



Reprinted
April 10, 2003

ENGROSSED HOUSE BILL No. 1407

DIGEST OF HB 1407 (Updated April 9, 2003 4:35 PM - DI 97)

Citations Affected: IC 4-1; IC 9-25; IC 12-17.6; IC 22-2; IC 22-3; IC 22-4; IC 24-4.5; IC 27-1; IC 27-2; IC 27-4; IC 27-5; IC 27-6; IC 27-7; IC 27-8; IC 27-9; IC 27-10; IC 27-11; IC 27-13; IC 28-1; IC 28-5; IC 28-6.1; IC 28-7; IC 28-14; IC 34-18; IC 35-43.

Synopsis: Insurance "agent" to "producer" corrections bill. Replaces references to insurance agents and limited insurance representatives with insurance producer. Provides that in certain circumstances a life insurance company may issue or issue for delivery in Indiana funding agreements. Allows the insurance commissioner to waive requirements related to accident and sickness insurer and health maintenance organization processing of paper claims under certain circumstances.

Effective: Upon passage; July 1, 2003.

Ripley, Fry, Reske
(SENATE SPONSOR — PAUL)

January 14, 2003, read first time and referred to Committee on Insurance, Corporations and Small Business.

January 21, 2003, reported — Do Pass.

February 4, 2003, read second time, ordered engrossed. Engrossed.

February 10, 2003, read third time, passed. Yeas 95, nays 0.

SENATE ACTION

February 11, 2003, read first time and referred to Committee on Insurance and Financial Institutions.

March 31, 2003, amended, reported favorably — Do Pass.

April 9, 2003, read second time, amended, ordered engrossed.

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EH 1407—LS 7269/DI 105+



Reprinted
April 10, 2003

First Regular Session 113th General Assembly (2003)

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 2002 Regular or Special Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1407

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 4-1-8-1, AS AMENDED BY P.L.215-2001,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2003]: Sec. 1. (a) No individual may be compelled by any
4 state agency, board, commission, department, bureau, or other entity of
5 state government (referred to as "state agency" in this chapter) to
6 provide the individual's Social Security number to the state agency
7 against the individual's will, absent federal requirements to the
8 contrary. However, the provisions of this chapter do not apply to the
9 following:
10 (1) Department of state revenue.
11 (2) Department of workforce development.
12 (3) The programs administered by:
13 (A) the division of family and children;
14 (B) the division of mental health and addiction;
15 (C) the division of disability, aging, and rehabilitative services;
16 and
17 (D) the office of Medicaid policy and planning;

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- 1 of the office of the secretary of family and social services.
 2 (4) Auditor of state.
 3 (5) State personnel department.
 4 (6) Secretary of state, with respect to the registration of
 5 broker-dealers, agents, and investment advisors.
 6 (7) The legislative ethics commission, with respect to the
 7 registration of lobbyists.
 8 (8) Indiana department of administration, with respect to bidders
 9 on contracts.
 10 (9) Indiana department of transportation, with respect to bidders
 11 on contracts.
 12 (10) Health professions bureau.
 13 (11) Indiana professional licensing agency.
 14 (12) Indiana department of insurance, with respect to licensing of
 15 insurance ~~agents~~: **producers**.
 16 (13) A pension fund administered by the board of trustees of the
 17 public employees' retirement fund.
 18 (14) The Indiana state teachers' retirement fund.
 19 (15) The state police benefit system.
 20 (b) The bureau of motor vehicles may, notwithstanding this chapter,
 21 require the following:
 22 (1) That an individual include the individual's Social Security
 23 number in an application for an official certificate of title for any
 24 vehicle required to be titled under IC 9-17.
 25 (2) That an individual include the individual's Social Security
 26 number on an application for registration.
 27 (3) That a corporation, limited liability company, firm,
 28 partnership, or other business entity include its federal tax
 29 identification number on an application for registration.
 30 (c) The Indiana department of administration, the Indiana
 31 department of transportation, the health professions bureau, and the
 32 Indiana professional licensing agency may require an employer to
 33 provide its federal employer identification number.
 34 (d) The department of correction may require a committed offender
 35 to provide the offender's Social Security number for purposes of
 36 matching data with the Social Security Administration to determine
 37 benefit eligibility.
 38 (e) The Indiana gaming commission may, notwithstanding this
 39 chapter, require the following:
 40 (1) That an individual include the individual's Social Security
 41 number in any application for a riverboat owner's license,
 42 supplier's license, or occupational license.



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1 (2) That a sole proprietorship, a partnership, an association, a
2 fiduciary, a corporation, a limited liability company, or any other
3 business entity include its federal tax identification number on an
4 application for a riverboat owner's license or supplier's license.

5 SECTION 2. IC 9-25-5-5 IS AMENDED TO READ AS FOLLOWS
6 [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) A person who receives a
7 request for evidence of financial responsibility under section 3 of this
8 chapter shall set forth in the certificate of compliance the following
9 information concerning the form of financial responsibility that was in
10 effect with respect to the motor vehicle on the date in question:

- 11 (1) If a motor vehicle liability policy was in effect, the following:
 - 12 (A) The name and address of the insurer.
 - 13 (B) The limits of coverage of the policy.
 - 14 (C) The identification number applying to the policy.
- 15 (2) If a bond was in effect, the following:
 - 16 (A) The name and address of the bond company or surety.
 - 17 (B) The face amount of the bond.
- 18 (3) If self-insurance was in effect under IC 9-25-4-11, the
19 following:
 - 20 (A) The date on which the certificate of self-insurance was
21 issued by the bureau.
 - 22 (B) The name of the person to whom the certificate of
23 self-insurance was issued.

24 (b) A person who requests information or verification of coverage
25 to complete a certificate of compliance under subsection (a) from:

- 26 (1) an insurance company; or
 - 27 (2) an insurance ~~agent~~; **producer**;
- 28 is not required to give the company or the ~~agent~~ **producer** a reason for
29 requesting the information unless the person has been involved in an
30 accident.

31 SECTION 3. IC 12-17.6-4-5, AS ADDED BY P.L.273-1999,
32 SECTION 177, IS AMENDED TO READ AS FOLLOWS
33 [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) It is a violation of IC 27-4-1-4
34 if an insurer, or an insurance ~~agent~~ **producer** or insurance broker
35 compensated by the insurer, knowingly or intentionally refers an
36 insured or the dependent of an insured to the program for health
37 insurance coverage when the insured already receives health insurance
38 coverage through an employer's health care plan that is underwritten by
39 the insurer.

40 (b) The office shall coordinate with the children's health policy
41 board under IC 4-23-27 to evaluate the need for mechanisms that
42 minimize the incentive for an employer to eliminate or reduce health

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1 care coverage for an employee's dependents.

2 SECTION 4. IC 22-2-2-3 IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2003]: Sec. 3. As used in this chapter:

4 "Commissioner" means the commissioner of labor or the
5 commissioner's authorized representative.

6 "Department" means the department of labor.

7 "Occupation" means an industry, trade, business, or class of work
8 in which employees are gainfully employed.

9 "Employer" means any individual, partnership, association, limited
10 liability company, corporation, business trust, the state, or other
11 governmental agency or political subdivision during any work week in
12 which they have two (2) or more employees. However, it shall not
13 include any employer who is subject to the minimum wage provisions
14 of the federal Fair Labor Standards Act of 1938, as amended (29 U.S.C.
15 201-209).

16 "Employee" means any person employed or permitted to work or
17 perform any service for remuneration or under any contract of hire,
18 written or oral, express or implied by an employer in any occupation,
19 but shall not include any of the following:

20 (a) Persons less than sixteen (16) years of age.

21 (b) Persons engaged in an independently established trade,
22 occupation, profession, or business who, in performing the
23 services in question, are free from control or direction both under
24 a contract of service and in fact.

25 (c) Persons performing services not in the course of the
26 employing unit's trade or business.

27 (d) Persons employed on a commission basis.

28 (e) Persons employed by their own parent, spouse, or child.

29 (f) Members of any religious order performing any service for that
30 order, any ordained, commissioned, or licensed minister, priest,
31 rabbi, sexton, or Christian Science reader, and volunteers
32 performing services for any religious or charitable organization.

33 (g) Persons performing services as student nurses in the employ
34 of a hospital or nurses training school while enrolled and
35 regularly attending classes in a nurses training school chartered
36 or approved under law, or students performing services in the
37 employ of persons licensed as both funeral directors and
38 embalmers as a part of their requirements for apprenticeship to
39 secure an embalmer's license or a funeral director's license from
40 the state, or during their attendance at any schools required by law
41 for securing an embalmer's or funeral director's license.

42 (h) Persons who have completed a four (4) year course in a

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1 medical school approved by law when employed as interns or
2 resident physicians by any accredited hospital.

3 (i) Students performing services for any school, college, or
4 university in which they are enrolled and are regularly attending
5 classes.

6 (j) Persons with physical or mental disabilities performing
7 services for nonprofit organizations organized primarily for the
8 purpose of providing employment for persons with disabilities or
9 for assisting in their therapy and rehabilitation.

10 (k) Persons employed as insurance ~~agents~~, **producers**, insurance
11 solicitors, and outside salesmen, if all their services are performed
12 for remuneration solely by commission.

13 (l) Persons performing services for any camping, recreational, or
14 guidance facilities operated by a charitable, religious, or
15 educational nonprofit organization.

16 (m) Persons engaged in agricultural labor. The term shall include
17 only services performed:

18 (1) on a farm, in connection with cultivating the soil, or in
19 connection with raising or harvesting any agricultural or
20 horticultural commodity, including the raising, shearing,
21 feeding, caring for, training, and management of livestock,
22 bees, poultry, and furbearing animals and wildlife;

23 (2) in the employ of the owner or tenant or other operator of a
24 farm, in connection with the operation, management,
25 conservation, improvement, or maintenance of the farm and its
26 tools and equipment if the major part of the service is
27 performed on a farm;

28 (3) in connection with:

29 (A) the production or harvesting of maple sugar or maple
30 syrup or any commodity defined as an agricultural
31 commodity in the Agricultural Marketing Act, as amended
32 (12 U.S.C. 1141j);

33 (B) the raising or harvesting of mushrooms;

34 (C) the hatching of poultry; or

35 (D) the operation or maintenance of ditches, canals,
36 reservoirs, or waterways used exclusively for supplying and
37 storing water for farming purposes; and

38 (4) in handling, planting, drying, packing, packaging,
39 processing, freezing, grading, storing, or delivering to storage,
40 to market, or to a carrier for transportation to market, any
41 agricultural or horticultural commodity, but only if service is
42 performed as an incident to ordinary farming operation or, in

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1 the case of fruits and vegetables, as an incident to the
 2 preparation of fruits and vegetables for market. However, this
 3 exception shall not apply to services performed in connection
 4 with any agricultural or horticultural commodity after its
 5 delivery to a terminal market or processor for preparation or
 6 distribution for consumption.

7 As used in this subdivision, "farm" includes stock, dairy, poultry,
 8 fruit, furbearing animals, and truck farms, nurseries, orchards, or
 9 greenhouses or other similar structures used primarily for the
 10 raising of agricultural or horticultural commodities.

11 (n) Those persons employed in executive, administrative, or
 12 professional occupations who have the authority to employ or
 13 discharge and who earn one hundred fifty dollars (\$150) or more
 14 a week, and outside salesmen.

15 (o) Any person not employed for more than four (4) weeks in any
 16 four (4) consecutive three (3) month periods.

17 (p) Any employee with respect to whom the Interstate Commerce
 18 Commission has power to establish qualifications and maximum
 19 hours of service under the federal Motor Carrier Act of 1935 (49
 20 U.S.C. 304(3)) or any employee of a carrier subject to IC 8-2-1.

21 SECTION 5. IC 22-3-3-13, AS AMENDED BY P.L.202-2001,
 22 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2003]: Sec. 13. (a) As used in this section, "board" refers to
 24 the worker's compensation board created under IC 22-3-1-1.

25 (b) If an employee who from any cause, had lost, or lost the use of,
 26 one (1) hand, one (1) arm, one (1) foot, one (1) leg, or one (1) eye, and
 27 in a subsequent industrial accident becomes permanently and totally
 28 disabled by reason of the loss, or loss of use of, another such member
 29 or eye, the employer shall be liable only for the compensation payable
 30 for such second injury. However, in addition to such compensation and
 31 after the completion of the payment therefor, the employee shall be
 32 paid the remainder of the compensation that would be due for such
 33 total permanent disability out of a special fund known as the second
 34 injury fund, and created in the manner described in subsection (c).

35 (c) Whenever the board determines under the procedures set forth
 36 in subsection (d) that an assessment is necessary to ensure that fund
 37 beneficiaries, including applicants under section 4(e) of this chapter,
 38 continue to receive compensation in a timely manner for a reasonable
 39 prospective period, the board shall send notice not later than October
 40 1 in any year to:

41 (1) all insurance carriers and other entities insuring or providing
 42 coverage to employers who are or may be liable under this article

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1 to pay compensation for personal injuries to or the death of their
2 employees under this article; and
3 (2) each employer carrying the employer's own risk;
4 stating that an assessment is necessary. After June 30, 1999, the board
5 may conduct an assessment under this subsection not more than one (1)
6 time annually. Every insurance carrier and other entity insuring or
7 providing coverage to employers who are or may be liable under this
8 article to pay compensation for personal injuries to or death of their
9 employees under this article and every employer carrying the
10 employer's own risk, shall, within thirty (30) days of the board sending
11 notice under this subsection, pay to the worker's compensation board
12 for the benefit of the fund an assessed amount that may not exceed two
13 and one-half percent (2.5%) of the total amount of all worker's
14 compensation paid to injured employees or their beneficiaries under
15 IC 22-3-2 through IC 22-3-6 for the calendar year next preceding the
16 due date of such payment. For the purposes of calculating the
17 assessment under this subsection, the board may consider payments for
18 temporary total disability, temporary partial disability, permanent total
19 impairment, permanent partial impairment, or death of an employee.
20 The board may not consider payments for medical benefits in
21 calculating an assessment under this subsection. If the amount to the
22 credit of the second injury fund on or before October 1 of any year
23 exceeds one million dollars (\$1,000,000), the assessment allowed
24 under this subsection shall not be assessed or collected during the
25 ensuing year. But when on or before October 1 of any year the amount
26 to the credit of the fund is less than one million dollars (\$1,000,000),
27 the payments of not more than two and one-half percent (2.5%) of the
28 total amount of all worker's compensation paid to injured employees or
29 their beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar
30 year next preceding that date shall be resumed and paid into the fund.
31 The board may not use an assessment rate greater than twenty-five
32 hundredths of one percent (0.25%) above the amount recommended by
33 the study performed before the assessment.
34 (d) The board shall enter into a contract with an actuary or another
35 qualified firm that has experience in calculating worker's compensation
36 liabilities. Not later than September 1 of each year, the actuary or other
37 qualified firm shall calculate the recommended funding level of the
38 fund based on the previous year's claims and inform the board of the
39 results of the calculation. If the amount to the credit of the fund is less
40 than the amount required under subsection (c), the board may conduct
41 an assessment under subsection (c). The board shall pay the costs of the
42 contract under this subsection with money in the fund.

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1 (e) An assessment collected under subsection (c) on an employer
 2 who is not self-insured must be assessed through a surcharge based on
 3 the employer's premium. An assessment collected under subsection (c)
 4 does not constitute an element of loss, but for the purpose of collection
 5 shall be treated as a separate cost imposed upon insured employers. A
 6 premium surcharge under this subsection must be collected at the same
 7 time and in the same manner in which the premium for coverage is
 8 collected, and must be shown as a separate amount on a premium
 9 statement. A premium surcharge under this subsection must be
 10 excluded from the definition of premium for all purposes, including the
 11 computation of **agent insurance producer** commissions or premium
 12 taxes. However, an insurer may cancel a worker's compensation policy
 13 for nonpayment of the premium surcharge. A cancellation under this
 14 subsection must be carried out under the statutes applicable to the
 15 nonpayment of premiums.

16 (f) The sums shall be paid by the board to the treasurer of state, to
 17 be deposited in a special account known as the second injury fund. The
 18 funds are not a part of the general fund of the state. Any balance
 19 remaining in the account at the end of any fiscal year shall not revert
 20 to the general fund. The funds shall be used only for the payment of
 21 awards of compensation and expense of medical examinations or
 22 treatment made and ordered by the board and chargeable against the
 23 fund pursuant to this section, and shall be paid for that purpose by the
 24 treasurer of state upon award or order of the board.

25 (g) If an employee who is entitled to compensation under IC 22-3-2
 26 through IC 22-3-6 either:

- 27 (1) exhausts the maximum benefits under section 22 of this
 28 chapter without having received the full amount of award granted
 29 to the employee under section 10 of this chapter; or
 30 (2) exhausts the employee's benefits under section 10 of this
 31 chapter;

32 then such employee may apply to the board, who may award the
 33 employee compensation from the second injury fund established by this
 34 section, as follows under subsection (h).

35 (h) An employee who has exhausted the employee's maximum
 36 benefits under section 10 of this chapter may be awarded additional
 37 compensation equal to sixty-six and two-thirds percent (66 2/3%) of the
 38 employee's average weekly wage at the time of the employee's injury,
 39 not to exceed the maximum then applicable under section 22 of this
 40 chapter, for a period of not to exceed one hundred fifty (150) weeks
 41 upon competent evidence sufficient to establish:

- 42 (1) that the employee is totally and permanently disabled from

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1 causes and conditions of which there are or have been objective
 2 conditions and symptoms proven that are not within the physical
 3 or mental control of the employee; and
 4 (2) that the employee is unable to support the employee in any
 5 gainful employment, not associated with rehabilitative or
 6 vocational therapy.

7 (i) The additional award may be renewed during the employee's total
 8 and permanent disability after appropriate hearings by the board for
 9 successive periods not to exceed one hundred fifty (150) weeks each.
 10 The provisions of this section apply only to injuries occurring
 11 subsequent to April 1, 1950, for which awards have been or are in the
 12 future made by the board under section 10 of this chapter. Section 16
 13 of this chapter does not apply to compensation awarded from the
 14 second injury fund under this section.

15 (j) All insurance carriers subject to an assessment under this section
 16 are required to provide to the board:

- 17 (1) not later than January 31 each calendar year; and
 - 18 (2) not later than thirty (30) days after a change occurs;
- 19 the name, address, and electronic mail address of a representative
 20 authorized to receive the notice of an assessment.

21 SECTION 6. IC 22-4-8-3 IS AMENDED TO READ AS FOLLOWS
 22 [EFFECTIVE JULY 1, 2003]: Sec. 3. "Employment" shall not include
 23 the following:

24 (a) Except as provided in section 2(i) of this chapter, service
 25 performed prior to January 1, 1978, in the employ of this state, any
 26 other state, any town or city, or political subdivision, or any
 27 instrumentality of any of them, other than service performed in the
 28 employ of a municipally owned public utility as defined in this article;
 29 or service performed in the employ of the United States of America, or
 30 an instrumentality of the United States immune under the Constitution
 31 of the United States from the contributions imposed by this article,
 32 except that to the extent that the Congress of the United States shall
 33 permit states to require any instrumentalities of the United States to
 34 make payments into an unemployment fund under a state
 35 unemployment compensation statute, all of the provisions of this article
 36 shall be applicable to such instrumentalities, in the same manner, to the
 37 same extent, and on the same terms as to all other employers,
 38 employing units, individuals, and services. However, if this state shall
 39 not be certified for any year by the Secretary of Labor under Section
 40 3304 of the Internal Revenue Code the payments required of such
 41 instrumentalities with respect to such year shall be refunded by the
 42 commissioner from the fund in the same manner and within the same

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1 period as is provided in IC 22-4-32-19 with respect to contribution
2 erroneously paid or wrongfully assessed.

3 (b) Service with respect to which unemployment compensation is
4 payable under an unemployment compensation system established by
5 an Act of Congress; however, the board is authorized to enter into
6 agreements with the proper agencies under such Act of Congress,
7 which agreements shall become effective ten (10) days after
8 publication thereof in the manner provided in IC 22-4-19-2 for rules of
9 the board, to provide reciprocal treatment to individuals who have,
10 after acquiring potential rights to benefits under this article, acquired
11 rights to unemployment compensation under such Act of Congress, or
12 who have, after having acquired potential rights to unemployment
13 compensation under such Act of Congress, acquired rights to benefits
14 under this article.

15 (c) "Agricultural labor" as provided in section 2(1) of this chapter
16 shall include only services performed:

17 (i) on a farm, in the employ of any person, in connection with
18 cultivating the soil or in connection with raising or harvesting any
19 agricultural or horticultural commodity, including the raising,
20 shearing, feeding, caring for, training, and management of
21 livestock, bees, poultry, and furbearing animals and wildlife;

22 (ii) in the employ of the owner or tenant or other operator of a
23 farm, in connection with the operation, management,
24 conservation, improvement, or maintenance of such farm and its
25 tools and equipment, or in salvaging timber or clearing land of
26 brush and other debris left by a hurricane, if the major part of
27 such service is performed on a farm;

28 (iii) in connection with the production or harvesting of any
29 commodity defined as an agricultural commodity in Section 15(g)
30 of the Agricultural Marketing Act, as amended, or in connection
31 with the operation or maintenance of ditches, canals, reservoirs,
32 or waterways, not owned or operated for profit, used exclusively
33 for supplying and storing water for farming purposes;

34 (iv)(A) in the employ of the operator of a farm in handling,
35 planting, drying, packing, packaging, processing, freezing,
36 grading, storing, or delivering to storage or to market or to a
37 carrier for transportation to market, in its unmanufactured state,
38 any agricultural or horticultural commodity; but only if such
39 operator produced more than one-half (1/2) of the commodity
40 with respect to which such service is performed;

41 (B) in the employ of a group of operators of farms (or a
42 cooperative organization of which such operators are members)

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1 in the performance of service described in subdivision (A), but
 2 only if such operators produce more than one-half (1/2) of the
 3 commodity with respect to which such service is performed;
 4 (C) the provisions of subdivisions (A) and (B) shall not be
 5 deemed to be applicable with respect to service performed in
 6 connection with commercial canning or commercial freezing or
 7 in connection with any agricultural or horticultural commodity
 8 after its delivery to a terminal market for distribution for
 9 consumption; or
 10 (v) on a farm operated for profit if such service is not in the
 11 course of the employer's trade or business or is domestic service
 12 in a private home of the employer.

13 As used in this subsection, "farm" includes stock, dairy, poultry, fruit,
 14 furbearing animals, and truck farms, nurseries, orchards, greenhouses,
 15 or other similar structures used primarily for the raising of agricultural
 16 or horticultural commodities.

