February 22, 2002

ENGROSSED
HOUSE BILL No. 1191

DIGEST OF HB 1191 (Updated February 21, 2002 11:36 AM - DI 104)

Citations Affected: IC 27-1; IC 27-4; IC 28-1; IC 28-5; IC 28-6.1; IC 28-7; IC 28-14.

Synopsis: Insurance activities of depository institutions. Imposes certain requirements on depository institutions that sell, solicit, advertise, or offer insurance. Makes a violation of the requirements an unfair and deceptive act and practice in the business of insurance.

Effective: July 1, 2002.

Denbo, Pelath, Yount

(SENATE SPONSORS — NUGENT, MRVAN)

January 10, 2002, read first time and referred to Committee on Financial Institutions.
January 28, 2002, amended, reported — Do Pass.
January 31, 2002, read second time, ordered engrossed. Engrossed.
February 5, 2002, read third time, passed. Yeas 95, nays 1.

SENATE ACTION

February 11, 2002, read first time and referred to Committee on Insurance and Financial Institutions.
February 21, 2002, reported favorably — Do Pass.

C o p y

February 22, 2002

Second Regular Session 112th General Assembly (2002)

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 2001 General Assembly.

C o p y

ENGROSSED
HOUSE BILL No. 1191

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

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

SECTION 1. IC 27-1-38 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

Chapter 38. Regulation of Depository Institutions

Sec. 1. As used in this chapter, "affiliate" means a company that controls, is controlled by, or is under common control with another company.

Sec. 2. As used in this section, "customer" means an individual who purchases, applies to purchase, or is solicited to purchase insurance primarily for personal, family, or household purposes.

Sec. 3. As used in this chapter, "depository institution" means a depository financial institution (as defined in IC 28-9-2-6).

Sec. 4. As used in this section, "insurance producer" has the meaning set forth in IC 27-1-15.6-2.

Sec. 5. As used in this chapter, "person that sells, solicits, advertises, or offers insurance on behalf of a depository institution" means a person to which one (1) of the following

applies:

(1) The person represents to a customer that the sale, solicitation, advertisement, or offer of insurance is by or on behalf of the depository institution.

(2) The depository institution:

(A) refers a customer to the person; and

(B) has a contractual arrangement with the person to receive commissions or fees on sales of insurance that result from referrals to the person.

(3) Documents that provide evidence of the sale, solicitation, advertisement, or offer of insurance identify or refer to the depository institution.

Sec. 6. This chapter does not apply to credit insurance.

Sec. 7. A depository institution or an affiliate of a depository institution may not do the following:

(1) As a condition precedent to a loan of money, an extension of credit, or the renewal of a loan of money or an extension of credit, require a customer to:

(A) purchase; or

(B) renew;

insurance through a particular insurer, insurance producer, broker, or group of insurers or insurance producers.

(2) When insurance is required in connection with a loan of money or an extension of credit, reject an insurance policy solely because the insurance policy was issued by an insurer that is not associated with the depository institution or an affiliate of the depository institution.

(3) As a condition precedent to an extension of credit or an offer of a product or service that is equivalent to an extension of credit, require a customer to obtain insurance from a particular depository institution, affiliate of a depository institution, insurance producer, or insurer. This subdivision does not prohibit a depository institution or an affiliate of a depository institution from informing a customer or prospective customer that:

(A) insurance is required for a loan of money or an extension of credit;

(B) approval for a loan of money or an extension of credit is contingent upon the purchase of insurance; or

(C) insurance is available through the depository institution or affiliate.

(4) Unreasonably reject an insurance policy that is furnished

C o p y

by a customer for the protection of property that secures a loan of money or an extension of credit to the customer. For purposes of this subdivision, a rejection is not unreasonable if the rejection is based on uniformly applied reasonable standards that:

(A) relate to the extent of insurance required;

(B) relate to the financial soundness and services of the insurer issuing the insurance policy;

(C) do not discriminate against a particular kind of insurer; and

(D) do not require rejection of an insurance policy because the insurance policy provides coverage in addition to the coverage required for the loan of money or extension of credit.

