



February 22, 2000

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**ENGROSSED  
HOUSE BILL No. 1334**

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DIGEST OF HB 1334 (Updated February 17, 2000 5:38 PM - DI 100)

**Citations Affected:** IC 27-1; IC 27-7.

**Synopsis:** Interest on loans to insurance companies. Provides criteria that must be met by a formula that applies to the calculation of a variable interest rate on a loan for surplus funds to a mutual or stock insurance company. Requires a title insurance company that issues a title insurance policy to perform a title search in conjunction with the issuance of the policy.

**Effective:** Upon passage; July 1, 2000.

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**Bardon**

(SENATE SPONSORS — CLARK, LEWIS)

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January 11, 2000, read first time and referred to Committee on Insurance, Corporations and Small Business.

January 18, 2000, amended, reported — Do Pass.

January 24, 2000, read second time, ordered engrossed. Engrossed.

January 27, 2000, read third time, passed. Yeas 87, nays 2.

SENATE ACTION

February 1, 2000, read first time and referred to Committee on Insurance and Financial Institutions.

February 21, 2000, amended, reported favorably — Do Pass.

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EH 1334—LS 7311/DI 97+



February 22, 2000

Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

## ENGROSSED HOUSE BILL No. 1334

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 27-1-7-19 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) A mutual  
3 or stock company organized under this article may borrow or assume  
4 a liability for the repayment of a sum of money to provide itself with  
5 surplus funds with the prior approval of the department. The rate of  
6 interest on any loan or advance may not exceed the following:  
7 (1) The corporate base rate in effect on the first business day of  
8 the month in which the loan document is executed, as reported by  
9 the bank or branch with the greatest amount of assets in Indiana,  
10 plus three percent (3%) per annum.  
11 (2) A variable rate ~~equal to~~ **determined by a formula that:**  
12 (A) **is specified in the loan document;**  
13 (B) **is based on objective data or information that is**  
14 **reasonably related to commercial lending rates;**  
15 (C) **provides an initial rate that is not more than the**  
16 **corporate base rate in effect on the first business day of each**  
17 **the month during the term of in which the loan document is**

EH 1334—LS 7311/DI 97+



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1           **executed**, as reported by the bank or branch with the greatest  
 2           amount of assets in Indiana, plus ~~(B)~~ two percent (2%) per  
 3           annum; **and**

4           **(D) is approved by the department as reasonable and**  
 5           **appropriate in relation to the company's financial**  
 6           **condition.**

7           However, the variable rate may not increase by more than two percent  
 8           ~~(2%)~~ in any one ~~(1)~~ year and may not increase by more than five  
 9           percent ~~(5%)~~ over the life of the loan.

10          The company shall elect and state in the written agreement whether the  
 11          interest rate is to be fixed or floating for the term of the agreement. The  
 12          agreement shall be submitted to and approved by the department before  
 13          the agreement's execution.

14          (b) The loan or advance, with interest at a rate not exceeding the  
 15          maximum rate of interest as defined in subsection (a), shall be repaid  
 16          only out of the surplus of the company. Repayment of principal or  
 17          payment of interest may be made only when approved by the  
 18          department whenever in its judgment the financial condition of the  
 19          company shall warrant. However, the department may not withhold  
 20          approval if:

21               (1) the company has and submits to the department satisfactory  
 22               evidence that a surplus that is equal to or greater than the surplus  
 23               existing immediately after the issuance of the loan or advance will  
 24               exist after the repayment; and

25               (2) the surplus that will exist immediately after repayment of  
 26               principal or payment of interest is:

27                       (A) reasonable in relation to the company's outstanding  
 28                       liabilities; and

29                       (B) adequate to the company's financial needs;  
 30                       in light of the factors set forth in IC 27-1-23-4(f).

31          (c) A loan or advance made under this section, or interest accruing  
 32          on the loan or advance, may not form a part of the legal liabilities of the  
 33          company until authorized for payment by the department. However,  
 34          until a loan or an advance is repaid, all statements published by the  
 35          company or filed with the department must show the amount of the  
 36          loan or advance then remaining unpaid, including any accrued and  
 37          unpaid interest charges.

38          SECTION 2. IC 27-7-3-2 IS AMENDED TO READ AS FOLLOWS  
 39          [EFFECTIVE JULY 1, 2000]: Sec. 2. As used in this chapter and  
 40          unless a different meaning appears from the context:

41               (a) The term "title insurance" means a contract of insurance against  
 42               loss or damage on account of encumbrances upon or defects in the title

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1 to real estate.

2 (b) The term "company" shall mean and include any corporation,

3 domestic or foreign, to which this chapter is applicable.

4 (c) The term "department" shall mean the department of insurance

5 of the state of Indiana.

6 (d) The term "commissioner" shall mean the insurance

7 commissioner.

8 (e) **"Public record" means a record established under state law**

9 **to provide constructive notice of matters affecting real estate to a**

10 **bona fide purchaser or lender for value who does not have actual**

11 **knowledge of matters affecting the real estate.**

12 (f) **"Title search" means a search and examination of public**

13 **records in the county in which real estate is located to determine**

14 **ownership of the real estate and encumbrances upon or defects in**

15 **the title to the real estate.**

16 SECTION 3. IC 27-7-3-21 IS ADDED TO THE INDIANA CODE

17 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

18 1, 2000]: **Sec. 21. A company described in section 3 of this chapter**

19 **that issues a title insurance policy shall perform a title search for**

20 **the real estate in conjunction with the issuance of the policy.**

21 SECTION 4. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, Corporations and Small Business, to which was referred House Bill 1334, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Replace the effective date in SECTION 1 with "[EFFECTIVE UPON PASSAGE]".

Page 2, after line 37, begin a new paragraph and insert:

"SECTION 2. **An emergency is declared for this act.**".

and when so amended that said bill do pass.

(Reference is to HB 1334 as introduced.)

FRY, Chair

Committee Vote: yeas 9, nays 0.

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SENATE MOTION

Mr. President: I move that Senator Lewis be added as second sponsor of Engrossed House Bill 1334.

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Insurance and Financial Institutions, to which was referred House Bill No. 1334, 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 2, between lines 37 and 38, begin a new paragraph and insert:

"SECTION 2. IC 27-7-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. As used in this chapter and unless a different meaning appears from the context:

(a) The term "title insurance" means a contract of insurance against loss or damage on account of encumbrances upon or defects in the title to real estate.

(b) The term "company" shall mean and include any corporation, domestic or foreign, to which this chapter is applicable.

(c) The term "department" shall mean the department of insurance of the state of Indiana.

(d) The term "commissioner" shall mean the insurance commissioner.

(e) **"Public record" means a record established under state law to provide constructive notice of matters affecting real estate to a bona fide purchaser or lender for value who does not have actual knowledge of matters affecting the real estate.**

(f) **"Title search" means a search and examination of public records in the county in which real estate is located to determine ownership of the real estate and encumbrances upon or defects in the title to the real estate.**

SECTION 3. IC 27-7-3-21 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: **Sec. 21. A company described in section 3 of this chapter that issues a title insurance policy shall perform a title search for the real estate in conjunction with the issuance of the policy."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1334 as printed January 19, 2000.)

PAUL, Chairperson

Committee Vote: Yeas 9, Nays 0.

EH 1334—LS 7311/DI 97+



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