

# COMMITTEE REPORT

## MR. PRESIDENT:

**The Senate Committee on Insurance and Financial Institutions, to which was referred House Bill No. 1222, 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:**

- 1           Page 1, between the enacting clause and line 1, begin a new  
2 paragraph and insert:  
3           "SECTION 1. IC 27-1-2-3 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. As used in this  
5 article, and unless a different meaning appears from the context: (a)  
6 "Insurance" means a contract of insurance or an agreement by which  
7 one (1) party, for a consideration, promises to pay money or its  
8 equivalent or to do an act valuable to the insured upon the destruction,  
9 loss or injury of something in which the other party has a pecuniary  
10 interest, or in consideration of a price paid, adequate to the risk,  
11 becomes security to the other against loss by certain specified risks; to  
12 grant indemnity or security against loss for a consideration.  
13           (b) "Commissioner" means the "insurance commissioner" of this  
14 state.  
15           (c) "Department" means "the department of insurance" of this state.  
16           (d) The term "company" or "corporation" means an insurance  
17 company and includes all persons, partnerships, corporations,  
18 associations, orders or societies engaged in or proposing to engage in  
19 making any kind of insurance authorized by the laws of this state.  
20           (e) The term "domestic company" or "domestic corporation" means

1 an insurance company organized under the insurance laws of this state.

2 (f) The term "foreign company" or "foreign corporation" means an  
3 insurance company organized under the laws of any state of the United  
4 States other than this state or under the laws of any territory or insular  
5 possession of the United States or the District of Columbia.

6 (g) The term "alien company" or "alien corporation" means an  
7 insurance company organized under the laws of any country other than  
8 the United States or territory or insular possession thereof or of the  
9 District of Columbia.

10 (h) The term "person" includes individuals, corporations,  
11 associations, and partnerships; personal pronoun includes all genders;  
12 the singular includes the plural and the plural includes the singular.

13 (k) The term "insurance solicitor" means any natural person  
14 employed to aid an insurance agent in any manner in soliciting,  
15 negotiating or effecting contracts of insurance or indemnity other than  
16 life.

17 (l) The term "principal office" means that office maintained by the  
18 corporation in this state, the address of which is required by the  
19 provisions of this article to be kept on file in the office of the  
20 department.

21 (m) The term "articles of incorporation" includes both the original  
22 articles of incorporation and any and all amendments thereto, except  
23 where the original articles of incorporation only are expressly referred  
24 to, and includes articles of merger, consolidation and reinsurance, and  
25 in case of corporations, heretofore organized, articles of reorganization  
26 filed in the office of the secretary of state, and all amendments thereto.

27 (n) The term "shareholder" means one who is a holder of record of  
28 shares of stock in a corporation, unless the context otherwise requires.

29 (o) The term "policyholder" means one who is a holder of a contract  
30 of insurance in an insurance company.

31 (p) The term "member" means one who holds a contract of  
32 insurance or is insured in an insurance company other than a stock  
33 corporation.

34 (q) The term "capital stock" means the aggregate amount of the par  
35 value of all shares of capital stock.

36 (r) The term "capital" means the aggregate amount paid in on the  
37 shares of capital stock of a corporation issued and outstanding.

38 (s) The term "life insurance company" means any company making

1 one or more of the kinds of insurance set out and defined in class 1(a)  
2 of IC 27-1-5-1.

3 (t) The term "casualty insurance company" means any company  
4 making the kind or kinds of insurance set out and defined in class 2 of  
5 IC 27-1-5-1.

6 (u) The term "fire and marine insurance company" means any  
7 company making the kind or kinds of insurance set out and defined in  
8 class 3 of IC 27-1-5-1.

9 (v) The term "certificate of authority" means an instrument in  
10 writing issued by the department to an insurer, which sets out the  
11 authority of such insurer to engage in the business of insurance or  
12 activities connected therewith.

13 (w) The term "premium" means money or any other thing of value  
14 paid or given in consideration to an insurer, agent, or solicitor on  
15 account of or in connection with a contract of insurance and shall  
16 include as a part but not in limitation of the above, policy fees,  
17 admission fees, membership fees and regular or special assessments  
18 and payments made on account of annuities.