(5) Require a person to pay a separate charge:

(A) in connection with the issuance of insurance that is required as surety for a loan of money for real estate; or

(B) to substitute insurance issued by one (1) insurer for an insurance policy issued by another insurer.

For purposes of this subdivision, a separate charge does not include interest charged on loans of money or advancements for premiums under the terms of a loan agreement or credit agreement. This subdivision does not apply to charges that apply when the insurance producer that provides the insurance is the depository institution or the affiliate of a depository institution.

(6) Require of an:

(A) insurance producer; or

(B) insurer;

a procedure or condition that is not customarily required of an insurance producer or insurer that is connected with the depository institution or the affiliate of a depository institution.

(7) Use advertising or insurance promotional material that would cause a reasonable person to incorrectly believe that the federal or state government:

(A) is responsible for the insurance sales activity; or

(B) guarantees the credit;

of the depository institution or the affiliate of a depository institution.

(8) Use advertising or insurance promotional material that would cause a reasonable person to incorrectly believe that

C o p y

the federal or state government:

(A) guarantees a return on an insurance product sold by; or

(B) is a source of payment on an insurance obligation of;

the depository institution or the affiliate of a depository institution.

(9) Act as an insurance producer, unless the depository institution or the affiliate of a depository institution is licensed under IC 27-1-15.6.

(10) Solicit or sell insurance, other than credit insurance or flood insurance, unless the solicitation or sale is completed through documents separate from a loan of money or an extension of credit.

(11) Include the expense of an insurance premium, other than a credit insurance premium or a flood insurance premium, in a primary loan of money or extension of credit without the express written consent of the customer.

(12) Solicit or sell insurance, unless the area in which insurance sales activities of the depository institution or affiliate occur is, to the extent practicable, physically separate from the area where retail deposits are routinely accepted by the depository institution or affiliate.

(13) Solicit or sell insurance, unless the depository institution or the affiliate of a depository institution maintains separate books and records that relate to insurance transactions, including files related to consumer complaints.

Sec. 8. (a) A depository institution or the affiliate of a depository institution that:

(1) lends money or extends credit; and

(2) solicits insurance primarily for personal, family, or household purposes;

shall disclose in writing to a customer that the insurance related to the loan or credit extension may be purchased from an insurer or insurance producer chosen by the customer, subject only to the ability of the depository institution or affiliate to reasonably reject an insurer or insurance producer as described in section 7(4) of this chapter.

(b) A disclosure under subsection (a) must inform the customer that the customer's choice of insurer or insurance producer does not affect:

(1) the decision of the depository institution or the affiliate of a depository institution regarding the loan or credit

C o p y

extension; or

(2) the terms of the loan or credit extension;

except that the depository institution or the affiliate of a depository institution may impose reasonable requirements concerning the creditworthiness of the insurer and the scope of insurance coverage chosen, as described in section 7(4) of this chapter.

Sec. 9. (a) This section applies as follows:

(1) To an affiliate of a depository institution only to the extent that the affiliate sells, solicits, advertises, or offers insurance at the office of a depository institution or on behalf of a depository institution.

(2) To the:

(A) sale of;

(B) solicitation for; or

(C) application for;

insurance by an individual primarily for personal, family, or household purposes and only to the extent that a disclosure is accurate.

(b) A depository institution or an affiliate of a depository institution that solicits, sells, advertises, or offers insurance, and a person that sells, solicits, advertises, or offers insurance on behalf of a depository institution, shall disclose to a customer, in writing where practicable, in a clear and conspicuous manner, and before a sale of insurance, that the insurance:

(1) is not a deposit;

(2) is not insured by the Federal Deposit Insurance Corporation or another federal government agency;

(3) is not guaranteed by the depository institution, the affiliate of a depository institution, or the person that sells, solicits, advertises, or offers insurance on behalf of a depository institution; and

(4) involves investment risk including possible loss of value, if appropriate.

Sec. 10. (a) A depository institution that solicits, sells, advertises, or offers insurance, a depository institution's affiliate that solicits, sells, advertises, or offers insurance, or a person that sells, solicits, advertises, or offers insurance on behalf of a depository institution shall obtain from a customer to whom a disclosure is made under section 9 of this chapter a written acknowledgment of receipt of the disclosure:

(1) when the customer receives the disclosure; or

(2) at the time of the initial purchase of the insurance.

