



March 2, 1999

SENATE BILL No. 559

DIGEST OF SB 559 (Updated February 25, 1999 4:34 pm - DI 100)

Citations Affected: IC 27-1; IC 27-4; IC 27-6; IC 27-7; IC 27-8; IC 27-11; IC 34-18; noncode.

Synopsis: Various insurance matters. Removes fees collected by the commissioner associated with the commissioner's duties as agent for service of process. 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. Removes the requirement that information concerning premiums and losses, jury awards, court awards, and negotiated settlements be filed with the annual financial statement of insurers selling certain lines of insurance. Changes the requirements for annual information filing with the National Association of Insurance Commissioners (NAIC) from diskette to electronic filings. Provides for the treatment of nonconforming policies. Defines "exempt commercial policyholder" and "risk manager". Provides for the deregulation of
(Continued next page)

Effective: Upon passage; July 1, 1999.

Clark

January 21, 1999, read first time and referred to Committee on Insurance and Financial Institutions.
March 1, 1999, amended, reported favorably — Do Pass.

SB 559—LS 7844/DI 47+



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Digest Continued

exempt commercial policyholder insurance transactions. Increases the settlement procedure amount under the medical malpractice act from \$100,000 to \$250,000. Provides that the commissioner will continue as agent of service of process until a different designation is received by the commissioner. Makes conforming amendments.

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March 2, 1999

First Regular Session 111th General Assembly (1999)

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

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

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

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SENATE BILL No. 559



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

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

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

Document	Fee
6 Articles of incorporation	\$ 350
7 Amendment of articles of	
8 incorporation	\$ 10
9 Filing of annual statement	
10 and consolidated statement	\$ 100
11 Annual renewal of company license	
12 fee	\$ 50
13 Appointment of commissioner for	
14 service of process	\$ 10
15	

SB 559—LS 7844/DI 47+



1 Withdrawal of certificate
 2 of authority \$ 25
 3 Certified statement of condition \$ 5
 4 Any other document required to be
 5 filed by this article \$ 25
 6 (b) ~~The commissioner shall collect a fee of ten dollars (\$10) each~~
 7 ~~time process is served on the commissioner under this title.~~
 8 (c) The commissioner shall collect the following fees for copying
 9 and certifying the copy of any filed document relating to a domestic or
 10 foreign corporation:
 11 Per page for copying As determined by
 12 the commissioner but not to exceed actual cost
 13 For the certificate \$10
 14 (d) (c) Each domestic and foreign insurer shall remit annually to the
 15 commissioner for deposit into the department of insurance fund
 16 established by IC 27-1-3-28 three hundred fifty dollars (\$350) as an
 17 internal audit fee. All assessment insurers, farm mutuals, fraternal
 18 benefit societies, and health maintenance organizations shall remit to
 19 the commissioner for deposit into the department of insurance fund one
 20 hundred dollars (\$100) annually as an internal audit fee.
 21 (e) (d) Beginning July 1, 1994, each insurer shall remit to the
 22 commissioner for deposit into the department of insurance fund
 23 established by IC 27-1-3-28 a fee of thirty-five dollars (\$35) for each
 24 policy, rider, and endorsement filed with the state. However, each
 25 policy, rider, and endorsement filed as part of a particular product
 26 filing and associated with that product filing shall be considered to be
 27 a single filing and subject only to one (1) thirty-five dollar (\$35) fee.
 28 (f) (e) The commissioner shall pay into the state general fund by the
 29 end of each calendar month the amounts collected during that month
 30 under subsections (a) and (b). ~~and (c).~~
 31 (g) (f) The commissioner may not collect fees for quarterly
 32 statements filed under IC 27-1-20-33.
 33 SECTION 2. IC 27-1-3-29 IS ADDED TO THE INDIANA CODE
 34 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 35 1, 1999]: **Sec. 29. (a) Except as otherwise provided by statute, a**
 36 **policy is enforceable against the insurer according to its terms,**
 37 **even if the policy exceeds the authority of the insurer.**
 38 **(b) A policy that violates a statute or rule is enforceable against**
 39 **the insurer as if the policy conformed to the statute or rule.**
 40 **(c) Upon the written request of the policyholder or the insured**
 41 **whose rights under the policy are continuing and not transitory, an**
 42 **insurer shall reform and reissue its written policy to comply with**

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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1 (1) a continuing education statement that:

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

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

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

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

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

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

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

16 SECTION 4. IC 27-1-15.5-7.3 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 7.3. (a) The
18 commissioner shall approve and disapprove continuing education
19 courses after considering recommendations made by the insurance
20 agent education and continuing education advisory council under
21 section 20(h) of this chapter.

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

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

26 (2) deals only with office skills;

27 (3) concerns sales promotion and sales techniques;

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

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

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

33 (B) approved by the commissioner.

