



April 1, 2009

**ENGROSSED
HOUSE BILL No. 1627**

DIGEST OF HB 1627 (Updated March 26, 2009 3:08 pm - DI 110)

Citations Affected: IC 5-22; IC 27-1; IC 27-4; IC 27-7; IC 27-8; IC 27-13; noncode.

Synopsis: Insurance matters. Makes various changes to the law concerning: (1) public purchasing with respect to retaining an insurance examiner; (2) disclosures of insurer information; (3) insurer annual audited financial reporting; (4) foreign and alien insurers; (5) records of insurer securities holdings; (6) insurance producer licensing and continuing education; (7) certain insurance holding company transactions; (8) insurance administrator licensing; (9) an unauthorized insurers exception in relation to an industrial insured; (10) consistency in compliance with laws by various types of insurers and health maintenance organizations.; and (11) small employer group insurance requirements. Makes conforming amendments. Repeals: (1) definitions of unused terms, requirements for independent auditors, and reports of insurer internal control deficiencies for purposes of the annual audited financial reporting law; (2) a provision concerning notice of claim recoding by insurance administrators; (3) an obsolete cross reference for purposes of the small employer group insurance law; and (4) the small employer insurer voluntary reinsurance program.

Effective: July 1, 2009.

Fry, Lehman

(SENATE SPONSOR — PAUL)

January 16, 2009, read first time and referred to Committee on Insurance.
February 9, 2009, amended, reported — Do Pass.
February 12, 2009, read second time, ordered engrossed. Engrossed.
February 16, 2009, read third time, passed. Yeas 92, nays 6.

SENATE ACTION

February 23, 2009, read first time and referred to Committee on Insurance and Financial Institutions.
March 31, 2009, amended, reported favorably — Do Pass.

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EH 1627—LS 7313/DI 97+



April 1, 2009

First Regular Session 116th General Assembly (2009)

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 2008 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1627



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 5-22-1-2, AS AMENDED BY P.L.217-2007,
- 2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2009]: Sec. 2. Except as provided in this article, this article
- 4 does not apply to the following:
- 5 (1) The commission for higher education.
- 6 (2) A state educational institution. However, IC 5-22-5-9 and
- 7 IC 5-22-15 apply to a state educational institution.
- 8 (3) Military officers and military and armory boards of the state.
- 9 (4) An entity established by the general assembly as a body
- 10 corporate and politic. However, IC 5-22-15 applies to a body
- 11 corporate and politic.
- 12 (5) A local hospital authority under IC 5-1-4.
- 13 (6) A municipally owned utility under IC 8-1-11.1 or IC 8-1.5.
- 14 (7) Hospitals established and operated under IC 16-22-1 through
- 15 IC 16-22-5, IC 16-22-8, IC 16-23-1, or IC 16-24-1.
- 16 (8) A library board under IC 36-12-3-16(b).
- 17 (9) A local housing authority under IC 36-7-18.

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- 1 (10) Tax exempt Indiana nonprofit corporations leasing and
- 2 operating a city market owned by a political subdivision.
- 3 (11) A person paying for a purchase or lease with funds other than
- 4 public funds.
- 5 (12) A person that has entered into an agreement with a
- 6 governmental body under IC 5-23.
- 7 (13) A municipality for the operation of municipal facilities used
- 8 for the collection, treatment, purification, and disposal in a
- 9 sanitary manner of liquid and solid waste, sewage, night soil, and
- 10 industrial waste.
- 11 (14) The department of financial institutions established by
- 12 IC 28-11-1-1.

13 **(15) The commissioner of the department of insurance in**
 14 **retaining an examiner for purposes of IC 27-1-3.1-9.**

15 SECTION 2. IC 27-1-3.1-14 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec.14. (a) Upon the
 17 adoption of an examination report under section 11(a)(1) of this
 18 chapter, the commissioner shall continue to hold the content of the
 19 examination report as confidential information for a period of thirty
 20 (30) days except to the extent provided in section 10(b) of this chapter.
 21 Thereafter, the report shall be open for public inspection.

22 (b) This chapter does not prevent or prohibit the commissioner from
 23 disclosing the content of an examination report, preliminary
 24 examination report, or results, or any matter relating thereto, to **the**
 25 **National Association of Insurance Commissioners**, the insurance
 26 department of any other state or country, or to law enforcement
 27 officials of Indiana or any other state or agency of the federal
 28 government at any time, if the agency or office receiving the report or
 29 matters relating thereto agrees in writing to hold it confidential and in
 30 a manner consistent with this chapter.

31 (c) If the commissioner determines that regulatory action is
 32 appropriate as a result of any examination, the commissioner may
 33 initiate any proceedings or actions authorized by law.

34 (d) This chapter does not limit the commissioner's authority to use
 35 and, if appropriate, to make public any final or preliminary examination
 36 report, any examiner or company workpapers or other documents, or
 37 any other information discovered or developed during the course of any
 38 examination in the furtherance of any legal or regulatory action that the
 39 commissioner may, in the commissioner's sole discretion, consider
 40 appropriate.

41 SECTION 3. IC 27-1-3.1-15 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. All working papers,

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1 recorded information, documents, and copies thereof produced by,
 2 obtained by, or disclosed to the commissioner or any other person in
 3 the course of an examination under this chapter (**including trade**
 4 **secrets and information obtained from a federal agency, a foreign**
 5 **country, the National Association of Insurance Commissioners, or**
 6 **under another state law**) are confidential for the purposes of
 7 IC 5-14-3-4, are not subject to subpoena, and may not be made public
 8 by the commissioner or any other person, except to the extent provided
 9 in section 14 of this chapter. However, access may also be granted to
 10 the National Association of Insurance Commissioners. Those parties
 11 must agree in writing prior to receiving the information to provide to
 12 it the same confidential treatment as required by this section, unless the
 13 prior written consent of the company to which it pertains has been
 14 obtained.

15 SECTION 4. IC 27-1-3.5-0.5 IS ADDED TO THE INDIANA
 16 CODE AS A NEW SECTION TO READ AS FOLLOWS
 17 [EFFECTIVE JULY 1, 2009]: **Sec. 0.5. The commissioner may adopt**
 18 **rules under IC 4-22-2 to implement this chapter.**

19 SECTION 5. IC 27-1-3.5-1 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. As used in this
 21 chapter, "commissioner" refers to the insurance commissioner
 22 appointed under IC 27-1-1-2: "accountant" means an independent
 23 certified public accountant or accounting firm that is:

- 24 (1) in good standing with the American Institute of Certified
- 25 Public Accountants and in all states in which the accountant
- 26 is licensed to practice;
- 27 (2) Canadian chartered if the insurer is a Canadian insurer;
- 28 or
- 29 (3) British chartered if the insurer is a British insurer.

30 SECTION 6. IC 27-1-3.5-4 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) As used in this
 32 chapter, "work papers" means the records kept by ~~the independent~~
 33 ~~auditor an accountant~~ of the procedures followed, the tests performed,
 34 the information obtained, and the conclusions reached by ~~the~~
 35 ~~independent auditor's related to the accountant's~~ audit of the financial
 36 statements of a ~~domestic an~~ insurer.

37 (b) The term includes any audit planning documentation, work
 38 programs, analyses, memoranda, letters of confirmation and
 39 representation, abstracts of company documents, and schedules or
 40 commentaries that:

- 41 (1) are prepared or obtained by the independent auditor
- 42 **accountant** in the course of ~~any~~ **the accountant's** audit of the

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1 financial statements of a ~~domestic an~~ insurer; and
2 (2) support the ~~independent auditor's accountant's~~ opinion. ~~on~~
3 ~~the domestic insurer's financial statements.~~

4 SECTION 7. IC 27-1-3.5-5 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) Except as
6 provided in subsections (b) and (c), this chapter applies to all ~~domestic~~
7 insurers.

- 8 (b) ~~A domestic An~~ insurer that has:
 - 9 (1) direct written premiums of less than one million dollars
 - 10 (\$1,000,000) in any calendar year; ~~and~~
 - 11 (2) less than one thousand (1,000) policyholders or certificate
 - 12 holders of ~~directly direct~~ written policies nationwide at the end
 - 13 of a calendar year; ~~and~~
 - 14 **(3) assumed premiums under contracts or treaties of**
 - 15 **reinsurance of less than one million dollars (\$1,000,000) in a**
 - 16 **calendar year;**

17 is exempt from this chapter with respect to that year. However, the
18 commissioner may require compliance with this chapter upon a finding
19 that compliance with this chapter is necessary for the commissioner to
20 carry out a statutory responsibility.

21 (c) A foreign or an alien insurer that files an audited financial report
22 in another state ~~or country pursuant to that~~ **under the other** state's ~~or~~
23 ~~country's~~ requirement for **filing of annual** audited financial reports is
24 exempt **from sections 6 through 13 of this chapter** with respect to the
25 year of ~~that the annual~~ audited financial report, ~~from the requirement~~
26 ~~to file an audited financial report with the commissioner under this~~
27 ~~chapter, if:~~

- 28 (1) the commissioner has found the other state's ~~or country's~~
- 29 requirement for **filing of** audited financial reports to be
- 30 substantially similar to the requirements of this chapter;
- 31 (2) ~~copies a copy~~ of the audited financial report, the ~~report on~~
- 32 **significant deficiencies in communication of internal controls;**
- 33 **control related matters noted in an audit,** and the accountant's
- 34 letter of qualifications filed with the other state ~~or country~~ are
- 35 filed with the commissioner in accordance with the filing dates set
- 36 forth in sections ~~8, 6 +2,~~ and 12.5 of this chapter; and
- 37 (3) a copy of a notification of an adverse financial condition
- 38 report that is filed with the other state is filed with the
- 39 commissioner within the time specified in section 11 of this
- 40 chapter.

41 **(d) A foreign or an alien insurer that files a report of internal**
42 **control over financial reporting in another state is exempt from**

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filing the same report under this chapter if:

- (1) the other state has reporting requirements substantially similar to this chapter; and**
- (2) the report is filed with the commissioner of insurance of the other state in a timely manner.**

~~This (e)~~ Subsection ~~(c)~~ **or (d)** does not prevent the commissioner from ordering, conducting, or performing examinations of ~~foreign or alien~~ insurers under the rules, regulations, and practices of the department **under IC 27-1-3.1.**

SECTION 8. IC 27-1-3.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) ~~A domestic~~ **An** insurer shall have an audit by an ~~independent auditor every year~~ **accountant** and shall file an audited financial report with the commissioner every year ~~before~~ **not later than** June 1 immediately following the December 31 that ends the year reported on in the financial report. The commissioner may require ~~a domestic an~~ insurer to file an audited financial report earlier than June 1 if the commissioner gives the ~~domestic~~ insurer ninety (90) days advance notice of the earlier filing date.

(b) An extension of the June 1 filing date may be granted by the commissioner for thirty (30) days upon a showing by the insurer and ~~its independent auditor~~ **the insurer's accountant** of the reasons for requesting the extension and a determination by the commissioner that there is good cause for an extension. The request for an extension must be submitted in writing at least ten (10) days before the due date and must include sufficient detail to permit the commissioner to make an informed decision with respect to the requested extension.

(c) If an extension is granted under subsection (b), a similar extension of thirty (30) days is granted for the filing of the insurer's management report of internal control over financial reporting.

SECTION 9. IC 27-1-3.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) The annual audited financial report filed by ~~a domestic an~~ insurer under this chapter shall report:

- (1) the financial position of the ~~domestic~~ insurer as of the end of the most recently ended calendar year; and
- (2) the results of the ~~domestic~~ insurer's operations, cash flow, and changes in capital and surplus for that year;

in conformity with statutory accounting practices prescribed, or otherwise permitted, by the department of insurance **of the insurer's state of domicile.**

~~(b) The financial statements included in the annual audited financial~~

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1 report filed by a domestic insurer under this chapter shall be examined
2 by an independent auditor. The independent auditor shall conduct its
3 examination of the domestic insurer's financial statements in
4 accordance with generally accepted auditing standards, and shall
5 consider such other procedures illustrated in the Financial Condition
6 Examiner's Handbook published by the National Association of
7 Insurance Commissioners as the independent auditor considers
8 necessary.

9 ~~(c)~~ **(b)** An annual audited financial report filed by a domestic an
10 insurer under this chapter must include the following:

- 11 (1) The report of the insurer's ~~independent auditor.~~ **accountant.**
- 12 (2) A balance sheet reporting admitted assets, liabilities, capital,
13 and surplus.
- 14 (3) A statement of operations.
- 15 (4) A statement of cash flow.
- 16 (5) A statement of changes in capital and surplus.
- 17 (6) Notes to financial statements. The notes must:

18 **(A)** be those required by the National Association of Insurance
19 Commissioners' annual statement instructions and ~~any other~~
20 notes required by statutory accounting practices, which must
21 **the National Association of Insurance Commissioners'**
22 **accounting practices and procedures manual; and**

23 **(B)** include the following:

24 ~~(A)~~ a reconciliation of differences, if any, between the **audited**
25 **statutory** financial statements included in the ~~audited~~
26 ~~financial report~~ and the annual **financial** statement filed by the
27 insurer under IC 27-1-20-21, including a written description of
28 the nature of these differences.

29 ~~(B)~~ **A summary of the ownership and relationships of the**
30 **domestic insurer and all affiliated companies.**

31 ~~(d)~~ **(c)** The financial statements included in a ~~domestic an~~ insurer's
32 audited financial report shall be prepared in the same form, and using
33 language and groupings substantially the same, as the relevant sections
34 of the annual statement of the insurer filed with the commissioner
35 under IC 27-1-20-21.

36 ~~(e)~~ **(d)** The financial statements included in a ~~domestic an~~ insurer's
37 audited financial report must be comparative, presenting the amounts
38 as of December 31 of the year of the report and comparative amounts
39 as of the immediately preceding December 31. However, in the first
40 year in which an insurer is required to file an audited financial report
41 under this chapter, the comparative data may be omitted.

42 SECTION 10. IC 27-1-3.5-8 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) ~~A domestic An~~ **An**
 2 insurer that is required by this chapter to file **an** annual audited
 3 financial ~~reports~~ **report** shall, not more than sixty (60) days after
 4 becoming subject to the requirement, register in writing with the
 5 commissioner the name and address of the ~~independent auditor~~
 6 **accountant** retained by the insurer to conduct the annual ~~audits~~ **audit**
 7 required by this chapter. ~~The domestic insurer shall continuously~~
 8 **ensure that the information provided to the commissioner under this**
 9 **section is accurate, and shall inform the commissioner in writing of any**
 10 **change in the identity or address of its independent auditor. An insurer**
 11 **that does not have an accountant on retainer on July 1, 2009, shall**
 12 **register the name and address of the insurer's retained accountant**
 13 **at least six (6) months before the first date by which the insurer's**
 14 **first annual audited financial report is to be filed after June 30,**
 15 **2009.**

16 (b) ~~A domestic An~~ **An** insurer shall obtain a letter from its independent
 17 ~~auditor~~ **the insurer's accountant** that:

18 (1) states that the ~~independent auditor~~ **accountant** is aware of the
 19 provisions of IC 27 and the administrative rules of the department
 20 of insurance **of the insurer's state of domicile** that relate to
 21 ~~auditing,~~ accounting and financial matters; and

22 (2) affirms that the ~~independent auditor~~ **accountant** will express
 23 ~~its the accountant's~~ **the accountant's** opinion on the financial statements ~~of the~~
 24 ~~domestic insurer in the terms of their conformity to the statutory~~
 25 accounting practices prescribed or otherwise permitted by the
 26 department, specifying such exceptions as the ~~independent~~
 27 ~~auditor~~ **accountant** may believe appropriate.

28 The ~~domestic~~ insurer shall file a copy of this letter with the
 29 commissioner.

30 (c) If an ~~independent auditor~~ **accountant** that **served as the**
 31 **accountant for the immediately preceding** audited the most recent
 32 financial report filed by the insurer with the commissioner under this
 33 chapter ~~is subsequently ceases to be terminated by the insurer or~~
 34 **resigns as the independent auditor accountant** for the insurer, the
 35 insurer shall:

36 (1) not more than five (5) business days after the ~~cessation of the~~
 37 ~~independent auditor's services,~~ **termination or resignation,**
 38 notify the commissioner in writing of the ~~identity and address of~~
 39 ~~the new independent auditor,~~ **termination or resignation;**

40 (2) not more than ten (10) business days after the notification
 41 given ~~in~~ **under** subdivision (1), furnish the commissioner with a
 42 separate letter that states whether in the twenty-four (24) months

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1 preceding the ~~engagement of the new independent auditor~~
 2 **termination or resignation** there were any disagreements
 3 between the insurer and ~~its~~ **the former independent auditor**
 4 **accountant** on any matter of accounting principles or practices,
 5 financial statement disclosure, or auditing scope or procedure,
 6 which, if not resolved to the satisfaction of the former
 7 ~~independent auditor accountant~~, would have caused the former
 8 ~~independent auditor accountant~~ to make reference to the subject
 9 matter of the disagreement in **connection with** the former
 10 ~~independent auditor's statement of its accountant's opinion. or~~
 11 ~~the insurer's financial report; and; if there was such a~~
 12 ~~disagreement; provides a description of the disagreement.~~
 13 Disagreements required to be reported under this subdivision
 14 include those at the decision making level that were resolved:

- 15 (A) to the former accountant's satisfaction; and
- 16 (B) not to the former accountant's satisfaction; and
- 17 (3) comply with subsection (d).

18 For the purposes of this subsection, "decision making level" refers to
 19 the personnel of the insurer who are responsible for the presentation of
 20 the insurer's financial statements and the personnel of the ~~independent~~
 21 **auditor accountant** who are responsible for rendering the ~~opinion of~~
 22 ~~the auditor on the~~ insurer's **audited** financial report.

23 (d) ~~A domestic An~~ insurer subject to the provisions of subsection (c)
 24 shall:

- 25 (1) provide its former ~~independent auditor accountant~~ with a
 26 copy of the letter furnished to the commissioner under subsection
 27 (c)(2); and
- 28 (2) request in writing its former ~~independent auditor accountant~~
 29 to furnish a letter addressed to the insurer stating whether the
 30 former ~~independent auditor accountant~~ agrees with the
 31 statements contained in the letter furnished to the commissioner
 32 under subsection (c)(2) and, if not, stating the reasons for the
 33 former ~~independent auditor's accountant's~~ disagreement.

34 The ~~domestic~~ insurer shall furnish the commissioner with a copy of any
 35 responsive letter ~~it the insurer~~ receives from ~~its the insurer's~~ former
 36 ~~independent auditor~~ within five (5) business days after the insurer
 37 receives ~~the accountant together with the insurer's own~~ letter.

38 SECTION 11. IC 27-1-3.5-10 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. ~~A domestic An~~
 40 insurer may apply in writing to the commissioner for approval to ~~satisfy~~
 41 ~~the requirements of this chapter by filing file~~ audited consolidated or
 42 combined financial statements instead of separate annual audited

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1 financial statements if the insurer is part of a group of insurance
2 companies that utilizes a pooling or one hundred percent (100%)
3 reinsurance agreement that affects the solvency and integrity of the
4 insurer's reserves and the insurer cedes all of the insurer's direct and
5 assumed business to the pool. If a ~~domestic an~~ insurer whose
6 application is approved elects to file a consolidated return, the insurer
7 shall file, with its financial statements, a columnar consolidating or
8 combining ~~schedule~~, **worksheet**, which must meet the following
9 requirements:

- 10 (1) Amounts shown on the consolidated or combined **annual**
11 audited financial report shall be shown on the ~~schedule~~:
12 **worksheet**.
- 13 (2) Amounts for each insurer subject to this section shall be stated
14 separately.
- 15 (3) Noninsurance operations ~~shall~~ **may** be shown on the ~~schedule~~
16 **worksheet on a combined or** an individual basis.
- 17 (4) Explanations of consolidating and eliminating entries shall be
18 included.
- 19 (5) A reconciliation shall be included of any differences between
20 the amounts shown in the individual insurer columns of the
21 ~~schedule worksheet~~ and comparable amounts shown on the
22 annual statements of the insurers.

