



February 23, 2010

**ENGROSSED  
HOUSE BILL No. 1240**

DIGEST OF HB 1240 (Updated February 19, 2010 9:26 am - DI 110)

**Citations Affected:** IC 9-13; IC 9-22; IC 27-1; IC 27-7; IC 27-8; IC 32-30; noncode.

**Synopsis:** Various insurance matters. Makes various changes to the law concerning: (1) confidentiality and disclosures of insurer information related to examinations; (2) insurance producer licensing; (3) notice of foreclosure to residential property insurers; and (4) passenger coverage under motor vehicle insurance policies. Provides that a towing service that provides professional towing services shall release a passenger motor vehicle to the owner or a representative of the owner upon the receipt of the towing service of certain documentation concerning the charges and the ownership of the vehicle. Provides that upon release of the vehicle, the towing service may no longer claim a statutory or possessory lien on the vehicle, but requires the insurer to pay certain charges for professional services provided by the towing service, including interest on unpaid charges for the professional services, beginning on the thirty-first day after the release of the vehicle. Establishes licensure requirements for independent adjusters.

**Effective:** July 1, 2010.

**Fry, Lehman**

(SENATE SPONSORS — PAUL, LAWSON C, BRAY, LANANE, SIMPSON, TAYLOR)

January 11, 2010, read first time and referred to Committee on Insurance.  
January 28, 2010, amended, reported — Do Pass.  
February 1, 2010, read second time, amended, ordered engrossed.  
February 2, 2010, engrossed. Read third time, passed. Yeas 80, nays 18.

SENATE ACTION

February 8, 2010, read first time and referred to Committee on Insurance and Financial Institutions.  
February 23, 2010, amended, reported favorably — Do Pass.

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EH 1240—LS 7053/DI 97+



February 23, 2010

Second Regular Session 116th General Assembly (2010)

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 2009 Regular and Special Sessions of the General Assembly.

# ENGROSSED HOUSE BILL No. 1240

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 9-13-2-0.9 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2010]: **Sec. 0.9. "Accessible to the public", for purposes of**  
4 **IC 9-22-5, has the meaning set forth in IC 9-22-5-0.3.**

5 SECTION 2. IC 9-13-2-111.5 IS ADDED TO THE INDIANA  
6 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
7 [EFFECTIVE JULY 1, 2010]: **Sec. 111.5. "Nonconsenting police**  
8 **generated tow", for purposes of IC 9-22-5, has the meaning set**  
9 **forth in IC 9-22-5-0.7.**

10 SECTION 3. IC 9-22-5-0.3 IS ADDED TO THE INDIANA CODE  
11 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
12 1, 2010]: **Sec. 0.3. As used in this chapter, "accessible to the public"**  
13 **means that the place of business of a towing service is:**

- 14 (1) **staffed at least thirty (30) hours a week;**
- 15 (2) **staffed at least twenty (20) hours a week and a telephone**
- 16 **answering, paging, or mobile service is offered at least ten**
- 17 **(10) of the remaining hours of the week, for which the contact**

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telephone number is identified on the business sign at the towing service; or  
(3) open by appointment at least thirty (30) hours a week by maintaining a staffed telephone or mobile paging telephone service at least ten (10) hours a week and a telephone answering, paging, or mobile service offered at least twenty (20) hours a week, for which the contact telephone number is identified on the business sign at the towing service.

SECTION 4. IC 9-22-5-0.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 0.7. As used in this chapter, "nonconsenting police generated tow" means a professional service provided by a towing service that was ordered by a police officer (as defined in IC 9-13-2-127(b)).**

SECTION 5. IC 9-22-5-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 18. (a) This section applies only to a nonconsenting police generated tow for a passenger motor vehicle when the payment for the nonconsenting police generated tow is expected to be paid for by an insurer.**

**(b) To be paid by an insurer, a towing service must comply with the following:**

- (1) Use a recovery vehicle that is registered under IC 9-18-13-3(b).**
- (2) Meet the financial responsibility requirements of IC 9-18-13-4(a).**
- (3) Use appropriately licensed operators when a recovery vehicle is operated on highways.**
- (4) Have a properly zoned and secured storage lot, if applicable.**
- (5) Comply with IC 24-4-6-2(b).**
- (6) Be accessible to the public.**
- (7) Submit the charges that the towing service charges for professional services to the nearest state police post.**
- (8) Make charges for professional services that meet the requirements of subsection (e).**

**(c) If a towing service does not satisfy the requirements of subsection (b) and the insurer disputes the amounts charged for professional services provided by the towing service for towing, transporting, recovery, cleanup, or storage of a motor vehicle or any combination of these charges, the towing service shall release the passenger motor vehicle at the request of and receipt from the**

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owner or a representative of the owner of the passenger motor vehicle of:

(1) a written agreement of the insurer to pay reasonable towing, transporting, recovery, cleanup, or storage charges concerning the passenger motor vehicle or any combination of these charges; and

(2) proof of ownership of the passenger motor vehicle, regardless of charges or liens placed on the passenger motor vehicle, and a copy of the passenger motor vehicle registration.

The documents under subdivisions (1) and (2) may be received by facsimile transmission, United States mail, or other method agreed upon between the parties including, but not limited to, electronic mail.

(d) Upon release of a passenger motor vehicle, a towing service may no longer claim a statutory or possessory lien on the passenger motor vehicle. The insurer shall pay the charges described under subsection (e) for professional services provided by the towing service including interest at the rate set forth in IC 34-54-8-5(b)(1) on unpaid charges for the professional services, beginning on the thirty-first day after the release of the passenger motor vehicle.

(e) A towing service may not charge more for a professional service relating to a nonconsenting police generated tow than the amount that would be charged for the professional service under the existing contract between the towing service and the law enforcement agency with jurisdiction in the location in which the nonconsenting police generated tow occurred. However, if a contract between a towing service and a law enforcement agency described in this subsection does not exist, the towing service may make reasonable and customary charges for a professional service for the jurisdiction in which the tow was ordered.

(f) This section may not be construed to repeal, modify, or amend section 14 or 15 of this chapter or IC 32-33-10.

SECTION 6. IC 27-1-3.1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 15. All working papers, recorded information, documents, and copies thereof produced by, obtained by, or disclosed to the commissioner or any other person in the course of an examination under this chapter (including trade secrets and information obtained from a federal agency, a foreign country, the National Association of Insurance Commissioners, or under another state law) are confidential for the purposes of IC 5-14-3-4, are not subject to subpoena, and may not be made public

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1 by the commissioner or any other person, except to the extent provided  
 2 in section 14 of this chapter. However, access may also be granted to  
 3 the National Association of Insurance Commissioners. Those parties  
 4 must agree in writing prior to receiving the information to provide to  
 5 it the same confidential treatment as required by this section, unless the  
 6 prior written consent of the company to which it pertains has been  
 7 obtained.

8 SECTION 7. IC 27-1-3.5-9 IS AMENDED TO READ AS  
 9 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. (a) For the purposes  
 10 of this chapter, the commissioner may not recognize as an independent  
 11 auditor any individual or firm that is not:

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

14 (2) in good standing with:

15 (A) the American Institute of Certified Public Accountants;  
 16 and

17 (B) all of the authorities that license certified public  
 18 accountants and certified public accounting firms in the states  
 19 in which the individual or firm is licensed to practice.

20 (b) A partner or other individual responsible for rendering a report  
 21 may not act in that capacity for more than ~~seven (7)~~ **five (5)**  
 22 consecutive years. An individual who has been responsible for  
 23 rendering a report for ~~seven (7)~~ **five (5)** years is disqualified from  
 24 acting in that or a similar capacity for the same company or its  
 25 insurance subsidiaries or affiliates for ~~two (2)~~ **five (5) consecutive**  
 26 years. A domestic insurer may apply to the commissioner and request  
 27 to be exempted from the ~~seven (7)~~ **five (5)** year rotation requirement on  
 28 the basis of unusual circumstances. The commissioner may consider  
 29 the following factors in determining if relief should be granted:

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

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

33 (3) The number of jurisdictions in which the domestic insurer  
 34 transacts business.

35 (c) The commissioner may not recognize as an independent auditor  
 36 or accept an annual audited financial report prepared in whole or part  
 37 by a person who:

38 (1) has been convicted of fraud, bribery, a violation of the  
 39 Racketeer Influenced and Corrupt Organizations Act under  
 40 federal law (18 U.S.C. 1961 through 1968) or state law  
 41 (IC 35-45-6) or any dishonest conduct or practices under federal  
 42 or state law;

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- 1 (2) has been found to have violated the insurance law of this state
- 2 with respect to any previous reports submitted under this chapter;
- 3 or
- 4 (3) has demonstrated a pattern or practice of failing to detect or
- 5 disclose material information in previous reports filed under this
- 6 chapter.

7 (d) The commissioner may conduct a hearing under IC 4-21.5 to  
 8 determine whether an independent auditor engaged by a domestic  
 9 insurer is sufficiently independent of that domestic insurer to be  
 10 capable of exercising independent judgment and expressing an  
 11 objective opinion on the financial statements in the annual financial  
 12 report filed by the insurer under this chapter. If the commissioner  
 13 determines that the auditor is not sufficiently independent of the  
 14 insurer, the commissioner shall require the insurer to replace the  
 15 auditor with another that is sufficiently independent of the insurer.

16 SECTION 8. IC 27-1-15.6-7 IS AMENDED TO READ AS  
 17 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) Unless denied  
 18 licensure under section 12 of this chapter, a person who has met the  
 19 requirements of sections 5 and 6 of this chapter shall be issued an  
 20 insurance producer license. An insurance producer may receive  
 21 qualification for a license in one (1) or more of the following lines of  
 22 authority:

- 23 (1) Life — insurance coverage on human lives, including benefits
- 24 of endowment and annuities, that may include benefits in the
- 25 event of death or dismemberment by accident and benefits for
- 26 disability income.
- 27 (2) Accident and health or sickness — insurance coverage for
- 28 sickness, bodily injury, or accidental death that may include
- 29 benefits for disability income.
- 30 (3) Property — insurance coverage for the direct or consequential
- 31 loss of or damage to property of every kind.
- 32 (4) Casualty — insurance coverage against legal liability,
- 33 including liability for death, injury, or disability, or for damage to
- 34 real or personal property.
- 35 (5) Variable life and variable annuity products — insurance
- 36 coverage provided under variable life insurance contracts and
- 37 variable annuities.
- 38 (6) Personal lines — property and casualty insurance coverage
- 39 sold to individuals and families for primarily noncommercial
- 40 purposes.
- 41 (7) Credit — limited line credit insurance.
- 42 (8) Title — insurance coverage against loss or damage on account

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

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1 acceptable to the commissioner. The failure of a licensee to timely  
 2 inform the commissioner of a change in legal name or address shall  
 3 result in a penalty under section 12 of this chapter.

4 (i) To assist in the performance of the commissioner's duties, the  
 5 commissioner may contract with nongovernmental entities, including  
 6 the National Association of Insurance Commissioners (NAIC), or any  
 7 affiliates or subsidiaries that the NAIC oversees, to perform ministerial  
 8 functions, including the collection of fees related to producer licensing,  
 9 that the commissioner and the nongovernmental entity consider  
 10 appropriate.

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

22 SECTION 9. IC 27-1-15.6-9 IS AMENDED TO READ AS  
 23 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. (a) An individual  
 24 who applies for an insurance producer license in Indiana and who was  
 25 previously licensed for the same lines of authority in another state is  
 26 not required to complete any prelicensing education or examination.  
 27 However, the exemption provided by this subsection is available only  
 28 if:

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

- 32 (A) the other state issues a certification that, at the time of  
 33 cancellation, the applicant was in good standing in that state;  
 34 or  
 35 (B) the state's Producer Database records that are maintained  
 36 by the National Association of Insurance Commissioners, its  
 37 affiliates, or its subsidiaries, indicate that the producer is or  
 38 was licensed in good standing for the line of authority  
 39 requested.

40 (b) If a person is licensed as an insurance producer in another state  
 41 and moves to Indiana, the person, to be authorized to act as an  
 42 insurance producer in Indiana, must make application to become a

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1 resident licensee under section 6 of this chapter within ninety (90) days  
 2 after establishing legal residence in Indiana. However, the person is not  
 3 required to take prelicensing education or examination to obtain a  
 4 license for any line of authority for which the person held a license in  
 5 the other state unless the commissioner determines otherwise by rule.

