

HOUSE BILL No. 1130

DIGEST OF INTRODUCED BILL

Citations Affected: IC 27-1; IC 27-5.1-2-16; IC 27-8; IC 27-13.

Synopsis: Regulation of insurance rates. Establishes the insurance rate commission. Requires certain insurers to receive approval of the commission before using rates. Makes conforming amendments.

Effective: July 1, 2006.

Kromkowski

January 5, 2006, read first time and referred to Committee on Insurance.

C
O
P
Y



Second Regular Session 114th General Assembly (2006)

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 2005 Regular Session of the General Assembly.

C
o
p
y

HOUSE BILL No. 1130



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

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

1 SECTION 1. IC 27-1-2-3 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2006]: Sec. 3. As used in this article, and unless
3 a different meaning appears from the context: (a) "Insurance" means a
4 contract of insurance or an agreement by which one (1) party, for a
5 consideration, promises to pay money or its equivalent or to do an act
6 valuable to the insured upon the destruction, loss or injury of
7 something in which the other party has a pecuniary interest, or in
8 consideration of a price paid, adequate to the risk, becomes security to
9 the other against loss by certain specified risks; to grant indemnity or
10 security against loss for a consideration.

11 (b) "Commissioner" means the "insurance commissioner" of this
12 state.

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

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



- 1 (e) The term "domestic company" or "domestic corporation" means
2 an insurance company organized under the insurance laws of this state.
- 3 (f) The term "foreign company" or "foreign corporation" means an
4 insurance company organized under the laws of any state of the United
5 States other than this state or under the laws of any territory or insular
6 possession of the United States or the District of Columbia.
- 7 (g) The term "alien company" or "alien corporation" means an
8 insurance company organized under the laws of any country other than
9 the United States or territory or insular possession thereof or of the
10 District of Columbia.
- 11 (h) The term "person" includes individuals, corporations,
12 associations, and partnerships; personal pronoun includes all genders;
13 the singular includes the plural and the plural includes the singular.
- 14 (k) The term "insurance solicitor" means any natural person
15 employed to aid an insurance producer in any manner in soliciting,
16 negotiating, or effecting contracts of insurance or indemnity other than
17 life.
- 18 (l) The term "principal office" means that office maintained by the
19 corporation in this state, the address of which is required by the
20 provisions of this article to be kept on file in the office of the
21 department.
- 22 (m) The term "articles of incorporation" includes both the original
23 articles of incorporation and any and all amendments thereto, except
24 where the original articles of incorporation only are expressly referred
25 to, and includes articles of merger, consolidation and reinsurance, and
26 in case of corporations, heretofore organized, articles of reorganization
27 filed in the office of the secretary of state, and all amendments thereto.
- 28 (n) The term "shareholder" means one who is a holder of record of
29 shares of stock in a corporation, unless the context otherwise requires.
- 30 (o) The term "policyholder" means one who is a holder of a contract
31 of insurance in an insurance company.
- 32 (p) The term "member" means one who holds a contract of
33 insurance or is insured in an insurance company other than a stock
34 corporation.
- 35 (q) The term "capital stock" means the aggregate amount of the par
36 value of all shares of capital stock.
- 37 (r) The term "capital" means the aggregate amount paid in on the
38 shares of capital stock of a corporation issued and outstanding.
- 39 (s) The term "life insurance company" means any company making
40 one or more of the kinds of insurance set out and defined in class 1(a)
41 of IC 27-1-5-1.
- 42 (t) The term "casualty insurance company" means any company

C
O
P
Y



1 making the kind or kinds of insurance set out and defined in class 2 of
2 IC 27-1-5-1.

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

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

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

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

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

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

32 **(aa) "Insurance rate commission" refers to the insurance rate**
33 **commission established by IC 27-1-39-5.**

34 SECTION 2. IC 27-1-22-4 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. (a) Every insurer
36 shall file with the commissioner every manual of classifications, rules,
37 and rates, every rating schedule, every rating plan, and every
38 modification of any of the foregoing which it proposes to use.

