



February 10, 2009

HOUSE BILL No. 1627

DIGEST OF HB 1627 (Updated February 5, 2009 10:41 am - DI 97)

Citations Affected: IC 5-22; IC 16-42; IC 27-1; IC 27-4; IC 27-7; IC 27-8; IC 27-13; noncode.

Synopsis: Prescriptions and insurance matters. Makes various changes to the law concerning: (1) prescriptions for visually impaired individuals; (2) disclosures of insurer information; (3) insurer annual audited financial reporting; (4) records of insurer securities holdings; (5) certain insurance holding company transactions; (6) insurance producer licensing and continuing education; (7) insurance administrator licensing; (8) an unauthorized insurers exception in relation to an industrial insured; (9) consistency in compliance with laws by various types of insurers and health maintenance organizations; (10) small employer group insurance requirements; and (11) coverage for dialysis treatment. Makes conforming amendments. Repeals: (1) definitions of unused terms 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.

Effective: Upon passage; July 1, 2009.

Fry, Lehman

January 16, 2009, read first time and referred to Committee on Insurance.
February 9, 2009, amended, reported — Do Pass.

C
o
p
y

HB 1627—LS 7313/DI 97+



February 10, 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.

C
O
P
Y

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.

HB 1627—LS 7313/DI 97+



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

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

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

36 (b) This chapter does not prevent or prohibit the commissioner from
 37 disclosing the content of an examination report, preliminary
 38 examination report, or results, or any matter relating thereto, to **the**
 39 **National Association of Insurance Commissioners**, the insurance
 40 department of any other state or country, or to law enforcement
 41 officials of Indiana or any other state or agency of the federal
 42 government at any time, if the agency or office receiving the report or

C
o
p
y



1 matters relating thereto agrees in writing to hold it confidential and in
2 a manner consistent with this chapter.

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

6 (d) This chapter does not limit the commissioner's authority to use
7 and, if appropriate, to make public any final or preliminary examination
8 report, any examiner or company workpapers or other documents, or
9 any other information discovered or developed during the course of any
10 examination in the furtherance of any legal or regulatory action that the
11 commissioner may, in the commissioner's sole discretion, consider
12 appropriate.

13 SECTION 4. IC 27-1-3.1-15 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. All working papers,
15 recorded information, documents, and copies thereof produced by,
16 obtained by, or disclosed to the commissioner or any other person in
17 the course of an examination under this chapter (**including trade
18 secrets and information obtained from a federal agency, a foreign
19 country, the National Association of Insurance Commissioners, or
20 under another state law**) are confidential for the purposes of
21 IC 5-14-3-4, are not subject to subpoena, and may not be made public
22 by the commissioner or any other person, except to the extent provided
23 in section 14 of this chapter. However, access may also be granted to
24 the National Association of Insurance Commissioners. Those parties
25 must agree in writing prior to receiving the information to provide to
26 it the same confidential treatment as required by this section, unless the
27 prior written consent of the company to which it pertains has been
28 obtained.

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

- 34 (1) in good standing with the American Institute of Certified
35 Public Accountants and in all states in which the accountant
36 is licensed to practice;
- 37 (2) Canadian chartered if the insurer is a Canadian insurer;
38 or
- 39 (3) British chartered if the insurer is a British insurer.

40 SECTION 6. IC 27-1-3.5-1.2 IS ADDED TO THE INDIANA
41 CODE AS A NEW SECTION TO READ AS FOLLOWS
42 [EFFECTIVE JULY 1, 2009]: Sec. 1.2. As used in this chapter,

C
o
p
y



1 **"affiliate" means a person that, directly or indirectly through one**
 2 **(1) or more intermediaries:**
 3 **(1) controls;**
 4 **(2) is controlled by; or**
 5 **(3) is under common control with;**
 6 **another person.**

7 SECTION 7. IC 27-1-3.5-1.4 IS ADDED TO THE INDIANA
 8 CODE AS A NEW SECTION TO READ AS FOLLOWS
 9 [EFFECTIVE JULY 1, 2009]: **Sec. 1.4. As used in this chapter,**
 10 **"audit committee" means:**

- 11 **(1) a committee or equivalent body established by the board**
 12 **of directors of an insurer to oversee:**
 13 **(A) the accounting and financial reporting processes; and**
 14 **(B) audits of financial statements;**
 15 **of the insurer;**
 16 **(2) if elected by the controlling person of an entity that**
 17 **controls an insurer and solely for purposes of this chapter, a**
 18 **committee or equivalent body established by the board of**
 19 **directors of the entity to oversee:**
 20 **(A) the accounting and financial reporting processes; and**
 21 **(B) audits of financial statements;**
 22 **of the entity; or**
 23 **(3) if a body is not established or an election made as**
 24 **described in subdivision (1) or (2), the entire board of**
 25 **directors of the insurer or entity that controls an insurer.**

26 SECTION 8. IC 27-1-3.5-2.8 IS ADDED TO THE INDIANA
 27 CODE AS A NEW SECTION TO READ AS FOLLOWS
 28 [EFFECTIVE JULY 1, 2009]: **Sec. 2.8. (a) As used in this chapter,**
 29 **"independent member" means an individual who is a member of**
 30 **a committee or board established by an entity and meets all of the**
 31 **following requirements:**

- 32 **(1) The individual does not, other than in the individual's**
 33 **capacity as a member of an audit committee, a board of**
 34 **directors, or another board committee of the entity, accept**
 35 **any consulting, advisory, or other compensation from the**
 36 **entity.**
 37 **(2) The individual is not associated with:**
 38 **(A) an affiliate of the entity; or**
 39 **(B) a subsidiary of the entity or affiliate.**
 40 **(b) An individual who is not an independent member under**
 41 **subsection (a) may be considered to be an independent member for**
 42 **purposes of appointment to an audit committee of an insurer if:**

C
O
P
Y



- 1 **(1) another law requires participation on a board of directors**
- 2 **by an individual who is not an independent member;**
- 3 **(2) the individual is a member of the audit committee by**
- 4 **virtue of the individual's participation on the board of**
- 5 **directors described in subdivision (1); and**
- 6 **(3) the individual is not an officer or employee of the insurer.**

7 SECTION 9. IC 27-1-3.5-3.1 IS ADDED TO THE INDIANA
 8 CODE AS A NEW SECTION TO READ AS FOLLOWS
 9 [EFFECTIVE JULY 1, 2009]: **Sec. 3.1. As used in this chapter,**
 10 **"insurer" includes the following:**

- 11 **(1) An insurer group.**
- 12 **(2) A person that controls an insurer or an insurer group.**

13 SECTION 10. IC 27-1-3.5-3.2 IS ADDED TO THE INDIANA
 14 CODE AS A NEW SECTION TO READ AS FOLLOWS
 15 [EFFECTIVE JULY 1, 2009]: **Sec. 3.2. As used in this chapter,**
 16 **"insurer group" means a group of insurers that are:**

- 17 **(1) authorized to transact insurance business in Indiana and**
- 18 **subject to the reporting requirements of IC 27-1-23; or**
- 19 **(2) identified by the management personnel of an insurer to**
- 20 **assess the effectiveness of the insurer's internal control over**
- 21 **financial reporting.**

22 SECTION 11. IC 27-1-3.5-3.3 IS ADDED TO THE INDIANA
 23 CODE AS A NEW SECTION TO READ AS FOLLOWS
 24 [EFFECTIVE JULY 1, 2009]: **Sec. 3.3. As used in this chapter,**
 25 **"internal control over financial reporting" means a process,**
 26 **implemented by the board of directors, management personnel, or**
 27 **other personnel of an insurer, that is designed to provide**
 28 **reasonable assurance that the insurer's financial statements are**
 29 **reliable. The term includes policies and procedures that:**

- 30 **(1) pertain to the maintenance of records to accurately and**
- 31 **fairly reflect in reasonable detail:**
 - 32 **(A) transactions involving; and**
 - 33 **(B) disposition of;**
 - 34 **assets; and**
- 35 **(2) provide reasonable assurance that:**
 - 36 **(A) transactions are recorded as necessary to permit**
 - 37 **preparation of financial statements;**
 - 38 **(B) receipts and expenditures are made only when**
 - 39 **authorized by management personnel or directors; and**
 - 40 **(C) unauthorized acquisition, use, or disposition of assets**
 - 41 **that could have a material effect on financial statements is**
 - 42 **prevented or detected in a timely manner.**

C
o
p
y



1 SECTION 12. IC 27-1-3.5-3.4 IS ADDED TO THE INDIANA
 2 CODE AS A NEW SECTION TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 2009]: **Sec. 3.4. As used in this chapter,**
 4 **"SEC" refers to the federal Securities and Exchange Commission.**

5 SECTION 13. IC 27-1-3.5-3.6 IS ADDED TO THE INDIANA
 6 CODE AS A NEW SECTION TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 2009]: **Sec. 3.6. As used in this chapter,**
 8 **"Section 404" refers to:**

9 (1) **Section 404; and**

10 (2) **SEC regulations promulgated under Section 404;**
 11 **of the federal Sarbanes-Oxley Act of 2002.**

12 SECTION 14. IC 27-1-3.5-3.7 IS ADDED TO THE INDIANA
 13 CODE AS A NEW SECTION TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2009]: **Sec. 3.7. As used in this chapter,**
 15 **"Section 404 report" means a report of the management of an**
 16 **insurer concerning internal control over financial reporting and**
 17 **the related attestation report of the insurer's accountant.**

18 SECTION 15. IC 27-1-3.5-3.8 IS ADDED TO THE INDIANA
 19 CODE AS A NEW SECTION TO READ AS FOLLOWS
 20 [EFFECTIVE JULY 1, 2009]: **Sec. 3.8. As used in this chapter,**
 21 **"SOX compliant entity" means an entity that complies with all of**
 22 **the following provisions of the federal Sarbanes-Oxley Act of 2002:**

23 (1) **The preapproval requirements of Section 201 (Section**
 24 **10A(i) of the federal Securities Exchange Act of 1934).**

25 (2) **The audit committee independence requirements of**
 26 **Section 301 (Section 10A(m)(3) of the federal Securities**
 27 **Exchange Act of 1934).**

28 (3) **The internal control over financial reporting requirements**
 29 **of Section 404 (Item 308 of SEC regulation S-K).**

30 SECTION 16. 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 ~~pertaining to the accountant's~~ audit of the**
 36 **financial 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

C
o
p
y



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 17. 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 written policies nationwide at the end of a
13 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 **annual** audited
22 financial report in another state ~~or country~~ pursuant to that ~~under the~~
23 **other** state's ~~or country's~~ requirement for **filing of annual** audited
24 financial reports is exempt **from sections 6 through 13 of this**
25 **chapter, except sections 7.2 and 7.4 of this chapter**, with respect to
26 the year of that ~~the annual~~ audited financial report, ~~from the~~
27 requirement to file an audited financial report with the commissioner
28 under this chapter, if:

29 (1) the commissioner has found the other state's ~~or country's~~
30 requirement for **filing of** audited financial reports to be
31 substantially similar to the requirements of this chapter;

32 (2) ~~copies a copy~~ of the **annual** audited financial report, the
33 ~~report on significant deficiencies in communication of~~ internal
34 ~~controls; control over financial reporting related matters~~
35 **noted in an audit**, and the accountant's letter of qualifications
36 filed with the other state ~~or country~~ are filed with the
37 commissioner in accordance with the filing dates set forth in
38 sections ~~8, 6, 12,~~ and 12.5 of this chapter; and

39 (3) a copy of a notification of an adverse financial condition
40 report that is filed with the other state is filed with the
41 commissioner within the time specified in section 11 of this
42 chapter.

C
O
P
Y



1 (d) A foreign or an alien insurer that files a report of internal
2 control over financial reporting in another state is exempt from
3 filing the same report under this chapter if:

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

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

12 SECTION 18. IC 27-1-3.5-6 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. (a) A domestic An
14 insurer shall have an audit by an independent auditor every year
15 accountant and shall file an audited financial report with the
16 commissioner every year before not later than June 1 immediately
17 following the December 31 that ends the year reported on in the
18 financial report. The commissioner may require a domestic an insurer
19 to file an audited financial report earlier than June 1 if the
20 commissioner gives the domestic insurer ninety (90) days advance
21 notice of the earlier filing date.

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

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

33 SECTION 19. IC 27-1-3.5-7 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) The annual
35 audited financial report filed by a domestic an insurer under this
36 chapter shall report:

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

41 in conformity with statutory accounting practices prescribed, or
42 otherwise permitted, by the department of insurance.