6 (c) An individual who:

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

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

14 (A) 7(a)(1);

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

16 (C) 7(a)(5);

17 of this chapter;

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

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

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

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

29 (A) 7(a)(3);

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

31 (C) 7(a)(6);

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 (e) **An individual who:**

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

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

41 **is not required to complete prelicensing education and is required**  
 42 **to take only the part of the examination required under section**

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1 **5(b) of this chapter that pertains to Indiana laws and rules.**

2 SECTION 10. IC 27-1-15.6-12, AS AMENDED BY P.L.27-2007,  
3 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4 JULY 1, 2010]: Sec. 12. (a) For purposes of this section, "permanently  
5 revoke" means that:

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

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

- 15 (1) Providing incorrect, misleading, incomplete, or materially  
16 untrue information in a license application.  
17 (2) Violating:  
18 (A) an insurance law;  
19 (B) a regulation;  
20 (C) a subpoena of an insurance commissioner; or  
21 (D) an order of an insurance commissioner;  
22 of Indiana or of another state.  
23 (3) Obtaining or attempting to obtain a license through  
24 misrepresentation or fraud.  
25 (4) Improperly withholding, misappropriating, or converting any  
26 monies or properties received in the course of doing insurance  
27 business.  
28 (5) Intentionally misrepresenting the terms of an actual or  
29 proposed insurance contract or application for insurance.  
30 (6) Having been convicted of a felony.  
31 (7) Admitting to having committed or being found to have  
32 committed any unfair trade practice or fraud in the business of  
33 insurance.  
34 (8) Using fraudulent, coercive, or dishonest practices, or  
35 demonstrating incompetence, untrustworthiness, or financial  
36 irresponsibility in the conduct of business in Indiana or elsewhere.  
37 (9) Having an insurance producer license, or its equivalent,  
38 denied, suspended, or revoked in any other state, province,  
39 district, or territory.  
40 (10) Forging another's name to an application for insurance or to  
41 any document related to an insurance transaction.  
42 (11) Improperly using notes or any other reference material to

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- 1 complete an examination for an insurance license.
- 2 (12) Knowingly accepting insurance business from an individual
- 3 who is not licensed.
- 4 (13) Failing to comply with an administrative or court order
- 5 imposing a child support obligation.
- 6 (14) Failing to pay state income tax or to comply with any
- 7 administrative or court order directing payment of state income
- 8 tax.
- 9 (15) Failing to satisfy the continuing education requirements
- 10 established by IC 27-1-15.7.
- 11 (16) Violating section 31 of this chapter.
- 12 (17) Failing to timely inform the commissioner of a change in
- 13 legal name or address, in violation of section 7(h) of this chapter.
- 14 (c) The commissioner shall refuse to:
- 15 (1) issue a license; or
- 16 (2) renew a license issued;
- 17 under this chapter to any person who is the subject of an order issued
- 18 by a court under IC 31-14-12-7 or IC 31-16-12-10 (or
- 19 IC 31-1-11.5-13(m) or IC 31-6-6.1-16(m) before their repeal).
- 20 (d) If the commissioner refuses to renew a license or denies a
- 21 application for a license, the commissioner shall notify the applicant or
- 22 licensee and advise the applicant or licensee, in a writing sent through
- 23 regular first class mail, of the reason for the denial of the applicant's
- 24 application or the nonrenewal of the licensee's license. The applicant
- 25 or licensee may, not more than sixty-three (63) days after notice of
- 26 denial of the applicant's application or nonrenewal of the licensee's
- 27 license is mailed, make written demand to the commissioner for a
- 28 hearing before the commissioner to determine the reasonableness of the
- 29 commissioner's action. The hearing shall be held not more than thirty
- 30 (30) days after the applicant or licensee makes the written demand, and
- 31 shall be conducted under IC 4-21.5.
- 32 (e) The license of a business entity may be suspended, revoked, or
- 33 refused if the commissioner finds, after hearing, that a violation of an
- 34 individual licensee acting on behalf of the partnership or corporation
- 35 was known or should have been known by one (1) or more of the
- 36 partners, officers, or managers of the partnership or corporation and:
- 37 (1) the violation was not reported to the commissioner; and
- 38 (2) no corrective action was taken.
- 39 (f) In addition to or in lieu of any applicable denial, suspension, or
- 40 revocation of a license under subsection (b), a person may, after a
- 41 hearing, be subject to the imposition by the commissioner under
- 42 subsection (b) of a civil penalty of not less than fifty dollars (\$50) and

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1 not more than ten thousand dollars (\$10,000). A penalty imposed under  
 2 this subsection may be enforced in the same manner as a civil  
 3 judgement.  
 4 (g) A licensed insurance producer or limited lines producer shall,  
 5 not more than ten (10) days after the producer receives a request in a  
 6 registered or certified letter from the commissioner, furnish the  
 7 commissioner with a full and complete report listing each insurer with  
 8 which the licensee has held an appointment during the year preceding  
 9 the request.  
 10 (h) If a licensee fails to provide the report requested under  
 11 subsection (g) not more than ten (10) days after the licensee receives  
 12 the request, the commissioner may, in the commissioner's sole  
 13 discretion, without a hearing, and in addition to any other sanctions  
 14 allowed by law, suspend any insurance license held by the licensee  
 15 pending receipt of the appointment report.  
 16 (i) The commissioner shall promptly notify all appointing insurers  
 17 and the licensee regarding any suspension, revocation, or termination  
 18 of a license by the commissioner under this section.  
 19 (j) The commissioner may not grant, renew, continue, or permit to  
 20 continue any license if the commissioner finds that the license is being  
 21 used or will be used by the applicant or licensee for the purpose of  
 22 writing controlled business. As used in this subsection, "controlled  
 23 business" means:  
 24 (1) insurance written on the interests of:  
 25 (A) the applicant or licensee;  
 26 (B) the applicant's or licensee's immediate family; or  
 27 (C) the applicant's or licensee's employer; or  
 28 (2) insurance covering:  
 29 (A) the applicant or licensee;  
 30 (B) members of the applicant's or licensee's immediate family;  
 31 or  
 32 (C) either:  
 33 (i) a corporation, limited liability company, association, or  
 34 partnership; or  
 35 (ii) the officers, directors, substantial stockholders, partners,  
 36 members, managers, employees of such a corporation,  
 37 limited liability company, association, or partnership;  
 38 of which the applicant or licensee or a member of the  
 39 applicant's or licensee's immediate family is an officer,  
 40 director, substantial stockholder, partner, member, manager,  
 41 associate, or employee.  
 42 However, this section does not apply to insurance written or interests

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1 insured in connection with or arising out of credit transactions. A  
2 license is considered to have been used or intended to be used for the  
3 purpose of writing controlled business if the commissioner finds that  
4 during any twelve (12) month period the aggregate commissions earned  
5 from the controlled business exceeded twenty-five percent (25%) of the  
6 aggregate commission earned on all business written by the applicant  
7 or licensee during the same period.

8 (k) The commissioner has the authority to:

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

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

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

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

- 21 (1) subsection (b)(4);
- 22 (2) subsection (b)(7);
- 23 (3) subsection (b)(8); or
- 24 (4) subsection (b)(16).

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

29 SECTION 11. IC 27-1-15.7-2, AS AMENDED BY P.L.173-2007,  
30 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
31 JULY 1, 2010]: Sec. 2. (a) Except as provided in subsection (b), to  
32 renew a license issued under IC 27-1-15.6,

- 33 ~~(1) a resident insurance producer must complete at least twenty~~
- 34 ~~(20) twenty-four (24) hours of credit in continuing education~~
- 35 ~~courses, three (3) hours of which must concern ethics. and~~
- 36 ~~(2) a resident limited lines producer must complete at least five~~
- 37 ~~(5) hours of credit in continuing education courses.~~

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

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

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

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

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

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

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

- 33 (1) after the effective date of the licensee's last renewal of a
- 34 license under this chapter; or
- 35 (2) if the licensee is renewing a license for the first time, after the
- 36 date on which the licensee was issued the license under this
- 37 chapter.

38 (e) If an insurance producer receives qualification for a license in  
39 more than one (1) line of authority under IC 27-1-15.6, the insurance  
40 producer may not be required to complete a total of more than ~~twenty~~  
41 **twenty-four (24)** hours of credit in continuing education courses  
42 to renew the license.

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

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

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

9 (1) a continuing education statement that:

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

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

12 (C) lists the continuing education courses completed by the  
13 licensee to satisfy the continuing education requirements of  
14 this section; and

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

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

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

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

22 (1) is approved by the commissioner under section 4 of this  
23 chapter;

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

25 (3) concerns ethics;

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

30 SECTION 12. IC 27-1-15.7-5 IS AMENDED TO READ AS  
31 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) To qualify as a  
32 certified prelicensing course of study for purposes of IC 27-1-15.6-6,  
33 an insurance producer program of study must meet all of the following  
34 criteria:

35 (1) Be conducted or developed by an:

36 (A) insurance trade association;

37 (B) accredited college or university;

38 (C) educational organization certified by the insurance  
39 producer education and continuing education advisory council;  
40 or

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

42 (2) Provide for self-study or instruction provided by an approved

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

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1 (iii) principles of property and liability insurance applicable  
 2 to coverages sold to individuals and families for primarily  
 3 noncommercial purposes.  
 4 (F) For title insurance producers, not less than ten (10) hours  
 5 of instruction in a structured setting or comparable self-study  
 6 on:  
 7 (i) ethical practices in the marketing and selling of title  
 8 insurance;  
 9 (ii) requirements of the insurance laws and administrative  
 10 rules of Indiana;  
 11 (iii) principles of title insurance, including underwriting and  
 12 escrow issues; and  
 13 (iv) principles of the federal Real Estate Settlement  
 14 Procedures Act (12 U.S.C. 2608).  
 15 (3) Instruction provided in a structured setting must be provided  
 16 only by individuals who meet the qualifications established by the  
 17 commissioner under subsection (b).  
 18 (b) The commissioner, after consulting with the insurance producer  
 19 education and continuing education advisory council, shall adopt rules  
 20 under IC 4-22-2 prescribing the criteria that a person must meet to  
 21 render instruction in a certified prelicensing course of study.  
 22 (c) The commissioner shall adopt rules under IC 4-22-2 prescribing  
 23 the subject matter that an insurance producer program of study must  
 24 cover to qualify for certification as a certified prelicensing course of  
 25 study under this section.  
 26 (d) The commissioner may make recommendations that the  
 27 commissioner considers necessary for improvements in course  
 28 materials.  
 29 (e) The commissioner shall designate a program of study that meets  
 30 the requirements of this section as a certified prelicensing course of  
 31 study for purposes of IC 27-1-15.6-6.  
 32 (f) The commissioner may, after notice and opportunity for a  
 33 hearing, withdraw the certification of a course of study that does not  
 34 maintain reasonable standards, as determined by the commissioner for  
 35 the protection of the public.  
 36 (g) Current course materials for a prelicensing course of study that  
 37 is certified under this section must be submitted to the commissioner  
 38 upon request, but not less frequently than once every three (3) years.  
 39 SECTION 13. IC 27-1-28 IS ADDED TO THE INDIANA CODE  
 40 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 41 JULY 1, 2010]:  
 42 **Chapter 28. Independent Adjuster Licensing**

COPY



1           **Sec. 1. This chapter governs the qualifications and procedure**  
2 **for the licensing of independent adjusters.**

3           **Sec. 2. The commissioner may adopt rules under IC 4-22-2 to**  
4 **implement this chapter.**

5           **Sec. 3. As used in this chapter, "automated claims adjudication**  
6 **system" means a preprogrammed computer system that:**

7                   (1) **is designed for the collection, data entry, calculation, and**  
8                   **system generated final resolution of property, casualty, or**  
9                   **worker's compensation insurance claims;**

10                   (2) **is used only by a licensee or a person described in section**  
11 **6(b)(2) of this chapter;**

12                   (3) **complies with all claim payment requirements of the**  
13 **insurance laws of this state; and**

14                   (4) **is certified as compliant as described in subdivision (3) by**  
15 **a licensee who is an officer of a business entity that is licensed**  
16 **under this chapter.**

17           **Sec. 4. As used in this chapter, "catastrophe" means an event**  
18 **that is the subject of a declaration by the commissioner and that:**

19                   (1) **results in a large number of deaths or injuries;**

20                   (2) **causes extensive damage or destruction of facilities used to**  
21 **provide and sustain human needs;**

22                   (3) **produces an overwhelming demand on state and local**  
23 **response resources and mechanisms;**

24                   (4) **causes a severe long term effect on general economic**  
25 **activity; or**

26                   (5) **severely affects state, local, and private sector capabilities**  
27 **to begin and sustain response activities.**

28           **Sec. 5. As used in this chapter, "home state" means:**

29                   (1) **a state, district, or territory of the United States in which**  
30 **an independent adjuster:**

31                           (A) **maintains the independent adjuster's principal place of**  
32 **residence or business; and**

33                           (B) **is licensed to act as a resident independent adjuster; or**

34                   (2) **if the principal place of residence described in subdivision**  
35 **(1) does not license independent adjusters for the line of**  
36 **authority in which the independent adjuster seeks licensing**  
37 **under this chapter, the state, district, or territory of the**  
38 **United States:**

39                           (A) **that is designated by the independent adjuster as the**  
40 **independent adjuster's home state; and**

41                           (B) **in which the independent adjuster is licensed and in**  
42 **good standing.**

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1           **Sec. 6. (a) As used in this chapter, "independent adjuster"**  
2 **means a person, or an independent contractor or employee of a**  
3 **person, that:**

4           **(1) contracts with insurers or self-insurers to investigate,**  
5 **negotiate, and settle property, casualty, or worker's**  
6 **compensation claims; and**

7           **(2) for tax purposes is treated by the insurers or self-insurers**  
8 **in a manner consistent with treatment of an independent**  
9 **contractor rather than an employee under Title 26, Subtitle C**  
10 **of the Internal Revenue Code.**

