statement with respect to any person in the
 8 conduct of his insurance business, which is untrue, deceptive, or
 9 misleading.
- 10 (3) Making, publishing, disseminating, or circulating, directly or
 11 indirectly, or aiding, abetting, or encouraging the making,
 12 publishing, disseminating, or circulating of any oral or written
 13 statement or any pamphlet, circular, article, or literature which is
 14 false, or maliciously critical of or derogatory to the financial
 15 condition of an insurer, and which is calculated to injure any
 16 person engaged in the business of insurance.
- 17 (4) Entering into any agreement to commit, or individually or by
 18 a concerted action committing any act of boycott, coercion, or
 19 intimidation resulting or tending to result in unreasonable
 20 restraint of, or a monopoly in, the business of insurance.
- 21 (5) Filing with any supervisory or other public official, or making,
 22 publishing, disseminating, circulating, or delivering to any person,
 23 or placing before the public, or causing directly or indirectly, to
 24 be made, published, disseminated, circulated, delivered to any
 25 person, or placed before the public, any false statement of
 26 financial condition of an insurer with intent to deceive. Making
 27 any false entry in any book, report, or statement of any insurer
 28 with intent to deceive any agent or examiner lawfully appointed
 29 to examine into its condition or into any of its affairs, or any
 30 public official to which such insurer is required by law to report,
 31 or which has authority by law to examine into its condition or into
 32 any of its affairs, or, with like intent, willfully omitting to make a
 33 true entry of any material fact pertaining to the business of such
 34 insurer in any book, report, or statement of such insurer.
- 35 (6) Issuing or delivering or permitting agents, officers, or
 36 employees to issue or deliver, agency company stock or other
 37 capital stock, or benefit certificates or shares in any common law
 38 corporation, or securities or any special or advisory board
 39 contracts or other contracts of any kind promising returns and
 40 profits as an inducement to insurance.
- 41 (7) Making or permitting any of the following:
 42 (A) Unfair discrimination between individuals of the same

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1 class and equal expectation of life in the rates or assessments
 2 charged for any contract of life insurance or of life annuity or
 3 in the dividends or other benefits payable thereon, or in any
 4 other of the terms and conditions of such contract; however, in
 5 determining the class, consideration may be given to the
 6 nature of the risk, plan of insurance, the actual or expected
 7 expense of conducting the business, or any other relevant
 8 factor.

9 (B) Unfair discrimination between individuals of the same
 10 class involving essentially the same hazards in the amount of
 11 premium, policy fees, assessments, or rates charged or made
 12 for any policy or contract of accident or health insurance or in
 13 the benefits payable thereunder, or in any of the terms or
 14 conditions of such contract, or in any other manner whatever;
 15 however, in determining the class, consideration may be given
 16 to the nature of the risk, the plan of insurance, the actual or
 17 expected expense of conducting the business, or any other
 18 relevant factor.

19 (C) Excessive or inadequate charges for premiums, policy
 20 fees, assessments, or rates, or making or permitting any unfair
 21 discrimination between persons of the same class involving
 22 essentially the same hazards, in the amount of premiums,
 23 policy fees, assessments, or rates charged or made for:

24 (i) policies or contracts of reinsurance or joint reinsurance,
 25 or abstract and title insurance;

26 (ii) policies or contracts of insurance against loss or damage
 27 to aircraft, or against liability arising out of the ownership,
 28 maintenance, or use of any aircraft, or of vessels or craft,
 29 their cargoes, marine builders' risks, marine protection and
 30 indemnity, or other risks commonly insured under marine,
 31 as distinguished from inland marine, insurance; or

32 (iii) policies or contracts of any other kind or kinds of
 33 insurance whatsoever.

34 However, nothing contained in clause (C) shall be construed to
 35 apply to any of the kinds of insurance referred to in clauses (A)
 36 and (B) nor to reinsurance in relation to such kinds of insurance.
 37 Nothing in clause (A), (B), or (C) shall be construed as making or
 38 permitting any excessive, inadequate, or unfairly discriminatory
 39 charge or rate or any charge or rate determined by the department
 40 or commissioner to meet the requirements of any other insurance
 41 rate regulatory law of this state.

42 (8) Except as otherwise expressly provided by law, knowingly

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1 permitting or offering to make or making any contract or policy
 2 of insurance of any kind or kinds whatsoever, including but not in
 3 limitation, life annuities, or agreement as to such contract or
 4 policy other than as plainly expressed in such contract or policy
 5 issued thereon, or paying or allowing, or giving or offering to pay,
 6 allow, or give, directly or indirectly, as inducement to such
 7 insurance, or annuity, any rebate of premiums payable on the
 8 contract, or any special favor or advantage in the dividends,
 9 savings, or other benefits thereon, or any valuable consideration
 10 or inducement whatever not specified in the contract or policy; or
 11 giving, or selling, or purchasing or offering to give, sell, or
 12 purchase as inducement to such insurance or annuity or in
 13 connection therewith, any stocks, bonds, or other securities of any
 14 insurance company or other corporation, association, limited
 15 liability company, or partnership, or any dividends, savings, or
 16 profits accrued thereon, or anything of value whatsoever not
 17 specified in the contract. Nothing in this subdivision and
 18 subdivision (7) shall be construed as including within the
 19 definition of discrimination or rebates any of the following
 20 practices:

- 21 (A) Paying bonuses to policyholders or otherwise abating their
 22 premiums in whole or in part out of surplus accumulated from
 23 nonparticipating insurance, so long as any such bonuses or
 24 abatement of premiums are fair and equitable to policyholders
 25 and for the best interests of the company and its policyholders.
- 26 (B) In the case of life insurance policies issued on the
 27 industrial debit plan, making allowance to policyholders who
 28 have continuously for a specified period made premium
 29 payments directly to an office of the insurer in an amount
 30 which fairly represents the saving in collection expense.
- 31 (C) Readjustment of the rate of premium for a group insurance
 32 policy based on the loss or expense experience thereunder, at
 33 the end of the first year or of any subsequent year of insurance
 34 thereunder, which may be made retroactive only for such
 35 policy year.
- 36 (D) Paying by an insurer or agent thereof duly licensed as such
 37 under the laws of this state of money, commission, or
 38 brokerage, or giving or allowing by an insurer or such licensed
 39 agent thereof anything of value, for or on account of the
 40 solicitation or negotiation of policies or other contracts of any
 41 kind or kinds, to a broker, agent, or solicitor duly licensed
 42 under the laws of this state, but such broker, agent, or solicitor

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receiving such consideration shall not pay, give, or allow credit for such consideration as received in whole or in part, directly or indirectly, to the insured by way of rebate.

(9) Requiring, as a condition precedent to loaning money upon the security of a mortgage upon real property, that the owner of the property to whom the money is to be loaned negotiate any policy of insurance covering such real property through a particular insurance agent or broker or brokers. However, this subdivision shall not prevent the exercise by any lender of its or his right to approve or disapprove of the insurance company selected by the borrower to underwrite the insurance.

(10) Entering into any contract, combination in the form of a trust or otherwise, or conspiracy in restraint of commerce in the business of insurance.

(11) Monopolizing or attempting to monopolize or combining or conspiring with any other person or persons to monopolize any part of commerce in the business of insurance. However, participation as a member, director, or officer in the activities of any nonprofit organization of agents or other workers in the insurance business shall not be interpreted, in itself, to constitute a combination in restraint of trade or as combining to create a monopoly as provided in this subdivision and subdivision (10). The enumeration in this chapter of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the commissioner or department or of any court of review under section 8 of this chapter.

(12) Requiring as a condition precedent to the sale of real or personal property under any contract of sale, conditional sales contract, or other similar instrument or upon the security of a chattel mortgage, that the buyer of such property negotiate any policy of insurance covering such property through a particular insurance company, agent, or broker or brokers. However, this subdivision shall not prevent the exercise by any seller of such property or the one making a loan thereon, of his, her, or its right to approve or disapprove of the insurance company selected by the buyer to underwrite the insurance.

(13) Issuing, offering, or participating in a plan to issue or offer, any policy or certificate of insurance of any kind or character as an inducement to the purchase of any property, real, personal, or mixed, or services of any kind, where a charge to the insured is not made for and on account of such policy or certificate of

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1 insurance. However, this subdivision shall not apply to any of the
2 following:

3 (A) Insurance issued to credit unions or members of credit
4 unions in connection with the purchase of shares in such credit
5 unions.

6 (B) Insurance employed as a means of guaranteeing the
7 performance of goods and designed to benefit the purchasers
8 or users of such goods.

9 (C) Title insurance.

10 (D) Insurance written in connection with an indebtedness and
11 intended as a means of repaying such indebtedness in the
12 event of the death or disability of the insured.

13 (E) Insurance provided by or through motorists service clubs
14 or associations.

15 (F) Insurance that is provided to the purchaser or holder of an
16 air transportation ticket and that:

17 (i) insures against death or nonfatal injury that occurs during
18 the flight to which the ticket relates;

19 (ii) insures against personal injury or property damage that
20 occurs during travel to or from the airport in a common
21 carrier immediately before or after the flight;

22 (iii) insures against baggage loss during the flight to which
23 the ticket relates; or

24 (iv) insures against a flight cancellation to which the ticket
25 relates.

26 (14) Refusing, because of the for-profit status of a hospital or
27 medical facility, to make payments otherwise required to be made
28 under a contract or policy of insurance for charges incurred by an
29 insured in such a for-profit hospital or other for-profit medical
30 facility licensed by the state department of health.

31 (15) Refusing to insure an individual, refusing to continue to issue
32 insurance to an individual, limiting the amount, extent, or kind of
33 coverage available to an individual, or charging an individual a
34 different rate for the same coverage, solely because of that
35 individual's blindness or partial blindness, except where the
36 refusal, limitation, or rate differential is based on sound actuarial
37 principles or is related to actual or reasonably anticipated
38 experience.

39 (16) Committing or performing, with such frequency as to
40 indicate a general practice, unfair claim settlement practices (as
41 defined in section 4.5 of this chapter).

42 (17) Between policy renewal dates, unilaterally canceling an

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- 1 individual's coverage under an individual or group health
- 2 insurance policy solely because of the individual's medical or
- 3 physical condition.
- 4 (18) Using a policy form or rider that would permit a cancellation
- 5 of coverage as described in subdivision (17).
- 6 (19) Violating IC 27-1-22-25 or IC 27-1-22-26 concerning motor
- 7 vehicle insurance rates.
- 8 (20) Violating IC 27-8-21-2 concerning advertisements referring
- 9 to interest rate guarantees.
- 10 (21) Violating IC 27-8-24.3 concerning insurance and health plan
- 11 coverage for victims of abuse.
- 12 (22) Violating IC 27-1-15.5-3(h).
- 13 (23) Violating IC 27-8-26 concerning genetic screening or testing.
- 14 **(24) Violating IC 27-8-15-34.1 concerning small employer**
- 15 **health insurance plans.**
- 16 **(25) Violating IC 27-8-17.5 concerning preauthorization.**

17 SECTION 22. IC 27-4-1-6 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) If after a hearing
 19 under IC 4-21.5-3, the commissioner determines that ~~the a person has~~
 20 **engaged in a** method of competition, ~~or the act, or practice in question~~
 21 **is defined described** in section 4 of this chapter and that the person
 22 ~~complained of has engaged in such method of competition, act, or~~
 23 ~~practice in violation or 8~~ of this chapter, ~~he shall reduce his findings to~~
 24 ~~writing and shall~~ **or has otherwise violated this chapter, the**
 25 **commissioner may** issue and cause to be served on the person charged
 26 with the violation an order requiring such person to cease and desist
 27 from such method of competition, act, or practice, and the
 28 commissioner may at his discretion order one (1) or more of the
 29 following:

- 30 (1) Payment of a civil penalty of not more than ~~twenty-five~~ **fifty**
- 31 thousand dollars ~~(\$25,000)~~ **(\$50,000)** for each act or violation but
- 32 not to exceed an aggregate penalty of ~~one five~~ hundred thousand
- 33 dollars ~~(\$100,000)~~ **(\$500,000)** in any twelve (12) month period
- 34 unless the person knew or reasonably should have known that he
- 35 was in violation of this chapter, in which case the penalty may be
- 36 not more than ~~fifty one hundred~~ thousand dollars ~~(\$50,000)~~
- 37 **(\$100,000)** for each act or violation but not to exceed an
- 38 aggregate penalty of ~~two hundred thousand~~ **one million** dollars
- 39 ~~(\$200,000)~~ **(\$1,000,000)** in any twelve (12) month period.
- 40 (2) **Restitution or other remedial measures as determined**
- 41 **necessary by the commissioner to correct the violation.**
- 42 (3) Suspension or revocation of the person's license, or certificate

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1 of authority, if he knew or reasonably should have known he was
2 in violation of this chapter.

