



Reprinted  
March 5, 1999

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## SENATE BILL No. 559

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DIGEST OF SB 559 (Updated March 4, 1999 6:45 pm - DI 73)

**Citations Affected:** IC 27-1; IC 27-6; IC 27-7; IC 27-8; IC 27-11; 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 to the composition of the board of directors of the Indiana insurance guaranty association. Removes the requirement that information concerning premiums and losses, jury awards, court awards, and negotiated settlements be filed with the annual financial statement of insurers selling certain lines of insurance. Changes the requirements for annual information filing with the National Association of Insurance Commissioners (NAIC) from diskette to electronic filings. Provides for the treatment of nonconforming policies. Defines "exempt commercial policyholder" and "risk manager".  
(Continued next page)

**Effective:** Upon passage; July 1, 1999.

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**Clark**

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January 21, 1999, read first time and referred to Committee on Insurance and Financial Institutions.  
March 1, 1999, amended, reported favorably — Do Pass.  
March 4, 1999, read second time, amended, ordered engrossed.

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SB 559—LS 7844/DI 47+



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Digest Continued

Provides for the deregulation of exempt commercial policyholder insurance transactions. 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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Reprinted  
March 5, 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
7 Articles of incorporation . . . . .	\$ 350
8 Amendment of articles of	
9 incorporation . . . . .	\$ 10
10 Filing of annual statement	
11 and consolidated statement . . . . .	\$ 100
12 Annual renewal of company license	
13 fee . . . . .	\$ 50
14 Appointment of commissioner for	
15 service of process . . . . .	\$ <del>10</del>

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

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



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

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1 commissioner. The fixed period may not exceed ten (10) years.

2 (3) Suspend a licensee's certificate.

3 (4) Censure a licensee.

4 (5) Issue a letter of reprimand.

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

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

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

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

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

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

20 (1) subsection (a)(5);

21 (2) subsection (a)(8);

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

23 (4) section 24 of this chapter.

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

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

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

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



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

3 (1) the name of such company;

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

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

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

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

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

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

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

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

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

40 (d) A copy of the last report of examination certified to by the  
41 insurance commissioner or other proper supervisory official of the  
42 state in which such company is domiciled; provided, however,

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

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

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

26 SECTION 5. IC 27-1-18-2 IS AMENDED TO READ AS  
 27 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) Every insurance  
 28 company not organized under the laws of this state, and each domestic  
 29 company electing to be taxed under this section, and doing business  
 30 within this state shall, on or before March 1 of each year, report to the  
 31 department, under the oath of the president and secretary, the gross  
 32 amount of all premiums received by it on policies of insurance  
 33 covering risks within this state, or in the case of marine or  
 34 transportation risks, on policies made, written, or renewed within this  
 35 state during the twelve (12) month period ending on December 31 of  
 36 the preceding calendar year. From the amount of gross premiums  
 37 described in this subsection shall be deducted:

- 38 (1) considerations received for reinsurance of risks within this  
 39 state from companies authorized to transact an insurance business  
 40 in this state;  
 41 (2) the amount of dividends paid or credited to resident insureds,  
 42 or used to reduce current premiums of resident insureds;



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

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

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

21 (c)(1) For the privilege of doing business in this state, every  
 22 insurance company required to file the report provided in this section  
 23 shall pay into the treasury of this state an amount equal to two percent  
 24 (2%) of the excess, if any, of the gross premiums over the allowable  
 25 deductions.

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

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

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

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

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

42 (ii) twenty per cent (20%) of the actual tax for the current

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

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

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

39          SECTION 6. IC 27-1-20-21 IS AMENDED TO READ AS  
 40          FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. ~~(a)~~ Every  
 41          company doing business in this state shall file with the department on  
 42          or before March 1 in each year a financial statement for the year ending



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1 December 31 immediately preceding in a format in accordance with  
 2 IC 27-1-3-13. For good and sufficient cause shown, the commissioner  
 3 may grant to any individual company a reasonable extension of time  
 4 not to exceed ninety (90) days within which such statement may be  
 5 filed. Such statement shall be verified by the oaths of the president or  
 6 a vice president and the secretary or an assistant secretary of the  
 7 company. The statement of an alien company shall segregate and state  
 8 separately its condition and transaction in the United States and such  
 9 segregated and separated statement shall be verified by the oath of its  
 10 resident manager or principal representative in the United States. The  
 11 commissioner of insurance may, with the approval of the commission  
 12 on public records, authorize the destruction of such annual statements  
 13 which have been on file for two (2) years or more and microfilm copies  
 14 of which have been made and filed.