11 **(b) The term does not include the following:**

12           **(1) An attorney who:**

13                   **(A) is admitted to practice in Indiana; and**

14                   **(B) acts in a professional capacity as an attorney.**

15           **(2) A person employed solely to:**

16                   **(A) obtain facts surrounding a claim;**

17                   **(B) furnish technical assistance to a licensed independent**  
18 **adjuster; or**

19                   **(C) collect claim information from, or furnish claim**  
20 **information to, policyholders or claimants and perform**  
21 **data entry into an automated claims adjudication system**  
22 **if both of the following apply:**

23                           **(i) The person is an individual employee of an**  
24 **independent adjuster licensed under this chapter or the**  
25 **independent adjuster's affiliate.**

26                           **(ii) The person is supervised by an individual**  
27 **independent adjuster licensed under this chapter or an**  
28 **individual licensed insurance producer described in**  
29 **subdivision (10) who supervises not more than**  
30 **twenty-five (25) persons described in item (i).**

31           **(3) A person that is licensed under IC 25-30-1.**

32           **(4) A person that:**

33                   **(A) performs only executive, administrative, managerial,**  
34 **or clerical duties; and**

35                   **(B) does not investigate, negotiate, or settle claims with**  
36 **policyholders, claimants, or legal representatives of**  
37 **policyholders or claimants.**

38           **(5) A person that settles only reinsurance or subrogation**  
39 **claims.**

40           **(6) An officer, director, manager, or employee of an**  
41 **authorized insurer, a managing general agent, a surplus lines**  
42 **insurer, a risk retention group, or an attorney in fact of a**

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- reciprocal insurer.
- (7) A manager of the United States branch of an alien insurer.
- (8) A person that investigates, negotiates, or settles life, accident and health, annuity, or disability insurance claims.
- (9) Under a self-insured arrangement, an individual who adjusts claims on behalf of the individual's employer.
- (10) A licensed insurance producer, an attorney in fact of a reciprocal insurer, or a managing general agent of an insurer to whom claim authority has been granted by the insurer.
- (11) A person that is authorized to adjust worker's compensation or disability claims under the authority of a third party administrator.
- (12) A person that investigates, negotiates, or settles crop insurance claims.

Sec. 7. As used in this chapter, "NAIC" refers to the National Association of Insurance Commissioners.

Sec. 8. As used in this chapter, "uniform individual application" means the current version of the NAIC uniform individual application for resident and nonresident individuals.

Sec. 9. As used in this chapter, "uniform business entity application" means the current version of the NAIC uniform business entity application for resident and nonresident business entities.

Sec. 10. A person shall not:

- (1) act as an independent adjuster in Indiana; or
- (2) hold itself, himself, or herself out as an independent adjuster in Indiana;

unless the person is licensed or exempt from licensure under this chapter.

Sec. 11. (a) If a catastrophe is declared, an insurer may contract with an individual who is:

- (1) not licensed under this chapter; and
- (2) otherwise qualified to adjust claims;

to act as a temporary emergency independent adjuster on behalf of the insurer if the insurer obtains for the individual a temporary emergency independent adjuster license under this section.

(b) An insurer described in subsection (a) must, not more than five (5) days after the individual begins to adjust claims arising from the declared catastrophe, submit to the commissioner an application for temporary emergency licensure of the individual under this section.

(c) An application submitted under subsection (b) must include

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1 the following information in a format prescribed by the  
2 commissioner:

- 3 (1) The name of the individual.
- 4 (2) The Social Security number of the individual.
- 5 (3) The name of the insurer.
- 6 (4) The effective date of the contract between the insurer and  
7 the individual.
- 8 (5) The catastrophe or loss number.
- 9 (6) The catastrophe event name.
- 10 (7) Other information the commissioner considers necessary.

11 (d) The commissioner shall establish standards and procedures  
12 for temporary emergency independent adjuster licensure under  
13 this section.

14 (e) A temporary emergency independent adjuster license issued  
15 under this section is effective for not more than ninety (90) days,  
16 unless extended by the commissioner. In the event of multiple  
17 catastrophes, an individual who holds a temporary emergency  
18 independent adjuster license under this section may adjust claims  
19 arising from any other catastrophe that occurs within the ninety  
20 (90) day period during which the license is effective under this  
21 subsection without the insurer applying for an additional  
22 temporary emergency independent adjuster license.

23 (f) The rules adopted by the commissioner under section 2 of  
24 this chapter may establish a fee for an application submitted under  
25 this section.

26 Sec. 12. (a) An individual may apply for a resident independent  
27 adjuster license by submitting:

- 28 (1) a uniform individual application to the commissioner with  
29 a declaration, under penalty of suspension, revocation, or  
30 refusal of licensure, that the statements made in the  
31 application are true and complete to the best of the  
32 individual's knowledge; and
- 33 (2) an application fee of forty dollars (\$40).

34 (b) The commissioner shall approve an application submitted  
35 under subsection (a) upon finding all of the following:

- 36 (1) The individual is at least eighteen (18) years of age.
- 37 (2) The individual is eligible to designate Indiana as the  
38 individual's home state.
- 39 (3) The individual is determined by the commissioner to be  
40 trustworthy, reliable, and of good reputation.
- 41 (4) The individual has not committed an act that is grounds  
42 for probation, suspension, revocation, or refusal of licensure

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under section 18 of this chapter.

(5) The individual has completed a preclicensing course of study for the line of authority in which the individual has applied for licensing under this section.

(6) The individual has successfully passed the written examination administered under section 15 of this chapter for the line of authority in which the individual has applied for licensing under this section.

(c) The commissioner may require any documents reasonably necessary to verify the information contained in the application.

Sec. 13. (a) A business entity may apply for a resident independent adjuster license by submitting:

(1) a uniform business entity application to the commissioner with a declaration, under penalty of suspension, revocation, or refusal of licensure, that the statements made in the application are true and complete to the best knowledge of the individual submitting the application on behalf of the business entity;

(2) an application fee of forty dollars (\$40); and

(3) the name, address, Social Security number, and criminal and administrative history of each:

(A) owner that has at least a ten percent (10%) interest or voting interest in the business entity;

(B) partner of the business entity;

(C) executive officer of the business entity; and

(D) director of the business entity.

(b) The commissioner shall approve an application submitted by a business entity under subsection (a) upon finding all of the following:

(1) The business entity is eligible to designate Indiana as the business entity's home state.

(2) The business entity has designated an individual independent adjuster licensed under this chapter to be responsible for the business entity's compliance with Indiana insurance law.

(3) The business entity has not committed any act that is grounds for probation, suspension, revocation, or refusal of an independent adjuster license under section 18 of this chapter.

(c) The commissioner may require a business entity applying under this section to produce any documents reasonably necessary to verify the information contained in the application.

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1           **Sec. 14. (a) An independent adjuster may qualify for an**  
 2 **independent adjuster license in one (1) or more of the following**  
 3 **lines of authority:**

4           **(1) Property and casualty insurance.**

5           **(2) Worker's compensation insurance.**

6           **(b) An independent adjuster licensed under this chapter is not**  
 7 **required to hold another independent adjuster, insurance**  
 8 **producer, or insurance administrator license in Indiana.**

9           **(c) An independent adjuster license:**

10           **(1) is effective for two (2) years after the date of issuance**  
 11 **unless probated, suspended, revoked, or refused; and**

12           **(2) may be renewed if all requirements for renewal, including**  
 13 **submission to the commissioner of a renewal fee of forty**  
 14 **dollars (\$40), are met by the date due.**

15           **(d) If an independent adjuster license expires, the independent**  
 16 **adjuster may, within twelve (12) months after the date of**  
 17 **expiration, be reissued an independent adjuster license upon**  
 18 **receipt by the commissioner of:**

19           **(1) a request for reissuance, as prescribed by the**  
 20 **commissioner; and**

21           **(2) a reissuance fee of eighty dollars (\$80).**

22           **(e) An independent adjuster who is unable to comply with the**  
 23 **license renewal requirements of this section due to:**

24           **(1) military service;**

25           **(2) long term medical disability; or**

26           **(3) another extenuating circumstance determined by the**  
 27 **commissioner;**

28 **may request a waiver of the renewal requirements or applicable**  
 29 **sanction.**

30           **(f) A license issued under this chapter must contain the**  
 31 **following:**

32           **(1) The licensee's name, address, and personal identification**  
 33 **number.**

34           **(2) The date of issuance.**

35           **(3) The date of expiration.**

36           **(4) Other information considered necessary by the**  
 37 **commissioner.**

38           **(g) An independent adjuster shall, not more than thirty (30)**  
 39 **days after the occurrence of a change of the independent**  
 40 **adjuster's:**

41           **(1) legal name; or**

42           **(2) home state address;**

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1 provide written notice to the commissioner of the change.

2 (h) The commissioner may contract with a nongovernmental  
3 entity to perform ministerial functions required by this section,  
4 including the collection of data and fees related to licensing.

5 Sec. 15. (a) Except as provided in section 16 of this chapter, an  
6 individual who applies for an independent adjuster license under  
7 this chapter must pass a written examination that is:

8 (1) developed and conducted according to rules adopted by  
9 the commissioner under IC 4-22-2; and

10 (2) intended to test the knowledge of the individual  
11 concerning:

12 (A) the lines of authority in which the applicant has  
13 applied for licensing under this chapter;

14 (B) the duties and responsibilities of an independent  
15 adjuster; and

16 (C) Indiana insurance law.

17 (b) The commissioner may contract with a nongovernmental  
18 entity to administer the written examination required by this  
19 section.

20 (c) An individual described in subsection (a) shall remit, with  
21 the application to take the written examination required by this  
22 section, a nonrefundable examination fee in an amount set by the  
23 commissioner or the organization administering the examination.

24 (d) If an individual:

25 (1) fails to appear for or to pass an examination; and

26 (2) desires to reschedule the examination;

27 the individual shall reapply for the written examination and remit  
28 all fees and forms before scheduling an examination date.

29 Sec. 16. (a) An individual who applies for an independent  
30 adjuster license under this chapter and who:

31 (1) possesses an independent adjuster license for the same line  
32 of authority in which the individual has applied for licensing  
33 under this chapter in a state in which a preclicensing  
34 independent adjuster licensure examination is required;

35 (2) possessed an independent adjuster license that:

36 (A) was for the same line of authority in which the  
37 individual has applied for licensing under this chapter in  
38 a state in which a preclicensing independent adjuster  
39 licensure examination is required; and

40 (B) expired less than ninety (90) days before the date the  
41 commissioner receives the application; or

42 (3) provides proof from contracting insurers that the

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1 individual has participated in claims adjudication in the same  
 2 line of authority during the five (5) years immediately  
 3 preceding the date of application;

4 is not required to complete a prelicensing course under section  
 5 12(b)(5) of this chapter or pass a prelicensing examination under  
 6 section 15 of this chapter before being licensed under this chapter.

7 (b) An applicant who meets the criteria set forth in subsection  
 8 (a)(1) or (a)(2) must provide certification from the other state that  
 9 the applicant's independent adjuster license:

10 (1) is currently in good standing; or

11 (2) was in good standing at the time of expiration.

12 (c) A person that:

13 (1) is licensed as an independent adjuster in another state  
 14 where a prelicensing independent adjuster licensure  
 15 examination is required;

16 (2) establishes legal residency in Indiana; and

17 (3) applies for a resident independent adjuster license under  
 18 this chapter less than ninety (90) days after the person  
 19 establishes legal residency in Indiana;

20 is not required to complete a prelicensing course under section  
 21 12(b)(5) of this chapter or pass a prelicensing examination under  
 22 section 15 of this chapter before being licensed under this chapter.

23 Sec. 17. (a) Except as provided in section 18 of this chapter, the  
 24 commissioner shall issue a nonresident independent adjuster  
 25 license to a person if:

26 (1) the person is currently licensed in good standing as an  
 27 independent adjuster in the person's home state;

28 (2) the person has submitted:

29 (A) the proper application for licensure;

30 (B) a nonresident application fee of ninety dollars (\$90);  
 31 and

32 (C) in the case of a business entity, the information  
 33 required by section 13(a)(3) of this chapter; and

34 (3) the person's designated home state awards nonresident  
 35 independent adjuster licenses to residents of Indiana on the  
 36 same basis as nonresident independent adjuster licenses are  
 37 awarded under this chapter to residents of other states.

38 (b) Except as provided in section 18 of this chapter, if a person  
 39 that:

40 (1) is not a resident of Indiana; and

41 (2) is not licensed as an independent adjuster in another state;

42 desires to obtain an independent adjuster license under this

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1 chapter, the person must comply with the requirements of section  
 2 12 or 13 of this chapter, and sections 14 and 15 of this chapter, and  
 3 must remit the nonresident application fee of ninety dollars (\$90).

4 (c) The commissioner may:

5 (1) verify an independent adjuster's licensure status in  
 6 another state through an appropriate data base, including the  
 7 insurance producer data base maintained by the NAIC or an  
 8 affiliate or a subsidiary of the NAIC; or

9 (2) request certification of good standing as described in  
 10 section 16(b) of this chapter.