23 SECTION 12. IC 27-1-3.5-11 IS AMENDED TO READ AS
24 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. (a) ~~A domestic An~~
25 insurer required to file **an** annual audited financial ~~reports~~ **report**
26 under this chapter shall require ~~its independent auditor~~ **the accountant**
27 to report in writing to the board of directors or the ~~board of director's~~
28 audit committee, not more than five (5) business days after making a
29 **the** determination, the ~~independent auditor's~~ **accountant's**
30 determination that:

- 31 (1) the ~~domestic~~ insurer has materially misstated to the
32 commissioner the financial condition of the insurer as of the date
33 of the balance sheet being ~~examined audited~~ by the ~~independent~~
34 ~~auditor~~; **accountant**; or
- 35 (2) the ~~domestic~~ insurer does not meet the minimum capital and
36 surplus requirements of Indiana as of the date of the balance sheet
37 being ~~examined audited~~ by the ~~independent auditor~~. **accountant**.

38 The ~~domestic~~ insurer ~~who that~~ has received a report under this section
39 shall forward a copy of the report to the commissioner within five (5)
40 business days after receipt of the report and shall provide the
41 ~~independent~~ accountant making the report with evidence of the report
42 being furnished to the commissioner. An ~~independent auditor who~~

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1 **accountant that** does not receive the evidence that the report was filed
 2 with the commissioner within the required five (5) business days shall
 3 furnish the commissioner a copy of the report within the next five (5)
 4 business days. An ~~independent auditor~~ **may accountant** is not be liable
 5 to any person for a statement made in connection with this subsection,
 6 if the statement is made in good faith compliance with this subsection.

7 (b) If the ~~independent auditor~~ **accountant**, of a ~~domestic insurer~~;
 8 after the filing of the ~~insurer's~~ audited financial report under this
 9 chapter, becomes aware of facts that, if the ~~independent auditor~~
 10 **accountant** had been aware of the facts when writing ~~its~~ **the**
 11 **accountant's** report, might have affected the ~~independent auditor's~~
 12 **accountant's** report that was included in the insurer's **annual** audited
 13 financial report, the ~~independent auditor~~ **accountant** shall take such
 14 action as is prescribed in the **Volume 1, Section AU 561 of the**
 15 **Professional Standards of the American Institute of Certified Public**
 16 **Accountants.**

17 SECTION 13. IC 27-1-3.5-12.5 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12.5. ~~The independent~~
 19 **auditor An accountant** shall furnish the ~~domestic~~ insurer, in
 20 connection with and for inclusion in the filing of the annual audited
 21 financial report, a letter stating the following:

22 (1) That the ~~independent auditor~~ **accountant** is independent with
 23 respect to the insurer and conforms to the standards of the
 24 ~~independent auditor's~~ **accountant's** profession as contained in the
 25 Code of Professional Ethics and Pronouncements of the American
 26 Institute of Certified Public Accountants and the rules of
 27 professional conduct of the ~~Indiana~~ **applicable** state board of
 28 accountancy.

29 (2) The:

30 (A) general background and experience; and

31 (B) experience in audits of insurers;

32 of the staff assigned to the audit. The letter must also state
 33 whether each member of the staff is a ~~certified public an~~
 34 **accountant**. This subdivision does not prohibit the ~~independent~~
 35 **auditor from using accountant's use of** the staff **as** considered
 36 appropriate where such use is consistent with the standards
 37 prescribed by generally accepted auditing standards.

38 (3) That the ~~independent auditor~~ **accountant** understands that the:

39 (A) **annual audited financial report and the accountant's**
 40 **opinion on the annual audited financial report will be filed**
 41 **with the commissioner; and**

42 (B) **commissioner** will be relying on the ~~independent auditor's~~

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annual audited financial report and the independent auditor's opinion in the report for filed report and opinion in the monitoring and regulation of the financial positions position of the insurers: insurer.

(4) That the independent auditor accountant consents to the requirements of section 13 of this chapter and consents and agrees to make available for review by the commissioner, the commissioner's designee, or the commissioner's appointed agent, any of the independent auditor's accountant's work papers. and significant communications.

(5) That the independent auditor accountant is properly licensed by an appropriate state licensing authority and is a member in good standing in the American Institute of Certified Public Accountants.

(6) That the independent auditor is in compliance with the requirements of section 9 of this chapter.

SECTION 14. IC 27-1-3.5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. (a) ~~A domestic An~~ insurer required to file an audited financial report under this chapter shall require its independent auditor the accountant to make available for review by department examiners:

(1) all work papers prepared in the conduct of the independent auditor's examination; accountant's audit; and

(2) any record of significant communications, related to the audit, between the independent auditor accountant and the insurer;

that took place at (A) the offices of the insurer, (B) the department, (C) the offices of the independent auditor; or (D) any other reasonable place designated by the commissioner.

(b) ~~The An~~ insurer described in subsection (a) shall require the independent auditor accountant to retain the audit work papers and communications until the department has filed a report on the examination covering the period of the audit but not later than seven (7) years after the date of the audit report.

~~(b)~~ (c) Department examiners, in conducting a review of an independent auditor's work papers, under this section, may make and retain copies photocopies of the pertinent audit work papers. and communications. A review of an independent auditor's work papers and communications shall be under this section is considered an investigation, and all work papers and communications obtained or copied during the course of that the investigation are confidential under IC 27-1-3.1-15.

SECTION 15. IC 27-1-3.5-14 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. (a) In response to
2 a written application from ~~a domestic an~~ insurer, the commissioner
3 may grant an exemption from compliance with this chapter if the
4 commissioner finds, upon review of the application, that compliance
5 with this chapter would constitute a financial or an organizational
6 hardship upon the ~~domestic~~ insurer. An exemption may be granted at
7 any time for a specified period.

8 (b) Within ten (10) days after the denial of ~~a domestic an~~ insurer's
9 written request for an exemption from this chapter, the insurer may, in
10 writing, request a hearing on its application for an exemption. The
11 hearing shall be held under IC 4-21.5.

12 SECTION 16. IC 27-1-3.5-16 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. A domestic insurer
14 that fails to file an audited annual financial report before July 1 or any
15 other deadline established by the commissioner for the insurer under
16 this chapter without having obtained an extension is subject to a civil
17 penalty of ~~fifty dollars (\$50) per day until the report is received~~
18 **prescribed in rules adopted** by the commissioner.

19 SECTION 17. IC 27-1-3.5-18 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 18. (a) In the case of a
21 British or Canadian insurer, the annual audited financial report refers
22 to the annual statement of total business on the form filed by the
23 company with its ~~domiciliary~~ supervision authority audited by an
24 ~~independent auditor.~~ **accountant.**

25 (b) For a British or Canadian insurer, the letter required under
26 section 8 of this chapter shall state that the accountant is aware of the
27 ~~requirement~~ **requirements** relating to the annual audited ~~statement~~
28 **financial report** filed with the commissioner under section 6 of this
29 chapter and shall affirm that the opinion expressed is in conformity
30 with those requirements.

31 SECTION 18. IC 27-1-9-12 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) In case of a
33 merger or consolidation between a domestic and a foreign company,
34 the articles of merger or consolidation shall be regarded as executed by
35 the proper officers of said foreign company when such officers are duly
36 authorized to execute same through such action on the part of the
37 directors, shareholders, members, or policyholders of said foreign
38 company as may be required by the laws of the state where the same is
39 incorporated; and upon execution, said articles of merger or
40 consolidation shall be submitted to the commissioner of insurance or
41 other officer at the head of the insurance department of the state where
42 such foreign company is incorporated. No such merger or consolidation

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1 shall take effect until it shall have been approved by the insurance
2 official of the state where said foreign company is incorporated nor
3 until a certificate of his approval has been filed in the office of the
4 department of insurance of the state of Indiana. Such submission to and
5 approval by the proper official of such other state shall not be required
6 unless the same are required by the laws of such foreign state. The
7 domestic company involved in such merger or consolidation shall not
8 through anything contained in this section be relieved of any of the
9 procedural requirements enumerated in the preceding sections of this
10 article.

11 (b) No merger or consolidation between a domestic and a foreign
12 company shall take effect, unless and until the surviving or new
13 company, if such is a foreign company, shall file with the department
14 a power of attorney appointing the commissioner and his successors in
15 office; the attorney for service of said foreign company; upon whom all
16 lawful process against said company may be served: Said power of
17 attorney shall be irrevocable so long as said foreign company has
18 outstanding in this state any contract of insurance; or other obligation
19 whatsoever; and shall by its terms so provide: Service upon the
20 commissioner shall be deemed sufficient service upon the company:
21 **complies with IC 27-1-17-4(7).**

22 SECTION 19. IC 27-1-15.6-7 IS AMENDED TO READ AS
23 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) Unless denied
24 licensure under section 12 of this chapter, a person who has met the
25 requirements of sections 5 and 6 of this chapter shall be issued an
26 insurance producer license. An insurance producer may receive
27 qualification for a license in one (1) or more of the following lines of
28 authority:

- 29 (1) Life — insurance coverage on human lives, including benefits
30 of endowment and annuities, that may include benefits in the
31 event of death or dismemberment by accident and benefits for
32 disability income.
- 33 (2) Accident and health or sickness — insurance coverage for
34 sickness, bodily injury, or accidental death that may include
35 benefits for disability income.
- 36 (3) Property — insurance coverage for the direct or consequential
37 loss of or damage to property of every kind.
- 38 (4) Casualty — insurance coverage against legal liability,
39 including liability for death, injury, or disability, or for damage to
40 real or personal property.
- 41 (5) Variable life and variable annuity products — insurance
42 coverage provided under variable life insurance contracts and

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1 variable annuities.
 2 (6) Personal lines — property and casualty insurance coverage
 3 sold to individuals and families for primarily noncommercial
 4 purposes.
 5 (7) Credit — limited line credit insurance.
 6 (8) Title — insurance coverage against loss or damage on account
 7 of encumbrances on or defects in the title to real estate.
 8 (9) Any other line of insurance permitted under Indiana laws or
 9 administrative rules.
 10 (b) A person who requests and receives qualification under
 11 subsection (a)(5) for variable life and annuity products:
 12 (1) is considered to have requested; and
 13 (2) shall receive;
 14 a life qualification under subsection (a)(1). **The insurance producer's**
 15 **license document must clearly indicate that the life qualification**
 16 **received under this subsection includes a qualification for variable**
 17 **life and variable annuity products.**
 18 (c) A resident insurance producer may not request separate
 19 qualifications for property insurance and casualty insurance under
 20 subsection (a).
 21 (d) An insurance producer license remains in effect unless revoked
 22 or suspended, as long as the renewal fee set forth in section 32 of this
 23 chapter is paid and the educational requirements for resident individual
 24 producers are met by the due date.
 25 (e) An individual insurance producer who:
 26 (1) allows the individual insurance producer's license to lapse;
 27 and
 28 (2) completed all required continuing education before the license
 29 expired;
 30 may, not more than twelve (12) months after the expiration date of the
 31 license, reinstate the same license without the necessity of passing a
 32 written examination. A penalty in the amount of three (3) times the
 33 unpaid renewal fee shall be required for any renewal fee received after
 34 the expiration date of the license. However, the department of
 35 insurance may waive the penalty if the renewal fee is received not more
 36 than thirty (30) days after the expiration date of the license.
 37 (f) A licensed insurance producer who is unable to comply with
 38 license renewal procedures due to military service or some other
 39 extenuating circumstance may request a waiver of the license renewal
 40 procedures. The producer may also request a waiver of any
 41 examination requirement or any other fine or sanction imposed for
 42 failure to comply with the license renewal procedures.

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1 (g) An insurance producer license shall contain the licensee's name,
2 address, personal identification number, date of issuance, lines of
3 authority, expiration date, and any other information the commissioner
4 considers necessary.

5 (h) A licensee shall inform the commissioner of a change of address
6 not more than thirty (30) days after the change by any means
7 acceptable to the commissioner. The failure of a licensee to timely
8 inform the commissioner of a change in legal name or address shall
9 result in a penalty under section 12 of this chapter.

10 (i) To assist in the performance of the commissioner's duties, the
11 commissioner may contract with nongovernmental entities, including
12 the National Association of Insurance Commissioners (NAIC), or any
13 affiliates or subsidiaries that the NAIC oversees, to perform ministerial
14 functions, including the collection of fees related to producer licensing,
15 that the commissioner and the nongovernmental entity consider
16 appropriate.

17 (j) The commissioner may participate, in whole or in part, with the
18 NAIC or any affiliate or subsidiary of the NAIC in a centralized
19 insurance producer license registry through which insurance producer
20 licenses are centrally or simultaneously effected for states that require
21 an insurance producer license and participate in the centralized
22 insurance producer license registry. If the commissioner determines
23 that participation in the centralized insurance producer license registry
24 is in the public interest, the commissioner may adopt rules under
25 IC 4-22-2 specifying uniform standards and procedures that are
26 necessary for participation in the registry, including standards and
27 procedures for centralized license fee collection.

28 SECTION 20. IC 27-1-15.6-9 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) An individual
30 who applies for an insurance producer license in Indiana and who was
31 previously licensed for the same lines of authority in another state is
32 not required to complete any prelicensing education or examination.
33 However, the exemption provided by this subsection is available only
34 if:

- 35 (1) the individual is currently licensed in the other state; or
- 36 (2) the application is received within ninety (90) days after the
37 cancellation of the applicant's previous license and:
 - 38 (A) the other state issues a certification that, at the time of
39 cancellation, the applicant was in good standing in that state;
 - 40 or
 - 41 (B) the state's Producer Database records that are maintained
42 by the National Association of Insurance Commissioners, its

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1 affiliates, or its subsidiaries, indicate that the producer is or
 2 was licensed in good standing for the line of authority
 3 requested.

4 (b) If a person is licensed as an insurance producer in another state
 5 and moves to Indiana, the person, to be authorized to act as an
 6 insurance producer in Indiana, must make application to become a
 7 resident licensee under section 6 of this chapter within ninety (90) days
 8 after establishing legal residence in Indiana. However, the person is not
 9 required to take prelicensing education or examination to obtain a
 10 license for any line of authority for which the person held a license in
 11 the other state unless the commissioner determines otherwise by rule.

12 (c) An individual who:

13 (1) has attained the designation of chartered life underwriter,
 14 certified financial planner, ~~or~~ chartered financial consultant, **or**
 15 **another nationally recognized designation approved by the**
 16 **commissioner or the National Association of Insurance**
 17 **Commissioners; and**

18 (2) applies for an insurance producer license in Indiana requesting
 19 qualification under sections:

20 (A) 7(a)(1);

21 (B) 7(a)(2); or

22 (C) 7(a)(5);

23 of this chapter;

24 is not required to complete prelicensing education and is required to
 25 take only the portion of the examination required under section 5(b) of
 26 this chapter that pertains to Indiana laws and rules.

27 (d) An individual who ~~has~~:

28 (1) ~~has~~ attained the designation of chartered property and casualty
 29 underwriter, certified insurance counselor, ~~or~~ accredited advisor
 30 in insurance, **or another nationally recognized designation**
 31 **approved by the commissioner or the National Association of**
 32 **Insurance Commissioners; and**

33 (2) applies for an insurance producer license in Indiana requesting
 34 qualification under sections:

35 (A) 7(a)(3);

36 (B) 7(a)(4); or

37 (C) 7(a)(6);

38 of this chapter;

39 is not required to complete prelicensing education and is required to
 40 take only the portion of the examination required under section 5(b) of
 41 this chapter that pertains to Indiana laws and rules.

42 (e) An individual who:

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1 **(1) has attained a bachelor's degree in insurance; and**
2 **(2) applies for an insurance producer license in Indiana**
3 **requesting qualification under section 7(a)(1) through 7(a)(6)**
4 **of this chapter;**
5 **is not required to complete prelicensing education and is required**
6 **to take only the part of the examination required under section**
7 **5(b) of this chapter that pertains to Indiana laws and rules.**
8 SECTION 21. IC 27-1-15.6-12, AS AMENDED BY P.L.27-2007,
9 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2009]: Sec. 12. (a) For purposes of this section, "permanently
11 revoke" means that:
12 (1) the producer's license shall never be reinstated; and
13 (2) the former licensee, after the license revocation, is not eligible
14 to submit an application for a license to the department.
15 (b) The commissioner may **reprimand**, levy a civil penalty, place
16 an insurance producer on probation, suspend an insurance producer's
17 license, revoke an insurance producer's license for a period of years,
18 permanently revoke an insurance producer's license, or refuse to issue
19 or renew an insurance producer license, or take any combination of
20 these actions, for any of the following causes:
21 (1) Providing incorrect, misleading, incomplete, or materially
22 untrue information in a license application.
23 (2) Violating:
24 (A) an insurance law;
25 (B) a regulation;
26 (C) a subpoena of an insurance commissioner; or
27 (D) an order of an insurance commissioner;
28 of Indiana or of another state.
29 (3) Obtaining or attempting to obtain a license through
30 misrepresentation or fraud.
31 (4) Improperly withholding, misappropriating, or converting any
32 monies or properties received in the course of doing insurance
33 business.
34 (5) Intentionally misrepresenting the terms of an actual or
35 proposed insurance contract or application for insurance.
36 (6) Having been convicted of a felony.
37 (7) Admitting to having committed or being found to have
38 committed any unfair trade practice or fraud in the business of
39 insurance.
40 (8) Using fraudulent, coercive, or dishonest practices, or
41 demonstrating incompetence, untrustworthiness, or financial
42 irresponsibility in the conduct of business in Indiana or elsewhere.

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- 1 (9) Having an insurance producer license, or its equivalent,
- 2 denied, suspended, or revoked in any other state, province,
- 3 district, or territory.
- 4 (10) Forging another's name to an application for insurance or to
- 5 any document related to an insurance transaction.
- 6 (11) Improperly using notes or any other reference material to
- 7 complete an examination for an insurance license.
- 8 (12) Knowingly accepting insurance business from an individual
- 9 who is not licensed.
- 10 (13) Failing to comply with an administrative or court order
- 11 imposing a child support obligation.
- 12 (14) Failing to pay state income tax or to comply with any
- 13 administrative or court order directing payment of state income
- 14 tax.
- 15 (15) Failing to satisfy the continuing education requirements
- 16 established by IC 27-1-15.7.
- 17 (16) Violating section 31 of this chapter.
- 18 (17) Failing to timely inform the commissioner of a change in
- 19 legal name or address, in violation of section 7(h) of this chapter.
- 20 (c) The commissioner shall refuse to:
- 21 (1) issue a license; or
- 22 (2) renew a license issued;
- 23 under this chapter to any person who is the subject of an order issued
- 24 by a court under IC 31-14-12-7 or IC 31-16-12-10 (or
- 25 IC 31-1-11.5-13(m) or IC 31-6-6.1-16(m) before their repeal).
- 26 (d) If the commissioner refuses to renew a license or denies an
- 27 application for a license, the commissioner shall notify the applicant or
- 28 licensee and advise the applicant or licensee, in a writing sent through
- 29 regular first class mail, of the reason for the denial of the applicant's
- 30 application or the nonrenewal of the licensee's license. The applicant
- 31 or licensee may, not more than sixty-three (63) days after notice of
- 32 denial of the applicant's application or nonrenewal of the licensee's
- 33 license is mailed, make written demand to the commissioner for a
- 34 hearing before the commissioner to determine the reasonableness of the
- 35 commissioner's action. The hearing shall be held not more than thirty
- 36 (30) days after the applicant or licensee makes the written demand, and
- 37 shall be conducted under IC 4-21.5.
- 38 (e) The license of a business entity may be suspended, revoked, or
- 39 refused if the commissioner finds, after hearing, that a violation of an
- 40 individual licensee acting on behalf of the partnership or corporation
- 41 was known or should have been known by one (1) or more of the
- 42 partners, officers, or managers of the partnership or corporation and:

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1 (1) the violation was not reported to the commissioner; and
 2 (2) no corrective action was taken.

3 (f) In addition to or in lieu of any applicable denial, suspension, or
 4 revocation of a license under subsection (b), a person may, after a
 5 hearing, be subject to the imposition by the commissioner under
 6 subsection (b) of a civil penalty of not less than fifty dollars (\$50) and
 7 not more than ten thousand dollars (\$10,000). A penalty imposed under
 8 this subsection may be enforced in the same manner as a civil
 9 judgement.