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

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

42 SECTION 5. IC 27-1-15.5-8 AND P.L.91-1998, SECTION 6, IS



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

- 8 (1) Any materially untrue statement in the license application.
 9 (2) Any cause for which issuance of the license could have been
 10 refused had it then existed and been known to the commissioner
 11 at the time of issuance.
 12 (3) Violation of or noncompliance with any insurance laws,
 13 violation of any provision of IC 28 concerning the sale of a life
 14 insurance policy or an annuity contract, or violation of any lawful
 15 rule, regulation, or order of the commissioner or of a
 16 commissioner of another state.
 17 (4) Obtaining or attempting to obtain any such license through
 18 misrepresentation or fraud.
 19 (5) Improperly withholding, misappropriating, or converting to
 20 the licensee's own use any money belonging to policyholders,
 21 insurers, beneficiaries, or others received in the course of the
 22 licensee's insurance business.
 23 (6) Misrepresentation of the terms of any actual or proposed
 24 insurance contract.
 25 (7) A:
 26 (A) conviction of; *or*
 27 (B) *plea of guilty, no contest, or nolo contendere to;*
 28 a felony or misdemeanor involving moral turpitude.
 29 (8) The licensee has been found guilty of any unfair trade practice
 30 or of fraud.
 31 (9) In the conduct of the licensee's affairs under the license, the
 32 licensee has used fraudulent, coercive, or dishonest practices, or
 33 has shown himself to be incompetent, untrustworthy, or
 34 financially irresponsible, or not performing in the best interests of
 35 the insuring public.
 36 (10) The licensee's license has been suspended or revoked in any
 37 ~~other~~ state, province, district, or territory.
 38 (11) The licensee has forged another's name to an application for
 39 insurance.
 40 (12) An applicant has been found to have been cheating on an
 41 examination for an insurance license.
 42 (13) The applicant or licensee is on the most recent tax warrant

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- 1 list supplied to the commissioner by the department of state
 2 revenue.
- 3 (14) The licensee has failed to satisfy the continuing education
 4 requirements under section 7.1 of this chapter.
- 5 *(15) The licensee has violated section 24 of this chapter.*
- 6 (b) The commissioner shall refuse to:
- 7 (1) issue a license; or
 8 (2) renew a license issued;
- 9 under this chapter to any person who is the subject of an order issued
 10 by a court under IC 31-14-12-7 or IC 31-16-12-10 (or
 11 IC 31-1-11.5-13(m) or IC 31-6-6.1-16(m) before their repeal).
- 12 (c) In the event that the action by the commissioner is to not renew
 13 or to deny an application for a license, the commissioner shall notify
 14 the applicant or licensee and advise, in writing, the applicant or
 15 licensee of the reasons for the denial or nonrenewal of the applicant's
 16 or licensee's license. Not later than sixty (60) days after receiving a
 17 notice from the commissioner under this subsection, the applicant or
 18 licensee may make written demand upon the commissioner for a
 19 hearing to determine the reasonableness of the commissioner's action.
 20 Such hearing shall be held within thirty (30) days from the date of
 21 receipt of the written demand of the applicant.
- 22 (d) The license of a corporation may be suspended, revoked, or
 23 refused if the commissioner finds, after hearing, that an individual
 24 licensee's violation was known or should have been known by one (1)
 25 or more of the officers or managers acting on behalf of the corporation
 26 and such violation was not reported to the insurance department nor
 27 corrective action taken in relation to the violation.
- 28 (e) In addition to or in lieu of any applicable denial, suspension, or
 29 revocation of a license, any person violating this chapter may, after
 30 hearing, be subject to a civil penalty of not less than fifty dollars (\$50)
 31 nor more than ten thousand dollars (\$10,000). Such a penalty may be
 32 enforced in the same manner as civil judgments.
- 33 (f) The commissioner may impose any of the following sanctions,
 34 singly or in combination, when the commissioner finds that a licensee
 35 is guilty of any offense under subsection (a):
- 36 (1) Permanently revoke (as defined in subsection (i)) a licensee's
 37 certificate.
 38 (2) Revoke a licensee's certificate with a stipulation that the
 39 licensee may not reapply for a certificate for a period fixed by the
 40 commissioner. The fixed period may not exceed ten (10) years.
 41 (3) Suspend a licensee's certificate.
 42 (4) Censure a licensee.



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- 1 (5) Issue a letter of reprimand.
 2 (6) Place a licensee on probation status and require the licensee
 3 to:
 4 (A) report regularly to the commissioner upon the matters that
 5 are the basis of probation;
 6 (B) limit practice to those areas prescribed by the
 7 commissioner; or
 8 (C) continue or renew professional education under a licensee
 9 approved by the commissioner until a satisfactory degree of
 10 skill has been attained in those areas that are the basis of the
 11 probation.
 12 The commissioner may withdraw the probation if the
 13 commissioner finds that the deficiency that required disciplinary
 14 action has been remedied.
 15 (g) *The commissioner may order the licensee to make restitution if*
 16 *the commissioner finds that the licensee has violated:*
 17 (1) *subsection (a)(5);*
 18 (2) *subsection (a)(8);*
 19 (3) *subsection (a)(9); or*
 20 (4) *section 24 of this chapter.*
 21 (h) The insurance commissioner shall notify the securities
 22 commissioner when an administrative action or civil proceeding is filed
 23 under this section and when an order is issued under this section
 24 denying, suspending, or revoking a license.
 25 ~~(h)~~ (i) For purposes of subsection (f), "permanently revoke" means
 26 that the licensee's certificate shall never be reinstated and the licensee
 27 shall not be eligible to submit an application for a certificate to the
 28 department.
 29 SECTION 6. IC 27-1-17-4 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. Whenever a foreign
 31 or an alien insurance company desires to be admitted to do an
 32 insurance business in this state, it shall execute in the English language
 33 and present the following to the department, at its office, accompanied
 34 by the fees prescribed by law:
 35 (a) A copy of its articles of incorporation or association, with all
 36 amendments thereto, duly authenticated by the proper officer of
 37 the state, country, province, or government wherein it is
 38 incorporated or organized, or the state in which it is domiciled in
 39 the United States.
 40 (b) An application for admission, executed in the manner
 41 provided in this chapter, setting forth:
 42 (1) the name of such company;