11 (d) To maintain a valid nonresident independent adjuster license  
 12 issued under this chapter:

13 (1) the independent adjuster must maintain a valid resident  
 14 independent adjuster license in the independent adjuster's  
 15 home state; and

16 (2) the independent adjuster's home state must award  
 17 nonresident independent adjuster licenses to residents of  
 18 Indiana on the same basis as nonresident independent  
 19 adjuster licenses are awarded under this chapter to residents  
 20 of other states.

21 (e) For a nonresident independent adjuster license issued under  
 22 this chapter to be renewed:

23 (1) the independent adjuster must:

24 (A) maintain a valid resident independent adjuster license  
 25 in the independent adjuster's home state; and

26 (B) remit to the commissioner a nonresident independent  
 27 adjuster license renewal fee of ninety dollars (\$90); and

28 (2) the independent adjuster's home state must award  
 29 nonresident independent adjuster licenses to residents of  
 30 Indiana on the same basis as nonresident independent  
 31 adjuster licenses are awarded under this chapter to residents  
 32 of other states.

33 (f) If a nonresident independent adjuster's home state license  
 34 terminates for any reason other than issuance of a new resident  
 35 independent adjuster license in a new home state:

36 (1) the person's nonresident independent adjuster license  
 37 issued under this chapter also terminates immediately; and

38 (2) the person shall immediately surrender the nonresident  
 39 independent adjuster license to the commissioner.

40 (g) If a nonresident independent adjuster's home state license  
 41 terminates due to the issuance of a new resident independent  
 42 adjuster license in a new home state, the independent adjuster

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1 shall, not more than thirty (30) days after the nonresident  
 2 independent adjuster's home state license termination date,  
 3 provide notice of the termination to the commissioner and the  
 4 insurance commissioner of any state that has issued a nonresident  
 5 independent adjuster license to the independent adjuster. The  
 6 notice must specify the independent adjuster's previous home state  
 7 address and new home state address.

8 (h) If a resident independent adjuster's license issued under this  
 9 chapter terminates for any reason, the resident independent  
 10 adjuster shall, not more than thirty (30) days after the resident  
 11 adjuster license termination date, provide notice of the termination  
 12 to the insurance commissioner of any state that has issued a  
 13 nonresident independent adjuster license to the resident  
 14 independent adjuster. If the termination results from a change of  
 15 the resident independent adjuster's home state, the notice must  
 16 specify the independent adjuster's previous home state address and  
 17 new home state address.

18 Sec. 18. (a) The commissioner may suspend, revoke, or refuse to  
 19 issue or renew an independent adjuster license, or place an  
 20 independent adjuster on probation, for a cause set forth in  
 21 subsection (b).

22 (b) An independent adjuster is subject to the penalties set forth  
 23 in subsection (a) for any of the following:

- 24 (1) Providing incorrect, misleading, incomplete, or materially  
 25 untrue information in a license application.
- 26 (2) Violating an insurance law, a subpoena, or an order of the  
 27 commissioner or another state's insurance commissioner.
- 28 (3) Obtaining or attempting to obtain a license through  
 29 misrepresentation or fraud.
- 30 (4) Improperly withholding, misappropriating, or converting  
 31 money or property received in the course of doing insurance  
 32 business.
- 33 (5) Intentionally misrepresenting the terms of an actual or  
 34 proposed insurance contract or application for insurance.
- 35 (6) Having been convicted of a felony.
- 36 (7) Having admitted or been found to have committed any  
 37 unfair trade practice or fraud in the business of insurance.
- 38 (8) Using fraudulent, coercive, or dishonest practices, or  
 39 demonstrating incompetence, untrustworthiness, or financial  
 40 irresponsibility, in the conduct of insurance business.
- 41 (9) Having an insurance license, or its equivalent, probated,  
 42 suspended, revoked, or refused in another state, province,

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- district, or territory.
- (10) Forging another person's name to a document related to an insurance transaction.
- (11) Cheating, including improperly using notes or any other reference material, to complete an examination for an insurance license.
- (12) Failing to comply with an administrative or court order imposing a child support obligation.
- (13) Failing to pay state income tax or failing to comply with an administrative or court order directing payment of state income tax.

(c) If the commissioner refuses an application for licensure or for the renewal of an existing license under this chapter, the commissioner shall notify the applicant or licensee in writing, advising of the reason for the refusal. The applicant or licensee may, not more than thirty (30) days after receiving the commissioner's notice of refusal, make written demand upon the commissioner for a hearing to determine the reasonableness of the refusal. The hearing must be held under IC 4-21.5 not more than twenty (20) days after the commissioner receives the applicant's or licensee's written demand.

(d) The commissioner may suspend, revoke, or refuse to renew a business entity's independent adjuster license under this chapter or place a business entity licensed under this chapter on probation if, after a hearing under IC 4-21.5, the commissioner finds that:

- (1) the individual licensed independent adjuster designated by the business entity under section 13(b)(2) of this chapter as being responsible for the business entity's compliance with Indiana insurance law committed a violation described in subsection (b) while acting on behalf of or representing the business entity;
- (2) the violation was known or should have been known by at least one (1) of the business entity's partners, officers, or managers;
- (3) the violation was not reported to the commissioner; and
- (4) the business entity did not take corrective action.

(e) In addition to or instead of a penalty imposed under subsection (a), the commissioner may, after a hearing under IC 4-21.5, impose a civil penalty of at least fifty dollars (\$50) and not more than ten thousand dollars (\$10,000), regardless of whether the person on whom the penalty is imposed holds an independent adjuster license issued under this chapter that is in

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1 effect. A penalty imposed under this subsection may be enforced in  
2 the same manner as a civil judgment.

3 Sec. 19. (a) Except as provided in subsection (b), an individual  
4 who holds a license under this chapter shall, every two (2) years,  
5 satisfactorily complete at least twenty-four (24) hours of continuing  
6 education courses, three (3) hours of which must concern ethics,  
7 and report the completion of the courses to the commissioner.

8 (b) This section does not apply to the following:

9 (1) An individual who is licensed for less than twelve (12)  
10 months before the end of the applicable continuing education  
11 biennium.

12 (2) A licensed nonresident independent adjuster who has met  
13 the continuing education requirements of the designated home  
14 state.

15 Sec. 20. An independent adjuster shall:

16 (1) maintain a copy of each contract between the independent  
17 adjuster and an insurer or a self-insurer; and

18 (2) comply with the record retention policy agreed to in the  
19 contract described in subdivision (1).

20 Sec. 21. An independent adjuster shall do all of the following:

21 (1) Be honest and fair in all communications with an insured,  
22 an insurer, a self-insurer, and the public.

23 (2) Give policyholders and claimants prompt and  
24 knowledgeable service and courteous, fair, and objective  
25 treatment.

26 (3) Refrain from:

27 (A) giving legal advice; or

28 (B) dealing directly with a policyholder or claimant who is  
29 represented by legal counsel unless the legal counsel  
30 consents to the direct contact.

31 (4) Comply with all local, state, and federal privacy and  
32 information security laws.

33 (5) Identify:

34 (A) itself, herself, or himself as an independent adjuster;  
35 and

36 (B) if applicable, identify the independent adjuster's  
37 employer;

38 when dealing with a policyholder or claimant.

39 (6) Refrain from:

40 (A) having any financial interest in an adjustment; or

41 (B) acquiring, for the independent adjuster or any person,  
42 an interest or a title in salvage without first receiving

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written authority from the principal.

**Sec. 22. (a) An independent adjuster shall report to the commissioner any administrative action taken against the independent adjuster:**

- (1) in another jurisdiction; or**
  - (2) by another governmental agency in Indiana;**
- not more than thirty (30) days after the final disposition of the matter. The report must include a copy of the order or consent order, and any other relevant documentation.**

**(b) An independent adjuster shall report to the commissioner any criminal action taken against the independent adjuster:**

- (1) in another jurisdiction; or**
  - (2) by another governmental agency in Indiana;**
- not more than thirty (30) days after the final disposition of the criminal matter. The report must include a copy of the initial complaint filed, the final order issued by the court, and any other relevant documentation.**

**Sec. 23. If an independent adjuster uses an automated claims adjudication system, the independent adjuster shall maintain proof of the certification described in section 3(4) of this chapter and provide the proof of certification to the commissioner upon request.**

**Sec. 24. The commissioner shall deposit a fee received under this chapter into the department of insurance fund established by IC 27-1-3-28.**

**SECTION 14. IC 27-7-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) Notice of cancellation of property insurance coverage by an insurer must:**

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

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

- (1) ten (10) days before canceling a policy, if the cancellation is for nonpayment of a premium;**
- (2) twenty (20) days before canceling a policy, if:**
  - (A) the cancellation occurs more than sixty (60) days after the date of issuance of the policy; or**
  - (B) the insurer has received a copy of a complaint under**

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1                   **IC 32-30-10.5-8(d)(2) concerning the property;** and  
2                   (3) ten (10) days before canceling a policy, if the cancellation  
3                   occurs not more than sixty (60) days after the date of issuance of  
4                   the policy.

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

11                  SECTION 15. IC 27-8-9-7, AS AMENDED BY P.L.74-2009,  
12                  SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
13                  JULY 1, 2010]: Sec. 7. (a) This section does not apply to cases covered  
14                  by section 10 or 11 of this chapter.

15                  (b) In any case arising from a permittee's use of a motor vehicle for  
16                  which the owner of the vehicle has motor vehicle insurance coverage,  
17                  the owner's motor vehicle insurance coverage is considered primary if  
18                  both of the following apply:

19                   (1) The vehicle, at the time damage occurred, was operated with  
20                   the permission of the owner of the motor vehicle.

21                   (2) The use was within the scope of the permission granted.

22                  (c) The permittee may not recover under any other motor vehicle  
23                  insurance coverage available to the permittee until the limit of all  
24                  coverage provided by the owner's policy is first exhausted.

25                  (d) In a case arising from an owner's use of a motor vehicle for  
26                  which the owner of the vehicle has motor vehicle insurance coverage,  
27                  the owner's motor vehicle insurance policy is considered primary for  
28                  any claim made by a passenger in the motor vehicle.

29                  (e) A passenger in a motor vehicle at the time a case described in  
30                  subsection (b) or (d) arises may not recover under any other motor  
31                  vehicle insurance coverage available to the passenger until the limit of  
32                  all coverage ~~provided by~~ **available to the passenger under** the owner's  
33                  **motor vehicle insurance** policy is first exhausted.

34                  SECTION 16. IC 32-30-10.5-8, AS ADDED BY P.L.105-2009,  
35                  SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
36                  JULY 1, 2010]: Sec. 8. (a) This section applies to a foreclosure action  
37                  that is filed after June 30, 2009. Except as provided in subsection (e)  
38                  and section 10(g) of this chapter, not later than thirty (30) days before  
39                  a creditor files an action for foreclosure, the creditor shall send to the  
40                  debtor by certified mail a presuit notice on a form prescribed by the  
41                  Indiana housing and community development authority created by  
42                  IC 5-20-1-3. In prescribing the form required by this section, the

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1 Indiana housing and community development authority shall include  
2 in the notice the statement set forth in IC 24-5.5-3-1. In addition, the  
3 notice required by this subsection must:

- 4 (1) inform the debtor that:
  - 5 (A) the debtor is in default; and
  - 6 (B) the debtor is encouraged to obtain assistance from a  
7 mortgage foreclosure counselor; and
- 8 (2) provide the contact information for the Indiana Foreclosure  
9 Prevention Network.
- 10 (b) The notice required by subsection (a) shall be sent to:
  - 11 (1) the address of the mortgaged property; or
  - 12 (2) the last known mailing address of the debtor if the creditor's  
13 records indicate that the mailing address of the debtor is other  
14 than the address of the mortgaged property.

15 If the creditor provides evidence that the notice required by subsection  
16 (a) was sent by certified mail, return receipt requested, and as  
17 prescribed by this subsection, it is not necessary that the debtor accept  
18 receipt of the notice for an action to proceed as allowed under this  
19 chapter.

20 (c) Except as provided in subsection (e) and section 10(g) of this  
21 chapter, if a creditor files an action to foreclose a mortgage, the creditor  
22 shall include with the complaint served on the debtor a notice that  
23 informs the debtor of the debtor's right to participate in a settlement  
24 conference. The notice must be in a form prescribed by the Indiana  
25 housing and community development authority created by IC 5-20-1-3.  
26 The notice must inform the debtor that the debtor may schedule a  
27 settlement conference by notifying the court, not later than thirty (30)  
28 days after the notice is served, of the debtor's intent to participate in a  
29 settlement conference.