10 (g) A licensed insurance producer or limited lines producer shall,
 11 not more than ten (10) days after the producer receives a request in a
 12 registered or certified letter from the commissioner, furnish the
 13 commissioner with a full and complete report listing each insurer with
 14 which the licensee has held an appointment during the year preceding
 15 the request.

16 (h) If a licensee fails to provide the report requested under
 17 subsection (g) not more than ten (10) days after the licensee receives
 18 the request, the commissioner may, in the commissioner's sole
 19 discretion, without a hearing, and in addition to any other sanctions
 20 allowed by law, suspend any insurance license held by the licensee
 21 pending receipt of the appointment report.

22 (i) The commissioner shall promptly notify all appointing insurers
 23 and the licensee regarding any suspension, revocation, or termination
 24 of a license by the commissioner under this section.

25 (j) The commissioner may not grant, renew, continue, or permit to
 26 continue any license if the commissioner finds that the license is being
 27 used or will be used by the applicant or licensee for the purpose of
 28 writing controlled business. As used in this subsection, "controlled
 29 business" means:

30 (1) insurance written on the interests of:
 31 (A) the applicant or licensee;
 32 (B) the applicant's or licensee's immediate family; or
 33 (C) the applicant's or licensee's employer; or
 34 (2) insurance covering:
 35 (A) the applicant or licensee;
 36 (B) members of the applicant's or licensee's immediate family;
 37 or
 38 (C) either:
 39 (i) a corporation, limited liability company, association, or
 40 partnership; or
 41 (ii) the officers, directors, substantial stockholders, partners,
 42 members, managers, employees of such a corporation,

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1 limited liability company, association, or partnership;
2 of which the applicant or licensee or a member of the
3 applicant's or licensee's immediate family is an officer,
4 director, substantial stockholder, partner, member, manager,
5 associate, or employee.

6 However, this section does not apply to insurance written or interests
7 insured in connection with or arising out of credit transactions. A
8 license is considered to have been used or intended to be used for the
9 purpose of writing controlled business if the commissioner finds that
10 during any twelve (12) month period the aggregate commissions earned
11 from the controlled business exceeded twenty-five percent (25%) of the
12 aggregate commission earned on all business written by the applicant
13 or licensee during the same period.

14 (k) The commissioner has the authority to:
15 (1) enforce the provisions of; and
16 (2) impose any penalty or remedy authorized by;
17 this chapter or any other provision of this title against any person who
18 is under investigation for or charged with a violation of this chapter or
19 any other provision of this title, even if the person's license or
20 registration has been surrendered or has lapsed by operation of law.

21 (l) For purposes of this section, the violation of any provision of
22 IC 28 concerning the sale of a life insurance policy or an annuity
23 contract shall be considered a violation described in subsection (b)(2).

24 (m) The commissioner may order a licensee to make restitution if
25 the commissioner finds that the licensee has committed a violation
26 described in:

- 27 (1) subsection (b)(4);
- 28 (2) subsection (b)(7);
- 29 (3) subsection (b)(8); or
- 30 (4) subsection (b)(16).

31 (n) The commissioner shall notify the securities commissioner
32 appointed under IC 23-19-6-1(a) when an administrative action or civil
33 proceeding is filed under this section and when an order is issued under
34 this section denying, suspending, or revoking a license.

35 SECTION 22. IC 27-1-15.7-2, AS AMENDED BY P.L.173-2007,
36 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
37 JULY 1, 2009]: Sec. 2. (a) Except as provided in subsection (b), to
38 renew a license issued under IC 27-1-15.6,

39 ~~(1)~~ a resident insurance producer must complete at least ~~twenty~~
40 ~~(20)~~ **twenty-four (24)** hours of credit in continuing education
41 courses. ~~and~~

42 ~~(2) a resident limited lines producer must complete at least five~~

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1 ~~(5) hours of credit in continuing education courses.~~

2 An attorney in good standing who is admitted to the practice of law in
3 Indiana and holds a license issued under IC 27-1-15.6 may complete all
4 or any number of hours of continuing education required by this
5 subsection by completing an equivalent number of hours in continuing
6 legal education courses that are related to the business of insurance.

7 (b) To renew a license issued under IC 27-1-15.6, a limited lines
8 producer with a title qualification under IC 27-1-15.6-7(a)(8) must
9 complete at least seven (7) hours of credit in continuing education
10 courses related to the business of title insurance with at least one (1)
11 hour of instruction in a structured setting or comparable self-study in
12 each of the following:

- 13 (1) Ethical practices in the marketing and selling of title
14 insurance.
15 (2) Title insurance underwriting.
16 (3) Escrow issues.
17 (4) Principles of the federal Real Estate Settlement Procedures
18 Act (12 U.S.C. 2608).

19 An attorney in good standing who is admitted to the practice of law in
20 Indiana and holds a license issued under IC 27-1-15.6 with a title
21 qualification under IC 27-1-15.6-7(a)(8) may complete all or any
22 number of hours of continuing education required by this subsection by
23 completing an equivalent number of hours in continuing legal
24 education courses related to the business of title insurance or any
25 aspect of real property law.

26 (c) The following insurance producers are not required to complete
27 continuing education courses to renew a license under this chapter:

- 28 (1) A limited lines producer who is licensed without examination
29 under IC 27-1-15.6-18(1) or IC 27-1-15.6-18(2).
30 (2) A limited line credit insurance producer.
31 (3) **Before July 1, 2011**, an insurance producer who:
32 (A) is at least seventy (70) years of age; and
33 (B) has been a licensed insurance producer continuously for at
34 least twenty (20) years immediately preceding the license
35 renewal date.

36 (d) To satisfy the requirements of subsection (a) or (b), a licensee
37 may use only those credit hours earned in continuing education courses
38 completed by the licensee:

- 39 (1) after the effective date of the licensee's last renewal of a
40 license under this chapter; or
41 (2) if the licensee is renewing a license for the first time, after the
42 date on which the licensee was issued the license under this

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1 chapter.

2 (e) If an insurance producer receives qualification for a license in
3 more than one (1) line of authority under IC 27-1-15.6, the insurance
4 producer may not be required to complete a total of more than twenty
5 (20) hours of credit in continuing education courses to renew the
6 license.

7 (f) Except as provided in subsection (g), a licensee may receive
8 credit only for completing continuing education courses that have been
9 approved by the commissioner under section 4 of this chapter.

10 (g) A licensee who teaches a course approved by the commissioner
11 under section 4 of this chapter shall receive continuing education credit
12 for teaching the course.

13 (h) When a licensee renews a license issued under this chapter, the
14 licensee must submit:

15 (1) a continuing education statement that:

16 (A) is in a format authorized by the commissioner;

17 (B) is signed by the licensee under oath; and

18 (C) lists the continuing education courses completed by the
19 licensee to satisfy the continuing education requirements of
20 this section; and

21 (2) any other information required by the commissioner.

22 (i) A continuing education statement submitted under subsection (h)
23 may be reviewed and audited by the department.

24 (j) A licensee shall retain a copy of the original certificate of
25 completion received by the licensee for completion of a continuing
26 education course.

27 (k) A licensee who completes a continuing education course that:

28 (1) is approved by the commissioner under section 4 of this
29 chapter;

30 (2) is held in a classroom setting; and

31 (3) concerns ethics;

32 shall receive continuing education credit for the number of hours for
33 which the course is approved plus additional hours, not to exceed two
34 (2) hours in a renewal period, equal to the number of hours for which
35 the course is approved.

36 SECTION 23. IC 27-1-15.7-5 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) To qualify as a
38 certified preclicensing course of study for purposes of IC 27-1-15.6-6,
39 an insurance producer program of study must meet all of the following
40 criteria:

41 (1) Be conducted or developed by an:

42 (A) insurance trade association;

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- 1 (B) accredited college or university;
 2 (C) educational organization certified by the insurance
 3 producer education and continuing education advisory council;
 4 or
 5 (D) insurance company licensed to do business in Indiana.
 6 (2) Provide for self-study or instruction provided by an approved
 7 instructor in a structured setting, as follows:
 8 (A) For life insurance producers, not less than ~~twenty-four (24)~~
 9 **twenty (20)** hours of instruction in a structured setting or
 10 comparable self-study on:
 11 (i) ethical practices in the marketing and selling of
 12 insurance;
 13 (ii) requirements of the insurance laws and administrative
 14 rules of Indiana; and
 15 (iii) principles of life insurance.
 16 (B) For health insurance producers, not less than ~~twenty-four~~
 17 ~~(24)~~ **twenty (20)** hours of instruction in a structured setting or
 18 comparable self-study on:
 19 (i) ethical practices in the marketing and selling of
 20 insurance;
 21 (ii) requirements of the insurance laws and administrative
 22 rules of Indiana; and
 23 (iii) principles of health insurance.
 24 (C) For life and health insurance producers, not less than forty
 25 (40) hours of instruction in a structured setting or comparable
 26 self-study on:
 27 (i) ethical practices in the marketing and selling of
 28 insurance;
 29 (ii) requirements of the insurance laws and administrative
 30 rules of Indiana;
 31 (iii) principles of life insurance; and
 32 (iv) principles of health insurance.
 33 (D) For property and casualty insurance producers, not less
 34 than forty (40) hours of instruction in a structured setting or
 35 comparable self-study on:
 36 (i) ethical practices in the marketing and selling of
 37 insurance;
 38 (ii) requirements of the insurance laws and administrative
 39 rules of Indiana;
 40 (iii) principles of property insurance; and
 41 (iv) principles of liability insurance.
 42 (E) For personal lines producers, a minimum of ~~twenty-four~~

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- 1 ~~(24)~~ **twenty (20)** hours of instruction in a structured setting or
 2 comparable self-study on:
- 3 (i) ethical practices in the marketing and selling of
 4 insurance;
- 5 (ii) requirements of the insurance laws and administrative
 6 rules of Indiana; and
- 7 (iii) principles of property and liability insurance applicable
 8 to coverages sold to individuals and families for primarily
 9 noncommercial purposes.
- 10 (F) For title insurance producers, not less than ten (10) hours
 11 of instruction in a structured setting or comparable self-study
 12 on:
- 13 (i) ethical practices in the marketing and selling of title
 14 insurance;
- 15 (ii) requirements of the insurance laws and administrative
 16 rules of Indiana;
- 17 (iii) principles of title insurance, including underwriting and
 18 escrow issues; and
- 19 (iv) principles of the federal Real Estate Settlement
 20 Procedures Act (12 U.S.C. 2608).
- 21 (3) Instruction provided in a structured setting must be provided
 22 only by individuals who meet the qualifications established by the
 23 commissioner under subsection (b).
- 24 (b) The commissioner, after consulting with the insurance producer
 25 education and continuing education advisory council, shall adopt rules
 26 under IC 4-22-2 prescribing the criteria that a person must meet to
 27 render instruction in a certified prelicensing course of study.
- 28 (c) The commissioner shall adopt rules under IC 4-22-2 prescribing
 29 the subject matter that an insurance producer program of study must
 30 cover to qualify for certification as a certified prelicensing course of
 31 study under this section.
- 32 (d) The commissioner may make recommendations that the
 33 commissioner considers necessary for improvements in course
 34 materials.
- 35 (e) The commissioner shall designate a program of study that meets
 36 the requirements of this section as a certified prelicensing course of
 37 study for purposes of IC 27-1-15.6-6.
- 38 (f) The commissioner may, after notice and opportunity for a
 39 hearing, withdraw the certification of a course of study that does not
 40 maintain reasonable standards, as determined by the commissioner for
 41 the protection of the public.
- 42 (g) Current course materials for a prelicensing course of study that

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1 is certified under this section must be submitted to the commissioner
2 upon request, but not less frequently than once every three (3) years.

3 SECTION 24. IC 27-1-17-3 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. No foreign or alien
5 insurance company shall be admitted to do business in this state having
6 a name which, at the date of such admission, could not be taken by a
7 domestic corporation under the provisions of IC 27-1-6-3, except that
8 the name of a foreign or alien insurance company need not include the
9 word "company", "corporation", "incorporated", or "mutual", or one (1)
10 of the abbreviations thereof, nor the word "insurance" or the word
11 "assurance" provided the name of such company is authorized by the
12 laws of the state or territory of its organization or domicile and
13 provided such name does not negate the characteristic of such company
14 as an insurance company. ~~No such foreign or alien insurance company~~
15 ~~after it has been admitted shall, by amendment to its charter, assume~~
16 ~~any name which, at the date of the filing of such amendment as~~
17 ~~provided in this chapter, could not be taken by a domestic corporation~~
18 ~~under the provisions of IC 27-1-6-3.~~

19 SECTION 25. IC 27-1-17-4, AS AMENDED BY P.L.193-2006,
20 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 JULY 1, 2009]: Sec. 4. Whenever a foreign or an alien insurance
22 company desires to be admitted to do an insurance business in this
23 state, it shall execute in the English language and present the following
24 to the department, at its office, accompanied by the fees prescribed by
25 law:

- 26 (1) A copy of its articles of incorporation or association, with all
27 amendments thereto, duly authenticated by the proper officer of
28 the state, country, province, or government wherein it is
29 incorporated or organized, or the state in which it is domiciled in
30 the United States.
- 31 (2) An application for admission, executed in the manner
32 provided in this chapter, setting forth:
 - 33 (A) the name of such company;
 - 34 (B) the location of its principal office or place of business
35 without this state;
 - 36 (C) the names of the states in which it has been admitted or
37 qualified to do business;
 - 38 (D) the character of insurance business under its articles of
39 incorporation or association which it intends to transact in this
40 state, which must conform to the class or classes set forth in
41 the provisions of IC 27-1-5-1;
 - 42 (E) the total authorized capital stock of the company and the

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- 1 amount thereof issued and outstanding, and the surplus
 2 required of such company by the laws of the state, country,
 3 province, or government under which it is organized, or the
 4 state in which it is domiciled in the United States, if a stock
 5 company, which shall equal at least the requirements set forth
 6 in section 5(a) of this chapter;
- 7 (F) the total amount of assets and the surplus of assets over all
 8 its liabilities, if other than a stock company, which shall equal
 9 at least the requirements set forth in section 5(b) of this
 10 chapter;
- 11 (G) if an alien company, the surplus of assets invested
 12 according to the laws of the state in the United States where it
 13 has its deposit, which shall equal at least the requirements set
 14 forth in section 5(c) of this chapter; and
- 15 (H) such further and additional information as the department
 16 may from time to time require.
- 17 The application shall be signed, ~~in duplicate~~ in the form
 18 prescribed by the department, by the president or a vice president
 19 and the secretary or an assistant secretary of the corporation, and
 20 verified under oath by the officers signing the same.
- 21 (3) A statement of its financial condition and business, in the form
 22 prescribed by law for annual statements, signed and sworn to by
 23 the president or secretary or other principal officers of the
 24 company; provided, however, that an alien company shall also
 25 furnish a separate statement comprising only its condition and
 26 business in the United States, which shall be signed and sworn to
 27 by its United States manager.
- 28 (4) A copy of the last report of examination certified to by the
 29 insurance commissioner or other proper supervisory official of the
 30 state in which such company is domiciled; provided, however,
 31 that the commissioner may cause an examination to be made of
 32 the condition and affairs of such company before authority to
 33 transact business in this state is given.
- 34 (5) A certificate from the proper official of the state, country,
 35 province, or government wherein it is incorporated or organized,
 36 or the state in which it is domiciled in the United States, that it is
 37 duly organized or incorporated under those laws and authorized
 38 to make the kind or kinds of insurance which it proposes to make
 39 in this state.
- 40 (6) A copy of its bylaws or regulations, if any, certified to by the
 41 secretary or similar officer of the insurance company.
- 42 (7) A duly executed power of attorney in a form prescribed by the

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1 department which constitutes and appoints an individual or a
2 corporate resident of Indiana, or an authorized Indiana insurer, as
3 the insurance company's agent, its true and lawful attorney upon
4 whom, except as provided in section 4.2 of this chapter, all lawful
5 processes in any action in law or in equity against it shall be
6 served. Such power of attorney shall contain an agreement by the
7 insurance company that any lawful process against it which may
8 be served upon the agent as its attorney shall be of the same force
9 and validity as if served upon the insurance company and that
10 such power of attorney shall continue in force and be irrevocable
11 so long as any liability of the insurance company remains
12 outstanding in this state. Such power of attorney shall be executed
13 by the president and secretary of the insurance company or other
14 duly authorized officers under its seal and shall be accompanied
15 by a certified copy of the resolution of the board of directors of
16 the company making said appointment and authorizing the
17 execution of said power of attorney. Service of any lawful process
18 shall be by delivering to and leaving with the agent two (2) copies
19 of such process, with copy of the pertinent complaint attached.
20 The agent shall forthwith transmit to the defendant company at its
21 last known principal place of business by registered or certified
22 mail, return receipt requested, one (1) of the copies of such
23 process, with complaint attached, the other copy to be retained in
24 a record which shall show all process served upon and transmitted
25 by him. Such service shall be sufficient provided the returned
26 receipt or, if the defendant company shall refuse to accept such
27 mailing, the registered mail together with an affidavit of plaintiff
28 or his attorney stating that service was made upon the agent and
29 forwarded as above set forth but that such mail was returned by
30 the post office department is filed with the court. The agent shall
31 make information and receipts available to plaintiff, defendant, or
32 their attorneys. No plaintiff or complainant shall be entitled to a
33 judgment by default based on service authorized by this section
34 until the expiration of at least thirty (30) days from the date on
35 which either the post office receipt or the unclaimed mail together
36 with affidavit is filed with the court. Nothing in this section shall
37 limit or abridge the right to serve any process, notice, or demand
38 upon any company in any other manner permitted by law.
39 (8) Proof which satisfies the department that it has complied with
40 the financial requirements imposed in this chapter upon foreign
41 and alien insurance companies which transact business in this
42 state and that it is entitled to public confidence and that its

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1 admission to transact business in this state will not be prejudicial
2 to public interest.

3 SECTION 26. IC 27-1-18-4 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) Any foreign or
5 alien corporation admitted to do business in this state may alter or
6 enlarge the character of the business which it is authorized to transact
7 in this state under its articles of incorporation or association, and any
8 amendments thereof filed with the department as provided in section
9 3 of this chapter, by procuring an amended certificate of authority from
10 the department in the manner provided in subsection (b).

11 (b) Whenever a foreign or alien corporation desires to procure such
12 amended certificate, it shall present to the department at its office,
13 accompanied by the fees prescribed by law, an application for an
14 amended certificate of authority, setting forth the change desired in the
15 kind or kinds of insurance business under its articles of incorporation
16 or association which it intends to thereafter carry on in this state; the
17 application shall be filed ~~in duplicate~~ in the form prescribed by the
18 department by the president or a vice president and the secretary or an
19 assistant secretary of the corporation, and verified by the oaths of the
20 officers signing the same.

21 (c) Upon the presentation of such application, accompanied by the
22 corporation's certificate of authority, the department, if it ~~find~~ **finds** that
23 it conforms to law and that the foreign or alien company has fulfilled
24 the requirements set forth in subsection (b) and in section 3 of this
25 chapter, may endorse its approval upon ~~each of the duplicate copies of~~
26 the application, and, in case of the approval of such application and
27 when all fees required by law shall have been paid, shall file one (1)
28 copy of the application in its office, cancel the certificate of authority
29 presented with the application, and issue to the corporation a new
30 certificate of authority, which certificate shall set forth the kind or
31 kinds of business that the corporation is authorized thereafter to
32 transact in this state, which shall be accompanied by one (1) copy of
33 the application bearing the endorsement of the approval of the
34 department.

35 (d) Upon the issuance of the new certificate of authority by the
36 department, the corporation therein named shall have authority
37 thereafter to transact in this state the kind or kinds of insurance
38 business set forth in such certificate, subject to the terms and
39 conditions prescribed in this article.

40 SECTION 27. IC 27-1-20-8 IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) As used in this
42 section:

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~~"Securities" means instruments as defined in IC 26-1-8.1-102.~~

"Broker dealer" means an entity that:

- (1) is registered with and subject to the jurisdiction of the Securities and Exchange Commission;**
- (2) maintains membership in the Securities Investor Protection Corporation; and**
- (3) has a tangible net worth of at least two hundred fifty million dollars (\$250,000,000).**

"Clearing corporation" means a corporation as defined in IC 26-1-8.1-102 except that with respect to securities issued by institutions organized or existing under the laws of any foreign country or securities used to meet the deposit requirements pursuant to the laws of a foreign country as a condition of doing business therein. "Clearing corporation" may include a corporation organized or existing under the laws of any foreign country and which is legally qualified under such laws to effect transactions in securities by computerized book entry.

