



February 22, 2010

**ENGROSSED
SENATE BILL No. 357**

DIGEST OF SB 357 (Updated February 22, 2010 12:42 pm - DI 97)

Citations Affected: IC 5-22; IC 16-42; IC 25-26; IC 27-1; IC 27-2; IC 27-4; IC 27-7; IC 27-8; IC 27-13; IC 27-16; IC 32-31; IC 34-30; noncode.

Synopsis: Insurance and residential lease termination. Makes changes to the law concerning: pharmacy dispensing; insurer examinations; department of insurance actuaries; annual audited financial reports of insurers; foreign and alien insurer authorization; insurance producer licensure; insurance holding company transactions; insurance administrator licensing; insurance proceeds for certain damage in cities and towns; health plan premium rates; sale of insurance to industrial insureds in Indiana; title insurer and health maintenance organization requirements related to presence in Indiana; out of state accident and sickness insurance policy waivers; commissioner approval of discretionary groups; Indiana comprehensive health insurance association reimbursement, network fees, and net loss assessments; insurer price setting for noncovered dental services; small employer health insurance plans; professional employer organization financial requirements. Provides for termination of a residential lease by a victim of certain crimes. Repeals definitions of unused terms. Makes conforming amendments.

Effective: Upon passage; July 1, 2010; January 1, 2012; July 1, 2012.

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Paul, Mrvan

(HOUSE SPONSORS — FRY, BURTON)

January 12, 2010, read first time and referred to Committee on Insurance and Financial Institutions.

January 28, 2010, amended, reported favorably — Do Pass.

February 1, 2010, read second time, amended, ordered engrossed.

February 2, 2010, engrossed. Read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

February 9, 2010, read first time and referred to Committee on Insurance.

February 22, 2010, amended, reported — Do Pass.

ES 357—LS 6995/DI 97+



February 22, 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 SENATE BILL No. 357



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

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

- 1 SECTION 1. IC 5-22-1-2, AS AMENDED BY P.L.217-2007,
- 2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2010]: Sec. 2. Except as provided in this article, this article
- 4 does not apply to the following:
- 5 (1) The commission for higher education.
- 6 (2) A state educational institution. However, IC 5-22-5-9 and
- 7 IC 5-22-15 apply to a state educational institution.
- 8 (3) Military officers and military and armory boards of the state.
- 9 (4) An entity established by the general assembly as a body
- 10 corporate and politic. However, IC 5-22-15 applies to a body
- 11 corporate and politic.
- 12 (5) A local hospital authority under IC 5-1-4.
- 13 (6) A municipally owned utility under IC 8-1-11.1 or IC 8-1.5.
- 14 (7) Hospitals established and operated under IC 16-22-1 through
- 15 IC 16-22-5, IC 16-22-8, IC 16-23-1, or IC 16-24-1.
- 16 (8) A library board under IC 36-12-3-16(b).
- 17 (9) A local housing authority under IC 36-7-18.

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ES 357—LS 6995/DI 97+



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

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

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

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

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

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

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

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

3 SECTION 3. IC 25-26-13-33 IS ADDED TO THE INDIANA
4 CODE AS A NEW SECTION TO READ AS FOLLOWS
5 [EFFECTIVE JULY 1, 2010]: **Sec. 33. (a) Beginning January 1,**
6 **2011, on the request of a customer who is blind (as defined in**
7 **IC 12-7-2-21(2)) or visually impaired (as defined in**
8 **IC 12-7-2-198(a)), a pharmacist shall dispense a prescription for a**
9 **legend drug:**

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

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

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

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

18 **or**

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

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

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

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

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

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

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

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

38 (2) The drug substitution laws of Indiana.

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

40 SECTION 5. IC 27-1-3-2 IS AMENDED TO READ AS FOLLOWS
41 [EFFECTIVE UPON PASSAGE]: **Sec. 2. (a) Neither the insurance**
42 **commissioner, during his term of office, nor any deputy, actuary,**

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1 securities clerk, examiner or employee shall be directly or indirectly
2 interested in any insurance company, except as an ordinary
3 policyholder.

4 **(b) An individual who serves as an actuary for the department**
5 **shall annually file with the commissioner a statement describing**
6 **any financial interest that the actuary or a member of the actuary's**
7 **immediate family has in an insurer doing business in Indiana.**

8 SECTION 6. IC 27-1-3.1-14 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 14. (a) Upon the
10 adoption of an examination report under section 11(a)(1) of this
11 chapter, the commissioner shall continue to hold the content of the
12 examination report as confidential information for a period of thirty
13 (30) days except to the extent provided in section 10(b) of this chapter.
14 Thereafter, the report shall be open for public inspection.

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

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

27 (d) This chapter does not limit the commissioner's authority to use
28 and, if appropriate, to make public any final or preliminary examination
29 report, any examiner or company work papers or other documents, or
30 any other information discovered or developed during the course of any
31 examination in the furtherance of any legal or regulatory action that the
32 commissioner may, in the commissioner's sole discretion, consider
33 appropriate.

34 SECTION 7. IC 27-1-3.1-15 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 15. All working papers,
36 recorded information, documents, and copies thereof produced by,
37 obtained by, or disclosed to the commissioner or any other person in
38 the course of an examination under this chapter **(including trade**
39 **secrets and information obtained from a federal agency, a foreign**
40 **country, the National Association of Insurance Commissioners, or**
41 **under another state law)** are confidential for the purposes of
42 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 8. IC 27-1-3.5-0.5 IS ADDED TO THE INDIANA
9 CODE AS A NEW SECTION TO READ AS FOLLOWS
10 [EFFECTIVE JULY 1, 2010]: **Sec. 0.5. The commissioner may adopt**
11 **rules under IC 4-22-2 to implement this chapter.**

12 SECTION 9. IC 27-1-3.5-1 IS AMENDED TO READ AS
13 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. As used in this
14 chapter, "commissioner" refers to the insurance commissioner
15 appointed under IC 27-1-1-2. "accountant" means an independent
16 certified public accountant or accounting firm that is:

- 17 (1) in good standing with the American Institute of Certified
- 18 Public Accountants and in all states in which the accountant
- 19 is licensed to practice;
- 20 (2) Canadian chartered if the insurer audited by the
- 21 accountant is a Canadian insurer; or
- 22 (3) British chartered if the insurer audited by the accountant
- 23 is a British insurer.

24 SECTION 10. IC 27-1-3.5-1.2 IS ADDED TO THE INDIANA
25 CODE AS A NEW SECTION TO READ AS FOLLOWS
26 [EFFECTIVE JULY 1, 2010]: **Sec. 1.2. As used in this chapter,**
27 **"affiliate" means a person that, through one (1) or more**
28 **intermediaries:**

- 29 (1) controls;
- 30 (2) is controlled by; or
- 31 (3) is under common control with;
- 32 **a specified person.**

33 SECTION 11. IC 27-1-3.5-1.4 IS ADDED TO THE INDIANA
34 CODE AS A NEW SECTION TO READ AS FOLLOWS
35 [EFFECTIVE JULY 1, 2010]: **Sec. 1.4. As used in this chapter,**
36 **"audit committee" means:**

- 37 (1) a committee or equivalent body established by the board
- 38 of directors of an entity to oversee:
 - 39 (A) the accounting and financial reporting processes; and
 - 40 (B) audits of financial statements;
- 41 of an insurer or insurer group;
- 42 (2) if elected by the controlling person of an entity that

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- 1 controls an insurer group and solely for purposes of this
- 2 chapter, a committee or equivalent body established by the
- 3 board of directors of the entity to oversee:
- 4 (A) the accounting and financial reporting processes; and
- 5 (B) audits of financial statements;
- 6 of the entity; or
- 7 (3) if subdivision (1) or (2) does not apply, the entire board of
- 8 directors of the insurer or entity that controls an insurer.

9 SECTION 12. IC 27-1-3.5-2.8 IS ADDED TO THE INDIANA
 10 CODE AS A NEW SECTION TO READ AS FOLLOWS
 11 [EFFECTIVE JULY 1, 2010]: **Sec. 2.8. (a) As used in this chapter,**
 12 **"independent member" means an individual who is a member of**
 13 **a committee or board established by an entity and meets all of the**
 14 **following requirements:**

- 15 (1) The individual does not, other than in the individual's
- 16 capacity as a member of an audit committee, a board of
- 17 directors, or another board committee of the entity, accept
- 18 any consulting fee, advisory fee, or other compensation from
- 19 the entity.
- 20 (2) The individual is not associated with:
- 21 (A) an affiliate of the entity; or
- 22 (B) a subsidiary of the entity or affiliate.
- 23 (b) An individual who is not an independent member under
- 24 subsection (a) may be considered to be an independent member for
- 25 purposes of an audit committee if:
- 26 (1) another law requires participation on a board of directors
- 27 by an individual who is not an independent member;
- 28 (2) the individual is a member of the audit committee by
- 29 virtue of the individual's participation on the board of
- 30 directors described in subdivision (1); and
- 31 (3) the individual is not an officer or employee of the insurer
- 32 or an affiliate of the insurer.

33 SECTION 13. IC 27-1-3.5-3.1 IS ADDED TO THE INDIANA
 34 CODE AS A NEW SECTION TO READ AS FOLLOWS
 35 [EFFECTIVE JULY 1, 2010]: **Sec. 3.1. As used in this chapter,**
 36 **"insurer" refers to an insurer that is authorized under this title to**
 37 **make any kind of insurance in Indiana.**

38 SECTION 14. IC 27-1-3.5-3.2 IS ADDED TO THE INDIANA
 39 CODE AS A NEW SECTION TO READ AS FOLLOWS
 40 [EFFECTIVE JULY 1, 2010]: **Sec. 3.2. As used in this chapter,**
 41 **"insurer group" means a group of insurers that are:**

- 42 (1) authorized to transact insurance business in Indiana and

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1 **subject to the reporting requirements of IC 27-1-23; or**
 2 **(2) identified by the management personnel of an insurer to**
 3 **assess the effectiveness of the insurer's internal control over**
 4 **financial reporting.**

5 SECTION 15. IC 27-1-3.5-3.3 IS ADDED TO THE INDIANA
 6 CODE AS A **NEW SECTION** TO READ AS FOLLOWS
 7 [EFFECTIVE JULY 1, 2010]: **Sec. 3.3. (a) As used in this chapter,**

8 **"internal control over financial reporting" means a process that is:**

- 9 **(1) implemented by the board of directors, management**
 10 **personnel, and other personnel of an entity; and**
 11 **(2) designed to provide reasonable assurance that the entity's**
 12 **financial statements are reliable.**

13 **(b) The term includes policies and procedures that:**

- 14 **(1) pertain to the maintenance of records to accurately and**
 15 **fairly reflect, in reasonable detail:**

16 **(A) transactions involving; and**

17 **(B) disposition of;**

18 **assets; and**

19 **(2) provide reasonable assurance that:**

20 **(A) transactions are recorded as necessary to permit**
 21 **preparation of financial statements;**

22 **(B) receipts and expenditures are made only when**
 23 **authorized by management personnel or directors; and**

24 **(C) unauthorized acquisition, use, or disposition of assets**
 25 **that could have a material effect on financial statements is**
 26 **prevented or detected in a timely manner.**

27 SECTION 16. IC 27-1-3.5-3.4 IS ADDED TO THE INDIANA
 28 CODE AS A **NEW SECTION** TO READ AS FOLLOWS
 29 [EFFECTIVE JULY 1, 2010]: **Sec. 3.4. As used in this chapter,**

30 **"SEC" refers to the federal Securities and Exchange Commission.**

31 SECTION 17. IC 27-1-3.5-3.6 IS ADDED TO THE INDIANA
 32 CODE AS A **NEW SECTION** TO READ AS FOLLOWS
 33 [EFFECTIVE JULY 1, 2010]: **Sec. 3.6. As used in this chapter,**

34 **"Section 404" refers to:**

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

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

38 SECTION 18. IC 27-1-3.5-3.7 IS ADDED TO THE INDIANA
 39 CODE AS A **NEW SECTION** TO READ AS FOLLOWS
 40 [EFFECTIVE JULY 1, 2010]: **Sec. 3.7. As used in this chapter,**

41 **"Section 404 report" means a report of the management of an**
 42 **entity concerning internal control over financial reporting and the**

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1 **related attestation report of the entity's accountant.**

2 SECTION 19. IC 27-1-3.5-3.8 IS ADDED TO THE INDIANA
3 CODE AS A NEW SECTION TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2010]: **Sec. 3.8. As used in this chapter,**
5 **"Sarbanes-Oxley compliant entity" means an entity that complies**
6 **with all of the following provisions of the federal Sarbanes-Oxley**
7 **Act of 2002:**

8 **(1) The preapproval requirements of Section 201 (Section**
9 **10A(i) of the federal Securities Exchange Act of 1934).**

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

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

15 SECTION 20. IC 27-1-3.5-4 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) As used in this
17 chapter, "work papers" means the records kept by ~~the independent~~
18 **auditor an accountant** of the procedures followed, the tests performed,
19 the information obtained, and the conclusions reached ~~by the~~
20 **independent auditor's related to the accountant's** audit of the financial
21 statements of a ~~domestic an~~ insurer.

22 (b) The term includes any audit planning documentation, work
23 programs, analyses, memoranda, letters of confirmation and
24 representation, abstracts of company documents, and schedules or
25 commentaries that:

26 (1) are prepared or obtained by the ~~independent auditor~~
27 **accountant** in the course of ~~any the accountant's~~ audit of the
28 financial statements of a ~~domestic an~~ insurer; and

29 (2) support the ~~independent auditor's accountant's~~ opinion. ~~on~~
30 **the domestic insurer's financial statements.**

31 SECTION 21. IC 27-1-3.5-5 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) Except as
33 provided in subsections (b) and (c), this chapter applies to all ~~domestic~~
34 insurers.

35 (b) ~~A domestic An~~ insurer that has:

36 (1) direct written premiums of less than one million dollars
37 (\$1,000,000) in any calendar year; ~~and~~

38 (2) less than one thousand (1,000) policyholders or certificate
39 holders of ~~directly direct~~ written policies nationwide at the end
40 of a calendar year; **and**

41 **(3) assumed premiums under contracts or treaties of**
42 **reinsurance of less than one million dollars (\$1,000,000) in a**

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

(c) A foreign or an alien insurer that files an audited financial report in another state ~~or country pursuant to that~~ **under the other** state's ~~or country's~~ requirement for **filing of annual** audited financial reports is exempt **from sections 6 through 13 of this chapter, except sections 7.2 and 7.4 of this chapter**, with respect to the year of ~~that the annual~~ audited financial report, ~~from the requirement to file an audited financial report with the commissioner under this chapter~~, if:

- (1) the commissioner has found the other state's ~~or country's~~ requirement for **filing of** audited financial reports to be substantially similar to the requirements of this chapter;
- (2) ~~copies a copy~~ **a copy** of the **annual** audited financial report, the ~~report on significant deficiencies in communication of~~ **internal controls, control related matters noted in an audit**, and the accountant's letter of qualifications filed with the other state ~~or country~~ are filed with the commissioner in accordance with the filing dates set forth in sections ~~8, 6, 12, and 12.5~~ of this chapter; and
- (3) a copy of a notification of an adverse financial condition report that is filed with the other state is filed with the commissioner within the time specified in section 11 of this chapter.

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

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

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

SECTION 22. IC 27-1-3.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) ~~A domestic~~ **An** insurer shall have an audit by an ~~independent auditor every year~~ **accountant** and shall file an audited financial report with the commissioner every year ~~before not later than the~~ June 1 immediately

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1 following the December 31 that ends the year reported on in the
 2 financial report. The commissioner may require a ~~domestic an~~ insurer
 3 to file an audited financial report earlier than June 1 if the
 4 commissioner gives the ~~domestic~~ insurer ninety (90) days advance
 5 notice of the earlier filing date.

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

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

17 **(d) An insurer required to file an annual audited financial**
 18 **report under this chapter shall designate a group of individuals**
 19 **constituting the insurer's audit committee.**

20 SECTION 23. IC 27-1-3.5-7 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) The annual
 22 audited financial report filed by a ~~domestic an~~ insurer under this
 23 chapter shall report:

24 (1) the financial position of the ~~domestic~~ insurer as of the end of
 25 the most recently ended calendar year; and

26 (2) the results of the ~~domestic~~ insurer's operations, cash flow, and
 27 changes in capital and surplus for that year;

28 in conformity with statutory accounting practices prescribed, or
 29 otherwise permitted, by the department of insurance **of the state of**
 30 **domicile.**

31 ~~(b)~~ The financial statements included in the annual audited financial
 32 report filed by a domestic insurer under this chapter shall be examined
 33 by an independent auditor. The independent auditor shall conduct its
 34 examination of the domestic insurer's financial statements in
 35 accordance with generally accepted auditing standards; and shall
 36 consider such other procedures illustrated in the Financial Condition
 37 Examiner's Handbook published by the National Association of
 38 Insurance Commissioners as the independent auditor considers
 39 necessary.

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

42 (1) The report of the insurer's ~~independent auditor.~~ **accountant.**

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- 1 (2) A balance sheet reporting admitted assets, liabilities, capital,
- 2 and surplus.
- 3 (3) A statement of operations.
- 4 (4) A statement of cash flow.
- 5 (5) A statement of changes in capital and surplus.
- 6 (6) Notes to financial statements. The notes must:
- 7 (A) be those required by the National Association of Insurance
- 8 Commissioners' annual statement instructions and ~~any other~~
- 9 ~~notes required by statutory accounting practices~~; which must
- 10 **the National Association of Insurance Commissioners'**
- 11 **accounting practices and procedures manual; and**
- 12 (B) include the following:
- 13 (A) a reconciliation of differences, if any, between the **audited**
- 14 **statutory** financial statements ~~included in the audited~~
- 15 ~~financial report~~ and the annual **financial** statement filed by the
- 16 insurer under IC 27-1-20-21, including a written description of
- 17 the nature of these differences.
- 18 (B) ~~A summary of the ownership and relationships of the~~
- 19 ~~domestic insurer and all affiliated companies.~~
- 20 (d) (c) The financial statements included in a ~~domestic an~~ insurer's
- 21 **annual** audited financial report shall be prepared in the same form, and
- 22 using language and groupings substantially the same, as the relevant
- 23 sections of the annual statement of the insurer filed with the
- 24 commissioner under IC 27-1-20-21.
- 25 (e) (d) The financial statements included in a ~~domestic an~~ insurer's
- 26 **annual** audited financial report must be comparative, presenting the
- 27 amounts as of December 31 of the year of the report and comparative
- 28 amounts as of the immediately preceding December 31. However, in
- 29 the first year in which an insurer is required to file an **annual** audited
- 30 financial report under this chapter, the comparative data may be
- 31 omitted.
- 32 SECTION 24. IC 27-1-3.5-7.2 IS ADDED TO THE INDIANA
- 33 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 34 [EFFECTIVE JULY 1, 2010]: **Sec. 7.2. (a) This section does not**
- 35 **apply to:**
- 36 (1) a foreign or an alien insurer that has a certificate of
- 37 authority to transact insurance business in Indiana;
- 38 (2) an insurer that is a Sarbanes-Oxley compliant entity; or
- 39 (3) a wholly owned subsidiary of a Sarbanes-Oxley compliant
- 40 entity.
- 41 (b) Each member of an insurer's audit committee must be a
- 42 member of the board of directors of:

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- 1 (1) the insurer; or
- 2 (2) an entity elected under subsection (d) as described in
- 3 section 1.4(2) of this chapter.
- 4 (c) If an independent member of an audit committee ceases to
- 5 be independent for reasons beyond the member's reasonable
- 6 control, the member, with notice from the responsible entity to the
- 7 commissioner, may remain an audit committee member until the
- 8 earlier of:
- 9 (1) the date of the next annual meeting of the responsible
- 10 entity; or
- 11 (2) one (1) year after the occurrence of the event that caused
- 12 the member to cease being an independent member.
- 13 (d) If the controlling person of an insurer elects to designate an
- 14 audit committee for purposes of this chapter, the controlling
- 15 person shall provide written notice:
- 16 (1) in a timely manner before filing of the insurer's annual
- 17 audited financial report; and
- 18 (2) including a description of the basis for the election;
- 19 to the insurance commissioner that regulates each affected insurer.
- 20 The controlling person may change an election by providing
- 21 written notice of the change to the applicable insurance
- 22 commissioner, including a description of the basis for the change.
- 23 An election is effective until rescinded.
- 24 (e) The audit committee of an insurer is directly responsible for
- 25 the:
- 26 (1) appointment, compensation, and oversight of the work;
- 27 and
- 28 (2) resolution of financial reporting disagreements with the
- 29 insurer's management personnel;
- 30 of an accountant in the accountant's preparation or issuance of the
- 31 insurer's annual audited financial report or related work under
- 32 this chapter. An accountant reports directly to the audit committee
- 33 of the insurer.
- 34 (f) An audit committee shall require the accountant that
- 35 performs for an insurer an audit required by this chapter to timely
- 36 report to the audit committee in accordance with Statement on
- 37 Auditing Standards No. 114 of the American Institute of Certified
- 38 Public Accountants, including all of the following:
- 39 (1) All significant accounting policies and material permitted
- 40 practices.
- 41 (2) All material alternative disclosures and treatments of
- 42 financial information within statutory accounting principles

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that have been discussed with management personnel of the insurer, ramifications of the use of the alternative disclosures and treatments, and the treatment preferred by the accountant.