3 (b) All civil penalties imposed and collected under this section shall
4 be deposited in the state general fund.

5 SECTION 23. IC 27-4-1-20 IS ADDED TO THE INDIANA CODE
6 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
7 **1, 1999]: Sec. 20. The department may adopt rules under IC 4-22-2**
8 **to implement this chapter.**

9 SECTION 24. IC 27-4-5-2 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) It is a Class
11 A infraction for an insurer to transact insurance business in this state,
12 as set forth in subsection (b), without a certificate of authority from the
13 commissioner. However, this section does not apply to the following:

- 14 (1) The lawful transaction of surplus lines insurance.
- 15 (2) The lawful transaction of reinsurance by insurers.
- 16 (3) Transactions in this state involving a policy lawfully solicited,
17 written, and delivered outside of this state covering only subjects
18 of insurance not resident, located, or expressly to be performed in
19 this state at the time of issuance, and which transactions are
20 subsequent to the issuance of such policy.
- 21 (4) Attorneys acting in the ordinary relation of attorney and client
22 in the adjustment of claims or losses.
- 23 (5) Transactions in this state involving group life and group
24 sickness and accident or blanket sickness and accident insurance
25 or group annuities where the master policy of such groups was
26 lawfully issued and delivered in and pursuant to the laws of a
27 state in which the insurer was authorized to do an insurance
28 business, to a group organized for purposes other than the
29 procurement of insurance, and where the policyholder is
30 domiciled or otherwise has a bona fide situs.
- 31 (6) Transactions in this state relative to a policy issued or to be
32 issued outside this state involving insurance on vessels, craft or
33 hulls, cargos, marine builder's risk, marine protection and
34 indemnity or other risk, including strikes and war risks commonly
35 insured under ocean or wet marine forms of policy.
- 36 (7) Transactions in this state involving life insurance, health
37 insurance, or annuities provided to religious or charitable
38 institutions organized and operated without profit to any private
39 shareholder or individual for the benefit of such institutions and
40 individuals engaged in the service of such institutions.
- 41 (8) Transactions in this state involving contracts of insurance not
42 readily obtainable in the ordinary insurance market and issued to

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1 one (1) or more industrial insureds. For purposes of this section,
2 an "industrial insured" means an insured:

3 (A) who procures the insurance of any risk or risks by use of
4 the services of a full-time employee acting as an insurance
5 manager or buyer or the services of a regularly retained and
6 continuously qualified insurance consultant;

7 (B) whose aggregate annual premium for insurance on all risks
8 totals at least twenty-five thousand dollars (\$25,000); and

9 (C) who has at least twenty-five (25) full-time employees.

10 (9) Transactions in Indiana involving the rendering of any service
11 by any ambulance service provider and all fees, costs, and
12 membership payments charged for the service. To qualify under
13 this subdivision, the ambulance service provider:

14 (A) must have its ambulance service program approved by an
15 ordinance of the legislative body of the county or city in which
16 it operates; and

17 (B) may not offer any membership program that includes
18 benefits exceeding one (1) year in duration.

19 (b) Any of the following acts in this state effected by mail or
20 otherwise by or on behalf of an unauthorized insurer constitutes the
21 transaction of an insurance business in this state. The venue of an act
22 committed by mail is at the point where the matter transmitted by mail
23 is delivered and takes effect. Unless otherwise indicated, the term
24 "insurer" as used in this section includes all persons engaged as
25 principals in the business of insurance and also includes interinsurance
26 exchanges, ~~and~~ mutual benefit societies, **health maintenance**
27 **organizations (as defined in IC 27-13-1-19), and limited service**
28 **health maintenance organizations (as defined in IC 27-13-34-4).**

29 (1) The making of or proposing to make, as an insurer, an
30 insurance contract.

31 (2) The making of or proposing to make, as guarantor or surety,
32 any contract of guaranty or suretyship as a vocation and not
33 merely incidental to any other legitimate business or activity of
34 the guarantor or surety.

35 (3) The taking or receiving of any application for insurance.

36 (4) The receiving or collection of any premium, commission,
37 membership fees, assessments, dues, or other consideration for
38 any insurance or any part thereof.

39 (5) The issuance or delivery of contracts of insurance to residents
40 of this state or to persons authorized to do business in this state.

41 (6) Acting as an agent for or otherwise representing or aiding on
42 behalf of another person or insurer in the solicitation, negotiation,

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1 procurement, or effectuation of insurance or renewals thereof or
 2 in the dissemination of information as to coverage or rates, or
 3 forwarding of applications, or delivery of policies or contracts, or
 4 inspection of risks, a fixing of rates or investigation or adjustment
 5 of claims or losses or in the transaction of matters subsequent to
 6 effectuation of the contract and arising out of it, or representing
 7 or assisting a person or an insurer in the transaction of insurance
 8 with respect to subjects of insurance resident, located, or to be
 9 performed in this state. This subdivision does not prohibit
 10 full-time salaried employees of a corporate insured from acting in
 11 the capacity of an insurance manager or buyer in placing
 12 insurance in behalf of the employer.

13 (c)(1) The failure of an insurer transacting insurance business in this
 14 state to obtain a certificate of authority does not impair the validity of
 15 any act or contract of such insurer and does not prevent such insurer
 16 from defending any action at law or suit in equity in any court of this
 17 state, but no insurer transacting insurance business in this state without
 18 a certificate of authority may maintain an action in any court of this
 19 state to enforce any right, claim, or demand arising out of the
 20 transaction of such business until such insurer obtains a certificate of
 21 authority.

22 (2) In the event of failure of any such unauthorized insurer to pay
 23 any claim or loss within the provisions of such insurance contract, any
 24 person who assisted or in any manner aided directly or indirectly in the
 25 procurement of such insurance contract is liable to the insured for the
 26 full amount of the claim or loss in the manner provided by the
 27 insurance contract.

28 SECTION 25. IC 27-6-6-4 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) Concurrently
 30 with the filing of the declaration provided for by the terms of section
 31 3 of this chapter, the attorney (as defined in section 2 of this chapter)
 32 shall file with the department of insurance, state of Indiana, an
 33 instrument in writing, executed by him for said subscribers,
 34 conditioned that, upon the issuance of a certificate of authority
 35 provided for in section 9 of this chapter, service of process may be had
 36 upon the ~~commissioner of insurance~~ **individual resident of Indiana,**
 37 **corporate resident of Indiana, or authorized Indiana insurer,**
 38 **appointed by the subscribers as the subscribers' agent for service**
 39 **of process** in all suits in this state arising out of such policies,
 40 contracts, or agreements, which service shall be valid and binding upon
 41 all subscribers exchanging at any time reciprocal or interinsurance
 42 contracts through such attorney.



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

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

12 SECTION 26. IC 27-7-2-24 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 24. Every person
 14 lawfully engaged wholly or in part in writing worker's compensation
 15 insurance in this state shall, upon July 1, 1935, by written notice to the
 16 insurance commissioner, appoint ~~the insurance commissioner an~~
 17 **individual resident of Indiana, a corporate resident of Indiana, or**
 18 **an authorized Indiana insurer** as the person's resident agent in
 19 Indiana upon whom service of process may be had for the enforcement
 20 of this chapter.

21 SECTION 27. IC 27-7-12 IS ADDED TO THE INDIANA CODE
 22 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 1999]:

24 **Chapter 12. Termination of Homeowners Policies**

25 **Sec. 1. (a) This chapter applies to policies of property insurance,**
 26 **other than as set forth in subsection (b), covering risks to property**
 27 **located in Indiana that take effect or are renewed after June 30,**
 28 **1999, and that ensure loss of or damage to:**

29 (1) real property that consists of not more than four (4)
 30 residential units, one (1) of which is the principal place of
 31 residence of the named insured; or

32 (2) personal property in which the named insured has an
 33 insurable interest where the personal property is:

34 (A) used for personal, family, or household purposes; and

35 (B) within a residential dwelling.

36 (b) This chapter does not apply to the following:

37 (1) A policy of inland marine insurance.

38 (2) The cancellation or nonrenewal of an automobile
 39 insurance policy under IC 27-7-6.

40 (3) The cancellation or nonrenewal of a commercial property
 41 and casualty insurance policy under IC 27-1-31-2.5.

42 **Sec. 2. (a) As used in this chapter, "nonpayment of premium"**



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1 means the failure of the named insured to discharge any obligation
 2 in connection with the payment of premiums on policies of
 3 property insurance subject to this chapter, regardless of whether
 4 the payments are directly payable to the insurer or its agent or
 5 indirectly payable under a premium finance plan or extension of
 6 credit. The term includes the failure to pay dues or fees where
 7 payment of the dues or fees is a prerequisite to obtaining or
 8 continuing property insurance coverage.

9 (b) As used in this chapter, "renewal" or "to renew" means the
 10 issuance and delivery by an insurer at the end of a policy period of
 11 a policy superseding a policy previously issued and delivered by the
 12 same insurer, or the issuance and delivery of a certificate or notice
 13 extending the term of an existing policy beyond its policy period or
 14 term.

15 (c) As used in this chapter, "policy period or term of six (6)
 16 months" means a policy period or term of less than six (6) months.

17 (d) As used in this chapter, "policy period or term of one (1)
 18 year" means a policy period or term of more than one (1) year or
 19 any policy with no fixed expiration date.

20 (e) As used in this chapter, "termination" means either a
 21 cancellation or nonrenewal of property insurance coverage in
 22 whole or in part. A cancellation occurs during the policy term. A
 23 nonrenewal occurs at the end of the policy term. The term includes
 24 the transfer of a policyholder between companies within the same
 25 insurance group and shall be considered a termination. The term
 26 does not include the requirement of a reasonable deductible,
 27 reasonable changes in the amount of insurance, or reasonable
 28 reductions in policy limits or coverage if the requirements are
 29 directly related to the hazard involved and are made on the
 30 renewal date for the policy.

31 **Sec. 3. (a) Notice of cancellation of property insurance coverage**
 32 **by an insurer must:**

- 33 (1) be in writing;
- 34 (2) be delivered to the named insured or mailed to the named
 35 insured at the last known address of the named insured;
- 36 (3) state the effective date of the cancellation; and
- 37 (4) be accompanied by a written explanation of the specific
 38 reasons for the cancellation.

39 (b) An insurer shall provide written notice of cancellation to the
 40 named insured at least:

- 41 (1) twenty (20) days before canceling a policy if the
 42 cancellation occurs more than sixty (60) days after the date of

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1 issuance of the policy;

2 (2) ten (10) days before canceling a policy if the cancellation
3 is for nonpayment of a premium; and

4 (3) ten (10) days before canceling a policy if the cancellation
5 occurs sixty (60) days or less after the date of issuance of the
6 policy.

7 **Sec. 4. (a) An insurer shall not refuse to renew a property**
8 **insurance policy unless, at least twenty (20) days before the end of**
9 **the policy period, the insurer delivers or mails to the named**
10 **insured at the insured's last known address written notice of the**
11 **insurer's intention not to renew the policy upon expiration of the**
12 **current policy period. The notice of intention not to renew must**
13 **include a written explanation of the insurer's reason for the**
14 **nonrenewal. The explanation must be sufficiently clear and specific**
15 **so that a person of average intelligence can identify the basis for**
16 **the insurer's decision without further inquiry. Generalized terms**
17 **used in the explanation, including, but not limited to:**

18 (1) "personal habits";

19 (2) "living conditions";

20 (3) "poor morals"; or

21 (4) "unsatisfactory credit history";

22 are not sufficient to meet the requirements of this subsection.

23 (b) Notwithstanding subsection (a), notice of intention not to
24 renew is not required when the named insured is given notice of the
25 insurer's willingness to renew the policy by the mailing or
26 delivering of a renewal notice, bill, certificate, or policy.

27 (c) If notice is not provided under subsection (a), coverage is
28 considered to be renewed for the ensuing policy period upon
29 payment of the appropriate premiums under the same terms and
30 conditions, and subject to section 5 of this chapter, until the named
31 insured has accepted replacement coverage with another insurer
32 or until the named insured has agreed to the nonrenewal.

33 **Sec. 5. After coverage has been in effect for more than sixty (60)**
34 **days or after the effective date of a renewal policy, a notice of**
35 **cancellation shall not be issued unless it is based on at least one (1)**
36 **of the following:**

37 (1) Nonpayment of a premium.