C o p y

(b) If a solicitation for insurance is conducted by telephone, the depository institution, the affiliate of a depository institution, or the person that sells, solicits, advertises, or offers insurance on behalf of a depository institution shall:

(1) obtain an oral acknowledgment of receipt of the disclosure;

(2) maintain documentation to show that the acknowledgment was given by the customer; and

(3) make reasonable efforts to obtain a written acknowledgment from the customer.

Sec. 11. If:

(1) a customer consents to receive the disclosure required under section 8 of this chapter electronically; and

(2) the disclosure is provided to the customer in a format that the customer may retain or obtain at a later time;

the depository institution, the affiliate of a depository institution, or the person that sells, solicits, advertises, or offers insurance on behalf of a depository institution may provide the disclosure electronically and may obtain from the customer acknowledgment of receipt of the disclosure electronically.

Sec. 12. (a) The commissioner may examine and investigate the insurance activities of a person that the commissioner believes to be in violation of this chapter. A person examined or investigated under this section shall, upon reasonable notice from the department, make the insurance related books and records of the person available to the department.

(b) In the case of an examination or investigation of a depository institution under subsection (a), the commissioner shall, before performing the examination or investigation:

(1) notify the federal or state banking agency that regulates the depository institution that the commissioner intends to examine or investigate the depository institution; and

(2) advise the federal or state banking agency of the depository institution's suspected violation of this section.

Sec. 13. This chapter does not prevent a depository institution or an affiliate of a depository institution that lends money or extends credit from placing insurance on real or personal property if a customer fails to provide insurance that is required under terms of a loan agreement or credit agreement.

Sec. 14. A person that violates this chapter commits an unfair and deceptive act or practice in the business of insurance under IC 27-4-1-4.

C o p y

SECTION 2. IC 27-4-1-4, AS AMENDED BY P.L.132-2001, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. The following are hereby defined as unfair methods of competition and unfair and deceptive acts and practices in the business of insurance:

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

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

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

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

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

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

(2) Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to any person in the conduct of his insurance business, which is untrue, deceptive, or misleading.

(3) Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance.

(4) Entering into any agreement to commit, or individually or by a concerted action committing any act of boycott, coercion, or

C o p y

intimidation resulting or tending to result in unreasonable restraint of, or a monopoly in, the business of insurance.

(5) Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive. Making any false entry in any book, report, or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to which such insurer is required by law to report, or which has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report, or statement of such insurer.

(6) Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

(7) Making or permitting any of the following:

(A) Unfair discrimination between individuals of the same class and equal expectation of life in the rates or assessments charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract; however, in determining the class, consideration may be given to the nature of the risk, plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

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

C o p y

other relevant factor.

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

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

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

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

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

(8) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract or policy of insurance of any kind or kinds whatsoever, including but not in limitation, life annuities, or agreement as to such contract or policy other than as plainly expressed in such contract or policy issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends, savings, or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract or policy; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, limited liability company, or partnership, or any dividends, savings, or profits accrued thereon, or anything of value whatsoever not

C o p y

specified in the contract. Nothing in this subdivision and subdivision (7) shall be construed as including within the definition of discrimination or rebates any of the following practices:

(A) Paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, so long as any such bonuses or abatement of premiums are fair and equitable to policyholders and for the best interests of the company and its policyholders.

(B) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense.

(C) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first year or of any subsequent year of insurance thereunder, which may be made retroactive only for such policy year.

(D) Paying by an insurer or agent thereof duly licensed as such under the laws of this state of money, commission, or brokerage, or giving or allowing by an insurer or such licensed agent thereof anything of value, for or on account of the solicitation or negotiation of policies or other contracts of any kind or kinds, to a broker, agent, or solicitor duly licensed under the laws of this state, but such broker, agent, or solicitor receiving such consideration shall not pay, give, or allow credit for such consideration as received in whole or in part, directly or indirectly, to the insured by way of rebate.