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

(g) If:

(1) an insurer is a member of an insurance holding company system; and

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

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

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

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

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

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

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

(j) If the commissioner has granted an insurer a waiver from the requirements of subsection (i), the insurer shall, with the insurer's annual statement filing, file evidence of the relief with the:

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

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(2) National Association of Insurance Commissioners.
If a nondomestic state accepts electronic filing with the National Association of Insurance Commissioners, the insurer shall file the grant of the waiver in an electronic format that is acceptable to the National Association of Insurance Commissioners.

SECTION 25. IC 27-1-3.5-7.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 7.4. (a) A director or an officer of an insurer shall not, directly or indirectly, in connection with an audit, review, or communication required under this chapter:**

(1) make or cause to be made a materially false or misleading statement to an accountant; or

(2) omit, or cause another person to omit, a material fact necessary to avoid misleading an accountant.

(b) A director or an officer, or another person acting under the direction of a director or an officer, of an insurer shall not, directly or indirectly, coerce, manipulate, mislead, or fraudulently influence an accountant engaged in the performance of an audit under this chapter if the director, officer, or other person knows or should know that the action could result in rendering the insurer's financial statements materially misleading. Actions prohibited under this subsection include actions to coerce, manipulate, mislead, or fraudulently influence the accountant:

(1) to issue or reissue a report on an insurer's financial statements that is not warranted due to material violations of statutory accounting principles, generally accepted auditing standards, or other professional or regulatory standards;

(2) not to perform audit, review, or other procedures required under generally accepted auditing standards or other professional standards;

(3) not to withdraw an issued report; or

(4) not to communicate matters to the insurer's audit committee.

SECTION 26. IC 27-1-3.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 8. (a) ~~A domestic~~ An insurer that is required by this chapter to file an annual audited financial reports report shall, not more than sixty (60) days after becoming subject to the requirement, register in writing with the commissioner the name and address of the independent auditor accountant retained by the insurer to conduct the annual audits audit required by this chapter. ~~The domestic insurer shall continuously ensure that the information provided to the commissioner under this~~**

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1 section is accurate, and shall inform the commissioner in writing of any
2 change in the identity or address of its independent auditor. **An insurer**
3 **that does not have an accountant on retainer on July 1, 2010, shall**
4 **register the name and address of the insurer's retained accountant**
5 **at least six (6) months before the first date after June 30, 2010, by**
6 **which the insurer's first annual audited financial report is to be**
7 **filed.**

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

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

14 (2) affirms that the ~~independent auditor~~ **accountant** will express
15 ~~its~~ **the accountant's** opinion on the financial statements ~~of the~~
16 ~~domestic insurer in the~~ terms of their conformity to the statutory
17 accounting practices prescribed or otherwise permitted by the
18 department, specifying such exceptions as the ~~independent~~
19 ~~auditor~~ **accountant** may believe appropriate.

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

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

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

31 (2) not more than ten (10) business days after the notification
32 given ~~in~~ **under** subdivision (1), furnish the commissioner with a
33 separate letter that states whether in the twenty-four (24) months
34 preceding the ~~engagement~~ **cessation** of the ~~new independent~~
35 ~~auditor~~ **accountant's services** there were any disagreements
36 between the insurer and ~~its~~ **the former independent auditor**
37 **accountant** on any matter of accounting principles or practices,
38 financial statement disclosure, or auditing scope or procedure,
39 which, if not resolved to the satisfaction of the former
40 ~~independent auditor~~ **accountant**, would have caused the former
41 ~~independent auditor~~ **accountant** to make reference to the subject
42 matter of the disagreement in **connection with** the former

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1 independent auditor's statement of its **accountant's** opinion. ~~on~~
 2 the insurer's financial report; and; if there was such a
 3 disagreement, provides a description of the disagreement.
 4 Disagreements required to be reported under this subdivision
 5 include those at the decision making level that were resolved:
 6 (A) to the former accountant's satisfaction; and
 7 (B) not to the former accountant's satisfaction; and
 8 (3) comply with subsection (d).

9 For the purposes of this subsection, "decision making level" refers to
 10 the personnel of the insurer who are responsible for the presentation of
 11 the insurer's financial statements and the personnel of the **independent**
 12 **auditor accountant** who are responsible for rendering the ~~opinion of~~
 13 ~~the auditor on the~~ insurer's **annual audited** financial report.

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

- 16 (1) provide its former **independent auditor accountant** with a
- 17 copy of the letter furnished to the commissioner under subsection
- 18 (c)(2); and
- 19 (2) request in writing its former **independent auditor accountant**
- 20 to furnish a letter addressed to the insurer stating whether the
- 21 former **independent auditor accountant** agrees with the
- 22 statements contained in the letter furnished to the commissioner
- 23 under subsection (c)(2) and, if not, stating the reasons for the
- 24 former **independent auditor's accountant's** disagreement.

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

29 SECTION 27. IC 27-1-3.5-9 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. (a) **An accountant**
 31 **that audits an insurer's annual audited financial report filed under**
 32 **section 6 of this chapter must be recognized by the commissioner**
 33 **to be qualified to serve as the insurer's accountant.**

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

- 37 (1) a certified public accountant (if an individual) or made up of
- 38 certified public accountants (if a firm); or
- 39 (2) in good standing with:
 - 40 (A) the American Institute of Certified Public Accountants;
 - 41 and
 - 42 (B) all of the authorities that license certified public

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1 accountants and certified public accounting firms in the states
2 in which the individual or firm is licensed to practice:

- 3 **(1) is not an accountant under section 1 of this chapter; or**
4 **(2) has entered into an indemnification agreement or a release**
5 **from liability with respect to the audit of an insurer.**

6 **(c) Except as otherwise provided in this chapter, the**
7 **commissioner shall recognize an accountant as qualified if the**
8 **accountant:**

- 9 **(1) is an accountant under section 1 of this chapter; and**
10 **(2) conforms to the standards of the accountant's profession**
11 **as contained in the:**

12 **(A) Code of Professional Ethics and Pronouncements of the**
13 **American Institute of Certified Public Accountants; and**

14 **(B) Rules of Professional Conduct of the Indiana State**
15 **Board of Accountancy;**

16 **or a similar code.**

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

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

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

40 ~~(c)~~ **(f) The commissioner may not recognize as an independent**
41 **auditor or a qualified accountant, nor accept an annual audited**
42 **financial report prepared in whole or part by, a person who: an**

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individual to whom any of the following applies:

(1) **The individual** 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 (FC 35-45-6)~~ or any dishonest conduct or practices under federal or state law.

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

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

(g) The commissioner may not recognize as a qualified accountant, nor accept an annual audited financial report prepared in whole or part by, a person that provides to an insurer, contemporaneously with the audit, any of the following nonaudit services:

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

(2) **Financial information systems design and implementation.**

(3) **Appraisal or valuation services, fairness opinions, or contribution in kind reports.**

(4) **Actuarially oriented advisory services involving the determination of amounts recorded in the financial statements of the insurer. This subdivision does not include the accountant's assistance to an insurer in understanding the methods, assumptions, and inputs used in the determination of amounts recorded in the financial statements if it is reasonable to conclude that the assistance will not be subject to audit procedures during an audit of the insurer's financial statements. Additionally, this subdivision does not include the issuance by the accountant's actuary of an actuarial opinion or certification concerning an insurer's reserves if the following conditions are met:**

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

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

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

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the amount of the reserves.

(5) Internal audit outsourcing services.

(6) Management functions or human resources.

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

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

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

(h) An insurer that has direct written and assumed premiums totaling less than one hundred million dollars (\$100,000,000) in a calendar year may request relief from subsection (g) by filing with the commissioner a written statement describing the reasons the insurer should be exempt from subsection (g). The commissioner may grant the relief if, upon review of the written statement, the commissioner finds that compliance with subsection (g) would constitute a financial or organizational hardship on the insurer.

(i) The commissioner shall not recognize a person as an accountant qualified for a particular insurer if the person employed, as the person's partner or senior manager, an individual who:

- (1) was involved in the audit in the individual's capacity as a partner or senior manager;
- (2) served:
 - (A) as a member of the board;
 - (B) as the president;
 - (C) as the chief executive officer;
 - (D) as the controller;
 - (E) as the chief financial officer;
 - (F) as the chief accounting officer; or
 - (G) in another position equivalent to a position specified in clauses (A) through (F);

for the insurer; and

- (3) participated in the audit of the insurer in the individual's capacity described in subdivision (2) during the one (1) year period preceding the date on which the most current statutory opinion is due.

However, an insurer may apply to the commissioner for relief from this subsection on the basis of unusual circumstances.

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

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1 under subsection (k).

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

6 (1) the insurer is:

7 (A) a Sarbanes-Oxley compliant entity; or

8 (B) a wholly owned subsidiary of a Sarbanes-Oxley
9 compliant entity; or

10 (2) all of the following apply:

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

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

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

22 (i) the audit committee; or

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

27 (d) (l) The commissioner may conduct a hearing under IC 4-21.5
28 IC 4-21.5-3 to determine whether an independent auditor engaged by
29 a domestic insurer accountant is sufficiently independent of that
30 domestic insurer to be capable of exercising independent judgment and
31 qualified and, after considering the evidence presented, may:

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

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

42 (m) An audit committee may delegate to one (1) or more

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1 designated members of the audit committee the authority to grant
 2 a preapproval required under subsection (k). The decisions of a
 3 member to whom this authority is delegated must be presented to
 4 the full audit committee at each scheduled meeting of the audit
 5 committee.

6 (n) If the commissioner has granted an insurer any relief under
 7 subsection (e), (h), or (i), the insurer shall, with the insurer's
 8 annual statement filing, file evidence of the relief with the:

9 (1) states in which the insurer is authorized to do business;
 10 and

11 (2) National Association of Insurance Commissioners.

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

16 SECTION 28. IC 27-1-3.5-9.5 IS ADDED TO THE INDIANA
 17 CODE AS A NEW SECTION TO READ AS FOLLOWS
 18 [EFFECTIVE JULY 1, 2010]: Sec. 9.5. (a) An audit required under
 19 section 6 of this chapter must be conducted in accordance with
 20 generally accepted auditing standards.

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

25 (1) obtain an understanding of internal control sufficient to
 26 plan the audit;

27 (2) for an insurer required to file a report of internal control
 28 over financial reporting under this chapter, consider the most
 29 recently available financial report under Statement on
 30 Auditing Standards No. 102 of the American Institute of
 31 Certified Public Accountants, in planning and performing the
 32 audit of the statutory financial statements; and

33 (3) if considered necessary by the accountant, consider the
 34 procedures in the National Association of Insurance
 35 Commissioners Financial Condition Examiners Handbook.

36 SECTION 29. IC 27-1-3.5-10 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. ~~A domestic~~ An
 38 insurer may apply in writing to the commissioner for approval to ~~satisfy~~
 39 ~~the requirements of this chapter by filing file~~ audited consolidated or
 40 combined financial statements instead of separate annual audited
 41 financial statements if the insurer is part of a group of insurance
 42 companies that utilizes a pooling or one hundred percent (100%)

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1 reinsurance agreement that affects the solvency and integrity of the
 2 insurer's reserves and the insurer cedes all of the insurer's direct and
 3 assumed business to the pool. If a ~~domestic~~ **an** insurer whose
 4 application is approved elects to file a consolidated return, the insurer
 5 shall file, with its financial statements, a columnar consolidating or
 6 combining ~~schedule~~, **worksheet**, which must meet the following
 7 requirements:

8 (1) Amounts shown on the consolidated or combined **annual**
 9 audited financial report shall be shown on the ~~schedule~~.
 10 **worksheet**.

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

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

15 (4) Explanations of consolidating and eliminating entries shall be
 16 included.

17 (5) A reconciliation shall be included of any differences between
 18 the amounts shown in the individual insurer columns of the
 19 ~~schedule worksheet~~ and comparable amounts shown on the
 20 annual statements of the insurers.

21 SECTION 30. IC 27-1-3.5-11 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11. (a) ~~A domestic~~ **An**
 23 insurer required to file **an** annual audited financial ~~reports~~ **report**
 24 under this chapter shall require ~~its independent auditor~~ **the insurer's**
 25 **accountant** to report in writing to the board of directors or the ~~board~~
 26 ~~of director's~~ audit committee, not more than five (5) business days after
 27 making ~~a~~ **the** determination, the ~~independent auditor's~~ **accountant's**
 28 determination that:

29 (1) the ~~domestic~~ insurer has materially misstated to the
 30 commissioner the financial condition of the insurer as of the date
 31 of the balance sheet being ~~examined~~ **audited** by the ~~independent~~
 32 ~~auditor~~, **accountant**; or

33 (2) the ~~domestic~~ insurer does not meet the minimum capital and
 34 surplus requirements ~~of Indiana of this title~~ as of the date of the
 35 balance sheet being ~~examined~~ **audited** by the ~~independent~~
 36 ~~auditor~~. **accountant**.

37 The ~~domestic~~ insurer ~~who that~~ has received a report under this section
 38 shall forward a copy of the report to the commissioner within five (5)
 39 business days after receipt of the report and shall provide the
 40 ~~independent~~ accountant making the report with evidence of the report
 41 being furnished to the commissioner. An ~~independent auditor who~~
 42 **accountant that** does not receive the evidence that the report was filed

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

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

16 SECTION 31. IC 27-1-3.5-12 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12. (a) ~~A domestic An~~
18 insurer required by this chapter to file an **annual** audited financial
19 report with the commissioner shall also furnish the commissioner with:

20 (1) a written report ~~(or a letter on reportable conditions)~~
21 **describing the significant deficiencies communication regarding**
22 **any unremediated material weakness (as defined in Statement**
23 **on Auditing Standard No. 112 of the American Institute of**
24 **Certified Public Accountants) in the insurer's internal control**
25 **structure, if internal control deficiencies were over financial**
26 **reporting as of the December 31 immediately preceding the**
27 **filing noted by the domestic insurer's independent auditor in**
28 **connection with its accountant during the audit; and**

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

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

34 (b) The written report **communication** and written discussion
35 **description** required under subsection (a) must be filed not later than
36 sixty (60) days after the filing of the annual audited financial
37 **statements report.**

38 SECTION 32. IC 27-1-3.5-12.5 IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12.5. ~~The independent~~
40 **auditor An insurer's accountant** shall furnish the ~~domestic~~ insurer, in
41 connection with and for inclusion in the filing of the annual audited
42 financial report, a letter stating the following:

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1 (1) That the ~~independent auditor~~ **accountant** is independent with
 2 respect to the insurer and conforms to the standards of the
 3 ~~independent auditor's accountant's~~ profession as contained in the
 4 Code of Professional Ethics and Pronouncements of the American
 5 Institute of Certified Public Accountants and the rules of
 6 professional conduct of the Indiana state board of accountancy **or**
 7 **a similar code.**

8 (2) The:

9 (A) general background and experience; and

10 (B) experience in audits of insurers;

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

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

18 **(A) annual audited financial report and the accountant's**
 19 **opinion on the annual audited financial report will be filed**
 20 **with the commissioner in compliance with this chapter; and**

21 **(B) commissioner** will be relying on the ~~independent auditor's~~
 22 ~~annual audited financial report and the independent auditor's~~
 23 ~~opinion in the report for filed report and opinion in the~~
 24 monitoring and regulation of the financial ~~positions~~ **position**
 25 of the ~~insurers:~~ **insurer.**

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

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

36 (6) That the ~~independent auditor~~ **accountant** is in compliance
 37 with the requirements of section 9 of this chapter.

38 SECTION 33. IC 27-1-3.5-13 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 13. (a) ~~A domestic An~~
 40 insurer required to file an audited financial report under this chapter
 41 shall require ~~its independent auditor~~ **the insurer's accountant** to make
 42 available for review by department examiners:

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

3 (2) any ~~record of significant~~ communications, related to the audit,
4 between the ~~independent auditor~~ **accountant** and the insurer;
5 ~~that took place at (A) the offices of the insurer, (B) the department, (C)~~
6 ~~the offices of the independent auditor;~~ or ~~(D)~~ any other reasonable
7 place designated by the commissioner.

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

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

21 SECTION 34. IC 27-1-3.5-13.8 IS ADDED TO THE INDIANA
22 CODE AS A NEW SECTION TO READ AS FOLLOWS
23 [EFFECTIVE JULY 1, 2010]: **Sec. 13.8. (a) An insurer that is**
24 **required to file an audited financial report under this chapter and**
25 **has annual direct written and assumed premiums (excluding**
26 **premiums reinsured with the Federal Crop Insurance Corporation**
27 **and National Flood Insurance Program) equal to at least five**
28 **hundred million dollars (\$500,000,000) shall:**

29 (1) **prepare the insurer's or insurer group's report of internal**
30 **control over financial reporting as of the December 31**
31 **immediately preceding the report; and**

32 (2) **file the report prepared under subdivision (1) with the**
33 **commissioner, along with the communication required under**
34 **section 12 of this chapter.**

35 **(b) The commissioner may require an insurer that has any**
36 **amount of annual direct written and assumed premiums to file the**
37 **insurer's report of internal controls over financial reporting if the**
38 **insurer:**

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

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- 1 (2) experiences a risk based capital level event described in
 2 IC 27-1-36.
- 3 (c) An insurer or insurer group that:
- 4 (1) is subject to subsection (a) or (b);
- 5 (2) is:
- 6 (A) directly subject to Section 404;
- 7 (B) part of a holding company system whose parent is
 8 directly subject to Section 404;
- 9 (C) not directly subject to Section 404 and is a
 10 Sarbanes-Oxley compliant entity; or
- 11 (D) a member of a holding company system with a parent
 12 company that:
- 13 (i) is not directly subject to Section 404; and
- 14 (ii) is a Sarbanes-Oxley compliant entity; and
- 15 (3) includes a description of all of the insurer's or insurer
 16 group's internal controls over financial reporting that have a
 17 material impact on the preparation of the parts of the
 18 insurer's or insurer group's audited statutory financial
 19 statements described in section 7(b)(2) through 7(b)(6) and
 20 section 7(c) and 7(d) of this chapter in the insurer's or
 21 parent's Section 404 report;
- 22 may satisfy the requirement of subsection (a) or (b) by filing the
 23 insurer's, insurer group's, or parent's Section 404 report and an
 24 affirmation from the insurer's or insurer group's management
 25 personnel that all material processes with respect to the
 26 preparation of the insurer's or insurer group's audited financial
 27 statements in subdivision (3) are included with the Section 404
 28 report.
- 29 (d) If an insurer or insurer group has internal controls over
 30 financial reporting that have a material impact on the preparation
 31 of the insurer's or insurer group's audited statutory financial
 32 statements and a description of the internal controls over financial
 33 reporting is not included in the Section 404 report that is filed by
 34 the insurer or insurer group, the insurer or insurer group may file:
- 35 (1) the insurer's or insurer group's report of internal control
 36 over financial reporting as described in subsection (a); or
- 37 (2) a Section 404 report and the insurer's or insurer group's
 38 report of internal control over financial reporting as
 39 described in subsection (a);
- 40 for the internal controls over financial reporting that are not
 41 included in the Section 404 report.
- 42 (e) An insurer's or insurer group's report of internal control

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- 1 over financial reporting must include the following:
- 2 (1) A statement that management personnel are responsible
- 3 for establishing and maintaining adequate internal control
- 4 over financial reporting.
- 5 (2) A statement that management personnel have established
- 6 internal control over financial reporting accompanied by:
- 7 (A) an assertion concerning whether:
- 8 (i) after diligent inquiry by; and
- 9 (ii) to the best of the knowledge of;
- 10 the management personnel, the insurer's or insurer
- 11 group's internal control over financial reporting is
- 12 effective to provide reasonable assurance that the financial
- 13 statements are reliable and prepared in accordance with
- 14 statutory accounting principles; and
- 15 (B) a disclosure of any unremediated material weakness:
- 16 (i) in the insurer's or insurer group's internal control
- 17 over financial reporting; and
- 18 (ii) identified by management personnel as of the
- 19 December 31 immediately preceding the date of the
- 20 report.
- 21 (3) A statement that briefly describes the approach or process
- 22 by which management personnel evaluate the effectiveness of
- 23 the insurer's or insurer group's internal control over financial
- 24 reporting.
- 25 (4) A statement that briefly describes the scope of work that
- 26 is included in the report and whether any of the insurer's or
- 27 insurer group's internal controls over financial reporting are
- 28 excluded from the report.
- 29 (5) A statement regarding inherent limitations of the insurer's
- 30 or insurer group's internal control over financial reporting
- 31 system.
- 32 (6) Signatures of the chief executive officer and the chief
- 33 financial officer or individuals holding equivalent positions.
- 34 (f) An insurer's or insurer group's management personnel:
- 35 (1) shall:
- 36 (A) document; and
- 37 (B) make available upon a financial condition examination;
- 38 the basis for the assertions made under subsection (e);
- 39 (2) may partially base the assertions made under subsection
- 40 (e) on review, monitoring, and testing of the insurer's or
- 41 insurer group's internal control over financial reporting that
- 42 is undertaken in the normal course of management activities;

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and
(3) shall determine the:
 (A) nature of the insurer's or insurer group's internal control over financial reporting system; and
 (B) nature and extent of documentation;
that are used to support the assertions made under subsection (e) in a cost effective manner, including assembly of or reference to existing documentation.