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

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

C
O
P
Y



1 (2) Insurance, other than workers compensation insurance or
 2 professional liability insurance, issued to exempt commercial
 3 policyholders.
 4 (c) Every such filing shall indicate the character and extent of the
 5 coverage contemplated and shall be accompanied by the information
 6 upon which the filer supports such filing.
 7 (d) The information furnished in support of a filing may include:
 8 (1) the experience and judgment of the insurer or rating
 9 organization making the filing;
 10 (2) its interpretation of any statistical data it relies upon;
 11 (3) the experience of other insurers or rating organizations; or
 12 (4) any other relevant factors.
 13 The commissioner shall have the right to request any additional
 14 relevant information. A filing and any supporting information shall be
 15 open to public inspection as soon as stamped "filed" within a
 16 reasonable time after receipt by the commissioner, and copies may be
 17 obtained by any person on request and upon payment of a reasonable
 18 charge therefor.
 19 (e) Filings shall become effective upon the ~~date of filing by delivery~~
 20 ~~or upon date of mailing by registered mail to the commissioner; or on~~
 21 ~~a later date specified in the filing; approval of the filing by the~~
 22 **insurance rate commission under IC 27-1-39.**
 23 (f) Specific inland marine rates on risks specially rated, made by a
 24 rating organization, shall be filed with the commissioner.
 25 (g) Any insurer may satisfy its obligation to make any such filings
 26 by becoming a member of, or a subscriber to, a licensed rating
 27 organization which makes such filings and by authorizing the
 28 commissioner to accept such filings on its behalf, provided that nothing
 29 contained in this chapter shall be construed as requiring any insurer to
 30 become a member of or a subscriber to any rating organization or as
 31 requiring any member or subscriber to authorize the commissioner to
 32 accept such filings on its behalf.
 33 (h) Every insurer which is a member of or a subscriber to a rating
 34 organization shall be deemed to have authorized the commissioner to
 35 accept on its behalf all filings made by the rating organization which
 36 are within the scope of its membership or subscribership, provided:
 37 (1) that any subscriber may withdraw or terminate such
 38 authorization, either generally or for individual filings, by written
 39 notice to the commissioner and to the rating organization and may
 40 then make its own independent filings for any kinds of insurance,
 41 or subdivisions, or classes of risks, or parts or combinations of
 42 any of the foregoing, with respect to which it has withdrawn or

C
O
P
Y



1 terminated such authorization, or may request the rating
2 organization, within its discretion, to make any such filing on an
3 agency basis solely on behalf of the requesting subscriber; and
4 (2) that any member may proceed in the same manner as a
5 subscriber unless the rating organization shall have adopted a
6 rule, with the approval of the commissioner:

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

- 11 (i) to make such filing as a rating organization filing;
- 12 (ii) to make such filing on an agency basis solely on behalf
13 of the requesting member; or
- 14 (iii) to decline the request of such member; and

15 (B) excluding from membership any insurer which elects to
16 make any filing wholly independently of the rating
17 organization.

18 (i) Under such rules as the commissioner shall adopt, the
19 commissioner may, **with the approval of the insurance rate**
20 **commission under IC 27-1-39 and** by written order, suspend or
21 modify the requirement of filing as to any kinds of insurance, or
22 subdivision, or classes of risk, or parts or combinations of any of the
23 foregoing, the rates for which can not practicably be filed before they
24 are used. Such orders and rules shall be made known to insurers and
25 rating organizations affected thereby. The ~~commissioner~~ **insurance**
26 **rate commission** may make such examination as the commissioner **or**
27 **the insurance rate commission** may deem advisable to ascertain
28 whether any rates affected by such order are excessive, inadequate, or
29 unfairly discriminatory.

30 (j) Upon the written application of the insured, stating the insured's
31 reasons therefor, filed with the commissioner **and approved by the**
32 **insurance rate commission**, a rate in excess of that provided by a
33 filing otherwise applicable may be used on any specific risk.

34 (k) An insurer shall not make or issue a policy or contract except in
35 accordance with filings which are in effect for that insurer or in
36 accordance with the provisions of this chapter. Subject to the
37 provisions of section 6 of this chapter, any rates, rating plans, rules,
38 classifications, or systems in effect on May 31, 1967, shall be
39 continued in effect until withdrawn by the insurer or rating
40 organization which filed them.