C
o
p
y



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

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

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

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

24 (B) include the following:

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

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

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

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

C
O
P
Y



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

omitted.

SECTION 20. IC 27-1-3.5-7.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 7.2. (a) An insurer that is required to file an annual audited financial report under this chapter shall designate a group of individuals 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;**
- to constitute the insurer's audit committee.**

(b) Subsections (c) through (i) do not apply to:

- (1) a foreign or an alien insurer that has a certificate of authority to transact insurance business in Indiana; or**
- (2) an insurer that is a:**
 - (A) SOX compliant entity; or**
 - (B) direct or indirect wholly owned subsidiary of a SOX compliant entity.**

(c) If an independent member of an insurer's audit committee ceases to be independent for reasons beyond the member's reasonable control, the member, with notice from the insurer to the commissioner, may remain an audit committee member until the earlier of the date of the next annual meeting of the insurer or one (1) year after the occurrence of the event that caused the member to cease being an independent member.

(d) If the controlling person of an insurer elects to designate an audit committee for the insurer as described in section 1.4(2) of this chapter, the controlling person shall provide written notice to the commissioner, including a description of the basis for the election, before the insurer files the insurer's annual audited financial report. The controlling person may change an election by providing written notice of the change to the commissioner, including a description of the basis for the change. An election is effective until rescinded.

(e) The audit committee of an insurer is directly responsible for the:

- (1) appointment, compensation, supervision, and oversight of the work; and**
 - (2) resolution of financial reporting disagreements with the insurer's management personnel;**
- of an accountant in the accountant's preparation or issuance of the insurer's annual audited financial report or related work under**

**C
O
P
Y**



1 this chapter. An accountant reports directly to the audit committee
2 of the insurer.

3 (f) An insurer's audit committee shall require the accountant
4 that performs an audit required by this chapter to timely report to
5 the audit committee in accordance with Statement on Auditing
6 Standards No. 61 of the American Institute of Certified Public
7 Accountants, or its replacement, including all of the following:

8 (1) All significant accounting policies and permitted practices.
9 (2) All material alternative disclosures and treatments of
10 financial information within statutory accounting principles
11 that have been discussed with management personnel of the
12 insurer, ramifications of the use of the alternative disclosures
13 and treatments, and the treatment preferred by the
14 accountant.

15 (3) Other material written communications between the
16 accountant and the management personnel of the insurer,
17 including a management letter or schedule of unadjusted
18 differences.

19 (g) If:

20 (1) an insurer is a member of an insurance holding company
21 system that has an audit committee for the insurer members;
22 and

23 (2) any substantial differences among insurer members in the
24 insurance holding company system are identified to the audit
25 committee;

26 the reports required by subsection (f) may be provided to the audit
27 committee on an aggregate basis for all insurer members.

28 (h) The proportion of independent members of an audit
29 committee must meet or exceed the following requirements:

30 (1) If the insurer's immediately preceding calendar year
31 direct written and assumed premiums are not more than
32 three hundred million dollars (\$300,000,000), there is no
33 minimum requirement for independent members.

34 (2) If the insurer's immediately preceding calendar year
35 direct written and assumed premiums are more than three
36 hundred million dollars (\$300,000,000) and not more than five
37 hundred million dollars (\$500,000,000), at least fifty percent
38 (50%) of members must be independent members.

39 (3) If the insurer's immediately preceding calendar year
40 direct written and assumed premiums are more than five
41 hundred million dollars (\$500,000,000), at least seventy-five
42 percent (75%) of members must be independent members.

C
O
P
Y



1 However, the commissioner may increase the minimum
2 requirement for independent members for an insurer that is in an
3 RBC action level event under IC 27-1-36, meets one (1) or more
4 criteria to be considered in a hazardous financial condition or
5 otherwise exhibits qualities of a troubled insurer, as determined by
6 the commissioner according to rules adopted under IC 4-22-2.

7 (i) An insurer that has direct written and assumed premiums
8 (excluding premiums reinsured with the Federal Crop Insurance
9 Corporation and National Flood Insurance Program) equal to less
10 than five hundred million dollars (\$500,000,000) may apply to the
11 commissioner for a waiver from the requirements of this section
12 based on hardship. The insurer shall file the application with the:

- 13 (1) insurer's annual statement filing in the states in which the
- 14 insurer is authorized to do business; and
- 15 (2) National Association of Insurance Commissioners.

16 If a nondomestic state accepts electronic filing with the National
17 Association of Insurance Commissioners, the insurer shall file the
18 approval in an electronic format acceptable to the National
19 Association of Insurance Commissioners.

20 SECTION 21. IC 27-1-3.5-7.4 IS ADDED TO THE INDIANA
21 CODE AS A NEW SECTION TO READ AS FOLLOWS
22 [EFFECTIVE JULY 1, 2009]: Sec. 7.4. (a) A director or an officer of
23 an insurer shall not, in connection with an audit, review, or
24 communication required under this chapter, directly or indirectly:

- 25 (1) make or cause to be made a materially false or misleading
- 26 statement to an accountant; or
- 27 (2) omit, or cause another person to omit, a material fact
- 28 necessary to avoid misleading an accountant.

29 (b) A director or an officer of an insurer shall not directly or
30 indirectly coerce, manipulate, mislead, or fraudulently influence an
31 accountant while the accountant is engaged in the performance of
32 an audit under this chapter if the director or officer knows or
33 should know that the action could result in rendering the insurer's
34 financial statements materially misleading. Actions prohibited
35 under this subsection include actions to coerce, manipulate,
36 mislead, or fraudulently influence the accountant:

- 37 (1) to issue or reissue a report on an insurer's financial
- 38 statements that is not warranted due to material violations of
- 39 statutory accounting principles, generally accepted auditing
- 40 standards, or other professional or regulatory standards;
- 41 (2) not to perform audit, review, or other procedures required
- 42 under generally accepted auditing standards or other

C
o
p
y



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

- professional standards;**
- (3) to withdraw an issued report; or**
- (4) not to communicate matters to the insurer's audit committee.**

SECTION 22. IC 27-1-3.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) ~~A domestic~~ **An insurer that is required by this chapter to file an annual audited financial reports report shall, not more than sixty (60) days after becoming subject to the requirement, register in writing with the commissioner the name and address of the independent auditor accountant retained by the insurer to conduct the annual audits audit required by this chapter. The domestic insurer shall continuously ensure that the information provided to the commissioner under this section is accurate, and shall inform the commissioner in writing of any change in the identity or address of its independent auditor. An insurer that does not have an accountant on retainer on July 1, 2009, shall register the name and address of the insurer's retained accountant at least six (6) months before the first date by which the insurer's first annual audited financial report is to be filed after June 30, 2009.**

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

- (1) states that the ~~independent auditor accountant~~ **independent auditor accountant** is aware of the provisions of IC 27 and the administrative rules of the department of insurance **of the insurer's domiciliary state** that relate to ~~auditing, accounting and financial matters; and~~
- (2) affirms that the ~~independent auditor accountant~~ **independent auditor accountant** will express ~~its the accountant's~~ **the accountant's** opinion on the financial statements ~~of the domestic insurer~~ **in the terms of their conformity to the statutory accounting practices prescribed or otherwise permitted by the department, specifying such exceptions as the independent auditor accountant may believe appropriate.**

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

(c) If an ~~independent auditor accountant~~ **independent auditor accountant** that ~~served as the accountant for the immediately preceding annual~~ **served as the accountant for the immediately preceding annual** audited ~~the most recent~~ **the most recent** financial report filed by the insurer with the commissioner under this chapter subsequently ceases to be the ~~independent auditor accountant~~ **independent auditor accountant** for the insurer, the insurer shall:

- (1) not more than five (5) business days after the cessation of the ~~independent auditor's accountant's~~ **independent auditor's accountant's** services, notify the commissioner in writing of the ~~identity and address of the new~~

C
o
p
y



1 ~~independent auditor; cessation;~~
 2 (2) not more than ten (10) business days after the notification
 3 given ~~in~~ **under** subdivision (1), furnish the commissioner with a
 4 separate letter that states whether in the twenty-four (24) months
 5 preceding the ~~engagement cessation~~ of the ~~new independent~~
 6 ~~auditor accountant's services~~ there were any disagreements
 7 between the insurer and ~~its~~ **the** former ~~independent auditor~~
 8 ~~accountant~~ on any matter of accounting principles or practices,
 9 financial statement disclosure, or auditing scope or procedure,
 10 which, if not resolved to the satisfaction of the former
 11 ~~independent auditor accountant~~, would have caused the former
 12 ~~independent auditor accountant~~ to make reference to the subject
 13 matter of the disagreement in **connection with** the former
 14 ~~independent auditor's statement of its accountant's~~ opinion. ~~on~~
 15 ~~the insurer's financial report; and; if there was such a~~
 16 ~~disagreement; provides a description of the disagreement.~~
 17 Disagreements required to be reported under this subdivision
 18 include those at the decision making level that were resolved:

- 19 (A) to the former accountant's satisfaction; and
- 20 (B) not to the former accountant's satisfaction; and
- 21 (3) comply with subsection (d).

22 For the purposes of this subsection, "decision making level" refers to
 23 the personnel of the insurer who are responsible for the presentation of
 24 the insurer's financial statements and the personnel of the ~~independent~~
 25 ~~auditor accountant~~ who are responsible for rendering the ~~opinion of~~
 26 ~~the auditor on the insurer's annual audited~~ financial report.

27 (d) ~~A domestic~~ **An** insurer subject to the provisions of subsection (c)
 28 shall:

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

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

42 SECTION 23. IC 27-1-3.5-9 IS AMENDED TO READ AS

**C
O
P
Y**



1 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) **An accountant**
 2 **that audits an insurer's annual audited financial report filed under**
 3 **section 6 of this chapter must be recognized by the commissioner**
 4 **to be qualified to serve as the insurer's accountant.**

5 ~~(a)~~ (b) For the purposes of this chapter, the commissioner may not
 6 recognize as an independent auditor any a **qualified accountant an**
 7 individual or a firm that: is not:

8 (1) a certified public accountant (if an individual) or made up of
 9 certified public accountants (if a firm); or

10 (2) in good standing with:

11 (A) the American Institute of Certified Public Accountants;
 12 and

13 (B) all of the authorities that license certified public
 14 accountants and certified public accounting firms in the states
 15 in which the individual or firm is licensed to practice:

16 (1) is not an accountant under section 1 of this chapter; or

17 (2) has directly or indirectly entered into an indemnification
 18 agreement with respect to the audit of an insurer.

19 (c) Except as otherwise provided in this chapter, the
 20 commissioner shall recognize an accountant as qualified if the
 21 accountant is an accountant under section 1 of this chapter.

22 (d) A qualified accountant may enter into an agreement with an
 23 insurer to have disputes between the accountant and the insurer
 24 related to an audit resolved by mediation or arbitration. However,
 25 if a delinquency proceeding is commenced against the insurer
 26 under IC 27-9, a mediation or arbitration provision operates only
 27 at the option of the statutory successor of the insurer.

28 ~~(b)~~ (e) A partner or other individual who is primarily responsible
 29 for rendering a report conducting an audit may not act in that capacity
 30 for more than seven ~~(7)~~ five (5) consecutive years. ~~An~~ The individual
 31 who has been responsible for rendering a report for seven (7) years is
 32 disqualified from acting in that or a similar capacity for the same
 33 company or its insurance subsidiaries or affiliates for two ~~(2)~~ a period
 34 of five (5) consecutive years. ~~A domestic~~ An insurer may, shall,
 35 before December 1 of a calendar year, apply to the commissioner
 36 and request to be exempted from the seven (7) for relief from the five
 37 (5) year rotation requirement on the basis of unusual circumstances.
 38 The commissioner may consider the following factors in determining
 39 if relief should be granted:

40 (1) The number of partners, expertise of the partners, or number
 41 of insurance clients in the currently registered firm.

42 (2) The premium volume of the domestic insurer.

C
O
P
Y



1 (3) The number of jurisdictions in which the ~~domestic~~ insurer
2 transacts business.