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

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

SECTION 35. IC 27-1-3.5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 14. (a) In response to a written application from a domestic an insurer, the commissioner may grant an exemption from compliance with this chapter if the commissioner finds, upon review of the application, that compliance with this chapter would constitute a financial or an organizational hardship upon the domestic insurer. An exemption may be granted at any time for a specified period.

(b) Within ten (10) days after the denial of a domestic an insurer's written request for an exemption from this chapter, the insurer may, in writing, request a hearing on its application for an exemption. The hearing shall be held under ~~IC 4-21-5~~: IC 4-21.5-3.

SECTION 36. IC 27-1-3.5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 16. (a) A domestic insurer that:

- (1) is required to file an annual audited financial report under this chapter; and
 - (2) fails to file an audited annual financial report before July 1 or any other deadline established by the commissioner for the insurer under this chapter without having obtained an extension;
- is subject to a civil penalty of fifty dollars (\$50) per day until the report is received prescribed in rules adopted by the commissioner.

(b) Except as provided in subsections (d), (e), and (f), a domestic

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1 insurer shall comply with this chapter, as amended by amendments
 2 effective July 1, 2010, for the year ending December 31, 2010, and
 3 each subsequent year unless otherwise permitted by the
 4 commissioner.

5 (c) Except as provided in subsections (d), (e), and (f), a foreign
 6 or alien insurer shall comply with this chapter, as amended
 7 effective July 1, 2010, for the year ending December 31, 2010, and
 8 each year thereafter, unless otherwise permitted by the
 9 commissioner.

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

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

17 (1) section 7.2(h)(1) of this chapter and in a subsequent
 18 calendar year is described in section 7.2(h)(2) or 7.2(h)(3) of
 19 this chapter; or

20 (2) section 7.2(h)(2) of this chapter and in a subsequent
 21 calendar year is described in section 7.2(h)(3) of this chapter;
 22 due to a change in premium or business combination has one (1)
 23 calendar year following the year during which the change occurs
 24 to comply with the requirements specified in section 7.2(h) of this
 25 chapter for percentage of independent members of the insurer's or
 26 insurer group's audit committee.

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

35 SECTION 37. IC 27-1-3.5-18 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 18. (a) In the case of a
 37 British or Canadian insurer, the annual audited financial report refers
 38 to the annual statement of total business on the form filed by the
 39 company with its domiciliary supervision authority audited by an
 40 independent auditor: **accountant**.

41 (b) For a British or Canadian insurer, the letter required under
 42 section 8 of this chapter shall state that the accountant is aware of the

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1 ~~requirement requirements~~ relating to the annual audited ~~statement~~
2 **financial report** filed with the commissioner under section 6 of this
3 chapter and shall affirm that the opinion expressed is in conformity
4 with those requirements.

5 SECTION 38. IC 27-1-9-12 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12. (a) In case of a
7 merger or consolidation between a domestic and a foreign company,
8 the articles of merger or consolidation shall be regarded as executed by
9 the proper officers of said foreign company when such officers are duly
10 authorized to execute same through such action on the part of the
11 directors, shareholders, members, or policyholders of said foreign
12 company as may be required by the laws of the state where the same is
13 incorporated; and upon execution, said articles of merger or
14 consolidation shall be submitted to the commissioner of insurance or
15 other officer at the head of the insurance department of the state where
16 such foreign company is incorporated. No such merger or consolidation
17 shall take effect until it shall have been approved by the insurance
18 official of the state where said foreign company is incorporated nor
19 until a certificate of his approval has been filed in the office of the
20 department of insurance of the state of Indiana. Such submission to and
21 approval by the proper official of such other state shall not be required
22 unless the same are required by the laws of such foreign state. The
23 domestic company involved in such merger or consolidation shall not
24 through anything contained in this section be relieved of any of the
25 procedural requirements enumerated in the preceding sections of this
26 article.

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

38 SECTION 39. IC 27-1-15.6-7 IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) Unless denied
40 licensure under section 12 of this chapter, a person who has met the
41 requirements of sections 5 and 6 of this chapter shall be issued an
42 insurance producer license. An insurance producer may receive

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1 qualification for a license in one (1) or more of the following lines of
 2 authority:

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

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

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

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

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

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

21 (7) Credit — limited line credit insurance.

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

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

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

28 (1) is considered to have requested; and
 29 (2) shall receive;

30 a life qualification under subsection (a)(1). **The insurance producer's**
 31 **license document must clearly indicate that the life qualification**
 32 **received under this subsection includes a qualification for variable**
 33 **life and variable annuity products.**

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

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

41 (e) An individual insurance producer who:

42 (1) allows the individual insurance producer's license to lapse;

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- 1 and
 2 (2) completed all required continuing education before the license
 3 expired;
 4 may, not more than twelve (12) months after the expiration date of the
 5 license, reinstate the same license without the necessity of passing a
 6 written examination. A penalty in the amount of three (3) times the
 7 unpaid renewal fee shall be required for any renewal fee received after
 8 the expiration date of the license. However, the department of
 9 insurance may waive the penalty if the renewal fee is received not more
 10 than thirty (30) days after the expiration date of the license.
- 11 (f) A licensed insurance producer who is unable to comply with
 12 license renewal procedures due to military service or some other
 13 extenuating circumstance may request a waiver of the license renewal
 14 procedures. The producer may also request a waiver of any
 15 examination requirement or any other fine or sanction imposed for
 16 failure to comply with the license renewal procedures.
- 17 (g) An insurance producer license shall contain the licensee's name,
 18 address, personal identification number, date of issuance, lines of
 19 authority, expiration date, and any other information the commissioner
 20 considers necessary.
- 21 (h) A licensee shall inform the commissioner of a change of address
 22 not more than thirty (30) days after the change by any means
 23 acceptable to the commissioner. The failure of a licensee to timely
 24 inform the commissioner of a change in legal name or address shall
 25 result in a penalty under section 12 of this chapter.
- 26 (i) To assist in the performance of the commissioner's duties, the
 27 commissioner may contract with nongovernmental entities, including
 28 the National Association of Insurance Commissioners (NAIC), or any
 29 affiliates or subsidiaries that the NAIC oversees, to perform ministerial
 30 functions, including the collection of fees related to producer licensing,
 31 that the commissioner and the nongovernmental entity consider
 32 appropriate.
- 33 (j) The commissioner may participate, in whole or in part, with the
 34 NAIC or any affiliate or subsidiary of the NAIC in a centralized
 35 insurance producer license registry through which insurance producer
 36 licenses are centrally or simultaneously effected for states that require
 37 an insurance producer license and participate in the centralized
 38 insurance producer license registry. If the commissioner determines
 39 that participation in the centralized insurance producer license registry
 40 is in the public interest, the commissioner may adopt rules under
 41 IC 4-22-2 specifying uniform standards and procedures that are
 42 necessary for participation in the registry, including standards and

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procedures for centralized license fee collection.

SECTION 40. IC 27-1-15.6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. (a) An individual who applies for an insurance producer license in Indiana and who was previously licensed for the same lines of authority in another state is not required to complete any prelicensing education or examination. However, the exemption provided by this subsection is available only if:

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

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

(c) An individual who:

- (1) has attained the designation of chartered life underwriter, certified financial planner, or chartered financial consultant, or **another nationally recognized designation approved by the commissioner or the National Association of Insurance Commissioners**; and
- (2) applies for an insurance producer license in Indiana requesting qualification under sections:
 - (A) 7(a)(1);
 - (B) 7(a)(2); or
 - (C) 7(a)(5);
 of this chapter;

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

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- 1 (d) An individual who: ~~has:~~
 2 (1) **has** attained the designation of chartered property and casualty
 3 underwriter, certified insurance counselor, ~~or~~ accredited advisor
 4 in insurance, **or another nationally recognized designation**
 5 **approved by the commissioner or the National Association of**
 6 **Insurance Commissioners;** and
 7 (2) applies for an insurance producer license in Indiana requesting
 8 qualification under sections:
 9 (A) 7(a)(3);
 10 (B) 7(a)(4); or
 11 (C) 7(a)(6);
 12 of this chapter;
 13 is not required to complete prelicensing education and is required to
 14 take only the portion of the examination required under section 5(b) of
 15 this chapter that pertains to Indiana laws and rules.
 16 **(e) An individual who:**
 17 **(1) has attained a bachelor's degree in insurance; and**
 18 **(2) applies for an insurance producer license in Indiana**
 19 **requesting qualification under section 7(a)(1) through 7(a)(6)**
 20 **of this chapter;**
 21 **is not required to complete prelicensing education and is required**
 22 **to take only the part of the examination required under section**
 23 **5(b) of this chapter that pertains to Indiana laws and rules.**
 24 SECTION 41. IC 27-1-15.6-12, AS AMENDED BY P.L.27-2007,
 25 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2010]: Sec. 12. (a) For purposes of this section, "permanently
 27 revoke" means that:
 28 (1) the producer's license shall never be reinstated; and
 29 (2) the former licensee, after the license revocation, is not eligible
 30 to submit an application for a license to the department.
 31 (b) The commissioner may **reprimand**, levy a civil penalty, place
 32 an insurance producer on probation, suspend an insurance producer's
 33 license, revoke an insurance producer's license for a period of years,
 34 permanently revoke an insurance producer's license, or refuse to issue
 35 or renew an insurance producer license, or take any combination of
 36 these actions, for any of the following causes:
 37 (1) Providing incorrect, misleading, incomplete, or materially
 38 untrue information in a license application.
 39 (2) Violating:
 40 (A) an insurance law;
 41 (B) a regulation;
 42 (C) a subpoena of an insurance commissioner; or

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- 1 (D) an order of an insurance commissioner;
 2 of Indiana or of another state.
 3 (3) Obtaining or attempting to obtain a license through
 4 misrepresentation or fraud.
 5 (4) Improperly withholding, misappropriating, or converting any
 6 monies or properties received in the course of doing insurance
 7 business.
 8 (5) Intentionally misrepresenting the terms of an actual or
 9 proposed insurance contract or application for insurance.
 10 (6) Having been convicted of a felony.
 11 (7) Admitting to having committed or being found to have
 12 committed any unfair trade practice or fraud in the business of
 13 insurance.
 14 (8) Using fraudulent, coercive, or dishonest practices, or
 15 demonstrating incompetence, untrustworthiness, or financial
 16 irresponsibility in the conduct of business in Indiana or elsewhere.
 17 (9) Having an insurance producer license, or its equivalent,
 18 denied, suspended, or revoked in any other state, province,
 19 district, or territory.
 20 (10) Forging another's name to an application for insurance or to
 21 any document related to an insurance transaction.
 22 (11) Improperly using notes or any other reference material to
 23 complete an examination for an insurance license.
 24 (12) Knowingly accepting insurance business from an individual
 25 who is not licensed.
 26 (13) Failing to comply with an administrative or court order
 27 imposing a child support obligation.
 28 (14) Failing to pay state income tax or to comply with any
 29 administrative or court order directing payment of state income
 30 tax.
 31 (15) Failing to satisfy the continuing education requirements
 32 established by IC 27-1-15.7.
 33 (16) Violating section 31 of this chapter.
 34 (17) Failing to timely inform the commissioner of a change in
 35 legal name or address, in violation of section 7(h) of this chapter.
 36 (c) The commissioner shall refuse to:
 37 (1) issue a license; or
 38 (2) renew a license issued;
 39 under this chapter to any person who is the subject of an order issued
 40 by a court under IC 31-14-12-7 or IC 31-16-12-10 (or
 41 IC 31-1-11.5-13(m) or IC 31-6-6.1-16(m) before their repeal).
 42 (d) If the commissioner refuses to renew a license or denies an

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

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

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

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

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

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

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

41 (j) The commissioner may not grant, renew, continue, or permit to
 42 continue any license if the commissioner finds that the license is being

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1 used or will be used by the applicant or licensee for the purpose of
 2 writing controlled business. As used in this subsection, "controlled
 3 business" means:

- 4 (1) insurance written on the interests of:
 5 (A) the applicant or licensee;
 6 (B) the applicant's or licensee's immediate family; or
 7 (C) the applicant's or licensee's employer; or
 8 (2) insurance covering:
 9 (A) the applicant or licensee;
 10 (B) members of the applicant's or licensee's immediate family;
 11 or
 12 (C) either:
 13 (i) a corporation, limited liability company, association, or
 14 partnership; or
 15 (ii) the officers, directors, substantial stockholders, partners,
 16 members, managers, employees of such a corporation,
 17 limited liability company, association, or partnership;
 18 of which the applicant or licensee or a member of the
 19 applicant's or licensee's immediate family is an officer,
 20 director, substantial stockholder, partner, member, manager,
 21 associate, or employee.

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

30 (k) The commissioner has the authority to:

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

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

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

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

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

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

9 SECTION 42. IC 27-1-15.7-2, AS AMENDED BY P.L.173-2007,
 10 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2010]: Sec. 2. (a) Except as provided in subsection (b), to
 12 renew a license issued under IC 27-1-15.6,

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

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

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

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

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

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

42 (c) The following insurance producers are not required to complete

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- 1 continuing education courses to renew a license under this chapter:
- 2 (1) A limited lines producer who is licensed without examination
- 3 under IC 27-1-15.6-18(1) or IC 27-1-15.6-18(2).
- 4 (2) A limited line credit insurance producer.
- 5 (3) An insurance producer who, **before July 1, 2011:**
- 6 (A) is at least seventy (70) years of age; and
- 7 (B) has been a licensed insurance producer continuously for at
- 8 least twenty (20) years immediately preceding the license
- 9 renewal date.
- 10 (d) To satisfy the requirements of subsection (a) or (b), a licensee
- 11 may use only those credit hours earned in continuing education courses
- 12 completed by the licensee:
- 13 (1) after the effective date of the licensee's last renewal of a
- 14 license under this chapter; or
- 15 (2) if the licensee is renewing a license for the first time, after the
- 16 date on which the licensee was issued the license under this
- 17 chapter.
- 18 (e) If an insurance producer receives qualification for a license in
- 19 more than one (1) line of authority under IC 27-1-15.6, the insurance
- 20 producer may not be required to complete a total of more than ~~twenty~~
- 21 **twenty-four (24)** hours of credit in continuing education courses
- 22 to renew the license.
- 23 (f) Except as provided in subsection (g), a licensee may receive
- 24 credit only for completing continuing education courses that have been
- 25 approved by the commissioner under section 4 of this chapter.
- 26 (g) A licensee who teaches a course approved by the commissioner
- 27 under section 4 of this chapter shall receive continuing education credit
- 28 for teaching the course.
- 29 (h) When a licensee renews a license issued under this chapter, the
- 30 licensee must submit:
- 31 (1) a continuing education statement that:
- 32 (A) is in a format authorized by the commissioner;
- 33 (B) is signed by the licensee under oath; and
- 34 (C) lists the continuing education courses completed by the
- 35 licensee to satisfy the continuing education requirements of
- 36 this section; and
- 37 (2) any other information required by the commissioner.
- 38 (i) A continuing education statement submitted under subsection (h)
- 39 may be reviewed and audited by the department.
- 40 (j) A licensee shall retain a copy of the original certificate of
- 41 completion received by the licensee for completion of a continuing
- 42 education course.

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- 1 (k) A licensee who completes a continuing education course that:
- 2 (1) is approved by the commissioner under section 4 of this
- 3 chapter;
- 4 (2) is held in a classroom setting; and
- 5 (3) concerns ethics;

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

10 SECTION 43. IC 27-1-15.7-5 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) To qualify as a
 12 certified prelicensing course of study for purposes of IC 27-1-15.6-6,
 13 an insurance producer program of study must meet all of the following
 14 criteria:

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

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- 1 (i) ethical practices in the marketing and selling of
 2 insurance;
 3 (ii) requirements of the insurance laws and administrative
 4 rules of Indiana;
 5 (iii) principles of life insurance; and
 6 (iv) principles of health insurance.
- 7 (D) For property and casualty insurance producers, not less
 8 than forty (40) hours of instruction in a structured setting or
 9 comparable self-study on:
 10 (i) ethical practices in the marketing and selling of
 11 insurance;
 12 (ii) requirements of the insurance laws and administrative
 13 rules of Indiana;
 14 (iii) principles of property insurance; and
 15 (iv) principles of liability insurance.
- 16 (E) For personal lines producers, a minimum of ~~twenty-four~~
 17 **(24) twenty (20)** hours of instruction in a structured setting or
 18 comparable self-study on:
 19 (i) ethical practices in the marketing and selling of
 20 insurance;
 21 (ii) requirements of the insurance laws and administrative
 22 rules of Indiana; and
 23 (iii) principles of property and liability insurance applicable
 24 to coverages sold to individuals and families for primarily
 25 noncommercial purposes.
- 26 (F) For title insurance producers, not less than ten (10) hours
 27 of instruction in a structured setting or comparable self-study
 28 on:
 29 (i) ethical practices in the marketing and selling of title
 30 insurance;
 31 (ii) requirements of the insurance laws and administrative
 32 rules of Indiana;
 33 (iii) principles of title insurance, including underwriting and
 34 escrow issues; and
 35 (iv) principles of the federal Real Estate Settlement
 36 Procedures Act (12 U.S.C. 2608).
- 37 (3) Instruction provided in a structured setting must be provided
 38 only by individuals who meet the qualifications established by the
 39 commissioner under subsection (b).
- 40 (b) The commissioner, after consulting with the insurance producer
 41 education and continuing education advisory council, shall adopt rules
 42 under IC 4-22-2 prescribing the criteria that a person must meet to

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1 render instruction in a certified preclicensing course of study.

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

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

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

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

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

19 SECTION 44. IC 27-1-17-4, AS AMENDED BY P.L.193-2006,
20 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 JULY 1, 2010]: Sec. 4. Whenever a foreign or an alien insurance
22 company desires to be admitted to do an insurance business in this
23 state, it shall execute in the English language and present the following
24 to the department, at its office, accompanied by the fees prescribed by
25 law:

26 (1) A copy of its articles of incorporation or association, with all
27 amendments thereto, duly authenticated by the proper officer of
28 the state, country, province, or government wherein it is
29 incorporated or organized, or the state in which it is domiciled in
30 the United States.