19 (x) The term "insurer" means a company, firm, partnership,  
20 association, order, society or system making any kind or kinds of  
21 insurance and shall include associations operating as Lloyds, reciprocal  
22 or inter-insurers, or individual underwriters.

23 (y) The terms "assessment plan" and "assessment insurance" mean  
24 the mode or plan and the business of a corporation, association or  
25 society organized and limited to the making of insurance on the lives  
26 of persons and against disability from disease, bodily injury or death by  
27 accident, and which provides for the payment of policy claims,  
28 accumulation of reserve or emergency funds, and the expenses of the  
29 management and prosecution of its business by payments to be made  
30 either at stated periods named in the contract or upon assessments, and  
31 wherein the insured's liability to contribute is not limited to a fixed  
32 sum.

33 (z) **"Agency billed" refers to a system in which an insured pays**  
34 **a premium directly to an insurance agency."**

35 Page 5, between lines 6 and 7, begin a new paragraph and insert:

36 "SECTION 3. IC 27-1-15.5-7 IS AMENDED TO READ AS  
37 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 7. Consultants. (a) No  
38 individual or corporation shall engage in the business of an insurance

1 consultant until a license therefor has been issued to ~~him or it~~ **the**  
 2 **individual or corporation** by the commissioner. However, no  
 3 consultant license is required for the following:

4 (1) Attorneys licensed to practice law in Indiana acting in their  
 5 professional capacity.

6 (2) A duly licensed insurance agent, or surplus lines insurance  
 7 agent.

8 (3) A trust officer of a bank acting in the normal course of his  
 9 employment.

10 (4) An actuary or a certified public accountant who provides  
 11 information, recommendations, advice, or services in his  
 12 professional capacity.

13 (b) An application for a license to act as an insurance consultant  
 14 shall be made to the commissioner on forms prescribed by the  
 15 commissioner. An applicant may limit the scope of his consulting  
 16 services by so stating on his application. Areas of allowable consulting  
 17 services shall be:

18 (1) Class I, consulting regarding the kinds of insurance specified  
 19 in IC 27-1-5-1 as Class I; and

20 (2) Class II and Class III, consulting regarding the kinds of  
 21 insurance specified in IC 27-1-5-1 as Class II and Class III.

22 Within a reasonable time after receipt of a properly completed  
 23 application form, the commissioner shall hold a written examination  
 24 for the applicant limited to the type of consulting services designated  
 25 by the applicant, and may conduct investigations and propound  
 26 interrogatories concerning the applicant's qualifications, residence,  
 27 business affiliations and any other matter which he deems necessary or  
 28 advisable to determine compliance with this chapter or for the  
 29 protection of the public.

30 (c) Consultants shall provide their services as outlined in a written  
 31 agreement. ~~the form of which shall be approved by the commissioner.~~  
 32 The agreement shall be signed by and a copy provided to the person  
 33 receiving services before any services are performed. The agreement  
 34 must outline the nature of the work to be performed by the consultant,  
 35 the method of compensation of the consultant and shall be retained by  
 36 the consultant for not less than two (2) years after completion of the  
 37 services. A copy of the agreement shall be available to the  
 38 commissioner. In the absence of an agreement on the consultant's fee,

1 the consultant shall not be entitled to recover a fee in any action at law  
 2 or in equity. **For purposes of this subsection, "consultant's fee" does**  
 3 **not include a late fee charged under section 25(e) of this chapter or**  
 4 **fees otherwise allowed by law.**

5 (d) No individual or corporation may concurrently hold a  
 6 consultant's license and an insurance agent's, surplus lines insurance  
 7 agent's, or limited insurance representative's license at any time.

8 (e) No licensed consultant may employ, be employed by, or be in  
 9 partnership with, nor receive any remuneration whatsoever, from any  
 10 licensed insurance agent, surplus lines insurance agent, or limited  
 11 insurance representative, or insurer, except that a consultant may be  
 12 compensated by an insurer for providing consulting services to the  
 13 insurer.