41 (l) The commissioner shall have the right to make an investigation
42 and to examine the pertinent files and records of any insurer, insurance

C
o
p
y



1 producer, or insured in order to ascertain compliance with any filing for
2 rate or coverage which is in effect. The commissioner shall have the
3 right to set up procedures necessary to eliminate noncompliance,
4 whether on an individual policy, or because of a system of applying
5 charges or discounts which results in failure to comply with such filing.

6 (m) The department may adopt rules to:

- 7 (1) implement the exemption under subsection (b);
- 8 (2) impose disclosure requirements the commissioner determines
9 are necessary to adequately protect exempt commercial
10 policyholders; and
- 11 (3) establish the form of the report required by subsection (n).

12 (n) Each insurer who issues insurance to an exempt commercial
13 policyholder shall file an annual report with the department by
14 February 1 of each year. The annual report may not disclose the
15 identity of an exempt commercial policyholder and must include only
16 the following information regarding each exempt commercial
17 policyholder:

- 18 (1) The account number, policy number, or other number used by
19 the insurer to identify the insured.
- 20 (2) The amount of aggregate annual commercial premium.
- 21 (3) The inception date and expiration date of commercial
22 insurance coverage provided by the insurer.
- 23 (4) The criteria in section 2.5(a)(3) of this chapter used to
24 establish the entity as an exempt commercial policyholder.

25 (o) The annual report filed under subsection (n) must be
26 accompanied by the fee prescribed by IC 27-1-3-15(e). For purposes of
27 calculating the required fee, each policy purchased by an exempt
28 commercial policyholder shall be considered a product filing under
29 IC 27-1-3-15(e).

30 SECTION 3. IC 27-1-22-5 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. (a) Upon the
32 commissioner's motion, or upon written request by any insured affected
33 thereby or by any licensed insurance producer or broker, if such request
34 is made in good faith and states reasonable grounds, the commissioner,
35 if the commissioner shall have reason to believe that any filing is not
36 in compliance with the applicable provisions of section 3 of this
37 chapter, or in the case of an alleged violation of section 6 of the chapter
38 if the commissioner finds on the basis of the information on file with
39 the department that there has been a prima facie showing of a violation
40 of that section, shall hold a hearing upon not less than ten (10) days
41 written notice to the rating organization or insurer which made the
42 filing in issue, specifying the items and matters to be considered and

C
o
p
y



1 stating in what manner and to what extent noncompliance is alleged to
 2 exist. No other matter or subject shall be considered at such hearing.
 3 Only the rating organization or insurer which made such filing and the
 4 commissioner may be parties to any hearing or to any judicial appeal
 5 resulting therefrom. Within a reasonable time, the commissioner shall
 6 notify every person making request as to the decision as to the validity
 7 of the request and subsequently shall notify every such person of any
 8 action which may thereafter be taken with reference to such request.

9 (b) If, after such hearing, the commissioner finds, based upon a
 10 preponderance of the evidence adduced at such hearing and made a
 11 part of the record thereof, that such filing is not in compliance with the
 12 provisions of section 3 of this chapter, the commissioner shall
 13 immediately issue a written order to the parties specifying in detail in
 14 what respects and upon what evidence such noncompliance exists and,
 15 **if the filing is in effect**, stating when, within a reasonable period
 16 thereafter, such filing shall be deemed no longer effective. Said order
 17 shall not affect any contract policy made or issued prior to the
 18 expiration of the period set forth in said order.

19 (c) If after such hearing the commissioner finds that such filing does
 20 not violate the provisions of section 3 of this chapter, the commissioner
 21 shall immediately issue a written order to the parties dismissing the
 22 proceedings.

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

26 (e) No manual of classifications, rule, rate, rating schedule, rating
 27 plan, or any modification of any of the foregoing which establishes
 28 standards for measuring variations in hazards or expense provisions, or
 29 both, which has been filed pursuant to section 4 of this chapter shall be
 30 disapproved if the rates produced thereby meet the requirements of
 31 section 3 of this chapter **and criteria established by the insurance**
 32 **rate commission under IC 27-1-39.**

33 (f) All actions of the commissioner under this chapter and all
 34 appeals from the commissioner's action shall be governed by IC 4-21.5,
 35 except where a different specific provision is made in this chapter.