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

33 (A) the name of such company;

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

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

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

42 (E) the total authorized capital stock of the company and the

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

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

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

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

The application shall be signed, ~~in duplicate~~ in the form prescribed by the department, by the president or a vice president and the secretary or an assistant secretary of the corporation, and verified under oath by the officers signing the same.

(3) A statement of its financial condition and business, in the form prescribed by law for annual statements, signed and sworn to by the president or secretary or other principal officers of the company; provided, however, that an alien company shall also furnish a separate statement comprising only its condition and business in the United States, which shall be signed and sworn to by its United States manager.

(4) A copy of the last report of examination certified to by the insurance commissioner or other proper supervisory official of the state in which such company is domiciled; provided, however, that the commissioner may cause an examination to be made of the condition and affairs of such company before authority to transact business in this state is given.

(5) A certificate from the proper official of the state, country, province, or government wherein it is incorporated or organized, or the state in which it is domiciled in the United States, that it is duly organized or incorporated under those laws and authorized to make the kind or kinds of insurance which it proposes to make in this state.

(6) A copy of its bylaws or regulations, if any, certified to by the secretary or similar officer of the insurance company.

(7) A duly executed power of attorney in a form prescribed by the

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

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

SECTION 45. IC 27-1-18-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) Any foreign or alien corporation admitted to do business in this state may alter or enlarge the character of the business which it is authorized to transact in this state under its articles of incorporation or association, and any amendments thereof filed with the department as provided in section 3 of this chapter, by procuring an amended certificate of authority from the department in the manner provided in subsection (b).

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

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

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

SECTION 46. IC 27-1-23-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) Material transactions within an insurance holding company system to which an

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insurer subject to registration is a party shall be subject to the following standards:

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

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

- (1) Sales, purchases, exchanges, loans or extensions of credit, guarantees, or investments, provided those transactions are equal to or exceed:
 - (A) with respect to nonlife insurers, the lesser of three percent (3%) of the insurer's admitted assets or twenty-five percent (25%) of surplus as regards policyholders; and
 - (B) with respect to life insurers, three percent (3%) of the insurer's admitted assets;
 each as of December 31 next preceding.

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

- (A) with respect to nonlife insurers, the lesser of three percent

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- 1 (3%) of the insurer's admitted assets or twenty-five percent
 2 (25%) of surplus as regards policyholders; and
 3 (B) with respect to life insurers, three percent (3%) of the
 4 insurer's admitted assets;
 5 each as of December 31 next preceding.
- 6 (3) Reinsurance agreements or modifications thereto in which the
 7 amount of cash or invested assets transferred by the insurer equals
 8 or exceeds five percent (5%) of the insurer's surplus as regards
 9 policyholders, as of December 31 next preceding, including those
 10 agreements that may require as consideration the transfer of assets
 11 from an insurer to a nonaffiliate, if an agreement or understanding
 12 exists between the insurer and nonaffiliate that any portion of the
 13 assets will be transferred to one (1) or more affiliates of the
 14 insurer.
- 15 (4) Management agreements, service contracts, ~~and~~ cost-sharing
 16 arrangements, **lease agreements, and tax allocation**
 17 **agreements.**
- 18 (5) Material transactions, specified by rule, that the commissioner
 19 determines may adversely affect the interests of the insurer's
 20 policyholders.
- 21 This subsection does not authorize or permit any transactions that, in
 22 the case of an insurer not a member of the same insurance holding
 23 company system, would be otherwise contrary to law.
- 24 (c) A domestic insurer may not enter into transactions that are part
 25 of a plan or series of like transactions with persons within the insurance
 26 holding company system if the purpose of those separate transactions
 27 is to avoid the statutory threshold amount and thus avoid the review
 28 that would occur otherwise.
- 29 (d) The commissioner, in reviewing transactions pursuant to
 30 subsection (b), shall consider whether the transactions comply with the
 31 standards set forth in subsection (a) and whether the transactions may
 32 adversely affect the interests of policyholders.
- 33 (e) The commissioner shall be notified within thirty (30) days of any
 34 investment of the domestic insurer in any one (1) corporation if the
 35 total investment in that corporation by the insurance holding company
 36 system exceeds ten percent (10%) of the corporation's voting securities.
- 37 (f) For purposes of this chapter, in determining whether an insurer's
 38 surplus is reasonable in relation to the insurer's outstanding liabilities
 39 and adequate to its financial needs, the following factors, among others,
 40 shall be considered:
- 41 (1) The size of the insurer as measured by its assets, capital and
 42 surplus, reserves, premium writings, insurance in force and other

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- 1 appropriate criteria.
- 2 (2) The extent to which the insurer's business is diversified among
- 3 the several lines of insurance.
- 4 (3) The number and size of risks insured in each line of business.
- 5 (4) The extent of the geographical dispersion of the insurer's
- 6 insured risks.
- 7 (5) The nature and extent of the insurer's reinsurance program.
- 8 (6) The quality, diversification, and liquidity of the insurer's
- 9 investment portfolio.
- 10 (7) The recent past and projected future trend in the size of the
- 11 insurer's surplus as regards policyholders.
- 12 (8) The surplus as regards policyholders maintained by other
- 13 comparable insurers in respect of the factors described in
- 14 subdivisions (1) through (7).
- 15 (9) The adequacy of the insurer's reserves.
- 16 (10) The quality and liquidity of investments in subsidiaries,
- 17 except that the commissioner may discount or treat any such
- 18 investment in subsidiaries as a disallowed asset for purposes of
- 19 determining the adequacy of surplus whenever in his judgment
- 20 such investment so warrants.
- 21 (11) The quality of the earnings of the insurer and the extent to
- 22 which the reported earnings of the insurer include extraordinary
- 23 items.
- 24 (g) No domestic insurer subject to registration under section 3 of
- 25 this chapter shall pay an extraordinary dividend or make any other
- 26 extraordinary distribution to its security holders until:
- 27 (1) thirty (30) days after the commissioner has received notice of
- 28 the declaration thereof and has not within such period
- 29 disapproved such payment; or
- 30 (2) the commissioner shall have approved such payment within
- 31 such thirty (30) day period.
- 32 (h) For purposes of subsection (g), an extraordinary dividend or
- 33 distribution is any dividend or distribution of cash or other property
- 34 whose fair market value, together with that of other dividends or
- 35 distributions made within the twelve (12) consecutive months ending
- 36 on the date on which the proposed dividend or distribution is scheduled
- 37 to be made, exceeds the greater of:
- 38 (1) ten percent (10%) of such insurer's surplus as regards
- 39 policyholders as of the most recently preceding December 31; or
- 40 (2) the net gain from operations of such insurer, if such insurer is
- 41 a life insurer, or the net income, if such insurer is not a life
- 42 insurer, for the twelve (12) month period ending on the most

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1 recently preceding December 31.
2 (i) Notwithstanding any other provision of law, a domestic insurer
3 may declare an extraordinary dividend or distribution which is
4 conditional upon the commissioner's approval thereof, but such a
5 declaration shall confer no rights upon shareholders until:

6 (1) the commissioner has approved the payment of such dividend
7 or distribution; or

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

10 SECTION 47. IC 27-1-25-11.1 IS AMENDED TO READ AS
11 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11.1. (a) If the home
12 state of a person is Indiana, the person shall:

13 (1) apply to act as an administrator in Indiana upon the uniform
14 application; ~~and~~

15 **(2) pay an application fee in an amount determined by the**
16 **commissioner; and**

17 ~~(3)~~ (3) receive a license from the commissioner;
18 before performing the function of an administrator in Indiana. **The**
19 **commissioner shall deposit a fee paid under subdivision (2) into the**
20 **department of insurance fund established by IC 27-1-3-28.**

21 (b) The uniform application must include or be accompanied by the
22 following:

- 23 (1) Basic organizational documents of the applicant, including:
 - 24 (A) articles of incorporation;
 - 25 (B) articles of association;
 - 26 (C) partnership agreement;
 - 27 (D) trade name certificate;
 - 28 (E) trust agreement;
 - 29 (F) shareholder agreement;
 - 30 (G) other applicable documents; and
 - 31 (H) amendments to the documents specified in clauses (A)
 - 32 through (G).

33 (2) Bylaws, rules, regulations, or other documents that regulate
34 the internal affairs of the applicant.

35 (3) The NAIC biographical affidavits for individuals who are
36 responsible for the conduct of affairs of the applicant, including:

- 37 (A) members of the applicant's:
 - 38 (i) board of directors;
 - 39 (ii) board of trustees;
 - 40 (iii) executive committee; or
 - 41 (iv) other governing board or committee;
- 42 (B) principal officers, if the applicant is a corporation;

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

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1 (c) An administrator that applies for licensure under this section
 2 shall make copies of written agreements with insurers available for
 3 inspection by the commissioner.

4 (d) An administrator that applies for licensure under this section
 5 shall:

6 (1) produce the administrator's accounts, records, and files for
 7 examination; and

8 (2) make the administrator's officers available to provide
 9 information concerning the affairs of the administrator;

10 whenever reasonably required by the commissioner.

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

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

15 (A) is not:

16 (i) competent;

17 (ii) trustworthy;

18 (iii) financially responsible; or

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

20 (B) has had an:

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

22 (ii) administrator certificate of authority or administrator
 23 license;

24 denied or revoked for cause by any jurisdiction;

25 (2) the financial information provided under subsection (b)(4)

26 does not reflect that the applicant has a positive net worth; or

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

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

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

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

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

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

40 (h) A license that is issued under this section is valid:

41 (1) for one (1) year after the date of issuance; or

42 (2) until:

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1 ~~(A)~~ (A) the license is:
2 ~~(A)~~ (i) surrendered; or
3 ~~(B)~~ (ii) suspended or revoked by the commissioner; or
4 ~~(2)~~ (B) the administrator:
5 ~~(A)~~ (i) ceases to do business in Indiana; or
6 ~~(B)~~ (ii) is not in compliance with this chapter;
7 **whichever occurs first.**
8 SECTION 48. IC 27-1-25-12.2, AS AMENDED BY P.L.234-2007,
9 SECTION 191, IS AMENDED TO READ AS FOLLOWS
10 [EFFECTIVE JULY 1, 2010]: Sec. 12.2. (a) An administrator that:
11 (1) performs the duties of an administrator in Indiana; and
12 (2) does not hold a license issued under section 11.1 of this
13 chapter;
14 shall obtain a nonresident administrator license under this section by
15 filing a uniform application, **accompanied by an application fee in an**
16 **amount determined by the commissioner**, with the commissioner.
17 **The commissioner shall deposit a fee paid under this subsection**
18 **into the department of insurance fund established by IC 27-1-3-28.**
19 (b) Unless the commissioner verifies the nonresident administrator's
20 home state license status through an electronic data base maintained by
21 the NAIC or by an affiliate or a subsidiary of the NAIC, a uniform
22 application filed under subsection (a) must be accompanied by a letter
23 of certification from the nonresident administrator's home state,
24 verifying that the nonresident administrator holds a resident
25 administrator license in the home state.
26 (c) A nonresident administrator is not eligible for a nonresident
27 administrator license under this section unless the nonresident
28 administrator is licensed as a resident administrator in a home state that
29 has a law or regulation that is substantially similar to this chapter.
30 (d) Except as provided in subsections (b) and (h), the commissioner
31 shall issue a nonresident administrator license to a nonresident
32 administrator that makes a filing under subsections (a) and (b) upon
33 receipt of the filing.
34 (e) Unless a nonresident administrator is notified by the
35 commissioner that the commissioner is able to verify the nonresident
36 administrator's home state licensure through an electronic data base
37 described in subsection (b), the nonresident administrator shall:
38 (1) on September 15 of each year, file **a renewal application and**
39 a statement with the commissioner affirming that the nonresident
40 administrator maintains a current license in the nonresident
41 administrator's home state; and
42 (2) pay **to the commissioner** a filing fee **as required in an**

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1 **amount determined** by the commissioner.
2 The commissioner shall ~~collect deposit~~ a filing fee ~~required paid~~ under
3 subdivision (2) ~~and deposit the fee~~ into the department of insurance
4 fund established by IC 27-1-3-28.
5 (f) A nonresident administrator that applies for licensure under this
6 section shall:
7 (1) produce the accounts of the nonresident administrator;
8 (2) produce the records and files of the nonresident administrator
9 for examination; and
10 (3) make the officers of the nonresident administrator available to
11 provide information with respect to the affairs of the nonresident
12 administrator;
13 when reasonably required by the commissioner.
14 (g) A nonresident administrator is not required to hold a nonresident
15 administrator license in Indiana if the nonresident administrator's
16 function in Indiana is limited to the administration of life, health, or
17 annuity coverage for a total of not more than one hundred (100) Indiana
18 residents.
19 (h) The commissioner may refuse to issue or may delay the issuance
20 of a nonresident administrator license if the commissioner determines
21 that:
22 (1) due to events occurring; or
23 (2) based on information obtained;
24 after the nonresident administrator's home state's licensure of the
25 nonresident administrator, the nonresident administrator is unable to
26 comply with this chapter or grounds exist for the home state's
27 revocation or suspension of the nonresident administrator's home state
28 license.
29 (i) If the commissioner makes a determination described in
30 subsection (h), the commissioner:
31 (1) shall provide written notice of the determination to the
32 insurance regulator of the nonresident administrator's home state;
33 and
34 (2) may delay the issuance of a nonresident administrator license
35 to the nonresident administrator until the commissioner
36 determines that the nonresident administrator is able to comply
37 with this chapter and that grounds do not exist for the home state's
38 revocation or suspension of the nonresident administrator's home
39 state license.
40 SECTION 49. IC 27-1-25-12.3, AS AMENDED BY P.L.234-2007,
41 SECTION 192, IS AMENDED TO READ AS FOLLOWS
42 [EFFECTIVE JULY 1, 2010]: Sec. 12.3. (a) An administrator that is

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1 licensed under section 11.1 of this chapter shall, not later than July 1
2 of each year unless the commissioner grants an extension of time for
3 good cause, file a report for the previous calendar year that complies
4 with the following:

- 5 (1) The report must contain financial information reflecting a
6 positive net worth prepared in accordance with section 11.1(b)(4)
7 of this chapter.
- 8 (2) The report must be in the form and contain matters prescribed
9 by the commissioner.
- 10 (3) The report must be verified by at least two (2) officers of the
11 administrator.
- 12 (4) The report must include the complete names and addresses of
13 insurers with which the administrator had a written agreement
14 during the preceding fiscal year.
- 15 (5) The report must be accompanied by a filing fee **in an amount**
16 determined by the commissioner.

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

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

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

34 SECTION 50. IC 27-2-15-4.2 IS ADDED TO THE INDIANA
35 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
36 [EFFECTIVE JULY 1, 2010]: **Sec. 4.2. As used in this chapter,**
37 **"municipality" has the meaning set forth in IC 36-1-2-11.**

38 SECTION 51. IC 27-2-15-4.5 IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 4.5. (a) As used in this**
40 **section, "city" refers to a city having a population of more than**
41 **thirty-five thousand (35,000) that is located in a county having a**
42 **population of more than four hundred thousand (400,000) but less than**

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1 ~~seven hundred thousand (700,000).~~
2 ~~(b) (a)~~ An insurer that:
3 (1) issued an insurance policy:
4 (A) covering a building or other structure that is:
5 ~~(1) (i)~~ located in a ~~city;~~ **municipality**; and
6 ~~(2) (ii)~~ damaged by a fire or explosion; **and**
7 **(B) that is in effect at the time of the fire or explosion; and**
8 **(2) receives a request for notice about the existence of the**
9 **insurance policy:**
10 **(A) from the enforcement authority of the municipality**
11 **and**
12 **(B) within twenty (20) days after the damage occurs;**
13 shall, **within ten (10) days after notice is received under subdivision**
14 **(2),** notify the enforcement authority of the ~~city~~ **municipality** about the
15 existence of the policy. ~~However, an insurer is not required to notify~~
16 ~~the enforcement authority under this section if the policy issued by the~~
17 ~~insurer is not in effect at the time of the fire or explosion that damages~~
18 ~~the building or structure.~~
19 ~~(c)~~ The insurer shall provide the notice required under this section
20 if the enforcement authority makes a request for the notice within
21 twenty ~~(20)~~ days after the damage occurs.
22 ~~(d) (b)~~ The notice required by this section must:
23 (1) be in writing;
24 (2) identify the insurer and state the insurer's address;
25 (3) identify the building or structure and state the location of the
26 building or structure; and
27 (4) disclose the nature and extent of the coverage of the building
28 or structure provided by the policy.
29 ~~(e)~~ An insurer shall provide notice to the enforcement authority
30 under this section within ~~ten (10)~~ days after the insurer is notified
31 under subsection ~~(c)~~ of the damaging of the building or structure by fire
32 or explosion.
33 ~~(f) (c)~~ The commissioner may take action under IC 27-1-3-10 and
34 IC 27-1-3-19 against an insurer that violates this section.
35 SECTION 52. IC 27-2-15-5 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) If:
37 (1) a fire or explosion damages a building or other structure
38 located in a ~~city;~~ **municipality**; and
39 (2) the enforcement authority of the ~~city~~ **municipality** certifies to
40 an insurer that issued a policy covering the building or structure
41 the amount of demolition or rehabilitation expenses that the ~~city~~
42 **municipality** anticipates incurring or has incurred under

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1 IC 36-7-9 in connection with the building or structure;
2 the insurer shall remit to the **city municipality** or the enforcement
3 authority the amount determined under subsection (c).

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

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

9 (2) comply with subsection (c).

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

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

17 (1) fifteen percent (15%) of the available insurance proceeds, if
18 any; or

19 (2) an amount equal to the amount certified.

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

24 SECTION 53. IC 27-2-15-6 IS AMENDED TO READ AS
25 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. Upon a judgment
26 being rendered under IC 36-7-9-13(c) or IC 36-7-9-13(d), the **city**
27 **municipality** is entitled to the available insurance proceeds set aside
28 to the extent of the costs set forth in IC 36-7-9-12. All claims by the
29 **city municipality** against the available insurance proceeds must be
30 made within one (1) year after the date of the fire or explosion or
31 within one (1) year after the final outcome of a case or appeal initiated
32 under IC 36-7-9, whichever is later. Proceeds in the escrow account
33 that are not claimed in this manner shall be paid to the insured.

34 SECTION 54. IC 27-2-15-9 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. The state fire
36 marshal, a deputy fire marshal, an enforcement authority, or an officer
37 of a **city municipality** complying with this chapter or attempting in
38 good faith to comply with this chapter is immune from civil and
39 criminal liability in connection with actions taken under this chapter.

40 SECTION 55. IC 27-2-22 IS ADDED TO THE INDIANA CODE
41 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
42 JULY 1, 2010]:

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1 **Chapter 22. Health Plan Use of Premiums**

2 **Sec. 1. As used in this chapter, "administrative expenses"**
 3 **includes health plan expenses associated with the following:**

- 4 (1) **Claims processing.**
 5 (2) **Collection of premiums.**
 6 (3) **Marketing.**
 7 (4) **Operations.**
 8 (5) **Taxes.**
 9 (6) **General overhead.**
 10 (7) **Salaries and benefits.**
 11 (8) **Quality assurance.**
 12 (9) **Utilization review and management.**
 13 (10) **Benefit management.**
 14 (11) **Network contracting and management.**
 15 (12) **State and federal regulatory compliance.**

16 **Sec. 2. As used in this chapter, "commissioner" refers to the**
 17 **insurance commissioner appointed under IC 27-1-1-2.**

18 **Sec. 3. As used in this chapter, "covered individual" means an**
 19 **individual entitled to coverage under a health plan policy or**
 20 **contract.**

21 **Sec. 4. As used in this chapter, "department" refers to the**
 22 **department of insurance created by IC 27-1-1-1.**

23 **Sec. 5. As used in this chapter, "health plan" means any of the**
 24 **following:**

- 25 (1) **An insurer that issues a policy of accident and sickness**
 26 **insurance (as defined in IC 27-8-5-1).**
 27 (2) **A health maintenance organization (as defined in**
 28 **IC 27-13-1-19).**
 29 (3) **A limited service health maintenance organization (as**
 30 **defined in IC 27-13-34-4).**

31 **Sec. 6. (a) As used in this chapter, "medical expense" means the**
 32 **financial obligation of a health plan to pay for direct health care**
 33 **services and products provided to covered individuals.**

34 **(b) The term includes health plan payments to health care**
 35 **providers for quality or efficiency enhancing initiatives.**

36 **(c) The term does not include:**

- 37 (1) **administrative expenses; or**
 38 (2) **amounts that are the financial responsibility of a covered**
 39 **individual or a party other than the health plan.**

40 **Sec. 7. As used in this chapter, "medical loss ratio" means the**
 41 **quotient of:**

- 42 (1) **actual claim expenses; divided by**

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(2) earned premiums;
in a calendar year.