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

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

(11) Monopolizing or attempting to monopolize or combining or

C o p y

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

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

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

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

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

(C) Title insurance.

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

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

(F) Insurance that is provided to the purchaser or holder of an

C o p y

air transportation ticket and that:

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

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

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

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

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

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

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

(17) Between policy renewal dates, unilaterally canceling an individual's coverage under an individual or group health insurance policy solely because of the individual's medical or physical condition.

(18) Using a policy form or rider that would permit a cancellation of coverage as described in subdivision (17).

(19) Violating IC 27-1-22-25 or IC 27-1-22-26 concerning motor vehicle insurance rates.

(20) Violating IC 27-8-21-2 concerning advertisements referring to interest rate guarantees.

(21) Violating IC 27-8-24.3 concerning insurance and health plan coverage for victims of abuse.

(22) Violating IC 27-8-26 concerning genetic screening or testing.

(23) Violating IC 27-1-15.6-3(b) concerning licensure of

C o p y

insurance producers.

(24) Violating IC 27-1-38 concerning depository institutions.

SECTION 3. IC 28-1-11-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2.5. (a) A bank or trust company may act as an agent for the sale of any life insurance policy or annuity contract issued by a life insurance company (as defined in IC 27-1-2-3) authorized to do business in Indiana under IC 27-1.

(b) A bank or trust company that acts as an agent for the sale of a life insurance policy or an annuity contract:

(1) is subject to all requirements of IC 27; and

(2) must comply with the disclosure requirements under ~~IC 28-1-11-2.6.~~ **IC 27-1-38.**

(c) A bank or trust company may not condition:

(1) an extension of credit;

(2) a lease or sale of real or personal property;

(3) the performance of services; or

(4) the amount charged for:

(A) extending credit;

(B) leasing or selling real or personal property; or

(C) performing services;

upon a person's purchase of a life insurance policy or an annuity contract from the bank or trust company or an affiliate (as defined in IC 28-2-13-3) of the bank or trust company.

(d) This section does not prohibit a bank or trust company from requiring that a person, as a condition to a transaction, obtain a life insurance policy from an insurance company acceptable to the bank or trust company.

SECTION 4. IC 28-5-1-6.5, AS AMENDED BY P.L.132-2001, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6.5. (a) Notwithstanding any other provision of this title, an industrial loan and investment company may act as an agent for the sale of any annuity contract issued by a life insurance company (as defined in IC 27-1-2-3) authorized to do business in Indiana under IC 27-1.

(b) An industrial loan and investment company that acts as an agent for the sale of an annuity contract:

(1) is subject to all requirements of IC 27 relating to the sale and solicitation of insurance, including licensing as an agent under IC 27-1-15.6; and

(2) must comply with the disclosure requirements under ~~IC 28-1-11-2.6.~~ **IC 27-1-38.**

(c) This section does not give power to, or otherwise affect the

C o p y

power of, an industrial loan and investment company to act as an agent for the sale of life insurance other than an annuity contract.

SECTION 5. IC 28-6.1-6-14, AS AMENDED BY P.L.134-2001, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 14. (a) A savings bank may solicit and write insurance as an agent or a broker for any insurance company authorized to do business in the state or states where the agent or broker operates.

(b) A savings bank or its affiliate (as defined in IC 28-6.2-1-4) may act as an agent for the sale of any life insurance policy or annuity contract issued by a life insurance company (as defined in IC 27-1-2-3) authorized to do business in the state or states where the agent operates.

(c) A savings bank or its affiliate that acts as an agent for the sale of a life insurance policy or an annuity contract under subsection (b):

(1) is subject to all requirements of IC 27 with respect to the agent's activity in Indiana; and

(2) must comply with the disclosure requirements under ~~IC 28-1-11-2.6.~~ **IC 27-1-38.**

(d) A savings bank or its affiliate may not condition:

~~(A)~~ **(1)** an extension of credit;

~~(B)~~ **(2)** a lease or sale of real or personal property;

~~(C)~~ **(3)** the performance of a service; or

~~(D)~~ **(4)** the amount charged for:

~~(i)~~ **(A)** extending credit;

~~(ii)~~ **(B)** leasing or selling real or personal property; or

~~(iii)~~ **(C)** performing services;

upon a person's purchase of a life insurance policy or an annuity contract from the savings bank or its affiliate.