38 (2) Discovery of fraud or material misrepresentation made by
39 or with the knowledge of the named insured in obtaining the
40 policy, continuing the policy, or in presenting a claim under
41 the policy.

42 (3) Discovery of willful or reckless acts or omissions on the

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part of the named insured that increase a hazard insured against.

(4) The occurrence of a change in the risk that substantially increases a hazard insured against after insurance coverage has been issued or renewed.

(5) A violation of any local fire, health, safety, building, or construction regulation or ordinance with respect to an insured property or the occupancy of the property that substantially increases any hazard insured against.

(6) A determination by the commissioner that the continuation of the policy would place the insurer in violation of the insurance laws of Indiana.

(7) Real property taxes owing on the insured property have been delinquent for two (2) or more years and continue delinquent at the time notice of cancellation is issued.

Sec. 6. Termination of a policy of property insurance by an insurer is prohibited if the termination is based:

(1) upon the race, religion, nationality, ethnic group, age, sex, or marital status of the applicant or named insured;

(2) solely upon the lawful occupation or profession of the applicant or named insured, except that this provision shall not apply to an insurer that limits its market to one (1) lawful occupation or profession or to several related lawful occupations or professions;

(3) upon the age or location of the residence of the applicant or named insured unless that decision is for a business purpose which is not a mere pretext for a decision based on factors prohibited in this chapter or any other provision of this title;

(4) upon the fact that another insurer previously declined to insure the applicant or terminated an existing policy in which the applicant was the named insured; or

(5) upon the fact that the applicant or named insured previously obtained insurance coverage through a residual market insurance mechanism.

Sec. 7. (a) There is no liability on the part of and no cause of action arises against:

(1) employees of the department;

(2) an insurer or its authorized representative, agent, or employee;

(3) a licensed insurance agent; or

(4) a person furnishing information to an insurer as to reasons

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1 **for a termination;**
 2 **for any communication giving notice of or specifying the reasons**
 3 **for a termination or for any statement made in connection with an**
 4 **attempt to discover or verify the existence of conditions that would**
 5 **be a reason for a termination under this chapter.**

6 **(b) This section does not apply to statements made in bad faith**
 7 **with malice in fact.**

8 SECTION 28. IC 27-8-1-13 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13. Any corporation,
 10 association or society, organized under the laws of any other state or
 11 government to insure lives on the assessment plan, or any corporation
 12 carrying on the business of life or accident insurance on the assessment
 13 plan, shall be licensed by the auditor of state, upon the payment to ~~him~~
 14 **the auditor of state** of a fee of twenty-five dollars (\$25.00), to do
 15 business in this state. ~~Provided, Such~~ **However, the** corporation or
 16 association shall first deposit with the auditor of state a certified copy
 17 of its charter or articles of incorporation, a copy of its statement of
 18 business for the preceding year, with the names and residence of its
 19 officers, sworn to by the president and secretary, or like officers,
 20 showing a detailed account of expenses and income, the amount of
 21 insurance in force, its assets and liabilities in detail, and setting forth
 22 that it has the ability to pay its policies or certificates to the full limit
 23 named therein; a certificate from the insurance commissioner or from
 24 a judge or clerk of a court of record of its home state, certifying that
 25 corporations or associations insuring life in the assessment plan, and
 26 paying policies in full, or providing accident indemnities, and chartered
 27 under the laws of this state are legally entitled to do business in its
 28 home state; a copy of its policy or certificate of membership,
 29 application and by-laws, which must show that death losses are, in the
 30 main, provided for by assessment upon the surviving members; and it
 31 shall legally designate ~~a person~~, **an individual resident of Indiana, a**
 32 **corporate resident of Indiana, or an authorized Indiana insurer as**
 33 **its** agent or attorney in fact, residing in this state, upon whom service
 34 of process for said company or association may be made, ~~and, in~~
 35 ~~default of such designation, service of process may be made upon the~~
 36 ~~auditor of state of this state, who shall be deemed its agent for that~~
 37 ~~purpose, and he~~ **the agent or attorney in fact** shall immediately notify
 38 any corporation or association thus served.

39 SECTION 29. IC 27-8-3-19 IS AMENDED TO READ AS
 40 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 19. Any corporation,
 41 association, or society organized under the authority of another state or
 42 government to issue, or which is engaged in the business of issuing,



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1 policies or certificates of life or accident or life and accident insurance,
 2 and for the payment of total and permanent disability claims to living
 3 members on the assessment plan, as a condition precedent to
 4 transacting business in this state, shall deposit with the insurance
 5 commissioner:

- 6 (1) a certified copy of its articles of incorporation or association;
 7 (2) a certified copy of a vote or resolution of the board of directors
 8 of said company consenting that service of process in any suit
 9 against such company may be served upon **the commissioner an**
 10 **individual resident of Indiana, a corporate resident of**
 11 **Indiana, or an authorized Indiana insurer, appointed by the**
 12 **company as the company's agent for service of process,** with
 13 like effect as if such company was chartered, organized, or
 14 incorporated in the state of Indiana, and agreeing that any process
 15 served upon such **commissioner agent** shall be of the same legal
 16 force and validity as if served upon said company, and agreeing
 17 that such service may be so made with such effect while any
 18 liability remains outstanding against such company in this state;
 19 (3) a statement, under oath of its president and secretary, in the
 20 form by the commissioner required, of its business for the
 21 preceding year;
 22 (4) a certificate, under oath of its president and secretary, that it
 23 is paying, and for the twelve (12) months then next preceding, has
 24 paid, the maximum amount named in its policies or certificates in
 25 full;
 26 (5) a certificate from the proper authority in its home state that
 27 corporations, associations or societies of this state, engaged
 28 according to the provisions of this chapter in life or accident, or
 29 life and accident insurance, and for the payment of total and
 30 permanent disability claims to living members upon the
 31 assessment plan, are legally entitled to do business in such state;
 32 (6) a copy of its policy or certificate, application, and bylaws,
 33 which must show that the insured's liability to contribute to the
 34 payments of benefits is not limited to the payment of a fixed
 35 periodical sum; and
 36 (7) evidence satisfactory to the commissioner that the corporation,
 37 association, or society accumulates a fund equal in amount to that
 38 required of similar corporations, associations, or societies of this
 39 state and that such accumulation is permitted by the law of the
 40 corporation, association, or society and is for the benefit of policy
 41 or certificate-holders only, and is invested in securities authorized
 42 under the law of its incorporation or association.

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1 The insurance commissioner shall thereupon issue or renew the
 2 authority of such corporation, association, or society to do business in
 3 this state, and such authority shall be revoked whenever the
 4 commissioner, on investigation, is satisfied that such corporation,
 5 association, or society is not paying the maximum amount named in its
 6 policies or certificates in full. Upon such revocation, the commissioner
 7 shall cause notice thereof to be published in a newspaper of general
 8 circulation, published in the city of Indianapolis, Indiana, and no new
 9 business shall be thereafter done by its agents in this state. If any such
 10 corporation, association, or society is authorized by the law under
 11 which it is incorporated to issue contracts of insurance not
 12 contemplated in this chapter, it shall nevertheless be permitted to
 13 transact in this state the character of business authorized by this chapter
 14 upon complying in all other respects with the requirements thereof and
 15 filing with the commissioner an agreement duly executed by the proper
 16 officers that such corporation, association, or society will not enter into
 17 or issue within this state any contract of insurance, policy, or agreement
 18 not authorized by this chapter. Upon a breach of such agreement by any
 19 such corporation, association, or society, the commissioner shall
 20 forthwith revoke and cancel its authority to transact business in this
 21 state. When any other state or country shall impose any obligation upon
 22 any such corporation, association, or society of this state, the like
 23 obligation shall be imposed upon similar corporations, associations, or
 24 societies and their agents of such state or country doing business in this
 25 state. If the laws of such state where such corporation, association, or
 26 society is organized will not admit corporations, associations, or
 27 societies organized in this state, or doing business under this chapter,
 28 to do business in such state, then such corporations, associations, or
 29 societies shall not be admitted to do business in this state.

30 SECTION 30. IC 27-8-3-20 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 20. All processes in any
 32 action or proceeding against any foreign corporation, association, or
 33 society doing business in this state under the provisions of this chapter
 34 may be served upon ~~the insurance commissioner;~~ **an individual**
 35 **resident of Indiana, a corporate resident of Indiana, or an**
 36 **authorized Indiana insurer, appointed by the corporation,**
 37 **association, or society as its agent for service of process,** and any
 38 lawful process against it which is served on the ~~commissioner agent~~
 39 shall be of the same legal force and validity as if served on the
 40 corporation, association, or society, and this provision shall continue
 41 in force so long as any liability remains outstanding against the
 42 corporation, association, or society in this state, service upon such



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

17 SECTION 31. IC 27-8-5-16 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 16. Except as provided
 19 in sections 17 and 24 of this chapter, no policy of group accident and
 20 sickness insurance may be delivered or issued for delivery to a group
 21 that has a legal situs in Indiana unless it conforms to one (1) of the
 22 following descriptions:

23 (1) A policy issued to an employer or to the trustees of a fund
 24 established by an employer (which employer or trustees must be
 25 deemed the policyholder) to insure employees of the employer for
 26 the benefit of persons other than the employer, subject to the
 27 following requirements:

28 (A) The employees eligible for insurance under the policy
 29 must be all of the employees of the employer, or all of any
 30 class or classes of employees. The policy may provide that the
 31 term "employees" includes the employees of one (1) or more
 32 subsidiary corporations and the employees, individual
 33 proprietors, members, and partners of one (1) or more
 34 affiliated corporations, proprietorships, limited liability
 35 companies, or partnerships if the business of the employer and
 36 of the affiliated corporations, proprietorships, limited liability
 37 companies, or partnerships is under common control. The
 38 policy may provide that the term "employees" includes retired
 39 employees, former employees, and directors of a corporate
 40 employer. A policy issued to insure the employees of a public
 41 body may provide that the term "employees" includes elected
 42 or appointed officials.



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- 1 (B) The premium for the policy must be paid either from the
 2 employer's funds, from funds contributed by the insured
 3 employees, or from both sources of funds. ~~Except as provided~~
 4 ~~in clause (C)~~; A policy on which no part of the premium is to
 5 be derived from funds contributed by the insured employees
 6 must insure all eligible employees, except those who reject the
 7 coverage in writing.
- 8 ~~(C) An insurer may exclude or limit the coverage on any~~
 9 ~~person as to whom evidence of individual insurability is not~~
 10 ~~satisfactory to the insurer.~~
- 11 (2) A policy issued to a creditor or its parent holding company or
 12 to a trustee or trustees or agent designated by two (2) or more
 13 creditors (which creditor, holding company, affiliate, trustee,
 14 trustees, or agent must be deemed the policyholder) to insure
 15 debtors of the creditor, or creditors, subject to the following
 16 requirements:
- 17 (A) The debtors eligible for insurance under the policy must
 18 be all of the debtors of the creditor or creditors, or all of any
 19 class or classes of debtors. The policy may provide that the
 20 term "debtors" includes:
- 21 (i) borrowers of money or purchasers or lessees of goods,
 22 services, or property for which payment is arranged through
 23 a credit transaction;
- 24 (ii) the debtors of one (1) or more subsidiary corporations;
 25 and
- 26 (iii) the debtors of one (1) or more affiliated corporations,
 27 proprietorships, limited liability companies, or partnerships
 28 if the business of the policyholder and of the affiliated
 29 corporations, proprietorships, limited liability companies, or
 30 partnerships is under common control.
- 31 (B) The premium for the policy must be paid either from the
 32 creditor's funds, from charges collected from the insured
 33 debtors, or from both sources of funds. ~~Except as provided in~~
 34 ~~clause (C)~~; A policy on which no part of the premium is to be
 35 derived from the funds contributed by insured debtors
 36 specifically for their insurance must insure all eligible debtors.
- 37 ~~(C) An insurer may exclude any debtors as to whom evidence~~
 38 ~~of individual insurability is not satisfactory to the insurer.~~
- 39 ~~(D) (C) The amount of the insurance payable with respect to~~
 40 ~~any indebtedness may not exceed the greater of the scheduled~~
 41 ~~or actual amount of unpaid indebtedness to the creditor. The~~
 42 ~~insurer may exclude any payments that are delinquent on the~~

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date the debtor becomes disabled as defined in the policy.
~~(E)~~ (D) The insurance may be payable to the creditor or any successor to the right, title, and interest of the creditor. Each payment under this clause must reduce or extinguish the unpaid indebtedness of the debtor to the extent of the payment, and any excess of the insurance must be payable to the insured or the estate of the insured.