Sec. 8. (a) A health plan shall, before March 1 of each year, file with the department a report containing health plan information specific to each of the following categories for the immediately preceding calendar year:

(1) Health coverage provided by the health plan under each of the following:

(A) A policy of accident and sickness insurance using a preferred provider plan under IC 27-8-11.

(B) A policy of accident and sickness insurance not using a preferred provider plan under IC 27-8-11.

(2) Health coverage provided by the health plan under a health maintenance organization contract or limited service health maintenance organization contract under IC 27-13.

(3) Health coverage provided by the health plan through a point of service product (as defined in IC 27-13-1-26).

(4) Health coverage provided by the health plan under a high deductible health plan (as defined in 26 U.S.C. 220(c)(2) or 26 U.S.C. 223(c)(2)).

(b) The report for each category specified in subsection (a) must include the following information:

(1) A specific breakdown of administrative expenses as follows:

(A) Chief executive officer and executive salaries and benefits.

(B) Commissions and other broker fees.

(C) Utilization and other benefit management expenses.

(D) Advertising and marketing expenses.

(E) Insurance, including the following categories of commercial insurance:

(i) Reinsurance.

(ii) General liability.

(iii) Professional liability.

(iv) Other.

(F) Taxes, including the following:

(i) State and local insurance.

(ii) State premium.

(iii) Payroll.

(iv) Federal and state income.

(v) Real estate.

(vi) Other.

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- 1 (G) Travel and entertainment expenses.
- 2 (H) State and federal lobbying expenses.
- 3 (I) Other expenses, including the following:
 - 4 (i) Nonexecutive salaries, wages, and benefits.
 - 5 (ii) Rent and real estate expenses.
 - 6 (iii) Certification, accreditation, board, bureau, and
 - 7 association fees.
 - 8 (iv) Auditing and actuarial fees.
 - 9 (v) Collection and bank service charges.
 - 10 (vi) Occupancy, depreciation, and amortization.
 - 11 (vii) Cost or depreciation of electronic data processing,
 - 12 claims, and other services.
 - 13 (viii) Regulatory authority licenses and fees.
 - 14 (ix) Investment expenses.
 - 15 (x) Aggregate write-ins for expenses.
- 16 (J) Total expenses incurred.
- 17 (2) The health plan's name and address.
- 18 (3) The health plan's total premium.
- 19 (4) The amount of interest earned on premiums.
- 20 (5) The amount recovered from uninsured motorist insurance,
- 21 accident insurance, workers compensation insurance, and
- 22 other third party liability.
- 23 (6) The total medical expense incurred.
- 24 (7) The medical loss ratio.
- 25 (8) Certification by a member of the American Academy of
- 26 Actuaries that the information provided in the report is
- 27 accurate and complete and that the health plan is in
- 28 compliance with this chapter.
- 29 (9) Any other information requested by the commissioner.
- 30 Sec. 9. (a) The department shall:
 - 31 (1) publish and maintain each report filed under section 8 of
 - 32 this chapter on the department's Internet web site; and
 - 33 (2) make a hard copy of each report filed under section 8 of
 - 34 this chapter available to the public upon request.
- 35 (b) A report filed under section 8 of this chapter is a public
- 36 record.
- 37 Sec. 10. The commissioner shall adopt rules under IC 4-22-2 to
- 38 implement this chapter.
- 39 Sec. 11. (a) The commissioner may audit a health plan at any
- 40 time to determine compliance with this chapter.
- 41 (b) If the commissioner, after notice and hearing under
- 42 IC 4-21.5, determines that a health plan has violated this chapter,

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the commissioner may impose a civil penalty equal to:

(1) at least one thousand dollars (\$1,000); and

(2) not more than ten thousand dollars (\$10,000);

for each day of noncompliance.

(c) Civil penalties collected under this section must be deposited in the state general fund.

SECTION 56. IC 27-4-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) It is a Class A infraction for an insurer to transact insurance business in this state, as set forth in subsection (b), without a certificate of authority from the commissioner. However, this section does not apply to the following:

- (1) The lawful transaction of surplus lines insurance.
- (2) The lawful transaction of reinsurance by insurers.
- (3) Transactions in this state involving a policy lawfully solicited, written, and delivered outside of this state covering only subjects of insurance not resident, located, or expressly to be performed in this state at the time of issuance, and which transactions are subsequent to the issuance of such policy.
- (4) Attorneys acting in the ordinary relation of attorney and client in the adjustment of claims or losses.
- (5) Transactions in this state involving group life and group sickness and accident or blanket sickness and accident insurance or group annuities where the master policy of such groups was lawfully issued and delivered in and pursuant to the laws of a state in which the insurer was authorized to do an insurance business, to a group organized for purposes other than the procurement of insurance, and where the policyholder is domiciled or otherwise has a bona fide situs.
- (6) Transactions in this state relative to a policy issued or to be issued outside this state involving insurance on vessels, craft or hulls, cargos, marine builder's risk, marine protection and indemnity or other risk, including strikes and war risks commonly insured under ocean or wet marine forms of policy.
- (7) Transactions in this state involving life insurance, health insurance, or annuities provided to religious or charitable institutions organized and operated without profit to any private shareholder or individual for the benefit of such institutions and individuals engaged in the service of such institutions.
- (8) Transactions in this state involving contracts of insurance not readily obtainable in the ordinary insurance market and issued to one (1) or more industrial insureds. For purposes of this section, an "industrial insured" means an insured:

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

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

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

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

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

(E) who files with the department, with the amount remitted under clause (D), an affidavit specifying all transactions undertaken and policies and contracts procured during the preceding six (6) months, including the following:

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

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

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1 (A) must have its ambulance service program approved by an
 2 ordinance of the legislative body of the county or city in which
 3 it operates; and
 4 (B) may not offer any membership program that includes
 5 benefits exceeding one (1) year in duration.
 6 (b) Any of the following acts in this state effected by mail or
 7 otherwise by or on behalf of an unauthorized insurer constitutes the
 8 transaction of an insurance business in this state. The venue of an act
 9 committed by mail is at the point where the matter transmitted by mail
 10 is delivered and takes effect. Unless otherwise indicated, the term
 11 "insurer" as used in this section includes all persons engaged as
 12 principals in the business of insurance and also includes interinsurance
 13 exchanges and mutual benefit societies.
 14 (1) The making of or proposing to make, as an insurer, an
 15 insurance contract.
 16 (2) The making of or proposing to make, as guarantor or surety,
 17 any contract of guaranty or suretyship as a vocation and not
 18 merely incidental to any other legitimate business or activity of
 19 the guarantor or surety.
 20 (3) The taking or receiving of any application for insurance.
 21 (4) The receiving or collection of any premium, commission,
 22 membership fees, assessments, dues, or other consideration for
 23 any insurance or any part thereof.
 24 (5) The issuance or delivery of contracts of insurance to residents
 25 of this state or to persons authorized to do business in this state.
 26 (6) Acting as an agent for or otherwise representing or aiding on
 27 behalf of another person or insurer in the solicitation, negotiation,
 28 procurement, or effectuation of insurance or renewals thereof or
 29 in the dissemination of information as to coverage or rates, or
 30 forwarding of applications, or delivery of policies or contracts, or
 31 inspection of risks, a fixing of rates or investigation or adjustment
 32 of claims or losses or in the transaction of matters subsequent to
 33 effectuation of the contract and arising out of it, or representing
 34 or assisting a person or an insurer in the transaction of insurance
 35 with respect to subjects of insurance resident, located, or to be
 36 performed in this state. This subdivision does not prohibit
 37 full-time salaried employees of a corporate insured from acting in
 38 the capacity of an insurance manager or buyer in placing
 39 insurance in behalf of the employer.
 40 (c)(1) The failure of an insurer transacting insurance business in this
 41 state to obtain a certificate of authority does not impair the validity of
 42 any act or contract of such insurer and does not prevent such insurer

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1 from defending any action at law or suit in equity in any court of this
2 state, but no insurer transacting insurance business in this state without
3 a certificate of authority may maintain an action in any court of this
4 state to enforce any right, claim, or demand arising out of the
5 transaction of such business until such insurer obtains a certificate of
6 authority.

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

13 SECTION 57. IC 27-7-3-3 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) Any domestic
15 corporation having:

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

18 **and**

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

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

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

33 SECTION 58. IC 27-7-3-3.5 IS ADDED TO THE INDIANA CODE
34 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
35 1, 2010]: Sec. 3.5. (a) **A domestic corporation admitted to do**
36 **business as described in section 3 of this chapter is subject to the**
37 **following:**

38 (1) IC 27-1-6-21.

39 (2) IC 27-1-7-11.

40 (3) IC 27-9.

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

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1 SECTION 59. IC 27-8-5-1.5, AS AMENDED BY P.L.111-2008,
 2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 UPON PASSAGE]: Sec. 1.5. (a) This section applies to a policy of
 4 accident and sickness insurance issued on an individual, a group, a
 5 franchise, or a blanket basis, including a policy issued by an
 6 assessment company or a fraternal benefit society.

7 (b) As used in this section, "commissioner" refers to the insurance
 8 commissioner appointed under IC 27-1-1-2.

9 (c) As used in this section, "grossly inadequate filing" means a
 10 policy form filing:
 11 (1) that fails to provide key information, including state specific
 12 information, regarding a product, policy, or rate; or
 13 (2) that demonstrates an insufficient understanding of applicable
 14 legal requirements.

15 (d) As used in this section, "policy form" means a policy, a contract,
 16 a certificate, a rider, an endorsement, an evidence of coverage, or any
 17 amendment that is required by law to be filed with the commissioner
 18 for approval before use in Indiana.

19 (e) As used in this section, "type of insurance" refers to a type of
 20 coverage listed on the National Association of Insurance
 21 Commissioners Uniform Life, Accident and Health, Annuity and Credit
 22 Product Coding Matrix, or a successor document, under the heading
 23 "Continuing Care Retirement Communities", "Health", "Long Term
 24 Care", or "Medicare Supplement".

25 (f) Each person having a role in the filing process described in
 26 subsection (i) shall act in good faith and with due diligence in the
 27 performance of the person's duties.

28 (g) A policy form may not be issued or delivered in Indiana unless
 29 the policy form has been filed with and approved by the commissioner.

30 (h) The commissioner shall do the following:
 31 (1) Create a document containing a list of all product filing
 32 requirements for each type of insurance, with appropriate
 33 citations to the law, administrative rule, or bulletin that specifies
 34 the requirement, including the citation for the type of insurance
 35 to which the requirement applies.
 36 (2) Make the document described in subdivision (1) available on
 37 the department of insurance Internet site.
 38 (3) Update the document described in subdivision (1) at least
 39 annually and not more than thirty (30) days following any change
 40 in a filing requirement.

41 (i) The filing process is as follows:
 42 (1) A filer shall submit a policy form filing that:

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1 (A) includes a copy of the document described in subsection
 2 (h);
 3 (B) indicates the location within the policy form or supplement
 4 that relates to each requirement contained in the document
 5 described in subsection (h); and
 6 (C) certifies that the policy form meets all requirements of
 7 state law.
 8 (2) The commissioner shall review a policy form filing and, not
 9 more than thirty (30) days after the commissioner receives the
 10 filing under subdivision (1):
 11 (A) approve the filing **or, if the filing is for a premium rate**
 12 **increase, schedule a public meeting under section 1.6 of**
 13 **this chapter;** or
 14 (B) provide written notice of a determination:
 15 (i) that deficiencies exist in the filing; or
 16 (ii) that the commissioner disapproves the filing.
 17 A written notice provided by the commissioner under clause (B)
 18 must be based only on the requirements set forth in the document
 19 described in subsection (h) and must cite the specific
 20 requirements not met by the filing. A written notice provided by
 21 the commissioner under clause (B)(i) must state the reasons for
 22 the commissioner's determination in sufficient detail to enable the
 23 filer to bring the policy form into compliance with the
 24 requirements not met by the filing.
 25 (3) A filer may resubmit a policy form that:
 26 (A) was determined deficient under subdivision (2) and has
 27 been amended to correct the deficiencies; or
 28 (B) was disapproved under subdivision (2) and has been
 29 revised.
 30 A policy form resubmitted under this subdivision must meet the
 31 requirements set forth as described in subdivision (1) and must be
 32 resubmitted not more than thirty (30) days after the filer receives
 33 the commissioner's written notice of deficiency or disapproval. If
 34 a policy form is not resubmitted within thirty (30) days after
 35 receipt of the written notice, the commissioner's determination
 36 regarding the policy form is final.
 37 (4) The commissioner shall review a policy form filing
 38 resubmitted under subdivision (3) and, not more than thirty (30)
 39 days after the commissioner receives the resubmission:
 40 (A) approve the resubmitted policy form **or, if the filing is for**
 41 **a premium rate increase, schedule a public meeting under**
 42 **section 1.6 of this chapter;** or

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(B) provide written notice that the commissioner disapproves the resubmitted policy form.

A written notice of disapproval provided by the commissioner under clause (B) must be based only on the requirements set forth in the document described in subsection (h), must cite the specific requirements not met by the filing, and must state the reasons for the commissioner's determination in detail. The commissioner's approval or disapproval of a resubmitted policy form under this subdivision is final, except that the commissioner may allow the filer to resubmit a further revised policy form if the filer, in the filer's resubmission under subdivision (3), introduced new provisions or materially modified a substantive provision of the policy form. If the commissioner allows a filer to resubmit a further revised policy form under this subdivision, the filer must resubmit the further revised policy form not more than thirty (30) days after the filer receives notice under clause (B), and the commissioner shall issue a final determination **or, if the filing is for a premium rate increase, schedule a public meeting under section 1.6 of this chapter**, on the further revised policy form not more than thirty (30) days after the commissioner receives the further revised policy form.

(5) If the commissioner disapproves a policy form filing under this subsection, the commissioner shall notify the filer, in writing, of the filer's right to a hearing as described in subsection (m). A disapproved policy form filing may not be used for a policy of accident and sickness insurance unless the disapproval is overturned in a hearing conducted under this subsection.

(6) If the commissioner does not take any action on a policy form that is:

- (A) not a filing for a premium rate increase; and
- (B) filed or resubmitted under this subsection in accordance with any applicable period specified in subdivision (2), (3), or (4);

the policy form filing is considered to be approved.

(7) If the policy form filing is a filing for a premium rate increase, before approval of the filing the commissioner shall:

- (A) conduct a public meeting under section 1.6 of this chapter; and
- (B) consider oral and written comment received from the public concerning the increase in making a determination to approve or disapprove the filing.

The commissioner shall make the determination not more

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1 **than fifteen (15) days after conducting the public meeting.**
2 (j) Except as provided in this subsection, the commissioner may not
3 disapprove a policy form resubmitted under subsection (i)(3) or (i)(4)
4 for a reason other than a reason specified in the original notice of
5 determination under subsection (i)(2)(B). The commissioner may
6 disapprove a resubmitted policy form for a reason other than a reason
7 specified in the original notice of determination under subsection (i)(2)
8 if:
9 (1) the filer has introduced a new provision in the resubmission;
10 (2) the filer has materially modified a substantive provision of the
11 policy form in the resubmission;
12 (3) there has been a change in requirements applying to the policy
13 form; or
14 (4) there has been reviewer error and the written disapproval fails
15 to state a specific requirement with which the policy form does
16 not comply.
17 (k) The commissioner may return a grossly inadequate filing to the
18 filer without triggering a deadline set forth in this section.
19 (l) The commissioner may disapprove a policy form if:
20 (1) the benefits provided under the policy form are not reasonable
21 in relation to the premium charged; or
22 (2) the policy form contains provisions that are unjust, unfair,
23 inequitable, misleading, or deceptive, or that encourage
24 misrepresentation of the policy.
25 (m) Upon disapproval of a filing under this section, the
26 commissioner shall provide written notice to the filer or insurer of the
27 right to a hearing within twenty (20) days of a request for a hearing.
28 (n) Unless a policy form approved under this chapter contains a
29 material error or omission, the commissioner may not:
30 (1) retroactively disapprove the policy form; or
31 (2) examine the filer of the policy form during a routine or
32 targeted market conduct examination for compliance with a policy
33 form filing requirement that was not in existence at the time the
34 policy form was filed.
35 **(o) All communications between the commissioner and the filer**
36 **or insurer concerning a premium rate increase filing:**
37 **(1) must be conducted:**
38 **(A) in writing; or**
39 **(B) at a public meeting conducted under section 1.6 of this**
40 **chapter; and**
41 **(2) must be made available to the public upon request.**
42 **All documentation supporting a request for a premium rate**

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1 **increase filing and provided to the commissioner under this section**
2 **must be made available to the public upon request.**

3 SECTION 60. IC 27-8-5-1.6 IS ADDED TO THE INDIANA CODE
4 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
5 UPON PASSAGE]: **Sec. 1.6. (a) Before approving a premium rate**
6 **increase filing under section 1.5 of this chapter, the commissioner**
7 **shall conduct a public meeting concerning the premium rate**
8 **increase as provided in section 1.5(i) of this chapter.**

9 **(b) The:**
10 **(1) commissioner shall publish on the department of insurance**
11 **Internet web site; and**

12 **(2) filer or insurer proposing the premium rate increase shall**
13 **send, by first class mail, to each policyholder that will be**
14 **affected by the proposed premium rate increase;**
15 **notice of the public meeting one (1) time at least fifteen (15) days**
16 **before the date of the public meeting.**

17 **(c) The notice described in subsection (b) must include the**
18 **following:**

19 **(1) A statement of the date, time, place, and nature of the**
20 **meeting.**

21 **(2) The name, official title, and contact information for the**
22 **individual who will conduct the meeting.**

23 **(3) A statement of the factual basis for the proposed premium**
24 **rate increase along with any supporting information from the**
25 **commissioner and the filer or insurer.**

26 **(4) A reference to the specific statutes and administrative**
27 **rules that relate to the proposed premium rate increase.**

28 **(5) A solicitation of oral or written comment from the public.**

29 **(6) The procedure to be followed during the meeting.**

30 SECTION 61. IC 27-8-5-16.5, AS AMENDED BY P.L.127-2006,
31 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 JULY 1, 2010]: **Sec. 16.5. (a) As used in this section, "delivery state"**
33 **means any state other than Indiana in which a policy is delivered or**
34 **issued for delivery.**

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

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

41 **(1) the delivery state has a law substantially similar to section 16**
42 **of this chapter;**

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- 1 (2) the delivery state has approved the group policy; and
 2 (3) the policy or the certificate contains provisions that are:
 3 (A) substantially similar to the provisions required by:
 4 (i) section 19 of this chapter;
 5 (ii) section 21 of this chapter; and
 6 (iii) IC 27-8-5.6; and
 7 (B) consistent with the requirements set forth in:
 8 (i) section 24 of this chapter;
 9 (ii) IC 27-8-6;
 10 (iii) IC 27-8-14;
 11 (iv) IC 27-8-23;
 12 (v) 760 IAC 1-38.1; and
 13 (vi) 760 IAC 1-39.
- 14 (d) A certificate may be issued to a resident of Indiana under an
 15 association group policy, a discretionary group policy, or a trust group
 16 policy that is delivered or issued for delivery in a state other than
 17 Indiana if:
 18 (1) the delivery state has a law substantially similar to section 16
 19 of this chapter;
 20 (2) the delivery state has approved the group policy; and
 21 (3) the policy or the certificate contains provisions that are:
 22 (A) substantially similar to the provisions required by:
 23 (i) section 19 of this chapter or, if the policy or certificate is
 24 described in section 2.5(b)(2) of this chapter, section 2.5 of
 25 this chapter;
 26 (ii) section ~~19.2~~ 19.3 of this chapter if the policy or
 27 certificate contains a waiver of coverage;
 28 (iii) section 21 of this chapter; and
 29 (iv) IC 27-8-5.6; and
 30 (B) consistent with the requirements set forth in:
 31 (i) section 15.6 of this chapter;
 32 (ii) section 24 of this chapter;
 33 (iii) section 26 of this chapter;
 34 (iv) IC 27-8-6;
 35 (v) IC 27-8-14;
 36 (vi) IC 27-8-14.1;
 37 (vii) IC 27-8-14.5;
 38 (viii) IC 27-8-14.7;
 39 (ix) IC 27-8-14.8;
 40 (x) IC 27-8-20;
 41 (xi) IC 27-8-23;
 42 (xii) IC 27-8-24.3;

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- 1 (xiii) IC 27-8-26;
- 2 (xiv) IC 27-8-28;
- 3 (xv) IC 27-8-29;
- 4 (xvi) 760 IAC 1-38.1; and
- 5 (xvii) 760 IAC 1-39.