30 (d) In a foreclosure action filed under IC 32-30-10-3 after June 30,  
31 2009, the creditor shall:

- 32 (1) attach to the complaint filed with the court a copy of the  
33 notices sent to the debtor under subsections (a) and (c); **and**
- 34 (2) **at the time the complaint is filed with the court, send:**
  - 35 (A) **by certified mail, return receipt requested; and**
  - 36 (B) **to the last known mailing address of the insurance**  
37 **company;**
- 38 **a copy of the complaint filed with the court to the insurance**  
39 **company of record for the property that is the subject of the**  
40 **foreclosure action.**

41 (e) A creditor is not required to send the notices described in this  
42 section if:

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1 (1) the loan is secured by a dwelling that is not the debtor's  
 2 primary residence;  
 3 (2) the loan has been the subject of a prior foreclosure prevention  
 4 agreement under this chapter and the debtor has defaulted with  
 5 respect to the terms of that foreclosure prevention agreement; or  
 6 (3) bankruptcy law prohibits the creditor from participating in a  
 7 settlement conference under this chapter with respect to the loan.  
 8 **(f) A creditor that shows evidence that a copy of the complaint**  
 9 **was sent as required by subsection (d)(2) is considered to have met**  
 10 **the requirement of subsection (d)(2), regardless of whether the**  
 11 **insurance company acknowledges having received the copy of the**  
 12 **complaint.**  
 13 SECTION 17. [EFFECTIVE JULY 1, 2010] **(a) IC 27-1-15.7-2, as**  
 14 **amended by this act, applies only to an insurance producer license**  
 15 **renewed after June 30, 2011.**  
 16 **(b) IC 27-1-15.7-5, as amended by this act, applies only to an**  
 17 **insurance producer license issued after June 30, 2011.**  
 18 **(c) This SECTION expires July 1, 2016.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred House Bill 1240, 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, delete lines 15 through 42, begin a new paragraph and insert:

"SECTION 2. IC 16-42-22-8, AS AMENDED BY P.L.204-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. (a) ~~For~~ **This section applies to** substitution to occur for a prescription other than a prescription filled under the Medicaid program (42 U.S.C. 1396 et seq.), the children's health insurance program established under IC 12-17.6-2, or the Medicare program (42 U.S.C. 1395 et seq.).

**(b) Except as provided in subsection (c), for substitution for a prescription to occur:**

- (1) the practitioner must:
  - (A) sign on the line under which the words "May substitute." appear; or
  - (B) for an electronically transmitted prescription, electronically transmit the instruction "May substitute."; and
- (2) the pharmacist must inform the customer of the substitution.

**(c) This subsection does not apply to substitution requested by the customer. For substitution for a prescription to occur at the time the prescription is refilled with a generically equivalent drug product that has not been previously used by the customer:**

- (1) the pharmacist must, at the time the prescription is refilled, request written approval from the practitioner to substitute the generically equivalent drug product; and
- (2) the practitioner must, at the time the prescription is refilled:
  - (A) forward to the pharmacist a written or electronically transmitted prescription with the "May substitute." instruction indicated as described in subsection (b)(1); and
  - (B) verbally inform the customer of the substitution.

~~(b)~~ (d) This section does not authorize any substitution other than substitution of a generically equivalent drug product.

SECTION 3. IC 25-26-13-33 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 33. (a) **Beginning January 1, 2011, on the request of a customer who is blind (as defined in IC 12-7-2-21(2)) or visually impaired (as defined in**

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**IC 12-7-2-198(a)), a pharmacist shall dispense a prescription for a legend drug:**

**(1) with a label that complies with the requirements of IC 16-42-19-11(a)(1); and**

**(2) in a manner such that the label information is accessible to the customer through use of:**

**(A) a braille label that is affixed to the immediate container in which the drug is delivered;**

**(B) a recorded audio device that is permanently attached to the immediate container in which the drug is delivered; or**

**(C) other audio technology that uses a characteristic that is part of the immediate container in which the drug is delivered to make the label information accessible to the customer.**

**(b) If, at the time of the customer's request, a pharmacy does not possess equipment or technology necessary to comply with subsection (a), the pharmacist shall:**

**(1) obtain the necessary equipment or technology to comply with subsection (a) within a reasonable period; or**

**(2) refer the customer to another pharmacy that the pharmacist has confirmed is:**

**(A) able to comply with subsection (a); and**

**(B) a member of an applicable provider network for purposes of insurance coverage of the prescription.**

**SECTION 4. IC 25-26-18-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. A mail order or Internet based pharmacy shall comply with the following:**

**(1) The licensure laws of the state in which the mail order or Internet based pharmacy is domiciled.**

**(2) The drug substitution laws of Indiana.**

**(3) IC 25-26-13-33."**

Page 3, delete line 1.

Page 6, line 41, delete ""SOX"" and insert ""Sarbanes-Oxley"".

Page 10, line 30, delete "or".

Page 10, line 31, delete "SOX" and insert "Sarbanes-Oxley".

Page 10, line 32, delete "SOX" and insert "Sarbanes-Oxley".

Page 18, line 41, delete "SOX" and insert "Sarbanes-Oxley".

Page 18, line 42, delete "SOX" and insert "Sarbanes-Oxley".

Page 21, line 5, reset in roman "shall".

Page 21, line 5, delete "may".

Page 23, line 17, reset in roman "the".

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Page 24, line 35, delete "an RBC level (as defined in IC 27-1-36-18)" and insert "**a risk based capital level event described in IC 27-1-36.**".

Page 24, delete line 36.

Page 25, line 1, delete "SOX" and insert "**Sarbanes-Oxley**".

Page 25, line 6, delete "SOX" and insert "**Sarbanes-Oxley**".

Delete pages 37 through 40, begin a new paragraph and insert:

"SECTION 41. IC 27-1-15.7-2, AS AMENDED BY P.L.173-2007, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) Except as provided in subsection (b), to renew a license issued under IC 27-1-15.6,

~~(1)~~ a resident insurance producer must complete at least ~~twenty~~ **(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:

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- (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) An insurance producer who, **before July 1, 2011:**
- (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 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)~~ **twenty-four (24)** 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:

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- (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 42. IC 27-1-15.7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) To qualify as a certified preclicensing course of study for purposes of IC 27-1-15.6-6, an insurance producer program of study must meet all of the following 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

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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;

(iii) principles of property insurance; and

(iv) principles of liability insurance.

(E) For personal lines producers, a minimum of ~~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 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.

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(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 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 41, delete lines 1 through 34.

Page 45, delete lines 14 through 42.

Delete page 46.

Page 47, delete lines 1 through 17.

Page 50, delete lines 30 through 42.

Delete pages 51 through 52.

Page 53, delete lines 1 through 37.

Page 59, between lines 19 and 20, begin a new paragraph and insert:

"SECTION 49. IC 27-2-15-4.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 4.2. As used in this chapter, "municipality" has the meaning set forth in IC 36-1-2-11.**

SECTION 50. IC 27-2-15-4.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 4.5. (a) As used in this section, "city" refers to a city having a population of more than thirty-five thousand (35,000) that is located in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000):**

**(b) (a)** An insurer that:

**(1)** issued an insurance policy:

**(A)** covering a building or other structure that is:

**(1) (i)** located in a ~~city~~; **municipality**; and

**(2) (ii)** damaged by a fire or explosion; **and**

**(B) that is in effect at the time of the fire or explosion; and**

**(2) receives a request for notice about the existence of the**

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**insurance policy:**

**(A) from the enforcement authority of the municipality and**

**(B) within twenty (20) days after the damage occurs;**

shall, **within ten (10) days after notice is received under subdivision (2)**, notify the enforcement authority of the **city municipality** about the existence of the policy. ~~However, an insurer is not required to notify the enforcement authority under this section if the policy issued by the insurer is not in effect at the time of the fire or explosion that damages the building or structure.~~

~~(c) The insurer shall provide the notice required under this section if the enforcement authority makes a request for the notice within twenty (20) days after the damage occurs.~~

~~(d) (b) The notice required by this section must:~~

- ~~(1) be in writing;~~
- ~~(2) identify the insurer and state the insurer's address;~~
- ~~(3) identify the building or structure and state the location of the building or structure; and~~
- ~~(4) disclose the nature and extent of the coverage of the building or structure provided by the policy.~~

~~(e) An insurer shall provide notice to the enforcement authority under this section within ten (10) days after the insurer is notified under subsection (c) of the damaging of the building or structure by fire or explosion.~~

~~(f) (c) The commissioner may take action under IC 27-1-3-10 and IC 27-1-3-19 against an insurer that violates this section.~~

SECTION 51. IC 27-2-15-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) If:

- (1) a fire or explosion damages a building or other structure located in a **city; municipality; and**
- (2) the enforcement authority of the **city municipality** certifies to an insurer that issued a policy covering the building or structure the amount of demolition or rehabilitation expenses that the **city municipality** anticipates incurring or has incurred under IC 36-7-9 in connection with the building or structure;

the insurer shall remit to the **city municipality** or the enforcement authority the amount determined under subsection (c).

(b) To require the remittance of money under this section, an enforcement authority must:

- (1) provide the certification under subsection (a) within thirty (30) days after the fire or explosion that damages the building or structure; and

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(2) comply with subsection (c).

However, it is not necessary for the enforcement authority to provide the certification within thirty (30) days after the fire or explosion if the insurer fails to provide notice to the enforcement authority under section 4.5 of this chapter within ten (10) days after the fire or explosion.

(c) The amount that must be remitted to the ~~city~~ **municipality** or the enforcement agency under subsection (a) is the lesser of:

- (1) fifteen percent (15%) of the available insurance proceeds, if any; or
- (2) an amount equal to the amount certified.

(d) The amount remitted under this section shall be placed in an interest bearing escrow account to be administered by the enforcement authority and the ~~city~~ **municipality**. The insured shall be notified by the enforcement authority of the actions taken under this section.

SECTION 52. IC 27-2-15-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. Upon a judgment being rendered under IC 36-7-9-13(c) or IC 36-7-9-13(d), the ~~city~~ **municipality** is entitled to the available insurance proceeds set aside to the extent of the costs set forth in IC 36-7-9-12. All claims by the ~~city~~ **municipality** against the available insurance proceeds must be made within one (1) year after the date of the fire or explosion or within one (1) year after the final outcome of a case or appeal initiated under IC 36-7-9, whichever is later. Proceeds in the escrow account that are not claimed in this manner shall be paid to the insured.

SECTION 53. IC 27-2-15-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. The state fire marshal, a deputy fire marshal, an enforcement authority, or an officer of a ~~city~~ **municipality** complying with this chapter or attempting in good faith to comply with this chapter is immune from civil and criminal liability in connection with actions taken under this chapter."

Page 60, line 38, delete "calendar year," and insert "**six (6) months,**".

Page 63, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 57. IC 27-7-12-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) Notice of cancellation of property insurance coverage by an insurer must:

- (1) be in writing;
- (2) be delivered or mailed to the named insured at the last known address of the named insured;
- (3) state the effective date of the cancellation; and
- (4) upon request of the named insured, be accompanied by a

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written explanation of the specific reasons for the cancellation.

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

(1) ten (10) days before canceling a policy, if the cancellation is for nonpayment of a premium;

(2) twenty (20) days before canceling a policy, if:

(A) the cancellation occurs more than sixty (60) days after the date of issuance of the policy; **or**

(B) **the insurer has received a copy of a complaint under IC 32-30-10.5-8(d)(2) concerning the property;** and

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

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

Page 65, delete lines 20 through 42.

Delete pages 66 through 69.

Page 70, delete lines 1 through 10, begin a new paragraph and insert:

"SECTION 60. IC 27-8-9-7, AS AMENDED BY P.L.74-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) This section does not apply to cases covered by section 10 or 11 of this chapter.

(b) In any case arising from a permittee's use of a motor vehicle for which the owner of the vehicle has motor vehicle insurance coverage, the owner's motor vehicle insurance coverage is considered primary if both of the following apply:

(1) The vehicle, at the time damage occurred, was operated with the permission of the owner of the motor vehicle.

(2) The use was within the scope of the permission granted.

(c) The permittee may not recover under any other motor vehicle insurance coverage available to the permittee until the limit of all coverage provided by the owner's policy is first exhausted.

(d) In a case arising from an owner's use of a motor vehicle for which the owner of the vehicle has motor vehicle insurance coverage, the owner's motor vehicle insurance policy is considered primary for any claim made by a passenger in the motor vehicle.

(e) A passenger in a motor vehicle at the time a case described in

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subsection (b) or (d) arises may not recover under any other motor vehicle insurance coverage available to the passenger until the limit of all coverage ~~provided by~~ **available to the passenger under** the owner's **motor vehicle insurance** policy is first exhausted."

Page 73, line 9, after "organization" insert **"that is admitted to transact business in Indiana"**.

Page 73, line 10, delete "Maintain a physical office in Indiana." and insert **"If the health maintenance organization is a domestic health maintenance organization admitted to transact business in Indiana after June 30, 2010, comply with IC 27-1-6-21."**

Page 73, line 12, delete "location of the" and insert **"physical location of its home"**.

Page 73, line 12, delete "maintained under subdivision (1)," and insert ",".

Page 73, line 18, delete "the following:" and insert **"IC 27-1-7-11."**

Page 73, delete lines 19 through 20.