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- 1 (2) the location of its principal office or place of business
- 2 without this state;
- 3 (3) the names of the states in which it has been admitted or
- 4 qualified to do business;
- 5 (4) the character of insurance business under its articles of
- 6 incorporation or association which it intends to transact in this
- 7 state, which must conform to the class or classes set forth in
- 8 the provisions of IC 27-1-5-1;
- 9 (5) the total authorized capital stock of the company and the
- 10 amount thereof issued and outstanding, and the surplus
- 11 required of such company by the laws of the state, country,
- 12 province, or government under which it is organized, or the
- 13 state in which it is domiciled in the United States, if a stock
- 14 company, which shall equal at least the requirements set forth
- 15 in section 5(a) of this chapter;
- 16 (6) the total amount of assets and the surplus of assets over all
- 17 its liabilities, if other than a stock company, which shall equal
- 18 at least the requirements set forth in section 5(b) of this
- 19 chapter;
- 20 (7) if an alien company, the surplus of assets invested
- 21 according to the laws of the state in the United States where it
- 22 has its deposit, which shall equal at least the requirements set
- 23 forth in section 5(c) of this chapter; and
- 24 (8) such further and additional information as the department
- 25 may from time to time require.
- 26 The application shall be signed in duplicate, in the form
- 27 prescribed by the department, by the president or a vice president
- 28 and the secretary or an assistant secretary of the corporation, and
- 29 verified under oath by the officers signing the same.
- 30 (c) A statement of its financial condition and business, in the form
- 31 prescribed by law for annual statements, signed and sworn to by
- 32 the president or secretary or other principal officers of the
- 33 company; provided, however, that an alien company shall also
- 34 furnish a separate statement comprising only its condition and
- 35 business in the United States, which shall be signed and sworn to
- 36 by its United States manager.
- 37 (d) A copy of the last report of examination certified to by the
- 38 insurance commissioner or other proper supervisory official of the
- 39 state in which such company is domiciled; provided, however,
- 40 that the commissioner may cause an examination to be made of
- 41 the condition and affairs of such company before authority to
- 42 transact business in this state is given.

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- 1 (e) A certificate from the proper official of the state, country,
 2 province, or government wherein it is incorporated or organized,
 3 or the state in which it is domiciled in the United States, that it is
 4 duly organized or incorporated under those laws and authorized
 5 to make the kind or kinds of insurance which it proposes to make
 6 in this state.
- 7 (f) A copy of its bylaws or regulations, if any, certified to by the
 8 secretary or similar officer of the insurance company.
- 9 (g) Copies of forms of all policies which the insurance company
 10 proposes to issue in this state and also copies of the forms of
 11 application for such policies.
- 12 (h) A duly executed power of attorney in a form prescribed by the
 13 department which constitutes and appoints ~~the commissioner or~~
 14 ~~his successor, or successors,~~ **an individual or a corporate**
 15 **resident of Indiana, or an authorized Indiana insurer, as the**
 16 **insurance company's agent**, its true and lawful attorney upon
 17 whom all lawful processes in any action in law or in equity
 18 against it shall be served. Such power of attorney shall contain an
 19 agreement by the insurance company that any lawful process
 20 against it which may be served upon the **commissioner agent** as
 21 its attorney shall be of the same force and validity as if served
 22 upon the insurance company and that such power of attorney shall
 23 continue in force and be irrevocable so long as any liability of the
 24 insurance company remains outstanding in this state. Such power
 25 of attorney shall be executed by the president and secretary of the
 26 insurance company or other duly authorized officers under its seal
 27 and shall be accompanied by a certified copy of the resolution of
 28 the board of directors of the company making said appointment
 29 and authorizing the execution of said power of attorney. ~~Whether~~
 30 ~~or not the power of attorney referred to in this subdivision shall~~
 31 ~~have been executed, every foreign or alien insurance company~~
 32 ~~admitted to do business in this state shall be deemed to have~~
 33 ~~appointed the commissioner its true and lawful attorney upon~~
 34 ~~whom all lawful processes in any action at law or in equity against~~
 35 ~~it shall be served.~~ Service of any lawful process shall be by
 36 delivering to and leaving with the **commissioner agent** two (2)
 37 copies of such process, with copy of the pertinent complaint
 38 attached. ~~together with a fee as required under IC 27-1-3-15.~~ The
 39 **commissioner agent** shall forthwith transmit to the defendant
 40 company at its last known principal place of business by
 41 registered or certified mail, return receipt requested, one (1) of the
 42 copies of such process, with complaint attached, the other copy to

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1 be retained in a record which shall show all process served upon
 2 and transmitted by him. Such service shall be sufficient provided
 3 the returned receipt or, if the defendant company shall refuse to
 4 accept such mailing, the registered mail together with an affidavit
 5 of plaintiff or his attorney stating that service was made upon the
 6 ~~commissioner~~ **agent** and forwarded as above set forth but that
 7 such mail was returned by the post office department is filed with
 8 the court. The ~~department~~ **agent** shall make information and
 9 receipts available to plaintiff, defendant or their attorneys. No
 10 plaintiff or complainant shall be entitled to a judgment by default
 11 based on service authorized by this section until the expiration of
 12 at least thirty (30) days from the date on which either the post
 13 office receipt or the unclaimed mail together with affidavit is filed
 14 with the court. Nothing in this section shall limit or abridge the
 15 right to serve any process, notice or demand upon any company
 16 in any other manner permitted by law.