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

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

14 SECTION 62. IC 27-8-5-17, AS AMENDED BY P.L.218-2007,
 15 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2010]: Sec. 17. (a) A group accident and sickness insurance
 17 policy shall not be delivered or issued for delivery in Indiana to a group
 18 that is not described in section 16(1)(A), 16(2)(A), 16(3)(A), 16(4)(A),
 19 16(5)(A), 16(6)(A), 16(7), or 16(8) of this chapter unless:

- 20 (1) **the group applies to the commissioner for approval as a**
- 21 **discretionary group;**
- 22 (2) **the commissioner reviews the group according to the same**
- 23 **standards as a group described in section 16 of this chapter;**
- 24 **and**
- 25 (3) the commissioner finds that:
 - 26 (†) (A) the issuance of the policy is not contrary to the best
 - 27 interest of the public;
 - 28 (‡) (B) the issuance of the policy would result in economies of
 - 29 acquisition or administration; and
 - 30 (⊖) (C) the benefits of the policy are reasonable in relation to
 - 31 the premiums charged.

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

36 SECTION 63. IC 27-8-10-3 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) An
 38 association policy issued under this chapter may pay an amount for
 39 medically necessary eligible expenses related to the diagnosis or
 40 treatment of illness or injury that exceed the deductible and
 41 coinsurance amounts applicable under section 4 of this chapter.
 42 Payment under an association policy must be **made as follows:**

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(1) If an eligible expense would be covered under the federal Medicare program (42 U.S.C. 1395 et seq.), the association shall pay an amount equal to the amount that would be paid for the eligible expense under the federal Medicare program plus twenty percent (20%).

(2) If an eligible expense would not be covered under the federal Medicare program, the association payment for the eligible expense must be based on one (1) or a combination of the following reimbursement methods, as determined by the board of directors:

~~(A)~~ **(A)** The association's usual and customary fee schedule in effect on January 1, 2004. If payment is based on the usual and customary fee schedule in effect on January 1, 2004, the rates of reimbursement under the fee schedule must be adjusted annually by a percentage equal to the percentage change in the Indiana medical care component of the Consumer Price Index for all Urban Consumers, as published by the United States Bureau of Labor Statistics during the preceding calendar year.

~~(B)~~ **(B)** A health care provider network arrangement. If payment is based on a health care provider network arrangement, reimbursement under an association policy must be made according to:

~~(A)~~ **(i)** a network fee schedule for network health care providers and nonnetwork health care providers; and

~~(B)~~ **(ii)** any additional coinsurance that applies to the insured under the association policy if the insured obtains health care services from a nonnetwork health care provider.

(b) Eligible expenses are the charges for the following health care services and articles to the extent furnished by a health care provider in an emergency situation or furnished or prescribed by a physician:

(1) Hospital services, including charges for the institution's most common semiprivate room, and for private room only when medically necessary, but limited to a total of one hundred eighty (180) days in a year.

(2) Professional services for the diagnosis or treatment of injuries, illnesses, or conditions, other than mental or dental, that are rendered by a physician or, at the physician's direction, by the physician's staff of registered or licensed nurses, and allied health professionals.

(3) The first twenty (20) professional visits for the diagnosis or treatment of one (1) or more mental conditions rendered during the year by one (1) or more physicians or, at their direction, by

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- 1 their staff of registered or licensed nurses, and allied health
 2 professionals.
- 3 (4) Drugs and contraceptive devices requiring a physician's
 4 prescription.
- 5 (5) Services of a skilled nursing facility for not more than one
 6 hundred eighty (180) days in a year.
- 7 (6) Services of a home health agency up to two hundred seventy
 8 (270) days of service a year.
- 9 (7) Use of radium or other radioactive materials.
- 10 (8) Oxygen.
- 11 (9) Anesthetics.
- 12 (10) Prostheses, other than dental.
- 13 (11) Rental of durable medical equipment which has no personal
 14 use in the absence of the condition for which prescribed.
- 15 (12) Diagnostic X-rays and laboratory tests.
- 16 (13) Oral surgery for:
- 17 (A) excision of partially or completely erupted impacted teeth;
 18 (B) excision of a tooth root without the extraction of the entire
 19 tooth; or
 20 (C) the gums and tissues of the mouth when not performed in
 21 connection with the extraction or repair of teeth.
- 22 (14) Services of a physical therapist and services of a speech
 23 therapist.
- 24 (15) Professional ambulance services to the nearest health care
 25 facility qualified to treat the illness or injury.
- 26 (16) Other medical supplies required by a physician's orders.
- 27 An association policy may also include comparable benefits for those
 28 who rely upon spiritual means through prayer alone for healing upon
 29 such conditions, limitations, and requirements as may be determined
 30 by the board of directors.
- 31 (c) A managed care organization that issues an association policy
 32 may not refuse to enter into an agreement with a hospital solely
 33 because the hospital has not obtained accreditation from an
 34 accreditation organization that:
- 35 (1) establishes standards for the organization and operation of
 36 hospitals;
- 37 (2) requires the hospital to undergo a survey process for a fee paid
 38 by the hospital; and
- 39 (3) was organized and formed in 1951.
- 40 (d) This section does not prohibit a managed care organization from
 41 using performance indicators or quality standards that:
- 42 (1) are developed by private organizations; and

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- 1 (2) do not rely upon a survey process for a fee charged to the
 2 hospital to evaluate performance.
- 3 (e) For purposes of this section, if benefits are provided in the form
 4 of services rather than cash payments, their value shall be determined
 5 on the basis of their monetary equivalency.
- 6 (f) The following are not eligible expenses in any association policy
 7 within the scope of this chapter:
- 8 (1) Services for which a charge is not made in the absence of
 9 insurance or for which there is no legal obligation on the part of
 10 the patient to pay.
- 11 (2) Services and charges made for benefits provided under the
 12 laws of the United States, including Medicare and Medicaid,
 13 military service connected disabilities, medical services provided
 14 for members of the armed forces and their dependents or for
 15 employees of the armed forces of the United States, medical
 16 services financed in the future on behalf of all citizens by the
 17 United States.
- 18 (3) Benefits which would duplicate the provision of services or
 19 payment of charges for any care for injury or disease either:
- 20 (A) arising out of and in the course of an employment subject
 21 to a worker's compensation or similar law; or
- 22 (B) for which benefits are payable without regard to fault
 23 under a coverage statutorily required to be contained in any
 24 motor vehicle or other liability insurance policy or equivalent
 25 self-insurance.
- 26 However, this subdivision does not authorize exclusion of charges
 27 that exceed the benefits payable under the applicable worker's
 28 compensation or no-fault coverage.
- 29 (4) Care which is primarily for a custodial or domiciliary purpose.
- 30 (5) Cosmetic surgery unless provided as a result of an injury or
 31 medically necessary surgical procedure.
- 32 (6) Any charge for services or articles the provision of which is
 33 not within the scope of the license or certificate of the institution
 34 or individual rendering the services.
- 35 (g) The coverage and benefit requirements of this section for
 36 association policies may not be altered by any other inconsistent state
 37 law without specific reference to this chapter indicating a legislative
 38 intent to add or delete from the coverage requirements of this chapter.
- 39 (h) This chapter does not prohibit the association from issuing
 40 additional types of health insurance policies with different types of
 41 benefits that, in the opinion of the board of directors, may be of benefit
 42 to the citizens of Indiana.

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1 (i) This chapter does not prohibit the association or its administrator
 2 from implementing uniform procedures to review the medical necessity
 3 and cost effectiveness of proposed treatment, confinement, tests, or
 4 other medical procedures. Those procedures may take the form of
 5 preadmission review for nonemergency hospitalization, case
 6 management review to verify that covered individuals are aware of
 7 treatment alternatives, or other forms of utilization review. Any cost
 8 containment techniques of this type must be adopted by the board of
 9 directors and approved by the commissioner.

10 (j) **The association may not be charged, and shall not pay, any
 11 fee associated with the association's use of a provider network.**

12 SECTION 64. IC 27-8-10-15 IS ADDED TO THE INDIANA
 13 CODE AS A NEW SECTION TO READ AS FOLLOWS
 14 [EFFECTIVE UPON PASSAGE]: **Sec. 15. (a) Notwithstanding
 15 section 2.1(g) of this chapter, following the close of the association's
 16 fiscal year, the association shall determine the net premiums, the
 17 expenses of administration, and the incurred losses for the year.
 18 Fifty percent (50%) of any net loss shall be assessed by the
 19 association to all members in proportion to their respective shares
 20 of total health insurance premiums as reported to the department
 21 of insurance, excluding premiums for Medicaid contracts with the
 22 state of Indiana, received in Indiana during the calendar year (or
 23 with paid losses in the year) coinciding with or ending during the
 24 fiscal year of the association. Fifty percent (50%) of any net loss
 25 shall be paid by the state. In sharing losses, the association may
 26 abate or defer in any part the assessment of a member, if, in the
 27 opinion of the board, payment of the assessment would endanger
 28 the ability of the member to fulfill its contractual obligations. The
 29 association may also provide for interim assessments against
 30 members of the association if necessary to assure the financial
 31 capability of the association to meet the incurred or estimated
 32 claims expenses or operating expenses of the association until the
 33 association's next fiscal year is completed. Net gains, if any, must
 34 be held at interest to offset future losses or allocated to reduce
 35 future premiums. Assessments must be determined by the board
 36 members specified in section 2.1(b)(1) of this chapter, subject to
 37 final approval by the commissioner.**

38 (b) **The association shall periodically certify to the budget
 39 agency the amount necessary to pay fifty percent (50%) of any net
 40 loss as specified in subsection (a).**

41 (c) **This section expires June 30, 2013.**

42 SECTION 65. IC 27-8-11-4.7 IS ADDED TO THE INDIANA

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1 CODE AS A NEW SECTION TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2010]: **Sec. 4.7. (a) As used in this section,**
 3 **"covered service" means a health care service for which any**
 4 **coverage is provided under an insured's policy, regardless of**
 5 **whether payment under the policy for the health care service is**
 6 **contractually limited by a deductible, copayment, coinsurance,**
 7 **waiting period, annual or lifetime maximum, frequency limitation,**
 8 **alternative benefit payment, or another limitation.**

9 **(b) An insurer may not, under an agreement under section 3 of**
 10 **this chapter, require a dentist to accept an amount set by the**
 11 **insurer as payment for a health care service provided to an insured**
 12 **unless the health care service is a covered service under the**
 13 **insured's policy.**

14 **(c) This section does not apply to a discount medical card**
 15 **program provider agreement regulated under IC 27-17."**

16 SECTION 66. IC 27-8-15-1 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. This chapter applies
 18 to any ~~individual or~~ group health insurance plan that is issued for
 19 delivery in Indiana to at least ~~three (3)~~ **two (2)** employees of a small
 20 employer located in Indiana if one (1) of the following conditions is
 21 met:

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

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

32 SECTION 67. IC 27-8-15-8.5 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8.5. (a) As used in this
 34 chapter, "eligible employee" means an employee:

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

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

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

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

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

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- 1 policy.
- 2 **(b) The term includes:**
- 3 **(1) a sole proprietor;**
- 4 **(2) a partner in a partnership; and**
- 5 **(3) an owner of an S corporation;**
- 6 **regardless of whether the sole proprietor, partner, or owner is**
- 7 **included as an employee for purposes of taxation of a small**
- 8 **employer.**
- 9 ~~(b)~~ **(c) The term does not include:**
- 10 (1) an employee who works on a temporary or substitute basis; or
- 11 (2) a seasonal employee.
- 12 SECTION 68. IC 27-8-15-9 IS AMENDED TO READ AS
- 13 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. (a) Except as
- 14 provided in section 28 of this chapter, as used in this chapter, "health
- 15 insurance plan" or "plan" means any:
- 16 (1) hospital or medical expense incurred policy or certificate;
- 17 (2) hospital or medical service plan contract; or
- 18 (3) health maintenance organization subscriber contract;
- 19 provided to the employees of a small employer.
- 20 **(b) The term does not include the following:**
- 21 (1) Accident-only, credit, dental, vision, Medicare supplement,
- 22 long term care, or disability income insurance.
- 23 (2) Coverage issued as a supplement to liability insurance.
- 24 (3) Worker's compensation or similar insurance.
- 25 (4) Automobile medical payment insurance.
- 26 (5) A specified disease policy. ~~issued as an individual policy.~~
- 27 ~~(6) A limited benefit health insurance policy issued as an~~
- 28 ~~individual policy.~~
- 29 ~~(7)~~ **(6) A short term insurance plan that:**
- 30 (A) may not be renewed; and
- 31 (B) has a duration of not more than six (6) months.
- 32 ~~(8)~~ **(7) A policy that provides a stipulated daily, weekly, or**
- 33 **monthly payment to an insured during hospital confinement,**
- 34 **without regard to the actual expense of the confinement;**
- 35 **indemnity benefits not based on any expense incurred**
- 36 **requirement, including a plan that provides coverage for:**
- 37 **(A) hospital confinement, critical illness, or intensive care;**
- 38 **or**
- 39 **(B) gaps for deductibles or copayments.**
- 40 **(8) A supplemental plan that always pays in addition to other**
- 41 **coverage.**
- 42 **(9) A student health plan.**

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- 1 **(10) An employer sponsored health benefit plan that is:**
- 2 **(A) provided to individuals who are eligible for Medicare;**
- 3 **and**
- 4 **(B) not marketed as, or held out to be, a Medicare**
- 5 **supplement policy.**

6 SECTION 69. IC 27-8-15-31 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 31. (a) If an eligible
 8 employee who has been continuously covered under a health insurance
 9 plan for at least ninety (90) days:

- 10 (1) loses coverage under the plan as the result of:
- 11 (A) termination of employment;
- 12 (B) reduction of hours;
- 13 (C) marriage dissolution; or
- 14 (D) attainment of any age specified in the plan; ~~and~~
- 15 **(2) is not eligible for continuation coverage under the federal**
- 16 **Consolidated Omnibus Budget Reconciliation Act of 1985;**
- 17 **and**
- 18 ~~(2)~~ **(3)** requests a conversion policy from the small employer
- 19 insurer that insured the health insurance plan;

20 the individual is entitled to receive a conversion policy from the small
 21 employer insurer.

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

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

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

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

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1 If the benefit limits of the conversion policy are not more than the
 2 benefit limits of the small employer's health insurance plan, the small
 3 employer insurer shall credit the individual with any waiting period,
 4 deductible, or coinsurance credited to the individual under the small
 5 employer's health insurance plan.

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

11 SECTION 70. IC 27-13-2-10 IS ADDED TO THE INDIANA
 12 CODE AS A NEW SECTION TO READ AS FOLLOWS
 13 [EFFECTIVE JULY 1, 2010]: **Sec. 10. (a) A health maintenance**
 14 **organization that is admitted to transact business in Indiana shall**
 15 **do the following:**

16 (1) **If the health maintenance organization is a domestic health**
 17 **maintenance organization admitted to transact business in**
 18 **Indiana after June 30, 2010, comply with IC 27-1-6-21.**

19 (2) **If the health maintenance organization changes the**
 20 **physical location of its home office, provide written notice to**
 21 **the department and all subscribers at least thirty (30) days**
 22 **before the location is changed, including the address and**
 23 **telephone number of the new location.**

24 (b) **A domestic health maintenance organization operating**
 25 **under this article is subject to IC 27-1-7-11.**

26 SECTION 71. IC 27-13-7-11.5 IS ADDED TO THE INDIANA
 27 CODE AS A NEW SECTION TO READ AS FOLLOWS
 28 [EFFECTIVE UPON PASSAGE]: **Sec. 11.5. (a) The commissioner**
 29 **shall, before approving a filing of a proposed premium rate**
 30 **increase:**

31 (1) **conduct a public meeting under this section; and**

32 (2) **consider oral and written comment received from the**
 33 **public concerning the increase in making a determination to**
 34 **approve or disapprove the filing.**

35 **The commissioner shall make the determination not more than**
 36 **fifteen (15) days after conducting the public meeting.**

37 (b) **The:**

38 (1) **commissioner shall publish on the department of insurance**
 39 **Internet web site; and**

40 (2) **health maintenance organization proposing the premium**
 41 **rate increase shall send, by first class mail, to each subscriber**
 42 **that will be affected by the proposed premium rate increase;**

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1 notice of the public meeting one (1) time at least fifteen (15) days
2 before the date of the public meeting.

3 (c) The notice described in subsection (b) must include the
4 following:

5 (1) A statement of the date, time, place, and nature of the
6 meeting.

7 (2) The name, official title, and contact information for the
8 individual who will conduct the meeting.

9 (3) A statement of the factual basis for the proposed premium
10 rate increase along with any supporting information from the
11 commissioner and the health maintenance organization.

12 (4) A reference to the specific statutes and administrative
13 rules that relate to the proposed premium rate increase.

14 (5) A solicitation of oral or written comment from the public.

15 (6) The procedure to be followed during the meeting.

16 (d) All communications between the commissioner and the
17 health maintenance organization concerning a premium rate
18 increase filing:

19 (1) must be conducted:

20 (A) in writing; or

21 (B) at a public meeting conducted under this section; and

22 (2) must be made available to the public upon request.

23 All documentation supporting a request for a premium rate
24 increase filing and provided to the commissioner under this
25 chapter must be made available to the public upon request.

26 SECTION 72. IC 27-13-34-12 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12. A limited service
28 health maintenance organization operated under this chapter is subject
29 to the following:

30 (1) IC 27-1-36 concerning risk based capital, unless exempted by
31 the commissioner under IC 27-1-36-1.

32 (2) **IC 27-13-2-10, concerning a change of office location.**

33 ~~(2)~~ (3) IC 27-13-8, except for IC 27-13-8-2(a)(6) concerning
34 reports.

35 ~~(3)~~ (4) IC 27-13-9-3 concerning termination of providers.

36 ~~(4)~~ (5) IC 27-13-10-1 through IC 27-13-10-3 concerning
37 grievance procedures.

38 ~~(5)~~ (6) IC 27-13-11 concerning investments.

39 ~~(6)~~ (7) IC 27-13-15-1(a)(2) through IC 27-13-15-1(a)(3)
40 concerning gag clauses in contracts.

41 ~~(7)~~ (8) IC 27-13-21 concerning producers.

42 ~~(8)~~ (9) IC 27-13-29 concerning statutory construction and

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- 1 relationship to other laws.
- 2 ~~(9)~~ **(10)** IC 27-13-30 concerning public records.
- 3 ~~(10)~~ **(11)** IC 27-13-31 concerning confidentiality of medical
- 4 information and limitation of liability.
- 5 ~~(11)~~ **(12)** IC 27-13-36-5 and IC 27-13-36-6 concerning referrals
- 6 to out of network providers and continuation of care.
- 7 ~~(12)~~ **(13)** IC 27-13-40 concerning comparison sheets of services
- 8 provided by the limited service health maintenance organization.