~~(F)~~ (E) Notwithstanding clauses (A) through ~~(E)~~; (D), insurance on agricultural credit transaction commitments may be written up to the amount of the loan commitment on a nondecreasing or level term plan, and insurance on educational credit transaction commitments may be written up to the amount of the loan commitment less the amount of any repayments made on the loan.

(3) A policy issued to a labor union or similar employee organization (which must be deemed to be the policyholder) to insure members of the union or organization for the benefit of persons other than the union or organization or any of its officials, representatives, or agents, subject to the following requirements:

(A) The members eligible for insurance under the policy must be all of the members of the union or organization, or all of any class or classes of members.

(B) The premium for the policy must be paid either from funds of the union or organization, from funds contributed by the insured members specifically for their insurance, or from both sources of funds. ~~Except as provided in clause (C)~~; A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, except those who reject the coverage in writing.

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

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

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

17 (B) The premium for the policy must be paid from funds
 18 contributed by the employer or employers of the insured
 19 persons, by the union or unions or similar employee
 20 organizations, or by both, or from funds contributed by the
 21 insured persons or from both the insured persons and one (1)
 22 or more employers, unions, or similar employee organizations.
 23 ~~Except as provided in clause (C);~~ A policy on which no part of
 24 the premium is to be derived from funds contributed by the
 25 insured persons specifically for their insurance must insure all
 26 eligible persons, except those who reject the coverage in
 27 writing.

28 ~~(C) 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.~~

31 (5) A policy issued to an association or to a trust or to one (1) or
 32 more trustees of a fund established, created, or maintained for the
 33 benefit of members of one (1) or more associations. The
 34 association or associations must have at the outset a minimum of
 35 one hundred (100) persons, must have been organized and
 36 maintained in good faith for purposes other than that of obtaining
 37 insurance, must have been in active existence for at least one (1)
 38 year, and must have a constitution and bylaws that provide that
 39 the association or associations hold regular meetings not less than
 40 annually to further purposes of the members, that, except for
 41 credit unions, the association or associations collect dues or
 42 solicit contributions from members, and that the members have

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1 voting privileges and representation on the governing board and
 2 committees. The policy must be subject to the following
 3 requirements:

4 (A) The policy may insure members or employees of the
 5 association or associations, employees of members, one (1) or
 6 more of the preceding, or all of any class or classes of
 7 members, employees, or employees of members for the benefit
 8 of persons other than the employee's employer.

9 (B) The premium for the policy must be paid from funds
 10 contributed by the association or associations, by employer
 11 members, or by both, from funds contributed by the covered
 12 persons, or from both the covered persons and the association,
 13 associations, or employer members.

14 (C) ~~Except as provided in clause (D);~~ A policy on which no
 15 part of the premium is to be derived from funds contributed by
 16 the covered persons specifically for the insurance must insure
 17 all eligible persons, except those who reject such coverage in
 18 writing.

19 ~~(D) An insurer may exclude or limit the coverage on any~~
 20 ~~person as to whom evidence of individual insurability is not~~
 21 ~~satisfactory to the insurer.~~

22 (6) A policy issued to a credit union, or to one (1) or more trustees
 23 or an agent designated by two (2) or more credit unions (which
 24 credit union, trustee, trustees, or agent must be deemed the
 25 policyholder) to insure members of the credit union or credit
 26 unions for the benefit of persons other than the credit union or
 27 credit unions, trustee, trustees, or agent, or any of their officials,
 28 subject to the following requirements:

29 (A) The members eligible for insurance must be all of the
 30 members of the credit union or credit unions, or all of any
 31 class or classes of members.

32 (B) The premium for the policy shall be paid by the
 33 policyholder from the credit union's funds and ~~except as~~
 34 ~~provided in clause (C);~~ must insure all eligible members.

35 ~~(C) An insurer may exclude or limit the coverage on any~~
 36 ~~member as to whom evidence of individual insurability is not~~
 37 ~~satisfactory to the insurer.~~

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

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1 SECTION 32. IC 27-8-5-16.5 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 16.5. (a) As used in this
 3 section, "delivery state" means any state other than Indiana in which a
 4 policy is delivered or issued for delivery.

5 (b) Except as provided in subsection (c) or (d), a certificate may not
 6 be issued to a resident of Indiana pursuant to a group policy that is
 7 delivered or issued for delivery in a state other than Indiana.

8 (c) A certificate may be issued to a resident of Indiana pursuant to
 9 a group policy that is delivered or issued for delivery in a state other
 10 than Indiana if:

11 (1) the delivery state has a law substantially similar to section 16
 12 of this chapter;

13 (2) the delivery state has approved the group policy; and

14 (3) the policy or the certificate contains provisions that are:

15 (A) substantially similar to the provisions required by:

16 (i) section 19 of this chapter;

17 (ii) section 21 of this chapter; and

18 (iii) IC 27-8-5.6; and

19 (B) consistent with the requirements set forth in:

20 (i) section 24 of this chapter;

21 (ii) IC 27-8-6;

22 (iii) IC 27-8-14;

23 (iv) IC 27-8-23;

24 (v) 760 IAC 1-38.1; and

25 (vi) 760 IAC 1-39.

26 (d) A certificate may be issued to a resident of Indiana pursuant to
 27 a group policy that is delivered or issued for delivery in a state other
 28 than Indiana if the commissioner determines that the policy pursuant
 29 to which the certificate is issued meets the requirements set forth in
 30 section ~~17(a)~~ **17** of this chapter.

31 (e) This section does not affect any other provision of Indiana law
 32 governing the terms or benefits of coverage provided to a resident of
 33 Indiana under any certificate or policy of insurance.

34 SECTION 33. IC 27-8-5-17 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 17. ~~(a)~~ A group
 36 accident and sickness insurance policy shall not be delivered or issued
 37 for delivery in Indiana to a group that is not described in section
 38 16(1)(A), 16(2)(A), 16(3)(A), 16(4)(A), 16(5)(A), 16(6)(A), or 16(7)
 39 of this chapter unless the commissioner finds that:

40 (1) the issuance of the policy is not contrary to the best interest of
 41 the public;

42 (2) the issuance of the policy would result in economies of

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1 acquisition or administration; and

2 (3) the benefits of the policy are reasonable in relation to the
3 premiums charged.

4 ~~(b) Except as otherwise provided in this chapter, an insurer may
5 exclude or limit the coverage under a policy described in subsection (a)
6 on any person as to whom evidence of individual insurability is not
7 satisfactory to the insurer.~~

8 SECTION 34. IC 27-8-5-18 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 18. (a) Except for a
10 policy that conforms to the description in section 16(2) of this chapter,
11 a group accident and sickness insurance policy may be extended to
12 insure the employees or members, or any class or classes of employees
13 or members, with respect to their family members or dependents,
14 subject to ~~subsections~~ **subsection** (b). ~~and (c).~~

15 (b) The premium for the insurance must be paid from funds
16 contributed by the employer, union, association, or other person to
17 whom the policy has been issued or from funds contributed by the
18 covered persons, or from both sources of funds. ~~Except as provided in
19 subsection (c).~~ A policy on which no part of the premium for the
20 coverage of family members or dependents is to be derived from funds
21 contributed by the covered persons must insure all eligible employees
22 or members, or any class or classes of eligible employees or members,
23 with respect to their spouses and dependent children.

24 ~~(c) Except as provided in section 24 of this chapter, an insurer may
25 exclude or limit the coverage on any family member or dependent as
26 to whom evidence of individual insurability is not satisfactory to the
27 insurer.~~

28 SECTION 35. IC 27-8-5-19 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 19. (a) As used in this
30 chapter, "late enrollee" has the meaning set forth in
31 26 U.S.C. 9801(b)(3).

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

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

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

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

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

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

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

42 (1) A provision that the policyholder is entitled to a grace period

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

12 (2) A provision that the validity of the policy may not be
 13 contested, except for nonpayment of premiums, after the policy
 14 has been in force for two (2) years after its date of issue, and that
 15 no statement made by a person covered under the policy relating
 16 to the person's insurability may be used in contesting the validity
 17 of the insurance with respect to which the statement was made,
 18 unless:

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

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

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

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

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

41 (5) A provision specifying any ~~additional~~ exclusions or limitations
 42 applicable under the policy with respect to a disease or physical

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1 condition of a person that existed before the effective date of the
 2 person's coverage under the policy. ~~and that is not otherwise~~
 3 ~~excluded from the person's coverage by name or specific~~
 4 ~~description effective on the date of the person's loss.~~ An exclusion
 5 or limitation that must be specified in a provision under this
 6 subdivision:

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

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

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

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

20 ~~(6)~~ (5) If premiums or benefits under the policy vary according to
 21 a person's age, a provision specifying an equitable adjustment of:

22 (A) premiums;

23 (B) benefits; or

24 (C) both premiums and benefits;

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

28 ~~(7)~~ (6) A provision that the insurer will issue to the policyholder,
 29 for delivery to each person insured, a certificate setting forth a
 30 statement that:

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

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

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

36 ~~(8)~~ (7) A provision stating that written notice of a claim must be
 37 given to the insurer within twenty (20) days after the occurrence
 38 or commencement of any loss covered by the policy, but that a
 39 failure to give notice within the twenty (20) day period does not
 40 invalidate or reduce any claim if it can be shown that it was not
 41 reasonably possible to give notice within that period and that
 42 notice was given as soon as was reasonably possible.

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- 1 ~~(8)~~ **(8)** A provision stating that:
 2 (A) the insurer will furnish to the person making a claim, or to
 3 the policyholder for delivery to the person making a claim,
 4 forms usually furnished by the insurer for filing proof of loss;
 5 and
 6 (B) if the forms are not furnished within fifteen (15) days after
 7 the insurer received notice of a claim, the person making the
 8 claim will be deemed to have complied with the requirements
 9 of the policy as to proof of loss upon submitting, within the
 10 time fixed in the policy for filing proof of loss, written proof
 11 covering the occurrence, character, and extent of the loss for
 12 which the claim is made.
- 13 ~~(9)~~ **(9)** A provision stating that:
 14 (A) in the case of a claim for loss of time for disability, written
 15 proof of the loss must be furnished to the insurer within ninety
 16 (90) days after the commencement of the period for which the
 17 insurer is liable, and that subsequent written proofs of the
 18 continuance of the disability must be furnished to the insurer
 19 at reasonable intervals as may be required by the insurer;
 20 (B) in the case of a claim for any other loss, written proof of
 21 the loss must be furnished to the insurer within ninety (90)
 22 days after the date of the loss; and
 23 (C) the failure to furnish proof within the time required under
 24 clause (A) or (B) does not invalidate or reduce any claim if it
 25 was not reasonably possible to furnish proof within that time,
 26 and if proof is furnished as soon as reasonably possible but
 27 (except in case of the absence of legal capacity of the
 28 claimant) no later than one (1) year from the time proof is
 29 otherwise required under the policy.
- 30 ~~(10)~~ **(10)** A provision that:
 31 (A) all benefits payable under the policy (other than benefits
 32 for loss of time) will be paid within forty-five (45) days after
 33 the insurer receives all information required to determine
 34 liability under the terms of the policy; and
 35 (B) subject to due proof of loss, all accrued benefits under the
 36 policy for loss of time will be paid not less frequently than
 37 monthly during the continuance of the period for which the
 38 insurer is liable, and any balance remaining unpaid at the
 39 termination of the period for which the insurer is liable will be
 40 paid as soon as possible after receipt of the proof of loss.
- 41 ~~(11)~~ **(11)** A provision that benefits for loss of life of the person
 42 insured are payable to the beneficiary designated by the person

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

13 ~~(13)~~ **(12)** A provision that the insurer has the right and must be
 14 allowed the opportunity to:

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

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

20 ~~(14)~~ **(13)** A provision that no action at law or in equity may be
 21 brought to recover on the policy less than sixty (60) days after
 22 proof of loss is filed in accordance with the requirements of the
 23 policy, and that no action may be brought at all more than three
 24 (3) years after the expiration of the time within which proof of
 25 loss is required by the policy.

26 ~~(15)~~ **(14)** In the case of a policy insuring debtors, a provision that
 27 the insurer will furnish to the policyholder, for delivery to each
 28 debtor insured under the policy, a certificate of insurance
 29 describing the coverage and specifying that the benefits payable
 30 will first be applied to reduce or extinguish the indebtedness.