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

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

- 35 (1) considerations received for reinsurance of risks within this
- 36 state from companies authorized to transact an insurance business
- 37 in this state;
- 38 (2) the amount of dividends paid or credited to resident insureds,
- 39 or used to reduce current premiums of resident insureds;
- 40 (3) the amount of premiums actually returned to residents on
- 41 account of applications not accepted or on account of policies not
- 42 delivered; and

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1 (4) the amount of unearned premiums returned on account of the
 2 cancellation of policies covering risks within the state.
 3 (b) A domestic company shall be taxed under this section only in
 4 each calendar year with respect to which it files a notice of election.
 5 The notice of election shall be filed with the insurance commissioner
 6 and the commissioner of the department of state revenue on or before
 7 November 30 in each year and shall state that the domestic company
 8 elects to submit to the tax imposed by this section with respect to the
 9 calendar year commencing January 1 next following the filing of the
 10 notice. The exemption from license fees, privilege, or other taxes
 11 accorded by this section to insurance companies not organized under
 12 the laws of this state and doing business within this state which are
 13 taxed under this chapter shall be applicable to each domestic company
 14 in each calendar year with respect to which it is taxed under this
 15 section. In each calendar year with respect to which a domestic
 16 company has not elected to be taxed under this section it shall be taxed
 17 without regard to this section.
 18 (c)(1) For the privilege of doing business in this state, every
 19 insurance company required to file the report provided in this section
 20 shall pay into the treasury of this state an amount equal to two percent
 21 (2%) of the excess, if any, of the gross premiums over the allowable
 22 deductions.
 23 (c)(2) Payments of the tax imposed by this section shall be made on
 24 a quarterly estimated basis. The amounts of the quarterly installments
 25 shall be computed on the basis of the total estimated tax liability for the
 26 current calendar year and the installments shall be due and payable on
 27 or before April 15, June 15, September 15, and December 15, of the
 28 current calendar year.
 29 (c)(3) Any balance due shall be paid in the next succeeding calendar
 30 year at the time designated for the filing of the annual report with the
 31 department.
 32 (c)(4) Any overpayment of the estimated tax during the preceding
 33 calendar year shall be allowed as a credit against the liability for the
 34 first installment of the current calendar year.
 35 (c)(5) In the event a company subject to taxation under this section
 36 fails to make any quarterly payment in an amount equal to at least:
 37 (i) twenty-five percent (25%) of the total tax paid during the
 38 preceding calendar year; or
 39 (ii) twenty per cent (20%) of the actual tax for the current
 40 calendar year;
 41 the company shall be liable, in addition to the amount due, for interest
 42 in the amount of one percent (1%) of the amount due and unpaid for

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1 each month or part of a month that the amount due, together with
 2 interest, remains unpaid. This interest penalty shall be exclusive of and
 3 in addition to any other fee, assessment, or charge made by the
 4 department.

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

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

36 SECTION 8. IC 27-1-20-21 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. (a) Every
 38 company doing business in this state shall file with the department on
 39 or before March 1 in each year a financial statement for the year ending
 40 December 31 immediately preceding in a format in accordance with
 41 IC 27-1-3-13. For good and sufficient cause shown, the commissioner
 42 may grant to any individual company a reasonable extension of time



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1 not to exceed ninety (90) days within which such statement may be
 2 filed. Such statement shall be verified by the oaths of the president or
 3 a vice president and the secretary or an assistant secretary of the
 4 company. The statement of an alien company shall segregate and state
 5 separately its condition and transaction in the United States and such
 6 segregated and separated statement shall be verified by the oath of its
 7 resident manager or principal representative in the United States. The
 8 commissioner of insurance may, with the approval of the commission
 9 on public records, authorize the destruction of such annual statements
 10 which have been on file for two (2) years or more and microfilm copies
 11 of which have been made and filed.

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

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

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

20 (3) recreational facilities liability insurance;

21 (4) lawyers professional liability insurance;

22 (5) product liability insurance;

23 (6) uninsured and underinsured motorist insurance;

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

25 (8) day care centers liability insurance;

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

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

32 (1) direct premiums written;

33 (2) direct premiums earned;

34 (3) direct losses paid;

35 (4) direct losses incurred;

36 (5) direct losses unpaid;

37 (6) allocated loss adjustment expenses; and

38 (7) unallocated loss adjustment expenses;

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

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

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

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

- 11 (e) The exhibit required under subsection (d) must report:
 - 12 (1) the number of jury awards paid under the provisions of the
 - 13 insurance during the calendar year, and the total amount paid for
 - 14 all jury awards;
 - 15 (2) the number of court awards (other than jury awards) paid
 - 16 under the provisions of the insurance during the calendar year;
 - 17 and the total amount paid for all of those awards; and
 - 18 (3) the number of negotiated settlements paid under the
 - 19 provisions of the insurance during the calendar year, and the total
 - 20 amount paid for all those negotiated settlements.