36 SECTION 4. IC 27-1-22-7 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 7. (a) When a filing or
 38 deviation involving a rate adjustment depends upon a change in the
 39 relationship between the proposed rates and the anticipated production
 40 expense portion thereof from the relationship anticipated under any
 41 rates previously filed and currently in effect for the company or rating
 42 organization involved, such filing or deviation shall be subject to the

C
O
P
Y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

provisions of subsection (b).

(b) Each filing or deviation subject to this section shall be on file for a waiting period of twenty (20) days before it becomes effective: **until the insurance rate commission approves the filing or deviation under IC 27-1-39.** If within such waiting period or after hearing as provided in this section; the commissioner finds **and the insurance rate commission find** that the filing or deviation does not meet the requirements of this chapter **and IC 27-1-39**, the commissioner shall send to the insurer or rating organization which made the filing or to the insurer which filed the deviation written notice of disapproval specifying therein in what respects the filing or deviation fails to meet the requirements of this chapter and stating that the same shall not become effective. ~~Such filing or deviation shall be deemed to meet the requirements of this act unless disapproved:~~

~~(1) within such waiting period; or~~

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

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

Upon the commissioner's own motion, or upon timely written request by any insurance producer or broker of the company or companies to which such filing or deviation is applicable, if such request is in good faith and states reasonable grounds, the commissioner may at any time within the waiting period call a hearing upon not less than ten (10) nor more than fifteen (15) days written notice to the company or rating organization making the filing or to the company filing the deviation: Within ten (10) days after the commencement of such hearing, the commissioner shall in writing either approve such filing or deviation or shall disapprove the same as provided in this section.

SECTION 5. IC 27-1-22-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) In addition to any rights conferred pursuant to section 4 of this chapter any member or subscriber to a rating organization may file with **the** commissioner a deviation from the rates, rating schedules, rating plans, rating systems, or rules respecting any kind of insurance, division, subdivision, classification, or any part or combination of any of the foregoing.

(b) Such a filing shall specify the nature and extent of the deviation and shall be accompanied by the relevant information upon which the filer supports the deviation. The commissioner shall have the right to request any additional relevant information.

(c) Such deviation 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:~~ **approval by the insurance**

C
O
P
Y



1 **rate commission.** It shall be in effect until terminated by the filer
 2 giving notice to the commissioner of the termination of the deviation.
 3 A change in the rates, rating schedules, rating plans, rating systems, or
 4 rules to which the deviation applies shall not terminate the deviation
 5 without the consent of the insurer to which the deviation applies. Any
 6 such deviation may be terminated by the commissioner pursuant to the
 7 provisions of section 5 of this chapter and after notice and hearings as
 8 provided in section 5 of this chapter.

9 (d) A deviation filing and supporting information shall be open to
 10 public inspection as soon as ~~stamped "filed" within a reasonable time~~
 11 **after receipt by the commissioner the deviation is approved by the**
 12 **insurance rate commission**, and copies may be had by any person on
 13 request and upon the payment of a reasonable charge therefor.

14 SECTION 6. IC 27-1-22-16 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 16. (a) The
 16 commissioner shall approve reasonable rules and statistical plans,
 17 reasonably adapted to each of the rating systems on file with ~~him~~ **the**
 18 **commissioner and approved by the insurance rate commission**
 19 **under IC 27-1-39**, which may be modified from time to time and
 20 which shall be used thereafter by each insurer in the recording and
 21 reporting of its loss and countrywide expense experience, in order that
 22 the experience of all insurers may be made available at least annually.
 23 Such rules and plans may also provide for the recording and reporting
 24 of expense experience items which are specially applicable to this state
 25 and are not susceptible of determination by a prorating of countrywide
 26 expense experience. In approving such rules and plans, the
 27 commissioner shall give due consideration to the rating systems on file
 28 with ~~him~~ **the commissioner and approved by the insurance rate**
 29 **commission** and, in order that such rules and plans may be as uniform
 30 as is practicable among the several states, to the rules and to the form
 31 of the plans used for such rating systems in other states. No insurer
 32 shall be required to record or report its loss experience on a
 33 classification basis that is inconsistent with the rating system filed by
 34 it. The commissioner may designate rating organizations or other
 35 agencies, or both, to assist ~~him~~ **the commissioner** in gathering such
 36 experience and making compilations thereof, and such compilations
 37 shall be made available, subject to reasonable rules approved by the
 38 commissioner to insurers and advisory and rating organizations.