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

- 16 (1) insurance of the type described in IC 27-1-5-1, Class 2(h); to
- 17 one (1) or more Indiana political subdivisions (as defined in IC
- 18 34-6-2-110);
- 19 (2) insurance of the type described in IC 27-1-5-1, Class 2(h) type
- 20 insurance covering liability risks related to the ownership or
- 21 operation of establishments in Indiana at which alcoholic
- 22 beverages are sold and consumed;
- 23 (3) recreational facilities liability insurance;
- 24 (4) lawyers professional liability insurance;
- 25 (5) product liability insurance;
- 26 (6) uninsured and underinsured motorist insurance;
- 27 (7) owners, landlords, and tenants liability insurance; or
- 28 (8) day care centers liability insurance;

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

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

- 35 (1) direct premiums written;
- 36 (2) direct premiums earned;
- 37 (3) direct losses paid;
- 38 (4) direct losses incurred;
- 39 (5) direct losses unpaid;
- 40 (6) allocated loss adjustment expenses; and
- 41 (7) unallocated loss adjustment expenses;

42 for the year of the financial statement in connection with all insurance

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1 described in subsection (b):

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

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

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

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

- 15 (1) the number of jury awards paid under the provisions of the  
16 insurance during the calendar year, and the total amount paid for  
17 all jury awards;
- 18 (2) the number of court awards (other than jury awards) paid  
19 under the provisions of the insurance during the calendar year,  
20 and the total amount paid for all of those awards; and
- 21 (3) the number of negotiated settlements paid under the  
22 provisions of the insurance during the calendar year, and the total  
23 amount paid for all those negotiated settlements.

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

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

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

34 SECTION 7. IC 27-1-20-33 IS AMENDED TO READ AS  
35 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 33. (a) As used in  
36 this section, "insurer" refers to each:

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

40 that is authorized to transact business in Indiana.

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



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1 (c) On or before March 1 of each year, an insurer shall file with the  
 2 National Association of Insurance Commissioners and with the  
 3 department a copy of the insurer's annual statement convention blank  
 4 and additional filings prescribed by the commissioner for the preceding  
 5 year. An insurer shall also file quarterly statements with the NAIC and  
 6 with the department on or before May 15, August 15, and November  
 7 15 of each year in a form prescribed by the commissioner. The  
 8 information filed with the NAIC under this subsection:

9 (1) must be:

10 (A) in the same format; and

11 (B) of the same scope;

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

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

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

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

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

29 (e) A foreign company that:

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

32 (2) complies with that law;

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

34 (f) In the absence of actual malice:

35 (1) members of the NAIC;

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

38 (3) delegates of members of the NAIC;

39 (4) employees of the NAIC; and

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



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

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

10 SECTION 8. IC 27-1-22-2.5 IS ADDED TO THE INDIANA CODE  
11 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
12 1, 1999]: **Sec. 2.5. (a) As used in this chapter, "exempt commercial  
13 policyholder" means an entity that:**

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

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

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

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

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

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

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

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

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

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

40 **(1) education and experience; or**

41 **(2) training and experience;**

42 **to assess an exempt commercial policyholder's insurance needs and**

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1 **analyze and negotiate a policy of insurance on behalf of an exempt**  
 2 **commercial policyholder. A risk manager shall not receive**  
 3 **commission, fees, or other consideration from the insurer in**  
 4 **connection with the purchase of a commercial policy of insurance**  
 5 **by the exempt commercial policyholder.**

6 SECTION 9. IC 27-1-22-4 IS AMENDED TO READ AS  
 7 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) Every insurer  
 8 shall file with the commissioner, ~~except as to inland marine risks which~~  
 9 ~~by general custom of the business are not written according to manual~~  
 10 ~~rates or rating plans;~~ every manual of classifications, rules, and rates,  
 11 every rating schedule, every rating plan, and every modification of any  
 12 of the foregoing which it proposes to use.