21 (f) The information described in subsection (e) shall be reported in
 22 each year after 1990:

- 23 (g) The information described in subsection (c) shall be reported in
 24 each year beginning in 1990 for the following lines of insurance:
 - 25 (1) Recreational facilities liability insurance.
 - 26 (2) Lawyers professional liability insurance.
 - 27 (3) Product liability insurance.
 - 28 (4) Uninsured and underinsured motorist insurance.
 - 29 (5) Owners, landlords, and tenants liability insurance.
 - 30 (6) Day care centers liability insurance.

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

- 34 (1) domestic company;
 - 35 (2) foreign company; and
 - 36 (3) alien company;
- 37 that is authorized to transact business in Indiana.

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

40 (c) On or before March 1 of each year, an insurer shall file with the
 41 National Association of Insurance Commissioners and with the
 42 department a copy of the insurer's annual statement convention blank

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1 and additional filings prescribed by the commissioner for the preceding
 2 year. An insurer shall also file quarterly statements with the NAIC and
 3 with the department on or before May 15, August 15, and November
 4 15 of each year in a form prescribed by the commissioner. The
 5 information filed with the NAIC under this subsection:

6 (1) must be:

7 (A) in the same format; and

8 (B) of the same scope;

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

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

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

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

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

26 (e) A foreign company that:

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

29 (2) complies with that law;

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

31 (f) In the absence of actual malice:

32 (1) members of the NAIC;

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

35 (3) delegates of members of the NAIC;

36 (4) employees of the NAIC; and

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

40 shall be considered to be acting as agents of the commissioner under
 41 the authority of this section and are not subject to civil liability for
 42 libel, slander, or any other cause of action by virtue of the collection,



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1 review, analysis, or dissemination of the data and information collected
2 from the filings required by this section.

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

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

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

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

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

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

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

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

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

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

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

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

37 (1) education and experience; or

38 (2) training and experience;

39 to assess an exempt commercial policyholder's insurance needs and
40 analyze and negotiate a policy of insurance on behalf of an exempt
41 commercial policyholder. A risk manager shall not receive
42 commission, fees, or other consideration from the insurer in



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connection with the purchase of a commercial policy of insurance by the exempt commercial policyholder.

SECTION 11. IC 27-1-22-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) Every insurer shall file with the commissioner, ~~except as to inland marine risks which by general custom of the business are not written according to manual rates or rating plans;~~ every manual of classifications, rules, and rates, every rating schedule, every rating plan, and every modification of any of the foregoing which it proposes to use.

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

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

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

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

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

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

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

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

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

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

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1 become a member of or a subscriber to any rating organization or as
 2 requiring any member or subscriber to authorize the commissioner to
 3 accept such filings on its behalf.

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

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

- 21 (A) requiring a member, before making an independent filing,
 22 first to request the rating organization to make such filing on
 23 its behalf and requiring the rating organization, within thirty
 24 (30) days after receipt of such request, either:
 25 (i) to make such filing as a rating organization filing;
 26 (ii) to make such filing on an agency basis solely on behalf
 27 of the requesting member; or
 28 (iii) to decline the request of such member; and
 29 (B) excluding from membership any insurer which elects to
 30 make any filing wholly independently of the rating
 31 organization.

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

41 ~~(i)~~ **(j)** Upon the written application of the insured, stating his
 42 reasons therefor, filed with the commissioner, a rate in excess of that

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1 provided by a filing otherwise applicable may be used on any specific
2 risk.

3 ~~(j) Except as to contracts or policies for inland marine risks as to~~
4 ~~which filings are not required; no~~ **(k) An** insurer shall **not** make or
5 issue a policy or contract except in accordance with filings which are
6 in effect for that insurer or in accordance with the provisions of this
7 chapter. Subject to the provisions of section 6 of this chapter, any rates,
8 rating plans, rules, classifications, or systems in effect on May 31,
9 1967, shall be continued in effect until withdrawn by the insurer or
10 rating organization which filed them.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

10 SECTION 14. IC 27-4-5-2 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) It is a Class A
12 infraction for an insurer to transact insurance business in this state, as
13 set forth in subsection (b), without a certificate of authority from the
14 commissioner. However, this section does not apply to the following:

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

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1 readily obtainable in the ordinary insurance market and issued to
 2 one (1) or more industrial insureds. For purposes of this section
 3 **and IC 27-1-22-4**, an "industrial insured" means an insured:
 4 (A) who procures the insurance of any risk or risks by use of
 5 the services of a full-time employee acting as an insurance
 6 manager or buyer or the services of a regularly retained and
 7 continuously qualified insurance consultant;
 8 (B) whose aggregate annual premium for insurance on all risks
 9 totals at least twenty-five thousand dollars (\$25,000); and
 10 (C) who has at least twenty-five (25) full-time employees.
 11 (9) Transactions in Indiana involving the rendering of any service
 12 by any ambulance service provider and all fees, costs, and
 13 membership payments charged for the service. To qualify under
 14 this subdivision, the ambulance service provider:
 15 (A) must have its ambulance service program approved by an
 16 ordinance of the legislative body of the county or city in which
 17 it operates; and
 18 (B) may not offer any membership program that includes
 19 benefits exceeding one (1) year in duration.
 20 (b) Any of the following acts in this state effected by mail or
 21 otherwise by or on behalf of an unauthorized insurer constitutes the
 22 transaction of an insurance business in this state. The venue of an act
 23 committed by mail is at the point where the matter transmitted by mail
 24 is delivered and takes effect. Unless otherwise indicated, the term
 25 "insurer" as used in this section includes all persons engaged as
 26 principals in the business of insurance and also includes interinsurance
 27 exchanges and mutual benefit societies.
 28 (1) The making of or proposing to make, as an insurer, an
 29 insurance contract.
 30 (2) The making of or proposing to make, as guarantor or surety,
 31 any contract of guaranty or suretyship as a vocation and not
 32 merely incidental to any other legitimate business or activity of
 33 the guarantor or surety.
 34 (3) The taking or receiving of any application for insurance.
 35 (4) The receiving or collection of any premium, commission,
 36 membership fees, assessments, dues, or other consideration for
 37 any insurance or any part thereof.
 38 (5) The issuance or delivery of contracts of insurance to residents
 39 of this state or to persons authorized to do business in this state.
 40 (6) Acting as an agent for or otherwise representing or aiding on
 41 behalf of another person or insurer in the solicitation, negotiation,
 42 procurement, or effectuation of insurance or renewals thereof or

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

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

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

27 SECTION 15. IC 27-6-6-4 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) Concurrently
 29 with the filing of the declaration provided for by the terms of section
 30 3 of this chapter, the attorney (as defined in section 2 of this chapter)
 31 shall file with the department of insurance, state of Indiana, an
 32 instrument in writing, executed by him for said subscribers,
 33 conditioned that, upon the issuance of a certificate of authority
 34 provided for in section 9 of this chapter, service of process may be had
 35 upon the ~~commissioner of insurance~~ **individual resident of Indiana,**
 36 **corporate resident of Indiana, or authorized Indiana insurer,**
 37 **appointed by the subscribers as the subscribers' agent for service**
 38 **of process** in all suits in this state arising out of such policies,
 39 contracts, or agreements, which service shall be valid and binding upon
 40 all subscribers exchanging at any time reciprocal or interinsurance
 41 contracts through such attorney.

42 (b) Service of process under subsection (a) shall be made by



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

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

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

20 SECTION 17. IC 27-8-1-13 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13. Any corporation,
 22 association or society, organized under the laws of any other state or
 23 government to insure lives on the assessment plan, or any corporation
 24 carrying on the business of life or accident insurance on the assessment
 25 plan, shall be licensed by the auditor of state, upon the payment to ~~him~~
 26 **the auditor of state** of a fee of twenty-five dollars (\$25.00), to do
 27 business in this state. ~~Provided, Such However,~~ **the** corporation or
 28 association shall first deposit with the auditor of state a certified copy
 29 of its charter or articles of incorporation, a copy of its statement of
 30 business for the preceding year, with the names and residence of its
 31 officers, sworn to by the president and secretary, or like officers,
 32 showing a detailed account of expenses and income, the amount of
 33 insurance in force, its assets and liabilities in detail, and setting forth
 34 that it has the ability to pay its policies or certificates to the full limit
 35 named therein; a certificate from the insurance commissioner or from
 36 a judge or clerk of a court of record of its home state, certifying that
 37 corporations or associations insuring life in the assessment plan, and
 38 paying policies in full, or providing accident indemnities, and chartered
 39 under the laws of this state are legally entitled to do business in its
 40 home state; a copy of its policy or certificate of membership,
 41 application and by-laws, which must show that death losses are, in the
 42 main, provided for by assessment upon the surviving members; and it



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1 shall legally designate a ~~person~~, **an individual resident of Indiana, a**
 2 **corporate resident of Indiana, or an authorized Indiana insurer as**
 3 **its** agent or attorney in fact, residing in this state, upon whom service
 4 of process for said company or association may be made, ~~and, in~~
 5 ~~default of such designation, service of process may be made upon the~~
 6 ~~auditor of state of this state, who shall be deemed its agent for that~~
 7 ~~purpose, and he~~ **the agent or attorney in fact** shall immediately notify
 8 any corporation or association thus served.