39 (b) In order to further uniform administration of the regulatory laws,
 40 the commissioner, **the insurance rate commission**, and every insurer,
 41 rating organization, advisory organization or statistical agency may
 42 exchange information and experience data with insurance supervisory

C
o
p
y



1 officials, insurers, rating organizations, advisory organizations or
2 statistical agencies in this and other states and may consult with them
3 with respect to rate making and the application of rating systems.

4 (c) The commissioner may make reasonable rules and regulations
5 necessary to effect the purposes of this section.

6 SECTION 7. IC 27-1-39 IS ADDED TO THE INDIANA CODE AS
7 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
8 1, 2006]:

9 **Chapter 39. Insurance Rate Commission**

10 **Sec. 1. As used in this chapter, "commission" refers to the**
11 **insurance rate commission established by section 5 of this chapter.**

12 **Sec. 2. As used in this chapter, "insurer" refers to an insurer**
13 **that issues, enters into, or delivers a policy or contract that**
14 **provides one (1) or more of the kinds of insurance described in**
15 **section 4 of this chapter.**

16 **Sec. 3. As used in this chapter, "rate" means a:**

- 17 (1) rate;
- 18 (2) rating schedule;
- 19 (3) rating methodology;
- 20 (4) rating plan; or
- 21 (5) modification of an item described in subdivisions (1)
- 22 through (4);

23 **used by an insurer in connection with a policy or contract that**
24 **provides one (1) or more of the kinds of insurance described in**
25 **section 4 of this chapter.**

26 **Sec. 4. (a) This chapter applies to the kinds of insurance to**
27 **which the following apply:**

- 28 (1) IC 27-1-22.
- 29 (2) IC 27-5.1-2.
- 30 (3) IC 27-8-4.
- 31 (4) IC 27-8-5.
- 32 (5) IC 27-13.

33 **(b) This chapter does not apply to a rate filing reviewed under**
34 **IC 27-8-31.**

35 **Sec. 5. (a) The insurance rate commission is established. The**
36 **commission consists of the following members:**

- 37 (1) The commissioner appointed under IC 27-1-1-2, who shall
- 38 serve as chairperson of the commission.
- 39 (2) The following members appointed by the governor:
 - 40 (A) Two (2) representatives of accident and sickness
 - 41 insurers.
 - 42 (B) Two (2) representatives of property and casualty

C
o
p
y



1 **insurers.**
2 **(C) A representative of the Hoosier Alliance for Consumer**
3 **Rights.**
4 **(D) A representative of another consumer advocacy group.**
5 **(E) A representative of the Indiana Trial Lawyers**
6 **Association.**
7 **(F) A representative of business.**
8 **(b) A member of the commission serves at the pleasure of the**
9 **governor.**
10 **(c) A member of the general assembly shall not serve as a**
11 **member of the commission.**
12 **Sec. 6. Notwithstanding any other law, an insurer shall not use**
13 **any rate until the insurer has:**
14 **(1) filed the rate with the commissioner for review by the**
15 **commission; and**
16 **(2) received notice from the commissioner that the**
17 **commission has approved the rate.**
18 **Sec. 7. (a) The commission shall:**
19 **(1) review a rate filed by an insurer;**
20 **(2) provide notice and a hearing under IC 4-21.5 for the**
21 **insurer to provide information related to the filing; and**
22 **(3) approve or disapprove the rate filing based on:**
23 **(A) criteria that applies to the rate filing under this title;**
24 **and**
25 **(B) additional criteria established by the commission.**
26 **(b) The commissioner shall provide notice of approval,**
27 **disapproval, or the need for additional information from an**
28 **insurer not more than ten (10) days after the commission takes**
29 **action under subsection (a)(3).**
30 **(c) For purposes of subsection (a)(3), to the extent that criteria**
31 **established by the commission conflict with criteria specified in this**
32 **title, the criteria established by the commission are controlling.**
33 **Sec. 8. The department of insurance shall staff the commission.**
34 **Sec. 9. The expenses of the commission shall be paid from the**
35 **department of insurance fund established by IC 27-1-3-28.**
36 **Sec. 10. Each member of the commission who is not a state**
37 **employee is entitled to the minimum salary per diem provided by**
38 **IC 4-10-11-2.1(b). The member is also entitled to reimbursement**
39 **for traveling expenses as provided under IC 4-13-1-4 and other**
40 **expenses actually incurred in connection with the member's duties**
41 **as provided in the state policies and procedures established by the**
42 **Indiana department of administration and approved by the budget**

C
O
P
Y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

agency.