3 **(f) If the commissioner has granted an insurer any relief from**
4 **the requirements of subsection (e), the insurer shall, with the**
5 **insurer's annual statement filing, file evidence of the relief with**
6 **the:**

7 (1) **states in which the insurer is authorized to do business;**
8 **and**

9 **(2) National Association of Insurance Commissioners.**

10 **If a nondomestic state accepts electronic filing with the National**
11 **Association of Insurance Commissioners, the insurer shall file the**
12 **grant of relief in an electronic format that is acceptable to the**
13 **National Association of Insurance Commissioners.**

14 ~~(e)~~ **(g) The commissioner may not recognize as an independent**
15 **auditor or a qualified accountant, nor accept an annual audited**
16 **financial report prepared in whole or part by, a person who: to whom**
17 **any of the following applies:**

18 (1) **The person** has been convicted of fraud, bribery, a violation
19 of the Racketeer Influenced and Corrupt Organizations Act under
20 federal law (18 U.S.C. 1961 through 1968) or state law
21 (IC 35-45-6) or any dishonest conduct or practices under federal
22 or state law.

23 (2) **The person** has been found to have violated the insurance law
24 of this state with respect to any previous reports submitted under
25 this chapter. ~~or~~

26 (3) **The person** has demonstrated a pattern or practice of failing
27 to detect or disclose material information in previous reports filed
28 under this chapter.

29 **(4) The person provides to the insurer, contemporaneously**
30 **with the audit, any of the following nonaudit services:**

31 **(A) Bookkeeping or other services related to the**
32 **accounting records or financial statements of the insurer.**

33 **(B) Financial information systems design and**
34 **implementation.**

35 **(C) Appraisal or valuation services, fairness opinions, or**
36 **contribution in kind reports.**

37 **(D) Actuarially oriented advisory services involving the**
38 **determination of amounts recorded in the financial**
39 **statements of the insurer. This clause does not include the**
40 **accountant's assistance to an insurer in understanding the**
41 **methods, assumptions, and inputs used in the**
42 **determination of amounts recorded in the financial**

C
o
p
y



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

statements if it is reasonable to conclude that the assistance will not be subject to audit procedures during an audit of the insurer's financial statements. Additionally, this clause does not include the issuance by the accountant's actuary of an actuarial opinion or certification concerning an insurer's reserves if the following conditions are met:

(i) Neither the accountant nor the actuary has performed any management functions or made any management decisions for the insurer.

(ii) The insurer has competent personnel, or engages a third party actuary, to estimate the reserves for which management personnel take responsibility.

(iii) The actuary tests the reasonableness of the reserves after the insurer's management personnel have determined the amount of the reserves.

(E) Internal audit outsourcing services.

(F) Management functions or human resources.

(G) Broker, dealer, investment adviser, or investment banking services.

(H) Legal services or expert services unrelated to the audit.

(I) Any other services that the commissioner determines by rule are impermissible.

(5) The person employed, as a partner or senior manager who participated in the audit of the insurer during the one (1) year period preceding the date on which the most current annual audited financial report is due, a member of the board, president, chief executive officer, controller, chief financial officer, chief accounting officer, or an individual who serves in an equivalent position for the insurer. However, an insurer may apply under subsection (m) to the commissioner for relief from the requirement of this subdivision on the basis of unusual circumstances.

(6) The person has functioned in the role of management for the insurer.

(7) The person has audited the person's own work.

(8) The person has served in an advocacy role for the insurer.

(h) An insurer that has direct written and assumed premiums totaling less than one hundred million dollars (\$100,000,000) in a calendar year may request an exemption from subsection (g)(4) by filing with the commissioner a written statement of the reasons for the request. The commissioner may grant the exemption if the commissioner finds that compliance with subsection (g)(4) would

C
O
P
Y



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

constitute a financial or organizational hardship on the insurer.

(i) A qualified accountant that performs an audit may perform for an insurer other nonaudit services, including tax services, that are not described in subsection (g)(4) if the performance of the nonaudit services is preapproved by the insurer's audit committee under subsection (j).

(j) Audit services and nonaudit services provided by an accountant to an insurer must be preapproved by the insurer's audit committee. However, the requirement for preapproval of nonaudit services may be waived if:

(1) the insurer is:

(A) a SOX compliant entity; or

(B) a direct or indirect wholly owned subsidiary of a SOX compliant entity; or

(2) all of the following apply:

(A) The aggregate amount paid for the nonaudit services constitutes not more than five percent (5%) of the total amount of fees paid by the insurer to the accountant during the fiscal year in which the nonaudit services are provided.

(B) The insurer did not recognize at the time the accountant was engaged to serve as the insurer's accountant that the services were nonaudit services.

(C) Before completion of the audit, the nonaudit services are promptly brought to the attention of the audit committee and approved by:

(i) the audit committee; or

(ii) one (1) or more members of the audit committee who are the members of the board of directors to whom authority to grant approvals has been delegated by the audit committee.

(k) The commissioner may conduct a hearing under IC 4-21.5 to determine whether an independent auditor engaged by a domestic insurer accountant is sufficiently independent of that domestic insurer to be capable of exercising independent judgment and qualified and, considering the evidence presented, may:

(1) rule that the accountant is not qualified for purposes of expressing an objective the accountant's opinion on the financial statements in the annual audited financial report filed by the insurer under this chapter; if the commissioner determines that the auditor is not sufficiently independent of the insurer, the commissioner shall and

C
O
P
Y



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

(2) require the insurer to replace the ~~auditor~~ **accountant** with another that is sufficiently independent of ~~accountant~~ **whose relationship with the insurer is qualified within the meaning of this chapter.**

(l) **An audit committee may delegate to one (1) or more designated members of the audit committee the authority to grant a preapproval required under subsection (j). The decisions of a member to whom this authority is delegated must be presented to the full audit committee at each scheduled meeting of the audit committee.**

(m) **An insurer that desires relief from the requirement of subsection (g)(5) shall, with the insurer's annual statement filing, file an application for relief from subsection (g)(5) with the:**

- (1) **states in which the insurer is authorized to do business; and**
- (2) **National Association of Insurance Commissioners.**

If a nondomestic state accepts electronic filing with the National Association of Insurance Commissioners, the insurer shall file the approval in an electronic format acceptable to the National Association of Insurance Commissioners.

SECTION 24. IC 27-1-3.5-9.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9.5. (a) An audit required under section 6 of this chapter must be conducted in accordance with generally accepted auditing standards.

(b) In accordance with AU Section 319 of the professional standards of the American Institute of Certified Public Accountants, an accountant conducting an audit under this chapter shall:

- (1) **obtain a sufficient understanding of internal control to plan the audit;**
- (2) **for an insurer required to file a report of internal control over financial reporting under this chapter, consider the most recently available financial report under Statement on Auditing Standards No. 102 of the American Institute of Certified Public Accountants, or its replacement, in planning and performing the audit of the statutory financial statements; and**
- (3) **if considered necessary by the accountant, consider the procedures in the National Association of Insurance Commissioners Financial Condition Examiners Handbook.**

SECTION 25. IC 27-1-3.5-10 IS AMENDED TO READ AS

**C
O
P
Y**



1 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. ~~A domestic An~~
 2 insurer may apply in writing to the commissioner for approval to ~~satisfy~~
 3 ~~the requirements of this chapter by filing file~~ audited consolidated or
 4 combined financial statements instead of separate annual audited
 5 financial statements if the insurer is part of a group of insurance
 6 companies that utilizes a pooling or one hundred percent (100%)
 7 reinsurance agreement that affects the solvency and integrity of the
 8 insurer's reserves and the insurer cedes all of the insurer's direct and
 9 assumed business to the pool. If ~~a domestic an~~ insurer whose
 10 application is approved elects to file a consolidated return, the insurer
 11 shall file, with its financial statements, a columnar consolidating or
 12 combining ~~schedule, worksheet~~, which must meet the following
 13 requirements:

14 (1) Amounts shown on the consolidated or combined **annual**
 15 audited financial report shall be shown on the ~~schedule:~~
 16 **worksheet.**

17 (2) Amounts for each insurer subject to this section shall be stated
 18 separately.

19 (3) Noninsurance operations ~~shall may~~ be shown on the ~~schedule~~
 20 **worksheet on a combined or** an individual basis.

21 (4) Explanations of consolidating and eliminating entries shall be
 22 included.

23 (5) A reconciliation shall be included of any differences between
 24 the amounts shown in the individual insurer columns of the
 25 ~~schedule worksheet~~ and comparable amounts shown on the
 26 annual statements of the insurers.

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

35 (1) the ~~domestic~~ insurer has materially misstated to the
 36 commissioner the financial condition of the insurer as of the date
 37 of the balance sheet being ~~examined audited~~ by the ~~independent~~
 38 ~~auditor; accountant; or~~

39 (2) the ~~domestic~~ insurer does not meet the minimum capital and
 40 surplus requirements of Indiana as of the date of the balance sheet
 41 being ~~examined audited~~ by the ~~independent auditor; accountant.~~

42 The ~~domestic~~ insurer ~~who that~~ has received a report under this section

C
O
P
Y



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

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

21 SECTION 27. IC 27-1-3.5-12 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) ~~A domestic An~~
 23 insurer required by this chapter to file an **annual** audited financial
 24 report with the commissioner shall also furnish the commissioner with:

25 (1) a written report ~~(or a letter on reportable conditions)~~
 26 describing the significant deficiencies **communication regarding**
 27 **any unremediated material weakness (as defined in Statement**
 28 **on Auditing Standard No. 60 of the American Institute of**
 29 **Certified Public Accountants, or its replacement)** in the
 30 insurer's internal control structure; ~~if internal control deficiencies~~
 31 **were over financial reporting as of the December 31**
 32 **immediately preceding the filing** noted by the ~~domestic insurer's~~
 33 ~~independent auditor in connection with its accountant during the~~
 34 ~~audit; and~~

35 (2) a written discussion **description** of any remedial action taken
 36 or proposed ~~in connection with~~ **to correct any unremediated**
 37 **material weakness communicated in** the written report; **and**

38 (3) **if no material weakness is noted by the accountant during**
 39 **the audit, a written communication noting that fact.**

40 (b) The written report **communication** and written discussion
 41 **description** required under subsection (a) must be filed not later than
 42 sixty (60) days after the filing of the annual audited financial

COPY



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

statements report.

SECTION 28. IC 27-1-3.5-12.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12.5. ~~The independent auditor~~ **An insurer's accountant** shall furnish the ~~domestic~~ insurer, in connection with and for inclusion in the filing of the annual audited financial report, a letter stating the following:

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

(2) The:

- (A) general background and experience; and
- (B) experience in audits of insurers;

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

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

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

(B) commissioner will be relying on the ~~independent auditor's 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~~ **accountant** is in compliance

C
o
p
y



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

with the requirements of section 9 of this chapter.
SECTION 29. IC 27-1-3.5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. (a) ~~A domestic An~~ **An insurer required to file an annual audited financial report under this chapter shall require its independent auditor the insurer's 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~~ **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)~~ **(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 30. IC 27-1-3.5-13.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 13.8. (a) An insurer that is required to file an annual audited financial report under this chapter and has annual direct written and assumed premiums (excluding premiums reinsured with the Federal Crop Insurance Corporation and National Flood Insurance Program) equal to at least five hundred million dollars (\$500,000,000) shall:**

- (1) prepare the insurer's report of internal controls over financial reporting as of the December 31 immediately preceding the report; and**
- (2) file the report prepared under subdivision (1) with the commissioner, along with the communication required under section 12 of this chapter.**

(b) The commissioner may require an insurer that has any amount of annual direct written and assumed premiums to file the

C
o
p
y



1 insurer's report of internal control over financial reporting if the
2 insurer:

3 (1) meets one (1) or more of the standards of an insurer
4 considered to be in hazardous financial condition as
5 determined by the commissioner according to rules adopted
6 under IC 4-22-2; or

7 (2) is in an RBC action level event under IC 27-1-36.

8 (c) An insurer that:

9 (1) is subject to subsection (a) or (b);

10 (2) is:

11 (A) directly subject to Section 404;

12 (B) part of a holding company system whose parent is
13 directly subject to Section 404;

14 (C) not directly subject to Section 404 and is a SOX
15 compliant entity; or

16 (D) a member of a holding company system with a parent
17 company that:

18 (i) is not directly subject to Section 404; and

19 (ii) is a SOX compliant entity; and

20 (3) includes a description of all of the insurer's internal
21 controls over financial reporting that have a material impact
22 on the preparation of the parts of the insurer's audited
23 statutory financial statements described in section 7(b)(2)
24 through 7(b)(6) and section 7(c) and 7(d) of this chapter in the
25 insurer's or parent's Section 404 report;

26 may satisfy the requirement of subsection (a) or (b) by filing the
27 insurer's or parent's Section 404 report and an affirmation from
28 the insurer's management personnel that all material processes
29 with respect to the preparation of the insurer's audited financial
30 statements are in subdivision (3) is included with the Section 404
31 report.