9 SECTION 73. IC 27-13-34-15.2 IS ADDED TO THE INDIANA
 10 CODE AS A NEW SECTION TO READ AS FOLLOWS
 11 [EFFECTIVE JULY 1, 2010]: **Sec. 15.2. (a) As used in this section,**
 12 **"covered service" means a limited health service for which any**
 13 **coverage is provided under an enrollee's individual contract or**
 14 **group contract, regardless of whether payment under the**
 15 **individual contract or group contract for the health care service is**
 16 **contractually limited by a deductible, copayment, coinsurance,**
 17 **waiting period, annual or lifetime maximum, frequency limitation,**
 18 **alternative benefit payment, or another limitation.**

19 **(b) A limited service health maintenance organization may not,**
 20 **under a contract described in section 15 of this chapter, require a**
 21 **dentist to accept an amount set by the limited service health**
 22 **maintenance organization as payment for a limited health service**
 23 **provided to an enrollee unless the limited health service is a**
 24 **covered service under the enrollee's individual contract or group**
 25 **contract.**

26 **(c) This section does not apply to a discount medical card**
 27 **program provider agreement regulated under IC 27-17.**

28 SECTION 74. IC 27-16-2-16 IS ADDED TO THE INDIANA
 29 CODE AS A NEW SECTION TO READ AS FOLLOWS
 30 [EFFECTIVE JULY 1, 2010]: **Sec. 16. "Working capital" means the**
 31 **difference between a person's:**

- 32 **(1) current assets; and**
- 33 **(2) current liabilities;**
- 34 **determined in accordance with generally accepted accounting**
- 35 **principles.**

36 SECTION 75. IC 27-16-4-2, AS ADDED BY P.L.245-2005,
 37 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 38 JANUARY 1, 2012]: **Sec. 2. (a) This section does not apply to an**
 39 **applicant for limited registration under section 6 of this chapter.**

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

- 42 **(1) The name or names under which the applicant conducts**

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- 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 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**

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1 of time in which to file the audited financial statement and audit
2 report required by subsection (b). An application under this
3 subsection must be accompanied by a letter from the auditor
4 described in subsection (b) specifying the reason for the requested
5 extension and the anticipated date by which the audit will be
6 completed.

7 SECTION 76. IC 27-16-4-6, AS ADDED BY P.L.245-2005,
8 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2010]: Sec. 6. (a) A PEO that is not domiciled in Indiana is
10 eligible for a limited registration under this article if the PEO:

- 11 (1) submits a properly executed request for limited registration on
- 12 a form prescribed by the department;
- 13 (2) is licensed or registered as a professional employer
- 14 organization in another state that has licensure or registration
- 15 requirements that are:
 - 16 (A) substantially the same as; or
 - 17 (B) more restrictive than;
- 18 the requirements of this article;
- 19 (3) does not:
 - 20 (A) maintain an office; or
 - 21 (B) directly solicit clients located or domiciled;
 - 22 in Indiana; and
 - 23 (4) does not have more than fifty (50) covered employees who are
 - 24 employed or domiciled in Indiana on any day.

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

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

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

33 SECTION 77. IC 27-16-4-8, AS ADDED BY P.L.245-2005,
34 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 JULY 1, 2010]: Sec. 8. The department shall:

- 36 (1) maintain; **and**
 - 37 (2) **publish on the department's Internet web site;**
- 38 a list of PEOs that are registered under this article.

39 SECTION 78. IC 27-16-6-1, AS ADDED BY P.L.245-2005,
40 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
41 JULY 1, 2012]: Sec. 1. (a) A PEO **or PEO group** shall ~~maintain either:~~
42 **do one (1) of the following:**

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1 (1) subject to section 2 of this chapter, a minimum net worth of
2 fifty thousand dollars (\$50,000); or
3 **(1) Maintain positive working capital, as reflected in the**
4 **financial statement submitted to the department by the PEO**
5 **or PEO group under IC 27-16-4.**
6 (2) subject to subsection (b); a bond with a market value of at
7 least fifty thousand dollars (\$50,000):
8 **(2) If the PEO or PEO group does not meet the requirement**
9 **of subdivision (1), maintain any of the following with a**
10 **minimum aggregate value in an amount that is at least**
11 **sufficient to eliminate the PEO's or PEO group's negative**
12 **working capital plus one hundred thousand dollars**
13 **(\$100,000):**
14 **(A) A surety bond.**
15 **(B) An irrevocable letter of credit.**
16 **(C) Securities.**
17 **(D) Cash.**
18 **(E) A combination of items listed in clauses (A) through**
19 **(D).**
20 (b) ~~A bond~~ **An instrument or cash** described in subsection (a)(2)
21 must be held by a depository **an institution** designated by the
22 department, securing payment by the PEO **or PEO group** of all taxes,
23 wages, benefits, or other entitlement due to or with respect to covered
24 employees in the event that the PEO **or PEO group** does not make the
25 payments when due.
26 SECTION 79. IC 27-16-6-2, AS ADDED BY P.L.245-2005,
27 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
28 JULY 1, 2012]: Sec. 2. ~~A bond~~ **An instrument or cash** described in
29 section 1(a)(2) of this chapter must not be included in the calculation
30 of the ~~minimum net worth~~ **positive working capital** described in
31 section 1(a)(1) of this chapter.
32 SECTION 80. IC 32-31-9-3, AS ADDED BY P.L.22-2007,
33 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2010]: Sec. 3. As used in this chapter, "applicable offense"
35 refers to any of the following:
36 (1) A crime involving domestic or family violence (as defined in
37 IC 35-41-1-6.5).
38 (2) ~~A sex~~ **An offense against the person** under ~~IC 35-42-4.~~
39 **IC 35-42.**
40 (3) Stalking under IC 35-45-10.
41 (4) **Any of the following offenses if the offense is committed at**
42 **the dwelling of the victim:**

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- 1 (A) Burglary under IC 35-43-2-1.
- 2 (B) Residential entry under IC 35-43-2-1.5.
- 3 (C) Criminal trespass under IC 35-43-2-2(a)(1),
- 4 IC 35-43-2-2(a)(2), IC 35-43-2-2(a)(4), or
- 5 IC 35-43-2-2(a)(5).

6 SECTION 81. IC 32-31-9-7, AS ADDED BY P.L.22-2007,
 7 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2010]: Sec. 7. As used in this chapter, "protected individual"
 9 means a tenant or applicant:

- 10 (1) who is:
 - 11 (A) a victim; or
 - 12 (B) an alleged victim;
 - 13 of an applicable offense; and
- 14 (2) who has received either one (1) of the following:
 - 15 (A) A civil order for protection issued or recognized by a court
 - 16 under IC 34-26-5 that restrains a perpetrator from contact with
 - 17 the individual.
 - 18 (B) A criminal no contact order that restrains a perpetrator
 - 19 from contact with the individual.
 - 20 (C) **In the case of an applicable offense listed in section**
 - 21 **3(2), 3(3), or 3(4) of this chapter, a copy of a police report**
 - 22 **that was filed with the law enforcement agency with**
 - 23 **respect to the applicable offense.**

24 SECTION 82. IC 32-31-9-12, AS ADDED BY P.L.22-2007,
 25 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2010]: Sec. 12. (a) A protected individual who is a tenant may
 27 terminate the protected individual's rights and obligations under a
 28 rental agreement by providing the landlord with a written notice of
 29 termination in compliance with this section.

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

- 33 (c) The written notice required by this section must include:
 - 34 (1) a copy of:
 - 35 (A) a civil order for protection issued or recognized by a court
 - 36 under IC 34-26-5 that restrains a perpetrator from contact with
 - 37 the protected individual; or
 - 38 (B) a criminal no contact order that restrains a perpetrator
 - 39 from contact with the protected individual; or
 - 40 (C) **in the case of an applicable offense listed in section**
 - 41 **3(2), 3(3), or 3(4) of this chapter, a police report that was**
 - 42 **filed with the law enforcement agency with respect to the**

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

SECTION 84. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2010]: IC 27-1-3.5-3; IC 27-1-3.5-3.5; IC 27-2-15-2.

SECTION 85. [EFFECTIVE JULY 1, 2010] **(a) IC 27-8-15, as amended by this act, applies to a health insurance plan (as defined in IC 27-8-15-9) that is issued, entered into, delivered, amended, or renewed after June 30, 2010.**

(b) This SECTION expires July 1, 2015.

SECTION 86. [EFFECTIVE JULY 1, 2010] **(a) IC 27-1-15.7-2, as**

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1 **amended by this act, applies only to an insurance producer license**
2 **renewed after June 30, 2011.**
3 **(b) IC 27-1-15.7-5, as amended by this act, applies only to an**
4 **insurance producer license issued after June 30, 2011.**
5 **(c) This SECTION expires July 1, 2016.**
6 SECTION 87. [EFFECTIVE JULY 1, 2010] **(a) IC 27-2-15, as**
7 **amended by this act, applies to damage occurring by fire or**
8 **explosion after June 30, 2010.**
9 **(b) This SECTION expires July 1, 2015.**
10 SECTION 88. **An emergency is declared for this act.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Insurance and Financial Institutions, to which was referred Senate Bill No. 357, 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 11, between lines 4 and 5, begin a new paragraph and insert:

"SECTION 6. IC 27-1-27-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) As used in this section, "practitioner" means an individual or corporation who or which holds a certificate of authority under this chapter.

(b) A practitioner shall conduct the practice of public adjusting in accordance with the standards ~~established by the commissioner of insurance~~ **under set forth in section 8.5** of this chapter and is subject to the exercise of the disciplinary sanctions under subsection (e), if after a hearing, the commissioner finds:

- (1) the practitioner has employed or knowingly cooperated in fraud or material deception in order to obtain a certificate to practice public adjusting, or has engaged in fraud or material deception in the course of professional services or activities, or has advertised services in a false or misleading manner;
- (2) the practitioner has been convicted of a crime which has direct bearing on the practitioner's ability to continue to practice competently;
- (3) a practitioner has knowingly violated any ~~rule adopted by the commissioner~~ **standard** under section **8.5** of this chapter;
- (4) a practitioner has continued to practice although ~~he~~ **the practitioner** has become unfit to practice public adjusting due to:
 - (A) professional incompetence;
 - (B) failure to keep abreast of current professional theory or practice;
 - (C) physical or mental disability; or
 - (D) addiction or severe dependency upon alcohol or other drugs which endangers the public by impairing a practitioner's ability to practice safely;
- (5) a practitioner has engaged in a course of lewd or immoral conduct in connection with the delivery of services to clients; or
- (6) a practitioner has allowed ~~his~~ **the practitioner's** name or a certificate issued to ~~him~~ **the practitioner** under this chapter to be used in connection with any individual who renders public adjusting services beyond the scope of ~~his~~ **the practitioner's** training, experience, or competence.

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(c) The commissioner of insurance may order a practitioner to submit to a reasonable physical or mental examination if ~~his~~ **the practitioner's** physical or mental capacity to practice safely is at issue in a disciplinary proceeding.

(d) Failure to comply with an order under subsection (c) shall render a practitioner liable to the summary revocation procedures under subsection (f).

(e) The commissioner of insurance may impose any of the following sanctions, singly or in combination, when ~~he~~ **the commissioner** finds that a practitioner is guilty of any offense under subsection (b):

- (1) Permanently revoke a practitioner's certificate.
- (2) Suspend a practitioner's certificate.
- (3) Censure a practitioner.
- (4) Issue a letter of reprimand.
- (5) Place a practitioner on probation status and require the practitioner to:
 - (A) report regularly to the commissioner upon the matters which are the basis of probation;
 - (B) limit practice to those areas prescribed by the commissioner; or
 - (C) continue or renew professional education under a practitioner approved by the commissioner until a satisfactory degree of skill has been attained in those areas which are the basis of the probation.

The commissioner may withdraw a probation order if ~~he~~ **the commissioner** finds that the deficiency which required disciplinary action has been remedied.

(f) The commissioner of insurance may summarily suspend a practitioner's certificate for a period of ninety (90) days in advance of a final adjudication or during the appeals process if the commissioner finds that a practitioner represents a clear and immediate danger to the public health and safety if ~~he~~ **the practitioner** is allowed to continue to practice. The summary suspension may be renewed upon a hearing before the commissioner, and each renewal may be for a period of ninety (90) days or less.

(g) The commissioner of insurance may reinstate a certificate which has been suspended under this chapter if, after a hearing, the commissioner is satisfied that the applicant is able to practice public adjusting with reasonable skill and safety to clients. As a condition of reinstatement, the commissioner may impose disciplinary or corrective measures authorized under this chapter.

(h) The commissioner of insurance shall seek to achieve consistency

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in the application of the sanctions authorized in this section, and significant departures from prior decisions involving similar conduct shall be explained in the commissioner's findings or orders.

(i) The commissioner of insurance may initiate proceedings under this section on ~~his~~ **the commissioner's** own motion or on the verified written complaint of any interested person. All such proceedings shall be conducted in accordance with IC 4-21.5.

SECTION 7. IC 27-1-27-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 8.5. (a) A public adjuster may not do any of the following:**

- (1) Solicit, or attempt to solicit, an insured earlier than six (6) days after a loss-producing occurrence, as defined in the insured's insurance contract.**
- (2) Permit an unlicensed employee or representative of the public adjuster to conduct business for which a license is required under this chapter.**
- (3) Unless full written disclosure has been made to the insured, have a direct or indirect financial interest in any aspect of a claim, other than the fees, commission, or other consideration established in the written contract with the insured.**
- (4) Advance money to an insured before the settlement of a claim with the expectation that the public adjuster will be repaid any settlement funds received by the insured.**
- (5) Refer or direct the insured to purchase goods, repairs, or services from any person:**
 - (A) in which the public adjuster has a financial interest; or**
 - (B) from which the public adjuster may receive direct or indirect compensation.**
- (6) Undertake the adjustment of any claim if the public adjuster is not competent and knowledgeable as to the terms and conditions of the insurance coverage.**
- (7) Knowingly make any oral or written material misrepresentations of statement which are false or maliciously critical and intended to injure any person engaged in the business of insurance to any insured or potential insured.**
- (8) Act as a company adjuster or independent adjuster on a claim for which the public adjuster is providing services as a public adjuster.**
- (9) Enter into a contract or accept a power of attorney that vests in the public adjuster the effective authority to choose**

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the person to perform the repair work.

(b) A public adjuster:

- (1) shall communicate fully and promptly with the insured; and**
- (2) may not take any action without the insured's knowledge and consent."**

Page 11, between lines 12 and 13, begin a new paragraph and insert:

"Sec. 3. As used in this chapter, "automated claims adjudication system" means a preprogrammed computer system designed for the collection, data entry, calculation, and system generated final resolution of property insurance claims, which:

- (1) is only used by a licensee or a person described in section 6(b)(2) of this chapter;**
- (2) complies with all claim payment requirements of the insurance laws of this state; and**
- (3) is certified as compliant by an independent adjuster who is licensed under this chapter and an officer of a business entity licensed under this chapter."**

Page 11, line 13, delete "3." and insert "4."

Page 11, line 14, delete "governor of the state," and insert **"commissioner"**.

Page 11, line 15, delete "district, or territory in which the event occurs".

Page 11, line 25, delete "4." and insert "5."

Page 11, line 40, delete "5." and insert "6."

Page 12, line 13, delete "or".

Page 12, line 15, delete "adjuster." and insert **"adjuster; or**

(C) collect claim information from, or furnish claim information to, insureds or claimants or input data entry into an automated claims adjudicated system if:

- (i) the person is an individual employee of an independent adjuster licensed under this chapter or the independent adjuster's affiliate; and**
- (ii) the independent adjuster licensed under this chapter or the independent adjuster's affiliate supervises not more than twenty-five (25) persons described in item (i)."**

Page 12, line 28, before "a surplus" insert **"a managing general agent,"**.

Page 12, between lines 40 and 41, begin a new line block indented and insert:

"(12) A person that investigates, negotiates, or settles crop

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insurance claims."

Page 12, line 41, delete "6." and insert "7."

Page 13, line 1, delete "7." and insert "8."

Page 13, line 4, delete "8." and insert "9."

Page 13, line 8, delete "9." and insert "10."

Page 13, line 14, delete "10." and insert "11."

Page 13, line 42, after "commissioner." insert **"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 under this subsection for which the license is effective without the insurer applying for an additional temporary emergency independent adjuster license."**

Page 14, line 4, delete "11." and insert "12."

Page 14, line 11, delete "in an amount determined by the" and insert **"of forty dollars (\$40)."**

Page 14, delete line 12.

Page 14, line 22, delete "17" and insert "18".

Page 14, line 27, delete "14" and insert "15".

Page 14, line 32, delete "12." and insert "13."

Page 14, line 39, delete "and".

Page 14, line 40, delete "in an amount determined by the" and insert **"of forty dollars (\$40); and**

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

(A) Owner that has at least ten percent (10%) interest or voting interest in the business entity.

(B) Partner of the business entity.

(C) Executive officer of the business entity.

(D) Director of the business entity."

Page 14, delete line 41.

Page 15, line 11, delete "17" and insert "18".

Page 15, line 16, delete "13." and insert "14."

Page 15, delete line 21.

Page 15, line 29, delete "in an amount" and insert **"of forty dollars (\$40),"**

Page 15, line 30, delete "determined by the commissioner,"

Page 15, line 37, delete "in an amount determined by the" and insert **"of eighty dollars (\$80)."**

Page 15, delete line 38.

Page 16, line 23, delete "14." and insert "15."

Page 16, line 23, delete "15" and insert "16".

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- Page 17, line 5, delete "15." and insert "16."
- Page 17, line 23, delete "11(b)(5)" and insert "12(b)(5)".
- Page 17, line 24, delete "14" and insert "15".
- Page 17, line 39, delete "11(b)(5)" and insert "12(b)(5)".
- Page 17, line 40, delete "14" and insert "15".
- Page 17, line 41, delete "16." and insert "17."
- Page 17, line 41, delete "17" and insert "18".
- Page 18, line 5, delete "and".
- Page 18, line 6, delete "in an amount determined" and insert "**of ninety dollars (\$90); and**
- (C) in the case of a business entity, the information required in section 13(a)(3) of this chapter; and".**
- Page 18, delete line 7.
- Page 18, line 12, delete "17" and insert "18".
- Page 18, line 18, delete "11 or 12" and insert "12 or 13".
- Page 18, line 18, delete "13 and 14" and insert "14 and 15".
- Page 18, line 19, delete "in an amount" and insert "**of ninety dollars (\$90)."**
- Page 18, delete line 20.
- Page 18, line 27, delete "15(b)" and insert "16(b)".
- Page 19, line 2, delete "in an amount determined by" and insert "**of ninety dollars (\$90); and".**
- Page 19, delete line 3.
- Page 19, line 36, delete "17." and insert "18."
- Page 21, line 3, delete "12(b)(2)" and insert "13(b)(2)".
- Page 21, line 21, delete "18." and insert "19."
- Page 21, line 23, delete "number of" and insert "**of twenty-four (24)".**
- Page 21, line 24, delete "set by the commissioner in rules adopted under" and insert "**three (3) hours of which must concern ethics,"**".
- Page 21, line 25, delete "IC 4-21.5,".
- Page 21, line 34, delete "19." and insert "20."
- Page 21, line 39, delete "20." and insert "21."
- Page 22, line 21, delete "21." and insert "22."
- Page 22, between lines 36 and 37, begin a new paragraph and insert:
"Sec. 23. If an independent adjuster uses an automated claims adjudicated system, the independent adjuster shall maintain proof of the certification described in section 3(3) of this chapter and provide the proof of certification to the commissioner upon request."
- Page 22, line 37, delete "22." and insert "24."
- Page 24, line 41, after "organization" insert "**that is admitted to**

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transact business in Indiana".

Page 25, line 1, 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 25, line 3, delete "location of the" and insert **"physical location of its home"**.

Page 25, line 3, delete "maintained under subdivision (1)," and insert ",".

Page 25, line 9, delete "the following:" and insert **"IC 27-1-7-11."**

Page 25, delete lines 10 through 11.

Page 25, delete lines 41 through 42, begin a new paragraph and insert:

"SECTION 14. 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 15. 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 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

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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 16. 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:

(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

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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 17. 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 site;**

a list of PEOs that are registered under this article.

SECTION 18. 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~~

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

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

- (A) A surety bond.

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- (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 19. 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 20. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2010]: IC 27-1-25-7.5; IC 27-1-27-8."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 357 as introduced.)

PAUL, Chairperson

Committee Vote: Yeas 9, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 357 be amended to read as follows:

Page 15, between lines 30 and 31, begin a new line triple block indented and insert:

"(ii) the independent adjuster licensed under this chapter or

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a licensed insurance producer described in subdivision (10) supervises not more than twenty-five (25) persons described in item (i)."

Page 15, delete lines 31 through 33.

(Reference is to SB 357 as printed January 29, 2010.)

LANDSKE

COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred Senate Bill 357, 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

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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 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.