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

- 18 (1) a certified copy of its articles of incorporation or association;
- 19 (2) a certified copy of a vote or resolution of the board of directors
 20 of said company consenting that service of process in any suit
 21 against such company may be served upon ~~the commissioner an~~
 22 **individual resident of Indiana, a corporate resident of**
 23 **Indiana, or an authorized Indiana insurer, appointed by the**
 24 **company as the company's agent for service of process,** with
 25 like effect as if such company was chartered, organized, or
 26 incorporated in the state of Indiana, and agreeing that any process
 27 served upon such ~~commissioner agent~~ shall be of the same legal
 28 force and validity as if served upon said company, and agreeing
 29 that such service may be so made with such effect while any
 30 liability remains outstanding against such company in this state;
- 31 (3) a statement, under oath of its president and secretary, in the
 32 form by the commissioner required, of its business for the
 33 preceding year;
- 34 (4) a certificate, under oath of its president and secretary, that it
 35 is paying, and for the twelve (12) months then next preceding, has
 36 paid, the maximum amount named in its policies or certificates in
 37 full;
- 38 (5) a certificate from the proper authority in its home state that
 39 corporations, associations or societies of this state, engaged
 40 according to the provisions of this chapter in life or accident, or
 41 life and accident insurance, and for the payment of total and
 42 permanent disability claims to living members upon the



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1 assessment plan, are legally entitled to do business in such state;
 2 (6) a copy of its policy or certificate, application, and bylaws,
 3 which must show that the insured's liability to contribute to the
 4 payments of benefits is not limited to the payment of a fixed
 5 periodical sum; and
 6 (7) evidence satisfactory to the commissioner that the corporation,
 7 association, or society accumulates a fund equal in amount to that
 8 required of similar corporations, associations, or societies of this
 9 state and that such accumulation is permitted by the law of the
 10 corporation, association, or society and is for the benefit of policy
 11 or certificate-holders only, and is invested in securities authorized
 12 under the law of its incorporation or association.

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

42 SECTION 19. IC 27-8-3-20 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 20. All processes in any
 2 action or proceeding against any foreign corporation, association, or
 3 society doing business in this state under the provisions of this chapter
 4 may be served upon ~~the insurance commissioner;~~ **an individual**
 5 **resident of Indiana, a corporate resident of Indiana, or an**
 6 **authorized Indiana insurer, appointed by the corporation,**
 7 **association, or society as its agent for service of process,** and any
 8 lawful process against it which is served on the ~~commissioner~~ **agent**
 9 shall be of the same legal force and validity as if served on the
 10 corporation, association, or society, and this provision shall continue
 11 in force so long as any liability remains outstanding against the
 12 corporation, association, or society in this state, service upon such
 13 ~~commissioner~~ **agent** shall be deemed sufficient service upon the
 14 principal. When legal process against any such corporation,
 15 association, or society is served upon such ~~commissioner;~~ **agent,** ~~he~~ **the**
 16 **agent** shall immediately notify the corporation, association, or society
 17 of such service by registered letter, prepaid, directed to its secretary, or,
 18 in case of a corporation, association or society of a foreign country, to
 19 the resident manager, if any, in this country, and shall, within two (2)
 20 days after such service, forward in the same manner a copy of the
 21 process served on ~~him~~ **the agent** to such secretary or manager, or to
 22 any person previously designated by the corporation, association, or
 23 society, in writing. ~~The plaintiff in each process so served shall pay to~~
 24 ~~the commissioner at the time of service a fee as required under~~
 25 ~~IC 27-1-3-15, which shall be recovered by him as a part of the taxable~~
 26 ~~costs if he prevails in the suit.~~ The ~~commissioner~~ **agent** shall keep a
 27 record of all processes served upon ~~him;~~ **the agent** which record shall
 28 show the day and hour when such service was made.

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

- 37 (1) any lawful process against it that is served on the attorney
- 38 shall be of the same legal force and validity as if served upon the
- 39 society; and
- 40 (2) the authority shall continue in force so long as any liability
- 41 remains outstanding in this state.

42 Copies of the appointment, certified by the commissioner, shall be



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1 considered sufficient evidence thereof and shall be admitted in
 2 evidence with the same force and effect as the original might be
 3 admitted.

4 (b) Service shall only be made upon the ~~commissioner attorney~~ or,
 5 if absent, upon the person in charge of the ~~commissioner's attorney's~~
 6 office. It shall be made in duplicate and shall constitute sufficient
 7 service upon the society. When legal process against a society is served
 8 upon the ~~commissioner, attorney~~, the ~~commissioner attorney~~ shall
 9 immediately forward one (1) of the duplicate copies by registered mail,
 10 prepaid, directed to the secretary or corresponding officer. No service
 11 shall require a society to file its answer, pleading, or defense in less
 12 than thirty (30) days from the date of mailing the copy of the service to
 13 a society. Legal process shall not be served upon a society except in the
 14 manner provided in this section. ~~At the time of serving any process~~
 15 ~~upon the commissioner, the plaintiff or complainant in the action shall~~
 16 ~~pay to the commissioner a fee as required under IC 27-1-3-15.~~

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

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

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

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

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

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



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

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

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

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

(b) This SECTION expires June 30, 2004.

SECTION 23. An emergency is declared for this act.

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COMMITTEE REPORT

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

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

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

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

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

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

Per page for copying	As determined by the commissioner but not to exceed actual cost
For the certificate	\$10

~~(d)~~ (c) Each domestic and foreign insurer shall remit annually to the commissioner for deposit into the department of insurance fund established by IC 27-1-3-28 three hundred fifty dollars (\$350) as an internal audit fee. All assessment insurers, farm mutuals, fraternal benefit societies, and health maintenance organizations shall remit to the commissioner for deposit into the department of insurance fund one



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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completed by the licensee:

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

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

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

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

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

(1) a continuing education statement that:

- (A) is on a form provided by the commissioner;
- (B) is signed by the licensee under oath; and
- (C) lists the continuing education courses completed by the licensee to satisfy the continuing education requirements under this section; and

(2) any other information required by the commissioner.