17 (d) Domestic service in a private home, local college club, or local
 18 chapter of a college fraternity or sorority, except as provided in section
 19 2(m) of this chapter.

20 (e) Service performed on or in connection with a vessel or aircraft
 21 not an American vessel or American aircraft, if the employee is
 22 employed on and in connection with such vessel or aircraft when
 23 outside the United States.

24 (f) Service performed by an individual in the employ of child or
 25 spouse, and service performed by a child under the age of twenty-one
 26 (21) in the employ of a parent.

27 (g) Service not in the course of the employing unit's trade or
 28 business performed in any calendar quarter by an individual, unless the
 29 cash remuneration paid for such service is fifty dollars (\$50) or more
 30 and such service is performed by an individual who is regularly
 31 employed by such employing unit to perform such service. For the
 32 purposes of this subsection, an individual shall be deemed to be
 33 regularly employed to perform service not in the course of an
 34 employing unit's trade or business during a calendar quarter only if:

35 (i) on each of some of twenty-four (24) days during such quarter
 36 such individual performs such service for some portion of the day;
 37 or

38 (ii) such individual was regularly employed (as determined under
 39 clause (i)) by such employing unit in the performance of such
 40 service during the preceding calendar quarter.

41 (h) Service performed by an individual in any calendar quarter in
 42 the employ of any organization exempt from income tax under Section

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- 1 501 of the Internal Revenue Code (except those services included in
- 2 sections 2(i) and 2(j) of this chapter if the remuneration for such
- 3 service is less than fifty dollars (\$50).
- 4 (i) Service performed in the employ of a hospital, if such service is
- 5 performed by a patient of such hospital.
- 6 (j) Service performed in the employ of a school, college, or
- 7 university if such service is performed:
- 8 (i) by a student who is enrolled and is regularly attending classes
- 9 at such school, college, or university; or
- 10 (ii) by the spouse of such a student, if such spouse is advised, at
- 11 the time such spouse commences to perform such service, that:
- 12 (A) the employment of such spouse to perform such service is
- 13 provided under a program to provide financial assistance to
- 14 such student by such school, college, or university; and
- 15 (B) such employment will not be covered by any program of
- 16 unemployment insurance.
- 17 (k) Service performed by an individual who is enrolled at a
- 18 nonprofit or public educational institution which normally maintains a
- 19 regular faculty and curriculum and normally has a regularly organized
- 20 body of students in attendance at the place where its educational
- 21 activities are carried on as a student in a full-time program, taken for
- 22 credit at such institution, which combines academic instruction with
- 23 work experience, if such service is an integral part of such program,
- 24 and such institution has so certified to the employer, except that this
- 25 subsection shall not apply to service performed in a program
- 26 established for or on behalf of an employer or group of employers.
- 27 (l) Service performed in the employ of a government foreign to the
- 28 United States of America, including service as a consular or other
- 29 officer or employee or a nondiplomatic representative.
- 30 (m) Service performed in the employ of an instrumentality wholly
- 31 owned by a government foreign to that of the United States of America,
- 32 if the service is of a character similar to that performed in foreign
- 33 countries by employees of the United States of America or of an
- 34 instrumentality thereof, and if the board finds that the Secretary of State
- 35 of the United States has certified to the Secretary of the Treasury of the
- 36 United States that the government, foreign to the United States, with
- 37 respect to whose instrumentality exemption is claimed, grants an
- 38 equivalent exemption with respect to similar service performed in such
- 39 country by employees of the United States and of instrumentalities
- 40 thereof.
- 41 (n) Service performed as a student nurse in the employ of a hospital
- 42 or nurses' training school by an individual who is enrolled and is

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1 regularly attending classes in a nurses' training school chartered or
 2 approved pursuant to state law; and service performed as an intern in
 3 the employ of a hospital by an individual who has completed a four (4)
 4 year course in a medical school chartered or approved pursuant to state
 5 law.

6 (o) Service performed by an individual as an insurance ~~agent~~
 7 **producer** or as an insurance solicitor, if all such service performed by
 8 such individual is performed for remuneration solely by way of
 9 commission.

10 (p)(A) Service performed by an individual under the age of eighteen
 11 (18) in the delivery or distribution of newspapers or shopping news, not
 12 including delivery or distribution to any point for subsequent delivery
 13 or distribution.

14 (B) Services performed by an individual in, and at the time of, the
 15 sale of newspapers or magazines to ultimate consumers, under an
 16 arrangement under which the newspapers or magazines are to be sold
 17 by him at a fixed price, his compensation being based on the retention
 18 of the excess of such price over the amount at which the newspapers or
 19 magazines are charged to him, whether or not he is guaranteed a
 20 minimum amount of compensation for such service, or is entitled to be
 21 credited with the unsold newspapers or magazines turned back.

22 (q) Service performed in the employ of an international
 23 organization.

24 (r) Except as provided in IC 22-4-7-1, services covered by an
 25 election duly approved by the agency charged with the administration
 26 of any other state or federal unemployment compensation law in
 27 accordance with an arrangement pursuant to IC 22-4-22-1 through
 28 IC 22-4-22-5, during the effective period of such election.

29 (s) If the service performed during one-half (1/2) or more of any pay
 30 period by an individual for an employing unit constitutes employment,
 31 all the services of such individual for such period shall be deemed to
 32 be employment; but if the services performed during more than
 33 one-half (1/2) of any pay period by such an individual do not constitute
 34 employment, then none of the services of such individual for such
 35 period shall be deemed to be employment. As used in this subsection,
 36 "pay period" means a period of not more than thirty-one (31)
 37 consecutive days for which a payment of remuneration is ordinarily
 38 made to the individual by the employing unit. This subsection shall not
 39 be applicable with respect to services performed in a pay period by any
 40 such individual where any such service is excepted by subsection (b).

41 (t) Service performed by an inmate of a custodial or penal
 42 institution.

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1 (u) Service performed as a precinct election officer (as defined in
2 IC 3-5-2-40.1).

3 SECTION 7. IC 24-4.5-6-201 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 201. (1) This section,
5 IC 24-4.5-6-202, and IC 24-4.5-6-203 apply to a person, including a
6 supervised financial organization, engaged in Indiana in any of the
7 following:

8 (a) Making consumer credit sales, consumer leases, or consumer
9 loans.

10 (b) Taking assignments of rights against debtors that arise from
11 sales, leases, or loans by a person having an office or a place of
12 business in Indiana, and undertaking direct collection of payments
13 from the debtors or enforcement of rights against the debtors.

14 (c) Placing consumer credit insurance, receiving commissions for
15 consumer credit insurance, or acting as **an agent a limited line**
16 **credit insurance producer** in the sale of consumer credit
17 insurance.

18 (2) This section, IC 24-4.5-6-202, and IC 24-4.5-6-203 are not
19 applicable to a seller whose credit sales consist entirely of sales made
20 pursuant to a seller credit card issued by a person other than the seller
21 if the issuer of the card has complied with the provisions of this
22 section, IC 24-4.5-6-202, and IC 24-4.5-6-203.

23 (3) This section, IC 24-4.5-6-202, and IC 24-4.5-6-203 apply to a
24 seller whose credit sales are made using credit cards that:

25 (a) are issued by a lender;

26 (b) are in the name of the seller; and

27 (c) can be used by the buyer or lessee only for purchases or leases
28 at locations of the named seller.

29 SECTION 8. IC 27-1-2-3, AS AMENDED BY P.L.48-2000,
30 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 2003]: Sec. 3. As used in this article, and unless a different
32 meaning appears from the context: (a) "Insurance" means a contract of
33 insurance or an agreement by which one (1) party, for a consideration,
34 promises to pay money or its equivalent or to do an act valuable to the
35 insured upon the destruction, loss or injury of something in which the
36 other party has a pecuniary interest, or in consideration of a price paid,
37 adequate to the risk, becomes security to the other against loss by
38 certain specified risks; to grant indemnity or security against loss for a
39 consideration.

40 (b) "Commissioner" means the "insurance commissioner" of this
41 state.

42 (c) "Department" means "the department of insurance" of this state.

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1 (d) The term "company" or "corporation" means an insurance
2 company and includes all persons, partnerships, corporations,
3 associations, orders or societies engaged in or proposing to engage in
4 making any kind of insurance authorized by the laws of this state.

5 (e) The term "domestic company" or "domestic corporation" means
6 an insurance company organized under the insurance laws of this state.

7 (f) The term "foreign company" or "foreign corporation" means an
8 insurance company organized under the laws of any state of the United
9 States other than this state or under the laws of any territory or insular
10 possession of the United States or the District of Columbia.

11 (g) The term "alien company" or "alien corporation" means an
12 insurance company organized under the laws of any country other than
13 the United States or territory or insular possession thereof or of the
14 District of Columbia.

15 (h) The term "person" includes individuals, corporations,
16 associations, and partnerships; personal pronoun includes all genders;
17 the singular includes the plural and the plural includes the singular.

18 (k) The term "insurance solicitor" means any natural person
19 employed to aid an insurance ~~agent~~ **producer** in any manner in
20 soliciting, negotiating, or effecting contracts of insurance or indemnity
21 other than life.

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

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

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

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

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

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

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

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1 (s) The term "life insurance company" means any company making
2 one or more of the kinds of insurance set out and defined in class 1(a)
3 of IC 27-1-5-1.

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

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

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

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

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

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

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

36 SECTION 9. IC 27-1-6-17 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 17. The commissioner
38 may, personally or through ~~his~~ **the commissioner's** deputies and
39 assistants, examine into the affairs of any such proposed company and
40 inspect its books and papers, and may summon and examine under oath
41 any officer or ~~agent~~ **insurance producer** or any person who is or has
42 been connected with such company, and if ~~he~~ **the commissioner** finds

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1 the company is violating the law, or if the company shall not be
 2 qualified for a certificate of authority within one (1) year from date of
 3 its permit, ~~he the commissioner~~ may revoke its permit; and if ~~he the~~
 4 **commissioner** finds an **agent insurance producer** of such company
 5 has violated the law, ~~he the commissioner~~ may revoke ~~his the~~
 6 **insurance producer's** authority, and ~~he the commissioner~~ may for
 7 ~~such agent's the insurance producer's~~ violation revoke the company's
 8 permit. Any revocation shall be after notice and hearing. The
 9 commissioner may renew any company's permit or agent's authority
 10 which ~~he the commissioner~~ has revoked.

11 SECTION 10. IC 27-1-6.5-5 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. When any insurer
 13 admitted to transact business in this state transfers its domicile to this
 14 or any other state, its certificate of authority, ~~agents' insurance~~
 15 **producers'** appointments and licenses, policy forms, rates,
 16 authorizations, and other filings and approvals which existed at the
 17 time of the transfer, remain in effect after the transfer of domicile
 18 occurs.

19 SECTION 11. IC 27-1-12-43 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 43. (a) As used in this
 21 section, "life insurance policy" means:

- 22 (1) an individual life insurance policy other than a credit life
 23 insurance policy; or
 24 (2) an individual policy of variable life insurance;

25 that is sold after June 30, 1994.

26 (b) No life insurance policy may be issued in Indiana or issued for
 27 delivery in Indiana unless it contains a provision allowing the
 28 policyholder to return the policy to:

- 29 (1) the insurer;
 30 (2) the ~~agent insurance producer~~ through whom the policy was
 31 purchased; or
 32 (3) any agent of the insurer;

33 within ten (10) days after the policy is received by the policyholder for
 34 a full refund of all money paid by the policyholder.

35 (c) Each life insurance policy must have prominently printed on its
 36 first page a notice setting forth in substance the provisions of
 37 subsection (b).

38 SECTION 12. IC 27-1-12.6-5 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. Each annuity
 40 contract shall contain a provision giving the purchaser an unrestricted
 41 right to return the contract to the company or to the ~~agent insurance~~
 42 **producer** through whom it was purchased, on or before the tenth day



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1 after it is received by the purchaser, such return entitling the purchaser
 2 to a return of the value of a variable annuity account or the monies paid
 3 by the purchaser to a fixed account in connection with the issuance of
 4 the contract. This provision shall be conspicuously placed on the face
 5 of the contract. This provision does not apply to contracts issued in
 6 connection with a pension, annuity, or profit-sharing plan qualified or
 7 exempt under Sections 401, 403, 404, or 501 of the Internal Revenue
 8 Code, if participation in the plan is a condition of employment.

9 SECTION 13. IC 27-1-12.7 IS ADDED TO THE INDIANA CODE
 10 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 11 UPON PASSAGE]:

12 **Chapter 12.7. Funding Agreements**

13 **Sec. 1. As used in this chapter, "funding agreement" means an**
 14 **agreement that:**

- 15 (1) is issued by a life insurance company to a holder;
 16 (2) authorizes a life insurance company to accept funds; and
 17 (3) provides for an accumulation of the funds for the purpose
 18 of making one (1) or more payments at future dates in
 19 amounts that are not based on mortality or morbidity
 20 contingencies of the holder of the funding agreement.

21 **Sec. 2. As used in this chapter, "holder" means a person**
 22 **described in section 5 of this chapter that is issued a funding**
 23 **agreement by a life insurance company.**

24 **Sec. 3. As used in this chapter, "life insurance company" means**
 25 **a life insurance company authorized to issue a product described**
 26 **in Class 1(c) of IC 27-1-5-1.**

27 **Sec. 4. As used in this chapter, "optional modes of settlement"**
 28 **means the manner in which the funding agreement is structured to**
 29 **repay interest and principal to the holder.**

30 **Sec. 5. A life insurance company may issue or issue for delivery**
 31 **in Indiana a funding agreement to the following:**

- 32 (1) A person authorized by a state or foreign country to
 33 engage in an insurance business or a subsidiary of an
 34 insurance business.
 35 (2) A person who uses the funding agreement for the purpose
 36 of funding:
 37 (A) benefits under an employee benefit plan (as defined in
 38 the federal Employee Retirement Security Act of 1974, 29
 39 U.S.C. 1001 et seq.);
 40 (B) the activities of a nonprofit organization exempt from
 41 federal income taxation under Section 501(c)(3) of the
 42 Internal Revenue Code or a similar nonprofit organization



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- 1 domiciled in a foreign country;
- 2 (C) a program of:
- 3 (i) the United States government;
- 4 (ii) a state government;
- 5 (iii) a political subdivision;
- 6 (iv) a foreign country; or
- 7 (v) an agency or instrumentality of the United States or
- 8 a state government, a political subdivision, or a foreign
- 9 country;
- 10 (D) an agreement providing for periodic payments in
- 11 satisfaction of a claim;
- 12 (E) a program of an institution with assets exceeding
- 13 twenty-five million dollars (\$25,000,000);
- 14 (F) a program in which a business entity, including a trust:
- 15 (i) purchases and holds funding agreements; and
- 16 (ii) issues securities by using the funding agreement to
- 17 finance or collateralize the securities; or
- 18 (G) any program or activity substantially similar to a
- 19 program or an activity described in clauses (A) through (F)
- 20 that is first authorized by the commissioner.
- 21 **Sec. 6. The issuance of a funding agreement:**
- 22 (1) constitutes an activity necessary, convenient, or expedient
- 23 to the business of a life insurance company under IC 27-1-7-2;
- 24 (2) is not insurance under IC 27-1-5-1;
- 25 (3) is not a security (as defined in IC 23-2-1-1(k)); and
- 26 (4) does not constitute gross premium for taxation purposes
- 27 under IC 27-1-18-2.
- 28 **Sec. 7. An amount may not be guaranteed or credited under a**
- 29 **funding agreement except:**
- 30 (1) upon reasonable assumptions as to investment income and
- 31 expenses; and
- 32 (2) on a basis equitable to all holders of funding agreements
- 33 of a given class.
- 34 **Sec. 8. An amount paid to a life insurance company and**
- 35 **proceeds applied to amounts paid under optional modes of**
- 36 **settlement under a funding agreement may be allocated by the**
- 37 **insurer to one (1) or more segregated asset accounts in the manner**
- 38 **described in Class 1(c) of IC 27-1-5-1.**
- 39 **Sec. 9. The commissioner may establish reasonable conditions**
- 40 **or adopt rules under IC 4-22-2 regarding:**
- 41 (1) reserve amounts to be maintained by a life insurance
- 42 company for funding agreements;

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- 1 **(2) accounting and reporting of funds credited under funding**
- 2 **agreements; and**
- 3 **(3) other matters regarding funding agreements the**
- 4 **commissioner considers necessary, proper, and advisable.**
- 5 **Sec. 10. Notwithstanding any other provision of law:**
- 6 **(1) the commissioner has the sole authority to regulate the**
- 7 **issuance and sale of funding agreements;**
- 8 **(2) a funding agreement is not considered a covered policy**
- 9 **under IC 27-8-8-1(a); and**
- 10 **(3) a claim for payments under a funding agreement must be**
- 11 **treated as a loss claim described in Class 2 of IC 27-9-3-40.**

12 SECTION 14. IC 27-1-13-11 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. At all such
 14 meetings of the governing body held at Indianapolis, Indiana, as set out
 15 in section 10 of this chapter, any aggrieved policyholder, ~~agent,~~
 16 **insurance producer**, company, representative, or any other aggrieved
 17 person may appear before such meeting to have complaints heard in
 18 full, and it shall be the duty of such rating bureau to rectify such
 19 conditions as are justly complained of in such manner as is reasonably
 20 possible.

21 SECTION 15. IC 27-1-20-30 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 30. (a) No company
 23 acting through its officers or members, attorney-in-fact, or by any other
 24 party, no officer of a company acting on ~~his~~ **the officer's** own behalf
 25 and no insurance ~~agent,~~ **producer**, broker, or solicitor, personally or by
 26 any other party, shall offer, promise, allow, give, set off or pay, directly
 27 or indirectly, any rebate of or part of the premium payable on a policy,
 28 or any ~~agent's~~ **insurance producer's** commission thereon, or earnings,
 29 profits, dividends or other benefits founded, arising, accruing, or to
 30 accrue thereon or therefrom, or any special advantage in date of policy
 31 or age of issue, or any paid employment or contract for services of any
 32 kind, or any other valuable consideration or inducement, to or for
 33 insurance on any risk in this state, now or hereafter to be written, or for
 34 or upon any renewal of any such insurance, which is not specified in
 35 the policy contract of insurance, or offer, promise, give, option, sell or
 36 purchase any stocks, bonds, securities, or property, or any dividends or
 37 profits accruing or to accrue thereon, or other thing of value whatsoever
 38 as inducement to insurance or in connection therewith, or any renewal
 39 thereof, which is not specified in the policy. Nothing in this section
 40 shall prevent a company which transacts industrial life insurance on a
 41 weekly payment plan from returning to policyholders who have made
 42 a premium payment for a period of at least one (1) year directly to the

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1 company at its home or district office a percentage of premium which
2 the company would otherwise have paid for the weekly collection of
3 such premium, nor shall this section be construed to prevent the taking
4 of a bona fide obligation, with legal interest, in payment of any
5 premium.

6 (b) No insured person or party or applicant for insurance shall
7 directly or indirectly, receive or accept, or agree to receive or accept,
8 any rebate of premium or of any part thereof, or all or any part of any
9 **agent's insurance producer's** or broker's commission thereon, or any
10 favor or advantage, or share in any benefit to accrue under any policy
11 of insurance, or any valuable consideration or inducement, other than
12 such as are specified in the policy.

13 SECTION 16. IC 27-1-22-2.5, AS AMENDED BY P.L.132-2001,
14 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2003]: Sec. 2.5. (a) As used in this chapter, "exempt
16 commercial policyholder" means an entity that:

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

20 (2) has purchased the policy of insurance through an insurance
21 **agent producer** licensed under IC 27-1-15.6 or IC 27-1-15.8; and

22 (3) meets any three (3) of the following criteria:

23 (A) Has a net worth of more than twenty-five million dollars
24 (\$25,000,000) at the time the policy of insurance is issued.

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

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

30 (D) Has aggregate annual commercial insurance premiums,
31 excluding any worker's compensation and professional liability
32 insurance premiums, of more than seventy-five thousand
33 dollars (\$75,000) in the preceding fiscal year.

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

38 (F) Procures commercial insurance with the services of a risk
39 manager.

40 An entity meets the written certification requirement under subdivision
41 (1) if the entity provides a copy of a certification previously submitted
42 under subdivision (1) and if there has been no significant material

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change in the entity's status.

(b) As used in this chapter, "risk manager" means a person qualified 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 may be:

(1) a full-time employee of an exempt commercial policyholder who is qualified through education and experience or training and experience; or

(2) a person retained by an exempt commercial policyholder who holds a professional designation relevant to the type of insurance to be purchased by the exempt commercial policyholder.

SECTION 17. IC 27-1-22-4, AS AMENDED BY P.L.268-1999, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) Every insurer shall file with the commissioner every manual of classifications, rules, and rates, every rating schedule, every rating plan, and every modification of any of the foregoing which it proposes to use.

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

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

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

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

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

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

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

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

(4) any other relevant factors.

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

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

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1 (f) Specific inland marine rates on risks specially rated, made by a
 2 rating organization, shall be filed with the commissioner.
 3 (g) Any insurer may satisfy its obligation to make any such filings
 4 by becoming a member of, or a subscriber to, a licensed rating
 5 organization which makes such filings and by authorizing the
 6 commissioner to accept such filings on its behalf, provided that nothing
 7 contained in this chapter shall be construed as requiring any insurer to
 8 become a member of or a subscriber to any rating organization or as
 9 requiring any member or subscriber to authorize the commissioner to
 10 accept such filings on its behalf.
 11 (h) Every insurer which is a member of or a subscriber to a rating
 12 organization shall be deemed to have authorized the commissioner to
 13 accept on its behalf all filings made by the rating organization which
 14 are within the scope of its membership or subscribership, provided:
 15 (1) that any subscriber may withdraw or terminate such
 16 authorization, either generally or for individual filings, by written
 17 notice to the commissioner and to the rating organization and may
 18 then make its own independent filings for any kinds of insurance,
 19 or subdivisions, or classes of risks, or parts or combinations of
 20 any of the foregoing, with respect to which it has withdrawn or
 21 terminated such authorization, or may request the rating
 22 organization, within its discretion, to make any such filing on an
 23 agency basis solely on behalf of the requesting subscriber; and
 24 (2) that any member may proceed in the same manner as a
 25 subscriber unless the rating organization shall have adopted a
 26 rule, with the approval of the commissioner:
 27 (A) requiring a member, before making an independent filing,
 28 first to request the rating organization to make such filing on
 29 its behalf and requiring the rating organization, within thirty
 30 (30) days after receipt of such request, either:
 31 (i) to make such filing as a rating organization filing;
 32 (ii) to make such filing on an agency basis solely on behalf
 33 of the requesting member; or
 34 (iii) to decline the request of such member; and
 35 (B) excluding from membership any insurer which elects to
 36 make any filing wholly independently of the rating
 37 organization.
 38 (i) Under such rules as ~~he~~ **the commissioner** shall adopt, the
 39 commissioner may, by written order, suspend or modify the
 40 requirement of filing as to any kinds of insurance, or subdivision, or
 41 classes of risk, or parts or combinations of any of the foregoing, the
 42 rates for which can not practicably be filed before they are used. Such

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1 orders and rules shall be made known to insurers and rating
 2 organizations affected thereby. The commissioner may make such
 3 examination as ~~he~~ **the commissioner** may deem advisable to ascertain
 4 whether any rates affected by such order are excessive, inadequate, or
 5 unfairly discriminatory.