31 ~~(16)~~ **(15)** If the policy provides that hospital or medical expense
 32 coverage of a dependent child of a group member terminates upon
 33 the child's attainment of the limiting age for dependent children
 34 set forth in the policy, a provision that the child's attainment of the
 35 limiting age does not terminate the hospital and medical coverage
 36 of the child while the child is:

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

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

41 A provision under this subdivision may require that proof of the
 42 child's incapacity and dependency be furnished to the insurer by

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1 the group member within one hundred twenty (120) days of the
 2 child's attainment of the limiting age and, subsequently, at
 3 reasonable intervals during the two (2) years following the child's
 4 attainment of the limiting age. The policy may not require proof
 5 more than once per year in the time more than two (2) years after
 6 the child's attainment of the limiting age. This subdivision does
 7 not require an insurer to provide coverage to a mentally retarded
 8 or physically disabled child who does not satisfy the requirements
 9 of the group policy as to evidence of insurability or other
 10 requirements for coverage under the policy to take effect. In any
 11 case, the terms of the policy apply with regard to the coverage or
 12 exclusion from coverage of the child.

13 ~~(17)~~ (16) A provision that complies with the group portability and
 14 guaranteed renewability provisions of the federal Health
 15 Insurance Portability and Accountability Act of 1996
 16 (P.L.104-191).

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

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

28 SECTION 36. IC 27-8-12-5 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) As used in
 30 this chapter, "long term care insurance policy" means an insurance
 31 policy providing coverage for at least twelve (12) consecutive months
 32 **for each covered person under the policy or certificate** on an expense
 33 incurred, indemnity, prepaid, or other basis for one (1) or more
 34 necessary diagnostic, preventive, therapeutic, rehabilitative,
 35 maintenance, or personal care services provided in a setting other than
 36 an acute care wing of a hospital.

37 (b) The term includes the following:

- 38 (1) A policy advertised, marketed, or offered as long term care
 39 insurance.
- 40 (2) A group or individual annuity, a life insurance policy, or riders
 41 that provide directly or supplement long term care insurance.
- 42 (3) A policy or rider that provides for payment of benefits based



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1 upon cognitive impairment or the loss of functional capacity.

2 (c) The term does not include the following:

3 (1) An insurance policy that is offered primarily to provide basic
4 hospital expense coverage, basic medical-surgical expense
5 coverage, hospital confinement indemnity coverage, major
6 medical expense coverage, disability income protection coverage,
7 accident only coverage, specified disease or specified accident
8 coverage, comprehensive coverage, catastrophic coverage, or
9 limited benefit health coverage.

10 (2) A life insurance policy that accelerates the death benefit
11 specifically for terminal illness, a medical condition requiring
12 extraordinary medical intervention, or a permanent institutional
13 confinement, and that provides the option of a lump sum payment
14 for those benefits and in which neither the benefits nor the
15 eligibility for the benefits is conditioned upon the receipt of long
16 term care.

17 (3) An insurance policy that is offered primarily to provide basic
18 Medicare supplemental coverage (as defined under IC 27-8-13).

19 SECTION 37. IC 27-8-14-6 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) An insurer
21 must offer to provide coverage for breast cancer screening
22 mammography in any accident and sickness insurance policy that the
23 insurer issues in Indiana.

24 (b) The coverage that an insurer must offer to provide under this
25 section must include the following:

26 (1) If the insured is at least thirty-five (35) but less than forty (40)
27 years of age, coverage for at least one (1) baseline breast cancer
28 screening mammography performed upon the insured before she
29 becomes forty (40) years of age.

30 (2) If the insured is:

31 (A) at least forty (40) but less than fifty (50) years of age; and

32 (B) not a woman at risk;

33 coverage for one (1) breast cancer screening mammography
34 performed upon the insured in every two (2) year period:

35 (3) If the insured is:

36 (A) at least forty (40) but less than fifty (50) years of age; and

37 (B) a woman at risk;

38 one (1) breast cancer screening mammography performed upon
39 the insured every year:

40 (4) If the insured is at least fifty (50) **forty (40)** years of age,
41 **whether or not at risk**; one (1) breast cancer screening
42 mammography performed upon the insured every year.

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(3) Any additional views that are required for proper evaluation.

(4) Ultrasound services, if determined medically necessary by the physician treating the insured.

(c) The coverage that an insurer must offer to provide under this section must provide reimbursement for breast cancer screening mammography at a level at least as high as:

(1) the limitation on payment for screening mammography services established in 42 CFR 405.534(b)(3) according to the Medicare Economic Index at the time the breast cancer screening mammography is performed; or

(2) the rate negotiated by a contract provider according to the provisions of the insurance policy;

whichever is lower.

(d) The coverage that an insurer must offer to provide under this section may not be subject to dollar limits, deductibles, or coinsurance provisions that are less favorable to the insured than the dollar limits, deductibles, or coinsurance provisions applying to physical illness generally under the accident and sickness insurance policy.

(e) The coverage that an insurer must offer is in addition to any benefits specifically provided for x-rays, laboratory testing, or wellness examinations.

SECTION 38. IC 27-8-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. This chapter applies to any individual or group health insurance plan that is issued for delivery in Indiana to ~~at least three (3)~~ employees of a small employer located in Indiana if one (1) of the following conditions is met:

(1) Any part of the premium or benefits is paid by a small employer or any covered individual is reimbursed, whether through wage adjustments or otherwise, by a small employer for any part of the premium not including the administrative expenses of administering a payroll deduction plan where the employee contributes one hundred percent (100%) of the premium without reimbursement.

(2) The health benefit plan is treated by the employer or any of the covered individuals as part of a plan or program for purposes of Section 106 or 162 of the United States Internal Revenue Code

SECTION 39. IC 27-8-15-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 31. (a) If an eligible employee **or a dependent of an eligible employee** who has been continuously covered under a health insurance plan for at least ninety (90) days:

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1 (1) loses coverage under the plan as the result of:

2 (A) termination of **the eligible employee's** employment;

3 (B) reduction of **the eligible employee's** hours;

4 (C) ~~marriage~~ dissolution of **the eligible employee's marriage**;

5 or

6 (D) attainment of any age specified in the plan; and

7 (2) requests a conversion policy from the small employer insurer
8 that insured the health insurance plan;

9 the individual is entitled to receive a conversion policy from the small
10 employer insurer.

11 (b) A request under subsection (a)(2) must be made within thirty
12 (30) days after the individual loses coverage under the health insurance
13 plan.

14 (c) The premium for a conversion policy issued under this section
15 shall not exceed one hundred fifty percent (150%) of the rate that
16 would have been charged under the small employer health insurance
17 plan with respect to the individual if the individual had been covered
18 as an eligible employee **or a dependent of an eligible employee** under
19 the plan during the same period. If the health insurance plan under
20 which the individual was covered is canceled or is not renewed, the
21 rates shall be based on the rate that would have been charged with
22 respect to the individual if the plan had continued in force, as
23 determined by the small employer insurer in accordance with standard
24 actuarial principles.

25 (d) A conversion policy issued under this section must be approved
26 by the insurance commissioner as described in IC 27-8-5-1. The
27 commissioner may not approve a conversion policy unless the policy
28 and its benefits are:

29 (1) comparable to those required under IC 27-13-1-4(a)(2)
30 through IC 27-13-1-4(a)(5);

31 (2) reasonable in relation to the premium charged; and

32 (3) in compliance with IC 27-8-6-1.

33 If the benefit limits of the conversion policy are not more than the
34 benefit limits of the small employer's health insurance plan, the small
35 employer insurer shall credit the individual with any waiting period,
36 deductible, or coinsurance credited to the individual under the small
37 employer's health insurance plan.

38 (e) This section expires on the effective date of a mechanism
39 enacted by the general assembly to offset the potential fiscal impact on
40 small employers and small employer insurers that results from the
41 establishment of a continuation policy under section 31.1 of this
42 chapter.



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1 SECTION 40. IC 27-8-15-34.1 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 34.1. (a) Except as
 3 provided in 29 U.S.C. 1191a and 42 U.S.C. 300gg, a small employer
 4 insurer must:

5 (1) offer to any small employer all products that are approved for
 6 sale in the small group market and that the insurer is actively
 7 marketing; and

8 (2) accept any employer that applies for any of those products.

9 (b) **A small employer insurer or agent shall not, directly or**
 10 **indirectly, encourage or direct a small employer to:**

11 (1) **refrain from filing an application for coverage with a**
 12 **small employer insurer; or**

13 (2) **seek coverage from another insurer;**

14 **because of the health status, claims experience, industry,**
 15 **occupation, or geographic location of the small employer. This**
 16 **subsection does not apply to information provided by a small**
 17 **employer insurer or agent to a small employer regarding the small**
 18 **employer insurer's established geographic service area or a**
 19 **restricted network provision of a small employer insurer.**

20 (c) **A small employer insurer shall not, directly or indirectly,**
 21 **enter into any contract, agreement, or arrangement with an agent**
 22 **that provides for or results in variance of the compensation paid to**
 23 **an agent for the sale of a health insurance plan based on the health**
 24 **status, claims experience, industry, occupation, or geographic**
 25 **location of the small employer. This subsection does not apply to a**
 26 **compensation arrangement that provides compensation to an agent**
 27 **on the basis of percentage of premium, except that the percentage**
 28 **may not vary based on the health status, claims experience,**
 29 **industry, occupation, or geographic location of the small employer.**

30 (d) **A small employer insurer or agent may not induce or**
 31 **otherwise encourage a small employer to separate or otherwise**
 32 **exclude an employee from health coverage or benefits provided in**
 33 **connection with the employee's employment.**

34 (e) **The department may adopt rules setting forth additional**
 35 **standards to provide for the fair marketing and broad availability**
 36 **of health insurance plans to small employers in Indiana.**

37 (f) **A violation of this section by a small employer insurer or**
 38 **agent is a violation of IC 27-4-1-4.**

39 (g) **If a small employer insurer enters into a contract,**
 40 **agreement, or other arrangement with a third party administrator**
 41 **to provide administrative, marketing, or other services related to**
 42 **the offering of a health insurance plan to a small employer in**

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1 **Indiana, the third party administrator is subject to this section as**
 2 **if it were the small employer insurer.**

3 SECTION 41. IC 27-8-17.5 IS ADDED TO THE INDIANA CODE
 4 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 1999]:

6 **Chapter 17.5. Preauthorization**

7 **Sec. 1. As used in this chapter, "health benefit plan" means a**
 8 **plan through which coverage for health care services is provided**
 9 **by an insurer.**

10 **Sec. 2. As used in this chapter, "health care services" has the**
 11 **meaning set forth in IC 27-8-11-1.**

12 **Sec. 3. As used in this chapter, "insured" means an individual**
 13 **who is entitled to coverage under a health benefit plan.**

14 **Sec. 4. As used in this chapter, "insurer" means any person that**
 15 **provides coverage for health care services in Indiana. The term**
 16 **includes the following:**

- 17 (1) A licensed insurance company.
 18 (2) A prepaid hospital or medical service plan.
 19 (3) A health maintenance organization or limited service
 20 health maintenance organization.
 21 (4) A state employee health benefit plan under IC 5-10-8-7.
 22 (5) Any other person that provides coverage for health care
 23 services through a health benefit plan regulated under IC 27.

24 **Sec. 5. An insurer shall issue a confirmation number to an**
 25 **insured when the insurer authorizes the provision of health care**
 26 **services:**

- 27 (1) directly;
 28 (2) through a participating provider; or
 29 (3) through any other authorized representative of the
 30 insurer.

31 **Sec. 6. If an insurer or an insurer's authorized representative**
 32 **authorizes the provision of health care services, the insurer shall**
 33 **not retract the authorization after the health care services have**
 34 **been provided or reduce payment for an item or service furnished**
 35 **in reliance on such authorization unless the:**

- 36 (1) authorization is based on a material misrepresentation or
 37 omission regarding the insured's health condition or cause of
 38 the health condition;
 39 (2) health benefit plan terminates before the health care
 40 services are provided; or
 41 (3) insured's coverage under the health benefit plan
 42 terminates before the health care services are provided.