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

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

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

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



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

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

- (1) is designed to prepare an individual to receive an initial license under this chapter;
- (2) deals only with office skills;
- (3) concerns sales promotion and sales techniques;
- (4) deals with motivation, psychology, or time management; or
- (5) may be completed by a licensee without any supervision by an instructor unless the course involves an examination process:
 - (A) completed and passed by the licensee as determined by the provider of the course; and
 - (B) approved by the commissioner.

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

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

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

- (1) Any materially untrue statement in the license application.
- (2) Any cause for which issuance of the license could have been refused had it then existed and been known to the commissioner at the time of issuance.
- (3) Violation of or noncompliance with any insurance laws, violation of any provision of IC 28 concerning the sale of a life insurance policy or an annuity contract, or violation of any lawful rule, regulation, or order of the commissioner or of a commissioner of another state.
- (4) Obtaining or attempting to obtain any such license through misrepresentation or fraud.
- (5) Improperly withholding, misappropriating, or converting to



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

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

(7) A:

(A) conviction of; *or*

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

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

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

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

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

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

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

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

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

(b) The commissioner shall refuse to:

(1) issue a license; or

(2) renew a license issued;

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

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



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

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

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

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

- (1) Permanently revoke (as defined in subsection (i)) a licensee's certificate.
- (2) Revoke a licensee's certificate with a stipulation that the licensee may not reapply for a certificate for a period fixed by the commissioner. The fixed period may not exceed ten (10) years.
- (3) Suspend a licensee's certificate.
- (4) Censure a licensee.
- (5) Issue a letter of reprimand.
- (6) Place a licensee on probation status and require the licensee to:
 - (A) report regularly to the commissioner upon the matters that are the basis of probation;
 - (B) limit practice to those areas prescribed by the commissioner; or
 - (C) continue or renew professional education under a licensee approved by the commissioner until a satisfactory degree of skill has been attained in those areas that are the basis of the probation.

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

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

- (1) *subsection (a)(5);*
- (2) *subsection (a)(8);*
- (3) *subsection (a)(9); or*



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(4) section 24 of this chapter.

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

- (i) twenty-five percent (25%) of the total tax paid during the preceding calendar year; or
- (ii) twenty per cent (20%) of the actual tax for the current calendar year;

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

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



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

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

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

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

- (1) insurance of the type described in IC 27-1-5-1, Class 2(h), to one (1) or more Indiana political subdivisions (as defined in IC 34-6-2-110);
- (2) insurance of the type described in IC 27-1-5-1, Class 2(h) type insurance covering liability risks related to the ownership or operation of establishments in Indiana at which alcoholic beverages are sold and consumed;



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

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

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

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

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

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

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

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

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

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



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amount paid for all those negotiated settlements.

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

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

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

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

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

that is authorized to transact business in Indiana.

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

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

- (1) must be:
 - (A) in the same format; and
 - (B) of the same scope;
 as is required by the commissioner under section 21 of this chapter;
- (2) to the extent required by the NAIC, must include the signed jurat page and the actuarial certification; and
- (3) must be filed ~~on diskette~~ **electronically** in accordance with NAIC ~~diskette~~ **electronic** filing specifications.

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



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

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

(e) A foreign company that:

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

shall be considered to be in compliance with this section.

(f) In the absence of actual malice:

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

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

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

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

- (1) makes written certification to the entity's insurer on a form prescribed by the department that the entity is an exempt commercial policyholder;**
- (2) procures insurance with the services of a risk manager;**
- (3) has purchased the policy of insurance through an insurance agent licensed under IC 27-1-15.5-3; and**
- (4) meets any two (2) of the following criteria:**
 - (A) Has a net worth of more than twenty-five million dollars (\$25,000,000) at the time the policy of insurance is**



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

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

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

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

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

- (1) education and experience; or
- (2) training and experience;

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

Page 1, line 2, delete ":".

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

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

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

Page 1, strike line 5.

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

Page 1, line 6, delete "and".

Page 1, delete lines 7 through 8.

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

Page 1, run in lines 3 through 9.

Page 1, between lines 11 and 12, begin a new paragraph and insert:
"(b) The following types of insurance are exempt from the requirements of subsections (a) and (j):

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



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

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

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

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

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

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

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

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

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

Page 3, strike line 20.

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

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

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

Page 3, between lines 34 and 35, begin a new paragraph and insert: "**(m) The department may adopt rules to:**

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

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

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

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

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

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

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



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

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

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

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

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

- (c) Service upon a nonresident may be made by
- (1) ~~serving the commissioner nonresident applicant's legal representative~~ **with an appropriate number of copies of the process. and**
 - (2) ~~payment to the commissioner of a fee as required under IC 27-1-3-15.~~

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



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

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

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

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

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

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

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

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



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

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

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



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

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

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

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

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



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

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

- (1) any lawful process against it that is served on the attorney shall be of the same legal force and validity as if served upon the society; and
- (2) the authority shall continue in force so long as any liability remains outstanding in this state.

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

(b) This SECTION expires June 30, 2004.

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

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 559 as introduced.)

PAUL, Chairperson

Committee Vote: Yeas 8, Nays 0.

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