"Direct participant" means a bank, trust company, or safety deposit company approved by the commissioner which maintains an account in its name in a clearing corporation and through which an insurance company participates in a clearing corporation.

"Federal Reserve book-entry system" means the computerized systems sponsored by the United States Department of the Treasury and certain agencies and instrumentalities of the United States for holding and transferring securities of the United States government and such agencies and instrumentalities, respectively, in Federal Reserve Banks through banks which are members of the Federal Reserve System, or which otherwise have access to such computerized systems.

"Member bank" means a national bank, state bank, or trust company which is a member of the Federal Reserve System and through which an insurance company participates in the Federal Reserve book-entry system.

"Securities" means instruments as defined in IC 26-1-8.1-102.

(b) Notwithstanding any other provision of law, a domestic insurance company may deposit or arrange for the safekeeping of securities held in or purchased for its general account and its separate accounts in a clearing corporation or the Federal Reserve book-entry system. When securities are deposited with a clearing corporation, certificates representing securities of the same class of the same issuer may be merged and held in bulk in the name of the nominee of such clearing corporation with any other securities deposited with such clearing corporation by any person, regardless of the ownership of such securities, and certificates representing securities of small

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1 denominations may be merged into one (1) or more certificates of
 2 larger denominations. The records of any member bank **or broker**
 3 **dealer** through which an insurance company holds securities in the
 4 Federal Reserve book-entry system, and the records of any custodian
 5 through which an insurance company holds securities in a clearing
 6 corporation, shall at all times show that such securities are held for
 7 such insurance company and for which accounts thereof. Ownership of,
 8 and other interests in, such securities may be transferred by
 9 bookkeeping entry on the books of such clearing corporation or in the
 10 Federal Reserve book-entry system without, in either case, physical
 11 delivery of certificates representing such securities.

12 (c) Any Indiana law requiring an insurance company operating
 13 under the laws of Indiana to deposit assets with the department shall be
 14 deemed complied with if such deposit is made pursuant to a written
 15 agreement between the insurance company and any bank, trust
 16 company or a safety deposit company and approved by the
 17 commissioner which limits withdrawals to those sanctioned and
 18 approved by the department. Deposits so made shall be credited by the
 19 department as deposits in its possession on the basis of the insurance
 20 company's affidavit describing such deposits as to amount and nature.

21 (d) Notwithstanding any other provisions of law, securities eligible
 22 for deposit under the insurance law of this state relating to deposit of
 23 securities by an insurance company as a condition of commencing or
 24 continuing to do an insurance business in this state may be deposited
 25 with a clearing corporation or held in the Federal Reserve book-entry
 26 system. Securities deposited with a clearing corporation or held in the
 27 Federal Reserve book-entry system and used to meet the deposit
 28 requirements under the insurance laws of this state shall be under the
 29 control of the commissioner and shall not be withdrawn by the
 30 insurance company without the approval of the commissioner. Any
 31 insurance company holding such securities in such manner shall
 32 provide to the commissioner evidence issued by its custodian or a
 33 member bank through which such insurance company has deposited
 34 securities with a clearing corporation or held in the Federal Reserve
 35 book-entry system, respectively, in order to establish that the securities
 36 are actually recorded in an account in the name of the custodian or
 37 other direct participant or member bank and evidence that the records
 38 of the custodian, other participant, or member bank reflect that such
 39 securities are held subject to the order of the commissioner.

40 (e) The commissioner of insurance is authorized to promulgate rules
 41 and regulations governing the deposit by insurance companies of
 42 securities with clearing corporations and in the Federal Reserve

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1 book-entry system.

2 SECTION 28. IC 27-1-23-4 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) Material
4 transactions within an insurance holding company system to which an
5 insurer subject to registration is a party shall be subject to the following
6 standards:

- 7 (1) The terms shall be fair and reasonable.
- 8 (2) The charges or fees for services performed shall be
9 reasonable.
- 10 (3) The expenses incurred for any payment received shall be
11 allocated to the insurer in conformity with customary insurance
12 accounting practices consistently applied.
- 13 (4) The books, accounts, and records of each party as to all
14 transactions described in this subsection shall be so maintained as
15 to clearly and accurately disclose the precise nature and details of
16 the transactions, including accounting information necessary to
17 support the reasonableness of the charges or fees to the respective
18 parties.
- 19 (5) The insurer's surplus as regards policyholders following any
20 transactions with affiliates or shareholder dividend shall be
21 reasonable in relation to the insurer's outstanding liabilities and
22 adequate to its financial needs.

23 (b) The following transactions involving a domestic insurer and any
24 person in its insurance holding company system may not be entered
25 into unless the insurer has notified the commissioner in writing of its
26 intention to enter into such transaction at least thirty (30) days prior
27 thereto, or such shorter period as the commissioner may permit, and the
28 commissioner has not disapproved it within that period:

- 29 (1) Sales, purchases, exchanges, loans or extensions of credit,
30 guarantees, or investments, provided those transactions are equal
31 to or exceed:
 - 32 (A) with respect to nonlife insurers, the lesser of three percent
33 (3%) of the insurer's admitted assets or twenty-five percent
34 (25%) of surplus as regards policyholders; and
 - 35 (B) with respect to life insurers, three percent (3%) of the
36 insurer's admitted assets;
- 37 each as of December 31 next preceding.
- 38 (2) Loans or extensions of credit to any person who is not an
39 affiliate, where the insurer makes those loans or extensions of
40 credit with the agreement or understanding that the proceeds of
41 such transactions, in whole or in substantial part, are to be used
42 to make loans or extensions of credit to, to purchase assets of, or

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1 to make investments in, any affiliate of the insurer making such
 2 loans or extensions of credit, provided those transactions are
 3 equal to or exceed:

4 (A) with respect to nonlife insurers, the lesser of three percent
 5 (3%) of the insurer's admitted assets or twenty-five percent
 6 (25%) of surplus as regards policyholders; and

7 (B) with respect to life insurers, three percent (3%) of the
 8 insurer's admitted assets;

9 each as of December 31 next preceding.

10 (3) Reinsurance agreements or modifications thereto in which the
 11 amount of cash or invested assets transferred by the insurer equals
 12 or exceeds five percent (5%) of the insurer's surplus as regards
 13 policyholders, as of December 31 next preceding, including those
 14 agreements that may require as consideration the transfer of assets
 15 from an insurer to a nonaffiliate, if an agreement or understanding
 16 exists between the insurer and nonaffiliate that any portion of the
 17 assets will be transferred to one (1) or more affiliates of the
 18 insurer.

19 (4) Management agreements, service contracts, ~~and~~ cost-sharing
 20 arrangements, **lease agreements, and tax allocation**
 21 **agreements.**

22 (5) Material transactions, specified by rule, that the commissioner
 23 determines may adversely affect the interests of the insurer's
 24 policyholders.

25 This subsection does not authorize or permit any transactions that, in
 26 the case of an insurer not a member of the same insurance holding
 27 company system, would be otherwise contrary to law.

28 (c) A domestic insurer may not enter into transactions that are part
 29 of a plan or series of like transactions with persons within the insurance
 30 holding company system if the purpose of those separate transactions
 31 is to avoid the statutory threshold amount and thus avoid the review
 32 that would occur otherwise.

33 (d) The commissioner, in reviewing transactions pursuant to
 34 subsection (b), shall consider whether the transactions comply with the
 35 standards set forth in subsection (a) and whether the transactions may
 36 adversely affect the interests of policyholders.

37 (e) The commissioner shall be notified within thirty (30) days of any
 38 investment of the domestic insurer in any one (1) corporation if the
 39 total investment in that corporation by the insurance holding company
 40 system exceeds ten percent (10%) of the corporation's voting securities.

41 (f) For purposes of this chapter, in determining whether an insurer's
 42 surplus is reasonable in relation to the insurer's outstanding liabilities

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1 and adequate to its financial needs, the following factors, among others,
2 shall be considered:

3 (1) The size of the insurer as measured by its assets, capital and
4 surplus, reserves, premium writings, insurance in force and other
5 appropriate criteria.

6 (2) The extent to which the insurer's business is diversified among
7 the several lines of insurance.

8 (3) The number and size of risks insured in each line of business.

9 (4) The extent of the geographical dispersion of the insurer's
10 insured risks.

11 (5) The nature and extent of the insurer's reinsurance program.

12 (6) The quality, diversification, and liquidity of the insurer's
13 investment portfolio.

14 (7) The recent past and projected future trend in the size of the
15 insurer's surplus as regards policyholders.

16 (8) The surplus as regards policyholders maintained by other
17 comparable insurers in respect of the factors described in
18 subdivisions (1) through (7).

19 (9) The adequacy of the insurer's reserves.

20 (10) The quality and liquidity of investments in subsidiaries,
21 except that the commissioner may discount or treat any such
22 investment in subsidiaries as a disallowed asset for purposes of
23 determining the adequacy of surplus whenever in his judgment
24 such investment so warrants.

25 (11) The quality of the earnings of the insurer and the extent to
26 which the reported earnings of the insurer include extraordinary
27 items.

28 (g) No domestic insurer subject to registration under section 3 of
29 this chapter shall pay an extraordinary dividend or make any other
30 extraordinary distribution to its security holders until:

31 (1) thirty (30) days after the commissioner has received notice of
32 the declaration thereof and has not within such period
33 disapproved such payment; or

34 (2) the commissioner shall have approved such payment within
35 such thirty (30) day period.

36 (h) For purposes of subsection (g), an extraordinary dividend or
37 distribution is any dividend or distribution of cash or other property
38 whose fair market value, together with that of other dividends or
39 distributions made within the twelve (12) consecutive months ending
40 on the date on which the proposed dividend or distribution is scheduled
41 to be made, exceeds the greater of:

42 (1) ten percent (10%) of such insurer's surplus as regards

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1 policyholders as of the most recently preceding December 31; or
 2 (2) the net gain from operations of such insurer, if such insurer is
 3 a life insurer, or the net income, if such insurer is not a life
 4 insurer, for the twelve (12) month period ending on the most
 5 recently preceding December 31.

6 (i) Notwithstanding any other provision of law, a domestic insurer
 7 may declare an extraordinary dividend or distribution which is
 8 conditional upon the commissioner's approval thereof, but such a
 9 declaration shall confer no rights upon shareholders until:

10 (1) the commissioner has approved the payment of such dividend
 11 or distribution; or

12 (2) the commissioner has not disapproved the payment within the
 13 thirty (30) day period referred to in subsection (g).

14 SECTION 29. IC 27-1-25-1 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. As used in this
 16 chapter:

17 (a) "Administrator" ~~except as provided in section 7.5 of this chapter;~~
 18 means a person who directly or indirectly and on behalf of an insurer
 19 underwrites, collects charges or premiums from, or adjusts or settles
 20 claims on residents of Indiana in connection with life, annuity, or
 21 health coverage offered or provided by an insurer. The term
 22 "administrator" does not include the following persons:

23 (1) An employer or a wholly owned direct or indirect subsidiary
 24 of an employer acting on behalf of the employees of:

25 (A) the employer;

26 (B) the subsidiary; or

27 (C) an affiliated corporation of the employer.

28 (2) A union acting for its members.

29 (3) An insurer.

30 (4) An insurance producer:

31 (A) that is licensed under IC 27-1-15.6;

32 (B) that has:

33 (i) a life; or

34 (ii) an accident and health or sickness;

35 qualification under IC 27-1-15.6-7; and

36 (C) whose activities are limited exclusively to the sale of
 37 insurance.

38 (5) A creditor acting for its debtors regarding insurance covering
 39 a debt between them.

40 (6) A trust established under 29 U.S.C. 186 and the trustees,
 41 agents, and employees acting pursuant to that trust.

42 (7) A trust that is exempt from taxation under Section 501(a) of

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- 1 the Internal Revenue Code and:
2 (A) the trustees and employees acting pursuant to that trust; or
3 (B) a custodian and the agents and employees of the custodian
4 acting pursuant to a custodian account that meets the
5 requirements of Section 401(f) of the Internal Revenue Code.
6 (8) A financial institution that is subject to supervision or
7 examination by federal or state banking authorities to the extent
8 that the financial institution collects and remits premiums to an
9 insurance producer or an authorized insurer in connection with a
10 loan payment.
11 (9) A credit card issuing company that:
12 (A) advances for; and
13 (B) collects from, when a credit card holder authorizes the
14 collection;
15 credit card holders of the credit card issuing company, insurance
16 premiums or charges.
17 (10) A person that adjusts or settles claims in the normal course
18 of the person's practice or employment as an attorney at law and
19 that does not collect charges or premiums in connection with life,
20 annuity, or health coverage.
21 (11) A health maintenance organization that has a certificate of
22 authority issued under IC 27-13.
23 (12) A limited service health maintenance organization that has
24 a certificate of authority issued under IC 27-13.
25 (13) A mortgage lender to the extent that the mortgage lender
26 collects and remits premiums to an insurance producer or an
27 authorized insurer in connection with a loan payment.
28 (14) A person that:
29 (A) is licensed as a managing general agent as required under
30 IC 27-1-33; and
31 (B) acts exclusively within the scope of activities provided for
32 under the license referred to in clause (A).
33 (15) A person that:
34 (A) directly or indirectly underwrites, collects charges or
35 premiums from, or adjusts or settles claims on residents of
36 Indiana in connection with life, annuity, or health coverage
37 provided by an insurer;
38 (B) is affiliated with the insurer; and
39 (C) performs the duties specified in clause (A) only according
40 to a contract between the person and the insurer for the direct
41 and assumed life, annuity, or health coverage provided by the
42 insurer.

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- 1 (b) "Affiliate" means an entity or a person that:
- 2 (1) directly or indirectly through an intermediary controls or is
- 3 controlled by; or
- 4 (2) is under common control with;
- 5 a specified entity or person.
- 6 (c) "Church plan" has the meaning set forth in IC 27-8-10-1.
- 7 (d) "Commissioner" refers to the insurance commissioner appointed
- 8 under IC 27-1-1-2.
- 9 (e) "Control" means the direct or indirect possession of the power
- 10 to direct or cause the direction of the management and policies of a
- 11 person, whether:
- 12 (1) through ownership of voting securities;
- 13 (2) by contract other than a commercial contract for goods or
- 14 nonmanagement services; or
- 15 (3) otherwise;
- 16 unless the power is the result of an official position with the person or
- 17 a corporate office held by the person. Control is presumed to exist if a
- 18 person directly or indirectly owns, controls, holds with the power to
- 19 vote, or holds proxies representing not less than ten percent (10%) of
- 20 the voting securities of another person.
- 21 (f) "Covered individual" means an individual who is covered under
- 22 a benefit program provided by an insurer.
- 23 (g) "Financial institution" means a bank, savings association, credit
- 24 union, or any other institution regulated under IC 28 or federal law.
- 25 (h) "GAAP" refers to consistently applied United States generally
- 26 accepted accounting principles.
- 27 (i) "Governmental plan" has the meaning set forth in IC 27-8-10-1.
- 28 (j) "Home state" means the District of Columbia or any state or
- 29 territory of the United States in which an administrator is incorporated
- 30 or maintains the administrator's principal place of business. If the place
- 31 in which the administrator is incorporated or maintains the
- 32 administrator's principal place of business is not governed by a law that
- 33 is substantially similar to this chapter, the administrator's home state is
- 34 another state:
- 35 (1) in which the administrator conducts the business of the
- 36 administrator; and
- 37 (2) that the administrator declares is the administrator's home
- 38 state.
- 39 (k) "Insurance producer" has the meaning set forth in
- 40 IC 27-1-15.6-2.
- 41 (l) "Insurer" means:
- 42 (1) a person who obtains a certificate of authority under:

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- 1 (A) IC 27-1-3-20;
- 2 (B) IC 27-13-3; or
- 3 (C) IC 27-13-34; or
- 4 (2) an employer that provides life, health, or annuity coverage in
- 5 Indiana under a governmental plan or a church plan.
- 6 (m) "NAIC" refers to the National Association of Insurance
- 7 Commissioners.
- 8 (n) "Negotiate" has the meaning set forth in IC 27-1-15.6-2.
- 9 (o) "Nonresident administrator" means a person that applies for or
- 10 holds a license under section 12.2 of this chapter.
- 11 (p) "Person" has the meaning set forth in IC 27-1-15.6-2.
- 12 (q) "Sell" has the meaning set forth in IC 27-1-15.6-2.
- 13 (r) "Solicit" has the meaning set forth in IC 27-1-15.6-2.
- 14 (s) "Underwrite" refers to the:
 - 15 (1) acceptance of a group application or an individual application
 - 16 for coverage of an individual in accordance with the written rules
 - 17 of the insurer; or
 - 18 (2) planning and coordination of a benefit program provided by
 - 19 an insurer.
- 20 (t) "Uniform application" means the current version of the NAIC
- 21 uniform application for third party administrators.
- 22 SECTION 30. IC 27-1-25-11.1 IS AMENDED TO READ AS
- 23 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11.1. (a) If the home
- 24 state of a person is Indiana, the person shall:
 - 25 (1) apply to act as an administrator in Indiana upon the uniform
 - 26 application; ~~and~~
 - 27 **(2) pay an application fee in an amount determined by the**
 - 28 **commissioner; and**
 - 29 ~~(2)~~ **(3) receive a license from the commissioner;**
- 30 before performing the function of an administrator in Indiana. **The**
- 31 **commissioner shall deposit a fee paid under subdivision (2) into the**
- 32 **department of insurance fund established by IC 27-1-3-28.**
- 33 (b) The uniform application must include or be accompanied by the
- 34 following:
 - 35 (1) Basic organizational documents of the applicant, including:
 - 36 (A) articles of incorporation;
 - 37 (B) articles of association;
 - 38 (C) partnership agreement;
 - 39 (D) trade name certificate;
 - 40 (E) trust agreement;
 - 41 (F) shareholder agreement;
 - 42 (G) other applicable documents; and

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- 1 (H) amendments to the documents specified in clauses (A)
- 2 through (G).
- 3 (2) Bylaws, rules, regulations, or other documents that regulate
- 4 the internal affairs of the applicant.
- 5 (3) The NAIC biographical affidavits for individuals who are
- 6 responsible for the conduct of affairs of the applicant, including:
- 7 (A) members of the applicant's:
- 8 (i) board of directors;
- 9 (ii) board of trustees;
- 10 (iii) executive committee; or
- 11 (iv) other governing board or committee;
- 12 (B) principal officers, if the applicant is a corporation;
- 13 (C) partners or members, if the applicant is:
- 14 (i) a partnership;
- 15 (ii) an association; or
- 16 (iii) a limited liability company;
- 17 (D) shareholders or members that hold, directly or indirectly,
- 18 at least ten percent (10%) of the:
- 19 (i) voting stock;
- 20 (ii) voting securities; or
- 21 (iii) voting interest;
- 22 of the applicant; and
- 23 (E) any other person who exercises control or influence over
- 24 the affairs of the applicant.
- 25 (4) Financial information reflecting a positive net worth,
- 26 including:
- 27 (A) audited annual financial statements prepared by an
- 28 independent certified public accountant for the two (2) most
- 29 recent fiscal years; or
- 30 (B) if the applicant has been in business for less than two (2)
- 31 fiscal years, financial statements or reports that are:
- 32 (i) prepared in accordance with GAAP; and
- 33 (ii) certified by an officer of the applicant;
- 34 for any completed fiscal years and for any month during the
- 35 current fiscal year for which financial statements or reports
- 36 have been completed.
- 37 If an audited financial statement or report required under clause
- 38 (A) or (B) is prepared on a consolidated basis, the statement or
- 39 report must include a columnar consolidating or combining
- 40 worksheet that includes the amounts shown on the consolidated
- 41 audited financial statement or report, separately reported on the
- 42 worksheet for each entity included on the statement or report, and