Page 74, between lines 3 and 4, begin a new paragraph and insert: **"SECTION 67. IC 27-16-2-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 16. "Working capital" means the difference between a person's:**

- (1) current assets; and**
- (2) current liabilities;**

**determined in accordance with generally accepted accounting principles.**

SECTION 68. IC 27-16-4-2, AS ADDED BY P.L.245-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2012]: Sec. 2. **(a) This section does not apply to an applicant for limited registration under section 6 of this chapter.**

**(b)** An applicant for registration under this article shall file with the department the following information:

- (1) The name or names under which the applicant conducts business.
- (2) The address of the principal place of business of the applicant and the address of each office the applicant maintains in Indiana.
- (3) The applicant's taxpayer or employer identification number.
- (4) A list by jurisdiction of each name under which the applicant has operated in the preceding five (5) years, including any alternative names, names of predecessors, and, if known, successor business entities.
- (5) A statement of ownership that includes the name and evidence of the business experience of any person that, individually or

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acting in concert with one (1) or more other persons, owns or controls, directly or indirectly, twenty-five percent (25%) or more of the equity interests of the applicant.

(6) A statement of management that includes the name and evidence of the business experience of any individual who serves as president, chief executive officer, or otherwise has the authority to act as senior executive officer of the applicant.

(7) **Except as provided in subsections (c) and (d)**, a financial statement:

(A) setting forth the financial condition of the applicant as of a date not earlier than one hundred eighty (180) days before the date the financial statement is submitted to the department;

(B) prepared in accordance with generally accepted accounting principles; and

(C) ~~reviewed~~ **audited** by an:

(i) independent certified public accountant licensed to practice in the jurisdiction in which the accountant is located; **or**

(ii) **individual who is certified under IC 25-2.1-3 or IC 25-2.1-4;**

**with a resulting audit report that is issued without qualification as to the status of the applicant as a going concern.**

**(c) If a PEO has less than twelve (12) months of operating history on which to base an audited financial statement, the PEO shall file a financial statement that has been reviewed by an:**

**(1) independent certified public accountant licensed to practice in the jurisdiction in which the accountant is located; or**

**(2) individual who is certified under IC 25-2.1-3 or IC 25-2.1-4.**

**(d) An applicant may apply to the department for an extension of time in which to file the audited financial statement and audit report required by subsection (b). An application under this subsection must be accompanied by a letter from the auditor described in subsection (b) specifying the reason for the requested extension and the anticipated date by which the audit will be completed.**

SECTION 69. IC 27-16-4-6, AS ADDED BY P.L.245-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) A PEO that is not domiciled in Indiana is eligible for a limited registration under this article if the PEO:

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(1) submits a properly executed request for limited registration on a form prescribed by the department;

(2) is licensed or registered as a professional employer organization in another state that has licensure or registration requirements that are:

(A) substantially the same as; or

(B) more restrictive than;

the requirements of this article;

(3) does not:

(A) maintain an office; or

(B) directly solicit clients located or domiciled; in Indiana; and

(4) does not have more than fifty (50) covered employees who are employed or domiciled in Indiana on any day.

(b) A limited registration is valid for one (1) year and may be renewed.

(c) A PEO that seeks limited registration under this section shall provide to the department information and documentation necessary to show that the PEO ~~qualifies for a limited registration~~ **meets the requirements of this section.**

(d) ~~IC 27-16-6-1(a)(1)~~ **IC 27-16-6** does not apply to a PEO that applies for limited registration under this section.

SECTION 70. IC 27-16-4-8, AS ADDED BY P.L.245-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. The department shall:

(1) maintain; **and**

(2) **publish on the department's Internet web site;**

a list of PEOs that are registered under this article.

SECTION 71. IC 27-16-6-1, AS ADDED BY P.L.245-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. (a) A PEO **or PEO group** shall ~~maintain either:~~ **do one (1) of the following:**

~~(1) subject to section 2 of this chapter, a minimum net worth of fifty thousand dollars (\$50,000); or~~

~~(2) subject to subsection (b), a bond with a market value of at least fifty thousand dollars (\$50,000).~~

**(1) Maintain positive working capital, as reflected in the financial statement submitted to the department by the PEO or PEO group under IC 27-16-4.**

**(2) If the PEO or PEO group does not meet the requirement of subdivision (1), maintain any of the following with a minimum aggregate value in an amount that is at least**

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**sufficient to eliminate the PEO's or PEO group's negative working capital plus one hundred thousand dollars (\$100,000):**

- (A) A surety bond.**
- (B) An irrevocable letter of credit.**
- (C) Securities.**
- (D) Cash.**
- (E) A combination of items listed in clauses (A) through (D).**

(b) ~~A bond~~ **An instrument or cash** described in subsection (a)(2) must be held by a ~~depository~~ **an institution** designated by the department, securing payment by the PEO **or PEO group** of all taxes, wages, benefits, or other entitlement due to or with respect to covered employees in the event that the PEO **or PEO group** does not make the payments when due.

SECTION 72. IC 27-16-6-2, AS ADDED BY P.L.245-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. ~~A bond~~ **An instrument or cash** described in section 1(a)(2) of this chapter must not be included in the calculation of the ~~minimum net worth~~ **positive working capital** described in section 1(a)(1) of this chapter.

SECTION 73. IC 32-30-10.5-8, AS ADDED BY P.L.105-2009, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. (a) This section applies to a foreclosure action that is filed after June 30, 2009. Except as provided in subsection (e) and section 10(g) of this chapter, not later than thirty (30) days before a creditor files an action for foreclosure, the creditor shall send to the debtor by certified mail a presuit notice on a form prescribed by the Indiana housing and community development authority created by IC 5-20-1-3. In prescribing the form required by this section, the Indiana housing and community development authority shall include in the notice the statement set forth in IC 24-5.5-3-1. In addition, the notice required by this subsection must:

- (1) inform the debtor that:
    - (A) the debtor is in default; and
    - (B) the debtor is encouraged to obtain assistance from a mortgage foreclosure counselor; and
  - (2) provide the contact information for the Indiana Foreclosure Prevention Network.
- (b) The notice required by subsection (a) shall be sent to:
- (1) the address of the mortgaged property; or
  - (2) the last known mailing address of the debtor if the creditor's

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records indicate that the mailing address of the debtor is other than the address of the mortgaged property.

If the creditor provides evidence that the notice required by subsection (a) was sent by certified mail, return receipt requested, and as prescribed by this subsection, it is not necessary that the debtor accept receipt of the notice for an action to proceed as allowed under this chapter.

(c) Except as provided in subsection (e) and section 10(g) of this chapter, if a creditor files an action to foreclose a mortgage, the creditor shall include with the complaint served on the debtor a notice that informs the debtor of the debtor's right to participate in a settlement conference. The notice must be in a form prescribed by the Indiana housing and community development authority created by IC 5-20-1-3. The notice must inform the debtor that the debtor may schedule a settlement conference by notifying the court, not later than thirty (30) days after the notice is served, of the debtor's intent to participate in a settlement conference.

(d) In a foreclosure action filed under IC 32-30-10-3 after June 30, 2009, the creditor shall:

(1) attach to the complaint filed with the court a copy of the notices sent to the debtor under subsections (a) and (c); **and**

**(2) at the time the complaint is filed with the court, send:**

**(A) by certified mail, return receipt requested; and**

**(B) to the last known mailing address of the insurance company;**

**a copy of the complaint filed with the court to the insurance company of record for the property that is the subject of the foreclosure action.**

(e) A creditor is not required to send the notices described in this section if:

(1) the loan is secured by a dwelling that is not the debtor's primary residence;

(2) the loan has been the subject of a prior foreclosure prevention agreement under this chapter and the debtor has defaulted with respect to the terms of that foreclosure prevention agreement; or

(3) bankruptcy law prohibits the creditor from participating in a settlement conference under this chapter with respect to the loan.

**(f) A creditor that shows evidence that a copy of the complaint was sent as required by subsection (d)(2) is considered to have met the requirement of subsection (d)(2), regardless of whether the insurance company acknowledges having received the copy of the complaint."**

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SECTION 74. IC 32-31-9-3, AS ADDED BY P.L.22-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. As used in this chapter, "applicable offense" refers to any of the following:

- (1) A crime involving domestic or family violence (as defined in IC 35-41-1-6.5).
- (2) ~~A sex~~ **An offense against the person under IC 35-42-4. IC 35-42.**
- (3) Stalking under IC 35-45-10.
- (4) **Any of the following offenses if the offense is committed at the dwelling of the victim:**
  - (A) **Burglary under IC 35-43-2-1.**
  - (B) **Residential entry under IC 35-43-2-1.5.**
  - (C) **Criminal trespass under IC 35-43-2-2(a)(1), IC 35-43-2-2(a)(2), IC 35-43-2-2(a)(4), or IC 35-43-2-2(a)(5).**

SECTION 75. IC 32-31-9-7, AS ADDED BY P.L.22-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. As used in this chapter, "protected individual" means a tenant or applicant:

- (1) who is:
  - (A) a victim; or
  - (B) an alleged victim;
 of an applicable offense; and
- (2) who has received ~~either one~~ **one (1)** of the following:
  - (A) A civil order for protection issued or recognized by a court under IC 34-26-5 that restrains a perpetrator from contact with the individual.
  - (B) A criminal no contact order that restrains a perpetrator from contact with the individual.
  - (C) **In the case of an applicable offense listed in section 3(2), 3(3), or 3(4) of this chapter, a copy of a police report that was filed with the law enforcement agency with respect to the applicable offense.**

SECTION 76. IC 32-31-9-12, AS ADDED BY P.L.22-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12. (a) A protected individual who is a tenant may terminate the protected individual's rights and obligations under a rental agreement by providing the landlord with a written notice of termination in compliance with this section.

(b) A protected individual must give written notice of termination under this section to the landlord at least thirty (30) days before the

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termination date stated in the notice.

(c) The written notice required by this section must include:

(1) a copy of:

(A) a civil order for protection issued or recognized by a court under IC 34-26-5 that restrains a perpetrator from contact with the protected individual; ~~or~~

(B) a criminal no contact order that restrains a perpetrator from contact with the protected individual; ~~or~~

**(C) in the case of an applicable offense listed in section 3(2), 3(3), or 3(4) of this chapter, a police report that was filed with the law enforcement agency with respect to the applicable offense; and**

(2) if the protected individual is a victim of domestic violence or sexual assault, a copy of a safety plan, which must satisfy the following:

(A) The plan must be dated not more than thirty (30) days before the date on which the protected individual provides the written notice to the landlord under this section.

(B) The plan must be provided by an accredited domestic violence or sexual assault program.

(C) The plan must recommend relocation of the protected individual.

(d) If a protected individual's rights and obligations under a rental agreement are terminated under this section, the protected individual is liable for the rent and other expenses due under the rental agreement:

(1) prorated to the effective date of the termination; and

(2) payable at the time when payment of rent would have been required under the rental agreement.

A protected individual whose rights and obligations under a rental agreement are terminated under this section is not liable for any other rent or fees that would be due only because of the early termination of the protected individual's rights and obligations under the rental agreement. If a protected individual terminates the rental agreement at least fourteen (14) days before the protected individual would first have the right to occupy the dwelling unit under the lease, the individual is not subject to any damages or penalties.

(e) Notwithstanding section 13 of this chapter, a protected individual is entitled to deposits, returns, and other refunds as if the tenancy terminated by expiring under the terms of the rental agreement.

SECTION 77. IC 34-30-2-111 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 111. IC 27-2-15-9 (Concerning the state fire marshal, a deputy fire marshal, an

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enforcement authority, or an officer of a ~~city~~ **municipality** for compliance with the statute concerning the set aside of insurance proceeds in arson cases)."

Page 74, line 5, delete "IC 27-1-25-7.5;" and insert "IC 27-2-15-2."

Page 74, delete line 6.

Page 74, after line 11, begin a new paragraph and insert:

**"SECTION 80. [EFFECTIVE JULY 1, 2010] (a) IC 27-1-15.7-2, as amended by this act, applies only to an insurance producer license renewed after June 30, 2011.**

**(b) IC 27-1-15.7-5, as amended by this act, applies only to an insurance producer license issued after June 30, 2011.**

**(c) This SECTION expires July 1, 2016.**

**SECTION 81. [EFFECTIVE JULY 1, 2010] (a) IC 27-2-15, as amended by this act, applies to damage occurring by fire or explosion after June 30, 2010.**

**(b) This SECTION expires July 1, 2015."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1240 as introduced.)

FRY, Chair

Committee Vote: yeas 12, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1240 be amended to read as follows:

Page 70, line 2, delete "JULY 1, 2010" and insert "**JULY 1, 2012**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1240 as printed January 29, 2010.)