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

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

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

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

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

25 (1) the experience and judgment of the insurer or rating  
 26 organization making the filing;

27 (2) its interpretation of any statistical data it relies upon;

28 (3) the experience of other insurers or rating organizations; or

29 (4) any other relevant factors.

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

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

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

41 ~~(f)~~ (g) Any insurer may satisfy its obligation to make any such  
 42 filings by becoming a member of, or a subscriber to, a licensed rating



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1 organization which makes such filings and by authorizing the  
 2 commissioner to accept such filings on its behalf, provided that nothing  
 3 contained in this chapter shall be construed as requiring any insurer to  
 4 become a member of or a subscriber to any rating organization or as  
 5 requiring any member or subscriber to authorize the commissioner to  
 6 accept such filings on its behalf.

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

12 (1) that any subscriber may withdraw or terminate such  
 13 authorization, either generally or for individual filings, by written  
 14 notice to the commissioner and to the rating organization and may  
 15 then make its own independent filings for any kinds of insurance,  
 16 or subdivisions, or classes of risks, or parts or combinations of  
 17 any of the foregoing, with respect to which it has withdrawn or  
 18 terminated such authorization, or may request the rating  
 19 organization, within its discretion, to make any such filing on an  
 20 agency basis solely on behalf of the requesting subscriber; and

21 (2) that any member may proceed in the same manner as a  
 22 subscriber unless the rating organization shall have adopted a  
 23 rule, with the approval of the commissioner:

24 (A) requiring a member, before making an independent filing,  
 25 first to request the rating organization to make such filing on  
 26 its behalf and requiring the rating organization, within thirty  
 27 (30) days after receipt of such request, either:

- 28 (i) to make such filing as a rating organization filing;  
 29 (ii) to make such filing on an agency basis solely on behalf  
 30 of the requesting member; or  
 31 (iii) to decline the request of such member; and

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

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



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1 inadequate, or unfairly discriminatory.

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

6 ~~(j)~~ Except as to contracts or policies for inland marine risks as to  
7 which filings are not required; ~~no~~ (k) An insurer shall not make or  
8 issue a policy or contract except in accordance with filings which are  
9 in effect for that insurer or in accordance with the provisions of this  
10 chapter. Subject to the provisions of section 6 of this chapter, any rates,  
11 rating plans, rules, classifications, or systems in effect on May 31,  
12 1967, shall be continued in effect until withdrawn by the insurer or  
13 rating organization which filed them.

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

21 (m) The department may adopt rules to:

- 22 (1) implement the exemption under IC 27-1-22-4(b);  
23 (2) impose disclosure requirements the commissioner  
24 determines are necessary to adequately protect exempt  
25 commercial policyholders; and  
26 (3) establish the form and content of the report required by  
27 subsection (o).

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

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

35 SECTION 10. IC 27-1-22-11 IS AMENDED TO READ AS  
36 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 11. (a) Any subscriber  
37 which has authorized a rating organization to making filings on its  
38 behalf and any member thereof which does not wish to act under  
39 sections ~~4(f)~~ 4(g) and ~~4(g)~~ 4(h) of this chapter may appeal to the  
40 commissioner from the action or decision of such rating organization  
41 in approving or rejecting any proposed change in or addition to the  
42 filings of such rating organization and the commissioner shall, after a



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1 hearing held upon not less than ten (10) days written notice to the  
 2 appellant and to such rating organization, issue an order approving the  
 3 action or decision of such rating organization or directing it to give  
 4 further consideration to such proposal, or, if such appeal is from the  
 5 action or decision of the rating organization in rejecting a proposed  
 6 addition to its filings, he may, in the event he finds that such action or  
 7 decision was unreasonable, issue an order directing the rating  
 8 organization to make an addition to its filings in a manner consistent  
 9 with his findings within a reasonable time after the issuance of such  
 10 order.