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- 1 an explanation of consolidating and eliminating entries.
- 2 (5) Information determined by the commissioner to be necessary
- 3 for a review of the current financial condition of the applicant.
- 4 (6) A description of the business plan of the applicant, including:
- 5 (A) information on staffing levels and activities proposed in
- 6 Indiana and nationwide; and
- 7 (B) details concerning the applicant's ability to provide a
- 8 sufficient number of experienced and qualified personnel for:
- 9 (i) claims processing;
- 10 (ii) record keeping; and
- 11 (iii) underwriting.
- 12 (7) Any other information required by the commissioner.
- 13 (c) An administrator that applies for licensure under this section
- 14 shall make copies of written agreements with insurers available for
- 15 inspection by the commissioner.
- 16 (d) An administrator that applies for licensure under this section
- 17 shall:
- 18 (1) produce the administrator's accounts, records, and files for
- 19 examination; and
- 20 (2) make the administrator's officers available to provide
- 21 information concerning the affairs of the administrator;
- 22 whenever reasonably required by the commissioner.
- 23 (e) The commissioner may refuse to issue a license under this
- 24 section if the commissioner determines that:
- 25 (1) the administrator or an individual who is responsible for the
- 26 conduct of the affairs of the administrator:
- 27 (A) is not:
- 28 (i) competent;
- 29 (ii) trustworthy;
- 30 (iii) financially responsible; or
- 31 (iv) of good personal and business reputation; or
- 32 (B) has had an:
- 33 (i) insurance certificate of authority or insurance license; or
- 34 (ii) administrator certificate of authority or administrator
- 35 license;
- 36 denied or revoked for cause by any jurisdiction;
- 37 (2) the financial information provided under subsection (b)(4)
- 38 does not reflect that the applicant has a positive net worth; or
- 39 (3) any of the grounds set forth in section 12.4 of this chapter
- 40 exists with respect to the administrator.
- 41 (f) An administrator that applies for a license under this section
- 42 shall immediately notify the commissioner of a material change in:

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1 (1) the ownership or control of the administrator; or
 2 (2) another fact or circumstance that affects the administrator's
 3 qualification for a license.
 4 The commissioner, upon receiving notice under this subsection, shall
 5 report the change to an electronic data base maintained by the NAIC or
 6 an affiliate or a subsidiary of the NAIC.
 7 (g) An administrator that applies for a license under this section and
 8 will administer a governmental plan or a church plan shall obtain a
 9 bond as required under section 4(g) of this chapter.
 10 (h) A license that is issued under this section is valid **for one (1)**
 11 **year after the date of issuance or until:**
 12 (1) the license is:
 13 (A) surrendered; or
 14 (B) suspended or revoked by the commissioner; or
 15 (2) the administrator:
 16 (A) ceases to do business in Indiana; or
 17 (B) is not in compliance with this chapter;
 18 **whichever occurs first.**
 19 SECTION 31. IC 27-1-25-12.2, AS AMENDED BY P.L.234-2007,
 20 SECTION 191, IS AMENDED TO READ AS FOLLOWS
 21 [EFFECTIVE JULY 1, 2009]: Sec. 12.2. (a) An administrator that:
 22 (1) performs the duties of an administrator in Indiana; and
 23 (2) does not hold a license issued under section 11.1 of this
 24 chapter;
 25 shall obtain a nonresident administrator license under this section by
 26 filing a uniform application, **accompanied by an application fee in an**
 27 **amount determined by the commissioner,** with the commissioner.
 28 **The commissioner shall deposit a fee paid under this subsection**
 29 **into the department of insurance fund established by IC 27-1-3-28.**
 30 (b) Unless the commissioner verifies the nonresident administrator's
 31 home state license status through an electronic data base maintained by
 32 the NAIC or by an affiliate or a subsidiary of the NAIC, a uniform
 33 application filed under subsection (a) must be accompanied by a letter
 34 of certification from the nonresident administrator's home state,
 35 verifying that the nonresident administrator holds a resident
 36 administrator license in the home state.
 37 (c) A nonresident administrator is not eligible for a nonresident
 38 administrator license under this section unless the nonresident
 39 administrator is licensed as a resident administrator in a home state that
 40 has a law or regulation that is substantially similar to this chapter.
 41 (d) Except as provided in subsections (b) and (h), the commissioner
 42 shall issue a nonresident administrator license to a nonresident

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1 administrator that makes a filing under subsections (a) and (b) upon
2 receipt of the filing.

3 (e) Unless a nonresident administrator is notified by the
4 commissioner that the commissioner is able to verify the nonresident
5 administrator's home state licensure through an electronic data base
6 described in subsection (b), the nonresident administrator shall:

7 (1) on September 15 of each year, file a **renewal application and**
8 **a** statement with the commissioner affirming that the nonresident
9 administrator maintains a current license in the nonresident
10 administrator's home state; and

11 (2) pay **to the commissioner** a filing fee ~~as required in an~~
12 **amount determined** by the commissioner.

13 The commissioner shall ~~collect deposit~~ a filing fee ~~required paid~~ under
14 subdivision (2) ~~and deposit the fee~~ into the department of insurance
15 fund established by IC 27-1-3-28.

16 (f) A nonresident administrator that applies for licensure under this
17 section shall:

18 (1) produce the accounts of the nonresident administrator;

19 (2) produce the records and files of the nonresident administrator
20 for examination; and

21 (3) make the officers of the nonresident administrator available to
22 provide information with respect to the affairs of the nonresident
23 administrator;

24 when reasonably required by the commissioner.

25 (g) A nonresident administrator is not required to hold a nonresident
26 administrator license in Indiana if the nonresident administrator's
27 function in Indiana is limited to the administration of life, health, or
28 annuity coverage for a total of not more than one hundred (100) Indiana
29 residents.

30 (h) The commissioner may refuse to issue or may delay the issuance
31 of a nonresident administrator license if the commissioner determines
32 that:

33 (1) due to events occurring; or

34 (2) based on information obtained;

35 after the nonresident administrator's home state's licensure of the
36 nonresident administrator, the nonresident administrator is unable to
37 comply with this chapter or grounds exist for the home state's
38 revocation or suspension of the nonresident administrator's home state
39 license.

40 (i) If the commissioner makes a determination described in
41 subsection (h), the commissioner:

42 (1) shall provide written notice of the determination to the

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1 insurance regulator of the nonresident administrator's home state;
2 and

3 (2) may delay the issuance of a nonresident administrator license
4 to the nonresident administrator until the commissioner
5 determines that the nonresident administrator is able to comply
6 with this chapter and that grounds do not exist for the home state's
7 revocation or suspension of the nonresident administrator's home
8 state license.

9 SECTION 32. IC 27-1-25-12.3, AS AMENDED BY P.L.234-2007,
10 SECTION 192, IS AMENDED TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2009]: Sec. 12.3. (a) An administrator that is
12 licensed under section 11.1 of this chapter shall, not later than July 1
13 of each year unless the commissioner grants an extension of time for
14 good cause, file a report for the previous calendar year that complies
15 with the following:

16 (1) The report must contain financial information reflecting a
17 positive net worth prepared in accordance with section 11.1(b)(4)
18 of this chapter.

19 (2) The report must be in the form and contain matters prescribed
20 by the commissioner.

21 (3) The report must be verified by at least two (2) officers of the
22 administrator.

23 (4) The report must include the complete names and addresses of
24 insurers with which the administrator had a written agreement
25 during the preceding fiscal year.

26 (5) The report must be accompanied by a filing fee **in an amount**
27 determined by the commissioner.

28 The commissioner shall collect a filing fee paid under subdivision (5)
29 and deposit the fee into the department of insurance fund established
30 by IC 27-1-3-28.

31 (b) The commissioner shall review a report filed under subsection
32 (a) not later than September 1 of the year in which the report is filed.
33 Upon completion of the review, the commissioner shall:

34 (1) issue a certification to the administrator:

35 (A) indicating that:

36 (i) the financial statement reflects a positive net worth; and

37 (ii) the administrator is currently licensed and in good
38 standing; or

39 (B) noting deficiencies found in the report; or

40 (2) update an electronic data base that is maintained by the NAIC
41 or by an affiliate or a subsidiary of the NAIC:

42 (A) indicating that the administrator is solvent and in

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1 compliance with this chapter; or
 2 (B) noting deficiencies found in the report.
 3 SECTION 33. IC 27-4-5-2 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) It is a Class A
 5 infraction for an insurer to transact insurance business in this state, as
 6 set forth in subsection (b), without a certificate of authority from the
 7 commissioner. However, this section does not apply to the following:
 8 (1) The lawful transaction of surplus lines insurance.
 9 (2) The lawful transaction of reinsurance by insurers.
 10 (3) Transactions in this state involving a policy lawfully solicited,
 11 written, and delivered outside of this state covering only subjects
 12 of insurance not resident, located, or expressly to be performed in
 13 this state at the time of issuance, and which transactions are
 14 subsequent to the issuance of such policy.
 15 (4) Attorneys acting in the ordinary relation of attorney and client
 16 in the adjustment of claims or losses.
 17 (5) Transactions in this state involving group life and group
 18 sickness and accident or blanket sickness and accident insurance
 19 or group annuities where the master policy of such groups was
 20 lawfully issued and delivered in and pursuant to the laws of a
 21 state in which the insurer was authorized to do an insurance
 22 business, to a group organized for purposes other than the
 23 procurement of insurance, and where the policyholder is
 24 domiciled or otherwise has a bona fide situs.
 25 (6) Transactions in this state relative to a policy issued or to be
 26 issued outside this state involving insurance on vessels, craft or
 27 hulls, cargos, marine builder's risk, marine protection and
 28 indemnity or other risk, including strikes and war risks commonly
 29 insured under ocean or wet marine forms of policy.
 30 (7) Transactions in this state involving life insurance, health
 31 insurance, or annuities provided to religious or charitable
 32 institutions organized and operated without profit to any private
 33 shareholder or individual for the benefit of such institutions and
 34 individuals engaged in the service of such institutions.
 35 (8) Transactions in this state involving contracts of insurance not
 36 readily obtainable in the ordinary insurance market and issued to
 37 one (1) or more industrial insureds. For purposes of this section,
 38 an "industrial insured" means an insured:
 39 (A) who procures the insurance of any risk or risks by use of
 40 the services of a full-time employee acting as an insurance
 41 manager or buyer or the services of a regularly retained and
 42 continuously qualified insurance consultant;

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(B) whose aggregate annual premium for insurance on all risks totals at least twenty-five thousand dollars (\$25,000); and
(C) who has at least twenty-five (25) full-time employees;
(D) who, on or before February 1 (for the preceding six (6) month period ending December 31) and August 1 (for the preceding six (6) month period ending June 30) of each year, remits to the department an amount equal to two and one-half percent (2.5%) of all gross premiums upon all policies and contracts procured by the insured under this section, plus:

- (i) ten percent (10%) of the amount due for the first month after the date specified in this clause during which the amount described in this clause is not remitted in compliance with this clause; and**
- (ii) an additional one percent (1%) of the amount due for each additional month during which the amount due under this clause is unpaid; and**

(E) who files with the department, with the amount remitted under clause (D), an affidavit specifying all transactions undertaken and policies and contracts procured during the preceding calendar year, including the following:

- (i) The description and location of the insured property or risk and the name of the insured.**
- (ii) The gross premiums charged for the policy or contract.**
- (iii) The name and home office address of the insurer that issues the policy or contract and the kind of insurance effected.**
- (iv) A statement that the insured, after diligent effort, was unable to procure from any insurer authorized to transact the particular kind of insurance business in Indiana the full amount of insurance coverage required to protect the insured.**

(9) Transactions in Indiana involving the rendering of any service by any ambulance service provider and all fees, costs, and membership payments charged for the service. To qualify under this subdivision, the ambulance service provider:

- (A) must have its ambulance service program approved by an ordinance of the legislative body of the county or city in which it operates; and
- (B) may not offer any membership program that includes

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1 benefits exceeding one (1) year in duration.

2 (b) Any of the following acts in this state effected by mail or

3 otherwise by or on behalf of an unauthorized insurer constitutes the

4 transaction of an insurance business in this state. The venue of an act

5 committed by mail is at the point where the matter transmitted by mail

6 is delivered and takes effect. Unless otherwise indicated, the term

7 "insurer" as used in this section includes all persons engaged as

8 principals in the business of insurance and also includes interinsurance

9 exchanges and mutual benefit societies.

10 (1) The making of or proposing to make, as an insurer, an

11 insurance contract.

12 (2) The making of or proposing to make, as guarantor or surety,

13 any contract of guaranty or suretyship as a vocation and not

14 merely incidental to any other legitimate business or activity of

15 the guarantor or surety.

16 (3) The taking or receiving of any application for insurance.

17 (4) The receiving or collection of any premium, commission,

18 membership fees, assessments, dues, or other consideration for

19 any insurance or any part thereof.

20 (5) The issuance or delivery of contracts of insurance to residents

21 of this state or to persons authorized to do business in this state.

22 (6) Acting as an agent for or otherwise representing or aiding on

23 behalf of another person or insurer in the solicitation, negotiation,

24 procurement, or effectuation of insurance or renewals thereof or

25 in the dissemination of information as to coverage or rates, or

26 forwarding of applications, or delivery of policies or contracts, or

27 inspection of risks, a fixing of rates or investigation or adjustment

28 of claims or losses or in the transaction of matters subsequent to

29 effectuation of the contract and arising out of it, or representing

30 or assisting a person or an insurer in the transaction of insurance

31 with respect to subjects of insurance resident, located, or to be

32 performed in this state. This subdivision does not prohibit

33 full-time salaried employees of a corporate insured from acting in

34 the capacity of an insurance manager or buyer in placing

35 insurance in behalf of the employer.

36 (c)(1) The failure of an insurer transacting insurance business in this

37 state to obtain a certificate of authority does not impair the validity of

38 any act or contract of such insurer and does not prevent such insurer

39 from defending any action at law or suit in equity in any court of this

40 state, but no insurer transacting insurance business in this state without

41 a certificate of authority may maintain an action in any court of this

42 state to enforce any right, claim, or demand arising out of the

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1 transaction of such business until such insurer obtains a certificate of
2 authority.

3 (2) In the event of failure of any such unauthorized insurer to pay
4 any claim or loss within the provisions of such insurance contract, any
5 person who assisted or in any manner aided directly or indirectly in the
6 procurement of such insurance contract is liable to the insured for the
7 full amount of the claim or loss in the manner provided by the
8 insurance contract.

9 SECTION 34. IC 27-7-3-3 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) Any domestic
11 corporation having:

12 (1) among its purposes the insuring against loss or damage on
13 account of encumbrances upon or defects in the title to real estate;

14 **and**

15 **(2) a physical office in Indiana;**

16 is hereby authorized to organize under IC 23-1, and any foreign
17 corporation, having among its purposes the insuring against loss or
18 damage on account of encumbrances upon or defects in the title to real
19 estate, is hereby authorized to and may be admitted to do business in
20 this state under IC 23-1. Any domestic or foreign corporation,
21 organized or admitted to do business before or after June 7, 1937, as
22 provided in this section, may engage in business as a title insurance
23 company by complying with the provisions of this chapter.

24 **(b) A domestic corporation admitted to do business as described**
25 **in subsection (a) shall provide written notice to the department of**
26 **insurance and all policyholders of a change in location of the**
27 **domestic corporation's physical office in Indiana, including the**
28 **address and telephone number of the new location.**

29 SECTION 35. IC 27-7-3-3.5 IS ADDED TO THE INDIANA CODE
30 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
31 1, 2009]: Sec. 3.5. (a) **A domestic corporation admitted to do**
32 **business as described in section 3 of this chapter is subject to the**
33 **following:**

34 (1) IC 27-1-7-11.

35 (2) IC 27-1-6-21.

36 (3) IC 27-9.

37 **(b) A foreign corporation admitted to do business as described**
38 **in section 3 of this chapter is subject to IC 27-1-17-9.**

39 SECTION 36. IC 27-8-5-16.5, AS AMENDED BY P.L.127-2006,
40 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
41 JULY 1, 2009]: Sec. 16.5. (a) As used in this section, "delivery state"
42 means any state other than Indiana in which a policy is delivered or

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1 issued for delivery.

2 (b) Except as provided in subsection (c), (d), or (e), a certificate may
3 not be issued to a resident of Indiana pursuant to a group policy that is
4 delivered or issued for delivery in a state other than Indiana.

5 (c) A certificate may be issued to a resident of Indiana pursuant to
6 a group policy not described in subsection (d) that is delivered or
7 issued for delivery in a state other than Indiana if:

8 (1) the delivery state has a law substantially similar to section 16
9 of this chapter;

10 (2) the delivery state has approved the group policy; and

11 (3) the policy or the certificate contains provisions that are:

12 (A) substantially similar to the provisions required by:

13 (i) section 19 of this chapter;

14 (ii) section 21 of this chapter; and

15 (iii) IC 27-8-5.6; and

16 (B) consistent with the requirements set forth in:

17 (i) section 24 of this chapter;

18 (ii) IC 27-8-6;

19 (iii) IC 27-8-14;

20 (iv) IC 27-8-23;

21 (v) 760 IAC 1-38.1; and

22 (vi) 760 IAC 1-39.

23 (d) A certificate may be issued to a resident of Indiana under an
24 association group policy, a discretionary group policy, or a trust group
25 policy that is delivered or issued for delivery in a state other than
26 Indiana if:

27 (1) the delivery state has a law substantially similar to section 16
28 of this chapter;

29 (2) the delivery state has approved the group policy; and

30 (3) the policy or the certificate contains provisions that are:

31 (A) substantially similar to the provisions required by:

32 (i) section 19 of this chapter or, if the policy or certificate is
33 described in section 2.5(b)(2) of this chapter, section 2.5 of
34 this chapter;

35 (ii) section ~~19.2~~ **19.3** of this chapter if the policy or
36 certificate contains a waiver of coverage;

37 (iii) section 21 of this chapter; and

38 (iv) IC 27-8-5.6; and

39 (B) consistent with the requirements set forth in:

40 (i) section 15.6 of this chapter;

41 (ii) section 24 of this chapter;

42 (iii) section 26 of this chapter;

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- 1 (iv) IC 27-8-6;
 2 (v) IC 27-8-14;
 3 (vi) IC 27-8-14.1;
 4 (vii) IC 27-8-14.5;
 5 (viii) IC 27-8-14.7;
 6 (ix) IC 27-8-14.8;
 7 (x) IC 27-8-20;
 8 (xi) IC 27-8-23;
 9 (xii) IC 27-8-24.3;
 10 (xiii) IC 27-8-26;
 11 (xiv) IC 27-8-28;
 12 (xv) IC 27-8-29;
 13 (xvi) 760 IAC 1-38.1; and
 14 (xvii) 760 IAC 1-39.

15 (e) A certificate may be issued to a resident of Indiana pursuant to
 16 a group policy that is delivered or issued for delivery in a state other
 17 than Indiana if the commissioner determines that the policy pursuant
 18 to which the certificate is issued meets the requirements set forth in
 19 section 17(a) of this chapter.

20 (f) This section does not affect any other provision of Indiana law
 21 governing the terms or benefits of coverage provided to a resident of
 22 Indiana under any certificate or policy of insurance.

23 SECTION 37. IC 27-8-5-17, AS AMENDED BY P.L.218-2007,
 24 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2009]: Sec. 17. (a) A group accident and sickness insurance
 26 policy shall not be delivered or issued for delivery in Indiana to a group
 27 that is not described in section 16(1)(A), 16(2)(A), 16(3)(A), 16(4)(A),
 28 16(5)(A), 16(6)(A), 16(7), or 16(8) of this chapter unless:

29 **(1) the group applies to the commissioner for approval as a**
 30 **discretionary group;**

31 **(2) the commissioner reviews the group according to the same**
 32 **standards as a group described in section 16 of this chapter;**
 33 **and**

34 **(3) the commissioner finds that:**

35 ~~(1)~~ **(A)** the issuance of the policy is not contrary to the best
 36 interest of the public;

37 ~~(2)~~ **(B)** the issuance of the policy would result in economies of
 38 acquisition or administration; and

39 ~~(3)~~ **(C)** the benefits of the policy are reasonable in relation to
 40 the premiums charged.

41 (b) Except as otherwise provided in this chapter, an insurer may
 42 exclude or limit the coverage under a policy described in subsection (a)

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1 on any person as to whom evidence of individual insurability is not
2 satisfactory to the insurer.