6 (j) Upon the written application of the insured, stating ~~his~~ **the**
 7 **insured's** reasons therefor, filed with the commissioner, a rate in
 8 excess of that provided by a filing otherwise applicable may be used on
 9 any specific risk.

10 (k) An insurer shall not make or issue a policy or contract except in
 11 accordance with filings which are in effect for that insurer or in
 12 accordance with the provisions of this chapter. Subject to the
 13 provisions of section 6 of this chapter, any rates, rating plans, rules,
 14 classifications, or systems in effect on May 31, 1967, shall be
 15 continued in effect until withdrawn by the insurer or rating
 16 organization which filed them.

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

25 (m) The department may adopt rules to:

- 26 (1) implement the exemption under subsection (b);
- 27 (2) impose disclosure requirements the commissioner determines
 28 are necessary to adequately protect exempt commercial
 29 policyholders; and
- 30 (3) establish the form of the report required by subsection (n).

31 (n) Each insurer who issues insurance to an exempt commercial
 32 policyholder shall file an annual report with the department by
 33 February 1 of each year. The annual report may not disclose the
 34 identity of an exempt commercial policyholder and must include only
 35 the following information regarding each exempt commercial
 36 policyholder:

- 37 (1) The account number, policy number, or other number used by
 38 the insurer to identify the insured.
- 39 (2) The amount of aggregate annual commercial premium.
- 40 (3) The inception date and expiration date of commercial
 41 insurance coverage provided by the insurer.
- 42 (4) The criteria in section 2.5(a)(3) of this chapter used to

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1 establish the entity as an exempt commercial policyholder.
 2 (o) The annual report filed under subsection (n) must be
 3 accompanied by the fee prescribed by IC 27-1-3-15(e). For purposes of
 4 calculating the required fee, each policy purchased by an exempt
 5 commercial policyholder shall be considered a product filing under
 6 IC 27-1-3-15(e).

7 SECTION 18. IC 27-1-22-5 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Upon ~~his own~~ **the**
 9 **commissioner's** motion, or upon written request by any insured
 10 affected thereby or by any licensed insurance ~~agent~~ **producer** or
 11 broker, if such request is made in good faith and states reasonable
 12 grounds, the commissioner, if ~~he~~ **the commissioner** shall have reason
 13 to believe that any filing is not in compliance with the applicable
 14 provisions of section 3 of this chapter, or in the case of an alleged
 15 violation of section 6 of the chapter if ~~he~~ **the commissioner** finds on
 16 the basis of the information on file with the department that there has
 17 been a prima facie showing of a violation of that section, shall hold a
 18 hearing upon not less than ten (10) days written notice to the rating
 19 organization or insurer which made the filing in issue, specifying the
 20 items and matters to be considered and stating in what manner and to
 21 what extent noncompliance is alleged to exist. No other matter or
 22 subject shall be considered at such hearing. Only the rating
 23 organization or insurer which made such filing and the commissioner
 24 may be parties to any hearing or to any judicial appeal resulting
 25 therefrom. Within a reasonable time, the commissioner shall notify
 26 every person making request as to ~~his~~ **the** decision as to the validity of
 27 the request and subsequently shall notify every such person of any
 28 action which may thereafter be taken with reference to such request.

29 (b) If, after such hearing, the commissioner finds, based upon a
 30 preponderance of the evidence adduced at such hearing and made a
 31 part of the record thereof, that such filing is not in compliance with the
 32 provisions of section 3 of this chapter, ~~he~~ **the commissioner** shall
 33 immediately issue a written order to the parties specifying in detail in
 34 what respects and upon what evidence such noncompliance exists and
 35 stating when, within a reasonable period thereafter, such filing shall be
 36 deemed no longer effective. Said order shall not affect any contract
 37 policy made or issued prior to the expiration of the period set forth in
 38 said order.

39 (c) If after such hearing the commissioner finds that such filing does
 40 not violate the provisions of section 3 of this chapter, ~~he~~ **the**
 41 **commissioner** shall immediately issue a written order to the parties
 42 dismissing the proceedings.

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1 (d) The finding and order of the commissioner shall be made within
 2 ninety (90) days after the close of such hearing or within such
 3 reasonable time extensions as may be fixed by the commissioner.

4 (e) No manual of classifications, rule, rate, rating schedule, rating
 5 plan, or any modification of any of the foregoing which establishes
 6 standards for measuring variations in hazards or expense provisions, or
 7 both, which has been filed pursuant to section 4 of this chapter shall be
 8 disapproved if the rates produced thereby meet the requirements of
 9 section 3 of this chapter.

10 (f) All actions of the commissioner under this chapter and all
 11 appeals from ~~his~~ **the commissioner's** action shall be governed by
 12 IC 4-21.5, except where a different specific provision is made in this
 13 chapter.

14 SECTION 19. IC 27-1-22-7 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) When a filing or
 16 deviation involving a rate adjustment depends upon a change in the
 17 relationship between the proposed rates and the anticipated production
 18 expense portion thereof from the relationship anticipated under any
 19 rates previously filed and currently in effect for the company or rating
 20 organization involved, such filing or deviation shall be subject to the
 21 provisions of subsection (b).

22 (b) Each filing or deviation subject to this section shall be on file for
 23 a waiting period of twenty (20) days before it becomes effective. If
 24 within such waiting period or after hearing as provided in this section,
 25 the commissioner finds that the filing or deviation does not meet the
 26 requirements of this chapter, ~~he~~ **the commissioner** shall send to the
 27 insurer or rating organization which made the filing or to the insurer
 28 which filed the deviation written notice of disapproval specifying
 29 therein in what respects the filing or deviation fails to meet the
 30 requirements of this chapter and stating that the same shall not become
 31 effective. Such filing or deviation shall be deemed to meet the
 32 requirements of this act unless disapproved:

33 (1) within such waiting period; or

34 (2) if a hearing has been called and written notice thereof given
 35 by the commissioner during such waiting period, then within ten

36 (10) days after the date of commencement of such hearing.

37 Upon ~~his~~ **the commissioner's** own motion, or upon timely written
 38 request by any ~~agent~~ **insurance producer** or broker of the company or
 39 companies to which such filing or deviation is applicable, if such
 40 request is in good faith and states reasonable grounds, the
 41 commissioner may at any time within the waiting period call a hearing
 42 upon not less than ten (10) nor more than fifteen (15) days written

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1 notice to the company or rating organization making the filing or to the
2 company filing the deviation. Within ten (10) days after the
3 commencement of such hearing, the commissioner shall in writing
4 either approve such filing or deviation or shall disapprove the same as
5 provided in this section.

6 SECTION 20. IC 27-1-22-18 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. No insurer, broker,
8 or **agent insurance producer** shall knowingly charge, demand, or
9 receive a premium for any policy of insurance except in accordance
10 with the provisions of this chapter. No insurer or employee thereof, and
11 no broker or **agent insurance producer** shall pay, allow, or give,
12 directly or indirectly, as an inducement to insurance, or after insurance
13 has been effected, any rebate, discount, abatement, credit, or reduction
14 of the premium named in a policy of insurance, or any special favor or
15 advantage in the dividends or other benefits to accrue thereon, or any
16 valuable consideration or inducement whatever, not specified in the
17 policy of insurance, except to the extent provided for in applicable
18 filings. No insured named in any policy of insurance shall knowingly
19 receive or accept, directly or indirectly, any such rebate, discount,
20 abatement, credit or reduction of premium, or any such special favor or
21 advantage or valuable consideration or inducement. Nothing in this
22 section shall be construed as prohibiting the payment of, nor permitting
23 the regulation of the payment of, commissions or other compensation
24 to duly licensed **agents insurance producers** and brokers, nor as
25 prohibiting, or permitting the regulation of, any insurer from allowing
26 or returning to its participating policyholders or members, dividends or
27 savings.

28 SECTION 21. IC 27-1-22-19 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. Nothing in this
30 chapter abridges or restricts the freedom of contract of insurers, ~~agents,~~
31 **insurance producers**, or brokers with reference to the amount of
32 commission to be paid to **agents insurance producers** or brokers by
33 insurers, and such payments are expressly authorized.

34 SECTION 22. IC 27-1-25-1, AS AMENDED BY P.L.132-2001,
35 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 JULY 1, 2003]: Sec. 1. As used in this chapter:

37 (a) "Administrator", except as provided in section 7.5 of this
38 chapter, means a person who collects charges or premiums from, or
39 who adjusts or settles claims on, residents of Indiana in connection
40 with life or health coverage or annuities, whether provided for by an
41 insurer or a self-funded plan. The term "administrator" does not include
42 the following persons:

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- 1 (1) An employer for its employees or for the employees of a
 2 subsidiary or affiliated corporation of the employer.
 3 (2) A union for its members.
 4 (3) An insurer, including:
 5 (A) an insurer operating a health maintenance organization or
 6 a limited service health maintenance organization; and
 7 (B) the sales representative of an insurer operating a health
 8 maintenance organization or a limited service health
 9 maintenance organization when that sales representative is
 10 licensed in Indiana and when it is engaged in the performance
 11 of its duties as the sales representative.
 12 (4) A life or health insurance ~~agent~~ **producer** licensed under
 13 IC 27-1-15.6 whose activities are limited exclusively to the sale
 14 of insurance.
 15 (5) A creditor for its debtors regarding insurance covering a debt
 16 between them.
 17 (6) A trust established under 29 U.S.C. 186 and the trustees,
 18 agents, and employees acting pursuant to that trust.
 19 (7) A trust that is exempt from taxation under Section 501(a) of
 20 the Internal Revenue Code and:
 21 (A) the trustees and employees acting pursuant to that trust; or
 22 (B) a custodian and the agents and employees of the custodian
 23 acting pursuant to a custodian account that meets the
 24 requirements of Section 401(f) of the Internal Revenue Code.
 25 (8) A financial institution that is subject to supervision or
 26 examination by federal or state banking authorities.
 27 (9) A credit card issuing company that advances for and collects
 28 premiums or charges from its credit cardholders as long as that
 29 company does not adjust or settle claims.
 30 (10) An individual who adjusts or settles claims in the normal
 31 course of ~~his~~ **the individual's** practice or employment as an
 32 attorney at law, and who does not collect charges or premiums in
 33 connection with life or health insurance coverage or annuities.
 34 (11) A health maintenance organization that has a certificate of
 35 authority issued under IC 27-13.
 36 (12) A limited service health maintenance organization that has
 37 a certificate of authority issued under IC 27-13.
 38 (b) "Certificate of registration" refers to the certificate required by
 39 section 11 of this chapter.
 40 (c) "Commissioner" refers to the commissioner of insurance.
 41 (d) "Financial institution" means a bank, savings association, credit
 42 union, or any other institution regulated under IC 28 or federal law.

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1 (e) "Insurer" means a person who obtains a certificate of authority
2 under IC 27-1-3-20.

3 (f) "Person" means an individual, a corporation, a partnership, a
4 limited liability company, or an unincorporated association.

5 (g) "Self-funded plan" means a plan for providing benefits for life,
6 health, or annuity coverage by a person who is not an insurer.

7 SECTION 23. IC 27-1-27-1 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) The term "public
9 adjuster" shall include every individual or corporation who, or which,
10 for compensation or reward, renders advice or assistance to the insured
11 in the adjustment of a claim or claims for loss or damages under any
12 policy of insurance covering real or personal property and any person
13 or corporation who, or which, advertises, solicits business, or holds
14 itself out to the public as an adjuster of such claims. However, no
15 public adjuster shall:

16 (1) act in any manner in relation to claims for personal injury or
17 automobile property damage; or

18 (2) bind the insured in the settlement of claims.

19 (b) This chapter does not apply to, and the following are not
20 included in the term "public adjuster":

21 (1) An attorney at law admitted to practice in the state of Indiana
22 who adjusts insurance losses in the course of the practice of ~~his~~
23 **the attorney's** profession.

24 (2) An officer, regular salaried employee, or other representative
25 of an insurer or of an attorney in fact of any reciprocal insurer of
26 Lloyd's underwriter licensed to do business in Indiana who adjusts
27 losses arising under ~~his~~ **an** employer's or principal's own policies.

28 (3) An adjustment bureau or association owned and maintained
29 by insurers to adjust or investigate losses of such insurers, or any
30 regular salaried employee who devotes substantially all ~~of his~~ **the**
31 **employee's** time to the business of such bureau or association.

32 (4) Any licensed ~~agent~~ **insurance producer** or an authorized
33 insurer or officer or employee of the same who adjusts losses for
34 such insurer, and any ~~agent~~ **insurance producer** or representative
35 of a farmers' mutual insurance company operating under the
36 farmers' mutual insurance laws of this state on behalf of an
37 insurer.

38 (5) Any independent adjuster representing an insurer.

39 SECTION 24. IC 27-1-27-4 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) Each applicant
41 for a certificate of authority as a public adjuster shall file with the
42 commissioner of insurance ~~his, or its,~~ **an** application therefor on forms

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furnished by the commissioner of insurance, which application shall set forth:

(1) the name and address of the applicant, and if the applicant be a corporation, the name and address of each of its officers and directors;

(2) whether the person is applying as a resident or nonresident;

(3) whether any license or certificate of authority as ~~agent~~, **insurance producer**, broker, public adjuster, or independent adjuster has been issued previously by the commissioner of insurance of the state of Indiana or by the insurance department of any other state, any territorial possession of the United States, or any foreign country to the applicant; and

(4) the business or employment in which the applicant has been engaged for the five (5) years next preceding the date of the application, and the name and address of such business and the name or names and addresses of ~~his~~ **the applicant's** employer or employers.

(b) An application for any certificate of authority must be signed and verified under oath by the applicant.

(c) An annual fee of fifty dollars (\$50) is to be paid to the commissioner of insurance by the applicant for such public adjuster's certificate of authority before the application or annual renewal thereof is granted. However, the commissioner may, by rule adopted under IC 4-22-2, change the amount of the fee to an amount necessary to pay all of the direct and indirect costs of administering this chapter. Fees collected shall be used by the department to administer this chapter.

(d) Every public adjuster's certificate of authority shall expire on December 31 of the calendar year in which the same shall have been issued, but if an application for the renewal of such certificate shall have been filed with the commissioner of insurance before January 1 of any year, the certificate of authority sought to be renewed shall continue in full force and effect until the issuance by the commissioner of insurance of the new certificate applied for or until five (5) days after the commissioner of insurance shall have refused to issue such new certificate and shall have served notice of such refusal on the applicant therefor. Service of such notice shall be made by registered mail directed to the applicant at the place of business specified in the application.

(e) The applicant shall file with the commissioner of insurance a surety bond in a sum equal to ten thousand dollars (\$10,000) payable to the state of Indiana and conditioned on the principal's faithful performance and discharge of ~~his~~ **the principal's** duties under this title

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1 and under any rule of the department of insurance. The bond must be
2 renewed annually.

3 SECTION 25. IC 27-1-34-8 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. (a) A reinsurer may
5 not issue a policy of insurance to a multiple employer welfare
6 arrangement that does not have a certificate of registration from the
7 department.

8 (b) An **agent insurance producer** licensed by the department may
9 not solicit, offer, or provide coverage through a multiple employer
10 welfare arrangement that does not have a certificate of registration
11 from the department.

12 (c) A reinsurer or **agent insurance producer** who knows or
13 reasonably should have known that the arrangement does not have a
14 current certificate of registration is liable for any claims for benefits
15 that are due and unpaid.

16 SECTION 26. IC 27-1-36-46 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 46. (a) The comparison
18 of an insurer's total adjusted capital to any of its RBC levels is a
19 regulatory tool that may indicate the need for possible corrective action
20 with respect to the insurer and it is not intended as a means to rank
21 insurers generally. Except as provided in subsection (b), the action of
22 an insurer, an **agent insurance producer**, a broker, or other person
23 engaged in any manner in the insurance business, in:

24 (1) making, publishing, disseminating, circulating, or placing
25 before the public; or

26 (2) causing, directly or indirectly to be made, published,
27 disseminated, circulated, or placed before the public, in a
28 newspaper, magazine, or other publication, or in the form of a
29 notice, circular, pamphlet, letter, or poster, or over any radio or
30 television station, or in any other way;

31 an advertisement, an announcement, or a statement containing an
32 assertion, a representation, or a statement regarding the RBC level of
33 an insurer or any component derived in the calculation of the RBC
34 level of an insurer is misleading and is prohibited.

35 (b) If:

36 (1) a materially false statement with respect to the comparison
37 regarding an insurer's total adjusted capital to an RBC level of the
38 insurer or an inappropriate comparison of any other amount to the
39 insurer's RBC levels is published in any written publication; and

40 (2) the insurer is able to demonstrate to the commissioner with
41 substantial proof the:

42 (A) falsity; or

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1 (B) inappropriateness;
2 of the statement;
3 the insurer may publish an announcement in a written publication if the
4 sole purpose of the announcement is to rebut the materially false
5 statement.

6 SECTION 27. IC 27-2-17-3 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. As used in this
8 chapter, "independent ~~agent~~ **insurance producer**" means an ~~agent~~
9 **insurance producer** who:

- 10 (1) represents an insurer in the sale of insurance as an
11 independent contractor rather than as an employee; and
- 12 (2) is not limited to representing:
 - 13 (A) one (1) insurer; or
 - 14 (B) several insurers that are under common management.

15 SECTION 28. IC 27-2-17-6 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) An insurance
17 company that issues property or casualty insurance shall not
18 discriminate in the appointment of an independent ~~agent~~ **insurance**
19 **producer** on the basis of race, color, national origin, or gender.

20 (b) Except as provided in subsection (c), the department has
21 exclusive jurisdiction to investigate any complaints of discrimination
22 in the appointment of independent ~~agents~~ **insurance producers** in
23 violation of subsection (a).

24 (c) If the commissioner of the department determines after a hearing
25 that an insurance company has violated subsection (a), the
26 commissioner may order one (1) of the following remedies:

- 27 (1) Payment of a civil penalty of not more than two thousand
28 dollars (\$2,000) for each violation.
- 29 (2) Suspension or revocation of the insurance company's
30 certificate of authority if the commissioner determines that the
31 violation was willful or wanton and that similar violations have
32 been committed by that company with a frequency that constitutes
33 a general business practice.
- 34 (3) Any other remedy agreed to by the department and the
35 insurance company.

36 (d) Any determination made by the commissioner under this section
37 is subject to IC 4-21.5.

38 (e) Findings of the department under this section may not be
39 considered as evidence in any civil action other than an appeal as
40 provided under IC 4-21.5.

41 SECTION 29. IC 27-4-1-2 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. When and as used in

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1 this chapter:

2 (a) The term "person" shall mean any individual, corporation,
3 company including any farmers' mutual insurance company,
4 association, partnership, firm, reciprocal exchange, inter-insurer,
5 Lloyds insurers, society, fraternal benefit society, lodge, order, council,
6 corps, and any other association or legal entity, engaged in the business
7 of insurance, including but not in limitation of the foregoing, ~~agents,~~
8 **insurance producers**, brokers, solicitors, advisors, auditors, and
9 adjusters.

10 (b) "Department" shall mean the department of insurance of this
11 state created and defined as a department in the state government of the
12 state of Indiana by IC 27-1.

13 (c) "Commissioner" shall mean the insurance commissioner of this
14 state appointed pursuant to, and on and in whom the powers, duties,
15 management, and control of the department are conferred and vested
16 by, the provisions of IC 27-1.

17 SECTION 30. IC 27-4-1-4, AS AMENDED BY P.L.130-2002,
18 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2003]: Sec. 4. The following are hereby defined as unfair
20 methods of competition and unfair and deceptive acts and practices in
21 the business of insurance:

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

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

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

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

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

36 (E) making any misrepresentation to any policyholder insured
37 in any company for the purpose of inducing or tending to
38 induce such policyholder to lapse, forfeit, or surrender ~~his~~ **the**
39 **policyholder's** insurance.

40 (2) Making, publishing, disseminating, circulating, or placing
41 before the public, or causing, directly or indirectly, to be made,
42 published, disseminated, circulated, or placed before the public,

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- 1 in a newspaper, magazine, or other publication, or in the form of
 2 a notice, circular, pamphlet, letter, or poster, or over any radio or
 3 television station, or in any other way, an advertisement,
 4 announcement, or statement containing any assertion,
 5 representation, or statement with respect to any person in the
 6 conduct of ~~his~~ **the person's** insurance business, which is untrue,
 7 deceptive, or misleading.
- 8 (3) Making, publishing, disseminating, or circulating, directly or
 9 indirectly, or aiding, abetting, or encouraging the making,
 10 publishing, disseminating, or circulating of any oral or written
 11 statement or any pamphlet, circular, article, or literature which is
 12 false, or maliciously critical of or derogatory to the financial
 13 condition of an insurer, and which is calculated to injure any
 14 person engaged in the business of insurance.
- 15 (4) Entering into any agreement to commit, or individually or by
 16 a concerted action committing any act of boycott, coercion, or
 17 intimidation resulting or tending to result in unreasonable
 18 restraint of, or a monopoly in, the business of insurance.
- 19 (5) Filing with any supervisory or other public official, or making,
 20 publishing, disseminating, circulating, or delivering to any person,
 21 or placing before the public, or causing directly or indirectly, to
 22 be made, published, disseminated, circulated, delivered to any
 23 person, or placed before the public, any false statement of
 24 financial condition of an insurer with intent to deceive. Making
 25 any false entry in any book, report, or statement of any insurer
 26 with intent to deceive any agent or examiner lawfully appointed
 27 to examine into its condition or into any of its affairs, or any
 28 public official to which such insurer is required by law to report,
 29 or which has authority by law to examine into its condition or into
 30 any of its affairs, or, with like intent, willfully omitting to make a
 31 true entry of any material fact pertaining to the business of such
 32 insurer in any book, report, or statement of such insurer.
- 33 (6) Issuing or delivering or permitting agents, officers, or
 34 employees to issue or deliver, agency company stock or other
 35 capital stock, or benefit certificates or shares in any common law
 36 corporation, or securities or any special or advisory board
 37 contracts or other contracts of any kind promising returns and
 38 profits as an inducement to insurance.
- 39 (7) Making or permitting any of the following:
 40 (A) Unfair discrimination between individuals of the same
 41 class and equal expectation of life in the rates or assessments
 42 charged for any contract of life insurance or of life annuity or

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1 in the dividends or other benefits payable thereon, or in any
 2 other of the terms and conditions of such contract; however, in
 3 determining the class, consideration may be given to the
 4 nature of the risk, plan of insurance, the actual or expected
 5 expense of conducting the business, or any other relevant
 6 factor.