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

20 SECTION 11. IC 27-1-27-5 IS AMENDED TO READ AS  
 21 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. (a) The  
 22 commissioner may not issue a certificate of authority to a nonresident  
 23 applicant until that nonresident files with the commissioner, in a form  
 24 prescribed by the commissioner, a designation ~~that the commissioner~~  
 25 ~~(and his successors in office)~~ **is of an individual resident of Indiana,**  
 26 **a corporate resident of Indiana, or an authorized Indiana insurer**  
 27 **as** the nonresident applicant's legal representative upon whom may be  
 28 served all lawful process in any action, suit, or proceeding:

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

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

- 36 (c) Service upon a nonresident may be made by  
 37 ~~(1) serving the commissioner nonresident applicant's legal~~  
 38 **representative** with an appropriate number of copies of the  
 39 process. ~~and~~  
 40 ~~(2) payment to the commissioner of a fee as required under IC~~  
 41 ~~27-1-3-15.~~

42 (d) The ~~commissioner nonresident applicant's~~ **legal**



1 **representative** shall forward a copy of the process by registered mail  
2 to the nonresident at his last known address of record or principal place  
3 of business, keeping a record of such process and service.

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

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

13 SECTION 12. IC 27-6-6-4 IS AMENDED TO READ AS  
14 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) Concurrently  
15 with the filing of the declaration provided for by the terms of section  
16 3 of this chapter, the attorney (as defined in section 2 of this chapter)  
17 shall file with the department of insurance, state of Indiana, an  
18 instrument in writing, executed by him for said subscribers,  
19 conditioned that, upon the issuance of a certificate of authority  
20 provided for in section 9 of this chapter, service of process may be had  
21 upon the ~~commissioner of insurance~~ **individual resident of Indiana,**  
22 **corporate resident of Indiana, or authorized Indiana insurer,**  
23 **appointed by the subscribers as the subscribers' agent for service**  
24 **of process** in all suits in this state arising out of such policies,  
25 contracts, or agreements, which service shall be valid and binding upon  
26 all subscribers exchanging at any time reciprocal or interinsurance  
27 contracts through such attorney.

28 (b) Service of process under subsection (a) shall be made by  
29 delivering to the ~~commissioner of insurance~~ **subscribers' agent** two (2)  
30 copies of process with a complaint attached. ~~A fee as required under IC~~  
31 ~~27-1-3-15 shall be paid to the commissioner at the time of service. A~~  
32 ~~writ against the commissioner of insurance shall not be returnable until~~  
33 ~~thirty (30) days after service.~~

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

39 SECTION 13. IC 27-6-8-6 IS AMENDED TO READ AS  
40 FOLLOWS: Sec. 6. (a) The board of directors of the association shall  
41 consist of nine (9) member insurers one (1) of whom shall be selected  
42 by or from among each of the following groups representative of

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1 member insurers, such selection to be subject to the approval of the  
2 commissioner:

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

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

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

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

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

12 (vi) ~~One (1) person representing the domestic stock companies.~~

13 **Three (3) persons representing the domestic stock, domestic**  
14 **mutual, or domestic reciprocal insurers, with no more than**  
15 **two (2) persons representing each category.**

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

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

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

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

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

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

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

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

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

36 SECTION 14. IC 27-7-2-24 IS AMENDED TO READ AS  
37 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 24. Every person  
38 lawfully engaged wholly or in part in writing worker's compensation  
39 insurance in this state shall, upon July 1, 1935, by written notice to the  
40 insurance commissioner, appoint ~~the insurance commissioner an~~  
41 **individual resident of Indiana, a corporate resident of Indiana, or**  
42 **an authorized Indiana insurer as the person's resident agent in**



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1 Indiana upon whom service of process may be had for the enforcement  
2 of this chapter.

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

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

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

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

25 SECTION 17. IC 27-8-3-20 IS AMENDED TO READ AS  
 26 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 20. All processes in any  
 27 action or proceeding against any foreign corporation, association, or  
 28 society doing business in this state under the provisions of this chapter  
 29 may be served upon ~~the insurance commissioner,~~ **an individual**  
 30 **resident of Indiana, a corporate resident of Indiana, or an**  
 31 **authorized Indiana insurer, appointed by the corporation,**  
 32 **association, or society as its agent for service of process,** and any  
 33 lawful process against it which is served on the ~~commissioner agent~~  
 34 shall be of the same legal force and validity as if served on the  
 35 corporation, association, or society, and this provision shall continue  
 36 in force so long as any liability remains outstanding against the  
 37 corporation, association, or society in this state, service upon such  
 38 ~~commissioner agent~~ shall be deemed sufficient service upon the  
 39 principal. When legal process against any such corporation,  
 40 association, or society is served upon such ~~commissioner, agent,~~ **he the**  
 41 **agent** shall immediately notify the corporation, association, or society  
 42 of such service by registered letter, prepaid, directed to its secretary, or,