32 (d) If an insurer has internal controls over financial reporting
33 that have a material impact on the preparation of the insurer's
34 audited statutory financial statements and a description of the
35 internal controls over financial reporting is not included in the
36 Section 404 report that is filed by the insurer, the insurer may file:

37 (1) the insurer's report of internal control over financial
38 reporting as described in subsection (a); or

39 (2) a Section 404 report and the insurer's report of internal
40 control over financial reporting as described in subsection (a)
41 for the internal controls over financial reporting that are not
42 included in the Section 404 report.

C
O
P
Y



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

- (e) An insurer's report of internal control over financial reporting must include the following assertions:**
 - (1) A statement that management personnel are responsible for establishing and maintaining adequate internal control over financial reporting.**
 - (2) A statement that management personnel have established internal control over financial reporting accompanied by:**
 - (A) an assertion concerning whether:**
 - (i) after diligent inquiry by; and**
 - (ii) to the best of the knowledge and belief of; the management personnel, the insurer's internal control over financial reporting is effective to provide reasonable assurance that the financial statements are reliable and prepared in accordance with statutory accounting principles; and**
 - (B) a disclosure of any unremediated material weakness:**
 - (i) in the insurer's internal control over financial reporting; and**
 - (ii) identified by management personnel as of the December 31 immediately preceding the date of the report.**
 - (3) A statement that briefly describes the approach or process by which management personnel evaluate the effectiveness of the insurer's internal control over financial reporting.**
 - (4) A statement that briefly describes the scope of work that is included in the report and whether any of the insurer's internal controls over financial reporting are excluded from the report.**
 - (5) A statement regarding inherent limitations of the insurer's internal control over financial reporting system.**
 - (6) Signatures of the chief executive officer and the chief financial officer or equivalent officers.**
- (f) An insurer's management personnel:**
 - (1) shall:**
 - (A) document; and**
 - (B) make available upon a financial condition examination; the basis for the assertions made under subsection (e);**
 - (2) may partially base the assertions made under subsection (e) on review, monitoring, and testing of the insurer's internal control over financial reporting that is undertaken in the normal course of the management activities; and**
 - (3) shall determine the:**

**C
O
P
Y**



1 **(A) nature of the insurer's internal control over financial**
 2 **reporting system; and**
 3 **(B) nature and extent of documentation;**
 4 **that are used to support the assertions made under subsection**
 5 **(e) in a cost effective manner.**

6 **(g) For purposes of this section, if an unremediated material**
 7 **weakness exists in an insurer's internal control over financial**
 8 **reporting, the insurer's management personnel shall not conclude**
 9 **that the internal control over financial reporting is effective to**
 10 **provide reasonable assurance regarding the reliability of the**
 11 **insurer's financial statements in accordance with statutory**
 12 **accounting principles.**

13 **(h) A report of an insurer's internal control over financial**
 14 **reporting and supporting documentation provided during a**
 15 **financial condition examination is confidential.**

16 SECTION 31. IC 27-1-3.5-14 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. (a) In response to
 18 a written application from a ~~domestic~~ **an** insurer, the commissioner
 19 may grant an exemption from compliance with this chapter if the
 20 commissioner finds, upon review of the application, that compliance
 21 with this chapter would constitute a financial or an organizational
 22 hardship upon the ~~domestic~~ insurer. An exemption may be granted at
 23 any time for a specified period.

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

28 SECTION 32. IC 27-1-3.5-16 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. **(a)** A domestic
 30 insurer that fails to file an audited annual financial report before July
 31 1 or any other deadline established by the commissioner for the insurer
 32 under this chapter without having obtained an extension is subject to
 33 a civil penalty of fifty dollars (\$50) per day until the report is received
 34 by the commissioner.

35 **(b) Except as provided in subsections (d), (e), and (f), a domestic**
 36 **insurer shall comply with IC 27-1-3.5, as amended by amendments**
 37 **effective on July 1, 2009, for the year ending December 31, 2009,**
 38 **and each subsequent year unless otherwise permitted by the**
 39 **commissioner.**

40 **(c) Except as provided in subsections (d), (e), and (f), a foreign**
 41 **or alien insurer shall comply with this chapter, as amended**
 42 **effective on July 1, 2009, for the year ending December 31, 2009,**

C
o
p
y



1 and each year thereafter, unless otherwise permitted by the
2 commissioner.

3 (d) The requirements of section 9(e) of this chapter are in effect
4 for an annual audited financial report for the year ending
5 December 31, 2010, and each subsequent year.

6 (e) The requirements of section 7.2 of this chapter, as amended
7 effective on July 1, 2009, apply beginning for the year ending
8 December 31, 2010. However, an insurer or insurer group that, on
9 December 31, 2010, is described in:

10 (1) section 7.2(h)(1) of this chapter and in a subsequent
11 calendar year is described in section 7.2(h)(2) or 7.2(h)(3) of
12 this chapter; or

13 (2) section 7.2(h)(2) of this chapter and in a subsequent
14 calendar year is described in section 7.2(h)(3) of this chapter;
15 due to a change in premium or business combination has one (1)
16 calendar year following the year during which the change occurs
17 to comply with the requirements specified in section 7.2(h) of this
18 chapter for percentage of independent members of the insurer's or
19 insurer group's audit committee.

20 (f) Except as provided in subsection (e), section 13.8 of this
21 chapter applies beginning for the year ending December 31, 2010.
22 However, an insurer or insurer group that, on December 31, 2010,
23 is not subject to section 13.8 of this chapter and in a subsequent
24 calendar year becomes subject to section 13.8 of this chapter due
25 to a change in premium or business combination shall comply with
26 section 13.8 of this chapter beginning two (2) calendar years
27 following the calendar year during which the change occurs.

28 SECTION 33. IC 27-1-3.5-18 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 18. (a) In the case of a
30 British or Canadian insurer, the annual audited financial report refers
31 to the annual statement of total business on the form filed by the
32 company with its domiciliary supervision authority audited by an
33 independent auditor: **accountant**.

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

40 SECTION 34. IC 27-1-9-12 IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) In case of a
42 merger or consolidation between a domestic and a foreign company,

C
O
P
Y



1 the articles of merger or consolidation shall be regarded as executed by
 2 the proper officers of said foreign company when such officers are duly
 3 authorized to execute same through such action on the part of the
 4 directors, shareholders, members, or policyholders of said foreign
 5 company as may be required by the laws of the state where the same is
 6 incorporated; and upon execution, said articles of merger or
 7 consolidation shall be submitted to the commissioner of insurance or
 8 other officer at the head of the insurance department of the state where
 9 such foreign company is incorporated. No such merger or consolidation
 10 shall take effect until it shall have been approved by the insurance
 11 official of the state where said foreign company is incorporated nor
 12 until a certificate of his approval has been filed in the office of the
 13 department of insurance of the state of Indiana. Such submission to and
 14 approval by the proper official of such other state shall not be required
 15 unless the same are required by the laws of such foreign state. The
 16 domestic company involved in such merger or consolidation shall not
 17 through anything contained in this section be relieved of any of the
 18 procedural requirements enumerated in the preceding sections of this
 19 article.

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

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

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

42 (2) Accident and health or sickness — insurance coverage for

C
O
P
Y



1 sickness, bodily injury, or accidental death that may include
 2 benefits for disability income.

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

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

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

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

14 (7) Credit — limited line credit insurance.

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

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

19 (b) A person who requests and receives qualification under
 20 subsection (a)(5) for variable life and annuity products:
 21 (1) is considered to have requested; and
 22 (2) shall receive;
 23 a life qualification under subsection (a)(1). **The insurance producer's**
 24 **license document must clearly indicate that the life qualification**
 25 **received under this subsection includes a qualification for variable**
 26 **life and variable annuity products.**

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

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

34 (e) An individual insurance producer who:
 35 (1) allows the individual insurance producer's license to lapse;
 36 and
 37 (2) completed all required continuing education before the license
 38 expired;
 39 may, not more than twelve (12) months after the expiration date of the
 40 license, reinstate the same license without the necessity of passing a
 41 written examination. A penalty in the amount of three (3) times the
 42 unpaid renewal fee shall be required for any renewal fee received after

C
O
P
Y



1 the expiration date of the license. However, the department of
 2 insurance may waive the penalty if the renewal fee is received not more
 3 than thirty (30) days after the expiration date of the license.

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

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

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

19 (i) To assist in the performance of the commissioner's duties, the
 20 commissioner may contract with nongovernmental entities, including
 21 the National Association of Insurance Commissioners (NAIC), or any
 22 affiliates or subsidiaries that the NAIC oversees, to perform ministerial
 23 functions, including the collection of fees related to producer licensing,
 24 that the commissioner and the nongovernmental entity consider
 25 appropriate.

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

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

C
O
P
Y



1 if:

- 2 (1) the individual is currently licensed in the other state; or
- 3 (2) the application is received within ninety (90) days after the
- 4 cancellation of the applicant's previous license and:

- 5 (A) the other state issues a certification that, at the time of
- 6 cancellation, the applicant was in good standing in that state;
- 7 or

- 8 (B) the state's Producer Database records that are maintained
- 9 by the National Association of Insurance Commissioners, its
- 10 affiliates, or its subsidiaries, indicate that the producer is or
- 11 was licensed in good standing for the line of authority
- 12 requested.

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

- 21 (c) An individual who:

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

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

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

- 32 of this chapter;

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

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

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

- 42 (2) applies for an insurance producer license in Indiana requesting

COPY



1 qualification under sections:

2 (A) 7(a)(3);

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

4 (C) 7(a)(6);

5 of this chapter;

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

9 **(e) An individual who:**

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

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

14 **is not required to complete prelicensing education and is required**
15 **to take only the part of the examination required under section**
16 **5(b) of this chapter that pertains to Indiana laws and rules.**

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

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

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

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

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

37 (1) Ethical practices in the marketing and selling of title
38 insurance.

39 (2) Title insurance underwriting.

40 (3) Escrow issues.

41 (4) Principles of the federal Real Estate Settlement Procedures
42 Act (12 U.S.C. 2608).

C
o
p
y



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

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

10 (1) A limited lines producer who is licensed without examination
 11 under IC 27-1-15.6-18(1) or IC 27-1-15.6-18(2).

12 (2) A limited line credit insurance producer.

13 (3) **Before July 1, 2011**, an insurance producer who:

14 (A) is at least seventy (70) years of age; and

15 (B) has been a licensed insurance producer continuously for at
 16 least twenty (20) years immediately preceding the license
 17 renewal date.

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

21 (1) after the effective date of the licensee's last renewal of a
 22 license under this chapter; or

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

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

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

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

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

39 (1) a continuing education statement that:

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

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

42 (C) lists the continuing education courses completed by the

C
O
P
Y



1 licensee to satisfy the continuing education requirements of
2 this section; and

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

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

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

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

10 (1) is approved by the commissioner under section 4 of this
11 chapter;

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

13 (3) concerns ethics;

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

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

23 (1) Be conducted or developed by an:

24 (A) insurance trade association;

25 (B) accredited college or university;

26 (C) educational organization certified by the insurance
27 producer education and continuing education advisory council;
28 or

29 (D) insurance company licensed to do business in Indiana.

30 (2) Provide for self-study or instruction provided by an approved
31 instructor in a structured setting, as follows:

32 (A) For life insurance producers, not less than ~~twenty-four (24)~~
33 **twenty (20)** hours of instruction in a structured setting or
34 comparable self-study on:

35 (i) ethical practices in the marketing and selling of
36 insurance;

37 (ii) requirements of the insurance laws and administrative
38 rules of Indiana; and

39 (iii) principles of life insurance.