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1 **Sec. 7. If a dispute arises between an insurer and the provider**
 2 **of an authorized health care service concerning whether the health**
 3 **care service was provided in the manner or type authorized by the**
 4 **insurer, the insurer shall hold the insured harmless from any**
 5 **claims made by the provider concerning the service. Failure to hold**
 6 **the insured harmless under this section is a violation of**
 7 **IC 27-4-1-4. This section does not apply to any copayment,**
 8 **coinsurance, or deductible payable by an insured under the health**
 9 **benefit plan.**

10 SECTION 42. IC 27-8-23-4 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. As used in this
 12 chapter, "insurer" has the meaning set forth in IC 12-7-2-120. **The**
 13 **term includes a limited service health maintenance organization (as**
 14 **defined in IC 27-13-34-4).**

15 SECTION 43. IC 27-11-9-1 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) Every society
 17 authorized to do business in Indiana shall appoint in writing ~~the~~
 18 ~~commissioner and each successor in office~~ **an individual resident of**
 19 **Indiana, a corporate resident of Indiana, or an authorized Indiana**
 20 **insurer** to be its true and lawful attorney upon whom all lawful process
 21 in any action or proceeding against it shall be served and shall agree in
 22 such writing that:

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

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

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

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



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1 upon the commissioner, the plaintiff or complainant in the action shall
2 pay to the commissioner a fee as required under IC 27-1-3-15.

3 SECTION 44. IC 27-13-1-15 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. "Grievance"
5 means a written **or an oral** complaint submitted in accordance with the
6 formal grievance procedure of a health maintenance organization by or
7 on behalf of the enrollee or subscriber regarding any aspect of the
8 health maintenance organization relative to the enrollee or subscriber.

9 SECTION 45. IC 27-13-2-3 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) A foreign
11 corporation, other than a foreign corporation defined under
12 IC 27-1-2-3, may obtain a certificate of authority if the foreign
13 corporation:

14 (1) is authorized to do business in Indiana under IC 23-1-49 or
15 IC 23-17-26; and

16 (2) complies with this article.

17 (b) A foreign corporation (as defined in IC 27-1-2-3) may obtain a
18 certificate of authority if the foreign corporation complies with this
19 article.

20 (c) **A foreign or alien health maintenance organization granted
21 a certificate of authority under this section has the same but no
22 greater rights and privileges than a domestic health maintenance
23 organization.**

24 SECTION 46. IC 27-13-2-6 IS AMENDED TO READ AS
25 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) An applicant
26 shall submit to the commissioner any modifications or amendments to
27 the items of information required in an application under section 5 of
28 this chapter.

29 (b) The commissioner may adopt rules under this section that
30 provide that any modifications or amendments to the items of
31 information in the application required of a health maintenance
32 organization:

33 (1) must be submitted to the commissioner before the
34 modification or amendment takes effect:

35 (A) for the approval of the commissioner; or

36 (B) for the information of the commissioner only; or

37 (2) must be indicated by the health maintenance organization to
38 the commissioner at the time of the next succeeding site visit or
39 examination of the organization by the department of insurance.

40 (c) **A health maintenance organization shall file any assumed
41 corporate name with the department at least thirty (30) days
42 before assuming the name.**



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1 SECTION 47. IC 27-13-2-9 IS ADDED TO THE INDIANA CODE
 2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 3 1, 1999]: **Sec. 9. (a) A health maintenance organization established
 4 under this article may not:**

5 **(1) use as a part of its corporate name the words "United
 6 States," "Federal," "government," "official," or any word
 7 that would imply that the company was an administrative
 8 agency of the state of Indiana or of the United States, or is
 9 subject to supervision of any department other than the
 10 department of insurance; or**

11 **(2) take or assume a corporate name the same as, or
 12 confusingly similar to, an existing name of any other
 13 insurance company or other entity licensed or regulated
 14 under IC 27 unless at the same time:**

15 **(A) the other company changes its corporate name or
 16 withdraws from transacting business in Indiana; and**

17 **(B) the written consent of the other company, signed and
 18 verified under oath by its secretary, is filed with the
 19 department.**

20 **(b) This section does not affect the right of any health
 21 maintenance organization that:**

22 **(1) is existing under the laws of Indiana as of July 1, 1999;**

23 **(2) is existing under the laws of Indiana as of July 1, 1999, and
 24 thereafter reorganizes or reincorporates under this article; or**

25 **(3) is authorized to transact business in Indiana as of July 1,
 26 1999;**

27 **to continue the use of its corporate name.**

28 SECTION 48. IC 27-13-4-1 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 1. (a) Subject to section
 30 3 of this chapter, the powers of a health maintenance organization
 31 include the following:**

32 **(1) The purchase, lease, construction, renovation, operation, or
 33 maintenance of:**

34 **(A) hospitals and medical facilities;**

35 **(B) equipment for hospitals and medical facilities; and**

36 **(C) other property reasonably required for the principal office
 37 of the health maintenance organization or for purposes
 38 necessary in the transaction of the business of the organization.**

39 **(2) Engaging in transactions between affiliated entities, including
 40 loans and the transfer of responsibility under any or all contracts:**

41 **(A) between affiliates; or**

42 **(B) between the health maintenance organization and the**

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- 1 parent organization of the health maintenance organization.
 2 (3) The furnishing of health care services through:
 3 (A) providers;
 4 (B) provider associations; and
 5 (C) agents for providers;
 6 who are under contract with or are employed by the health
 7 maintenance organization. The contracts with providers, provider
 8 associations, or agents of providers may include fee for service,
 9 cost plus, capitation, or other payment or risk-sharing
 10 arrangements.
 11 (4) Contracting with any person for the performance on behalf of
 12 the health maintenance organization of certain functions,
 13 including:
 14 (A) marketing;
 15 (B) enrollment; and
 16 (C) administration.
 17 (5) Contracting with:
 18 (A) an insurance company licensed in Indiana;
 19 (B) an authorized reinsurer; or
 20 (C) a hospital authorized to conduct business in Indiana;
 21 for the provision of insurance, indemnity, or reimbursement
 22 against the cost of health care services provided by the health
 23 maintenance organization.
 24 (6) The offering of point-of-service products.
 25 (7) The joint marketing of products with:
 26 (A) an insurance company that is licensed in Indiana; or
 27 (B) a hospital that is authorized to conduct business in Indiana;
 28 if the company that is offering each product is clearly identified.
 29 (8) Administration of the provision of health care services at the
 30 expense of a self-funded plan.
 31 (b) A health maintenance organization may offer any of the
 32 following:
 33 (1) Plans that include only basic health care services.
 34 (2) Plans that include basic health care services and other health
 35 care services.
 36 (3) Plans that include health care services other than basic health
 37 care services so long as at least one (1) of the plans offered by the
 38 health maintenance organization includes basic health care
 39 services.
 40 **(c) Notwithstanding subsection (a)(5), a health maintenance**
 41 **organization may not:**
 42 **(1) assume reinsurance; or**

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1 **(2) take credit for reinsurance unless the risk is ceded to a**
2 **reinsurer qualified under IC 27-6-10.**
3 SECTION 49. IC 27-13-4-3 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. (a) A **domestic**
5 health maintenance organization must file notice with the
6 commissioner, with supporting information that the commissioner
7 deems adequate, before exercising any power granted in:
8 (1) section 1(a)(1); or
9 (2) section 1(a)(4);
10 of this chapter if the proposed transaction is equal to or greater than ten
11 percent (10%) of the health maintenance organization's admitted assets.
12 (b) A **domestic** health maintenance organization must file notice
13 with the commissioner, with the supporting information that the
14 commissioner deems adequate, before exercising any power granted in
15 section 1(a)(2), if the proposed transaction is equal to or greater than
16 three percent (3%) of the health maintenance organization's admitted
17 assets.
18 (c) The commissioner may disapprove an exercise of power referred
19 to in a notice received under subsection (a) or (b) only if, in the opinion
20 of the commissioner, the exercise of the power would:
21 (1) substantially and adversely affect the financial soundness of
22 the health maintenance organization; and
23 (2) endanger the ability of the health maintenance organization to
24 meet its obligations.
25 (d) If the commissioner does not disapprove an exercise of power
26 referred to in a notice received under subsection (a) or (b) within thirty
27 (30) days after the notice is filed with the commissioner, the exercise
28 of power is considered approved.
29 (e) The commissioner may adopt rules under IC 4-22-2 exempting
30 from the filing requirement of this section certain activities that have
31 a minimal effect on:
32 (1) the financial soundness of the health maintenance
33 organization; and
34 (2) the ability of the health maintenance organization to meet its
35 obligations.
36 SECTION 50. IC 27-13-4-4 IS ADDED TO THE INDIANA CODE
37 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**
38 **1, 1999]: Sec. 4. (a) For purposes of subsection (b)(2), an**
39 **"extraordinary dividend or distribution" is any dividend or**
40 **distribution of cash or other property whose fair market value,**
41 **together with that of other dividends or distributions made within**
42 **the twelve (12) consecutive months ending on the date on which the**

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1 proposed dividend or distribution is scheduled to be made, exceeds
2 the greater of:

- 3 (1) ten percent (10%) of the health maintenance
4 organization's net worth as reported on the most recent
5 annual financial statement filed with the commissioner; or
6 (2) the net gain from operations of the health maintenance
7 organization or the net income as reported on the most recent
8 annual financial statement filed with the commissioner.

9 (b) A domestic health maintenance organization may not:

- 10 (1) declare or pay a dividend from any source of money other
11 than retained earnings unless the commissioner approves the
12 payment of the dividend before the dividend is paid; or
13 (2) pay an extraordinary dividend or make any other
14 extraordinary distribution to its security holders until:

- 15 (A) thirty (30) days after the commissioner has received
16 notice of the declaration of the dividend or distribution and
17 has not within that period disapproved such payment; or
18 (B) the commissioner has approved such payment within
19 the thirty (30) day period.

20 (c) Notwithstanding any other provision of law, a domestic
21 health maintenance organization may declare an extraordinary
22 dividend or distribution that is conditional upon the
23 commissioner's approval, but such a declaration does not confer
24 rights upon shareholders until:

- 25 (1) the commissioner has approved the payment of the
26 dividend or distribution; or
27 (2) the commissioner has not disapproved the payment within
28 the thirty (30) day period referred to in subsection (b)(2).

29 (d) The commissioner may not approve a payment under this
30 section if, in the opinion of the commissioner, the payment would
31 substantially and adversely affect the financial soundness of the
32 health maintenance organization and endanger the ability of the
33 health maintenance organization to meet its obligations.

34 SECTION 51. IC 27-13-7-15 IS ADDED TO THE INDIANA
35 CODE AS A NEW SECTION TO READ AS FOLLOWS
36 [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) As used in this section,
37 "breast cancer screening mammography" has the meaning set
38 forth in IC 27-8-14-2.

39 (b) A health maintenance organization issued a certificate of
40 authority in Indiana shall offer to provide coverage for breast
41 cancer screening mammography.

42 (c) The coverage that a health maintenance organization must

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offer to provide under this section must include the following:

(1) If an enrollee is at least thirty-five (35) years of age but less than forty (40) years of age, coverage for at least one (1) baseline breast cancer screening mammography performed upon the enrollee before the enrollee becomes forty (40) years of age.

(2) If the enrollee is at least forty (40) years of age, one (1) breast cancer screening mammography performed upon the enrollee every year.

(3) Any additional views that are required for proper evaluation.

(4) Ultrasound services, if determined medically necessary by the provider treating the enrollee.

(d) A health maintenance organization must offer to provide breast cancer screening mammography as a covered service under a group contract with the health maintenance organization.

(e) The coverage that a health maintenance organization must offer to provide under this section may not be subject to a contract provision that is less favorable to an enrollee or a subscriber than a contract provision applying to physical illness generally under the health maintenance organization contract.

(f) The coverage that a health maintenance organization must offer under this section is in addition to services specifically provided for x-rays, laboratory testing, or wellness examinations.

SECTION 52. IC 27-13-7-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) A contract under this chapter that provides coverage for an individual enrollee or subscriber or a family member of an enrollee or subscriber must also provide that the coverage applicable to the individual enrollee or subscriber or a family member of the enrollee or subscriber is applicable, from the moment of birth, to a newly born child of the enrollee or subscriber.

(b) The coverage for a newly born child required by subsection (a) must include the following:

(1) Coverage for injury or sickness, including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities.

(2) Coverage for inpatient or outpatient services for medical and dental treatment (including orthodontic and oral surgery treatment) involved in the management of the birth defects known as cleft lip and cleft palate.

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1 (c) If payment of a specific premium or contract fee is required
2 to provide coverage for a newly born child, the contract may
3 require that:

4 (1) notification of the birth of a newly born child; and

5 (2) payment of the required premium or fees;

6 must be furnished to the insurer within thirty-one (31) days after
7 the date of birth in order to have the coverage continue beyond the
8 thirty-one (31) day period.