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

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

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

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

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

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

40 (8) Except as otherwise expressly provided by law, knowingly
 41 permitting or offering to make or making any contract or policy
 42 of insurance of any kind or kinds whatsoever, including but not in

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1 limitation, life annuities, or agreement as to such contract or
 2 policy other than as plainly expressed in such contract or policy
 3 issued thereon, or paying or allowing, or giving or offering to pay,
 4 allow, or give, directly or indirectly, as inducement to such
 5 insurance, or annuity, any rebate of premiums payable on the
 6 contract, or any special favor or advantage in the dividends,
 7 savings, or other benefits thereon, or any valuable consideration
 8 or inducement whatever not specified in the contract or policy; or
 9 giving, or selling, or purchasing or offering to give, sell, or
 10 purchase as inducement to such insurance or annuity or in
 11 connection therewith, any stocks, bonds, or other securities of any
 12 insurance company or other corporation, association, limited
 13 liability company, or partnership, or any dividends, savings, or
 14 profits accrued thereon, or anything of value whatsoever not
 15 specified in the contract. Nothing in this subdivision and
 16 subdivision (7) shall be construed as including within the
 17 definition of discrimination or rebates any of the following
 18 practices:

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

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

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

34 (D) Paying by an insurer or ~~agent~~ **insurance producer** thereof
 35 duly licensed as such under the laws of this state of money,
 36 commission, or brokerage, or giving or allowing by an insurer
 37 or such licensed ~~agent~~ **insurance producer** thereof anything
 38 of value, for or on account of the solicitation or negotiation of
 39 policies or other contracts of any kind or kinds, to a broker,
 40 ~~agent~~, **insurance producer**, or solicitor duly licensed under
 41 the laws of this state, but such broker, ~~agent~~, **insurance**
 42 **producer**, or solicitor receiving such consideration shall not

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- 1 pay, give, or allow credit for such consideration as received in
 2 whole or in part, directly or indirectly, to the insured by way of
 3 rebate.
- 4 (9) Requiring, as a condition precedent to loaning money upon the
 5 security of a mortgage upon real property, that the owner of the
 6 property to whom the money is to be loaned negotiate any policy
 7 of insurance covering such real property through a particular
 8 insurance ~~agent~~ **producer** or broker or brokers. However, this
 9 subdivision shall not prevent the exercise by any lender of ~~its or~~
 10 ~~his~~ **the** right to approve or disapprove of the insurance company
 11 selected by the borrower to underwrite the insurance.
- 12 (10) Entering into any contract, combination in the form of a trust
 13 or otherwise, or conspiracy in restraint of commerce in the
 14 business of insurance.
- 15 (11) Monopolizing or attempting to monopolize or combining or
 16 conspiring with any other person or persons to monopolize any
 17 part of commerce in the business of insurance. However,
 18 participation as a member, director, or officer in the activities of
 19 any nonprofit organization of ~~agents~~ **insurance producers** or
 20 other workers in the insurance business shall not be interpreted,
 21 in itself, to constitute a combination in restraint of trade or as
 22 combining to create a monopoly as provided in this subdivision
 23 and subdivision (10). The enumeration in this chapter of specific
 24 unfair methods of competition and unfair or deceptive acts and
 25 practices in the business of insurance is not exclusive or
 26 restrictive or intended to limit the powers of the commissioner or
 27 department or of any court of review under section 8 of this
 28 chapter.
- 29 (12) Requiring as a condition precedent to the sale of real or
 30 personal property under any contract of sale, conditional sales
 31 contract, or other similar instrument or upon the security of a
 32 chattel mortgage, that the buyer of such property negotiate any
 33 policy of insurance covering such property through a particular
 34 insurance company, ~~agent~~, **insurance producer**, or broker or
 35 brokers. However, this subdivision shall not prevent the exercise
 36 by any seller of such property or the one making a loan thereon of
 37 ~~his, her, or its~~ **the** right to approve or disapprove of the insurance
 38 company selected by the buyer to underwrite the insurance.
- 39 (13) Issuing, offering, or participating in a plan to issue or offer,
 40 any policy or certificate of insurance of any kind or character as
 41 an inducement to the purchase of any property, real, personal, or
 42 mixed, or services of any kind, where a charge to the insured is

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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 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).

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- 1 (17) Between policy renewal dates, unilaterally canceling an
 2 individual's coverage under an individual or group health
 3 insurance policy solely because of the individual's medical or
 4 physical condition.
 5 (18) Using a policy form or rider that would permit a cancellation
 6 of coverage as described in subdivision (17).
 7 (19) Violating IC 27-1-22-25 or IC 27-1-22-26 concerning motor
 8 vehicle insurance rates.
 9 (20) Violating IC 27-8-21-2 concerning advertisements referring
 10 to interest rate guarantees.
 11 (21) Violating IC 27-8-24.3 concerning insurance and health plan
 12 coverage for victims of abuse.
 13 (22) Violating IC 27-8-26 concerning genetic screening or testing.
 14 (23) Violating IC 27-1-15.6-3(b) concerning licensure of
 15 insurance producers.
 16 (24) Violating IC 27-1-38 concerning depository institutions.
- 17 SECTION 31. IC 27-4-3-1 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. It is hereby declared
 19 unlawful for any two (2) or more insurance companies writing the same
 20 class, or classes, of risks and doing business in this state, directly or
 21 indirectly, to enter into any arrangement, contract, agreement,
 22 understanding, combination or association to require, coerce or induce
 23 any ~~agent~~ **insurance producer** or representative of any two (2) or more
 24 of such insurance companies within the state of Indiana to refrain from
 25 representing other such insurance companies, or to afford any
 26 advantage to any ~~such agent~~ **insurance producer** to refrain from
 27 representing other such insurance companies or to impose upon ~~such~~
 28 ~~agent~~ **the insurance producer** any disadvantage by reason of ~~his~~ **the**
 29 **insurance producer's** acting as representative of other such insurance
 30 companies.
- 31 SECTION 32. IC 27-4-3-2 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) It ~~shall be~~ **is**
 33 unlawful for any insurance ~~agent~~ **producer** representing or acting for
 34 two (2) or more insurance companies writing the same class or classes,
 35 of risks to enter, either directly or indirectly, into any agreement,
 36 arrangement, contract or understanding with one (1) or more of such
 37 companies that ~~he~~ **the insurance producer** will refrain from
 38 representing any other like company or companies, and it ~~shall be~~ **is**
 39 unlawful for any such insurance company, not having a contract
 40 requiring an ~~agent~~ **insurance producer** to represent it ~~the~~ **insurance**
 41 **company** alone, in any manner to require, coerce, or induce any ~~agent~~
 42 **insurance producer** to refrain from representing any other like

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company or companies.

~~Provided; however, That this shall not be construed to~~ **(b) This section does not** prevent any insurance company or ~~agent insurance producer~~ **agent insurance producer** from at any time entering into a bona fide contract whereby ~~such agent an insurance producer~~ **agent an insurance producer** agrees that ~~he the insurance producer~~ **he the insurance producer** will thereafter represent a single company exclusively.

SECTION 33. IC 27-4-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. For violation of any provision of this chapter, the license of the offending company or ~~agent insurance producer~~ **agent insurance producer** to transact the business of insurance within the state of Indiana shall be suspended for a period of three (3) years. Whenever information of any such violation shall come to the knowledge of the commissioner of insurance, ~~he the commissioner~~ **he the commissioner** shall issue an order fixing a day certain, not more than thirty (30) nor less than twenty (20) days from the making thereof, upon which the offender shall appear and show cause why such penalty should not be enforced, such order specifying with reasonable certainty the violation charged, and if, after hearing, the commissioner shall determine that the company or ~~agent insurance producer~~ **agent insurance producer** is guilty of such violation, ~~he the commissioner~~ **he the commissioner** shall forthwith suspend the license of the offender for a period of three (3) years. Such hearing shall be public, and at any such hearing any person or corporation having lodged information of such violation with the commissioner shall be entitled to be present and submit evidence. Within thirty (30) days after the suspension of any such license, the ~~agent insurance producer~~ **agent insurance producer** or company whose license has been suspended may appeal from the ruling of the commissioner of insurance to the circuit or superior court of the county in which ~~such agent the insurance producer~~ **such agent the insurance producer** resides or in which such company has its principal place of business, and if such company be a foreign insurance company then such appeal may be taken by such company to the circuit or superior court of Marion County.

SECTION 34. IC 27-5-3-3, AS AMENDED BY P.L.132-2001, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) With respect to writing, making, or taking the kinds of insurance specifically excepted in IC 27-5-2-1(1)(B) and with respect to writing, making, or taking liability insurance, worker's compensation, fidelity, and surety insurance such farmers' mutual insurance company shall be subject to the following statutes, anything in IC 27-1 or IC 27-5-1 to the contrary notwithstanding:

- (1) IC 27-1-3, IC 27-9, IC 27-1-5-3, IC 27-1-6-15, IC 27-1-7-14, IC 27-1-7-15, IC 27-1-7-16, IC 27-6-1.1-2, IC 27-1-7-21,



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1 IC 27-1-7-22, IC 27-1-7-23, IC 27-1-9, IC 27-1-13-3,
 2 IC 27-1-13-4, IC 27-1-13-6, IC 27-1-13-7, IC 27-1-13-8,
 3 IC 27-1-13-9, IC 27-1-20-1, IC 27-1-20-4, IC 27-1-20-6,
 4 IC 27-1-20-9, IC 27-1-20-10, IC 27-1-20-11, IC 27-1-20-14,
 5 IC 27-1-20-19, IC 27-1-20-20, IC 27-1-20-21, IC 27-1-20-23,
 6 ~~IC 27-1-20-24~~, and IC 27-1-20-30.

7 (2) All of IC 27-1-22.

8 (3) IC 27-1-13-7.

9 (4) All of IC 27-7-2.

10 (b) An **agent insurance producer** representing a farmers' mutual
 11 insurance company with respect to insurance authorized to be written
 12 by this chapter and not authorized before March 13, 1953, to be written
 13 by a farmers' mutual insurance company shall comply with
 14 IC 27-1-15.6.

15 SECTION 35. IC 27-5-4-2, AS AMENDED BY P.L.132-2001,
 16 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2003]: Sec. 2. Any such farmers' mutual insurance company
 18 may elect to become subject to the provisions of IC 27-1 as provided
 19 by IC 27-1-11-1 and thereafter may avail itself of all rights, privileges,
 20 and franchises provided by IC 27-1 in accordance with IC 27-1.
 21 Nothing contained in IC 27-1 shall affect or invalidate any policies
 22 issued or bound by such company and in full force and effect at the
 23 time said election becomes effective, but any such policy or contract of
 24 insurance and the rights and obligations thereunder may continue in
 25 full force and effect until expiration or termination; provided, that not
 26 later than five (5) years following the effective date of said election, all
 27 such policies or contracts of insurance shall be subject to the provisions
 28 of IC 27-1. Any **agent insurance producer** or representative of such
 29 company who is exempt from the provisions of IC 27-1-15.6 at the time
 30 said election becomes effective may continue to represent such
 31 company only within the scope of such existing representation without
 32 compliance with the provisions of IC 27-1-15.6 for a period not to
 33 exceed one (1) year following the effective date of said election, but
 34 thereafter such representation shall be subject to compliance with
 35 IC 27-1-15.6. Such election provided for in this section shall become
 36 effective upon the date of issuance of the new certificate of authority
 37 pursuant to IC 27-1-11-7.

38 SECTION 36. IC 27-6-8-9 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The
 40 commissioner shall:

41 (i) Notify the association of the existence of an insolvent insurer
 42 not later than three (3) working days after ~~he~~ **the commissioner**

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1 receives an order of liquidation.

2 (ii) Upon request of the board of directors, provide the association
3 with a statement of the net direct written premiums of each
4 member insurer.

5 (b) The commissioner may:

6 (i) Require that the association notify the insureds of the insolvent
7 insurer and any other interested parties of the order of liquidation
8 and of their rights under this chapter. This notification shall be by
9 mail at their last known address, where available, but if sufficient
10 information for notification by mail is not available, notice by
11 publication in a newspaper of general circulation in all counties
12 in which the insolvent insurer transacted insurance business shall
13 be sufficient.

14 (ii) Require each **agent insurance producer** of the insolvent
15 insurer to give prompt written notice by first class mail of such
16 insolvency and the rights of the insured under this chapter to each
17 insured of the insolvent insurer for whom ~~he~~ **the insurance**
18 **producer** is **agent insurance producer** of record, at such
19 insured's last known address.

20 (iii) Suspend or revoke, after notice and hearing, the certificate of
21 authority to transact insurance in this state of any member insurer
22 which fails to pay an assessment when due or fails to comply with
23 the plan of operation. As an alternative, the commissioner may
24 levy a fine on any member insurer which fails to pay an
25 assessment when due. The fine shall not exceed five percent (5%)
26 of the unpaid assessment per month, except that no fine shall be
27 less than one hundred dollars (\$100) per month.

28 (iv) Revoke the designation of any servicing facility if ~~he~~ **the**
29 **commissioner** finds claims are being handled unsatisfactorily.

30 (v) Any final action or order of the commissioner under this
31 chapter shall be subject to judicial review in a court of competent
32 jurisdiction.

33 SECTION 37. IC 27-6-8-10 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (Effect of Paid
35 Claims) (a) Any person recovering under this chapter shall be deemed
36 to have assigned ~~his~~ **the person's** rights under the policy to the
37 association to the extent of ~~his~~ **the person's** recovery from the
38 association. Every insured or claimant seeking the protection of this
39 chapter shall cooperate with the association to the same extent as the
40 person would have been required to cooperate with the insolvent
41 insurer. The association shall have no cause of action against the
42 insured of the insolvent insurer for any sums it has paid out except such

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1 causes of action as the insolvent insurer would have had if such sums
 2 had been paid by the insolvent insurer. In the case of an insolvent
 3 insurer operating on a plan with assessment liability, payments of
 4 claims of the association shall not operate to reduce the liability of
 5 insureds to the receiver, liquidator, or statutory successor for unpaid
 6 assessments previously made and no assessment shall be thereafter
 7 made for the purpose of reimbursing the association.

8 (b) The receiver, liquidator, or statutory successor of an insolvent
 9 insurer shall be bound by settlements of covered claims by the
 10 association or a similar organization in another state functioning
 11 pursuant to IC 27-6-8-8(d). The court having jurisdiction shall grant
 12 such claims priority equal to that which the claimant would have been
 13 entitled in the absence of this chapter against the assets of the insolvent
 14 insurer. The expenses of the association or similar organization in
 15 handling claims shall be accorded the same priority as the liquidator's
 16 expenses.

17 (c) The association shall periodically file with the receiver or
 18 liquidator of the insolvent insurer statements of the covered claims paid
 19 by the association and estimates of anticipated claims on the
 20 association which shall preserve the rights of the association against
 21 the assets of the insolvent insurer.

22 (d) The association shall have a right to recover from the ~~agent~~
 23 **insurance producer** of record any part of the paid claim for unearned
 24 premium that represents unearned commission to the ~~agent~~. **insurance**
 25 **producer.**

26 SECTION 38. IC 27-6-8-19 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. No person,
 28 including an insurer, ~~agent~~, **insurance producer**, or affiliate of an
 29 insurer, shall make, publish, disseminate, circulate, or place before the
 30 public, or cause, directly or indirectly, to be made, published,
 31 disseminated, circulated or placed before the public, in any newspaper,
 32 magazine or other publication, or in the form of a notice, circular,
 33 pamphlet, letter or poster, or over any radio station or television station,
 34 or in any other way, any advertisement, announcement or statement
 35 which uses the existence of the insurance guaranty association of this
 36 state for the purpose of sales, solicitation, or inducement to purchase
 37 any form of insurance covered by the Indiana insurance guaranty
 38 association law. ~~Provided~~; However, this section does not apply to
 39 Indiana insurance guaranty association or to any other entity which
 40 does not sell or solicit insurance.

41 SECTION 39. IC 27-6-9-5 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. As used in this

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1 chapter, "licensed producer" means an ~~agent~~, **insurance producer**,
 2 broker, or reinsurance intermediary licensed pursuant to the applicable
 3 provision of the insurance law.

4 SECTION 40. IC 27-7-6-5 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. No notice of
 6 cancellation of a policy to which section 4 of this chapter applies shall
 7 be effective unless mailed or delivered by the insurer to the named
 8 insured at least twenty (20) days prior to the effective date of
 9 cancellation; provided, however, that where cancellation is for
 10 nonpayment of premium at least ten (10) days notice of cancellation
 11 accompanied by the reason therefor shall be given. In the event such
 12 policy was procured by an ~~agent~~ **insurance producer** duly licensed by
 13 the state of Indiana, notice of intent to cancel shall be mailed or
 14 delivered to ~~such agent~~ **the insurance producer** at least ten (10) days
 15 prior to such mailing or delivery to the named insured unless such
 16 notice of intent is or has been waived in writing by ~~such agent~~ **the**
 17 **insurance producer**. Unless the reason accompanies or is included in
 18 the notice of cancellation, the notice of cancellation shall state or be
 19 accompanied by a statement that upon written request of the named
 20 insured, mailed or delivered to the insurer not less than fifteen (15)
 21 days prior to the effective date of cancellation, the insurer will specify
 22 the reason for such cancellation. This section shall not apply to
 23 nonrenewal.

24 SECTION 41. IC 27-7-6-6 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 6. (a) No insurer shall
 26 fail to renew a policy unless it shall mail or deliver to the named
 27 insured, at the address shown in the policy, at least twenty (20) days'
 28 advance notice of its intention not to renew. In the event such policy
 29 was procured by an ~~agent~~ **insurance producer** duly licensed by the
 30 state of Indiana notice of intent not to renew shall be mailed or
 31 delivered to ~~such agent~~ **the insurance producer** at least ten (10) days
 32 prior to such mailing or delivery to the named insured unless such
 33 notice of intent is or has been waived in writing by ~~such agent~~ **the**
 34 **insurance producer**.

35 (b) This section shall not apply:

36 ~~(a)~~ (1) if the insurer has manifested its willingness to renew; ~~nor~~
 37 ~~or~~

38 (b) (2) in case of nonpayment of premium.

39 ~~Provided, That,~~ **However**, notwithstanding the failure of an insurer to
 40 comply with this section, the policy shall terminate on the effective
 41 date of any other insurance policy with respect to any automobile
 42 designated in both policies.

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1 (c) Renewal of a policy shall not constitute a waiver or estoppel with
 2 respect to grounds for cancellation which existed before the effective
 3 date of such renewal.

4 SECTION 42. IC 27-7-6-10 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. There shall be no
 6 liability on the part of and no cause of action of any nature shall arise
 7 against the commissioner of insurance or against any insurer, its
 8 authorized representative, its ~~agents~~, **insurance producers**, its
 9 employees, or any firm, person, limited liability company, or
 10 corporation furnishing to the insurer information as to reasons for
 11 cancellation, for any statement made by any of them in any written
 12 notice of cancellation, or in any other communication, oral or written
 13 specifying the reasons for cancellation, or the providing of information
 14 pertaining thereto, or for statements made or evidence submitted at any
 15 hearings conducted in connection therewith.

16 SECTION 43. IC 27-7-9-9, AS AMENDED BY P.L.182-2001,
 17 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2003]: Sec. 9. (a) An insurer making the type of insurance
 19 described in Class 3(a) of IC 27-1-5-1 shall enter into a reinsurance
 20 agreement with the commissioner. The reinsurance agreement must
 21 include the following terms:

22 (1) The insurer agrees to cede to the commissioner one hundred
 23 percent (100%) of any mine subsidence coverage issued under
 24 this chapter, subject to a maximum limit of two hundred thousand
 25 dollars (\$200,000) per structure insured.

26 (2) The insurer shall collect the premiums for mine subsidence
 27 insurance, may retain a ceding commission in an amount set by
 28 the commissioner, and shall remit the remainder of the premiums
 29 to the commissioner for deposit in the mine subsidence insurance
 30 fund.

31 (3) The insurer, in consideration of the ceding commission, shall:
 32 (A) undertake the adjustment of losses under the mine
 33 subsidence coverage issued under this chapter by the insurer,
 34 with technical assistance provided under section 9.5 of this
 35 chapter; and
 36 (B) pay the taxes and absorb all other expenses necessarily
 37 incurred by the insurer in the sale of policies and the
 38 administration of the mine subsidence insurance program
 39 under this chapter.

40 (4) The commissioner shall reimburse the insurer from the mine
 41 subsidence insurance fund for all amounts paid to policyholders
 42 for mine subsidence insurance claims.



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1 (5) The insurer is not required to pay a claim for any mine
 2 subsidence loss insured under this chapter if the amount available
 3 in the mine subsidence insurance fund is insufficient to reimburse
 4 the insurer for the claim.

5 (b) The determination of the commissioner as to the amount of the
 6 ceding commission that an insurer may retain under subsection (a)(2)
 7 must be based on a consideration of the insurer's reasonable
 8 administrative costs (including ~~agents'~~ **insurance producers'**
 9 commissions).

10 SECTION 44. IC 27-7-10-15 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 15. (a) A risk retention
 12 group is liable for the payment of premium taxes and taxes on
 13 premiums of direct business for risks resident or located within
 14 Indiana, and shall report to the commissioner of this state the net
 15 premiums written for risks resident or located within Indiana. A risk
 16 retention group that is chartered and licensed in a state other than
 17 Indiana is subject to taxation, and any applicable fines and penalties
 18 related thereto, on the same basis as a foreign admitted insurer.

19 (b) A licensed ~~agent~~ **insurance producer** who is utilized under
 20 section 30 of this chapter in soliciting, negotiating, or procuring
 21 liability insurance from a risk retention group that is chartered and
 22 licensed in a state other than Indiana shall report to the commissioner
 23 the premiums for direct business for risks resident or located within
 24 Indiana that the ~~agent~~ **insurance producer** has placed with or on
 25 behalf of a risk retention group that is not chartered in Indiana.