40 (B) For health insurance producers, not less than ~~twenty-four~~
41 **(24) twenty (20)** hours of instruction in a structured setting or
42 comparable self-study on:

C
O
P
Y



- 1 (i) ethical practices in the marketing and selling of
- 2 insurance;
- 3 (ii) requirements of the insurance laws and administrative
- 4 rules of Indiana; and
- 5 (iii) principles of health insurance.
- 6 (C) For life and health insurance producers, not less than forty
- 7 (40) hours of instruction in a structured setting or comparable
- 8 self-study on:
- 9 (i) ethical practices in the marketing and selling of
- 10 insurance;
- 11 (ii) requirements of the insurance laws and administrative
- 12 rules of Indiana;
- 13 (iii) principles of life insurance; and
- 14 (iv) principles of health insurance.
- 15 (D) For property and casualty insurance producers, not less
- 16 than forty (40) hours of instruction in a structured setting or
- 17 comparable self-study on:
- 18 (i) ethical practices in the marketing and selling of
- 19 insurance;
- 20 (ii) requirements of the insurance laws and administrative
- 21 rules of Indiana;
- 22 (iii) principles of property insurance; and
- 23 (iv) principles of liability insurance.
- 24 (E) For personal lines producers, a minimum of ~~twenty-four~~
- 25 **(24) twenty (20)** hours of instruction in a structured setting or
- 26 comparable 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; and
- 31 (iii) principles of property and liability insurance applicable
- 32 to coverages sold to individuals and families for primarily
- 33 noncommercial purposes.
- 34 (F) For title insurance producers, not less than ten (10) hours
- 35 of instruction in a structured setting or comparable self-study
- 36 on:
- 37 (i) ethical practices in the marketing and selling of title
- 38 insurance;
- 39 (ii) requirements of the insurance laws and administrative
- 40 rules of Indiana;
- 41 (iii) principles of title insurance, including underwriting and
- 42 escrow issues; and

COPY



1 (iv) principles of the federal Real Estate Settlement
 2 Procedures Act (12 U.S.C. 2608).

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

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

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

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

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

20 (f) The commissioner may, after notice and opportunity for a
 21 hearing, withdraw the certification of a course of study that does not
 22 maintain reasonable standards, as determined by the commissioner for
 23 the protection of the public.

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

27 SECTION 39. IC 27-1-17-3 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. No foreign or alien
 29 insurance company shall be admitted to do business in this state having
 30 a name which, at the date of such admission, could not be taken by a
 31 domestic corporation under the provisions of IC 27-1-6-3, except that
 32 the name of a foreign or alien insurance company need not include the
 33 word "company", "corporation", "incorporated", or "mutual", or one (1)
 34 of the abbreviations thereof, nor the word "insurance" or the word
 35 "assurance" provided the name of such company is authorized by the
 36 laws of the state or territory of its organization or domicile and
 37 provided such name does not negate the characteristic of such company
 38 as an insurance company. ~~No such foreign or alien insurance company~~
 39 ~~after it has been admitted shall, by amendment to its charter, assume~~
 40 ~~any name which, at the date of the filing of such amendment as~~
 41 ~~provided in this chapter, could not be taken by a domestic corporation~~
 42 ~~under the provisions of IC 27-1-6-3.~~

COPY



1 SECTION 40. IC 27-1-17-4, AS AMENDED BY P.L.193-2006,
2 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]: Sec. 4. Whenever a foreign or an alien insurance
4 company desires to be admitted to do an insurance business in this
5 state, it shall execute in the English language and present the following
6 to the department, at its office, accompanied by the fees prescribed by
7 law:

8 (1) A copy of its articles of incorporation or association, with all
9 amendments thereto, duly authenticated by the proper officer of
10 the state, country, province, or government wherein it is
11 incorporated or organized, or the state in which it is domiciled in
12 the United States.

13 (2) An application for admission, executed in the manner
14 provided in this chapter, setting forth:

15 (A) the name of such company;

16 (B) the location of its principal office or place of business
17 without this state;

18 (C) the names of the states in which it has been admitted or
19 qualified to do business;

20 (D) the character of insurance business under its articles of
21 incorporation or association which it intends to transact in this
22 state, which must conform to the class or classes set forth in
23 the provisions of IC 27-1-5-1;

24 (E) the total authorized capital stock of the company and the
25 amount thereof issued and outstanding, and the surplus
26 required of such company by the laws of the state, country,
27 province, or government under which it is organized, or the
28 state in which it is domiciled in the United States, if a stock
29 company, which shall equal at least the requirements set forth
30 in section 5(a) of this chapter;

31 (F) the total amount of assets and the surplus of assets over all
32 its liabilities, if other than a stock company, which shall equal
33 at least the requirements set forth in section 5(b) of this
34 chapter;

35 (G) if an alien company, the surplus of assets invested
36 according to the laws of the state in the United States where it
37 has its deposit, which shall equal at least the requirements set
38 forth in section 5(c) of this chapter; and

39 (H) such further and additional information as the department
40 may from time to time require.

41 The application shall be signed, ~~in duplicate~~ in the form
42 prescribed by the department, by the president or a vice president

C
o
p
y



1 and the secretary or an assistant secretary of the corporation, and
 2 verified under oath by the officers signing the same.
 3 (3) A statement of its financial condition and business, in the form
 4 prescribed by law for annual statements, signed and sworn to by
 5 the president or secretary or other principal officers of the
 6 company; provided, however, that an alien company shall also
 7 furnish a separate statement comprising only its condition and
 8 business in the United States, which shall be signed and sworn to
 9 by its United States manager.
 10 (4) A copy of the last report of examination certified to by the
 11 insurance commissioner or other proper supervisory official of the
 12 state in which such company is domiciled; provided, however,
 13 that the commissioner may cause an examination to be made of
 14 the condition and affairs of such company before authority to
 15 transact business in this state is given.
 16 (5) A certificate from the proper official of the state, country,
 17 province, or government wherein it is incorporated or organized,
 18 or the state in which it is domiciled in the United States, that it is
 19 duly organized or incorporated under those laws and authorized
 20 to make the kind or kinds of insurance which it proposes to make
 21 in this state.
 22 (6) A copy of its bylaws or regulations, if any, certified to by the
 23 secretary or similar officer of the insurance company.
 24 (7) A duly executed power of attorney in a form prescribed by the
 25 department which constitutes and appoints an individual or a
 26 corporate resident of Indiana, or an authorized Indiana insurer, as
 27 the insurance company's agent, its true and lawful attorney upon
 28 whom, except as provided in section 4.2 of this chapter, all lawful
 29 processes in any action in law or in equity against it shall be
 30 served. Such power of attorney shall contain an agreement by the
 31 insurance company that any lawful process against it which may
 32 be served upon the agent as its attorney shall be of the same force
 33 and validity as if served upon the insurance company and that
 34 such power of attorney shall continue in force and be irrevocable
 35 so long as any liability of the insurance company remains
 36 outstanding in this state. Such power of attorney shall be executed
 37 by the president and secretary of the insurance company or other
 38 duly authorized officers under its seal and shall be accompanied
 39 by a certified copy of the resolution of the board of directors of
 40 the company making said appointment and authorizing the
 41 execution of said power of attorney. Service of any lawful process
 42 shall be by delivering to and leaving with the agent two (2) copies

**C
O
P
Y**



1 of such process, with copy of the pertinent complaint attached.
 2 The agent shall forthwith transmit to the defendant company at its
 3 last known principal place of business by registered or certified
 4 mail, return receipt requested, one (1) of the copies of such
 5 process, with complaint attached, the other copy to be retained in
 6 a record which shall show all process served upon and transmitted
 7 by him. Such service shall be sufficient provided the returned
 8 receipt or, if the defendant company shall refuse to accept such
 9 mailing, the registered mail together with an affidavit of plaintiff
 10 or his attorney stating that service was made upon the agent and
 11 forwarded as above set forth but that such mail was returned by
 12 the post office department is filed with the court. The agent shall
 13 make information and receipts available to plaintiff, defendant, or
 14 their attorneys. No plaintiff or complainant shall be entitled to a
 15 judgment by default based on service authorized by this section
 16 until the expiration of at least thirty (30) days from the date on
 17 which either the post office receipt or the unclaimed mail together
 18 with affidavit is filed with the court. Nothing in this section shall
 19 limit or abridge the right to serve any process, notice, or demand
 20 upon any company in any other manner permitted by law.

21 (8) Proof which satisfies the department that it has complied with
 22 the financial requirements imposed in this chapter upon foreign
 23 and alien insurance companies which transact business in this
 24 state and that it is entitled to public confidence and that its
 25 admission to transact business in this state will not be prejudicial
 26 to public interest.

27 SECTION 41. IC 27-1-18-4 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) Any foreign or
 29 alien corporation admitted to do business in this state may alter or
 30 enlarge the character of the business which it is authorized to transact
 31 in this state under its articles of incorporation or association, and any
 32 amendments thereof filed with the department as provided in section
 33 3 of this chapter, by procuring an amended certificate of authority from
 34 the department in the manner provided in subsection (b).

35 (b) Whenever a foreign or alien corporation desires to procure such
 36 amended certificate, it shall present to the department at its office,
 37 accompanied by the fees prescribed by law, an application for an
 38 amended certificate of authority, setting forth the change desired in the
 39 kind or kinds of insurance business under its articles of incorporation
 40 or association which it intends to thereafter carry on in this state; the
 41 application shall be filed in duplicate in the form prescribed by the
 42 department by the president or a vice president and the secretary or an

C
O
P
Y



1 assistant secretary of the corporation, and verified by the oaths of the
2 officers signing the same.

3 (c) Upon the presentation of such application, accompanied by the
4 corporation's certificate of authority, the department, if it ~~find~~ **finds** that
5 it conforms to law and that the foreign or alien company has fulfilled
6 the requirements set forth in subsection (b) and in section 3 of this
7 chapter, may endorse its approval upon ~~each of the duplicate copies of~~
8 the application, and, in case of the approval of such application and
9 when all fees required by law shall have been paid, shall file one (1)
10 copy of the application in its office, cancel the certificate of authority
11 presented with the application, and issue to the corporation a new
12 certificate of authority, which certificate shall set forth the kind or
13 kinds of business that the corporation is authorized thereafter to
14 transact in this state, which shall be accompanied by one (1) copy of
15 the application bearing the endorsement of the approval of the
16 department.

17 (d) Upon the issuance of the new certificate of authority by the
18 department, the corporation therein named shall have authority
19 thereafter to transact in this state the kind or kinds of insurance
20 business set forth in such certificate, subject to the terms and
21 conditions prescribed in this article.

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

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

- 26 "**Broker dealer**" means an entity that:
- 27 (1) is registered with and subject to the jurisdiction of the
- 28 Securities and Exchange Commission;
- 29 (2) maintains membership in the Securities Investor
- 30 Protection Corporation; and
- 31 (3) has a tangible net worth of at least two hundred fifty
- 32 million dollars (\$250,000,000).

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

41 "Direct participant" means a bank, trust company, or safety deposit
42 company approved by the commissioner which maintains an account

C
o
p
y



1 in its name in a clearing corporation and through which an insurance
2 company participates in a clearing corporation.

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

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

14 "**Securities**" means instruments (as defined in IC 26-1-8.1-102).

15 (b) Notwithstanding any other provision of law, a domestic
16 insurance company may deposit or arrange for the safekeeping of
17 securities held in or purchased for its general account and its separate
18 accounts in a clearing corporation or the Federal Reserve book-entry
19 system. When securities are deposited with a clearing corporation,
20 certificates representing securities of the same class of the same issuer
21 may be merged and held in bulk in the name of the nominee of such
22 clearing corporation with any other securities deposited with such
23 clearing corporation by any person, regardless of the ownership of such
24 securities, and certificates representing securities of small
25 denominations may be merged into one (1) or more certificates of
26 larger denominations. The records of any member bank **or broker**
27 **dealer** through which an insurance company holds securities in the
28 Federal Reserve book-entry system, and the records of any custodian
29 through which an insurance company holds securities in a clearing
30 corporation, shall at all times show that such securities are held for
31 such insurance company and for which accounts thereof. Ownership of,
32 and other interests in, such securities may be transferred by
33 bookkeeping entry on the books of such clearing corporation or in the
34 Federal Reserve book-entry system without, in either case, physical
35 delivery of certificates representing such securities.

36 (c) Any Indiana law requiring an insurance company operating
37 under the laws of Indiana to deposit assets with the department shall be
38 deemed complied with if such deposit is made pursuant to a written
39 agreement between the insurance company and any bank, trust
40 company or a safety deposit company and approved by the
41 commissioner which limits withdrawals to those sanctioned and
42 approved by the department. Deposits so made shall be credited by the

C
O
P
Y



1 department as deposits in its possession on the basis of the insurance
2 company's affidavit describing such deposits as to amount and nature.