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COMMITTEE REPORT

Madam President: The Senate Committee on Insurance and Financial Institutions, to which was referred House Bill No. 1240, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 9-13-2-0.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 0.9. "Accessible to the public", for purposes of IC 9-22-5, has the meaning set forth in IC 9-22-5-0.3.**

SECTION 2. IC 9-13-2-111.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 111.5. "Nonconsenting police generated tow", for purposes of IC 9-22-5, has the meaning set forth in IC 9-22-5-0.7.**

SECTION 3. IC 9-22-5-0.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 0.3. As used in this chapter, "accessible to the public" means that the place of business of a towing service is:**

- (1) staffed at least thirty (30) hours a week;**
- (2) staffed at least twenty (20) hours a week and a telephone answering, paging, or mobile service is offered at least ten (10) of the remaining hours of the week, for which the contact telephone number is identified on the business sign at the towing service; or**
- (3) open by appointment at least thirty (30) hours a week by maintaining a staffed telephone or mobile paging telephone service at least ten (10) hours a week and a telephone answering, paging, or mobile service offered at least twenty (20) hours a week, for which the contact telephone number is identified on the business sign at the towing service.**

SECTION 4. IC 9-22-5-0.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 0.7. As used in this chapter, "nonconsenting police generated tow" means a professional service provided by a towing service that was ordered by a police officer (as defined in IC 9-13-2-127(b)).**

SECTION 5. IC 9-22-5-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

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1, 2010]: **Sec. 18. (a) This section applies only to a nonconsenting police generated tow for a passenger motor vehicle when the payment for the nonconsenting police generated tow is expected to be paid for by an insurer.**

**(b) To be paid by an insurer, a towing service must comply with the following:**

- (1) Use a recovery vehicle that is registered under IC 9-18-13-3(b).**
- (2) Meet the financial responsibility requirements of IC 9-18-13-4(a).**
- (3) Use appropriately licensed operators when a recovery vehicle is operated on highways.**
- (4) Have a properly zoned and secured storage lot, if applicable.**
- (5) Comply with IC 24-4-6-2(b).**
- (6) Be accessible to the public.**
- (7) Submit the charges that the towing service charges for professional services to the nearest state police post.**
- (8) Make charges for professional services that meet the requirements of subsection (e).**

**(c) If a towing service does not satisfy the requirements of subsection (b) and the insurer disputes the amounts charged for professional services provided by the towing service for towing, transporting, recovery, cleanup, or storage of a motor vehicle or any combination of these charges, the towing service shall release the passenger motor vehicle at the request of and receipt from the owner or a representative of the owner of the passenger motor vehicle of:**

- (1) a written agreement of the insurer to pay reasonable towing, transporting, recovery, cleanup, or storage charges concerning the passenger motor vehicle or any combination of these charges; and**
- (2) proof of ownership of the passenger motor vehicle, regardless of charges or liens placed on the passenger motor vehicle, and a copy of the passenger motor vehicle registration.**

**The documents under subdivisions (1) and (2) may be received by facsimile transmission, United States mail, or other method agreed upon between the parties including, but not limited to, electronic mail.**

**(d) Upon release of a passenger motor vehicle, a towing service may no longer claim a statutory or possessory lien on the passenger**

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motor vehicle. The insurer shall pay the charges described under subsection (e) for professional services provided by the towing service including interest at the rate set forth in IC 34-54-8-5(b)(1) on unpaid charges for the professional services, beginning on the thirty-first day after the release of the passenger motor vehicle.

(e) A towing service may not charge more for a professional service relating to a nonconsenting police generated tow than the amount that would be charged for the professional service under the existing contract between the towing service and the law enforcement agency with jurisdiction in the location in which the nonconsenting police generated tow occurred. However, if a contract between a towing service and a law enforcement agency described in this subsection does not exist, the towing service may make reasonable and customary charges for a professional service for the jurisdiction in which the tow was ordered.

(f) This section may not be construed to repeal, modify, or amend section 14 or 15 of this chapter or IC 32-33-10."

Delete pages 2 through 3.

Page 4, delete lines 1 through 23.

Page 4, delete lines 40 through 42.

Delete pages 5 through 29.

Page 30, delete lines 1 through 27, begin a new paragraph and insert:

"SECTION 7. IC 27-1-3.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. (a) For the purposes of this chapter, the commissioner may not recognize as an independent auditor any individual or firm that is not:

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

(2) in good standing with:

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

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

(b) A partner or other individual responsible for rendering a report may not act in that capacity for more than ~~seven (7)~~ **five (5)** consecutive years. An individual who has been responsible for rendering a report for ~~seven (7)~~ **five (5)** years is disqualified from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for ~~two (2)~~ **five (5) consecutive** years. A domestic insurer may apply to the commissioner and request

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to be exempted from the ~~seven (7)~~ **five (5)** year rotation requirement on the basis of unusual circumstances. The commissioner may consider the following factors in determining if relief should be granted:

- (1) The number of partners, expertise of the partners, or number of insurance clients in the currently registered firm.
- (2) The premium volume of the domestic insurer.
- (3) The number of jurisdictions in which the domestic insurer transacts business.

(c) The commissioner may not recognize as an independent auditor or accept an annual audited financial report prepared in whole or part by a person who:

- (1) has been convicted of fraud, bribery, a violation of the Racketeer Influenced and Corrupt Organizations Act under federal law (18 U.S.C. 1961 through 1968) or state law (IC 35-45-6) or any dishonest conduct or practices under federal or state law;
- (2) has been found to have violated the insurance law of this state with respect to any previous reports submitted under this chapter; or
- (3) has demonstrated a pattern or practice of failing to detect or disclose material information in previous reports filed under this chapter.

(d) The commissioner may conduct a hearing under IC 4-21.5 to determine whether an independent auditor engaged by a domestic insurer is sufficiently independent of that domestic insurer to be capable of exercising independent judgment and expressing an objective opinion on the financial statements in the annual 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 require the insurer to replace the auditor with another that is sufficiently independent of the insurer."

Page 38, line 5, delete "." and insert ", **three (3) hours of which must concern ethics.**".

Page 42, delete lines 9 through 42, begin a new paragraph and insert:

"SECTION 13. IC 27-1-28 IS ADDED TO THE INDIANA CODE AS A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

**Chapter 28. Independent Adjuster Licensing**

**Sec. 1. This chapter governs the qualifications and procedure for the licensing of independent adjusters.**

**Sec. 2. The commissioner may adopt rules under IC 4-22-2 to**

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implement this chapter.

**Sec. 3.** As used in this chapter, "automated claims adjudication system" means a preprogrammed computer system that:

- (1) is designed for the collection, data entry, calculation, and system generated final resolution of property, casualty, or worker's compensation insurance claims;
- (2) is used only by a licensee or a person described in section 6(b)(2) of this chapter;
- (3) complies with all claim payment requirements of the insurance laws of this state; and
- (4) is certified as compliant as described in subdivision (3) by a licensee who is an officer of a business entity that is licensed under this chapter.

**Sec. 4.** As used in this chapter, "catastrophe" means an event that is the subject of a declaration by the commissioner and that:

- (1) results in a large number of deaths or injuries;
- (2) causes extensive damage or destruction of facilities used to provide and sustain human needs;
- (3) produces an overwhelming demand on state and local response resources and mechanisms;
- (4) causes a severe long term effect on general economic activity; or
- (5) severely affects state, local, and private sector capabilities to begin and sustain response activities.

**Sec. 5.** As used in this chapter, "home state" means:

- (1) a state, district, or territory of the United States in which an independent adjuster:
  - (A) maintains the independent adjuster's principal place of residence or business; and
  - (B) is licensed to act as a resident independent adjuster; or
- (2) if the principal place of residence described in subdivision (1) does not license independent adjusters for the line of authority in which the independent adjuster seeks licensing under this chapter, the state, district, or territory of the United States:
  - (A) that is designated by the independent adjuster as the independent adjuster's home state; and
  - (B) in which the independent adjuster is licensed and in good standing.

**Sec. 6. (a)** As used in this chapter, "independent adjuster" means a person, or an independent contractor or employee of a

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person, that:

- (1) contracts with insurers or self-insurers to investigate, negotiate, and settle property, casualty, or worker's compensation claims; and
- (2) for tax purposes is treated by the insurers or self-insurers in a manner consistent with treatment of an independent contractor rather than an employee under Title 26, Subtitle C of the Internal Revenue Code.

(b) The term does not include the following:

(1) An attorney who:

- (A) is admitted to practice in Indiana; and
- (B) acts in a professional capacity as an attorney.

(2) A person employed solely to:

- (A) obtain facts surrounding a claim;
- (B) furnish technical assistance to a licensed independent adjuster; or
- (C) collect claim information from, or furnish claim information to, policyholders or claimants and perform data entry into an automated claims adjudication system if both of the following apply:

- (i) The person is an individual employee of an independent adjuster licensed under this chapter or the independent adjuster's affiliate.
- (ii) The person is supervised by an individual independent adjuster licensed under this chapter or an individual licensed insurance producer described in subdivision (10) who supervises not more than twenty-five (25) persons described in item (i).

(3) A person that is licensed under IC 25-30-1.

(4) A person that:

- (A) performs only executive, administrative, managerial, or clerical duties; and
- (B) does not investigate, negotiate, or settle claims with policyholders, claimants, or legal representatives of policyholders or claimants.

(5) A person that settles only reinsurance or subrogation claims.

(6) An officer, director, manager, or employee of an authorized insurer, a managing general agent, a surplus lines insurer, a risk retention group, or an attorney in fact of a reciprocal insurer.

(7) A manager of the United States branch of an alien

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insurer.

(8) A person that investigates, negotiates, or settles life, accident and health, annuity, or disability insurance claims.

(9) Under a self-insured arrangement, an individual who adjusts claims on behalf of the individual's employer.

(10) A licensed insurance producer, an attorney in fact of a reciprocal insurer, or a managing general agent of an insurer to whom claim authority has been granted by the insurer.

(11) A person that is authorized to adjust worker's compensation or disability claims under the authority of a third party administrator.

(12) A person that investigates, negotiates, or settles crop insurance claims.

Sec. 7. As used in this chapter, "NAIC" refers to the National Association of Insurance Commissioners.

Sec. 8. As used in this chapter, "uniform individual application" means the current version of the NAIC uniform individual application for resident and nonresident individuals.

Sec. 9. As used in this chapter, "uniform business entity application" means the current version of the NAIC uniform business entity application for resident and nonresident business entities.

Sec. 10. A person shall not:

- (1) act as an independent adjuster in Indiana; or
- (2) hold itself, himself, or herself out as an independent adjuster in Indiana;

unless the person is licensed or exempt from licensure under this chapter.

Sec. 11. (a) If a catastrophe is declared, an insurer may contract with an individual who is:

- (1) not licensed under this chapter; and
- (2) otherwise qualified to adjust claims;

to act as a temporary emergency independent adjuster on behalf of the insurer if the insurer obtains for the individual a temporary emergency independent adjuster license under this section.

(b) An insurer described in subsection (a) must, not more than five (5) days after the individual begins to adjust claims arising from the declared catastrophe, submit to the commissioner an application for temporary emergency licensure of the individual under this section.

(c) An application submitted under subsection (b) must include the following information in a format prescribed by the

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**commissioner:**

- (1) The name of the individual.**
- (2) The Social Security number of the individual.**
- (3) The name of the insurer.**
- (4) The effective date of the contract between the insurer and the individual.**
- (5) The catastrophe or loss number.**
- (6) The catastrophe event name.**
- (7) Other information the commissioner considers necessary.**

**(d) The commissioner shall establish standards and procedures for temporary emergency independent adjuster licensure under this section.**

**(e) A temporary emergency independent adjuster license issued under this section is effective for not more than ninety (90) days, unless extended by the commissioner. In the event of multiple catastrophes, an individual who holds a temporary emergency independent adjuster license under this section may adjust claims arising from any other catastrophe that occurs within the ninety (90) day period during which the license is effective under this subsection without the insurer applying for an additional temporary emergency independent adjuster license.**

**(f) The rules adopted by the commissioner under section 2 of this chapter may establish a fee for an application submitted under this section.**

**Sec. 12. (a) An individual may apply for a resident independent adjuster license by submitting:**

- (1) a uniform individual application to the commissioner with a declaration, under penalty of suspension, revocation, or refusal of licensure, that the statements made in the application are true and complete to the best of the individual's knowledge; and**
- (2) an application fee of forty dollars (\$40).**

**(b) The commissioner shall approve an application submitted under subsection (a) upon finding all of the following:**

- (1) The individual is at least eighteen (18) years of age.**
- (2) The individual is eligible to designate Indiana as the individual's home state.**
- (3) The individual is determined by the commissioner to be trustworthy, reliable, and of good reputation.**
- (4) The individual has not committed an act that is grounds for probation, suspension, revocation, or refusal of licensure under section 18 of this chapter.**

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(5) The individual has completed a prelicensing course of study for the line of authority in which the individual has applied for licensing under this section.

(6) The individual has successfully passed the written examination administered under section 15 of this chapter for the line of authority in which the individual has applied for licensing under this section.

(c) The commissioner may require any documents reasonably necessary to verify the information contained in the application.

Sec. 13. (a) A business entity may apply for a resident independent adjuster license by submitting:

(1) a uniform business entity application to the commissioner with a declaration, under penalty of suspension, revocation, or refusal of licensure, that the statements made in the application are true and complete to the best knowledge of the individual submitting the application on behalf of the business entity;

(2) an application fee of forty dollars (\$40); and

(3) the name, address, Social Security number, and criminal and administrative history of each:

(A) owner that has at least a ten percent (10%) interest or voting interest in the business entity;

(B) partner of the business entity;

(C) executive officer of the business entity; and

(D) director of the business entity.

(b) The commissioner shall approve an application submitted by a business entity under subsection (a) upon finding all of the following:

(1) The business entity is eligible to designate Indiana as the business entity's home state.

(2) The business entity has designated an individual independent adjuster licensed under this chapter to be responsible for the business entity's compliance with Indiana insurance law.