Sec. 11. Each member of the commission who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 12. The affirmative votes of a majority of the members appointed to the commission are required for the commission to take action on any measure.

Sec. 13. The commission may adopt rules under IC 4-22-2 to implement this chapter.

SECTION 8. IC 27-5.1-2-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 16. (a) A farm mutual insurance company may not deliver or issue for delivery an insurance policy or an endorsement or a rider to an insurance policy until a copy of the form and the rates charged for the insurance policy are filed with the commissioner **and the rates are approved by the insurance rate commission under IC 27-1-39.**

(b) A farm mutual insurance company may use any form ~~or rate~~ filed with the commissioner **or rate approved by the insurance rate commission** unless the commissioner notifies the farm mutual insurance company in writing that the form is disapproved not more than thirty (30) days after the commissioner's receipt of the ~~rate or form~~ filing. **The insurance rate commission may disapprove a rate, and the commissioner may disapprove a rate or form, for the following reasons:**

- (1) An inconsistency with this article or another applicable state law.
- (2) A provision that is:
 - (A) deceptive;
 - (B) ambiguous; or
 - (C) misleading.

(c) If the **insurance rate commission disapproves a rate, or the commissioner disapproves a rate or form** under this section, the commissioner shall notify the farm mutual insurance company of the reason that the rate or form was disapproved. The farm mutual insurance company may request a hearing before the commissioner under IC 4-21.5 concerning the disapproval.

(d) A farm mutual insurance company may seek judicial review under IC 4-21.5-5 of the commissioner's final disapproval of a rate or form under this section.

C
o
p
y



1 (e) The commissioner may charge a farm mutual insurance company
2 a reasonable fee as provided in IC 27-1-3-15 for the filing of a rate or
3 form.

4 SECTION 9. IC 27-8-4-7 IS AMENDED TO READ AS FOLLOWS
5 [EFFECTIVE JULY 1, 2006]: Sec. 7. (a) All policies, certificates of
6 insurance, notices of proposed insurance, applications for insurance,
7 endorsements, and riders delivered or issued for delivery in this state
8 and the schedules of premium rates pertaining thereto shall be filed
9 with the commissioner.

10 (b) The commissioner shall, within thirty (30) days after the filing
11 of any such policies, certificates of insurance, notices of proposed
12 insurance, applications for insurance, endorsements, and riders,
13 disapprove any such form if the benefits provided therein are not
14 reasonable in relation to the premium charge **according to the rates**
15 **approved by the insurance rate commission under IC 27-1-39**, or
16 if it contains provisions which are unjust, unfair, inequitable,
17 misleading, deceptive, or encourage misrepresentation of the coverage,
18 or are contrary to any provision of this title or of a rule promulgated
19 under this title.

20 (c) If the commissioner notifies the insurer that the form is
21 disapproved, it shall be unlawful thereafter for such insurer to issue or
22 use such form. In such notice, the commissioner shall specify the
23 reason for ~~his~~ **the commissioner's** disapproval and state that a hearing
24 will be granted within twenty (20) days after request in writing by the
25 insurer. No such policy, certificate of insurance, notice of proposed
26 insurance, nor any application, endorsement, or rider, shall be issued
27 or used until the expiration of thirty (30) days after it has been so filed,
28 unless the commissioner shall give ~~his~~ **the commissioner's** prior
29 written approval thereto.

30 (d) The commissioner may, at any time after a hearing held not less
31 than twenty (20) days after written notice to the insurer, withdraw ~~his~~
32 **the commissioner's** approval of any such form on any ground set forth
33 in subsection (b). The written notice of such hearing shall state the
34 reason for the proposed withdrawal.

35 (e) It shall be unlawful for the insurer to issue such forms or use
36 them after the effective date of such withdrawal.