14 (f) Such license shall be valid for not longer than twenty-four (24)  
 15 months and may be renewed and extended in the same manner as an  
 16 insurance agent's license. The commissioner shall designate on the  
 17 license those consulting services which the licensee is entitled to  
 18 perform.

19 (g) All requirements and standards relating to the denial, revocation  
 20 or suspension of an insurance agent's license, including penalties, shall  
 21 apply to the denial, revocation and suspension of an insurance  
 22 consultant's license as nearly as practicable.

23 (h) A consultant is obligated under his license to serve with  
 24 objectivity and complete loyalty solely the insurance interests of his  
 25 client and to render his client such information, counsel, and service as  
 26 within the knowledge, understanding, and opinion, in good faith of the  
 27 licensee, best serves the client's insurance needs and interests.

28 **(i) Except as provided in subsection (j), the form of a written**  
 29 **agreement under subsection (c) must be filed with the**  
 30 **commissioner not less than thirty (30) days before the form is used.**  
 31 **If the commissioner does not approve the form within thirty (30)**  
 32 **days after filing, the form is considered approved. At any time**  
 33 **after notice and for cause shown, the commissioner may withdraw**  
 34 **approval of a form effective thirty (30) days after the commissioner**  
 35 **issues notice that the approval is withdrawn.**

36 (j) Subsection (i) does not apply to the form of a written  
 37 agreement under subsection (c) that is executed by an insurance  
 38 agent and an exempt commercial policyholder (as defined in

1 **IC 27-1-22-2.5).**"

2 Page 5, line 15, strike "or".

3 Page 5, line 18, delete "." and insert "; or

4 **(3) a limited insurance representative who only negotiates or**  
 5 **solicits credit life insurance or credit disability insurance."**

6 Page 6, between lines 35 and 36, begin a new paragraph and insert:

7 "SECTION 6. IC 27-1-15.5-25 IS ADDED TO THE INDIANA  
 8 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 9 [EFFECTIVE JULY 1, 2000]: **Sec. 25. (a) This section applies to**  
 10 **commercial property and casualty insurance coverage described**  
 11 **in Class 2 and Class 3 of IC 27-1-5-1.**

12 **(b) A licensed insurance agent may charge a commercial**  
 13 **insured a reasonable fee to reimburse the insurance agent for**  
 14 **expenses incurred by the insurance agent at the specific request of**  
 15 **the commercial insured, subject to the following requirements:**

16 **(1) Before incurring any expense described in this subsection,**  
 17 **the insurance agent shall provide written notice to the**  
 18 **commercial insured stating that a fee will be charged and**  
 19 **setting forth the:**

20 **(A) amount of the fee; or**

21 **(B) basis for calculating the fee.**

22 **(2) The amount of a fee and the basis for calculating a fee may**  
 23 **not vary among commercial insureds.**

24 **(3) Any fee that is charged must be identified separately from**  
 25 **premium and itemized in any bill provided to the commercial**  
 26 **insured.**

27 **(c) A licensed insurance agent may charge a commercial insured**  
 28 **a reasonable fee for services that are provided at the request of the**  
 29 **commercial insured in connection with a policy for coverage**  
 30 **described in subsection (a) and for which the insurance agent does**  
 31 **not receive a commission or other compensation, subject to the**  
 32 **following requirements:**

33 **(1) Before providing services, the insurance agent shall**  
 34 **provide to the commercial insured a written description of the**  
 35 **services to be provided and the fee for the services.**

36 **(2) Any fee that is charged must be identified separately from**  
 37 **premium and itemized in any bill provided to the commercial**  
 38 **insured.**

1           (d) A licensed insurance agent who acts as a consultant and  
2 provides services described in this section shall comply with the  
3 requirements of this section and section 3.1 of this chapter.

4           (e) A licensed insurance agent may charge a late fee for agency  
5 billed accounts or policies that are more than thirty (30) days  
6 delinquent. A late fee may not exceed one and three quarters  
7 percent (1.75%) per month of the amount due on the due date.".

8           Renumber all SECTIONS consecutively.

(Reference is to HB 1222 as reprinted January 28, 2000.)

**and when so amended that said bill do pass.**

Committee Vote: Yeas 9, Nays 0.

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**Paul**

**Chairperson**