3 (d) Notwithstanding any other provisions of law, securities eligible
4 for deposit under the insurance law of this state relating to deposit of
5 securities by an insurance company as a condition of commencing or
6 continuing to do an insurance business in this state may be deposited
7 with a clearing corporation or held in the Federal Reserve book-entry
8 system. Securities deposited with a clearing corporation or held in the
9 Federal Reserve book-entry system and used to meet the deposit
10 requirements under the insurance laws of this state shall be under the
11 control of the commissioner and shall not be withdrawn by the
12 insurance company without the approval of the commissioner. Any
13 insurance company holding such securities in such manner shall
14 provide to the commissioner evidence issued by its custodian or a
15 member bank through which such insurance company has deposited
16 securities with a clearing corporation or held in the Federal Reserve
17 book-entry system, respectively, in order to establish that the securities
18 are actually recorded in an account in the name of the custodian or
19 other direct participant or member bank and evidence that the records
20 of the custodian, other participant, or member bank reflect that such
21 securities are held subject to the order of the commissioner.

22 (e) The commissioner of insurance is authorized to promulgate rules
23 and regulations governing the deposit by insurance companies of
24 securities with clearing corporations and in the Federal Reserve
25 book-entry system.

26 SECTION 43. IC 27-1-23-4 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) Material
28 transactions within an insurance holding company system to which an
29 insurer subject to registration is a party shall be subject to the following
30 standards:

- 31 (1) The terms shall be fair and reasonable.
- 32 (2) The charges or fees for services performed shall be
33 reasonable.
- 34 (3) The expenses incurred for any payment received shall be
35 allocated to the insurer in conformity with customary insurance
36 accounting practices consistently applied.
- 37 (4) The books, accounts, and records of each party as to all
38 transactions described in this subsection shall be so maintained as
39 to clearly and accurately disclose the precise nature and details of
40 the transactions, including accounting information necessary to
41 support the reasonableness of the charges or fees to the respective
42 parties.

**C
O
P
Y**



1 (5) The insurer's surplus as regards policyholders following any
 2 transactions with affiliates or shareholder dividend shall be
 3 reasonable in relation to the insurer's outstanding liabilities and
 4 adequate to its financial needs.

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

11 (1) Sales, purchases, exchanges, loans or extensions of credit,
 12 guarantees, or investments, provided those transactions are equal
 13 to or exceed:

14 (A) with respect to nonlife insurers, the lesser of three percent
 15 (3%) of the insurer's admitted assets or twenty-five percent
 16 (25%) of surplus as regards policyholders; and
 17 (B) with respect to life insurers, three percent (3%) of the
 18 insurer's admitted assets;
 19 each as of December 31 next preceding.

20 (2) Loans or extensions of credit to any person who is not an
 21 affiliate, where the insurer makes those loans or extensions of
 22 credit with the agreement or understanding that the proceeds of
 23 such transactions, in whole or in substantial part, are to be used
 24 to make loans or extensions of credit to, to purchase assets of, or
 25 to make investments in, any affiliate of the insurer making such
 26 loans or extensions of credit, provided those transactions are
 27 equal to or exceed:

28 (A) with respect to nonlife insurers, the lesser of three percent
 29 (3%) of the insurer's admitted assets or twenty-five percent
 30 (25%) of surplus as regards policyholders; and
 31 (B) with respect to life insurers, three percent (3%) of the
 32 insurer's admitted assets;
 33 each as of December 31 next preceding.

34 (3) Reinsurance agreements or modifications thereto in which the
 35 amount of cash or invested assets transferred by the insurer equals
 36 or exceeds five percent (5%) of the insurer's surplus as regards
 37 policyholders, as of December 31 next preceding, including those
 38 agreements that may require as consideration the transfer of assets
 39 from an insurer to a nonaffiliate, if an agreement or understanding
 40 exists between the insurer and nonaffiliate that any portion of the
 41 assets will be transferred to one (1) or more affiliates of the
 42 insurer.

C
O
P
Y



1 (4) Management agreements, service contracts, ~~and~~ cost-sharing
2 arrangements, **lease agreements, and tax allocation**
3 **agreements.**
4 (5) Material transactions, specified by rule, that the commissioner
5 determines may adversely affect the interests of the insurer's
6 policyholders.

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

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

15 (d) The commissioner, in reviewing transactions pursuant to
16 subsection (b), shall consider whether the transactions comply with the
17 standards set forth in subsection (a) and whether the transactions may
18 adversely affect the interests of policyholders.

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

23 (f) For purposes of this chapter, in determining whether an insurer's
24 surplus is reasonable in relation to the insurer's outstanding liabilities
25 and adequate to its financial needs, the following factors, among others,
26 shall be considered:

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

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

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

33 (4) The extent of the geographical dispersion of the insurer's
34 insured risks.

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

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

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

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

C
O
P
Y



- 1 (9) The adequacy of the insurer's reserves.
- 2 (10) The quality and liquidity of investments in subsidiaries,
3 except that the commissioner may discount or treat any such
4 investment in subsidiaries as a disallowed asset for purposes of
5 determining the adequacy of surplus whenever in his judgment
6 such investment so warrants.
- 7 (11) The quality of the earnings of the insurer and the extent to
8 which the reported earnings of the insurer include extraordinary
9 items.
- 10 (g) No domestic insurer subject to registration under section 3 of
11 this chapter shall pay an extraordinary dividend or make any other
12 extraordinary distribution to its security holders until:
- 13 (1) thirty (30) days after the commissioner has received notice of
14 the declaration thereof and has not within such period
15 disapproved such payment; or
- 16 (2) the commissioner shall have approved such payment within
17 such thirty (30) day period.
- 18 (h) For purposes of subsection (g), an extraordinary dividend or
19 distribution is any dividend or distribution of cash or other property
20 whose fair market value, together with that of other dividends or
21 distributions made within the twelve (12) consecutive months ending
22 on the date on which the proposed dividend or distribution is scheduled
23 to be made, exceeds the greater of:
- 24 (1) ten percent (10%) of such insurer's surplus as regards
25 policyholders as of the most recently preceding December 31; or
- 26 (2) the net gain from operations of such insurer, if such insurer is
27 a life insurer, or the net income, if such insurer is not a life
28 insurer, for the twelve (12) month period ending on the most
29 recently preceding December 31.
- 30 (i) Notwithstanding any other provision of law, a domestic insurer
31 may declare an extraordinary dividend or distribution which is
32 conditional upon the commissioner's approval thereof, but such a
33 declaration shall confer no rights upon shareholders until:
- 34 (1) the commissioner has approved the payment of such dividend
35 or distribution; or
- 36 (2) the commissioner has not disapproved the payment within the
37 thirty (30) day period referred to in subsection (g).
- 38 SECTION 44. IC 27-1-25-1 IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. As used in this
40 chapter:
- 41 (a) "Administrator" ~~except as provided in section 7.5 of this chapter,~~
42 means a person who directly or indirectly and on behalf of an insurer

C
o
p
y



1 underwrites, collects charges or premiums from, or adjusts or settles
 2 claims on residents of Indiana in connection with life, annuity, or
 3 health coverage offered or provided by an insurer. The term
 4 "administrator" does not include the following persons:

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

7 (A) the employer;

8 (B) the subsidiary; or

9 (C) an affiliated corporation of the employer.

10 (2) A union acting for its members.

11 (3) An insurer.

12 (4) An insurance producer:

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

14 (B) that has:

15 (i) a life; or

16 (ii) an accident and health or sickness;
 17 qualification under IC 27-1-15.6-7; and

18 (C) whose activities are limited exclusively to the sale of
 19 insurance.

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

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

24 (7) A trust that is exempt from taxation under Section 501(a) of
 25 the Internal Revenue Code and:

26 (A) the trustees and employees acting pursuant to that trust; or

27 (B) a custodian and the agents and employees of the custodian
 28 acting pursuant to a custodian account that meets the
 29 requirements of Section 401(f) of the Internal Revenue Code.

30 (8) A financial institution that is subject to supervision or
 31 examination by federal or state banking authorities to the extent
 32 that the financial institution collects and remits premiums to an
 33 insurance producer or an authorized insurer in connection with a
 34 loan payment.

35 (9) A credit card issuing company that:

36 (A) advances for; and

37 (B) collects from, when a credit card holder authorizes the
 38 collection;

39 credit card holders of the credit card issuing company, insurance
 40 premiums or charges.

41 (10) A person that adjusts or settles claims in the normal course
 42 of the person's practice or employment as an attorney at law and

C
O
P
Y



- 1 that does not collect charges or premiums in connection with life,
 2 annuity, or health coverage.
- 3 (11) A health maintenance organization that has a certificate of
 4 authority issued under IC 27-13.
- 5 (12) A limited service health maintenance organization that has
 6 a certificate of authority issued under IC 27-13.
- 7 (13) A mortgage lender to the extent that the mortgage lender
 8 collects and remits premiums to an insurance producer or an
 9 authorized insurer in connection with a loan payment.
- 10 (14) A person that:
- 11 (A) is licensed as a managing general agent as required under
 12 IC 27-1-33; and
- 13 (B) acts exclusively within the scope of activities provided for
 14 under the license referred to in clause (A).
- 15 (15) A person that:
- 16 (A) directly or indirectly underwrites, collects charges or
 17 premiums from, or adjusts or settles claims on residents of
 18 Indiana in connection with life, annuity, or health coverage
 19 provided by an insurer;
- 20 (B) is affiliated with the insurer; and
- 21 (C) performs the duties specified in clause (A) only according
 22 to a contract between the person and the insurer for the direct
 23 and assumed life, annuity, or health coverage provided by the
 24 insurer.
- 25 (b) "Affiliate" means an entity or a person that:
- 26 (1) directly or indirectly through an intermediary controls or is
 27 controlled by; or
- 28 (2) is under common control with;
 29 a specified entity or person.
- 30 (c) "Church plan" has the meaning set forth in IC 27-8-10-1.
- 31 (d) "Commissioner" refers to the insurance commissioner appointed of
 32 under IC 27-1-1-2.
- 33 (e) "Control" means the direct or indirect possession of the power
 34 to direct or cause the direction of the management and policies of a
 35 person, whether:
- 36 (1) through ownership of voting securities;
- 37 (2) by contract other than a commercial contract for goods or
 38 nonmanagement services; or
- 39 (3) otherwise;
- 40 unless the power is the result of an official position with the person or
 41 a corporate office held by the person. Control is presumed to exist if a
 42 person directly or indirectly owns, controls, holds with the power to

C
O
P
Y



1 vote, or holds proxies representing not less than ten percent (10%) of
2 the voting securities of another person.

3 (f) "Covered individual" means an individual who is covered under
4 a benefit program provided by an insurer.

5 (g) "Financial institution" means a bank, savings association, credit
6 union, or any other institution regulated under IC 28 or federal law.

7 (h) "GAAP" refers to consistently applied United States generally
8 accepted accounting principles.

9 (i) "Governmental plan" has the meaning set forth in IC 27-8-10-1.

10 (j) "Home state" means the District of Columbia or any state or
11 territory of the United States in which an administrator is incorporated
12 or maintains the administrator's principal place of business. If the place
13 in which the administrator is incorporated or maintains the
14 administrator's principal place of business is not governed by a law that
15 is substantially similar to this chapter, the administrator's home state is
16 another state:

17 (1) in which the administrator conducts the business of the
18 administrator; and

19 (2) that the administrator declares is the administrator's home
20 state.

21 (k) "Insurance producer" has the meaning set forth in
22 IC 27-1-15.6-2.

23 (l) "Insurer" means:

24 (1) a person who obtains a certificate of authority under:

25 (A) IC 27-1-3-20;

26 (B) IC 27-13-3; or

27 (C) IC 27-13-34; or

28 (2) an employer that provides life, health, or annuity coverage in
29 Indiana under a governmental plan or a church plan.

30 (m) "NAIC" refers to the National Association of Insurance
31 Commissioners.

32 (n) "Negotiate" has the meaning set forth in IC 27-1-15.6-2.

33 (o) "Nonresident administrator" means a person that applies for or
34 holds a license under section 12.2 of this chapter.

35 (p) "Person" has the meaning set forth in IC 27-1-15.6-2.

36 (q) "Sell" has the meaning set forth in IC 27-1-15.6-2.

37 (r) "Solicit" has the meaning set forth in IC 27-1-15.6-2.

38 (s) "Underwrite" refers to the:

39 (1) acceptance of a group application or an individual application
40 for coverage of an individual in accordance with the written rules
41 of the insurer; or

42 (2) planning and coordination of a benefit program provided by

C
O
P
Y



1 an insurer.

2 (t) "Uniform application" means the current version of the NAIC

3 uniform application for third party administrators.