3 SECTION 38. IC 27-8-15-1 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. This chapter applies
5 to any ~~individual~~ or group health insurance plan that is issued for
6 delivery in Indiana to at least ~~three (3)~~ **two (2)** employees of a small
7 employer located in Indiana if one (1) of the following conditions is
8 met:

9 (1) Any part of the premium or benefits is paid by a small
10 employer or any covered individual is reimbursed, whether
11 through wage adjustments or otherwise, by a small employer for
12 any part of the premium not including the administrative expenses
13 of administering a payroll deduction plan where the employee
14 contributes one hundred percent (100%) of the premium without
15 reimbursement.

16 (2) The health benefit plan is treated by the employer or any of the
17 covered individuals as part of a plan or program for purposes of
18 Section 106 or 162 of the United States Internal Revenue Code.

19 SECTION 39. IC 27-8-15-8.5 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8.5. (a) As used in this
21 chapter, "eligible employee" means an employee:

22 (1) who is employed to work at least thirty (30) hours each week;

23 ~~The term includes:~~

24 (A) a sole proprietor; and

25 (B) a partner in a partnership;

26 if the sole proprietor or partner is included as an employee under
27 a health insurance plan of a small employer; and

28 (2) who meets an applicable waiting period required by a small
29 employer before gaining coverage under a health insurance
30 policy.

31 **(b) The term includes:**

32 **(1) a sole proprietor;**

33 **(2) a partner in a partnership; and**

34 **(3) an owner of an S corporation;**

35 **regardless of whether the sole proprietor, partner, or owner is**
36 **included as an employee for purposes of taxation of a small**
37 **employer.**

38 ~~(b)~~ (c) The term does not include:

39 (1) an employee who works on a temporary or substitute basis; or

40 (2) a seasonal employee.

41 SECTION 40. IC 27-8-15-9 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) Except as

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1 provided in section 28 of this chapter, as used in this chapter, "health
2 insurance plan" or "plan" means any:

- 3 (1) hospital or medical expense incurred policy or certificate;
- 4 (2) hospital or medical service plan contract; or
- 5 (3) health maintenance organization subscriber contract;

6 provided to the employees of a small employer.

7 (b) The term does not include the following:

- 8 (1) Accident-only, credit, dental, vision, Medicare supplement,
9 long term care, or disability income insurance.
- 10 (2) Coverage issued as a supplement to liability insurance.
- 11 (3) Worker's compensation or similar insurance.
- 12 (4) Automobile medical payment insurance.
- 13 (5) A specified disease policy. ~~issued as an individual policy.~~
- 14 ~~(6) A limited benefit health insurance policy issued as an~~
15 ~~individual policy.~~

16 ~~(7) (6) A short term insurance plan that:~~

- 17 (A) may not be renewed; and
- 18 (B) has a duration of not more than six (6) months.

19 ~~(8) (7) A policy that provides a stipulated daily, weekly, or~~
20 ~~monthly payment to an insured during hospital confinement;~~
21 ~~without regard to the actual expense of the confinement;~~
22 ~~indemnity benefits not based on any expense incurred~~
23 ~~requirement, including a plan that provides coverage for:~~

- 24 (A) hospital confinement, critical illness, or intensive care;
- 25 or
- 26 (B) gaps for deductibles or copayments.

27 ~~(8) A supplemental plan that always pays in addition to other~~
28 ~~coverage.~~

29 ~~(9) A student health plan.~~

30 ~~(10) An employer sponsored health benefit plan that is:~~

- 31 (A) provided to individuals who are eligible for Medicare;
- 32 and
- 33 (B) not marketed as, or held out to be, a Medicare
- 34 supplement policy.

35 SECTION 41. IC 27-8-15-31 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 31. (a) If an eligible
37 employee who has been continuously covered under a health insurance
38 plan for at least ninety (90) days:

- 39 (1) loses coverage under the plan as the result of:
- 40 (A) termination of employment;
- 41 (B) reduction of hours;
- 42 (C) marriage dissolution; or

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1 (D) attainment of any age specified in the plan; ~~and~~
2 **(2) is not eligible for continuation coverage under the federal**
3 **Consolidated Omnibus Budget Reconciliation Act of 1985;**
4 **and**
5 ~~(2)~~ **(3)** requests a conversion policy from the small employer
6 insurer that insured the health insurance plan;
7 the individual is entitled to receive a conversion policy from the small
8 employer insurer.
9 (b) A request under subsection ~~(a)(2)~~ **(a)** must be made within thirty
10 (30) days after the individual loses coverage under the health insurance
11 plan.
12 (c) The premium for a conversion policy issued under this section
13 shall not exceed one hundred fifty percent (150%) of the rate that
14 would have been charged under the small employer health insurance
15 plan with respect to the individual if the individual had been covered
16 as an eligible employee under the plan during the same period. If the
17 health insurance plan under which the individual was covered is
18 canceled or is not renewed, the rates shall be based on the rate that
19 would have been charged with respect to the individual if the plan had
20 continued in force, as determined by the small employer insurer in
21 accordance with standard actuarial principles.
22 (d) A conversion policy issued under this section must be approved
23 by the insurance commissioner as described in IC 27-8-5-1. The
24 commissioner may not approve a conversion policy unless the policy
25 and its benefits are:
26 (1) comparable to those required under IC 27-13-1-4(a)(2)
27 through IC 27-13-1-4(a)(5);
28 (2) reasonable in relation to the premium charged; and
29 (3) in compliance with IC 27-8-6-1.
30 If the benefit limits of the conversion policy are not more than the
31 benefit limits of the small employer's health insurance plan, the small
32 employer insurer shall credit the individual with any waiting period,
33 deductible, or coinsurance credited to the individual under the small
34 employer's health insurance plan.
35 (e) This section expires on the effective date of a mechanism
36 enacted by the general assembly to offset the potential fiscal impact on
37 small employers and small employer insurers that results from the
38 establishment of a continuation policy under section 31.1 of this
39 chapter.
40 SECTION 42. IC 27-8-28-1 IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) As used in this
42 chapter, "accident and sickness insurance policy" means an insurance

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1 policy that provides one (1) or more of the kinds of insurance described
2 in Class 1(b) and 2(a) of IC 27-1-5-1.

- 3 (b) The term does not include the following:
- 4 (1) Accident only, credit, dental, vision, Medicare supplement,
- 5 ~~long term care~~, or disability income insurance.
- 6 (2) Coverage issued as a supplement to liability insurance.
- 7 (3) Automobile medical payment insurance.
- 8 (4) A specified disease policy issued as an individual policy.
- 9 (5) A limited benefit health insurance policy issued as an
- 10 individual policy.
- 11 (6) A short term insurance plan that:
- 12 (A) may not be renewed; and
- 13 (B) has a duration of not more than six (6) months.
- 14 (7) A policy that provides a stipulated daily, weekly, or monthly
- 15 payment to an insured during hospital confinement without regard
- 16 to the actual expense of the confinement.
- 17 (8) Worker's compensation or similar insurance.

18 SECTION 43. IC 27-13-2-10 IS ADDED TO THE INDIANA
19 CODE AS A NEW SECTION TO READ AS FOLLOWS
20 [EFFECTIVE JULY 1, 2009]: **Sec. 10. (a) A health maintenance
21 organization shall do the following:**

- 22 (1) **Maintain a physical office in Indiana.**
- 23 (2) **If the health maintenance organization changes the**
- 24 **location of the office maintained under subdivision (1),**
- 25 **provide written notice to the department of insurance and all**
- 26 **subscribers at least thirty (30) days before the location is**
- 27 **changed, including the address and telephone number of the**
- 28 **new location.**

29 (b) **A domestic health maintenance organization operating**
30 **under this article is subject to the following:**

- 31 (1) **IC 27-1-7-11.**
- 32 (2) **IC 27-1-6-21.**

33 SECTION 44. IC 27-13-34-12 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. A limited service
35 health maintenance organization operated under this chapter is subject
36 to the following:

- 37 (1) IC 27-1-36 concerning risk based capital, unless exempted by
- 38 the commissioner under IC 27-1-36-1.
- 39 (2) **IC 27-13-2-10.**
- 40 ~~(3)~~ (3) IC 27-13-8, except for IC 27-13-8-2(a)(6) concerning
- 41 reports.
- 42 ~~(4)~~ (4) IC 27-13-9-3 concerning termination of providers.

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1 ~~(4)~~ **(5)** IC 27-13-10-1 through IC 27-13-10-3 concerning
2 grievance procedures.
3 ~~(5)~~ **(6)** IC 27-13-11 concerning investments.
4 ~~(6)~~ **(7)** IC 27-13-15-1(a)(2) through IC 27-13-15-1(a)(3)
5 concerning gag clauses in contracts.
6 ~~(7)~~ **(8)** IC 27-13-21 concerning producers.
7 ~~(8)~~ **(9)** IC 27-13-29 concerning statutory construction and
8 relationship to other laws.
9 ~~(9)~~ **(10)** IC 27-13-30 concerning public records.
10 ~~(10)~~ **(11)** IC 27-13-31 concerning confidentiality of medical
11 information and limitation of liability.
12 ~~(11)~~ **(12)** IC 27-13-36-5 and IC 27-13-36-6 concerning referrals
13 to out of network providers and continuation of care.
14 ~~(12)~~ **(13)** IC 27-13-40 concerning comparison sheets of services
15 provided by the limited service health maintenance organization.
16 SECTION 45. THE FOLLOWING ARE REPEALED [EFFECTIVE
17 JULY 1, 2009] IC 27-1-3.5-3; IC 27-1-3.5-3.5; IC 27-1-3.5-9;
18 IC 27-1-3.5-12; IC 27-1-25-7.5; IC 27-8-15-2; IC 27-8-15.5.
19 SECTION 46. [EFFECTIVE JULY 1, 2009] **(a) IC 27-8-15, as**
20 **amended by this act, applies to a health insurance plan (as defined**
21 **in IC 27-8-15-9) that is issued, entered into, delivered, amended, or**
22 **renewed after June 30, 2009.**
23 **(b) This SECTION expires July 1, 2014.**
24 SECTION 47. **An emergency is declared for this act.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred House Bill 1627, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 2. IC 16-42-19-11.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 11.5. Beginning January 1, 2010, on the request of a patient who is blind (as defined in IC 12-7-2-21(2)) or visually impaired (as defined in IC 12-7-2-198(a)), a pharmacist shall dispense a prescription for a legend drug with a label that:**

- (1) complies with the requirements under section 11(a)(1) of this chapter; and**
- (2) contains the label information on a:**
 - (A) braille label that is affixed to the immediate container in which the drug is delivered; or**
 - (B) recorded audio device that is permanently attached to the immediate container in which the drug is delivered.**

SECTION 3. IC 27-1-3.1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. (a) Upon the adoption of an examination report under section 11(a)(1) of this chapter, the commissioner shall continue to hold the content of the examination report as confidential information for a period of thirty (30) days except to the extent provided in section 10(b) of this chapter. Thereafter, the report shall be open for public inspection.

(b) This chapter does not prevent or prohibit the commissioner from disclosing the content of an examination report, preliminary examination report, or results, or any matter relating thereto, to **the National Association of Insurance Commissioners**, the insurance department of any other state or country, or to law enforcement officials of Indiana or any other state or agency of the federal government at any time, if the agency or office receiving the report or matters relating thereto agrees in writing to hold it confidential and in a manner consistent with this chapter.

(c) If the commissioner determines that regulatory action is appropriate as a result of any examination, the commissioner may initiate any proceedings or actions authorized by law.

(d) This chapter does not limit the commissioner's authority to use and, if appropriate, to make public any final or preliminary examination report, any examiner or company workpapers or other documents, or

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any other information discovered or developed during the course of any examination in the furtherance of any legal or regulatory action that the commissioner may, in the commissioner's sole discretion, consider appropriate."

Page 2, line 21, after "country," insert "**the National Association of Insurance Commissioners,**".

Page 3, line 12, delete "body of independent members" and insert "**committee or equivalent body**".

Page 3, line 19, delete "body of independent members" and insert "**committee or equivalent body**".

Page 4, line 11, delete ":" and insert "**the following:**".

Page 4, line 12, delete "an" and insert "**An**".

Page 4, line 12, delete "; and" and insert ".".

Page 4, line 13, delete "a" and insert "**A**".

Page 4, line 28, delete "and" and insert "**or**".

Page 4, line 40, after "personnel" delete "and" and insert "**or**".

Page 6, line 35, after "control" insert "**over financial reporting**".

Page 9, line 7, after "individuals" insert "**who are all members of:**

(1) the insurer's board of directors; or

(2) the board of directors of the entity that controls the insurer;".

Page 9, line 7, beginning with "to" begin a new line blocked left.

Page 9, line 23, delete "an entity that ultimately controls".

Page 10, line 5, delete "material".

Page 10, line 7, after "alternative" insert "**disclosures and**".

Page 11, line 1, delete "under".

Page 11, line 2, delete "760 IAC 1-53 (as in effect on January 1, 2009)".

Page 11, line 3, delete "." and insert "**, as determined by the commissioner according to rules adopted under IC 4-22-2.**".

Page 11, line 41, delete "not".

Page 14, line 18, delete ":".

Page 14, line 19, delete "(1)".

Page 14, run in lines 18 through 19.

Page 14, line 19, delete "; and" and insert ".".

Page 14, delete lines 20 through 23.

Page 14, line 36, strike "may,".

Page 14, line 36, delete "not more" and insert "**shall, before December 1**".

Page 14, line 37, delete "than thirty (30) days before the end".

Page 15, line 33, delete ", auditing,".

Page 16, delete line 23.

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- Page 16, line 24, delete "(J)" and insert "(I)".
- Page 16, line 41, delete "equal to" and insert "**totaling**".
- Page 16, line 42, delete "(g)" and insert "**(g)(4)**".
- Page 17, line 3, delete "(g)" and insert "**(g)(4)**".
- Page 17, line 7, delete "(g)" and insert "**(g)(4)**".
- Page 17, line 26, delete "the nonaudit" and insert "**the**".
- Page 21, line 16, delete "Professional Conduct" and insert "professional conduct".
- Page 21, line 16, strike "Indiana".
- Page 21, line 16, delete "State Board of Accountancy." and insert "**applicable** state board of accountancy."
- Page 23, line 7, delete "under 760" and insert "**as determined by the commissioner according to rules adopted under IC 4-22-2; or**".
- Page 23, delete line 8.
- Page 23, line 9, after "RBC" insert "**action**".
- Page 23, line 30, delete "the description described" and insert "**all material processes with respect to the preparation of the insurer's audited financial statements are**".
- Page 23, line 31, delete "in subdivision (3) is".
- Page 23, line 40, delete ";" and insert "**for the internal controls over financial reporting that are not included in the Section 404 report**".
- Page 23, delete line 41.
- Page 24, line 6, delete "and:" and insert "**accompanied by:**".
- Page 24, line 14, delete "or" and insert "**and**".
- Page 25, between lines 4 and 5, begin a new paragraph and insert: "**(g) For purposes of this section, if an unremediated material weakness exists in an insurer's internal control over financial reporting, the insurer's management personnel shall not conclude that the internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of the insurer's financial statements in accordance with statutory accounting principles.**".
- Page 25, line 5, delete "(g)" and insert "**(h)**".
- Page 25, line 27, delete "A" and insert "**Except as provided in subsections (d), (e), and (f), a**".
- Page 25, line 27, delete "that, on July 1, 2009, has a qualified".
- Page 25, line 28, delete "accountant on retainer".
- Page 25, line 31, delete "specified" and insert "**permitted**".
- Page 25, delete lines 32 through 42.
- Page 26, line 1, delete "(d) A" and insert "**(c) Except as provided in subsections (d), (e), and (f), a**".

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Page 26, line 3, delete "2010," and insert "**2009**,".

Page 26, line 3, delete "specified" and insert "**permitted**".

Page 26, line 5, delete "(e)" and insert "**(d)**".

Page 26, line 8, delete "(f)" and insert "**(e)**".

Page 26, line 10, delete "2009." and insert "**2010**".

Page 26, line 11, delete "2009," and insert "**2010**,".

Page 26, line 22, delete "(g)" and insert "**(f)**".

Page 26, line 22, delete "(f)," and insert "**(e)**,".

Page 27, between lines 32 and 33, begin a new paragraph and insert:
 "SECTION 35. IC 27-1-15.6-7 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) Unless denied
 licensure under section 12 of this chapter, a person who has met the
 requirements of sections 5 and 6 of this chapter shall be issued an
 insurance producer license. An insurance producer may receive
 qualification for a license in one **(1)** or more of the following lines of
 authority:

(1) Life — insurance coverage on human lives, including benefits
 of endowment and annuities, that may include benefits in the
 event of death or dismemberment by accident and benefits for
 disability income.

(2) Accident and health or sickness — insurance coverage for
 sickness, bodily injury, or accidental death that may include
 benefits for disability income.

(3) Property — insurance coverage for the direct or consequential
 loss of or damage to property of every kind.

(4) Casualty — insurance coverage against legal liability,
 including liability for death, injury, or disability, or for damage to
 real or personal property.

(5) Variable life and variable annuity products — insurance
 coverage provided under variable life insurance contracts and
 variable annuities.

(6) Personal lines — property and casualty insurance coverage
 sold to individuals and families for primarily noncommercial
 purposes.

(7) Credit — limited line credit insurance.

(8) Title — insurance coverage against loss or damage on account
 of encumbrances on or defects in the title to real estate.

(9) Any other line of insurance permitted under Indiana laws or
 administrative rules.

(b) A person who requests and receives qualification under
 subsection (a)(5) for variable life and annuity products:

(1) is considered to have requested; and

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(2) shall receive;
a life qualification under subsection (a)(1). **The insurance producer's license document must clearly indicate that the life qualification received under this subsection includes a qualification for variable life and variable annuity products.**

(c) A resident insurance producer may not request separate qualifications for property insurance and casualty insurance under subsection (a).

(d) An insurance producer license remains in effect unless revoked or suspended, as long as the renewal fee set forth in section 32 of this chapter is paid and the educational requirements for resident individual producers are met by the due date.

(e) An individual insurance producer who:

- (1) allows the individual insurance producer's license to lapse; and
- (2) completed all required continuing education before the license expired;

may, not more than twelve (12) months after the expiration date of the license, reinstate the same license without the necessity of passing a written examination. A penalty in the amount of three (3) times the unpaid renewal fee shall be required for any renewal fee received after the expiration date of the license. However, the department of insurance may waive the penalty if the renewal fee is received not more than thirty (30) days after the expiration date of the license.

(f) A licensed insurance producer who is unable to comply with license renewal procedures due to military service or some other extenuating circumstance may request a waiver of the license renewal procedures. The producer may also request a waiver of any examination requirement or any other fine or sanction imposed for failure to comply with the license renewal procedures.

(g) An insurance producer license shall contain the licensee's name, address, personal identification number, date of issuance, lines of authority, expiration date, and any other information the commissioner considers necessary.

(h) A licensee shall inform the commissioner of a change of address not more than thirty (30) days after the change by any means acceptable to the commissioner. The failure of a licensee to timely inform the commissioner of a change in legal name or address shall result in a penalty under section 12 of this chapter.

(i) To assist in the performance of the commissioner's duties, the commissioner may contract with nongovernmental entities, including the National Association of Insurance Commissioners (NAIC), or any

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affiliates or subsidiaries that the NAIC oversees, to perform ministerial functions, including the collection of fees related to producer licensing, that the commissioner and the nongovernmental entity consider appropriate.

(j) The commissioner may participate, in whole or in part, with the NAIC or any affiliate or subsidiary of the NAIC in a centralized insurance producer license registry through which insurance producer licenses are centrally or simultaneously effected for states that require an insurance producer license and participate in the centralized insurance producer license registry. If the commissioner determines that participation in the centralized insurance producer license registry is in the public interest, the commissioner may adopt rules under IC 4-22-2 specifying uniform standards and procedures that are necessary for participation in the registry, including standards and procedures for centralized license fee collection.

SECTION 36. IC 27-1-15.6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) An individual who applies for an insurance producer license in Indiana and who was previously licensed for the same lines of authority in another state is not required to complete any preclicensing education or examination. However, the exemption provided by this subsection is available only if:

- (1) the individual is currently licensed in the other state; or
- (2) the application is received within ninety (90) days after the cancellation of the applicant's previous license and:
 - (A) the other state issues a certification that, at the time of cancellation, the applicant was in good standing in that state; or
 - (B) the state's Producer Database records that are maintained by the National Association of Insurance Commissioners, its affiliates, or its subsidiaries, indicate that the producer is or was licensed in good standing for the line of authority requested.