9 SECTION 53. IC 27-13-8-1 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) On or before
11 March 1 of each year, a health maintenance organization must file with
12 the commissioner a report that covers the preceding calendar year. The
13 report must be:

14 (1) made on forms prescribed by the commissioner; and

15 (2) verified by at least two (2) principal officers of the health
16 maintenance organization.

17 (b) Beginning with the annual report covering the period
18 January 1, 1999, through December 31, 1999, a health maintenance
19 organization shall provide an actuarial opinion as an additional
20 part of the annual financial statement required under subsection
21 (a). The form and content of the actuarial opinion must comply
22 with the National Association of Insurance Commissioners Annual
23 Statement Instructions.

24 (c) The commissioner may adopt rules under IC 4-22-2
25 establishing minimum qualifications of an actuary providing the
26 actuarial opinion required under subsection (b).

27 SECTION 54. IC 27-13-8-1.5 IS ADDED TO THE INDIANA
28 CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1.5. (a) Each health maintenance
29 organization authorized to conduct business in Indiana and
30 required to file an annual statement with the department under
31 this chapter shall submit the health maintenance organization's
32 statement on the National Association of Insurance Commissioners
33 (NAIC) Annual Statement Blank prepared in accordance with
34 NAIC Annual Statement Instructions, and following practices and
35 procedures prescribed by the most recent NAIC Accounting
36 Practices and Procedures Manual.

37 (b) To the extent that the NAIC Annual Statement Instructions
38 require disclosure under subsection (a) of compensation paid to or
39 on behalf of a health maintenance organization's officers, directors,
40 or employees, the information may be filed with the department as
41 an exhibit separate from the annual statement blank. The
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1 **compensation information described under this subsection shall be**
2 **maintained by the department as confidential and may not be**
3 **made public.**

4 SECTION 55. IC 27-13-8-2 (CURRENT VERSION) IS AMENDED
5 TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) In
6 addition to the report required by section 1 of this chapter, a health
7 maintenance organization shall each year file with the commissioner
8 the following:

9 (1) Audited financial statements of the health maintenance
10 organization for the preceding calendar year **prepared in**
11 **conformity with statutory accounting practices prescribed or**
12 **otherwise permitted by the department.**

13 (2) A list of participating providers who provide health care
14 services to enrollees or subscribers of the health maintenance
15 organization.

16 (3) A description of the grievance procedure of the health
17 maintenance organization, the total number of grievances handled
18 through the procedure during the preceding calendar year, a
19 compilation of the causes underlying those grievances, and a
20 summary of the final disposition of those grievances.

21 (b) The information required by subsection (a)(2) and (a)(3) must
22 be filed with the commissioner on or before March 1 of each year. The
23 audited financial statements required by subsection (a)(1) must be filed
24 with the commissioner on or before June 1 of each year. The
25 commissioner shall:

26 (1) make the information required to be filed under this section
27 available to the public; and

28 (2) prepare an annual compilation of the data required under
29 subsection (a)(3) that allows for comparative analysis.

30 (c) **Upon a determination by a health maintenance**
31 **organization's auditor that the health maintenance organization:**

32 **(1) fails to meet the criteria of IC 27-13-12-3; or**

33 **(2) meets the criteria of IC 27-13-24-1(a)(5);**

34 **the health maintenance organization shall notify the commissioner**
35 **within five (5) business days of the auditor's determination.**

36 (d) The commissioner may require any additional reports as are
37 necessary and appropriate for the commissioner to carry out the
38 commissioner's duties under this article.

39 SECTION 56. IC 27-13-8-2 (DELAYED VERSION) IS
40 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]:
41 Sec. 2. (a) In addition to the report required by section 1 of this chapter,
42 a health maintenance organization shall each year file with the

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1 commissioner the following:

2 (1) Audited financial statements of the health maintenance
3 organization for the preceding calendar year **prepared in**
4 **conformity with statutory accounting practices prescribed or**
5 **otherwise permitted by the department.**

6 (2) A list of participating providers who provide health care
7 services to enrollees or subscribers of the health maintenance
8 organization.

9 (3) A description of the grievance procedure of the health
10 maintenance organization, the total number of grievances handled
11 through the procedure during the preceding calendar year, a
12 compilation of the causes underlying those grievances, and a
13 summary of the final disposition of those grievances.

14 (4) The percentage of providers credentialed by the health
15 maintenance organization according to the most current standards
16 or guidelines, if any, developed by the National Committee on
17 Quality Assurance or a successor organization.

18 (5) The health maintenance organization's Health Plan Employer
19 Data and Information Set (HEDIS) data.

20 (b) The information required by subsection (a)(2) through (a)(4)
21 must be filed with the commissioner on or before March 1 of each year.
22 The audited financial statements required by subsection (a)(1) must be
23 filed with the commissioner on or before June 1 of each year. The
24 health maintenance organization's HEDIS data required by subsection
25 (a)(5) must be filed with the commissioner on or before July 1 of each
26 year. The commissioner shall:

27 (1) make the information required to be filed under this section
28 available to the public; and

29 (2) prepare an annual compilation of the data required under
30 subsection (a)(3) through (a)(5) that allows for comparative
31 analysis.

32 (c) **Upon a determination by a health maintenance**
33 **organization's auditor that the health maintenance organization**
34 **meets the criteria of IC 27-13-12-3 or IC 27-13-24-1(a)(5), the**
35 **health maintenance organization shall notify the commissioner**
36 **within five (5) business days after the auditor's determination.**

37 (d) The commissioner may require any additional reports as are
38 necessary and appropriate for the commissioner to carry out the
39 commissioner's duties under this article.

40 SECTION 57. IC 27-13-8-4 IS ADDED TO THE INDIANA CODE
41 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
42 1, 1999]: **Sec. 4. (a) This section applies to a domestic health**

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1 maintenance organization that is authorized to transact business
2 in Indiana.

3 (b) As used in this section, "NAIC" refers to the National
4 Association of Insurance Commissioners.

5 (c) On or before March 1 of each year, a health maintenance
6 organization shall file with the National Association of Insurance
7 Commissioners and with the department a copy of the health
8 maintenance organization's annual statement convention blank
9 and additional filings prescribed by the commissioner for the
10 preceding year. A health maintenance organization shall also file
11 quarterly statements with the NAIC and with the department on
12 or before May 15, August 15, and November 15 of each year in a
13 form prescribed by the commissioner. The information filed with
14 the NAIC under this subsection:

15 (1) must be:

16 (A) in the same format; and

17 (B) of the same scope;

18 as is required by the commissioner under section 1 of this
19 chapter;

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

22 (3) must be filed electronically in accordance with NAIC
23 electronic filing specifications.

24 The commissioner may, for good cause shown, grant an exemption
25 from the requirement of this section to domestic health
26 maintenance organizations that operate only in Indiana. If a health
27 maintenance organization files any amendment or addendum to
28 the health maintenance organization's annual statement
29 convention blank or quarterly statement with the commissioner,
30 the health maintenance organization shall also file a copy of the
31 amendment or addendum with the NAIC. Annual and quarterly
32 financial statements are considered filed with the NAIC when
33 delivered to the address designated by the NAIC for the filings,
34 regardless of whether the filing is accompanied by any applicable
35 fee.

36 (d) The commissioner may, for good cause shown, grant a health
37 maintenance organization an extension of time for the filing
38 required by subsection (c).

39 (e) In the absence of actual malice:

40 (1) members of the NAIC;

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



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- 1 **(3) delegates of members of the NAIC;**
 2 **(4) employees of the NAIC; and**
 3 **(5) other persons responsible for collecting, reviewing,**
 4 **analyzing, and disseminating information developed from the**
 5 **filing of annual statement convention blanks under this**
 6 **section;**

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

12 **(f) The commissioner may suspend, revoke, or refuse to renew**
 13 **the certificate of authority of a health maintenance organization**
 14 **that fails to file the health maintenance organization's annual**
 15 **statement convention blank or quarterly statements with the NAIC**
 16 **or with the department within the time allowed by subsection (c)**
 17 **or (d).**

18 SECTION 58. IC 27-13-8-5 IS ADDED TO THE INDIANA CODE
 19 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 20 1, 1999]: **Sec. 5. (a) The commissioner may impose a civil penalty**
 21 **of five hundred dollars (\$500) after notice and hearing under**
 22 **IC 4-21.5-3 on a health maintenance organization that fails to file**
 23 **an annual statement under this chapter. This subsection does not**
 24 **apply to a health maintenance organization described in subsection**
 25 **(b).**

26 **(b) A domestic health maintenance organization that fails to file**
 27 **an audited annual financial statement under section 2(a)(1) of this**
 28 **chapter before June 1 of each year without obtaining an extension**
 29 **is subject to a civil penalty of fifty dollars (\$50) per day until the**
 30 **report is received by the commissioner.**

31 SECTION 59. IC 27-13-22-1 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 1999]: **Sec. 1. (a) A licensed**
 33 **insurer or a hospital authorized to conduct business in Indiana may,**
 34 **either directly or through a subsidiary or an affiliate, organize and**
 35 **operate a health maintenance organization under this article.**

36 **(b) This section does not apply to a health maintenance**
 37 **organization granted a certificate of authority under this article**
 38 **before July 1, 1999.**

39 SECTION 60. IC 27-13-23-8 IS ADDED TO THE INDIANA
 40 CODE AS A NEW CHAPTER TO READ AS FOLLOWS
 41 [EFFECTIVE JULY 1, 1999]: **Sec. 8. A health maintenance**
 42 **organization shall file a copy of any examination report filed by the**



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1 **insurance commissioner of another state during the preceding**
 2 **calendar year with the annual statement required under**
 3 **IC 27-13-8-1.**

4 SECTION 61. IC 27-13-32-1 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) This section
 6 does not apply to a health maintenance organization or a limited service
 7 health maintenance organization that is a foreign corporation. ~~or is~~
 8 ~~owned by a foreign corporation.~~

9 (b) As used in this section, "foreign corporation" means a
 10 corporation organized or reorganized under the law of a state or
 11 jurisdiction other than Indiana.

12 (c) A person may not acquire control, as that term is defined in
 13 IC 27-1-23-1, of a health maintenance organization or a limited service
 14 health maintenance organization unless:

- 15 (1) that person complies with the requirements of IC 27-1-23-2;
 16 and
 17 (2) the acquisition is approved by the commissioner under the
 18 procedure set forth in IC 27-1-23-2.

19 SECTION 62. IC 27-13-32.5 IS ADDED TO THE INDIANA
 20 CODE AS A NEW CHAPTER TO READ AS FOLLOWS
 21 [EFFECTIVE JULY 1, 1999]:

22 **Chapter 32.5. Voluntary Dissolution**

23 **Sec. 1. Upon authorization of voluntary dissolution by the board**
 24 **of directors and any shareholders entitled to vote in respect**
 25 **thereof, the board of directors shall:**

- 26 (1) **cause a notice that the health maintenance organization is**
 27 **about to be dissolved to be published at least once in a**
 28 **newspaper of general circulation, printed and published in the**
 29 **English language, in the county in which the principal office**
 30 **of the health maintenance organization is located, and at least**
 31 **once in a newspaper of general circulation, printed and**
 32 **published in the English language in the city of Indianapolis,**
 33 **Marion County, Indiana;**
 34 (2) **cause a copy of the publication under subdivision (1) to be**
 35 **mailed to each enrollee;**
 36 (3) **file a copy of the publication under subdivision (1) with the**
 37 **department; and**
 38 (4) **file a certified copy of the articles of dissolution with the**
 39 **department, and present to the department the certificate of**
 40 **authority issued or renewed under IC 27-13-3-1 for**
 41 **cancellation. The department shall file the certified copy of**
 42 **the articles of dissolution and shall cancel the certificate of**



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1 authority and endorse the cancellation on the certificate, and
 2 return the canceled certificate of authority to the health
 3 maintenance organization or its representatives.

4 **Sec. 2. The dissolution of any health maintenance organization**
 5 **under this chapter does not alter the rights of an enrollee under**
 6 **IC 27-13-7-13.**

7 SECTION 63. IC 27-13-34-7 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7. (a) After December
 9 31, 1994, a person, corporation, partnership, limited liability company,
 10 or other entity may not operate a limited service health maintenance
 11 organization in Indiana without obtaining and maintaining a certificate
 12 of authority from the commissioner under this chapter.

13 (b) A for-profit or nonprofit corporation organized under the laws
 14 of another state, other than a foreign corporation defined under
 15 IC 27-1-2-3, may obtain a certificate of authority to operate a limited
 16 service health maintenance organization in Indiana if the foreign
 17 corporation is authorized to do business in Indiana under IC 23-1-49 or
 18 IC 23-17-26 and complies with this chapter.