26 (c) A licensed ~~agent~~ **insurance producer** who is utilized under
 27 section 30 of this chapter in soliciting, negotiating, or procuring
 28 liability insurance from a risk retention group that is chartered and
 29 licensed in a state other than Indiana shall keep a complete and
 30 separate record of all policies procured from each such risk retention
 31 group. The record kept under this subsection must be open to
 32 examination by the commissioner and must, for each policy and each
 33 kind of insurance provided, include the following information:

- 34 (1) The limit of liability.
- 35 (2) The time period covered.
- 36 (3) The effective date.
- 37 (4) The name of the risk retention group that issued the policy.
- 38 (5) The gross premium charged.
- 39 (6) The amount of return premiums, if any.

40 SECTION 45. IC 27-7-10-27 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. (a) A purchasing
 42 group may not purchase insurance from a risk retention group that is

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1 not chartered in a state or from an insurer not admitted in the state in
2 which the purchasing group is located, unless the purchase is effected
3 through a licensed **agent insurance producer** or broker acting under
4 the surplus lines laws and regulations of that state.

5 (b) A purchasing group that obtains liability insurance from an
6 insurer that is not admitted in Indiana or from a risk retention group
7 shall inform each of the members of the group who have a risk resident
8 or located in Indiana that the risk is not protected by an insurance
9 insolvency guaranty fund in Indiana and that the risk retention group
10 or insurer may not be subject to all insurance laws and rules of Indiana.

11 (c) No purchasing group may purchase insurance providing for a
12 deductible or self-insured retention applicable to the group as a whole.
13 However, coverage may provide for a deductible or self-insured
14 retention applicable to individual members of the purchasing group.

15 (d) Purchases of insurance by purchasing groups are subject to the
16 same standards regarding aggregate limits that are applicable to all
17 purchases of group insurance.

18 SECTION 46. IC 27-7-10-28 IS AMENDED TO READ AS
19 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 28. Premium taxes and
20 taxes on premiums paid for coverage of risks resident or located in
21 Indiana by a purchasing group or any member of a purchasing group
22 shall be:

23 (1) imposed at the same rate and subject to the same interest,
24 fines, and penalties that apply to premium taxes and taxes on
25 premiums paid for similar coverage from a similar insurance
26 source by other insureds; and

27 (2) paid first by the insurance source, and if not by the insurance
28 source, then by the **agent insurance producer** or broker for the
29 purchasing group, and if not by the **agent insurance producer** or
30 broker, then by the purchasing group, and if not by the purchasing
31 group, then by each of its members.

32 SECTION 47. IC 27-7-10-30, AS AMENDED BY P.L.132-2001,
33 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2003]: Sec. 30. No individual, firm, association, limited
35 liability company, or corporation may act or aid in any manner in
36 soliciting, negotiating, or procuring liability insurance in Indiana from
37 a risk retention group unless the individual, firm, association, or
38 corporation is licensed as an insurance **agent producer** under
39 IC 27-1-15.6.

40 SECTION 48. IC 27-7-10-31, AS AMENDED BY P.L.132-2001,
41 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
42 JULY 1, 2003]: Sec. 31. (a) No individual, firm, association, or

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1 corporation may act or aid in any manner in soliciting, negotiating, or
 2 procuring liability insurance in Indiana for a purchasing group from an
 3 authorized insurer or a risk retention group chartered in a state unless
 4 the individual, firm, association, or corporation is licensed as an
 5 insurance **agent producer** under IC 27-1-15.6.

6 (b) No individual, firm, association, or corporation may act or aid
 7 in any manner in soliciting, negotiating, or procuring liability insurance
 8 coverage in Indiana for any member of a purchasing group under a
 9 purchasing group's policy unless the individual, firm, association, or
 10 corporation is licensed as an insurance **agent producer** under
 11 IC 27-1-15.6.

12 (c) No individual, firm, association, or corporation may act or aid in
 13 any manner in soliciting, negotiating, or procuring liability insurance
 14 from an insurer not authorized to do business in Indiana on behalf of a
 15 purchasing group located in Indiana unless the individual, firm,
 16 association, or corporation is licensed as a surplus lines **agent**
 17 **producer** under IC 27-1-15.8.

18 SECTION 49. IC 27-7-10-32, AS AMENDED BY P.L.132-2001,
 19 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2003]: Sec. 32. (a) For purposes of acting as an **agent**
 21 **insurance producer** for a risk retention group or purchasing group
 22 under section 30 or 31 of this chapter, the requirement of residence in
 23 Indiana does not apply.

24 (b) Every individual, firm, association, or corporation licensed
 25 under IC 27-1-15.6, in regard to business placed with risk retention
 26 groups or written through a purchasing group, shall inform each
 27 prospective insured of the provisions of the notice required by section
 28 18 of this chapter in the case of a risk retention group and section 27(c)
 29 of this chapter in the case of a purchasing group.

30 SECTION 50. IC 27-7-12-3, AS ADDED BY P.L.203-2001,
 31 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2003]: Sec. 3. (a) Notice of cancellation of property insurance
 33 coverage by an insurer must:

- 34 (1) be in writing;
- 35 (2) be delivered or mailed to the named insured at the last known
 36 address of the named insured;
- 37 (3) state the effective date of the cancellation; and
- 38 (4) upon request of the named insured, be accompanied by a
 39 written explanation of the specific reasons for the cancellation.

40 (b) An insurer shall provide written notice of cancellation to the
 41 named insured at least:

- 42 (1) ten (10) days before canceling a policy, if the cancellation is

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1 for nonpayment of a premium;

2 (2) twenty (20) days before canceling a policy, if the cancellation
3 occurs more than sixty (60) days after the date of issuance of the
4 policy; and

5 (3) ten (10) days before canceling a policy, if the cancellation
6 occurs not more than sixty (60) days after the date of issuance of
7 the policy.

8 (c) If the policy was procured by an independent ~~agent~~ **insurance**
9 **producer** licensed in Indiana, the insurer shall deliver or mail notice
10 of cancellation to the ~~agent~~ **insurance producer** not less than ten (10)
11 days before the insurer delivers or mails the notice to the named
12 insured, unless the obligation to notify the ~~agent~~ **insurance producer**
13 is waived in writing by the ~~agent~~ **insurance producer**.

14 SECTION 51. IC 27-7-12-4, AS ADDED BY P.L.203-2001,
15 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2003]: Sec. 4. (a) Notice of nonrenewal by an insurer must:

17 (1) be in writing;

18 (2) be delivered or mailed to the named insured at the last known
19 address of the named insured;

20 (3) state the insurer's intention not to renew the policy upon
21 expiration of the current policy period;

22 (4) upon request of the named insured, be accompanied by a
23 written explanation of the specific reasons for the nonrenewal;
24 and

25 (5) be provided to the named insured at least twenty (20) days
26 before the expiration of the current policy period.

27 (b) If the policy was procured by an independent ~~agent~~ **insurance**
28 **producer** licensed in Indiana, the insurer shall deliver or mail notice
29 of nonrenewal to the ~~agent~~ **insurance producer** not less than ten (10)
30 days before the insurer delivers or mails the notice to the named
31 insured, unless the obligation to notify the ~~agent~~ **insurance producer**
32 is waived in writing by the ~~agent~~ **insurance producer**.

33 (c) If an insurer mails or delivers to an insured a renewal notice, bill,
34 certificate, or policy indicating the insurer's willingness to renew a
35 policy and the insured does not respond, the insurer is not required to
36 provide to the insured notice of intention not to renew.

37 SECTION 52. IC 27-7-12-9, AS ADDED BY P.L.203-2001,
38 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
39 JULY 1, 2003]: Sec. 9. (a) The following persons are immune from
40 civil liability for any communication giving notice of or specifying the
41 reasons for a termination or for any statement made in connection with
42 an attempt to discover or verify the existence of conditions that would

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- be a reason for a termination under this chapter:
 - (1) Employees of the department of insurance.
 - (2) An insurer or its authorized representative, agent, or employee.
 - (3) A licensed insurance ~~agent~~ **producer**.
 - (4) A person furnishing information to an insurer as to reasons for a termination.

(b) This section does not apply to statements made in bad faith with malice in fact.

SECTION 53. IC 27-8-1-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. The provisions of this chapter shall in no way apply to any secret or fraternal society or lodge or association which, under the supervision of a grand or supreme lodge, secures membership through the lodge system exclusively, and provides insurance to its members, nor to insurance organizations of a purely benevolent character which pay no commission nor employ any paid ~~agent~~ **insurance producer**, organized under the laws of this or any other state.

SECTION 54. IC 27-8-3-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 25. The fees to be paid by each such corporation, association, or society to the insurance commissioner for the authority to such corporation, association, or society, and its ~~agents~~ **insurance producers** under the license granted by him to each corporation, association, or society, to transact business in the state of Indiana shall be as follows:

- For filing copy of charter or articles of incorporation, twenty-five dollars (\$25).
- For filing each annual statement, twenty dollars (\$20).
- For issuing certificate of authority or license to company, corporation, association or society, one dollar (\$1).
- For issuing license to each ~~agent~~ **insurance producer**, one dollar (\$1).
- For affixing seal and certifying to any paper, one dollar (\$1).
- For renewal of license, each such corporation, association, or society shall file with the commissioner its annual statement, for which it shall pay the sum of twenty dollars (\$20).
- ~~For issuing license to each agent, one dollar (\$1).~~
- ~~For affixing seal and certifying any paper, one dollar (\$1).~~

For the privilege of transacting business in this state, a foreign or alien company, association, or society, admitted and licensed under this chapter, shall pay an annual tax upon premiums or assessments derived from business written within this state, such tax to be as defined and

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1 determined under IC 27-1-18-2, which is declared to be applicable in
2 its terms and provisions to such a company, association, or society;
3 provided also, that when any other state or country shall impose any
4 obligations in excess of those imposed by this chapter upon any such
5 corporation, association, or society of this state, a like obligation shall
6 be imposed on similar corporations and their agents of such state or
7 country doing business in this state; and provided also, that such
8 corporation, association, or society, in transacting business in this state,
9 shall be subject only to the provisions of this chapter.

10 SECTION 55. IC 27-8-5-3, AS AMENDED BY P.L.162-2001,
11 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2003]: Sec. 3. (a) Except as provided in subsection (c), each
13 policy delivered or issued for delivery to any person in this state shall
14 contain the provisions specified in this subsection in the words in
15 which the same appear in this section. However, the insurer may, at its
16 option, substitute for one (1) or more of the provisions corresponding
17 provisions of different wording approved by the commissioner that are
18 in each instance no less favorable in any respect to the insured or the
19 beneficiary. The provisions shall be preceded individually by the
20 caption appearing in this subsection or, at the option of the insurer, by
21 appropriate individual or group captions or subcaptions as the
22 commissioner may approve.

23 (1) A provision as follows: ENTIRE CONTRACT; CHANGES:
24 This policy, including the endorsements and the attached papers, if any,
25 constitutes the entire contract of insurance. No change in this policy
26 shall be valid until approved by an executive officer of the insurer and
27 unless such approval be endorsed hereon or attached hereto. No ~~agent~~
28 **insurance producer** has authority to change this policy or to waive any
29 of its provisions.

30 (2) A provision as follows: TIME LIMIT ON CERTAIN
31 DEFENSES: (A) After two (2) years from the date of issue of this
32 policy no misstatements, except fraudulent misstatements, made by the
33 applicant in the application for such policy shall be used to void the
34 policy or to deny a claim for loss incurred or disability (as defined in
35 the policy) commencing after the expiration of such two (2) year
36 period.

37 The foregoing policy provision shall not be so construed as to affect
38 any legal requirement for avoidance of a policy of denial of a claim
39 during such initial two (2) year period, nor to limit the application of
40 subsection (b), (1), (2), (3), (4), and (5) in the event of misstatement
41 with respect to age or occupation or other insurance.

42 A policy which the insured has the right to continue in force subject

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1 to its terms by the timely payment of premium:

2 (1) until at least age fifty (50); or

3 (2) in the case of a policy issued after forty-four (44) years of age,
4 for at least five (5) years from its date of issue;

5 may contain in lieu of the foregoing the following provision (from
6 which the clause in parentheses may be omitted at the insurer's option)
7 under the caption "INCONTESTABLE": After this policy has been in
8 force for a period of two (2) years during the lifetime of the insured
9 (excluding any period during which the insured is disabled), it shall
10 become incontestable as to the statements contained in the application.

11 (B) No claim for loss incurred or disability (as defined in the policy)
12 commencing after two (2) years from the date of issue of this policy
13 shall be reduced or denied on the ground that a disease or physical
14 condition, not excluded from coverage by name or specific description
15 effective on the date of loss, had existed prior to the effective date of
16 coverage of this policy.

17 (3) A provision as follows: GRACE PERIOD: A grace period of
18 (insert a number not less than "7" for weekly premium policies, "10"
19 for monthly premium policies and "31" for all other policies) days will
20 be granted for the payment of each premium falling due after the first
21 premium, during which grace period the policy shall continue in force.

22 A policy in which the insurer reserves the right to refuse renewal
23 shall have, at the beginning of the above provision: "Unless not less
24 than thirty (30) days prior to the premium due date the insurer has
25 delivered to the insured or has mailed to the insured's last address as
26 shown by the records of the insurer written notice of its intention not
27 to renew this policy beyond the period for which the premium has been
28 accepted."

29 Each policy in which the insurer reserves the right to refuse renewal
30 on an individual basis shall provide, in substance, in a provision of the
31 policy, in an endorsement on the policy, or in a rider attached to the
32 policy, that subject to the right to terminate the policy upon
33 non-payment of premium when due, such right to refuse renewal shall
34 not be exercised before the renewal date occurring on, or after and
35 nearest, each anniversary, or in the case of lapse and reinstatement at
36 the renewal date occurring on, or after and nearest, each anniversary of
37 the last reinstatement, and that any refusal or renewal shall be without
38 prejudice to any claim originating while the policy is in force. The
39 preceding sentence shall not apply to accident insurance only policies.

40 (4) A provision as follows: REINSTATEMENT: If any renewal
41 premium is not paid within the time granted the insured for payment,
42 a subsequent acceptance of premium by the insurer or by any agent

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1 authorized by the insurer to accept such premium, without requiring in
 2 connection therewith an application for reinstatement, shall reinstate
 3 the policy. Provided, that if the insurer or such agent requires an
 4 application for reinstatement and issues a conditional receipt for the
 5 premium tendered, the policy will be reinstated upon approval of such
 6 application by the insurer or, lacking such approval, upon the forty-fifth
 7 day following the date of such conditional receipt unless the insurer has
 8 previously notified the insured in writing of its disapproval of such
 9 application. The reinstated policy shall cover only loss resulting from
 10 such accidental injury as may be sustained after the date of
 11 reinstatement and loss due to such sickness as may begin more than ten
 12 (10) days after such date. In all other respects the insured and insurer
 13 shall have the same rights as they had under the policy immediately
 14 before the due date of the defaulted premium, subject to any provisions
 15 endorsed hereon or attached hereto in connection with the
 16 reinstatement. Any premium accepted in connection with a
 17 reinstatement shall be applied to a period for which premium has not
 18 been previously paid, but not to any period more than sixty (60) days
 19 prior to the date of reinstatement.

20 The last sentence of the above provision may be omitted from any
 21 policy which the insured has the right to continue in force subject to its
 22 terms by the timely payment of premiums:

- 23 (1) until at least fifty (50) years of age; or
- 24 (2) in the case of a policy issued after forty-four (44) years of age,
 25 for at least five (5) years from its date of issue.

26 (5) A provision as follows: NOTICE OF CLAIM: Written notice of
 27 claim must be given to the insurer within twenty (20) days after the
 28 occurrence or commencement of any loss covered by the policy, or as
 29 soon thereafter as is reasonably possible. Notice given by or on behalf
 30 of the insured or the beneficiary to the insurer at _____ (insert the
 31 location of such office as the insurer may designate for the purpose), or
 32 to any authorized agent of the insurer, with information sufficient to
 33 identify the insured, shall be deemed notice to the insurer.

34 In a policy providing a loss-of-time benefit which may be payable
 35 for at least two (2) years, an insurer may insert the following between
 36 the first and second sentences of the above provision:

37 Subject to the qualifications set forth below, if the insured suffers
 38 loss of time on account of disability for which indemnity may be
 39 payable for at least two (2) years, the insured shall, at least once in
 40 every six (6) months after having given notice of claim, give to the
 41 insurer notice of continuance of said disability, except in the event of
 42 legal incapacity. The period of six (6) months following any filing of

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1 proof by the insured or any payment by the insurer on account of such
 2 claim or any denial of liability in whole or in part by the insurer shall
 3 be excluded in applying this provision. Delay in the giving of such
 4 notice shall not impair the insurer's right to any indemnity which would
 5 otherwise have accrued during the period of six (6) months preceding
 6 the date on which such notice is actually given.

7 (6) A provision as follows: CLAIM FORMS: The insurer, upon
 8 receipt of a notice of claim, will furnish to the claimant such forms as
 9 are usually furnished by it for filing proofs of loss. If such forms are not
 10 furnished within fifteen (15) days after the giving of such notice, the
 11 claimant shall be deemed to have complied with the requirements of
 12 this policy as to proof of loss upon submitting, within the time fixed in
 13 the policy for filing proofs of loss, written proof covering the
 14 occurrence, the character, and the extent of the loss for which claim is
 15 made.

16 (7) A provision as follows: PROOFS OF LOSS: Written proof of
 17 loss must be furnished to the insurer at its said office in case of claim
 18 for loss for which this policy provides any periodic payment contingent
 19 upon continuing loss within ninety (90) days after the termination of
 20 the period for which the insurer is liable and in case of claim for any
 21 other loss within ninety (90) days after the date of such loss. Failure to
 22 furnish such proof within the time required shall not invalidate nor
 23 reduce any claim if it was not reasonably possible to give proof within
 24 such time, provided such proof is furnished as soon as reasonably
 25 possible and in no event, except in the absence of legal capacity, later
 26 than one (1) year from the time proof is otherwise required.

27 (8) A provision as follows: TIME OF PAYMENT OF CLAIMS:
 28 Indemnities payable under this policy for any loss other than loss for
 29 which this policy provides any periodic payment will be paid:

- 30 (1) immediately upon receipt of due written proof of such loss; or
 31 (2) in accordance with IC 27-8-5.7;

32 whichever is more favorable to the policyholder. Subject to due written
 33 proof of loss, all accrued indemnities for loss for which this policy
 34 provides periodic payment will be paid _____ (insert period for
 35 payment which must not be less frequently than monthly) and any
 36 balance remaining unpaid upon the termination of liability will be paid
 37 immediately upon receipt of due written proof. This provision must
 38 reflect compliance with IC 27-8-5.7.

39 (9) A provision as follows: PAYMENT OF CLAIMS: Indemnity for
 40 loss of life will be payable in accordance with the beneficiary
 41 designation and the provisions respecting such payment which may be
 42 prescribed herein and effective at the time of payment. If no such

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1 designation or provision is then effective, such indemnity shall be
2 payable to the estate of the insured. Any other accrued indemnities
3 unpaid at the insured's death may, at the option of the insurer, be paid
4 either to such beneficiary or to such estate. All other indemnities will
5 be payable to the insured.

6 The following provisions, or either of them, may be included with
7 the foregoing provision at the option of the insurer:

8 If any indemnity of this policy shall be payable to the estate of the
9 insured, or to an insured or beneficiary who is a minor or otherwise not
10 competent to give a valid release, the insurer may pay such indemnity,
11 up to an amount not exceeding \$ _____ (insert an amount which
12 shall not exceed \$1,000), to any relative by blood or connection by
13 marriage of the insured or beneficiary who is deemed by the insurer to
14 be equitably entitled thereto. Any payment made by the insurer in good
15 faith pursuant to this provision shall fully discharge the insurer to the
16 extent of such payment.

17 Subject to any written direction of the insured in the application or
18 otherwise all or a portion of any indemnities provided by this policy on
19 account of hospital, nursing, medical, or surgical services may, at the
20 insurer's option and unless the insured requests otherwise in writing not
21 later than the time of filing proofs of such loss, be paid directly to the
22 hospital or person rendering such services; but it is not required that the
23 service be rendered by a particular hospital or person.

24 For the purposes of this section a "minor" is a person under the age
25 of eighteen (18) years. A person eighteen (18) years of age or over is
26 competent, insofar as the person's age is concerned, to sign a valid
27 release.

28 (10) A provision as follows: PHYSICAL EXAMINATIONS AND
29 AUTOPSY: The insurer at its own expense shall have the right and
30 opportunity to examine the person of the insured when and as often as
31 it may reasonably require during the pendency of a claim hereunder
32 and to make an autopsy in case of death where it is not forbidden by
33 law.

34 (11) A provision as follows: LEGAL ACTIONS: No action at law
35 or in equity shall be brought to recover on this policy prior to the
36 expiration of sixty (60) days after written proof of loss has been
37 furnished in accordance with the requirements of this policy. No such
38 action shall be brought after the expiration of three (3) years after the
39 time written proof of loss is required to be furnished.

40 (12) A provision as follows: CHANGE OF BENEFICIARY: Unless
41 the insured makes an irrevocable designation of beneficiary, the right
42 to change of beneficiary is reserved to the insured and the consent of

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1 the beneficiary or beneficiaries shall not be requisite to surrender or
2 assignment of this policy or to any change of beneficiary or
3 beneficiaries, or to any other changes in this policy.

4 The first clause of this provision, relating to the irrevocable
5 designation of beneficiary, may be omitted at the insurer's option.

6 (13) A provision as follows: GUARANTEED RENEWABILITY:
7 In compliance with the federal Health Insurance Portability and
8 Accountability Act of 1996 (P.L.104-191), renewability is guaranteed.

9 (b) Except as provided in subsection (c), no policy delivered or
10 issued for delivery to any person in Indiana shall contain provisions
11 respecting the matters set forth below unless the provisions are in the
12 words in which the provisions appear in this section. However, the
13 insurer may use, instead of any provision, a corresponding provision of
14 different wording approved by the commissioner which is not less
15 favorable in any respect to the insured or the beneficiary. Any
16 substitute provision contained in the policy shall be preceded
17 individually by the appropriate caption appearing in this subsection or,
18 at the option of the insurer, by appropriate individual or group captions
19 or subcaptions as the commissioner may approve.