4 SECTION 45. IC 27-1-25-11.1 IS AMENDED TO READ AS

5 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11.1. (a) If the home

6 state of a person is Indiana, the person shall:

7 (1) apply to act as an administrator in Indiana upon the uniform

8 application; ~~and~~

9 **(2) pay an application fee in an amount determined by the**

10 **commissioner; and**

11 ~~(2)~~ **(3) receive a license from the commissioner;**

12 before performing the function of an administrator in Indiana. **The**

13 **commissioner shall deposit a fee paid under subdivision (2) into the**

14 **department of insurance fund established by IC 27-1-3-28.**

15 (b) The uniform application must include or be accompanied by the

16 following:

17 (1) Basic organizational documents of the applicant, including:

18 (A) articles of incorporation;

19 (B) articles of association;

20 (C) partnership agreement;

21 (D) trade name certificate;

22 (E) trust agreement;

23 (F) shareholder agreement;

24 (G) other applicable documents; and

25 (H) amendments to the documents specified in clauses (A)

26 through (G).

27 (2) Bylaws, rules, regulations, or other documents that regulate

28 the internal affairs of the applicant.

29 (3) The NAIC biographical affidavits for individuals who are

30 responsible for the conduct of affairs of the applicant, including:

31 (A) members of the applicant's:

32 (i) board of directors;

33 (ii) board of trustees;

34 (iii) executive committee; or

35 (iv) other governing board or committee;

36 (B) principal officers, if the applicant is a corporation;

37 (C) partners or members, if the applicant is:

38 (i) a partnership;

39 (ii) an association; or

40 (iii) a limited liability company;

41 (D) shareholders or members that hold, directly or indirectly,

42 at least ten percent (10%) of the:

C
O
P
Y



- 1 (i) voting stock;
- 2 (ii) voting securities; or
- 3 (iii) voting interest;
- 4 of the applicant; and
- 5 (E) any other person who exercises control or influence over
- 6 the affairs of the applicant.
- 7 (4) Financial information reflecting a positive net worth,
- 8 including:
- 9 (A) audited annual financial statements prepared by an
- 10 independent certified public accountant for the two (2) most
- 11 recent fiscal years; or
- 12 (B) if the applicant has been in business for less than two (2)
- 13 fiscal years, financial statements or reports that are:
- 14 (i) prepared in accordance with GAAP; and
- 15 (ii) certified by an officer of the applicant;
- 16 for any completed fiscal years and for any month during the
- 17 current fiscal year for which financial statements or reports
- 18 have been completed.
- 19 If an audited financial statement or report required under clause
- 20 (A) or (B) is prepared on a consolidated basis, the statement or
- 21 report must include a columnar consolidating or combining
- 22 worksheet that includes the amounts shown on the consolidated
- 23 audited financial statement or report, separately reported on the
- 24 worksheet for each entity included on the statement or report, and
- 25 an explanation of consolidating and eliminating entries.
- 26 (5) Information determined by the commissioner to be necessary
- 27 for a review of the current financial condition of the applicant.
- 28 (6) A description of the business plan of the applicant, including:
- 29 (A) information on staffing levels and activities proposed in
- 30 Indiana and nationwide; and
- 31 (B) details concerning the applicant's ability to provide a
- 32 sufficient number of experienced and qualified personnel for:
- 33 (i) claims processing;
- 34 (ii) record keeping; and
- 35 (iii) underwriting.
- 36 (7) Any other information required by the commissioner.
- 37 (c) An administrator that applies for licensure under this section
- 38 shall make copies of written agreements with insurers available for
- 39 inspection by the commissioner.
- 40 (d) An administrator that applies for licensure under this section
- 41 shall:
- 42 (1) produce the administrator's accounts, records, and files for

COPY



1 examination; and

2 (2) make the administrator's officers available to provide
3 information concerning the affairs of the administrator;
4 whenever reasonably required by the commissioner.

5 (e) The commissioner may refuse to issue a license under this
6 section if the commissioner determines that:

7 (1) the administrator or an individual who is responsible for the
8 conduct of the affairs of the administrator:

9 (A) is not:

10 (i) competent;

11 (ii) trustworthy;

12 (iii) financially responsible; or

13 (iv) of good personal and business reputation; or

14 (B) has had an:

15 (i) insurance certificate of authority or insurance license; or

16 (ii) administrator certificate of authority or administrator
17 license;

18 denied or revoked for cause by any jurisdiction;

19 (2) the financial information provided under subsection (b)(4)
20 does not reflect that the applicant has a positive net worth; or

21 (3) any of the grounds set forth in section 12.4 of this chapter
22 exists with respect to the administrator.

23 (f) An administrator that applies for a license under this section
24 shall immediately notify the commissioner of a material change in:

25 (1) the ownership or control of the administrator; or

26 (2) another fact or circumstance that affects the administrator's
27 qualification for a license.

28 The commissioner, upon receiving notice under this subsection, shall
29 report the change to an electronic data base maintained by the NAIC or
30 an affiliate or a subsidiary of the NAIC.

31 (g) An administrator that applies for a license under this section and
32 will administer a governmental plan or a church plan shall obtain a
33 bond as required under section 4(g) of this chapter.

34 (h) A license that is issued under this section is valid **for one (1)**
35 **year after the date of issuance or until:**

36 (1) the license is:

37 (A) surrendered; or

38 (B) suspended or revoked by the commissioner; or

39 (2) the administrator:

40 (A) ceases to do business in Indiana; or

41 (B) is not in compliance with this chapter;

42 **whichever occurs first.**

C
O
P
Y



1 SECTION 46. IC 27-1-25-12.2, AS AMENDED BY P.L.234-2007,
2 SECTION 191, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2009]: Sec. 12.2. (a) An administrator that:

- 4 (1) performs the duties of an administrator in Indiana; and
- 5 (2) does not hold a license issued under section 11.1 of this
6 chapter;

7 shall obtain a nonresident administrator license under this section by
8 filing a uniform application, **accompanied by an application fee in an**
9 **amount determined by the commissioner**, with the commissioner.
10 **The commissioner shall deposit a fee paid under this subsection**
11 **into the department of insurance fund established by IC 27-1-3-28.**

12 (b) Unless the commissioner verifies the nonresident administrator's
13 home state license status through an electronic data base maintained by
14 the NAIC or by an affiliate or a subsidiary of the NAIC, a uniform
15 application filed under subsection (a) must be accompanied by a letter
16 of certification from the nonresident administrator's home state,
17 verifying that the nonresident administrator holds a resident
18 administrator license in the home state.

19 (c) A nonresident administrator is not eligible for a nonresident
20 administrator license under this section unless the nonresident
21 administrator is licensed as a resident administrator in a home state that
22 has a law or regulation that is substantially similar to this chapter.

23 (d) Except as provided in subsections (b) and (h), the commissioner
24 shall issue a nonresident administrator license to a nonresident
25 administrator that makes a filing under subsections (a) and (b) upon
26 receipt of the filing.

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

- 31 (1) on September 15 of each year, file a **renewal application and**
32 **a statement** with the commissioner affirming that the nonresident
33 administrator maintains a current license in the nonresident
34 administrator's home state; and

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

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

40 (f) A nonresident administrator that applies for licensure under this
41 section shall:

- 42 (1) produce the accounts of the nonresident administrator;

C
o
p
y



- 1 (2) produce the records and files of the nonresident administrator
- 2 for examination; and
- 3 (3) make the officers of the nonresident administrator available to
- 4 provide information with respect to the affairs of the nonresident
- 5 administrator;
- 6 when reasonably required by the commissioner.

7 (g) A nonresident administrator is not required to hold a nonresident
 8 administrator license in Indiana if the nonresident administrator's
 9 function in Indiana is limited to the administration of life, health, or
 10 annuity coverage for a total of not more than one hundred (100) Indiana
 11 residents.

12 (h) The commissioner may refuse to issue or may delay the issuance
 13 of a nonresident administrator license if the commissioner determines
 14 that:

- 15 (1) due to events occurring; or
- 16 (2) based on information obtained;
- 17 after the nonresident administrator's home state's licensure of the
- 18 nonresident administrator, the nonresident administrator is unable to
- 19 comply with this chapter or grounds exist for the home state's
- 20 revocation or suspension of the nonresident administrator's home state
- 21 license.

22 (i) If the commissioner makes a determination described in
 23 subsection (h), the commissioner:

- 24 (1) shall provide written notice of the determination to the
- 25 insurance regulator of the nonresident administrator's home state;
- 26 and
- 27 (2) may delay the issuance of a nonresident administrator license
- 28 to the nonresident administrator until the commissioner
- 29 determines that the nonresident administrator is able to comply
- 30 with this chapter and that grounds do not exist for the home state's
- 31 revocation or suspension of the nonresident administrator's home
- 32 state license.

33 SECTION 47. IC 27-1-25-12.3, AS AMENDED BY P.L.234-2007,
 34 SECTION 192, IS AMENDED TO READ AS FOLLOWS
 35 [EFFECTIVE JULY 1, 2009]: Sec. 12.3. (a) An administrator that is
 36 licensed under section 11.1 of this chapter shall, not later than July 1
 37 of each year unless the commissioner grants an extension of time for
 38 good cause, file a report for the previous calendar year that complies
 39 with the following:

- 40 (1) The report must contain financial information reflecting a
- 41 positive net worth prepared in accordance with section 11.1(b)(4)
- 42 of this chapter.

COPY



- 1 (2) The report must be in the form and contain matters prescribed
- 2 by the commissioner.
- 3 (3) The report must be verified by at least two (2) officers of the
- 4 administrator.
- 5 (4) The report must include the complete names and addresses of
- 6 insurers with which the administrator had a written agreement
- 7 during the preceding fiscal year.
- 8 (5) The report must be accompanied by a filing fee **in an amount**
- 9 **determined by the commissioner.**

10 The commissioner shall collect a filing fee paid under subdivision (5)

11 and deposit the fee into the department of insurance fund established

12 by IC 27-1-3-28.

13 (b) The commissioner shall review a report filed under subsection

14 (a) not later than September 1 of the year in which the report is filed.

15 Upon completion of the review, the commissioner shall:

- 16 (1) issue a certification to the administrator:
- 17 (A) indicating that:
- 18 (i) the financial statement reflects a positive net worth; and
- 19 (ii) the administrator is currently licensed and in good
- 20 standing; or
- 21 (B) noting deficiencies found in the report; or
- 22 (2) update an electronic data base that is maintained by the NAIC
- 23 or by an affiliate or a subsidiary of the NAIC:
- 24 (A) indicating that the administrator is solvent and in
- 25 compliance with this chapter; or
- 26 (B) noting deficiencies found in the report.

27 SECTION 48. IC 27-4-5-2 IS AMENDED TO READ AS

28 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) It is a Class A

29 infraction for an insurer to transact insurance business in this state, as

30 set forth in subsection (b), without a certificate of authority from the

31 commissioner. However, this section does not apply to the following:

- 32 (1) The lawful transaction of surplus lines insurance.
- 33 (2) The lawful transaction of reinsurance by insurers.
- 34 (3) Transactions in this state involving a policy lawfully solicited,
- 35 written, and delivered outside of this state covering only subjects
- 36 of insurance not resident, located, or expressly to be performed in
- 37 this state at the time of issuance, and which transactions are
- 38 subsequent to the issuance of such policy.
- 39 (4) Attorneys acting in the ordinary relation of attorney and client
- 40 in the adjustment of claims or losses.
- 41 (5) Transactions in this state involving group life and group
- 42 sickness and accident or blanket sickness and accident insurance

C
o
p
y



1 or group annuities where the master policy of such groups was
2 lawfully issued and delivered in and pursuant to the laws of a
3 state in which the insurer was authorized to do an insurance
4 business, to a group organized for purposes other than the
5 procurement of insurance, and where the policyholder is
6 domiciled or otherwise has a bona fide situs.

7 (6) Transactions in this state relative to a policy issued or to be
8 issued outside this state involving insurance on vessels, craft or
9 hulls, cargos, marine builder's risk, marine protection and
10 indemnity or other risk, including strikes and war risks commonly
11 insured under ocean or wet marine forms of policy.

12 (7) Transactions in this state involving life insurance, health
13 insurance, or annuities provided to religious or charitable
14 institutions organized and operated without profit to any private
15 shareholder or individual for the benefit of such institutions and
16 individuals engaged in the service of such institutions.