(b) If a person is licensed as an insurance producer in another state and moves to Indiana, the person, to be authorized to act as an insurance producer in Indiana, must make application to become a resident licensee under section 6 of this chapter within ninety (90) days after establishing legal residence in Indiana. However, the person is not required to take preclicensing education or examination to obtain a license for any line of authority for which the person held a license in the other state unless the commissioner determines otherwise by rule.

(c) An individual who:

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(1) has attained the designation of chartered life underwriter, certified financial planner, ~~or~~ chartered financial consultant, **or another nationally recognized designation approved by the commissioner or the National Association of Insurance Commissioners;** and

(2) applies for an insurance producer license in Indiana requesting qualification under sections:

- (A) 7(a)(1);
- (B) 7(a)(2); or
- (C) 7(a)(5);

of this chapter;

is not required to complete prelicensing education and is required to take only the portion of the examination required under section 5(b) of this chapter that pertains to Indiana laws and rules.

(d) An individual who ~~has~~:

(1) **has** attained the designation of chartered property and casualty underwriter, certified insurance counselor, ~~or~~ accredited advisor in insurance, **or another nationally recognized designation approved by the commissioner or the National Association of Insurance Commissioners;** and

(2) applies for an insurance producer license in Indiana requesting qualification under sections:

- (A) 7(a)(3);
- (B) 7(a)(4); or
- (C) 7(a)(6);

of this chapter;

is not required to complete prelicensing education and is required to take only the portion of the examination required under section 5(b) of this chapter that pertains to Indiana laws and rules.

(e) **An individual who:**

(1) has attained a bachelor's degree in insurance; and

(2) applies for an insurance producer license in Indiana requesting qualification under section 7(a)(1) through 7(a)(6) of this chapter;

is not required to complete prelicensing education and is required to take only the part of the examination required under section 5(b) of this chapter that pertains to Indiana laws and rules.

SECTION 37. IC 27-1-15.7-2, AS AMENDED BY P.L.173-2007, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) Except as provided in subsection (b), to renew a license issued under IC 27-1-15.6,

(~~†~~) a resident insurance producer must complete at least ~~twenty~~

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~~(20) twenty-four (24) hours of credit in continuing education courses. and~~

~~(2) a resident limited lines producer must complete at least five (5) hours of credit in continuing education courses.~~

An attorney in good standing who is admitted to the practice of law in Indiana and holds a license issued under IC 27-1-15.6 may complete all or any number of hours of continuing education required by this subsection by completing an equivalent number of hours in continuing legal education courses that are related to the business of insurance.

(b) To renew a license issued under IC 27-1-15.6, a limited lines producer with a title qualification under IC 27-1-15.6-7(a)(8) must complete at least seven (7) hours of credit in continuing education courses related to the business of title insurance with at least one (1) hour of instruction in a structured setting or comparable self-study in each of the following:

- (1) Ethical practices in the marketing and selling of title insurance.
- (2) Title insurance underwriting.
- (3) Escrow issues.
- (4) Principles of the federal Real Estate Settlement Procedures Act (12 U.S.C. 2608).

An attorney in good standing who is admitted to the practice of law in Indiana and holds a license issued under IC 27-1-15.6 with a title qualification under IC 27-1-15.6-7(a)(8) may complete all or any number of hours of continuing education required by this subsection by completing an equivalent number of hours in continuing legal education courses related to the business of title insurance or any aspect of real property law.

(c) The following insurance producers are not required to complete continuing education courses to renew a license under this chapter:

- (1) A limited lines producer who is licensed without examination under IC 27-1-15.6-18(1) or IC 27-1-15.6-18(2).
- (2) A limited line credit insurance producer.
- (3) **Before July 1, 2011**, an insurance producer who:
 - (A) is at least seventy (70) years of age; and
 - (B) has been a licensed insurance producer continuously for at least twenty (20) years immediately preceding the license renewal date.

(d) To satisfy the requirements of subsection (a) or (b), a licensee may use only those credit hours earned in continuing education courses completed by the licensee:

- (1) after the effective date of the licensee's last renewal of a

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license under this chapter; or

(2) if the licensee is renewing a license for the first time, after the date on which the licensee was issued the license under this chapter.

(e) If an insurance producer receives qualification for a license in more than one (1) line of authority under IC 27-1-15.6, the insurance producer may not be required to complete a total of more than twenty (20) hours of credit in continuing education courses to renew the license.

(f) Except as provided in subsection (g), a licensee may receive credit only for completing continuing education courses that have been approved by the commissioner under section 4 of this chapter.

(g) A licensee who teaches a course approved by the commissioner under section 4 of this chapter shall receive continuing education credit for teaching the course.

(h) When a licensee renews a license issued under this chapter, the licensee must submit:

- (1) a continuing education statement that:
 - (A) is in a format authorized by the commissioner;
 - (B) is signed by the licensee under oath; and
 - (C) lists the continuing education courses completed by the licensee to satisfy the continuing education requirements of this section; and
- (2) any other information required by the commissioner.

(i) A continuing education statement submitted under subsection (h) may be reviewed and audited by the department.

(j) A licensee shall retain a copy of the original certificate of completion received by the licensee for completion of a continuing education course.

(k) A licensee who completes a continuing education course that:

- (1) is approved by the commissioner under section 4 of this chapter;
- (2) is held in a classroom setting; and
- (3) concerns ethics;

shall receive continuing education credit for the number of hours for which the course is approved plus additional hours, not to exceed two (2) hours in a renewal period, equal to the number of hours for which the course is approved.

SECTION 38. IC 27-1-15.7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) To qualify as a certified prelicensing course of study for purposes of IC 27-1-15.6-6, an insurance producer program of study must meet all of the following

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criteria:

- (1) Be conducted or developed by an:
 - (A) insurance trade association;
 - (B) accredited college or university;
 - (C) educational organization certified by the insurance producer education and continuing education advisory council; or
 - (D) insurance company licensed to do business in Indiana.
- (2) Provide for self-study or instruction provided by an approved instructor in a structured setting, as follows:
 - (A) For life insurance producers, not less than ~~twenty-four (24)~~ **twenty (20)** hours of instruction in a structured setting or comparable self-study on:
 - (i) ethical practices in the marketing and selling of insurance;
 - (ii) requirements of the insurance laws and administrative rules of Indiana; and
 - (iii) principles of life insurance.
 - (B) For health insurance producers, not less than ~~twenty-four (24)~~ **twenty (20)** hours of instruction in a structured setting or comparable self-study on:
 - (i) ethical practices in the marketing and selling of insurance;
 - (ii) requirements of the insurance laws and administrative rules of Indiana; and
 - (iii) principles of health insurance.
 - (C) For life and health insurance producers, not less than forty (40) hours of instruction in a structured setting or comparable self-study on:
 - (i) ethical practices in the marketing and selling of insurance;
 - (ii) requirements of the insurance laws and administrative rules of Indiana;
 - (iii) principles of life insurance; and
 - (iv) principles of health insurance.
 - (D) For property and casualty insurance producers, not less than forty (40) hours of instruction in a structured setting or comparable self-study on:
 - (i) ethical practices in the marketing and selling of insurance;
 - (ii) requirements of the insurance laws and administrative rules of Indiana;

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- (iii) principles of property insurance; and
- (iv) principles of liability insurance.

(E) For personal lines producers, a minimum of ~~twenty-four~~ **twenty (20)** hours of instruction in a structured setting or comparable self-study on:

- (i) ethical practices in the marketing and selling of insurance;
- (ii) requirements of the insurance laws and administrative rules of Indiana; and
- (iii) principles of property and liability insurance applicable to coverages sold to individuals and families for primarily noncommercial purposes.

(F) For title insurance producers, not less than ten (10) hours of instruction in a structured setting or comparable self-study on:

- (i) ethical practices in the marketing and selling of title insurance;
- (ii) requirements of the insurance laws and administrative rules of Indiana;
- (iii) principles of title insurance, including underwriting and escrow issues; and
- (iv) principles of the federal Real Estate Settlement Procedures Act (12 U.S.C. 2608).

(3) Instruction provided in a structured setting must be provided only by individuals who meet the qualifications established by the commissioner under subsection (b).

(b) The commissioner, after consulting with the insurance producer education and continuing education advisory council, shall adopt rules under IC 4-22-2 prescribing the criteria that a person must meet to render instruction in a certified prelicensing course of study.

(c) The commissioner shall adopt rules under IC 4-22-2 prescribing the subject matter that an insurance producer program of study must cover to qualify for certification as a certified prelicensing course of study under this section.

(d) The commissioner may make recommendations that the commissioner considers necessary for improvements in course materials.

(e) The commissioner shall designate a program of study that meets the requirements of this section as a certified prelicensing course of study for purposes of IC 27-1-15.6-6.

(f) The commissioner may, after notice and opportunity for a hearing, withdraw the certification of a course of study that does not

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maintain reasonable standards, as determined by the commissioner for the protection of the public.

(g) Current course materials for a prelicensing course of study that is certified under this section must be submitted to the commissioner upon request, but not less frequently than once every three (3) years."

Page 31, delete lines 28 through 42.

Page 32, delete lines 1 through 2.

Page 40, line 32, delete "of one hundred dollars (\$100);" and insert **"in an amount determined by the commissioner;"**.

Page 40, line 34, after "." insert **"The commissioner shall deposit a fee paid under subdivision (2) into the department of insurance fund established by IC 27-1-3-28."**

Page 43, delete lines 21 through 23.

Page 43, line 31, delete "of" and insert **"in an amount determined by the commissioner,"**.

Page 43, line 32, delete "one hundred dollars (\$100),".

Page 43, line 32, after "." insert **"The commissioner shall deposit a fee paid under this subsection into the department of insurance fund established by IC 27-1-3-28."**

Page 44, line 10, after "a" insert **"renewal application and a"**.

Page 44, line 14, after "pay" insert **"to the commissioner"**.

Page 44, line 14, strike "as required" and insert **"in an amount determined"**.

Page 44, line 15, strike "collect" and insert **"deposit"**.

Page 44, line 15, strike "required" and insert **"paid"**.

Page 44, line 16, strike "and deposit the fee".

Page 45, line 28, after "fee" insert **"in an amount"**.

Page 45, line 28, reset in roman "determined by".

Page 45, line 29, reset in roman "the commissioner."

Page 45, line 29, delete "of one hundred dollars (\$100)."

Page 47, line 19, after ";" insert **"and"**.

Page 47, delete lines 20 through 21.

Page 49, after line 42, begin a new paragraph and insert:

"SECTION 51. IC 27-8-11-10, AS ADDED BY P.L.111-2008, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. (a) As used in this section, "dialysis facility" means an outpatient facility in Indiana at which a ~~dialysis~~ **treatment** provider provides dialysis treatment.

(b) As used in this section, "contracted dialysis facility" means a dialysis facility that has entered into an agreement with a particular insurer under section 3 of this chapter.

(c) Notwithstanding section 1 of this chapter, as used in this section,

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"insured" refers only to an insured who requires dialysis treatment.

(d) As used in this section, "insurer" includes the following:

- (1) An administrator licensed under IC 27-1-25.
- (2) An agent of an insurer.

(e) As used in this section, "non-contracted dialysis facility" means a dialysis facility that has not entered into an agreement with a particular insurer under section 3 of this chapter.

(f) An insurer shall not require an insured, as a condition of coverage or reimbursement, to:

- (1) if the nearest dialysis facility is located within thirty (30) miles of the insured's home, travel more than thirty (30) miles from the insured's home to obtain dialysis treatment; or
- (2) if the nearest dialysis facility is located more than thirty (30) miles from the insured's home, travel a greater distance than the distance to the nearest dialysis facility to obtain dialysis treatment;

regardless of whether the insured chooses to receive dialysis treatment at a contracted dialysis facility or a non-contracted dialysis facility.

(g) An insurer shall, upon request of the insured, make all claim payments for dialysis treatment payable only to the dialysis facility and not to the insured, regardless of whether the dialysis facility is a contracted dialysis facility or a non-contracted dialysis facility.

(h) A policy that is issued by an insurer that provides coverage for dialysis treatment may not apply:

- (1) benefit restrictions;**
- (2) deductible, copayment, coinsurance, or other out-of-pocket expense requirements; or**
- (3) maximum lifetime coverage limitations;**

to the coverage for dialysis treatment that are less favorable to an insured than the benefit restrictions, deductible, copayment, coinsurance, or other out-of-pocket expense requirements, or maximum lifetime coverage limitations that apply to all other medical and surgical benefits under the policy.

(i) A dialysis facility or provider shall not bill an insured for any amount that exceeds:

- (1) the amount paid by the insurer; plus**
- (2) any applicable deductible, copayment, coinsurance, or other expense paid by the insured;**

in connection with dialysis treatment. An insurer that receives from an insured written proof that a dialysis facility or provider has violated this subsection shall not reimburse the dialysis facility or provider for any health care services rendered to any insured

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until the insurer receives written proof that the dialysis facility or provider has canceled the bill and reimbursed the insured in full any amount paid in relation to the amount billed in violation of this subsection.

(j) This subsection applies to an agreement entered into under section 3 of this chapter between a contracted dialysis facility and an insurer that includes a dispute resolution provision. If:

- (1) a party to the agreement attempts to change the terms of the agreement while the agreement is in effect;
- (2) the other party to the agreement refuses to accept the change described in subdivision (1); and
- (3) the parties to the agreement cannot resolve the disagreement according to the dispute resolution provision of the agreement;

the dialysis facility and insurer shall submit to binding arbitration by a neutral arbitrator selected by agreement of the parties. If the parties do not agree upon a neutral arbitrator within two (2) weeks after the selection process begins, the insurance commissioner appointed under IC 27-1-1-2 shall select a neutral arbitrator.

(k) This subsection applies to an agreement entered into under section 3 of this chapter between a contracted dialysis facility and an insurer that does not include a dispute resolution provision. If:

- (1) a party to the agreement attempts to change the terms of the agreement while the agreement is in effect;
- (2) the other party to the agreement refuses to accept the change described in subdivision (1); and
- (3) the parties to the agreement cannot resolve the disagreement less than sixty (60) days after the party described in subdivision (1) receives written notice from the party described in subdivision (2) that the party described in subdivision (2) refuses to accept the change to the terms of the agreement;

the dialysis facility and insurer shall submit to mediation by a neutral mediator selected by the insurance commissioner. If mediation does not result in resolution of the disagreement less than thirty (30) days after mediation proceedings begin, the parties shall submit to binding arbitration by a neutral arbitrator selected by agreement of the parties. If the parties do not agree upon a neutral arbitrator within two (2) weeks after the selection process begins, the insurance commissioner shall select a neutral arbitrator.

(l) The department may adopt rules under IC 4-22-2 to

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implement this section.

SECTION 52. IC 27-13-1-11.5, AS ADDED BY P.L.111-2008, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11.5. "Dialysis facility" means an outpatient facility in Indiana at which a dialysis treatment provider provides dialysis treatment.

SECTION 53. IC 27-8-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. This chapter applies to any individual or group health insurance plan that is issued for delivery in Indiana to at least ~~three (3)~~ **two (2)** employees of a small employer located in Indiana if one (1) of the following conditions is met:

(1) Any part of the premium or benefits is paid by a small employer or any covered individual is reimbursed, whether through wage adjustments or otherwise, by a small employer for any part of the premium not including the administrative expenses of administering a payroll deduction plan where the employee contributes one hundred percent (100%) of the premium without reimbursement.

(2) The health benefit plan is treated by the employer or any of the covered individuals as part of a plan or program for purposes of Section 106 or 162 of the United States Internal Revenue Code.

SECTION 54. IC 27-8-15-8.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8.5. (a) As used in this chapter, "eligible employee" means an employee:

(1) who is employed to work at least thirty (30) hours each week; The term includes:

- (A) a sole proprietor; and
- (B) a partner in a partnership;

if the sole proprietor or partner is included as an employee under a health insurance plan of a small employer; and

(2) who meets an applicable waiting period required by a small employer before gaining coverage under a health insurance policy.

(b) The term includes:

- (1) a sole proprietor;
- (2) a partner in a partnership; and
- (3) an owner of an S corporation;

regardless of whether the sole proprietor, partner, or owner is included as an employee for purposes of taxation of a small employer.

~~(b)~~ (c) The term does not include:

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- (1) an employee who works on a temporary or substitute basis; or
- (2) a seasonal employee.

SECTION 55. IC 27-8-15-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 31. (a) If an eligible employee who has been continuously covered under a health insurance plan for at least ninety (90) days:

- (1) loses coverage under the plan as the result of:
 - (A) termination of employment;
 - (B) reduction of hours;
 - (C) marriage dissolution; or
 - (D) attainment of any age specified in the plan; and

(2) is not eligible for continuation coverage under the federal Consolidated Omnibus Budget Reconciliation Act of 1985; and

~~(2)~~ **(3)** requests a conversion policy from the small employer insurer that insured the health insurance plan; the individual is entitled to receive a conversion policy from the small employer insurer.

(b) A request under subsection ~~(a)(2)~~ **(a)** must be made within thirty (30) days after the individual loses coverage under the health insurance plan.

(c) The premium for a conversion policy issued under this section shall not exceed one hundred fifty percent (150%) of the rate that would have been charged under the small employer health insurance plan with respect to the individual if the individual had been covered as an eligible employee under the plan during the same period. If the health insurance plan under which the individual was covered is canceled or is not renewed, the rates shall be based on the rate that would have been charged with respect to the individual if the plan had continued in force, as determined by the small employer insurer in accordance with standard actuarial principles.

(d) A conversion policy issued under this section must be approved by the insurance commissioner as described in IC 27-8-5-1. The commissioner may not approve a conversion policy unless the policy and its benefits are:

- (1) comparable to those required under IC 27-13-1-4(a)(2) through IC 27-13-1-4(a)(5);
- (2) reasonable in relation to the premium charged; and
- (3) in compliance with IC 27-8-6-1.

If the benefit limits of the conversion policy are not more than the benefit limits of the small employer's health insurance plan, the small employer insurer shall credit the individual with any waiting period,

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deductible, or coinsurance credited to the individual under the small employer's health insurance plan.

(e) This section expires on the effective date of a mechanism enacted by the general assembly to offset the potential fiscal impact on small employers and small employer insurers that results from the establishment of a continuation policy under section 31.1 of this chapter."

Page 50, between lines 15 and 16, begin a new paragraph and insert:

"SECTION 57. IC 27-13-15-5, AS ADDED BY P.L.111-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Notwithstanding IC 27-13-1-12, as used in this section, "enrollee" refers only to an enrollee who requires dialysis treatment.

(b) As used in this section, "health maintenance organization" includes the following:

- (1) A limited service health maintenance organization.
- (2) An agent of a health maintenance organization or a limited service health maintenance organization.

(c) A health maintenance organization shall not require an enrollee, as a condition of coverage or reimbursement, to:

- (1) if the nearest dialysis facility is located within thirty (30) miles of the enrollee's home, travel more than thirty (30) miles from the enrollee's home to obtain dialysis treatment; or
- (2) if the nearest dialysis facility is located more than thirty (30) miles from the enrollee's home, travel a greater distance than the distance to the nearest dialysis facility to obtain dialysis treatment;

regardless of whether the enrollee chooses to receive dialysis treatment at a dialysis facility that is a participating provider or a dialysis facility that is not a participating provider.

(d) A health maintenance organization shall, upon request of the enrollee, make all claim payments for dialysis treatment payable only to the dialysis facility and not to the enrollee, regardless of whether the dialysis facility is or is not a participating provider.

(e) An individual contract or a group contract that provides coverage for dialysis treatment may not apply:

- (1) benefit restrictions;**
- (2) deductible, copayment, coinsurance, or other out-of-pocket expense requirements; or**
- (3) maximum lifetime coverage limitations;**

to the coverage for dialysis treatment that are less favorable to an enrollee than the benefit restrictions, deductible, copayment,

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coinsurance, or other out-of-pocket expense requirements, or maximum lifetime coverage limitations that apply to all other medical and surgical benefits under the individual contract or group contract.