37 (f) If a group policy of credit life insurance or credit accident and
38 health insurance:

- 39 (1) has been delivered by an insurer in this state before July 6,
40 1961; or
41 (2) has been or is delivered by an insurer in another state before
42 or after July 6, 1961;

C
o
p
y



1 such insurer shall be required to file only the group certificate and
 2 notice of proposed insurance delivered or issued for delivery in this
 3 state as specified in sections 6(b) and 6(d) of this chapter, and such
 4 forms shall be approved by the commissioner if they conform with the
 5 requirements specified in sections 6(b) and 6(d) and if the schedules of
 6 premium rates applicable to the insurance evidenced by such certificate
 7 or notice are not in excess of the insurer's schedules of premium rates
 8 on file with the commissioner ~~provided~~, **and approved by the**
 9 **insurance rate commission under IC 27-1-39.** However, ~~that~~ the
 10 premium rate in effect on group policies existing on July 6, 1961, may
 11 be continued until the first policy anniversary date following the date
 12 this section becomes operative as provided in section 12 of this
 13 chapter.

14 (g) Any order or final determination of the commissioner under the
 15 provisions of this section shall be subject to judicial review.

16 SECTION 10. IC 27-8-4-8 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) Any insurer may
 18 revise its schedules of premium rates from time to time, and shall file
 19 such revised schedules with the commissioner **for approval by the**
 20 **insurance rate commission under IC 27-1-39.** No insurer shall issue
 21 any credit life insurance policy or credit accident and health insurance
 22 policy for which the premium rate exceeds that determined by the
 23 schedules of such insurer as then on file with the commissioner **and**
 24 **approved by the insurance rate commission.**

25 (b) Each individual policy, or group certificate shall provide that in
 26 the event of termination of the insurance prior to the scheduled
 27 maturity date of the indebtedness, any refund of an amount paid by the
 28 debtor for insurance shall be paid or credited promptly to the person
 29 entitled thereto. ~~Provided~~; However, ~~That~~ the commissioner shall
 30 prescribe a minimum refund and no refund which would be less than
 31 such minimum need be made. The formula to be used in computing
 32 such refund shall be filed with and approved by the commissioner.

33 (c) If a creditor requires a debtor to make any payment for credit life
 34 insurance or credit accident and health insurance and an individual
 35 policy or group certificate of insurance is not issued, the creditor shall
 36 immediately give written notice to such debtor and shall promptly
 37 make an appropriate credit to the account.

38 (d) The amount charged to a debtor for any credit life or credit
 39 health and accident insurance shall not exceed the premiums charged
 40 by the insurer, as computed at the time the charge to the debtor is
 41 determined.

42 SECTION 11. IC 27-8-5-1 IS AMENDED TO READ AS

C
o
p
y



1 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) The term "policy
2 of accident and sickness insurance", as used in this chapter, includes
3 any policy or contract covering one (1) or more of the kinds of
4 insurance described in Class 1(b) or 2(a) of IC 27-1-5-1. Such policies
5 may be on the individual basis under this section and sections 2
6 through 9 of this chapter, on the group basis under this section and
7 sections 16 through 19 of this chapter, on the franchise basis under this
8 section and section 11 of this chapter, or on a blanket basis under
9 section 15 of this chapter and (except as otherwise expressly provided
10 in this chapter) shall be exclusively governed by this chapter.

11 (b) No policy of accident and sickness insurance may be issued or
12 delivered to any person in this state, nor may any application, rider, or
13 endorsement be used in connection with an accident and sickness
14 insurance policy until a copy of the form of the policy and of the
15 classification of risks and the premium rates, or, in the case of
16 assessment companies, the estimated cost pertaining thereto, have been
17 filed with the commissioner **and the premium rates have been**
18 **approved by the insurance rate commission under IC 27-1-39.** This
19 section is applicable also to assessment companies and fraternal benefit
20 associations or societies.

21 (c) No policy of accident and sickness insurance may be issued, nor
22 may any application, rider, or endorsement be used in connection with
23 a policy of accident and sickness insurance, until the expiration of
24 thirty (30) days after it has been filed under subsection (b), unless the
25 commissioner gives his written approval to it before the expiration of
26 the thirty (30) day period.

27 (d) The commissioner may, within thirty (30) days after the filing of
28 any form under subsection (b), disapprove the form:

29 (1) if, in the case of an individual accident and sickness form, the
30 benefits provided therein are unreasonable in relation to the
31 premium charged **according to the rates approved by the**
32 **insurance rate commission under IC 27-1-39;** or

33 (2) if, in the case of an individual, blanket, or group accident and
34 sickness form, it contains a provision or provisions that are unjust,
35 unfair, inequitable, misleading, or deceptive or that encourage
36 misrepresentation of the policy.