(e) This section does not prohibit a savings bank or its affiliate from requiring that a person, as a condition to a transaction, obtain a life insurance policy from an insurance company acceptable to the savings bank or its affiliate.

SECTION 6. IC 28-7-1-9.1, AS AMENDED BY P.L.134-2001, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 9.1. (a) A credit union or a related credit union service organization (as defined in section 0.5(7) of this chapter) that acts as an agent for the sale of a life insurance policy or an annuity contract issued by a life insurance company (as defined in IC 27-1-2-3):

(1) is subject to the requirements of IC 27; and

(2) must comply with the disclosure requirements of ~~IC 28-1-11-2.6.~~ **IC 27-1-38.**

(b) A credit union or credit union service organization may not

C o p y

condition:

(1) an extension of credit;

(2) a lease or sale of real or personal property;

(3) the performance of a service; or

(4) the amount charged for:

(A) extending credit;

(B) leasing or selling real or personal property; or

(C) performing services;

upon a person's purchase of a life insurance policy or an annuity contract from the credit union or related credit union service organization.

(c) This section does not prohibit a credit union or a credit union service organization from requiring that a person, as a condition to a transaction, obtain a life insurance policy from an insurance company acceptable to the credit union or credit union service organization.

SECTION 7. IC 28-14-3-11, AS AMENDED BY P.L.132-2001, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 11. (a) Notwithstanding any other provision of this title, a corporate fiduciary may act as an agent for the sale of any annuity contract or any life insurance policy issued by a life insurance company (as defined in IC 27-1-2-3) authorized to do business in Indiana under IC 27-1.

(b) A corporate fiduciary that acts as an agent for the sale of an annuity contract or a life insurance policy:

(1) is subject to all requirements of IC 27 relating to the sale and solicitation of insurance, including licensing as an agent under IC 27-1-15.6; and

(2) must comply with the disclosure requirements under ~~IC 28-1-11-2.6.~~ **IC 27-1-38.**

SECTION 8. IC 28-1-11-2.6 IS REPEALED [EFFECTIVE JULY 1, 2002].

C o p y

COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred House Bill 1191, 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:

Page 13, after line 2, begin a new paragraph and insert:

"SECTION 3. IC 28-1-11-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2.5. (a) A bank or trust company may act as an agent for the sale of any life insurance policy or annuity contract issued by a life insurance company (as defined in IC 27-1-2-3) authorized to do business in Indiana under IC 27-1.

(b) A bank or trust company that acts as an agent for the sale of a life insurance policy or an annuity contract:

(1) is subject to all requirements of IC 27; and

(2) must comply with the disclosure requirements under ~~IC 28-1-11-2.6.~~ **IC 27-1-38.**

(c) A bank or trust company may not condition:

(1) an extension of credit;

(2) a lease or sale of real or personal property;

(3) the performance of services; or

(4) the amount charged for:

(A) extending credit;

(B) leasing or selling real or personal property; or

(C) performing services;

upon a person's purchase of a life insurance policy or an annuity contract from the bank or trust company or an affiliate (as defined in IC 28-2-13-3) of the bank or trust company.

(d) This section does not prohibit a bank or trust company from requiring that a person, as a condition to a transaction, obtain a life insurance policy from an insurance company acceptable to the bank or trust company.

SECTION 4. IC 28-5-1-6.5, AS AMENDED BY P.L.132-2001, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6.5. (a) Notwithstanding any other provision of this title, an industrial loan and investment company may act as an agent for the sale of any annuity contract issued by a life insurance company (as defined in IC 27-1-2-3) authorized to do business in Indiana under IC 27-1.

(b) An industrial loan and investment company that acts as an agent for the sale of an annuity contract:

(1) is subject to all requirements of IC 27 relating to the sale and solicitation of insurance, including licensing as an agent under

C o p y

IC 27-1-15.6; and

(2) must comply with the disclosure requirements under ~~IC 28-1-11-2.6.~~ **IC 27-1-38.**

(c) This section does not give power to, or otherwise affect the power of, an industrial loan and investment company to act as an agent for the sale of life insurance other than an annuity contract.