(3) The business entity has not committed any act that is grounds for probation, suspension, revocation, or refusal of an independent adjuster license under section 18 of this chapter.

(c) The commissioner may require a business entity applying under this section to produce any documents reasonably necessary to verify the information contained in the application.

Sec. 14. (a) An independent adjuster may qualify for an

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independent adjuster license in one (1) or more of the following lines of authority:

- (1) Property and casualty insurance.
- (2) Worker's compensation insurance.

(b) An independent adjuster licensed under this chapter is not required to hold another independent adjuster, insurance producer, or insurance administrator license in Indiana.

(c) An independent adjuster license:

- (1) is effective for two (2) years after the date of issuance unless probated, suspended, revoked, or refused; and
- (2) may be renewed if all requirements for renewal, including submission to the commissioner of a renewal fee of forty dollars (\$40), are met by the date due.

(d) If an independent adjuster license expires, the independent adjuster may, within twelve (12) months after the date of expiration, be reissued an independent adjuster license upon receipt by the commissioner of:

- (1) a request for reissuance, as prescribed by the commissioner; and
- (2) a reissuance fee of eighty dollars (\$80).

(e) An independent adjuster who is unable to comply with the license renewal requirements of this section due to:

- (1) military service;
- (2) long term medical disability; or
- (3) another extenuating circumstance determined by the commissioner;

may request a waiver of the renewal requirements or applicable sanction.

(f) A license issued under this chapter must contain the following:

- (1) The licensee's name, address, and personal identification number.
- (2) The date of issuance.
- (3) The date of expiration.
- (4) Other information considered necessary by the commissioner.

(g) An independent adjuster shall, not more than thirty (30) days after the occurrence of a change of the independent adjuster's:

- (1) legal name; or
- (2) home state address;

provide written notice to the commissioner of the change.

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(h) The commissioner may contract with a nongovernmental entity to perform ministerial functions required by this section, including the collection of data and fees related to licensing.

Sec. 15. (a) Except as provided in section 16 of this chapter, an individual who applies for an independent adjuster license under this chapter must pass a written examination that is:

- (1) developed and conducted according to rules adopted by the commissioner under IC 4-22-2; and
- (2) intended to test the knowledge of the individual concerning:
  - (A) the lines of authority in which the applicant has applied for licensing under this chapter;
  - (B) the duties and responsibilities of an independent adjuster; and
  - (C) Indiana insurance law.

(b) The commissioner may contract with a nongovernmental entity to administer the written examination required by this section.

(c) An individual described in subsection (a) shall remit, with the application to take the written examination required by this section, a nonrefundable examination fee in an amount set by the commissioner or the organization administering the examination.

(d) If an individual:

- (1) fails to appear for or to pass an examination; and
- (2) desires to reschedule the examination;

the individual shall reapply for the written examination and remit all fees and forms before scheduling an examination date.

Sec. 16. (a) An individual who applies for an independent adjuster license under this chapter and who:

- (1) possesses an independent adjuster license for the same line of authority in which the individual has applied for licensing under this chapter in a state in which a prelicensing independent adjuster licensure examination is required;
- (2) possessed an independent adjuster license that:
  - (A) was for the same line of authority in which the individual has applied for licensing under this chapter in a state in which a prelicensing independent adjuster licensure examination is required; and
  - (B) expired less than ninety (90) days before the date the commissioner receives the application; or
- (3) provides proof from contracting insurers that the individual has participated in claims adjudication in the

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same line of authority during the five (5) years immediately preceding the date of application;  
is not required to complete a prelicensing course under section 12(b)(5) of this chapter or pass a prelicensing examination under section 15 of this chapter before being licensed under this chapter.

(b) An applicant who meets the criteria set forth in subsection (a)(1) or (a)(2) must provide certification from the other state that the applicant's independent adjuster license:

- (1) is currently in good standing; or
- (2) was in good standing at the time of expiration.

(c) A person that:

- (1) is licensed as an independent adjuster in another state where a prelicensing independent adjuster licensure examination is required;
- (2) establishes legal residency in Indiana; and
- (3) applies for a resident independent adjuster license under this chapter less than ninety (90) days after the person establishes legal residency in Indiana;

is not required to complete a prelicensing course under section 12(b)(5) of this chapter or pass a prelicensing examination under section 15 of this chapter before being licensed under this chapter.

Sec. 17. (a) Except as provided in section 18 of this chapter, the commissioner shall issue a nonresident independent adjuster license to a person if:

- (1) the person is currently licensed in good standing as an independent adjuster in the person's home state;
- (2) the person has submitted:
  - (A) the proper application for licensure;
  - (B) a nonresident application fee of ninety dollars (\$90); and
  - (C) in the case of a business entity, the information required by section 13(a)(3) of this chapter; and
- (3) the person's designated home state awards nonresident independent adjuster licenses to residents of Indiana on the same basis as nonresident independent adjuster licenses are awarded under this chapter to residents of other states.

(b) Except as provided in section 18 of this chapter, if a person that:

- (1) is not a resident of Indiana; and
- (2) is not licensed as an independent adjuster in another state;

desires to obtain an independent adjuster license under this

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chapter, the person must comply with the requirements of section 12 or 13 of this chapter, and sections 14 and 15 of this chapter, and must remit the nonresident application fee of ninety dollars (\$90).

(c) The commissioner may:

- (1) verify an independent adjuster's licensure status in another state through an appropriate data base, including the insurance producer data base maintained by the NAIC or an affiliate or a subsidiary of the NAIC; or
- (2) request certification of good standing as described in section 16(b) of this chapter.

(d) To maintain a valid nonresident independent adjuster license issued under this chapter:

- (1) the independent adjuster must maintain a valid resident independent adjuster license in the independent adjuster's home state; and
- (2) the independent adjuster's home state must award nonresident independent adjuster licenses to residents of Indiana on the same basis as nonresident independent adjuster licenses are awarded under this chapter to residents of other states.

(e) For a nonresident independent adjuster license issued under this chapter to be renewed:

- (1) the independent adjuster must:
  - (A) maintain a valid resident independent adjuster license in the independent adjuster's home state; and
  - (B) remit to the commissioner a nonresident independent adjuster license renewal fee of ninety dollars (\$90); and
- (2) the independent adjuster's home state must award nonresident independent adjuster licenses to residents of Indiana on the same basis as nonresident independent adjuster licenses are awarded under this chapter to residents of other states.

(f) If a nonresident independent adjuster's home state license terminates for any reason other than issuance of a new resident independent adjuster license in a new home state:

- (1) the person's nonresident independent adjuster license issued under this chapter also terminates immediately; and
- (2) the person shall immediately surrender the nonresident independent adjuster license to the commissioner.

(g) If a nonresident independent adjuster's home state license terminates due to the issuance of a new resident independent

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adjuster license in a new home state, the independent adjuster shall, not more than thirty (30) days after the nonresident independent adjuster's home state license termination date, provide notice of the termination to the commissioner and the insurance commissioner of any state that has issued a nonresident independent adjuster license to the independent adjuster. The notice must specify the independent adjuster's previous home state address and new home state address.

(h) If a resident independent adjuster's license issued under this chapter terminates for any reason, the resident independent adjuster shall, not more than thirty (30) days after the resident adjuster license termination date, provide notice of the termination to the insurance commissioner of any state that has issued a nonresident independent adjuster license to the resident independent adjuster. If the termination results from a change of the resident independent adjuster's home state, the notice must specify the independent adjuster's previous home state address and new home state address.

Sec. 18. (a) The commissioner may suspend, revoke, or refuse to issue or renew an independent adjuster license, or place an independent adjuster on probation, for a cause set forth in subsection (b).

(b) An independent adjuster is subject to the penalties set forth in subsection (a) for any of the following:

- (1) Providing incorrect, misleading, incomplete, or materially untrue information in a license application.
- (2) Violating an insurance law, a subpoena, or an order of the commissioner or another state's insurance commissioner.
- (3) Obtaining or attempting to obtain a license through misrepresentation or fraud.
- (4) Improperly withholding, misappropriating, or converting money or property received in the course of doing insurance business.
- (5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.
- (6) Having been convicted of a felony.
- (7) Having admitted or been found to have committed any unfair trade practice or fraud in the business of insurance.
- (8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility, in the conduct of insurance business.
- (9) Having an insurance license, or its equivalent, probated,

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suspended, revoked, or refused in another state, province, district, or territory.

(10) Forging another person's name to a document related to an insurance transaction.

(11) Cheating, including improperly using notes or any other reference material, to complete an examination for an insurance license.

(12) Failing to comply with an administrative or court order imposing a child support obligation.

(13) Failing to pay state income tax or failing to comply with an administrative or court order directing payment of state income tax.

(c) If the commissioner refuses an application for licensure or for the renewal of an existing license under this chapter, the commissioner shall notify the applicant or licensee in writing, advising of the reason for the refusal. The applicant or licensee may, not more than thirty (30) days after receiving the commissioner's notice of refusal, make written demand upon the commissioner for a hearing to determine the reasonableness of the refusal. The hearing must be held under IC 4-21.5 not more than twenty (20) days after the commissioner receives the applicant's or licensee's written demand.

(d) The commissioner may suspend, revoke, or refuse to renew a business entity's independent adjuster license under this chapter or place a business entity licensed under this chapter on probation if, after a hearing under IC 4-21.5, the commissioner finds that:

(1) the individual licensed independent adjuster designated by the business entity under section 13(b)(2) of this chapter as being responsible for the business entity's compliance with Indiana insurance law committed a violation described in subsection (b) while acting on behalf of or representing the business entity;

(2) the violation was known or should have been known by at least one (1) of the business entity's partners, officers, or managers;

(3) the violation was not reported to the commissioner; and

(4) the business entity did not take corrective action.

(e) In addition to or instead of a penalty imposed under subsection (a), the commissioner may, after a hearing under IC 4-21.5, impose a civil penalty of at least fifty dollars (\$50) and not more than ten thousand dollars (\$10,000), regardless of whether the person on whom the penalty is imposed holds an

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independent adjuster license issued under this chapter that is in effect. A penalty imposed under this subsection may be enforced in the same manner as a civil judgment.

Sec. 19. (a) Except as provided in subsection (b), an individual who holds a license under this chapter shall, every two (2) years, satisfactorily complete at least twenty-four (24) hours of continuing education courses, three (3) hours of which must concern ethics, and report the completion of the courses to the commissioner.

(b) This section does not apply to the following:

- (1) An individual who is licensed for less than twelve (12) months before the end of the applicable continuing education biennium.
- (2) A licensed nonresident independent adjuster who has met the continuing education requirements of the designated home state.

Sec. 20. An independent adjuster shall:

- (1) maintain a copy of each contract between the independent adjuster and an insurer or a self-insurer; and
- (2) comply with the record retention policy agreed to in the contract described in subdivision (1).

Sec. 21. An independent adjuster shall do all of the following:

- (1) Be honest and fair in all communications with an insured, an insurer, a self-insurer, and the public.
- (2) Give policyholders and claimants prompt and knowledgeable service and courteous, fair, and objective treatment.
- (3) Refrain from:
  - (A) giving legal advice; or
  - (B) dealing directly with a policyholder or claimant who is represented by legal counsel unless the legal counsel consents to the direct contact.
- (4) Comply with all local, state, and federal privacy and information security laws.
- (5) Identify:
  - (A) itself, herself, or himself as an independent adjuster; and
  - (B) if applicable, identify the independent adjuster's employer;
 when dealing with a policyholder or claimant.
- (6) Refrain from:
  - (A) having any financial interest in an adjustment; or
  - (B) acquiring, for the independent adjuster or any

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person, an interest or a title in salvage without first receiving written authority from the principal.

**Sec. 22. (a) An independent adjuster shall report to the commissioner any administrative action taken against the independent adjuster:**

**(1) in another jurisdiction; or**

**(2) by another governmental agency in Indiana;**

**not more than thirty (30) days after the final disposition of the matter. The report must include a copy of the order or consent order, and any other relevant documentation.**

**(b) An independent adjuster shall report to the commissioner any criminal action taken against the independent adjuster:**

**(1) in another jurisdiction; or**

**(2) by another governmental agency in Indiana;**

**not more than thirty (30) days after the final disposition of the criminal matter. The report must include a copy of the initial complaint filed, the final order issued by the court, and any other relevant documentation.**

**Sec. 23. If an independent adjuster uses an automated claims adjudication system, the independent adjuster shall maintain proof of the certification described in section 3(4) of this chapter and provide the proof of certification to the commissioner upon request.**

**Sec. 24. The commissioner shall deposit a fee received under this chapter into the department of insurance fund established by IC 27-1-3-28."**

Delete pages 43 through 59.

Page 60, delete lines 1 through 23.

Page 61, delete lines 9 through 42.

Delete page 62.

Page 63, delete lines 1 through 14.

Page 63, delete lines 38 through 42.

Delete pages 64 through 69.

Page 70, delete lines 1 through 34.

Page 72, delete lines 14 through 42.

Delete page 73.

Page 74, delete lines 1 through 23.

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Page 74, delete lines 30 through 33.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1240 as reprinted February 2, 2010.)

PAUL, Chairperson

Committee Vote: Yeas 8, Nays 0.

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