37 (e) If the commissioner notifies the insurer that filed a form that the
38 form does not comply with this section, it is unlawful thereafter for the
39 insurer to issue the form or use it in connection with any policy. In the
40 notice given under this subsection, the commissioner shall specify the
41 reasons for ~~his~~ **the commissioner's** disapproval and state that a hearing
42 will be granted within twenty (20) days after request in writing by the

C
O
P
Y



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

insurer.
(f) The commissioner may at any time, after a hearing of which not less than twenty (20) days written notice has been given to the insurer, withdraw ~~his~~ **the commissioner's** approval of any form filed under subsection (b) on any of the grounds stated in this section. It is unlawful for the insurer to issue the form or use it in connection with any policy after the effective date of the withdrawal of approval. The notice of any hearing called under this subsection must specify the matters to be considered at the hearing, and any decision affirming disapproval or directing withdrawal of approval under this section must be in writing and must specify the reasons for the decision.

(g) Any order or decision of the commissioner under this section is subject to review under IC 4-21.5.

SECTION 12. IC 27-8-15-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 26. The commissioner may suspend all or any part of section 16 of this chapter as to the premium rates applicable to one (1) small employer for at least one (1) rating period upon a filing by the small employer insurer and a finding by the commissioner **and the insurance rate commission** that either:

- (1) the suspension is reasonable in light of the financial condition of the insurer; or
- (2) the suspension would enhance the efficiency and fairness of the marketplace for small employer health insurance.

SECTION 13. IC 27-13-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. After receiving a completed application, the commissioner shall issue a certificate of authority to operate a health maintenance organization to the applicant if:

- (1) the application fee is received by the commissioner; and
- (2) the commissioner is satisfied that the following requirements are met:
 - (A) The persons responsible for the conduct of the affairs of the applicant are competent, trustworthy, and have good reputations.
 - (B) The health maintenance organization will effectively provide or arrange for the provision of the health care services covered in the health maintenance organization's individual and group contracts on a prepaid basis, through insurance or other means, except to the extent of reasonable requirements for copayments and deductibles.
 - (C) The health maintenance organization complies with IC 27-13-12 through IC 27-13-19.

C
o
p
y



1 **(D) The insurance rate commission has approved the**
2 **methodology submitted under IC 27-13-2-5(9)(B).**

3 SECTION 14. IC 27-13-20-1 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. The rates to be used
5 by a health maintenance organization, including the actuarial
6 assumptions underlying those rates, must be filed with the
7 commissioner for approval **by the insurance rate commission under**
8 **IC 27-1-39** and:

9 (1) must be established in accordance with actuarial principles for
10 various categories of enrollees and, in the case of a group
11 contract, shall not be individually determined based on the status
12 of an enrollee's health;

13 (2) must be developed by an actuary or other qualified person
14 acceptable to the commissioner; and

15 (3) may not be excessive, inadequate, or unfairly discriminatory.

16 SECTION 15. IC 27-13-20-2 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) Except as
18 provided in subsection (b), a document submitted to the commissioner
19 under this chapter is deemed approved when ~~one (1)~~ of the following
20 conditions is met:

21 ~~(1)~~ the health maintenance organization receives a written
22 communication of approval from the commissioner.

23 ~~(2) Thirty (30) days pass after the commissioner receives the~~
24 ~~document.~~

25 (b) A document is not ~~deemed~~ approved under subsection ~~(a)(2)~~ (a)
26 if, within thirty (30) days after the commissioner receives the
27 document, or within any period of extension granted by the
28 commissioner, the commissioner deposits in the United States mail
29 addressed to the health maintenance organization a written
30 communication to the contrary. Not more than thirty (30) days after
31 receiving the written communication from the commissioner, the health
32 maintenance organization may request a hearing. If, not more than
33 thirty (30) days after receiving the communication from the
34 commissioner, the health maintenance organization requests a hearing,
35 the commissioner shall hold a hearing upon not less than ten (10) days
36 notice to the health maintenance organization.

C
o
p
y