SECTION 5. IC 28-6.1-6-14, AS AMENDED BY P.L.134-2001, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 14. (a) A savings bank may solicit and write insurance as an agent or a broker for any insurance company authorized to do business in the state or states where the agent or broker operates.

(b) A savings bank or its affiliate (as defined in IC 28-6.2-1-4) may act as an agent for the sale of any life insurance policy or annuity contract issued by a life insurance company (as defined in IC 27-1-2-3) authorized to do business in the state or states where the agent operates.

(c) A savings bank or its affiliate that acts as an agent for the sale of a life insurance policy or an annuity contract under subsection (b):

(1) is subject to all requirements of IC 27 with respect to the agent's activity in Indiana; and

(2) must comply with the disclosure requirements under ~~IC 28-1-11-2.6.~~ **IC 27-1-38.**

(d) A savings bank or its affiliate may not condition:

~~(A)~~ **(1)** an extension of credit;

~~(B)~~ **(2)** a lease or sale of real or personal property;

~~(C)~~ **(3)** the performance of a service; or

~~(D)~~ **(4)** the amount charged for:

~~(i)~~ **(A)** extending credit;

~~(ii)~~ **(B)** leasing or selling real or personal property; or

~~(iii)~~ **(C)** performing services;

upon a person's purchase of a life insurance policy or an annuity contract from the savings bank or its affiliate.

(e) This section does not prohibit a savings bank or its affiliate from requiring that a person, as a condition to a transaction, obtain a life insurance policy from an insurance company acceptable to the savings bank or its affiliate.

SECTION 6. IC 28-7-1-9.1, AS AMENDED BY P.L.134-2001, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 9.1. (a) A credit union or a related credit union service organization (as defined in section 0.5(7) of this chapter) that acts as an agent for the sale of a life insurance policy or an annuity contract issued by a life insurance company (as defined in IC 27-1-2-3):

C o p y

(1) is subject to the requirements of IC 27; and

(2) must comply with the disclosure requirements of ~~IC 28-1-11-2.6.~~ **IC 27-1-38.**

(b) A credit union or credit union service organization may not condition:

(1) an extension of credit;

(2) a lease or sale of real or personal property;

(3) the performance of a service; or

(4) the amount charged for:

(A) extending credit;

(B) leasing or selling real or personal property; or

(C) performing services;

upon a person's purchase of a life insurance policy or an annuity contract from the credit union or related credit union service organization.

(c) This section does not prohibit a credit union or a credit union service organization from requiring that a person, as a condition to a transaction, obtain a life insurance policy from an insurance company acceptable to the credit union or credit union service organization.

SECTION 7. IC 28-14-3-11, AS AMENDED BY P.L.132-2001, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 11. (a) Notwithstanding any other provision of this title, a corporate fiduciary may act as an agent for the sale of any annuity contract or any life insurance policy issued by a life insurance company (as defined in IC 27-1-2-3) authorized to do business in Indiana under IC 27-1.

(b) A corporate fiduciary that acts as an agent for the sale of an annuity contract or a life insurance policy:

(1) is subject to all requirements of IC 27 relating to the sale and solicitation of insurance, including licensing as an agent under IC 27-1-15.6; and

(2) must comply with the disclosure requirements under ~~IC 28-1-11-2.6.~~ **IC 27-1-38.**

SECTION 8. IC 28-1-11-2.6 IS REPEALED [EFFECTIVE JULY 1, 2002].".

and when so amended that said bill do pass.

(Reference is to HB 1191 as introduced.)

BODIKER, Chair

Committee Vote: yeas 11, nays 0.

C o p y

COMMITTEE REPORT

Mr. President: The Senate Committee on Insurance and Financial Institutions, to which was referred House Bill No. 1191, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to House Bill 1191 as printed January 29, 2002.)

PAUL, Chairperson

Committee Vote: Yeas 11, Nays 0.

Copy