(f) A dialysis treatment facility or provider shall not bill an enrollee for any amount that exceeds:

- (1) the amount paid by the health maintenance organization; plus
- (2) any applicable deductible, copayment, coinsurance, or other expense paid by the enrollee;

in connection with dialysis treatment. A health maintenance organization that receives from an enrollee written proof that a dialysis facility or provider has violated this subsection shall not reimburse the dialysis facility or provider for any health care services rendered to any enrollee until the health maintenance organization receives written proof that the dialysis facility or provider has canceled the bill and reimbursed the enrollee in full any amount paid in relation to the amount billed in violation of this subsection.

(g) This subsection applies to a contract entered into under this chapter between a dialysis facility that is a participating provider and a health maintenance organization that includes a dispute resolution provision. If:

- (1) a party to the contract attempts to change the terms of the contract while the contract is in effect;
- (2) the other party to the contract refuses to accept the change described in subdivision (1); and
- (3) the parties to the contract cannot resolve the disagreement according to the dispute resolution provision of the contract;

the dialysis facility and health maintenance organization shall submit to binding arbitration by a neutral arbitrator selected by agreement of the parties. If the parties do not agree upon a neutral arbitrator within two (2) weeks of beginning the selection process, the insurance commissioner appointed under IC 27-1-1-2 shall select a neutral arbitrator.

(h) This subsection applies to a contract entered into under this chapter between a dialysis facility that is a participating provider and a health maintenance organization that does not include a dispute resolution provision. If:

- (1) a party to the contract attempts to change the terms of the contract while the contract is in effect;
- (2) the other party to the contract refuses to accept the change

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described in subdivision (1); and
(3) the parties to the contract cannot resolve the disagreement less than sixty (60) days after the party described in subdivision (1) receives written notice from the party described in subdivision (2) that the party described in subdivision (2) refuses to accept the change to the terms of the contract;

the dialysis facility and health maintenance organization shall submit to mediation by a neutral mediator selected by the insurance commissioner. If mediation does not result in resolution of the disagreement less than thirty (30) days after mediation proceedings begin, the parties shall submit to binding arbitration by a neutral arbitrator selected by agreement of the parties. If the parties do not agree upon a neutral arbitrator within two (2) weeks after the selection process begins, the insurance commissioner shall select a neutral arbitrator.

(i) The department may adopt rules under IC 4-22-2 to implement this section."

Page 50, line 42, delete "IC 27-1-25-7.5." and insert "IC 27-1-25-7.5; IC 27-8-15-2.

SECTION 60. [EFFECTIVE JULY 1, 2009] (a) IC 27-8-15, as amended by this act, applies to a health insurance plan (as defined in IC 27-8-15-9) that is issued, entered into, delivered, amended, or renewed after June 30, 2009.

(b) This SECTION expires July 1, 2014.

SECTION 61. [EFFECTIVE UPON PASSAGE] (a) IC 27-8-11-10, as amended by this act, applies to an agreement between an insurer and a dialysis facility that is entered into, amended, or renewed on or after the effective date of IC 27-8-11-10, as amended by this act.

(b) IC 27-13-15-5, as amended by this act, applies to a contract between a health maintenance organization and a dialysis facility that is entered into, amended, or renewed after the effective date of IC 27-13-15-5, as amended by this act.

SECTION 62. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1627 as introduced.)

FRY, Chair

Committee Vote: yeas 8, nays 0.

EH 1627—LS 7313/DI 97+

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COMMITTEE REPORT

Madam President: The Senate Committee on Insurance and Financial Institutions, to which was referred House Bill No. 1627, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, delete lines 15 through 28.

Page 3, between lines 28 and 29, begin a new paragraph and insert:

"SECTION 4. IC 27-1-3.5-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 0.5. The commissioner may adopt rules under IC 4-22-2 to implement this chapter.**".

Page 3, delete lines 40 through 42.

Delete pages 4 through 5.

Page 6, delete lines 1 through 29.

Page 6, line 35, delete "pertaining" and insert "**related**".

Page 7, line 12, strike "directly" and insert "**direct**".

Page 7, line 21, delete "annual".

Page 7, line 25, delete ", except sections 7.2 and 7.4 of this chapter,".

Page 7, line 32, delete "annual".

Page 7, line 34, delete "over financial reporting".

Page 7, line 38, delete "6," and insert "**6**".

Page 7, line 38, strike "12,".

Page 8, line 31, after "insurer's" insert "**management**".

Page 8, line 42, delete "." and insert "**of the insurer's state of domicile**".

Page 9, line 33, delete "annual".

Page 9, line 38, delete "annual".

Page 9, line 41, delete "annual".

Page 10, delete lines 2 through 42.

Delete pages 11 through 12.

Page 13, delete lines 1 through 4.

Page 13, line 25, delete "domiciliary".

Page 13, line 25, after "state" insert "**of domicile**".

Page 13, line 28, delete "it's" and insert "**its**".

Page 13, line 36, delete "annual".

Page 13, line 38, after "chapter" insert "**is**".

Page 13, line 38, strike "ceases to be".

Page 13, line 38, after "be" insert "**terminated by the insurer or resigns as**".

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- Page 13, line 40, strike "cessation of the".
- Page 13, line 41, delete "accountant's".
- Page 13, line 41, strike "services,".
- Page 13, line 41, after "services," insert "**termination or resignation,**".
- Page 14, line 1, delete "cessation;" and insert "**termination or resignation;**".
- Page 14, line 5, delete "cessation".
- Page 14, line 5, strike "of the".
- Page 14, line 6, delete "accountant's services" and insert "**termination or resignation**".
- Page 14, line 26, delete "annual".
- Page 14, delete line 42.
- Delete pages 15 through 18.
- Page 19, delete lines 1 through 41.
- Page 20, line 30, delete "insurer's".
- Page 21, line 11, after "accountant" insert ",".
- Page 21, line 11, strike "of".
- Page 21, line 11, delete "an".
- Page 21, line 11, strike "insurer,".
- Page 21, line 12, strike "insurer's".
- Page 21, line 12, delete "annual".
- Page 21, delete lines 21 through 42.
- Page 22, delete line 1.
- Page 22, line 4, delete "insurer's".
- Page 22, line 42, strike "(6) That the".
- Page 22, line 42, delete "accountant".
- Page 22, line 42, strike "is in compliance".
- Page 23, strike line 1.
- Page 23, line 4, delete "annual".
- Page 23, line 5, delete "insurer's".
- Page 23, delete lines 27 through 42.
- Delete pages 24 through 25.
- Page 26, delete lines 1 through 15.
- Page 26, line 29, delete "(a)".
- Page 26, line 33, strike "of fifty dollars (\$50) per day until the report is received".
- Page 26, line 33, after "received" insert "**prescribed in rules adopted**".
- Page 26, delete lines 35 through 42.
- Page 27, delete lines 1 through 27.
- Page 27, line 32, strike "domiciliary".

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Page 27, line 36, strike "requirement" and insert "**requirements**".

Page 32, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 19. IC 27-1-15.6-12, AS AMENDED BY P.L.27-2007, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) For purposes of this section, "permanently revoke" means that:

- (1) the producer's license shall never be reinstated; and
- (2) the former licensee, after the license revocation, is not eligible to submit an application for a license to the department.

(b) The commissioner may **reprimand**, levy a civil penalty, place an insurance producer on probation, suspend an insurance producer's license, revoke an insurance producer's license for a period of years, permanently revoke an insurance producer's license, or refuse to issue or renew an insurance producer license, or take any combination of these actions, for any of the following causes:

- (1) Providing incorrect, misleading, incomplete, or materially untrue information in a license application.
- (2) Violating:
 - (A) an insurance law;
 - (B) a regulation;
 - (C) a subpoena of an insurance commissioner; or
 - (D) an order of an insurance commissioner;

of Indiana or of another state.

- (3) Obtaining or attempting to obtain a license through misrepresentation or fraud.
- (4) Improperly withholding, misappropriating, or converting any monies or properties received in the course of doing insurance business.
- (5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.
- (6) Having been convicted of a felony.
- (7) Admitting to having committed or being found to have committed any unfair trade practice or fraud in the business of insurance.
- (8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in Indiana or elsewhere.
- (9) Having an insurance producer license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory.
- (10) Forging another's name to an application for insurance or to any document related to an insurance transaction.

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- (11) Improperly using notes or any other reference material to complete an examination for an insurance license.
 - (12) Knowingly accepting insurance business from an individual who is not licensed.
 - (13) Failing to comply with an administrative or court order imposing a child support obligation.
 - (14) Failing to pay state income tax or to comply with any administrative or court order directing payment of state income tax.
 - (15) Failing to satisfy the continuing education requirements established by IC 27-1-15.7.
 - (16) Violating section 31 of this chapter.
 - (17) Failing to timely inform the commissioner of a change in legal name or address, in violation of section 7(h) of this chapter.
- (c) The commissioner shall refuse to:
- (1) issue a license; or
 - (2) renew a license issued;

under this chapter to any person who is the subject of an order issued by a court under IC 31-14-12-7 or IC 31-16-12-10 (or IC 31-1-11.5-13(m) or IC 31-6-6.1-16(m) before their repeal).

(d) If the commissioner refuses to renew a license or denies an application for a license, the commissioner shall notify the applicant or licensee and advise the applicant or licensee, in a writing sent through regular first class mail, of the reason for the denial of the applicant's application or the nonrenewal of the licensee's license. The applicant or licensee may, not more than sixty-three (63) days after notice of denial of the applicant's application or nonrenewal of the licensee's license is mailed, make written demand to the commissioner for a hearing before the commissioner to determine the reasonableness of the commissioner's action. The hearing shall be held not more than thirty (30) days after the applicant or licensee makes the written demand, and shall be conducted under IC 4-21.5.

(e) The license of a business entity may be suspended, revoked, or refused if the commissioner finds, after hearing, that a violation of an individual licensee acting on behalf of the partnership or corporation was known or should have been known by one (1) or more of the partners, officers, or managers of the partnership or corporation and:

- (1) the violation was not reported to the commissioner; and
- (2) no corrective action was taken.

(f) In addition to or in lieu of any applicable denial, suspension, or revocation of a license under subsection (b), a person may, after a hearing, be subject to the imposition by the commissioner under

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subsection (b) of a civil penalty of not less than fifty dollars (\$50) and not more than ten thousand dollars (\$10,000). A penalty imposed under this subsection may be enforced in the same manner as a civil judgement.

(g) A licensed insurance producer or limited lines producer shall, not more than ten (10) days after the producer receives a request in a registered or certified letter from the commissioner, furnish the commissioner with a full and complete report listing each insurer with which the licensee has held an appointment during the year preceding the request.

(h) If a licensee fails to provide the report requested under subsection (g) not more than ten (10) days after the licensee receives the request, the commissioner may, in the commissioner's sole discretion, without a hearing, and in addition to any other sanctions allowed by law, suspend any insurance license held by the licensee pending receipt of the appointment report.

(i) The commissioner shall promptly notify all appointing insurers and the licensee regarding any suspension, revocation, or termination of a license by the commissioner under this section.

(j) The commissioner may not grant, renew, continue, or permit to continue any license if the commissioner finds that the license is being used or will be used by the applicant or licensee for the purpose of writing controlled business. As used in this subsection, "controlled business" means:

- (1) insurance written on the interests of:
 - (A) the applicant or licensee;
 - (B) the applicant's or licensee's immediate family; or
 - (C) the applicant's or licensee's employer; or
- (2) insurance covering:
 - (A) the applicant or licensee;
 - (B) members of the applicant's or licensee's immediate family; or
 - (C) either:
 - (i) a corporation, limited liability company, association, or partnership; or
 - (ii) the officers, directors, substantial stockholders, partners, members, managers, employees of such a corporation, limited liability company, association, or partnership; of which the applicant or licensee or a member of the applicant's or licensee's immediate family is an officer, director, substantial stockholder, partner, member, manager, associate, or employee.

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However, this section does not apply to insurance written or interests insured in connection with or arising out of credit transactions. A license is considered to have been used or intended to be used for the purpose of writing controlled business if the commissioner finds that during any twelve (12) month period the aggregate commissions earned from the controlled business exceeded twenty-five percent (25%) of the aggregate commission earned on all business written by the applicant or licensee during the same period.

(k) The commissioner has the authority to:

- (1) enforce the provisions of; and
- (2) impose any penalty or remedy authorized by;

this chapter or any other provision of this title against any person who is under investigation for or charged with a violation of this chapter or any other provision of this title, even if the person's license or registration has been surrendered or has lapsed by operation of law.

(l) For purposes of this section, the violation of any provision of IC 28 concerning the sale of a life insurance policy or an annuity contract shall be considered a violation described in subsection (b)(2).

(m) The commissioner may order a licensee to make restitution if the commissioner finds that the licensee has committed a violation described in:

- (1) subsection (b)(4);
- (2) subsection (b)(7);
- (3) subsection (b)(8); or
- (4) subsection (b)(16).

(n) The commissioner shall notify the securities commissioner appointed under IC 23-19-6-1(a) when an administrative action or civil proceeding is filed under this section and when an order is issued under this section denying, suspending, or revoking a license."

Page 41, line 14, delete "(as defined in IC 26-1-8.1-102)." and insert **"as defined in IC 26-1-8.1-102."**

Page 55, line 31, delete "remit" and insert **"remits"**.

Page 58, delete lines 21 through 42, begin a new paragraph and insert:

"SECTION 34. IC 27-8-5-16.5, AS AMENDED BY P.L.127-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16.5. (a) As used in this section, "delivery state" means any state other than Indiana in which a policy is delivered or issued for delivery.

(b) Except as provided in subsection (c), (d), or (e), a certificate may not be issued to a resident of Indiana pursuant to a group policy that is delivered or issued for delivery in a state other than Indiana.

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(c) A certificate may be issued to a resident of Indiana pursuant to a group policy not described in subsection (d) that is delivered or issued for delivery in a state other than Indiana if:

- (1) the delivery state has a law substantially similar to section 16 of this chapter;
- (2) the delivery state has approved the group policy; and
- (3) the policy or the certificate contains provisions that are:
 - (A) substantially similar to the provisions required by:
 - (i) section 19 of this chapter;
 - (ii) section 21 of this chapter; and
 - (iii) IC 27-8-5.6; and
 - (B) consistent with the requirements set forth in:
 - (i) section 24 of this chapter;
 - (ii) IC 27-8-6;
 - (iii) IC 27-8-14;
 - (iv) IC 27-8-23;
 - (v) 760 IAC 1-38.1; and
 - (vi) 760 IAC 1-39.

(d) A certificate may be issued to a resident of Indiana under an association group policy, a discretionary group policy, or a trust group policy that is delivered or issued for delivery in a state other than Indiana if:

- (1) the delivery state has a law substantially similar to section 16 of this chapter;
- (2) the delivery state has approved the group policy; and
- (3) the policy or the certificate contains provisions that are:
 - (A) substantially similar to the provisions required by:
 - (i) section 19 of this chapter or, if the policy or certificate is described in section 2.5(b)(2) of this chapter, section 2.5 of this chapter;
 - (ii) section ~~19.2~~ **19.3** of this chapter if the policy or certificate contains a waiver of coverage;
 - (iii) section 21 of this chapter; and
 - (iv) IC 27-8-5.6; and
 - (B) consistent with the requirements set forth in:
 - (i) section 15.6 of this chapter;
 - (ii) section 24 of this chapter;
 - (iii) section 26 of this chapter;
 - (iv) IC 27-8-6;
 - (v) IC 27-8-14;
 - (vi) IC 27-8-14.1;
 - (vii) IC 27-8-14.5;

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- (viii) IC 27-8-14.7;
- (ix) IC 27-8-14.8;
- (x) IC 27-8-20;
- (xi) IC 27-8-23;
- (xii) IC 27-8-24.3;
- (xiii) IC 27-8-26;
- (xiv) IC 27-8-28;
- (xv) IC 27-8-29;
- (xvi) 760 IAC 1-38.1; and
- (xvii) 760 IAC 1-39.

(e) A certificate may be issued to a resident of Indiana pursuant to a group policy that is delivered or issued for delivery in a state other than Indiana if the commissioner determines that the policy pursuant to which the certificate is issued meets the requirements set forth in section 17(a) of this chapter.

(f) This section does not affect any other provision of Indiana law governing the terms or benefits of coverage provided to a resident of Indiana under any certificate or policy of insurance.

SECTION 35. IC 27-8-5-17, AS AMENDED BY P.L.218-2007, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 17. (a) A group accident and sickness insurance policy shall not be delivered or issued for delivery in Indiana to a group that is not described in section 16(1)(A), 16(2)(A), 16(3)(A), 16(4)(A), 16(5)(A), 16(6)(A), 16(7), or 16(8) of this chapter unless:

(1) the group applies to the commissioner for approval as a discretionary group;

(2) the commissioner reviews the group according to the same standards as a group described in section 16 of this chapter; and

(3) the commissioner finds that:

~~(1)~~ **(A)** the issuance of the policy is not contrary to the best interest of the public;

~~(2)~~ **(B)** the issuance of the policy would result in economies of acquisition or administration; and

~~(3)~~ **(C)** the benefits of the policy are reasonable in relation to the premiums charged.

(b) Except as otherwise provided in this chapter, an insurer may exclude or limit the coverage under a policy described in subsection (a) on any person as to whom evidence of individual insurability is not satisfactory to the insurer."

Delete page 59.

Page 60, delete lines 1 through 35.

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Page 61, between lines 31 and 32, begin a new paragraph and insert:
 "SECTION 40. IC 27-8-15-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) Except as provided in section 28 of this chapter, as used in this chapter, "health insurance plan" or "plan" means any:

- (1) hospital or medical expense incurred policy or certificate;
- (2) hospital or medical service plan contract; or
- (3) health maintenance organization subscriber contract;

provided to the employees of a small employer.

(b) The term does not include the following:

- (1) Accident-only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.
- (2) Coverage issued as a supplement to liability insurance.
- (3) Worker's compensation or similar insurance.
- (4) Automobile medical payment insurance.
- (5) A specified disease policy. ~~issued as an individual policy.~~
- ~~(6) A limited benefit health insurance policy issued as an individual policy.~~

~~(7)~~ **(6)** A short term insurance plan that:

- (A) may not be renewed; and
- (B) has a duration of not more than six (6) months.

~~(8)~~ **(7)** A policy that provides a stipulated daily, weekly, or monthly payment to an insured during hospital confinement, without regard to the actual expense of the confinement. **indemnity benefits not based on any expense incurred requirement, including a plan that provides coverage for:**

- (A) hospital confinement, critical illness, or intensive care; or**
- (B) gaps for deductibles or copayments.**

(8) A supplemental plan that always pays in addition to other coverage.

(9) A student health plan.

(10) An employer sponsored health benefit plan that is:

- (A) provided to individuals who are eligible for Medicare; and**
- (B) not marketed as, or held out to be, a Medicare supplement policy."**

Page 62, between lines 36 and 37, begin a new paragraph and insert:
 "SECTION 46. IC 27-8-28-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) As used in this chapter, "accident and sickness insurance policy" means an insurance policy that provides one (1) or more of the kinds of insurance described

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in Class 1(b) and 2(a) of IC 27-1-5-1.

(b) The term does not include the following:

- (1) Accident only, credit, dental, vision, Medicare supplement, ~~long term care~~, or disability income insurance.
- (2) Coverage issued as a supplement to liability insurance.
- (3) Automobile medical payment insurance.
- (4) A specified disease policy issued as an individual policy.
- (5) A limited benefit health insurance policy issued as an individual policy.
- (6) A short term insurance plan that:
 - (A) may not be renewed; and
 - (B) has a duration of not more than six (6) months.
- (7) A policy that provides a stipulated daily, weekly, or monthly payment to an insured during hospital confinement without regard to the actual expense of the confinement.
- (8) Worker's compensation or similar insurance."

Page 63, delete lines 10 through 42.

Delete page 64.

Page 65, delete lines 1 through 19.

Page 66, line 4, after "IC 27-1-3.5-3.5;" insert "IC 27-1-3.5-9; IC 27-1-3.5-12;"

Page 66, line 5, delete "." and insert "; IC 27-8-15.5."

Page 66, delete lines 11 through 18.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1627 as printed February 10, 2009.)

PAUL, Chairperson

Committee Vote: Yeas 8, Nays 0.

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