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

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

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

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

29 (b) Service shall only be made upon the ~~commissioner attorney~~ or,  
 30 if absent, upon the person in charge of the ~~commissioner's attorney's~~  
 31 office. It shall be made in duplicate and shall constitute sufficient  
 32 service upon the society. When legal process against a society is served  
 33 upon the ~~commissioner; attorney~~, the ~~commissioner attorney~~ shall  
 34 immediately forward one (1) of the duplicate copies by registered mail,  
 35 prepaid, directed to the secretary or corresponding officer. No service  
 36 shall require a society to file its answer, pleading, or defense in less  
 37 than thirty (30) days from the date of mailing the copy of the service to  
 38 a society. Legal process shall not be served upon a society except in the  
 39 manner provided in this section. ~~At the time of serving any process~~  
 40 ~~upon the commissioner, the plaintiff or complainant in the action shall~~  
 41 ~~pay to the commissioner a fee as required under IC 27-1-3-15.~~

42 SECTION 19. [EFFECTIVE JULY 1, 1999] (a) **IC 27-1-3-15,**

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1 IC 27-1-3-28, IC 27-1-15.5-4, IC 27-1-17-4, IC 27-1-20-21.3,  
2 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,  
3 IC 27-8-3-20, and IC 27-11-9-1, all as amended by this act, apply  
4 upon receipt by the commissioner of the department of insurance  
5 of the designation from the insurer of an agent for service of  
6 process.

7 (b) This SECTION expires June 30, 2004.  
8 SECTION 20. 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
<del>Appointment of commissioner for service of process . . . . .</del>	<del>\$ 10</del>
Withdrawal of certificate of authority . . . . .	\$ 25
Certified statement of condition . . . . .	\$ 5
Any other document required to be filed by this article . . . . .	\$ 25

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

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

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

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

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

~~(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



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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issued.

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

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

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

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

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

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

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

Page 1, line 2, delete ":".

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

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

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

Page 1, strike line 5.

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

Page 1, line 6, delete "and".

Page 1, delete lines 7 through 8.

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

Page 1, run in lines 3 through 9.

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

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



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

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

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

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

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

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

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

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

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

Page 3, strike line 20.

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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



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

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

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

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

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

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

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

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



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

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

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



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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 559 as introduced.)

PAUL, Chairperson

Committee Vote: Yeas 8, Nays 0.

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SENATE MOTION

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

Page 21, delete lines 10 through 42.

Delete page 22.

Page 23, delete lines 1 through 26.

Renumber all SECTIONS consecutively.

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

CLARK

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SENATE MOTION

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

Page 3, delete lines 3 through 42.

Page 4, delete lines 1 through 41.

Renumber all SECTIONS consecutively.

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

CLARK

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SENATE MOTION

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

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

Page 2, reset in roman line 7.

Page 28, delete lines 17 through 42.

Page 29, delete lines 1 through 30.

Renumber all SECTIONS consecutively.

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

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## SENATE MOTION

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

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

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

- (i) One (1) person representing the American Insurance Association.
- (ii) One (1) person representing the Alliance of American Insurers.
- (iii) One (1) person representing the National Association of Independent Insurers.
- (iv) One (1) person representing the National Association of Mutual Insurance Companies.
- (v) One (1) person representing the Insurance Institute of Indiana.
- (vi) ~~One (1) person representing the domestic stock companies.~~ **Three (3) persons representing the domestic stock, domestic mutual, or domestic reciprocal insurers, with no more than two (2) persons representing each category.**
- ~~(vii) One (1) person representing the domestic mutual companies.~~
- ~~(viii) One (1) person representing the domestic reciprocal insurers.~~
- ~~(ix)~~ **(vii)** One (1) person representing independent unaffiliated stock, fire, and casualty companies to be appointed by the commissioner.

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

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

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

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

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

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

Renumber all SECTIONS consecutively.

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

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