19 (c) A foreign corporation (as defined in IC 27-1-2-3) may obtain a
 20 certificate of authority to operate a limited service health maintenance
 21 organization in Indiana if the foreign corporation complies with this
 22 chapter.

23 **(d) A foreign or alien limited service health maintenance**
 24 **organization granted a certificate of authority under this chapter**
 25 **has the same but not greater rights and privileges than a domestic**
 26 **limited service health maintenance organization.**

27 SECTION 64. IC 27-13-34-12 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 12. A limited service
 29 health maintenance organization operated under this chapter is subject
 30 to the following:

31 (1) **IC 27-13-2-6 concerning amendments to certificate of**
 32 **authority application.**

33 (2) **IC 27-13-2-9 concerning corporate name.**

34 (3) **IC 27-13-4-4 concerning payment of dividends.**

35 (4) IC 27-13-8, except for IC 27-13-8-2(a)(5) concerning reports.

36 ~~(5)~~ (5) IC 27-13-10-1 through IC 27-13-10-3 concerning
 37 grievance procedures.

38 ~~(6)~~ (6) IC 27-13-11 concerning investments.

39 ~~(7)~~ (7) IC 27-13-15-1(a)(2) through IC 27-13-15-1(a)(3)
 40 concerning gag clauses in contracts.

41 ~~(8)~~ (8) IC 27-13-21 concerning producers.

42 (9) **IC 27-13-22-1 concerning insurers and hospitals operating**

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- 1 **as health maintenance organizations.**
- 2 **(10) IC 27-13-23-8 concerning examinations.**
- 3 ~~(6)~~ **(11) IC 27-13-29 concerning statutory construction and**
- 4 **relationship to other laws.**
- 5 ~~(7)~~ **(12) IC 27-13-30 concerning public records.**
- 6 ~~(8)~~ **(13) IC 27-13-31 concerning confidentiality of medical**
- 7 **information and limitation of liability.**
- 8 ~~(9)~~ **(14) IC 27-13-32.5 concerning voluntary dissolution.**
- 9 **(15) IC 27-13-36-5 and IC 27-13-36-6 concerning referrals to out**
- 10 **of network providers and continuation of care.**
- 11 ~~(10)~~ **(16) IC 27-13-40 concerning comparison sheets of services**
- 12 **provided by the limited service health maintenance organization.**

13 SECTION 65. IC 27-13-34-19 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 19. (a) On or before
 15 March 1 of each year, a limited service health maintenance
 16 organization shall file with the commissioner a report that covers the
 17 preceding calendar year. The report must be:

- 18 (1) made on forms prescribed by the commissioner; and
- 19 (2) verified by at least two (2) principal officers of the limited
- 20 service health maintenance organization.

21 (b) In addition to the report required by subsection (a), a limited
 22 service health maintenance organization shall file with the
 23 commissioner on or before June 1 of each year an audited financial
 24 statement of the limited service health maintenance organization for the
 25 preceding calendar year **prepared in conformity with statutory**
 26 **accounting practices prescribed or otherwise permitted by the**
 27 **department.**

28 (c) The commissioner may require any additional reports necessary
 29 to enable the commissioner to carry out the duties of the commissioner
 30 under this chapter.

31 SECTION 66. IC 34-18-15-3 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. If a health care
 33 provider or its insurer has agreed to settle its liability on a claim by
 34 payment of its policy limits of ~~one two~~ **hundred fifty** thousand dollars
 35 ~~(\$100,000);~~ **(\$250,000)**, and the claimant is demanding an amount in
 36 excess of that amount, the following procedure must be followed:

- 37 (1) A petition shall be filed by the claimant in the court named in
- 38 the proposed complaint, or in the circuit or superior court of
- 39 Marion County, at the claimant's election, seeking:
- 40 (A) approval of an agreed settlement, if any; or
- 41 (B) demanding payment of damages from the patient's
- 42 compensation fund.

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(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, determine the amount of claimant's damages, if any, in excess of the ~~one two~~ **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

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the patient's compensation fund unless the release specifically provides otherwise.

SECTION 67. IC 34-30-2-106 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 106. ~~IC 27-1-15.5-11.1~~ (e) **IC 27-1-15.5-11.1(f)** (Concerning insurers and their agents and employees who provide information required by the insurance commissioner).

SECTION 68. IC 34-30-2-137.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [JULY 1, 1999]: **Sec. 137.5. IC 27-13-8-4 (Concerning persons employed or associated with the National Association of Insurance Commissioners who act as agents of the insurance commissioner in the collection, review, analysis, or dissemination of certain information).**

SECTION 69. IC 36-8-10-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) The department and a trustee may establish and operate an actuarially sound pension trust as a retirement plan for the exclusive benefit of the employee beneficiaries. However, a department and a trustee may not establish or modify a retirement plan after June 30, 1989, without the approval of the county fiscal body which shall not reduce or diminish any benefits of the employee beneficiaries set forth in any retirement plan that was in effect on January 1, 1989.

(b) The normal retirement age may be earlier but not later than the age of seventy (70). However, the sheriff may retire an employee who is otherwise eligible for retirement if the board finds that the employee is not physically or mentally capable of performing the employee's duties.

(c) Joint contributions shall be made to the trust fund:

(1) either by:

- (A) the department through a general appropriation provided to the department;
- (B) a line item appropriation directly to the trust fund; or
- (C) both; and

(2) by an employee beneficiary through authorized monthly deductions from the employee beneficiary's salary or wages. However, the employer may pay all or a part of the contribution for the employee beneficiary.

Contributions through an appropriation are not required for plans established or modifications adopted after June 30, 1989, unless the establishment or modification is approved by the county fiscal body.

(d) For a county not having a consolidated city, the monthly

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1 deductions from an employee beneficiary's wages for the trust fund
2 may not exceed six percent (6%) of the employee beneficiary's average
3 monthly wages. For a county having a consolidated city, the monthly
4 deductions from an employee beneficiary's wages for the trust fund
5 may not exceed seven percent (7%) of the employee beneficiary's
6 average monthly wages.

7 (e) The minimum annual contribution by the department must be
8 sufficient, as determined by the pension engineers, to prevent
9 deterioration in the actuarial status of the trust fund during that year. If
10 the department fails to make minimum contributions for three (3)
11 successive years, the pension trust terminates and the trust fund shall
12 be liquidated.

13 (f) If during liquidation all expenses of the pension trust are paid,
14 adequate provision must be made for continuing pension payments to
15 retired persons. Each employee beneficiary is entitled to receive the net
16 amount paid into the trust fund from the employee beneficiary's wages,
17 and any remaining sum shall be equitably divided among employee
18 beneficiaries in proportion to the net amount paid from their wages into
19 the trust fund.

20 (g) If a person ceases to be an employee beneficiary because of
21 death, disability, unemployment, retirement, or other reason, the
22 person, the person's beneficiary, or the person's estate is entitled to
23 receive at least the net amount paid into the trust fund from the person's
24 wages, either in a lump sum or monthly installments not less than the
25 person's pension amount.

26 (h) If an employee beneficiary is retired for old age, the employee
27 beneficiary is entitled to receive a monthly income in the proper
28 amount of the employee beneficiary's pension during the employee
29 beneficiary's lifetime.

30 (i) To be entitled to the full amount of the employee beneficiary's
31 pension classification, an employee beneficiary must have contributed
32 at least twenty (20) years of service to the department before
33 retirement. Otherwise, the employee beneficiary is entitled to receive
34 a pension proportional to the length of the employee beneficiary's
35 service.

36 (j) This subsection does not apply to a county that adopts an
37 ordinance under section 12.1 of this chapter. For an employee
38 beneficiary who retires before January 1, 1985, a monthly pension may
39 not exceed by more than twenty dollars (\$20), one-half (1/2) the
40 amount of the average monthly wage received during the highest paid
41 five (5) years before retirement. However, in counties where the fiscal
42 body approves the increases, the maximum monthly pension for an

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1 employee beneficiary who retires after December 31, 1984, may be
2 increased by no more or no less than two percent (2%) of that average
3 monthly wage for each year of service over twenty (20) years to a
4 maximum of seventy-four percent (74%) of that average monthly wage
5 plus twenty dollars (\$20). For the purposes of determining the amount
6 of an increase in the maximum monthly pension approved by the fiscal
7 body for an employee beneficiary who retires after December 31, 1984,
8 the fiscal body may determine that the employee beneficiary's years of
9 service include the years of service with the sheriff's department that
10 occurred before the effective date of the pension trust. For an employee
11 beneficiary who retires after June 30, 1996, the average monthly wage
12 used to determine the employee beneficiary's pension benefits may not
13 exceed the monthly minimum salary that a full-time prosecuting
14 attorney was entitled to be paid by the state at the time the employee
15 beneficiary retires.

16 (k) The trust fund may not be commingled with other funds, except
17 as provided in this chapter, and may be invested only in accordance
18 with statutes for investment of trust funds, including other investments
19 that are specifically designated in the trust agreement.

20 (l) The trustee receives and holds as trustee all money paid to it as
21 trustee by the department, the employee beneficiaries, or by other
22 persons for the uses stated in the trust agreement.

23 (m) The trustee shall engage pension engineers to supervise and
24 assist in the technical operation of the pension trust in order that there
25 is no deterioration in the actuarial status of the plan.

26 (n) Within ninety (90) days after the close of each fiscal year the
27 trustee, with the aid of the pension engineers, shall prepare and file an
28 annual report with the department. ~~and the state insurance department.~~
29 The report must include the following:

30 (1) Schedule 1. Receipts and disbursements.

31 (2) Schedule 2. Assets of the pension trust listing investments by
32 book value and current market value as of the end of the fiscal
33 year.

34 (3) Schedule 3. List of terminations, showing the cause and
35 amount of refund.

36 (4) Schedule 4. The application of actuarially computed "reserve
37 factors" to the payroll data properly classified for the purpose of
38 computing the reserve liability of the trust fund as of the end of
39 the fiscal year.

40 (5) Schedule 5. The application of actuarially computed "current
41 liability factors" to the payroll data properly classified for the
42 purpose of computing the liability of the trust fund as of the end

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1 of the fiscal year.

2 (o) No part of the corpus or income of the trust fund may be used or
3 diverted to any purpose other than the exclusive benefit of the members
4 and the beneficiaries of the members.

5 SECTION 70. IC 27-8-14-5 IS REPEALED [EFFECTIVE UPON
6 PASSAGE].

7 SECTION 71. [EFFECTIVE UPON PASSAGE] (a) **IC 5-10-8-7.2,**
8 **as amended by this act, applies to a self-insurance program or a**
9 **contract between the state and a health maintenance organization**
10 **established, entered into, or renewed after June 30, 1999.**

11 (b) **IC 27-8-14-6, as amended by this act, applies to accident and**
12 **sickness insurance policies that are issued, delivered, or renewed**
13 **after June 30, 1999.**

14 (c) **IC 27-13-7-15 and IC 27-13-7-16, both as added by this act,**
15 **apply to health maintenance organization contracts that are issued,**
16 **entered into, delivered, or renewed after June 30, 1999.**

17 SECTION 72. [EFFECTIVE JULY 1, 1999] (a) **IC 27-1-3-15,**
18 **IC 27-1-3-28, IC 27-1-15.5-4, IC 27-1-17-4, IC 27-1-20-21.3,**
19 **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,**
20 **IC 27-8-3-20, and IC 27-11-9-1, all as amended by this act, apply**
21 **upon receipt by the commissioner of the department of insurance**
22 **of the designation from the insurer of an agent for service of**
23 **process.**

24 (b) **This SECTION expires June 30, 2004.**

25 SECTION 73. [EFFECTIVE JUNE 30, 1999] (a) **Notwithstanding**
26 **IC 27-1-27-4, as amended by this act, a public adjuster's certificate**
27 **of authority expires December 31, 1999, and the renewal fee of fifty**
28 **dollars (\$50) must be paid to the commissioner of insurance by the**
29 **applicant before the application or renewal is granted.**

30 (b) **This SECTION expires January 1, 2000.**

31 SECTION 74. [EFFECTIVE UPON PASSAGE] (a) **The worker's**
32 **compensation board of Indiana established under IC 22-3-1-1 and**
33 **the department of insurance shall adopt joint rules under**
34 **IC 4-22-2-37.1 not later than September 30, 1999, to implement**
35 **and ensure the effectiveness of IC 22-3-6-2.1, as added by this act.**

36 (b) **This SECTION expires July 1, 2001.**

37 SECTION 75. **An emergency is declared for this act.**

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