20 (1) A provision as follows: CHANGE OF OCCUPATION: If the
21 insured be injured or contract sickness after having changed the
22 insured's occupation to one classified by the insurer as more hazardous
23 than that stated in this policy or while doing for compensation anything
24 pertaining to an occupation so classified, the insurer will pay only such
25 portion of the indemnities provided in this policy as the premium paid
26 would have purchased at the rates and within the limits fixed by the
27 insurer for such more hazardous occupation. If the insured changes the
28 insured's occupation to one classified by the insurer as less hazardous
29 than that stated in this policy, the insurer, upon receipt of proof of such
30 change of occupation, will reduce the premium rate accordingly, and
31 will return the excess pro rata unearned premium from the date of
32 change of occupation or from the policy anniversary date immediately
33 preceding receipt of such proof, whichever is the more recent. In
34 applying this provision, the classification of occupational risk and the
35 premium rates shall be such as have been last filed by the insurer prior
36 to the occurrence of the loss for which the insurer is liable or prior to
37 date of proof of change in occupation with the state official having
38 supervision of insurance in the state where the insured resided at the
39 time this policy was issued; but if such filing was not required, then the
40 classification of occupational risk and the premium rates shall be those
41 last made effective by the insurer in such state prior to the occurrence
42 of the loss or prior to the date of proof of change in occupation.

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1 (2) A provision as follows: MISSTATEMENT OF AGE: If the age
 2 of the insured has been misstated, all amounts payable under this policy
 3 shall be such as the premium paid would have purchased at the correct
 4 age.

5 (3) A provision as follows: OTHER INSURANCE IN THIS
 6 INSURER: If an accident or sickness or accident and sickness policy
 7 or policies previously issued by the insurer to the insured are in force
 8 concurrently herewith, making the aggregate indemnity for _____
 9 (insert type of coverage or coverages) in excess of \$ _____ (insert
 10 maximum limit of indemnity or indemnities) the excess insurance shall
 11 be void and all premiums paid for such excess shall be returned to the
 12 insured or to the insured's estate. Or, instead of that provision:
 13 Insurance effective at any one (1) time on the insured under a like
 14 policy or policies, in this insurer is limited to the one (1) such policy
 15 elected by the insured, the insured's beneficiary or the insured's estate,
 16 as the case may be, and the insurer will return all premiums paid for all
 17 other such policies.

18 (4) A provision as follows: INSURANCE WITH OTHER
 19 INSURER: If there is other valid coverage, not with this insurer,
 20 providing benefits for the same loss on a provision of service basis or
 21 on an expense incurred basis and of which this insurer has not been
 22 given written notice prior to the occurrence or commencement of loss,
 23 the only liability under any expense incurred coverage of this policy
 24 shall be for such proportion of the loss as the amount which would
 25 otherwise have been payable hereunder plus the total of the like
 26 amounts under all such other valid coverages for the same loss of
 27 which this insurer had notice bears to the total like amounts under all
 28 valid coverages for such loss, and for the return of such portion of the
 29 premiums paid as shall exceed the pro-rata portion of the amount so
 30 determined. For the purpose of applying this provision when other
 31 coverage is on a provision of service basis, the "like amount" of such
 32 other coverage shall be taken as the amount which the services
 33 rendered would have cost in the absence of such coverage.

34 If the foregoing policy provision is included in a policy which also
 35 contains the next following policy provision there shall be added to the
 36 caption of the foregoing provision the phrase "EXPENSE INCURRED
 37 BENEFITS". The insurer may, at its option, include in this provision
 38 a definition of "other valid coverage," approved as to form by the
 39 commissioner, which definition shall be limited in subject matter to
 40 coverage provided by organizations subject to regulation by insurance
 41 law or by insurance authorities of this or any other state of the United
 42 States or any province of Canada, and by hospital or medical service

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1 organizations, and to any other coverage the inclusion of which may be
2 approved by the commissioner. In the absence of such definition such
3 term shall not include group insurance, automobile medical payments
4 insurance, or coverage provided by hospital or medical service
5 organizations or by union welfare plans or employer or employee
6 benefit organizations. For the purpose of applying the foregoing policy
7 provision with respect to any insured, any amount of benefit provided
8 for such insured pursuant to any compulsory benefit statute (including
9 any worker's compensation or employer's liability statute) whether
10 provided by a governmental agency or otherwise shall in all cases be
11 deemed to be "other valid coverage" of which the insurer has had
12 notice. In applying the foregoing policy provision no third party
13 liability coverage shall be included as "other valid coverage".

14 (5) A provision as follows: INSURANCE WITH OTHER
15 INSURERS: If there is other valid coverage, not with this insurer,
16 providing benefits for the same loss on other than an expense incurred
17 basis and of which this insurer has not been given written notice prior
18 to the occurrence or commencement of loss, the only liability for such
19 benefits under this policy shall be for such proportion of the
20 indemnities otherwise provided hereunder for such loss as the like
21 indemnities of which the insurer had notice (including the indemnities
22 under this policy) bear to the total amount of all like indemnities for
23 such loss, and for the return of such portion of the premium paid as
24 shall exceed the pro-rata portion for the indemnities thus determined.
25 If the foregoing policy provision is included in a policy which also
26 contains the next preceding policy provision, there shall be added to the
27 caption of the foregoing provision the phrase "-OTHER BENEFITS".
28 The insurer may, at its option, include in this provision a definition of
29 "other valid coverage," approved as to form by the commissioner,
30 which definition shall be limited in subject matter to coverage provided
31 by organizations subject to regulation by insurance law or by insurance
32 authorities of this or any other state of the United States or any
33 province of Canada, and to any other coverage to the inclusion of
34 which may be approved by the commissioner. In the absence of such
35 definition such term shall not include group insurance or benefits
36 provided by union welfare plans or by employer or employee benefit
37 organizations. For the purpose of applying the foregoing policy
38 provision with respect to any insured, any amount of benefit provided
39 for such insured pursuant to any compulsory benefit statute (including
40 any worker's compensation or employer's liability statute) whether
41 provided by a governmental agency or otherwise shall in all cases be
42 deemed to be "other valid coverage" of which the insurer has had

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1 notice. In applying the foregoing policy provision no third party
2 liability coverage shall be included as "other valid coverage".

3 (6) A provision as follows: RELATION OF EARNINGS TO
4 INSURANCE: If the total monthly amount of loss of time benefits
5 promised for the same loss under all valid loss of time coverage upon
6 the insured, whether payable on a weekly or monthly basis, shall
7 exceed the monthly earnings of the insured at the time disability
8 commenced or the insured's average monthly earnings for the period of
9 two (2) years immediately preceding a disability for which claim is
10 made, whichever is the greater, the insurer will be liable only for such
11 proportionate amount of such benefits under this policy as the amount
12 of such monthly earnings or such average monthly earnings of the
13 insured bears to the total amount of monthly benefits for the same loss
14 under all such coverage upon the insured at the time such disability
15 commences and for the return of such part of the premiums paid during
16 such two (2) years as shall exceed the pro rata amount of the premiums
17 for the benefits actually paid; but this shall not operate to reduce the
18 total monthly amount of benefits payable under all such coverage upon
19 the insured below the sum of two hundred dollars (\$200) or the sum of
20 the monthly benefits specified in such coverages, whichever is the
21 lesser, nor shall it operate to reduce benefits other than those payable
22 for loss of time.

23 The foregoing policy provision may be inserted only in a policy
24 which the insured has the right to continue in force subject to its terms
25 by the timely payment of premiums:

- 26 (1) until at least fifty (50) years of age; or
27 (2) in the case of a policy issued after forty-four (44) years of age,
28 for at least five (5) years from its date of issue.

29 The insurer may, at its option, include in this provision a definition of
30 "valid loss of time coverage", approved as to form by the
31 commissioner, which definition shall be limited in subject matter to
32 coverage provided by governmental agencies or by organizations
33 subject to regulation by insurance law or by insurance authorities of
34 this or any other state of the United States or any province of Canada,
35 or to any other coverage the inclusion of which may be approved by the
36 commissioner or any combination of such coverages. In the absence of
37 such definition the term shall not include any coverage provided for the
38 insured pursuant to any compulsory benefit statute (including any
39 worker's compensation or employer's liability statute), or benefits
40 provided by union welfare plans or by employer or employee benefit
41 organizations.

42 (7) A provision as follows: UNPAID PREMIUM: Upon the payment

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1 of a claim under this policy, any premium then due and unpaid or
2 covered by any note or written order may be deducted therefrom.

3 (8) A provision as follows: CONFORMITY WITH STATE
4 STATUTES: Any provision of this policy which, on its effective date,
5 is in conflict with the statutes of the state in which the insured resides
6 on such date is hereby amended to conform to the minimum
7 requirements of such statutes.

8 (9) A provision as follows: ILLEGAL OCCUPATION: The insurer
9 shall not be liable for any loss to which a contributing cause was the
10 insured's commission of or attempt to commit a felony or to which a
11 contributing cause was the insured's being engaged in an illegal
12 occupation.

13 (10) A provision as follows: INTOXICANTS AND NARCOTICS:
14 The insurer shall not be liable for any loss sustained or contracted in
15 consequence of the insured's being intoxicated or under the influence
16 of any narcotic unless administered on the advice of a physician.

17 (c) If any provision of this section is in whole or in part inapplicable
18 to or inconsistent with the coverage provided by a particular form of
19 policy the insurer, with the approval of the commissioner, shall omit
20 from such policy any inapplicable provision or part of a provision, and
21 shall modify any inconsistent provision or part of the provision in such
22 manner as to make the provision as contained in the policy consistent
23 with the coverage provided by the policy.

24 (d) The provisions which are the subject of subsections (a) and (b),
25 or any corresponding provisions which are used in lieu thereof in
26 accordance with such subsections, shall be printed in the consecutive
27 order of the provisions in such subsections or, at the option of the
28 insurer, any such provision may appear as a unit in any part of the
29 policy, with other provisions to which it may be logically related,
30 provided the resulting policy shall not be in whole or in part
31 unintelligible, uncertain, ambiguous, abstruse, or likely to mislead a
32 person to whom the policy is offered, delivered, or issued.

33 (e) "Insured", as used in this chapter, shall not be construed as
34 preventing a person other than the insured with a proper insurable
35 interest from making application for and owning a policy covering the
36 insured or from being entitled under such a policy to any indemnities,
37 benefits, and rights provided therein.

38 (f)(1) Any policy of a foreign or alien insurer, when delivered or
39 issued for delivery to any person in this state, may contain any
40 provision which is not less favorable to the insured or the beneficiary
41 than is provided in this chapter and which is prescribed or required by
42 the law of the state under which the insurer is organized.

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1 (f)(2) Any policy of a domestic insurer may, when issued for
2 delivery in any other state or country, contain any provision permitted
3 or required by the laws of such other state or country.

4 (g) The commissioner may make reasonable rules under IC 4-22-2
5 concerning the procedure for the filing or submission of policies
6 subject to this chapter as are necessary, proper, or advisable to the
7 administration of this chapter. This provision shall not abridge any
8 other authority granted the commissioner by law.

9 SECTION 56. IC 27-8-5.7-9 IS ADDED TO THE INDIANA CODE
10 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
11 UPON PASSAGE]: **Sec. 9. (a) Beginning on the effective date of the**
12 **date referred to in Section 262 of the federal Health Insurance**
13 **Portability and Accountability Act (42 U.S.C. 1320d-4), an insurer**
14 **may request from the commissioner appointed under IC 27-1-1-2**
15 **a waiver from the requirements of this chapter that apply to claims**
16 **filed on paper.**

17 (b) **The commissioner may grant a waiver under this section if,**
18 **not more than six (6) months after the effective date described in**
19 **subsection (a), the requesting insurer experiences an increase of the**
20 **lesser of:**

- 21 (1) **ten thousand (10,000); or**
 - 22 (2) **at least twenty percent (20%);**
- 23 **in the volume of claims filed on paper.**

24 (c) **A waiver granted under this section is effective for a set**
25 **period determined by the commissioner.**

26 (d) **This section expires December 31, 2005.**

27 SECTION 57. IC 27-8-8-18 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. A person, including
29 an insurer, **agent insurance producer**, or affiliate of an insurer shall
30 not place before the public, directly or indirectly, an announcement or
31 statement that uses the existence of the association for the purpose of
32 sales, solicitation, or inducement to purchase any form of insurance
33 covered by this chapter. This section does not apply to the association
34 or any other entity that does not sell or solicit insurance.

35 SECTION 58. IC 27-8-10-2.1, AS AMENDED BY
36 P.L.192-2002(ss), SECTION 169, IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2.1. (a) There is
38 established a nonprofit legal entity to be referred to as the Indiana
39 comprehensive health insurance association, which must assure that
40 health insurance is made available throughout the year to each eligible
41 Indiana resident applying to the association for coverage. All carriers,
42 health maintenance organizations, limited service health maintenance

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1 organizations, and self-insurers providing health insurance or health
 2 care services in Indiana must be members of the association. The
 3 association shall operate under a plan of operation established and
 4 approved under subsection (c) and shall exercise its powers through a
 5 board of directors established under this section.

6 (b) The board of directors of the association consists of seven (7)
 7 members whose principal residence is in Indiana selected as follows:

8 (1) Three (3) members to be appointed by the commissioner from
 9 the members of the association, one (1) of which must be a
 10 representative of a health maintenance organization.

11 (2) Two (2) members to be appointed by the commissioner shall
 12 be consumers representing policyholders.

13 (3) Two (2) members shall be the state budget director or
 14 designee and the commissioner of the department of insurance or
 15 designee.

16 The commissioner shall appoint the chairman of the board, and the
 17 board shall elect a secretary from its membership. The term of office
 18 of each appointed member is three (3) years, subject to eligibility for
 19 reappointment. Members of the board who are not state employees may
 20 be reimbursed from the association's funds for expenses incurred in
 21 attending meetings. The board shall meet at least semiannually, with
 22 the first meeting to be held not later than May 15 of each year.

23 (c) The association shall submit to the commissioner a plan of
 24 operation for the association and any amendments to the plan necessary
 25 or suitable to assure the fair, reasonable, and equitable administration
 26 of the association. The plan of operation becomes effective upon
 27 approval in writing by the commissioner consistent with the date on
 28 which the coverage under this chapter must be made available. The
 29 commissioner shall, after notice and hearing, approve the plan of
 30 operation if the plan is determined to be suitable to assure the fair,
 31 reasonable, and equitable administration of the association and
 32 provides for the sharing of association losses on an equitable,
 33 proportionate basis among the member carriers, health maintenance
 34 organizations, limited service health maintenance organizations, and
 35 self-insurers. If the association fails to submit a suitable plan of
 36 operation within one hundred eighty (180) days after the appointment
 37 of the board of directors, or at any time thereafter the association fails
 38 to submit suitable amendments to the plan, the commissioner shall
 39 adopt rules under IC 4-22-2 necessary or advisable to implement this
 40 section. These rules are effective until modified by the commissioner
 41 or superseded by a plan submitted by the association and approved by
 42 the commissioner. The plan of operation must:

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- 1 (1) establish procedures for the handling and accounting of assets
- 2 and money of the association;
- 3 (2) establish the amount and method of reimbursing members of
- 4 the board;
- 5 (3) establish regular times and places for meetings of the board of
- 6 directors;
- 7 (4) establish procedures for records to be kept of all financial
- 8 transactions, and for the annual fiscal reporting to the
- 9 commissioner;
- 10 (5) establish procedures whereby selections for the board of
- 11 directors will be made and submitted to the commissioner for
- 12 approval;
- 13 (6) contain additional provisions necessary or proper for the
- 14 execution of the powers and duties of the association; and
- 15 (7) establish procedures for the periodic advertising of the general
- 16 availability of the health insurance coverages from the
- 17 association.

18 (d) The plan of operation may provide that any of the powers and
 19 duties of the association be delegated to a person who will perform
 20 functions similar to those of this association. A delegation under this
 21 section takes effect only with the approval of both the board of
 22 directors and the commissioner. The commissioner may not approve a
 23 delegation unless the protections afforded to the insured are
 24 substantially equivalent to or greater than those provided under this
 25 chapter.

26 (e) The association has the general powers and authority enumerated
 27 by this subsection in accordance with the plan of operation approved
 28 by the commissioner under subsection (c). The association has the
 29 general powers and authority granted under the laws of Indiana to
 30 carriers licensed to transact the kinds of health care services or health
 31 insurance described in section 1 of this chapter and also has the
 32 specific authority to do the following:

- 33 (1) Enter into contracts as are necessary or proper to carry out this
- 34 chapter, subject to the approval of the commissioner.
- 35 (2) Sue or be sued, including taking any legal actions necessary
- 36 or proper for recovery of any assessments for, on behalf of, or
- 37 against participating carriers.
- 38 (3) Take legal action necessary to avoid the payment of improper
- 39 claims against the association or the coverage provided by or
- 40 through the association.
- 41 (4) Establish a medical review committee to determine the
- 42 reasonably appropriate level and extent of health care services in

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- 1 each instance.
- 2 (5) Establish appropriate rates, scales of rates, rate classifications
- 3 and rating adjustments, such rates not to be unreasonable in
- 4 relation to the coverage provided and the reasonable operational
- 5 expenses of the association.
- 6 (6) Pool risks among members.
- 7 (7) Issue policies of insurance on an indemnity or provision of
- 8 service basis providing the coverage required by this chapter.
- 9 (8) Administer separate pools, separate accounts, or other plans
- 10 or arrangements considered appropriate for separate members or
- 11 groups of members.
- 12 (9) Operate and administer any combination of plans, pools, or
- 13 other mechanisms considered appropriate to best accomplish the
- 14 fair and equitable operation of the association.
- 15 (10) Appoint from among members appropriate legal, actuarial,
- 16 and other committees as necessary to provide technical assistance
- 17 in the operation of the association, policy and other contract
- 18 design, and any other function within the authority of the
- 19 association.
- 20 (11) Hire an independent consultant.
- 21 (12) Develop a method of advising applicants of the availability
- 22 of other coverages outside the association and may promulgate a
- 23 list of health conditions the existence of which would deem an
- 24 applicant eligible without demonstrating a rejection of coverage
- 25 by one (1) carrier.
- 26 (13) Provide for the use of managed care plans for insureds,
- 27 including the use of:
- 28 (A) health maintenance organizations; and
- 29 (B) preferred provider plans.
- 30 (14) Solicit bids directly from providers for coverage under this
- 31 chapter.
- 32 (f) Rates for coverages issued by the association may not be
- 33 unreasonable in relation to the benefits provided, the risk experience,
- 34 and the reasonable expenses of providing the coverage. Separate scales
- 35 of premium rates based on age apply for individual risks. Premium
- 36 rates must take into consideration the extra morbidity and
- 37 administration expenses, if any, for risks insured in the association. The
- 38 rates for a given classification may not be more than one hundred fifty
- 39 percent (150%) of the average premium rate for that class charged by
- 40 the five (5) carriers with the largest premium volume in the state during
- 41 the preceding calendar year. In determining the average rate of the five
- 42 (5) largest carriers, the rates charged by the carriers shall be actuarially

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1 adjusted to determine the rate that would have been charged for
 2 benefits identical to those issued by the association. All rates adopted
 3 by the association must be submitted to the commissioner for approval.
 4 (g) Following the close of the association's fiscal year, the
 5 association shall determine the net premiums, the expenses of
 6 administration, and the incurred losses for the year. Any net loss shall
 7 be assessed by the association to all members in proportion to their
 8 respective shares of total health insurance premiums, excluding
 9 premiums for Medicaid contracts with the state of Indiana, received in
 10 Indiana during the calendar year (or with paid losses in the year)
 11 coinciding with or ending during the fiscal year of the association or
 12 any other equitable basis as may be provided in the plan of operation.
 13 For self-insurers, health maintenance organizations, and limited service
 14 health maintenance organizations that are members of the association,
 15 the proportionate share of losses must be determined through the
 16 application of an equitable formula based upon claims paid, excluding
 17 claims for Medicaid contracts with the state of Indiana, or the value of
 18 services provided. In sharing losses, the association may abate or defer
 19 in any part the assessment of a member, if, in the opinion of the board,
 20 payment of the assessment would endanger the ability of the member
 21 to fulfill its contractual obligations. The association may also provide
 22 for interim assessments against members of the association if necessary
 23 to assure the financial capability of the association to meet the incurred
 24 or estimated claims expenses or operating expenses of the association
 25 until the association's next fiscal year is completed. Net gains, if any,
 26 must be held at interest to offset future losses or allocated to reduce
 27 future premiums. Assessments must be determined by the board
 28 members specified in subsection (b)(1), subject to final approval by the
 29 commissioner.
 30 (h) The association shall conduct periodic audits to assure the
 31 general accuracy of the financial data submitted to the association, and
 32 the association shall have an annual audit of its operations by an
 33 independent certified public accountant.
 34 (i) The association is subject to examination by the department of
 35 insurance under IC 27-1-3.1. The board of directors shall submit, not
 36 later than March 30 of each year, a financial report for the preceding
 37 calendar year in a form approved by the commissioner.
 38 (j) All policy forms issued by the association must conform in
 39 substance to prototype forms developed by the association, must in all
 40 other respects conform to the requirements of this chapter, and must be
 41 filed with and approved by the commissioner before their use.
 42 (k) The association may not issue an association policy to any

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1 individual who, on the effective date of the coverage applied for, does
2 not meet the eligibility requirements of section 5.1 of this chapter.

3 (l) The association shall pay an ~~agent's~~ **insurance producer's**
4 referral fee of twenty-five dollars (\$25) to each insurance ~~agent~~
5 **producer** who refers an applicant to the association if that applicant is
6 accepted.

7 (m) The association and the premium collected by the association
8 shall be exempt from the premium tax, the adjusted gross income tax,
9 or any combination of these upon revenues or income that may be
10 imposed by the state.

11 (n) Members who after July 1, 1983, during any calendar year, have
12 paid one (1) or more assessments levied under this chapter may either:

13 (1) take a credit against premium taxes, adjusted gross income
14 taxes, or any combination of these, or similar taxes upon revenues
15 or income of member insurers that may be imposed by the state,
16 up to the amount of the taxes due for each calendar year in which
17 the assessments were paid and for succeeding years until the
18 aggregate of those assessments have been offset by either credits
19 against those taxes or refunds from the association; or

20 (2) any member insurer may include in the rates for premiums
21 charged for insurance policies to which this chapter applies
22 amounts sufficient to recoup a sum equal to the amounts paid to
23 the association by the member less any amounts returned to the
24 member insurer by the association, and the rates shall not be
25 deemed excessive by virtue of including an amount reasonably
26 calculated to recoup assessments paid by the member.

27 (o) The association shall provide for the option of monthly
28 collection of premiums.