17 (8) Transactions in this state involving contracts of insurance not
18 readily obtainable in the ordinary insurance market and issued to
19 one (1) or more industrial insureds. For purposes of this section,
20 an "industrial insured" means an insured:

21 (A) who procures the insurance of any risk or risks by use of
22 the services of a full-time employee acting as an insurance
23 manager or buyer or the services of a regularly retained and
24 continuously qualified insurance consultant;

25 (B) whose aggregate annual premium for insurance on all risks
26 totals at least twenty-five thousand dollars (\$25,000); and

27 (C) who has at least twenty-five (25) full-time employees;

28 **(D) who, on or before February 1 (for the preceding six (6)**
29 **month period ending December 31) and August 1 (for the**
30 **preceding six (6) month period ending June 30) of each**
31 **year, remit to the department an amount equal to two and**
32 **one-half percent (2.5%) of all gross premiums upon all**
33 **policies and contracts procured by the insured under this**
34 **section, plus:**

35 **(i) ten percent (10%) of the amount due for the first**
36 **month after the date specified in this clause during which**
37 **the amount described in this clause is not remitted in**
38 **compliance with this clause; and**

39 **(ii) an additional one percent (1%) of the amount due for**
40 **each additional month during which the amount due**
41 **under this clause is unpaid; and**

42 **(E) who files with the department, with the amount**

C
o
p
y



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

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 benefits exceeding one (1) year in duration.

(b) Any of the following acts in this state effected by mail or otherwise by or on behalf of an unauthorized insurer constitutes the transaction of an insurance business in this state. The venue of an act committed by mail is at the point where the matter transmitted by mail is delivered and takes effect. Unless otherwise indicated, the term "insurer" as used in this section includes all persons engaged as principals in the business of insurance and also includes interinsurance exchanges and mutual benefit societies.

- (1) The making of or proposing to make, as an insurer, an insurance contract.
- (2) The making of or proposing to make, as guarantor or surety, any contract of guaranty or suretyship as a vocation and not merely incidental to any other legitimate business or activity of the guarantor or surety.
- (3) The taking or receiving of any application for insurance.
- (4) The receiving or collection of any premium, commission, membership fees, assessments, dues, or other consideration for

C
o
p
y



1 any insurance or any part thereof.
 2 (5) The issuance or delivery of contracts of insurance to residents
 3 of this state or to persons authorized to do business in this state.
 4 (6) Acting as an agent for or otherwise representing or aiding on
 5 behalf of another person or insurer in the solicitation, negotiation,
 6 procurement, or effectuation of insurance or renewals thereof or
 7 in the dissemination of information as to coverage or rates, or
 8 forwarding of applications, or delivery of policies or contracts, or
 9 inspection of risks, a fixing of rates or investigation or adjustment
 10 of claims or losses or in the transaction of matters subsequent to
 11 effectuation of the contract and arising out of it, or representing
 12 or assisting a person or an insurer in the transaction of insurance
 13 with respect to subjects of insurance resident, located, or to be
 14 performed in this state. This subdivision does not prohibit
 15 full-time salaried employees of a corporate insured from acting in
 16 the capacity of an insurance manager or buyer in placing
 17 insurance in behalf of the employer.

18 (c)(1) The failure of an insurer transacting insurance business in this
 19 state to obtain a certificate of authority does not impair the validity of
 20 any act or contract of such insurer and does not prevent such insurer
 21 from defending any action at law or suit in equity in any court of this
 22 state, but no insurer transacting insurance business in this state without
 23 a certificate of authority may maintain an action in any court of this
 24 state to enforce any right, claim, or demand arising out of the
 25 transaction of such business until such insurer obtains a certificate of
 26 authority.

27 (2) In the event of failure of any such unauthorized insurer to pay
 28 any claim or loss within the provisions of such insurance contract, any
 29 person who assisted or in any manner aided directly or indirectly in the
 30 procurement of such insurance contract is liable to the insured for the
 31 full amount of the claim or loss in the manner provided by the
 32 insurance contract.

33 SECTION 49. IC 27-7-3-3 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) Any domestic
 35 corporation having:

36 (1) among its purposes the insuring against loss or damage on
 37 account of encumbrances upon or defects in the title to real estate;
 38 **and**

39 (2) **a physical office in Indiana;**
 40 is hereby authorized to organize under IC 23-1, and any foreign
 41 corporation, having among its purposes the insuring against loss or
 42 damage on account of encumbrances upon or defects in the title to real

COPY



1 estate, is hereby authorized to and may be admitted to do business in
2 this state under IC 23-1. Any domestic or foreign corporation,
3 organized or admitted to do business before or after June 7, 1937, as
4 provided in this section, may engage in business as a title insurance
5 company by complying with the provisions of this chapter.

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

11 SECTION 50. IC 27-7-3-3.5 IS ADDED TO THE INDIANA CODE
12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
13 1, 2009]: **Sec. 3.5. (a) A domestic corporation admitted to do**
14 **business as described in section 3 of this chapter is subject to the**
15 **following:**

- 16 (1) IC 27-1-7-11.
- 17 (2) IC 27-1-6-21.
- 18 (3) IC 27-9.

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

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

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

29 (c) Notwithstanding section 1 of this chapter, as used in this section,
30 "insured" refers only to an insured who requires dialysis treatment.

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

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

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

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

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

C
o
p
y



1 miles from the insured's home, travel a greater distance than the
2 distance to the nearest dialysis facility to obtain dialysis
3 treatment;

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

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

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

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

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

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

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

26 **in connection with dialysis treatment. An insurer that receives
27 from an insured written proof that a dialysis facility or provider
28 has violated this subsection shall not reimburse the dialysis facility
29 or provider for any health care services rendered to any insured
30 until the insurer receives written proof that the dialysis facility or
31 provider has canceled the bill and reimbursed the insured in full
32 any amount paid in relation to the amount billed in violation of this
33 subsection.**

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

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

C
O
P
Y



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

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 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

C
O
P
Y



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

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

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

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

14 ~~The term includes:~~

15 ~~(A) a sole proprietor; and~~

16 ~~(B) a partner in a partnership;~~

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

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

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

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

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

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

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

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

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

31 (2) a seasonal employee.

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

36 (1) loses coverage under the plan as the result of:

37 (A) termination of employment;

38 (B) reduction of hours;

39 (C) marriage dissolution; or

40 (D) attainment of any age specified in the plan; ~~and~~

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

C
o
p
y



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

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

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

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

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

27 If the benefit limits of the conversion policy are not more than the
28 benefit limits of the small employer's health insurance plan, the small
29 employer insurer shall credit the individual with any waiting period,
30 deductible, or coinsurance credited to the individual under the small
31 employer's health insurance plan.

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

37 SECTION 56. IC 27-13-2-10 IS ADDED TO THE INDIANA
38 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
39 [EFFECTIVE JULY 1, 2009]: **Sec. 10. (a) A health maintenance**
40 **organization shall do the following:**

- 41 **(1) Maintain a physical office in Indiana.**
- 42 **(2) If the health maintenance organization changes the**

C
O
P
Y



1 location of the office maintained under subdivision (1),
2 provide written notice to the department of insurance and all
3 subscribers at least thirty (30) days before the location is
4 changed, including the address and telephone number of the
5 new location.

6 (b) A domestic health maintenance organization operating
7 under this article is subject to the following:

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

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

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

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

17 (1) A limited service health maintenance organization.

18 (2) An agent of a health maintenance organization or a limited
19 service health maintenance organization.

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

22 (1) if the nearest dialysis facility is located within thirty (30) miles
23 of the enrollee's home, travel more than thirty (30) miles from the
24 enrollee's home to obtain dialysis treatment; or

25 (2) if the nearest dialysis facility is located more than thirty (30)
26 miles from the enrollee's home, travel a greater distance than the
27 distance to the nearest dialysis facility to obtain dialysis
28 treatment;

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

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

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

38 (1) benefit restrictions;

39 (2) deductible, copayment, coinsurance, or other out-of-pocket
40 expense requirements; or

41 (3) maximum lifetime coverage limitations;

42 to the coverage for dialysis treatment that are less favorable to an

C
o
p
y



1 enrollee than the benefit restrictions, deductible, copayment,
2 coinsurance, or other out-of-pocket expense requirements, or
3 maximum lifetime coverage limitations that apply to all other
4 medical and surgical benefits under the individual contract or
5 group contract.

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

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

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

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

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

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

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

- 41 (1) a party to the contract attempts to change the terms of the
42 contract while the contract is in effect;

C
O
P
Y



1 **(2) the other party to the contract refuses to accept the change**
 2 **described in subdivision (1); and**
 3 **(3) the parties to the contract cannot resolve the disagreement**
 4 **less than sixty (60) days after the party described in**
 5 **subdivision (1) receives written notice from the party**
 6 **described in subdivision (2) that the party described in**
 7 **subdivision (2) refuses to accept the change to the terms of the**
 8 **contract;**
 9 **the dialysis facility and health maintenance organization shall**
 10 **submit to mediation by a neutral mediator selected by the**
 11 **insurance commissioner. If mediation does not result in resolution**
 12 **of the disagreement less than thirty (30) days after mediation**
 13 **proceedings begin, the parties shall submit to binding arbitration**
 14 **by a neutral arbitrator selected by agreement of the parties. If the**
 15 **parties do not agree upon a neutral arbitrator within two (2) weeks**
 16 **after the selection process begins, the insurance commissioner shall**
 17 **select a neutral arbitrator.**

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

20 SECTION 58. IC 27-13-34-12 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. A limited service
 22 health maintenance organization operated under this chapter is subject
 23 to the following:

- 24 (1) IC 27-1-36 concerning risk based capital, unless exempted by
 25 the commissioner under IC 27-1-36-1.
- 26 **(2) IC 27-13-2-10.**
- 27 ~~(2)~~ **(3)** IC 27-13-8, except for IC 27-13-8-2(a)(6) concerning
 28 reports.
- 29 ~~(3)~~ **(4)** IC 27-13-9-3 concerning termination of providers.
- 30 ~~(4)~~ **(5)** IC 27-13-10-1 through IC 27-13-10-3 concerning
 31 grievance procedures.
- 32 ~~(5)~~ **(6)** IC 27-13-11 concerning investments.
- 33 ~~(6)~~ **(7)** IC 27-13-15-1(a)(2) through IC 27-13-15-1(a)(3)
 34 concerning gag clauses in contracts.
- 35 ~~(7)~~ **(8)** IC 27-13-21 concerning producers.
- 36 ~~(8)~~ **(9)** IC 27-13-29 concerning statutory construction and
 37 relationship to other laws.
- 38 ~~(9)~~ **(10)** IC 27-13-30 concerning public records.
- 39 ~~(10)~~ **(11)** IC 27-13-31 concerning confidentiality of medical
 40 information and limitation of liability.
- 41 ~~(11)~~ **(12)** IC 27-13-36-5 and IC 27-13-36-6 concerning referrals
 42 to out of network providers and continuation of care.

C
o
p
y



1 ~~(12)~~ **(13)** IC 27-13-40 concerning comparison sheets of services
2 provided by the limited service health maintenance organization.
3 SECTION 59. THE FOLLOWING ARE REPEALED [EFFECTIVE
4 JULY 1, 2009] IC 27-1-3.5-3; IC 27-1-3.5-3.5; IC 27-1-25-7.5;
5 IC 27-8-15-2.
6 SECTION 60. [EFFECTIVE JULY 1, 2009] **(a) IC 27-8-15, as**
7 **amended by this act, applies to a health insurance plan (as defined**
8 **in IC 27-8-15-9) that is issued, entered into, delivered, amended, or**
9 **renewed after June 30, 2009.**
10 **(b) This SECTION expires July 1, 2014.**
11 SECTION 61. [EFFECTIVE UPON PASSAGE] **(a) IC 27-8-11-10,**
12 **as amended by this act, applies to an agreement between an insurer**
13 **and a dialysis facility that is entered into, amended, or renewed on**
14 **or after the effective date of IC 27-8-11-10, as amended by this act.**
15 **(b) IC 27-13-15-5, as amended by this act, applies to a contract**
16 **between a health maintenance organization and a dialysis facility**
17 **that is entered into, amended, or renewed after the effective date**
18 **of IC 27-13-15-5, as amended by this act.**
19 SECTION 62. **An emergency is declared for this act.**

C
O
P
Y



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

C
O
P
Y



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.

**C
O
P
Y**



- 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**".

C
O
P
Y



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

**C
O
P
Y**



(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

C
O
P
Y



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:

**C
O
P
Y**



(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~~

C
O
P
Y



~~(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

C
O
P
Y



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

C
O
P
Y



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;

C
O
P
Y



- (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

C
O
P
Y



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,

C
O
P
Y



"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

C
O
P
Y



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

COPY



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:

C
O
P
Y



- (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,

C
O
P
Y



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,

C
O
P
Y



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

COPY



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.

HB 1627—LS 7313/DI 97+

C
O
P
Y