29 SECTION 59. IC 27-8-10-10 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. Before January 1,
31 1996, the board of directors of the association shall establish eligibility
32 guidelines for the issuance of an association policy under this chapter
33 to prohibit an:

- 34 (1) employer;
35 (2) insurance ~~agent;~~ **producer;** or
36 (3) insurance broker;

37 from placing in or referring to the association an individual who works
38 for an employer who offers employees an employee welfare benefit
39 plan (as defined in 29 U.S.C. 1002).

40 SECTION 60. IC 27-8-12-7 IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 7. (a) The insurance
42 commissioner shall adopt rules under IC 4-22-2 establishing standards

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1 of full and fair disclosure concerning long term care insurance policies.
 2 The standards must require disclosure of information concerning the
 3 following:

- 4 (1) The sale of the policies.
- 5 (2) Terms of renewability.
- 6 (3) Initial and subsequent terms of eligibility.
- 7 (4) Nonduplication of coverage provisions.
- 8 (5) Coverage of dependents.
- 9 (6) Preexisting conditions.
- 10 (7) Termination of insurance coverage.
- 11 (8) Probationary periods.
- 12 (9) Limitations on coverage.
- 13 (10) Exceptions to coverage.
- 14 (11) Reductions from coverage.
- 15 (12) Elimination periods.
- 16 (13) Requirements for replacement.
- 17 (14) Recurrent conditions.
- 18 (15) Definitions of terms.
- 19 (16) Continuation or conversion of coverage.

20 (b) The insurance commissioner shall adopt rules under IC 4-22-2
 21 to establish minimum standards concerning:

- 22 (1) marketing practices;
- 23 (2) **agent insurance producer** continuing education;
- 24 (3) penalties; and
- 25 (4) reporting practices;

26 for long term care insurance.

27 (c) Rules adopted by the insurance commissioner under this section
 28 must:

- 29 (1) recognize the unique, developing, and experimental nature of
 30 long term care insurance; and
- 31 (2) where necessary or appropriate, recognize the distinctions
 32 between group insurance policies and individual insurance
 33 policies.

34 SECTION 61. IC 27-8-12-14 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 14. (a) The insurer
 36 shall deliver an outline of the coverage provided by an individual long
 37 term care insurance policy to the prospective applicant at the time of
 38 initial solicitation through means that prominently direct the attention
 39 of the recipient to the document and the document's purpose.

40 (b) The commissioner shall prescribe a standard format regarding:

- 41 (1) style;
- 42 (2) arrangement;

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(3) overall appearance; and
(4) content;
for an outline of coverage.

(c) An **agent insurance producer** who solicits a long term care insurance policy shall deliver the outline of coverage before the presentation of an application or enrollment form.

(d) The outline of coverage must be presented in conjunction with any application or enrollment form when there is a direct response solicitation of long term care insurance.

(e) An outline of coverage required under this section must include the following:

- (1) A description of the principal benefits and coverage provided in the policy.
- (2) A statement of the principal exclusions, reductions, and limitations set forth in the policy.
- (3) A statement of the policy's renewal provisions, including any reservation by the insurer of a right to change premiums.
- (4) A statement that the outline of coverage is a summary of the policy issued or applied for, and that the policy should be consulted to determine the exact terms of the coverage provided by the policy.
- (5) A description of the terms under which the policy may be returned and the premium refunded.
- (6) A brief description of the relationship of the cost of care and benefits.
- (7) A statement of the terms under which the policy or certificate may continue or be discontinued, including any reservation in the policy of the right to change the premium.
- (8) A specific statement of the provisions for continuation or conversion of group coverage.

SECTION 62. IC 27-8-12-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 18. (a) As used in this section, "compensation" includes pecuniary and nonpecuniary remuneration of any kind relating to the sale or renewal of the policy or certificate including, but not limited to, the following:

- (1) Bonuses.
- (2) Gifts.
- (3) Prizes.
- (4) Awards.
- (5) Finders fees.

(b) An insurer or other entity that provides a commission or other compensation to an **agent insurance producer** or other representative

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1 for the sale of a long term care insurance policy may not violate the
2 following conditions:

3 (1) The amount of the first year commission or first year
4 compensation for selling or servicing the policy may not exceed
5 two hundred percent (200%) of the amount of the commission or
6 other compensation paid in the second year.

7 (2) The amount of commission or other compensation provided
8 in years after the second year must be equal to the amount
9 provided in the second year.

10 (3) A commission or other compensation must be provided each
11 year for at least five (5) years after the first year.

12 (c) If an existing long term care policy or certificate is replaced, the
13 insurer or other entity that issues the replacement policy may not
14 provide, and its **agent insurance producer** may not accept,
15 compensation in an amount greater than the renewal compensation
16 payable by the replacing insurer on renewal policies, unless the
17 benefits of the replacement policy or certificate are clearly and
18 substantially greater than the benefits under the replaced policy or
19 certificate.

20 (d) This section does not apply to the following:

21 (1) Life insurance policies and certificates.

22 (2) A policy or certificate that is sponsored by an employer for the
23 benefit of:

24 (A) the employer's employees; or

25 (B) the employer's employees and their dependents.

26 SECTION 63. IC 27-8-12-19 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 19. (a) In addition to
28 any other sanction provided under this article, the commissioner may
29 impose a civil penalty against an insurer who has violated this chapter
30 or rules adopted under this chapter. A penalty imposed under this
31 section must be the greater of:

32 (1) three (3) times the amount of the commissions paid for each
33 policy involved in the violation; or

34 (2) ten thousand dollars (\$10,000).

35 (b) In addition to any other sanction provided under this title, the
36 commissioner may impose a penalty against an insurance **agent**
37 **producer** who has violated this chapter or rules adopted under this
38 chapter. The penalty must be the greater of:

39 (1) up to three (3) times the amount of the commissions paid **to**
40 **that insurance producer** for each policy involved in the
41 violation; or

42 (2) twenty-five hundred dollars (\$2,500).

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1 SECTION 64. IC 27-8-13-2 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. As used in this
 3 chapter, "Medicare supplement insurance solicitation" means a meeting
 4 between an insurance ~~agent~~ **producer** and another individual at which
 5 the ~~agent~~ **insurance producer** discusses the possible issuance of a
 6 medicare supplement policy to the other individual.

7 SECTION 65. IC 27-8-13-4 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. (a) Following a
 9 Medicare supplement insurance solicitation, an ~~agent~~ **insurance**
 10 **producer** shall give the individual involved in the solicitation a receipt
 11 for materials received by the ~~agent~~ **insurance producer** as a result of
 12 the solicitation.

13 (b) The receipt required under subsection (a) must be dated and
 14 signed by the ~~agent~~ **insurance producer** and must set forth the
 15 following:

16 (1) An itemized list of the materials received by the ~~agent~~
 17 **insurance producer**.

18 (2) The ~~agent's~~ **insurance producer's** name.

19 (3) The address and telephone number of the ~~agent's~~ **insurance**
 20 **producer's** office.

21 (c) As used in this section, "materials" includes any:

22 (1) document;

23 (2) cash;

24 (3) money order; or

25 (4) check or draft;

26 received by the ~~agent~~ **insurance producer**. The term does not include
 27 an application for a policy.

28 SECTION 66. IC 27-8-19.8-8.5, AS AMENDED BY P.L.132-2001,
 29 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2003]: Sec. 8.5. The following must be licensed as a ~~life~~
 31 ~~insurance agent~~ **an insurance producer with a life qualification**
 32 under ~~IC 27-1-15.6~~ **IC 27-1-15.6-7**:

33 (1) A viatical settlement broker.

34 (2) A person who solicits, offers, or attempts to negotiate a
 35 viatical settlement contract with a viator.

36 SECTION 67. IC 27-9-1-3 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) A delinquency
 38 proceeding under this chapter may only be commenced by the
 39 commissioner. A court may not entertain, hear, or determine a
 40 proceeding commenced by any other person.

41 (b) A court may not entertain, hear, or determine any complaint
 42 requesting:

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1 (1) the dissolution, liquidation, rehabilitation, sequestration,
2 conservation, or receivership of any insurer; or

3 (2) an injunction, restraining order, or other relief preliminary to,
4 incidental to, or relating to those proceedings other than in
5 accordance with this article.

6 (c) In addition to other grounds for jurisdiction provided by the law,
7 an Indiana court having jurisdiction of the subject matter has
8 jurisdiction over a person served under the Indiana rules of court or
9 other applicable law in an action brought by the receiver of a domestic
10 insurer or an alien insurer domiciled in Indiana if the person served is:

11 (1) obligated to the insurer in any way as an incident to any
12 agency or brokerage arrangement that may exist or has existed
13 between the insurer and the ~~agent~~ **insurance producer** or broker,
14 in any action on or incident to the obligation;

15 (2) a reinsurer who:

16 (A) has at any time written a policy of reinsurance for an
17 insurer against which a rehabilitation or liquidation order is in
18 effect when the action is commenced; or

19 (B) is an ~~agent~~ **insurance producer** or broker of, or for, the
20 reinsurer in any action on or incident to the reinsurance
21 contract; or

22 (3) or has been an officer, manager, trustee, organizer, promoter,
23 or person in a position of comparable authority or influence in an
24 insurer against which a rehabilitation or liquidation order is in
25 effect when the action is commenced in any action resulting from
26 such a relationship with the insurer.

27 (d) If it appears to a receiver appointed in a proceeding under this
28 article that there has been criminal or tortious conduct, breach of any
29 contractual or fiduciary obligation, or other unlawful conduct
30 detrimental to the insurer by any director, officer, manager, ~~agent~~,
31 **insurance producer**, broker, employee, or other person or entity, the
32 receiver may pursue all appropriate legal remedies on behalf of the
33 insurer.

34 (e) If the court on motion of any party finds that any action should
35 as a matter of substantial justice be tried in a forum outside Indiana, the
36 court may enter an order to stay further proceedings on the action in
37 Indiana.

38 (f) All action authorized by this section must be brought in the
39 Marion County circuit court.

40 SECTION 68. IC 27-9-1-5 IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) An officer,
42 manager, director, trustee, owner, employee, or ~~agent~~ **insurance**

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1 **producer** of any insurer, or any other persons with authority over or in
 2 charge of any segment of the insurer's affairs, shall cooperate with the
 3 commissioner in any proceeding under IC 27-9 or any investigation
 4 preliminary to the proceeding. The term "person", as used in this
 5 section, includes any person who exercises control, directly or
 6 indirectly, over activities of **an** insurer through any holding company
 7 or other affiliate of the insurer. "To cooperate" includes:

8 (1) replying promptly in writing to any inquiry from the
 9 commissioner requesting such a reply; and

10 (2) making available to the commissioner all books, accounts,
 11 documents, or other records, information, or property of or
 12 pertaining to the insurer and in ~~his~~ **the insurer's** possession,
 13 custody, or control.

14 (b) A person may not obstruct or interfere with the commissioner in
 15 the conduct of any delinquency proceeding or any investigation
 16 preliminary to or incidental to an investigation.

17 (c) This section does not abridge existing legal rights, including the
 18 right to resist a petition for liquidation, other delinquency proceedings,
 19 or other orders.

20 (d) A person who:

21 (1) is included within subsection (a) and who fails to cooperate
 22 with the commissioner;

23 (2) obstructs or interferes with the commissioner in the conduct
 24 of any delinquency proceeding or any investigation preliminary
 25 or incidental to a delinquency proceeding; or

26 (3) violates any order of the commissioner under IC 27-9;
 27 commits a Class A infraction.

28 SECTION 69. IC 27-9-3-9 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The
 30 commissioner may petition for an order dissolving the corporate
 31 existence of a domestic insurer, or the United States branch of an alien
 32 insurer domiciled in Indiana, at the time ~~he~~ **the commissioner** applies
 33 for a liquidation order. The Marion County circuit court shall order
 34 dissolution of the corporation upon petition by the commissioner upon
 35 or after the granting of a liquidation order. If the dissolution has not
 36 previously been ordered, the dissolution shall be effected by operation
 37 of law upon the discharge of the liquidator if the insurer is insolvent
 38 but may be ordered by the court upon the discharge of the liquidator if
 39 the insurer is under a liquidation order for some other reason.

40 (b) The liquidator may do all acts necessary or appropriate for the
 41 accomplishment of the liquidation, including the following:

42 (1) Appoint a special deputy to act for ~~him~~ **the liquidator** under

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this article, and determine a reasonable compensation for that special deputy.
(2) Employ employees and ~~agents~~, **insurance producers**, legal counsel, actuaries, accountants, appraisers, consultants, and other personnel as ~~he~~ **the liquidator** considers necessary to assist in the liquidation.
(3) Fix the reasonable compensation of employees and ~~agents~~, **insurance producers**, legal counsel, actuaries, accountants, appraisers, and consultants with the approval of the court.
(4) Pay reasonable compensation to persons appointed and defray from the funds or assets of the insurer all expenses of taking possession of, conserving, conducting, liquidating, disposing of, or otherwise dealing with the business and property of the insurer.
(5) Hold hearings, subpoena witnesses to compel their attendance, administer oaths, examine any person under oath, and compel any person to subscribe to ~~his~~ **the person's** testimony after it has been correctly reduced to writing, and in connection with hearings and the examination of witnesses require the production of any books, papers, records, or other documents which ~~he~~ **the liquidator** deems relevant to the inquiry.
(6) Collect all debts and moneys due and claims belonging to the insurer, wherever located, and for this purpose:
 (A) institute timely action in other jurisdictions, in order to forestall garnishment and attachment proceedings against those debts;
 (B) do other acts necessary or expedient to collect, conserve, or protect its assets or property, including the power to sell, compound, compromise, or assign debts for purposes of collection upon terms and conditions as ~~he~~ **the liquidator** considers best; and
 (C) pursue any creditor's remedies available to enforce ~~his~~ **the liquidator's** claims.
(7) Conduct public and private sales of the property of the insurer.
(8) Use assets of the estate of an insurer under a liquidation order to transfer policy obligations to a solvent assuming insurer, if the transfer can be arranged without prejudice to applicable priorities under section 40 of this chapter.
(9) Acquire, hypothecate, encumber, lease, improve, sell, transfer, abandon, or otherwise dispose of or deal with, any property of the insurer at its market value or upon such terms and conditions as are fair and reasonable.
(10) Borrow money on the security of the insurer's assets or

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- 1 without security and execute and deliver all documents necessary
 2 to that transaction for the purpose of facilitating the liquidation.
 3 (11) Enter into contracts that are necessary to carry out the order
 4 to liquidate, and affirm or disavow any contracts to which the
 5 insurer is a party.
 6 (12) Continue to prosecute and to institute in the name of the
 7 insurer, or in ~~his~~ **the liquidator's** own name, all suits and other
 8 legal proceedings, in Indiana or elsewhere, and abandon the
 9 prosecution of claims ~~he~~ **the liquidator** considers unprofitable to
 10 pursue further.
 11 (13) Prosecute any action that may exist in behalf of the creditors,
 12 members, policyholders, or shareholders of the insurer against any
 13 director or officer of the insurer, or any other person.
 14 (14) Remove all records and property of the insurer to the offices
 15 of the commissioner or to some other place as may be convenient
 16 for the purposes of efficient and orderly execution of the
 17 liquidation.
 18 (15) Deposit in one (1) or more banks in Indiana sums required
 19 for meeting current administration expenses and dividend
 20 distributions.
 21 (16) Invest all sums not currently needed, unless the court orders
 22 otherwise.
 23 (17) File any necessary documents for record in the office of any
 24 recorder of deeds or record office in Indiana or elsewhere where
 25 property of the insurer is located.
 26 (18) Assert all defenses available to the insurer as against third
 27 persons, including statutes of limitation, statutes of frauds, and the
 28 defense of usury.
 29 (19) Exercise and enforce all the rights, remedies, and powers of
 30 any creditor, shareholder, policyholder, or member, including any
 31 power to avoid any transfer or lien that may be given by the
 32 general law and that is not included in sections 14 through 16 of
 33 this chapter.
 34 (20) Intervene in any proceeding wherever instituted that might
 35 lead to the appointment of a receiver or trustee, and act as the
 36 receiver or trustee whenever the appointment is offered.
 37 (21) Enter into agreements with any receiver or commissioner of
 38 any other state relating to the rehabilitation, liquidation,
 39 conservation, or dissolution of an insurer doing business in both
 40 states.
 41 (22) Exercise all powers conferred upon receivers by the laws of
 42 Indiana not inconsistent with this article.

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1 SECTION 70. IC 27-9-3-10 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) Unless the
3 Marion County circuit court otherwise directs, the liquidator shall give
4 notice of the liquidation order as soon as possible by:

5 (1) first-class mail and either by telegram or telephone to the
6 insurance commissioner of each jurisdiction in which the insurer
7 is doing business;

8 (2) first-class mail to any guaranty association or foreign guaranty
9 association that is or may become obligated as a result of the
10 liquidation;

11 (3) first-class mail to all insurance ~~agents~~ **producers** of the
12 insurer;

13 (4) first-class mail to all persons known or reasonably expected to
14 have claims against the insurer, including all policyholders, at
15 their last known address as indicated by the records of the insurer;

16 (5) first-class mail to the secretary of state's office; and

17 (6) publication in a newspaper of general circulation in the county
18 in which the insurer has its principal place of business and in all
19 other locations the liquidator considers appropriate.

20 (b) Notice to potential claimants under subsection (a) must require
21 claimants to file with the liquidator their claims, together with proper
22 proof of those claims under section 34 of this chapter, before a date the
23 liquidator specifies in the notice. The liquidator need not require
24 persons claiming cash surrender values or other investment values in
25 life insurance and annuities to file a claim. All claimants must keep the
26 liquidator informed of any changes of address.

27 (c) If notice is given in accordance with this section, the distribution
28 of assets of the insurer under this chapter shall be conclusive with
29 respect to all claimants, whether or not they received notice.

30 SECTION 71. IC 27-9-3-11 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 11. (a) Every person
32 who receives notice in the form prescribed in section 10 of this chapter
33 that an insurer whom ~~he~~ **the person** represents as an **agent insurance**
34 **producer** is the subject of a liquidation order must, within fifteen (15)
35 days of that notice, give notice of the liquidation order to each
36 policyholder as provided by subsection (b).

37 (b) The notice must be sent by first class mail to the last address
38 contained in the **agent's insurance producer's** records to each
39 policyholder or other person named in any policy issued through that
40 **agent insurance producer** by the insurer, if ~~he~~ **the insurance**
41 **producer** has a record of the address of the policyholder or other
42 person.

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1 (c) A policy shall be treated as though it were issued through an
 2 **agent insurance producer** if the **agent insurance producer** has a
 3 property interest in the expiration of the policy, or if the **agent**
 4 **insurance producer** has had in ~~his~~ **the insurance producer's**
 5 possession a copy of the declarations of the policy at any time during
 6 the life of the policy, except where the ownership of the expiration of
 7 the policy has been transferred to another.

8 (d) The written notice must include:

9 (1) the name and address of the insurer;

10 (2) the name and address of the ~~agent~~; **insurance producer**; and

11 (3) identification of the policy impaired and the nature of the
 12 impairment, including termination of coverage as described in
 13 section 8 of this chapter.

14 (e) Notice by a general agent satisfies the notice requirement for any
 15 ~~agents insurance producers~~ under contract to ~~him~~; **the general agent**.
 16 Each ~~agent insurance producer~~ obligated to give notice under this
 17 section shall file a report of compliance with the liquidator.

18 (f) After a hearing under IC 4-21.5-3, an ~~agent insurance producer~~
 19 failing to give notice or file a report of compliance as required by
 20 subsection (e) may be subject to payment of a penalty of not more than
 21 one thousand dollars (\$1,000) and may have ~~his~~ **the insurance**
 22 **producer's** license suspended.

23 (g) The liquidator may waive the duties imposed by this section if
 24 ~~he~~ **the liquidator** determines that other notice to the policyholders of
 25 the insurer under liquidation is adequate.

26 SECTION 72. IC 27-9-3-31 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 31. (a) An ~~agent~~;
 28 **insurance producer**, a broker, an agency, a premium finance
 29 company, an insured, or any other person responsible for the payment
 30 of a premium shall be obligated to pay any earned but unpaid premium
 31 for any policy that is due the insurer for coverage provided before the
 32 declaration of insolvency. However, an ~~agent~~; **insurance producer**, a
 33 broker, an agency, a premium finance company, an insured, or any
 34 other person responsible for the payment of a premium shall not be
 35 responsible for any unpaid premium unearned as of the time of the
 36 declaration of insolvency.

37 (b) In addition to the obligation owed under subsection (a), an ~~agent~~;
 38 **insurance producer**, broker, agency, premium finance company, or
 39 any other person, other than the insured, responsible for the payment
 40 of a premium to the insurance company or any holding company shall
 41 pay any unearned premium collected from the insured before the
 42 declaration of insolvency. The commissioner may also recover from

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1 that person any part of an unearned premium that represents a
2 commission of that person.

3 (c) Credits or setoffs or both may not be allowed to an ~~agent,~~
4 **insurance producer**, broker, or premium finance company for any
5 amounts advanced to the insurer by the ~~agent, insurance producer,~~
6 broker, or premium finance company on behalf of, but in the absence
7 of a payment by, the insured.

8 (d) Upon satisfactory evidence of a violation of this section, the
9 commissioner may pursue the following courses of action against those
10 parties licensed by the department of insurance:

11 (1) Suspend, revoke, or refuse to renew the licenses of the
12 offending party.

13 (2) Impose a penalty of not more than one thousand dollars
14 (\$1,000) for each and every act in violation of this article by the
15 party.

16 These penalties are in addition to and not in lieu of the obligations
17 owed under subsections (a) and (b).

18 (e) Before the commissioner may take any action as provided in
19 subsection (d), ~~he~~ **the commissioner** shall give written notice to the
20 person accused of violating the law, stating specifically the nature of
21 the alleged violation, and fixing a time (at least ten (10) days after the
22 notice is sent) and place when a hearing on the matter is to be held.
23 After the hearing, if the commissioner finds a violation, or upon failure
24 of the accused to appear at the hearing, the commissioner shall impose
25 whatever penalties allowed under subsection (d) as ~~he~~ **the**
26 **commissioner** considers advisable.

27 (f) Subsection (a) does not relieve an insured of any obligation that
28 may exist to reimburse any agency, ~~agent,~~ **insurance producer**, broker,
29 premium finance company, or other person for amounts advanced to
30 the insurer on behalf of the insured.

31 SECTION 73. IC 27-9-4-3 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The domiciliary
33 liquidator of an insurer domiciled in a reciprocal state shall, except as
34 to special deposits and security on secured claims under section 4(c) of
35 this chapter, be vested by operation of law with the title to all of the
36 assets, property, contracts, and rights of action, ~~agents'~~ **insurance**
37 **producers'** balances, and all of the books, accounts, and other records
38 of the insurer located in Indiana. The date of vesting shall be the date
39 of the filing of the petition, if that date is specified by the domiciliary
40 law for the vesting of property in the domiciliary state. Otherwise, the
41 date of vesting shall be the date of entry of the order directing
42 possession to be taken. The domiciliary liquidator shall have the



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1 immediate right to recover balances due from ~~agents~~ **insurance**
 2 **producers** and to obtain possession of the books, accounts, and other
 3 records of the insurer located in Indiana. ~~He~~ **The domiciliary**
 4 **liquidator** also shall have the right to recover all other assets of the
 5 insurer located in Indiana, subject to section 4 of this chapter.

6 (b) If a domiciliary liquidator is appointed for an insurer not
 7 domiciled in a reciprocal state, the commissioner shall be vested by
 8 operation of law with the title to all of the property, contracts and rights
 9 of action, and all of the books, accounts, and other records of the
 10 insurer located in Indiana, at the same time that the domiciliary
 11 liquidator is vested with title in the domicile. The Indiana insurance
 12 commissioner may petition for a conservation or liquidation order
 13 under ~~sections~~ **section** 1 or 2 of this chapter, or for an ancillary
 14 receivership under section 4 of this chapter, or after approval by the
 15 Marion County circuit court may transfer title to the domiciliary
 16 liquidator, as the interests of justice and the equitable distribution of
 17 the assets require.

18 (c) Claimants residing in Indiana may file claims with the liquidator
 19 or ancillary receiver, if any, in Indiana or with the domiciliary
 20 liquidator, if the domiciliary law permits. The claims must be filed on
 21 or before the last date fixed for the filing of claims in the domiciliary
 22 liquidation proceedings.

23 SECTION 74. IC 27-10-1-2 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. "All lines fire and
 25 casualty ~~agent~~" **insurance producer"** means an ~~agent~~ **insurance**
 26 **producer** who holds a valid license issued by the department of
 27 insurance to engage in the writing and transacting of all of the
 28 following lines and kinds of insurance:

- 29 (1) Property insurance.
- 30 (2) Casualty insurance.
- 31 (3) Surety insurance.
- 32 (4) Disability insurance.
- 33 (5) Inland marine insurance.

34 SECTION 75. IC 27-10-3-1 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 1. (a) A person may not
 36 act in the capacity of a bail agent or recovery agent or perform any of
 37 the functions, duties, or powers prescribed for bail agents or recovery
 38 agents under this article unless the person is qualified and licensed as
 39 provided in this article. However, none of the terms of this section shall
 40 prohibit any individual or individuals from:

- 41 (1) pledging real or other property as security for a bail bond in
 42 judicial proceedings and where the individual does not receive, or



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1 is not promised, money or other things of value; or
 2 (2) executing any bail bond for an insurer, pursuant to a bail bond
 3 service agreement entered into between the insurer and any
 4 automobile club or association, financing institution, insurance
 5 company, or other organization or association, and on behalf of a
 6 person required to furnish bail in connection with any violation of
 7 law arising out of the use of a motor vehicle.

8 (b) A license:

- 9 (1) may not be issued except in compliance with this article; and
 10 (2) may only be issued to an individual.

11 However, upon an affirmative showing to the commissioner in writing
 12 by an individual that the individual is an all lines fire and casualty
 13 ~~agent~~, **insurance producer**, a surety bail agent license shall be issued
 14 to the individual without further qualification or fee to represent an
 15 insurer the individual is licensed to represent. The individual shall be
 16 subject to and governed by laws and rules relating to bail agents when
 17 engaged in the activities of a bail agent.

18 (c) A firm, a partnership, an association, a limited liability company,
 19 or a corporation may not be licensed.

20 (d) The applicant must apply in writing, on forms prepared and
 21 supplied by the commissioner, and the commissioner may propound
 22 any reasonable interrogatories to an applicant for a license under this
 23 article or on any renewal of a license relating to the applicant's
 24 qualifications, residence, prospective place of business, and any other
 25 matters which, in the opinion of the commissioner, are deemed
 26 necessary or expedient in order to protect the public and ascertain the
 27 qualifications of the applicant. The commissioner may also conduct any
 28 reasonable inquiry or investigation the commissioner sees fit, relative
 29 to the determination of the applicant's fitness to be licensed or to
 30 continue to be licensed.

31 (e) The failure of the applicant to secure approval of the
 32 commissioner shall not preclude the applicant from applying as many
 33 times as the applicant desires. However, an applicant's application may
 34 not be considered by the commissioner within one (1) year subsequent
 35 to the date upon which the commissioner denied the applicant's last
 36 application.

37 SECTION 76. IC 27-10-3-3 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The application
 39 for license, in addition to the matters set out in section 1 of this chapter,
 40 to serve as a bail agent must affirmatively show that:

- 41 (1) the applicant is at least eighteen (18) years of age and is of
 42 good moral character;

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1 (2) the applicant has never been convicted of a disqualifying
2 offense, notwithstanding IC 25-1-1.1, or:

3 (A) in the case of a felony conviction, at least ten (10) years
4 have passed since the date of the applicant's conviction or
5 release from imprisonment, parole, or probation, whichever is
6 later; or

7 (B) in the case of a misdemeanor disqualifying offense, at least
8 five (5) years have passed since the date of the applicant's
9 conviction or release from imprisonment, parole, or probation,
10 whichever is later; and

11 (3) the applicant has knowledge, experience, or instruction in the
12 bail bond business, or has held a valid all lines fire and casualty
13 ~~agent's insurance producer's~~ license for one (1) year within the
14 last five (5) years, or has been employed by a company engaged
15 in writing bail bonds in which field the applicant has actively
16 engaged for at least one (1) year of the last five (5) years.

17 (b) The application must affirmatively show that the applicant has
18 been a bona fide resident of ~~the state~~ **Indiana** for one (1) year
19 immediately preceding the date of application. However, the
20 commissioner may waive this requirement.

21 SECTION 77. IC 27-11-8-9 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) ~~Agents~~
23 **Insurance producers** of societies shall be licensed in accordance with
24 the laws regulating the licensing and the revocation, suspension, or
25 termination of license of resident and nonresident ~~agents~~. **insurance**
26 **producers**.

27 (b) No examination or license shall be required of any regular
28 salaried officer, employee, or member of a licensed society who
29 devotes substantially all of the officer's, employee's or member's
30 services to activities other than the solicitation of fraternal insurance
31 contracts from the public and who receives for the solicitation of those
32 contracts no commission or other compensation directly dependent
33 upon the amount of business obtained.

34 SECTION 78. IC 27-13-1-3, AS AMENDED BY P.L.132-2001,
35 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
36 JULY 1, 2003]: Sec. 3. ~~"Agent"~~ **"Insurance producer"** means a
37 person who is a licensed insurance ~~agent~~ **producer** under IC 27-1-15.6
38 and who:

39 (1) solicits, negotiates, effects, procures, delivers, renews, or
40 continues a policy or contract for membership in a health
41 maintenance organization or a prepaid limited health service
42 organization;

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- 1 (2) takes or transmits a membership fee or premium for the policy
- 2 or contract other than for the **agent insurance producer**; or
- 3 (3) causes the **agent insurance producer** to be held out to the
- 4 public, through advertising or otherwise, as a producer for a
- 5 health maintenance organization or a prepaid limited health
- 6 service organization.

7 SECTION 79. IC 27-13-21-1, AS AMENDED BY P.L.132-2001,
 8 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 9 JULY 1, 2003]: Sec. 1. To qualify to represent a health maintenance
 10 organization or a limited service health maintenance organization, an
 11 **agent insurance producer** shall be licensed ~~and regulated as with~~ an
 12 accident and health ~~insurance agent or sickness qualification~~ under
 13 ~~IC 27-1-15.6. IC 27-1-15.6-7.~~

14 SECTION 80. IC 27-13-34-18, AS AMENDED BY P.L.132-2001,
 15 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2003]: Sec. 18. (a) Except as provided in subsection (c), a
 17 limited service health maintenance organization shall maintain in force
 18 a fidelity bond in its own name on its officers and employees:

- 19 (1) in an amount not less than fifty thousand dollars (\$50,000); or
- 20 (2) in any other amount prescribed by the commissioner.

21 (b) The fidelity bond required by this section must be issued by an
 22 insurance company not affiliated in any way with the limited service
 23 health maintenance organization, that is licensed to do business in
 24 Indiana. However, if a fidelity bond is not available from an insurance
 25 company that holds a certificate of authority in Indiana, a limited
 26 service health maintenance organization may satisfy the requirement
 27 of this section by maintaining a fidelity bond procured by a surplus
 28 lines insurance **agent producer** not affiliated in any way with the
 29 limited service health maintenance organization who holds a license
 30 issued under IC 27-1-15.8.

31 (c) Instead of maintaining a fidelity bond under subsection (a), a
 32 limited service health maintenance organization may deposit with the
 33 commissioner:

- 34 (1) cash;
- 35 (2) certificates of deposit;
- 36 (3) United States government obligations acceptable to the
- 37 commissioner;
- 38 (4) any other securities acceptable to the commissioner of the
- 39 types referred to in IC 27-13-11-1; or
- 40 (5) a combination of the items described in subdivisions (1)
- 41 through (4).

42 A deposit made under this subsection is in addition to any other

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1 required deposit, and must also be maintained in joint custody with the
 2 commissioner in the amount and subject to the same conditions
 3 required for a fidelity bond under this section.

4 SECTION 81. IC 27-13-36.2-7 IS ADDED TO THE INDIANA
 5 CODE AS A NEW SECTION TO READ AS FOLLOWS
 6 [EFFECTIVE UPON PASSAGE]: **Sec. 7. (a) Beginning on the**
 7 **effective date of the date referred to in Section 262 of the federal**
 8 **Health Insurance Portability and Accountability Act (42 U.S.C.**
 9 **1320d-4), a health maintenance organization may request from the**
 10 **insurance commissioner appointed under IC 27-1-1-2 a waiver**
 11 **from the requirements of this chapter that apply to claims filed on**
 12 **paper.**

13 **(b) The commissioner may grant a waiver under this section if,**
 14 **not more than six (6) months after the effective date described in**
 15 **subsection (a), the requesting health maintenance organization**
 16 **experiences an increase of the lesser of:**

17 **(1) ten thousand (10,000); or**

18 **(2) at least twenty percent (20%);**

19 **in the volume of claims filed on paper.**

20 **(c) A waiver granted under this section is effective for a set**
 21 **period determined by the commissioner.**

22 **(d) This section expires December 31, 2005.**

23 SECTION 82. IC 28-1-11-2, AS AMENDED BY P.L.134-2001,
 24 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2003]: Sec. 2. Any bank or trust company shall have power to
 26 act as fiscal or transfer agent of the United States or of any state,
 27 municipality, body politic or corporation; and in such capacity to
 28 receive and disburse money; to transfer, register and countersign
 29 certificates of stock, bonds or other evidence of indebtedness; to
 30 authenticate and certify any such bonds and certificates of
 31 indebtedness; to act as agent to buy and sell domestic and foreign
 32 transportation; to solicit and write insurance as ~~agent~~ **an insurance**
 33 **producer** or broker for any insurance company authorized to do
 34 business in the state or states where the ~~agent~~ **insurance producer** or
 35 broker operates; and to act as attorney in fact or agent of any person or
 36 corporation, foreign or domestic, for any lawful purpose.

37 SECTION 83. IC 28-1-11-2.5, AS AMENDED BY P.L.130-2002,
 38 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2003]: Sec. 2.5. (a) A bank or trust company may act as an
 40 ~~agent~~ **insurance producer** for the sale of any life insurance policy or
 41 annuity contract issued by a life insurance company (as defined in
 42 IC 27-1-2-3) authorized to do business in Indiana under IC 27-1.



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

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

4 (2) must comply with the disclosure requirements under
 5 IC 27-1-38.

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

7 (1) an extension of credit;

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

9 (3) the performance of services; or

10 (4) the amount charged for:

11 (A) extending credit;

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

13 (C) performing services;

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

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

21 SECTION 84. IC 28-5-1-6.5, AS AMENDED BY P.L.130-2002,
 22 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 23 JULY 1, 2003]: Sec. 6.5. (a) Notwithstanding any other provision of
 24 this title, an industrial loan and investment company may act as an
 25 **agent insurance producer** for the sale of any annuity contract issued
 26 by a life insurance company (as defined in IC 27-1-2-3) authorized to
 27 do business in Indiana under IC 27-1.

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

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

33 (2) must comply with the disclosure requirements under
 34 IC 27-1-38.

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

39 SECTION 85. IC 28-6.1-6-14, AS AMENDED BY P.L.130-2002,
 40 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2003]: Sec. 14. (a) A savings bank may solicit and write
 42 insurance as an **agent insurance producer** or a broker for any

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1 insurance company authorized to do business in the state or states
2 where the **agent insurance producer** or broker operates.

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

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

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

13 (2) must comply with the disclosure requirements under
14 IC 27-1-38.

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

16 (1) an extension of credit;

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

18 (3) the performance of a service; or

19 (4) the amount charged for:

20 (A) extending credit;

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

22 (C) performing services;

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

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

29 SECTION 86. IC 28-7-1-9.1, AS AMENDED BY P.L.130-2002,
30 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 2003]: Sec. 9.1. (a) A credit union or a related credit union
32 service organization (as defined in section 0.5(7) of this chapter) that
33 acts as an **agent insurance producer** for the sale of a life insurance
34 policy or an annuity contract issued by a life insurance company (as
35 defined in IC 27-1-2-3):

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

37 (2) must comply with the disclosure requirements of IC 27-1-38.

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

40 (1) an extension of credit;

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

42 (3) the performance of a service; or

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1 (4) the amount charged for:
 2 (A) extending credit;
 3 (B) leasing or selling real or personal property; or
 4 (C) performing services;
 5 upon a person's purchase of a life insurance policy or an annuity
 6 contract from the credit union or related credit union service
 7 organization.

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

12 SECTION 87. IC 28-14-3-10, AS AMENDED BY P.L.215-1999,
 13 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2003]: Sec. 10. A corporate fiduciary has the power to act as
 15 fiscal or transfer agent of the United States or any state, municipality,
 16 body politic, or corporation, and may, in that capacity:

- 17 (1) receive and disburse money;
- 18 (2) transfer, register, and countersign certificates of stocks, bonds,
 19 and other evidence of indebtedness;
- 20 (3) authenticate and certify bonds and certificates of indebtedness
 21 referred to in subdivision (2);
- 22 (4) act as agent to buy and sell domestic and foreign
 23 transportation;
- 24 (5) solicit and write insurance as **agent insurance producer** or
 25 broker for any insurance company authorized to do business in
 26 Indiana; and
- 27 (6) act as attorney in fact or agent of any person or corporation,
 28 foreign or domestic, for any lawful purpose.

29 SECTION 88. IC 28-14-3-11, AS AMENDED BY P.L.130-2002,
 30 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2003]: Sec. 11. (a) Notwithstanding any other provision of this
 32 title, a corporate fiduciary may act as an **agent insurance producer** for
 33 the sale of any annuity contract or any life insurance policy issued by
 34 a life insurance company (as defined in IC 27-1-2-3) authorized to do
 35 business in Indiana under IC 27-1.

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

- 38 (1) is subject to all requirements of IC 27 relating to the sale and
 39 solicitation of insurance, including licensing as an **agent**
 40 **insurance producer** under IC 27-1-15.6; and
- 41 (2) must comply with the disclosure requirements under
 42 IC 27-1-38.

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1 SECTION 89. IC 34-18-5-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The surcharge
3 shall be collected on the same basis as premiums by each insurer, risk
4 manager, or surplus lines ~~agent~~ **producer**.

5 (b) The surcharge is due and payable within thirty (30) days after
6 the premium for malpractice liability insurance has been received by
7 the insurer, risk manager, or surplus lines ~~agent~~ **producer** from a
8 health care provider in Indiana. If a surcharge is not paid as required by
9 this section, the insurer, risk manager, or surplus lines ~~agent~~ **producer**
10 responsible for the delinquency is liable for the surcharge plus a
11 penalty equal to ten percent (10%) of the amount of the surcharge.

12 (c) If the annual premium surcharge is not paid within the time limit
13 specified in subsection (b), the certificate of authority of the insurer,
14 risk manager, and surplus lines ~~agents~~ **producer** shall be suspended
15 until the annual premium surcharge is paid.

16 SECTION 90. IC 35-43-9-4, AS AMENDED BY P.L.132-2001,
17 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
18 JULY 1, 2003]: Sec. 4. As used in this chapter, "title insurance agent"
19 means a person who holds a limited ~~insurance representative's lines~~
20 **producer's** license issued under IC 27-1-15.6-18(4) and disburses
21 funds from a title insurance escrow account to a party in connection
22 with a residential real property transaction.

23 SECTION 91. **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 1407, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

FRY, Chair

Committee Vote: yeas 12, nays 1.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Insurance and Financial Institutions, to which was referred House Bill No. 1407, 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 18, between lines 8 and 9, begin a new paragraph and insert:
"SECTION 13. IC 27-1-12.7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 12.7. Funding Agreements

Sec. 1. As used in this chapter, "funding agreement" means an agreement that:

- (1) is issued by a life insurance company to a holder;**
- (2) authorizes a life insurance company to accept funds; and**
- (3) provides for an accumulation of the funds for the purpose of making one (1) or more payments at future dates in amounts that are not based on mortality or morbidity contingencies of the holder of the funding agreement.**

Sec. 2. As used in this chapter, "holder" means a person described in section 5 of this chapter that is issued a funding agreement by a life insurance company.

Sec. 3. As used in this chapter, "life insurance company" means a life insurance company authorized to issue a product described in Class 1(c) of IC 27-1-5-1.

Sec. 4. As used in this chapter, "optional modes of settlement" means the manner in which the funding agreement is structured to repay interest and principal to the holder.

Sec. 5. A life insurance company may issue or issue for delivery in Indiana a funding agreement to the following:

- (1) A person authorized by a state or foreign country to engage in an insurance business or a subsidiary of an insurance business.**
- (2) A person who uses the funding agreement for the purpose of funding:

 - (A) benefits under an employee benefit plan (as defined in the federal Employee Retirement Security Act of 1974, 29 U.S.C. 1001 et seq.);**
 - (B) the activities of a nonprofit organization exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code or a similar nonprofit organization domiciled in a foreign country;****



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- (C) a program of:**
 - (i) the United States government;**
 - (ii) a state government;**
 - (iii) a political subdivision;**
 - (iv) a foreign country; or**
 - (v) an agency or instrumentality of the United States or a state government, a political subdivision, or a foreign country;**
- (D) an agreement providing for periodic payments in satisfaction of a claim;**
- (E) a program of an institution with assets exceeding twenty-five million dollars (\$25,000,000);**
- (F) a program in which a business entity, including a trust:**
 - (i) purchases and holds funding agreements; and**
 - (ii) issues securities by using the funding agreement to finance or collateralize the securities; or**
- (G) any program or activity substantially similar to a program or an activity described in clauses (A) through (F) that is first authorized by the commissioner.**

Sec. 6. The issuance of a funding agreement:

- (1) constitutes an activity necessary, convenient, or expedient to the business of a life insurance company under IC 27-1-7-2;**
- (2) is not insurance under IC 27-1-5-1;**
- (3) is not a security (as defined in IC 23-2-1-1(k)); and**
- (4) does not constitute gross premium for taxation purposes under IC 27-1-18-2.**

Sec. 7. An amount may not be guaranteed or credited under a funding agreement except:

- (1) upon reasonable assumptions as to investment income and expenses; and**
- (2) on a basis equitable to all holders of funding agreements of a given class.**

Sec. 8. An amount paid to a life insurance company and proceeds applied to amounts paid under optional modes of settlement under a funding agreement may be allocated by the insurer to one (1) or more segregated asset accounts in the manner described in Class 1(c) of IC 27-1-5-1.

Sec. 9. The commissioner may establish reasonable conditions or adopt rules under IC 4-22-2 regarding:

- (1) reserve amounts to be maintained by a life insurance company for funding agreements;**
- (2) accounting and reporting of funds credited under funding**



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agreements; and

(3) other matters regarding funding agreements the commissioner considers necessary, proper, and advisable.

Sec. 10. Notwithstanding any other provision of law:

(1) the commissioner has the sole authority to regulate the issuance and sale of funding agreements;

(2) a funding agreement is not considered a covered policy under IC 27-8-8-1(a); and

(3) a claim for payments under a funding agreement must be treated as a loss claim described in Class 2 of IC 27-9-3-40."

Page 67, line 18, after "paid" insert "**to that insurance producer**".

Page 70, line 20, strike "him" and insert "**the liquidator**".

Page 83, after line 22, begin a new paragraph and insert:

"SECTION 88. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1407 as printed January 22, 2003.)

PAUL, Chairperson

Committee Vote: Yeas 7, Nays 0.

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SENATE MOTION

Mr. President: I move that Engrossed House Bill 1407 be amended to read as follows:

Page 61, between lines 8 and 9, begin a new paragraph and insert:

"SECTION 58. IC 27-8-5.7-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 9. (a) Beginning on the effective date of the date referred to in Section 262 of the federal Health Insurance Portability and Accountability Act (42 U.S.C. 1320d-4), an insurer may request from the commissioner appointed under IC 27-1-1-2 a waiver from the requirements of this chapter that apply to claims filed on paper.**

(b) The commissioner may grant a waiver under this section if, not more than six (6) months after the effective date described in subsection (a), the requesting insurer experiences an increase of the lesser of:

- (1) ten thousand (10,000); or**
- (2) at least twenty percent (20%);**

in the volume of claims filed on paper.

(c) A waiver granted under this section is effective for a set period determined by the commissioner.

(d) This section expires December 31, 2005."

Page 81, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 83. IC 27-13-36.2-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 7. (a) Beginning on the effective date of the date referred to in Section 262 of the federal Health Insurance Portability and Accountability Act (42 U.S.C. 1320d-4), a health maintenance organization may request from the insurance commissioner appointed under IC 27-1-1-2 a waiver from the requirements of this chapter that apply to claims filed on paper.**

(b) The commissioner may grant a waiver under this section if, not more than six (6) months after the effective date described in subsection (a), the requesting health maintenance organization experiences an increase of the lesser of:

- (1) ten thousand (10,000); or**
- (2) at least twenty percent (20%);**

in the volume of claims filed on paper.

(c) A waiver granted under this section is effective for a set period determined by the commissioner.

(d) This section expires December 31, 2005."

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Renumber all SECTIONS consecutively.

(Reference is to EHB 1407 as printed April 1, 2003.)

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