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SECTION 5. IC 27-1-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Neither the insurance commissioner, during his term of office, nor any deputy, actuary, securities clerk, examiner or employee shall be directly or indirectly interested in any insurance company, except as an ordinary policyholder.

(b) **An individual who serves as an actuary for the department shall annually file with the commissioner a statement describing any financial interest that the actuary or a member of the actuary's immediate family has in an insurer doing business in Indiana.**

SECTION 6. IC 27-1-3.1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 14. (a) Upon the adoption of an examination report under section 11(a)(1) of this chapter, the commissioner shall continue to hold the content of the examination report as confidential information for a period of thirty (30) days except to the extent provided in section 10(b) of this chapter. Thereafter, the report shall be open for public inspection.

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

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

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

SECTION 7. 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**

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

SECTION 8. IC 27-1-3.5-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 0.5. The commissioner may adopt rules under IC 4-22-2 to implement this chapter.**

SECTION 9. IC 27-1-3.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. As used in this chapter, "commissioner" refers to the insurance commissioner appointed under IC 27-1-1-2. "accountant" means an independent certified public accountant or accounting firm that is:

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

SECTION 10. IC 27-1-3.5-1.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 1.2. As used in this chapter, "affiliate" means a person that, through one (1) or more intermediaries:**

- (1) controls;
- (2) is controlled by; or
- (3) is under common control with;

a specified person.

SECTION 11. IC 27-1-3.5-1.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 1.4. As used in this chapter, "audit committee" means:**

- (1) a committee or equivalent body established by the board of directors of an entity to oversee:
 - (A) the accounting and financial reporting processes; and

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- (B) audits of financial statements; of an insurer or insurer group;**
- (2) if elected by the controlling person of an entity that controls an insurer group and solely for purposes of this chapter, a committee or equivalent body established by the board of directors of the entity to oversee:**
 - (A) the accounting and financial reporting processes; and**
 - (B) audits of financial statements; of the entity; or**
- (3) if subdivision (1) or (2) does not apply, the entire board of directors of the insurer or entity that controls an insurer.**

SECTION 12. IC 27-1-3.5-2.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 2.8. (a) As used in this chapter, "independent member" means an individual who is a member of a committee or board established by an entity and meets all of the following requirements:**

- (1) The individual does not, other than in the individual's capacity as a member of an audit committee, a board of directors, or another board committee of the entity, accept any consulting fee, advisory fee, or other compensation from the entity.**
- (2) The individual is not associated with:**
 - (A) an affiliate of the entity; or**
 - (B) a subsidiary of the entity or affiliate.**

(b) An individual who is not an independent member under subsection (a) may be considered to be an independent member for purposes of an audit committee if:

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

SECTION 13. IC 27-1-3.5-3.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 3.1. As used in this chapter, "insurer" refers to an insurer that is authorized under this title to make any kind of insurance in Indiana.**

SECTION 14. IC 27-1-3.5-3.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2010]: **Sec. 3.2. As used in this chapter, "insurer group" means a group of insurers that are:**

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

SECTION 15. IC 27-1-3.5-3.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 3.3. (a) As used in this chapter, "internal control over financial reporting" means a process that is:**

- (1) implemented by the board of directors, management personnel, and other personnel of an entity; and**
- (2) designed to provide reasonable assurance that the entity's financial statements are reliable.**

(b) The term includes policies and procedures that:

- (1) pertain to the maintenance of records to accurately and fairly reflect, in reasonable detail:**

- (A) transactions involving; and**
- (B) disposition of;**

assets; and

(2) provide reasonable assurance that:

- (A) transactions are recorded as necessary to permit preparation of financial statements;**
- (B) receipts and expenditures are made only when authorized by management personnel or directors; and**
- (C) unauthorized acquisition, use, or disposition of assets that could have a material effect on financial statements is prevented or detected in a timely manner.**

SECTION 16. IC 27-1-3.5-3.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 3.4. As used in this chapter, "SEC" refers to the federal Securities and Exchange Commission.**

SECTION 17. IC 27-1-3.5-3.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 3.6. As used in this chapter, "Section 404" refers to:**

- (1) Section 404; and**
- (2) SEC regulations promulgated under Section 404;**

of the federal Sarbanes-Oxley Act of 2002.

SECTION 18. IC 27-1-3.5-3.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2010]: **Sec. 3.7. As used in this chapter, "Section 404 report" means a report of the management of an entity concerning internal control over financial reporting and the related attestation report of the entity's accountant.**

SECTION 19. IC 27-1-3.5-3.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 3.8. As used in this chapter, "Sarbanes-Oxley compliant entity" means an entity that complies with all of the following provisions of the federal Sarbanes-Oxley Act of 2002:**

- (1) **The preapproval requirements of Section 201 (Section 10A(i) of the federal Securities Exchange Act of 1934).**
- (2) **The audit committee independence requirements of Section 301 (Section 10A(m)(3) of the federal Securities Exchange Act of 1934).**
- (3) **The internal control over financial reporting requirements of Section 404 (Item 308 of SEC regulation S-K).**

SECTION 20. IC 27-1-3.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 4. (a) As used in this chapter, "work papers" means the records kept by the independent auditor an accountant of the procedures followed, the tests performed, the information obtained, and the conclusions reached by the independent auditor's related to the accountant's audit of the financial statements of a domestic an insurer.**

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

- (1) are prepared or obtained by the independent auditor accountant in the course of any the accountant's audit of the financial statements of a domestic an insurer; and
- (2) support the independent auditor's accountant's opinion on the domestic insurer's financial statements.

SECTION 21. IC 27-1-3.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 5. (a) Except as provided in subsections (b) and (c), this chapter applies to all domestic insurers.**

(b) ~~A domestic An~~ insurer that has:

- (1) direct written premiums of less than one million dollars (\$1,000,000) in any calendar year; and
- (2) less than one thousand (1,000) policyholders or certificate holders of ~~directly~~ direct written policies nationwide at the end of

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a calendar year; and

(3) assumed premiums under contracts or treaties of reinsurance of less than one million dollars (\$1,000,000) in a calendar year;

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

(c) A foreign or an alien insurer that files an audited financial report in another state or country pursuant to that under the other state's or country's requirement for filing of annual audited financial reports is exempt from sections 6 through 13 of this chapter, except sections 7.2 and 7.4 of this chapter, with respect to the year of that the annual audited financial report, from the requirement to file an audited financial report with the commissioner under this chapter, if:

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

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

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

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

(1) the other state has reporting requirements substantially similar to this chapter; and

(2) the report is filed with the commissioner of insurance of the other state in a timely manner.

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

SECTION 22. IC 27-1-3.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) A domestic An

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insurer shall have an audit by an ~~independent auditor every year~~ **accountant** and shall file an audited financial report with the commissioner every year ~~before not later than the~~ June 1 immediately following the December 31 that ends the year reported on in the financial report. The commissioner may require a ~~domestic an~~ insurer to file an audited financial report earlier than June 1 if the commissioner gives the ~~domestic~~ insurer ninety (90) days advance notice of the earlier filing date.

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

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

(d) An insurer required to file an annual audited financial report under this chapter shall designate a group of individuals constituting the insurer's audit committee.

SECTION 23. IC 27-1-3.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) The annual audited financial report filed by a ~~domestic an~~ insurer under this chapter shall report:

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

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

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

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

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

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

(B) include the following:

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

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

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

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

SECTION 24. IC 27-1-3.5-7.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 7.2. (a) This section does not apply to:**

- (1) a foreign or an alien insurer that has a certificate of authority to transact insurance business in Indiana;**
- (2) an insurer that is a Sarbanes-Oxley compliant entity; or**
- (3) a wholly owned subsidiary of a Sarbanes-Oxley compliant**

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entity.

(b) Each member of an insurer's audit committee must be a member of the board of directors of:

- (1) the insurer; or
- (2) an entity elected under subsection (d) as described in section 1.4(2) of this chapter.

(c) If an independent member of an audit committee ceases to be independent for reasons beyond the member's reasonable control, the member, with notice from the responsible entity to the commissioner, may remain an audit committee member until the earlier of:

- (1) the date of the next annual meeting of the responsible entity; or
- (2) one (1) year after the occurrence of the event that caused the member to cease being an independent member.

(d) If the controlling person of an insurer elects to designate an audit committee for purposes of this chapter, the controlling person shall provide written notice:

- (1) in a timely manner before filing of the insurer's annual audited financial report; and
- (2) including a description of the basis for the election;

to the insurance commissioner that regulates each affected insurer. The controlling person may change an election by providing written notice of the change to the applicable insurance commissioner, including a description of the basis for the change. An election is effective until rescinded.

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

- (1) appointment, compensation, and oversight of the work; and
- (2) resolution of financial reporting disagreements with the insurer's management personnel;

of an accountant in the accountant's preparation or issuance of the insurer's annual audited financial report or related work under this chapter. An accountant reports directly to the audit committee of the insurer.

(f) An audit committee shall require the accountant that performs for an insurer an audit required by this chapter to timely report to the audit committee in accordance with Statement on Auditing Standards No. 114 of the American Institute of Certified Public Accountants, including all of the following:

- (1) All significant accounting policies and material permitted

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practices.

(2) All material alternative disclosures and treatments of financial information within statutory accounting principles that have been discussed with management personnel of the insurer, ramifications of the use of the alternative disclosures and treatments, and the treatment preferred by the accountant.

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

(g) If:

(1) an insurer is a member of an insurance holding company system; and

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

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

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

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

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

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

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

(j) If the commissioner has granted an insurer a waiver from the requirements of subsection (i), the insurer shall, with the insurer's

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annual statement filing, file evidence of the relief with the:

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

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

SECTION 25. IC 27-1-3.5-7.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 7.4. (a) A director or an officer of an insurer shall not, directly or indirectly, in connection with an audit, review, or communication required under this chapter:**

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

(b) A director or an officer, or another person acting under the direction of a director or an officer, of an insurer shall not, directly or indirectly, coerce, manipulate, mislead, or fraudulently influence an accountant engaged in the performance of an audit under this chapter if the director, officer, or other person knows or should know that the action could result in rendering the insurer's financial statements materially misleading. Actions prohibited under this subsection include actions to coerce, manipulate, mislead, or fraudulently influence the accountant:

- (1) to issue or reissue a report on an insurer's financial statements that is not warranted due to material violations of statutory accounting principles, generally accepted auditing standards, or other professional or regulatory standards;**
- (2) not to perform audit, review, or other procedures required under generally accepted auditing standards or other professional standards;**
- (3) not to withdraw an issued report; or**
- (4) not to communicate matters to the insurer's audit committee.**

SECTION 26. IC 27-1-3.5-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 8. (a) ~~A domestic~~ An insurer that is required by this chapter to file an annual audited financial ~~reports~~ report shall, not more than sixty (60) days after becoming subject to the requirement, register in writing with the commissioner the name and address of the ~~independent~~ auditor**

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accountant retained by the insurer to conduct the annual ~~audits~~ **audit** required by this chapter. ~~The domestic insurer shall continuously ensure that the information provided to the commissioner under this section is accurate; and shall inform the commissioner in writing of any change in the identity or address of its independent auditor.~~ **An insurer that does not have an accountant on retainer on July 1, 2010, shall register the name and address of the insurer's retained accountant at least six (6) months before the first date after June 30, 2010, by which the insurer's first annual audited financial report is to be filed.**

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

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

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

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

- (1) not more than five (5) business days after the cessation of the ~~independent auditor's~~ **accountant's** services, notify the commissioner in writing of the ~~identity and address of the new independent auditor~~; **cessation**;
- (2) not more than ten (10) business days after the notification given ~~in~~ **under** subdivision (1), furnish the commissioner with a separate letter that states whether in the twenty-four (24) months preceding the ~~engagement~~ **cessation** of the ~~new independent auditor~~ **accountant's services** there were any disagreements between the insurer and ~~its~~ **the former independent auditor** **accountant** on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which, if not resolved to the satisfaction of the former

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~~independent auditor accountant~~, would have caused the former ~~independent auditor accountant~~ to make reference to the subject matter of the disagreement in **connection with** the former ~~independent auditor's statement of its accountant's~~ opinion. ~~on the insurer's financial report, and, if there was such a disagreement, provides a description of the disagreement.~~ Disagreements required to be reported under this subdivision include those at the decision making level that were resolved:

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

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

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

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

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

SECTION 27. IC 27-1-3.5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. **(a) An accountant that audits an insurer's annual audited financial report filed under section 6 of this chapter must be recognized by the commissioner to be qualified to serve as the insurer's accountant.**

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

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(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.

- (1) is not an accountant under section 1 of this chapter; or
- (2) has entered into an indemnification agreement or a release from liability with respect to the audit of an insurer.

(c) Except as otherwise provided in this chapter, the commissioner shall recognize an accountant as qualified if the accountant:

- (1) is an accountant under section 1 of this chapter; and
- (2) conforms to the standards of the accountant's profession as contained in the:

(A) Code of Professional Ethics and Pronouncements of the American Institute of Certified Public Accountants; and

(B) Rules of Professional Conduct of the Indiana State Board of Accountancy;

or a similar code.

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

(e) A partner or other individual who is primarily responsible for rendering a report conducting an audit may not act in that capacity for more than ~~seven (7)~~ **five (5)** consecutive years. ~~An~~ **The** individual who has been responsible for rendering a report for ~~seven (7)~~ **years** is disqualified from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for ~~two (2)~~ **a period of five (5) consecutive years**. ~~A domestic~~ **An** insurer may, **not later than December 1 of the calendar year**, apply to the commissioner and request to be exempted for relief from the ~~seven (7) year~~ **five (5) year** rotation requirement of this subsection 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.

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

(1) **The individual** 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 (FC 35-45-6)~~ or any dishonest conduct or practices under federal or state law.

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

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

(g) The commissioner may not recognize as a qualified accountant, nor accept an annual audited financial report prepared in whole or part by, a person that provides to an insurer, contemporaneously with the audit, any of the following nonaudit services:

(1) Bookkeeping or other services related to the accounting records or financial statements of the insurer.

(2) Financial information systems design and implementation.

(3) Appraisal or valuation services, fairness opinions, or contribution in kind reports.

(4) Actuarially oriented advisory services involving the determination of amounts recorded in the financial statements of the insurer. This subdivision does not include the accountant's assistance to an insurer in understanding the methods, assumptions, and inputs used in the determination of amounts recorded in the financial statements if it is reasonable to conclude that the assistance will not be subject to audit procedures during an audit of the insurer's financial statements. Additionally, this subdivision does not include the issuance by the accountant's actuary of an actuarial opinion or certification concerning an insurer's reserves if the following conditions are met:

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

(B) The insurer has competent personnel, or engages a third party actuary, to estimate the reserves for which

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management personnel take responsibility.

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

(5) Internal audit outsourcing services.

(6) Management functions or human resources.

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

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

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

(h) An insurer that has direct written and assumed premiums totaling less than one hundred million dollars (\$100,000,000) in a calendar year may request relief from subsection (g) by filing with the commissioner a written statement describing the reasons the insurer should be exempt from subsection (g). The commissioner may grant the relief if, upon review of the written statement, the commissioner finds that compliance with subsection (g) would constitute a financial or organizational hardship on the insurer.

(i) The commissioner shall not recognize a person as an accountant qualified for a particular insurer if the person employed, as the person's partner or senior manager, an individual who:

(1) was involved in the audit in the individual's capacity as a partner or senior manager;

(2) served:

(A) as a member of the board;

(B) as the president;

(C) as the chief executive officer;

(D) as the controller;

(E) as the chief financial officer;

(F) as the chief accounting officer; or

(G) in another position equivalent to a position specified in clauses (A) through (F);

for the insurer; and

(3) participated in the audit of the insurer in the individual's capacity described in subdivision (2) during the one (1) year period preceding the date on which the most current statutory opinion is due.

However, an insurer may apply to the commissioner for relief from this subsection on the basis of unusual circumstances.

(j) A qualified accountant that performs an audit may perform

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for an insurer other nonaudit services, including tax services, that are not described in subsection (g) if the performance of the nonaudit services is preapproved by the insurer's audit committee under subsection (k).

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

(1) the insurer is:

(A) a Sarbanes-Oxley compliant entity; or

(B) a wholly owned subsidiary of a Sarbanes-Oxley compliant entity; or

(2) all of the following apply:

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

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

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

(i) the audit committee; or

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

~~(d)~~ (l) The commissioner may conduct a hearing under ~~IC 4-21.5~~ IC 4-21.5-3 to determine whether an independent auditor engaged by a domestic insurer accountant is sufficiently independent of that domestic insurer to be capable of exercising independent judgment and qualified and, after considering the evidence presented, may:

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

(2) require the insurer to replace the auditor accountant with another that is sufficiently independent of accountant whose

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relationship with the insurer is qualified within the meaning of this chapter.

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

(n) If the commissioner has granted an insurer any relief under subsection (e), (h), or (i), the insurer shall, with the insurer's annual statement filing, file evidence of the relief with the:

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

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

SECTION 28. IC 27-1-3.5-9.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9.5. (a) An audit required under section 6 of this chapter must be conducted in accordance with generally accepted auditing standards.

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

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

SECTION 29. IC 27-1-3.5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. ~~A domestic~~ An insurer may apply in writing to the commissioner for approval to ~~satisfy~~ the requirements of this chapter by ~~filing~~ ~~file~~ audited consolidated or

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

- (1) Amounts shown on the consolidated or combined **annual audited financial report** shall be shown on the ~~schedule~~ **worksheet**.
- (2) Amounts for each insurer subject to this section shall be stated separately.
- (3) Noninsurance operations shall be shown on the ~~schedule worksheet~~ on a **combined or** an individual basis.
- (4) Explanations of consolidating and eliminating entries shall be included.
- (5) A reconciliation shall be included of any differences between the amounts shown in the individual insurer columns of the ~~schedule worksheet~~ and comparable amounts shown on the annual statements of the insurers.

SECTION 30. IC 27-1-3.5-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11. (a) ~~A domestic An~~ insurer required to file **an annual audited financial reports report** under this chapter shall require ~~its independent auditor~~ **the insurer's accountant** to report in writing to the board of directors or the ~~board of director's~~ audit committee, not more than five (5) business days after making ~~a the~~ determination, the ~~independent auditor's accountant's~~ determination that:

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

The ~~domestic~~ insurer ~~who that~~ has received a report under this section shall forward a copy of the report to the commissioner within five (5) business days after receipt of the report and shall provide the

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

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

SECTION 31. IC 27-1-3.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12. (a) ~~A domestic An~~ insurer required by this chapter to file an **annual** audited financial report with the commissioner shall also furnish the commissioner with:

- (1) a written ~~report (or a letter on reportable conditions)~~ describing the significant deficiencies **communication regarding any unremediated material weakness (as defined in Statement on Auditing Standard No. 112 of the American Institute of Certified Public Accountants)** in the insurer's internal control structure; if internal control deficiencies were **over financial reporting as of the December 31 immediately preceding the filing** noted by the domestic insurer's independent auditor in connection with ~~its accountant during the~~ audit; and
- (2) a written ~~discussion~~ **description** of any remedial action taken or proposed in connection with **to correct any unremediated material weakness communicated in** the written report; and
- (3) **if no material weakness is noted by the accountant during the audit, a written communication noting that fact.**

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

SECTION 32. IC 27-1-3.5-12.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12.5. ~~The independent~~

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~~auditor~~ **An insurer's accountant** shall furnish the ~~domestic~~ insurer, in connection with and for inclusion in the filing of the annual audited financial report, a letter stating the following:

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

(2) The:

(A) general background and experience; and

(B) experience in audits of insurers;

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

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

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

(B) **commissioner** will be relying on the ~~independent auditor's~~ annual audited financial report and the ~~independent auditor's~~ **opinion in the report for filed report and opinion in the monitoring and regulation of the financial positions position of the insurers: insurer.**

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

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

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

SECTION 33. IC 27-1-3.5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 13. (a) ~~A domestic An~~

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insurer required to file an audited financial report under this chapter shall require ~~its independent auditor~~ **the insurer's accountant** to make available for review by department examiners:

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

(2) any ~~record of significant~~ communications, related to the audit, between the ~~independent auditor~~ **accountant** and the insurer; ~~that took place at (A) the offices of the insurer, (B) the department, (C) the offices of the independent auditor;~~ or ~~(D)~~ any other reasonable place designated by the commissioner.

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

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

SECTION 34. IC 27-1-3.5-13.8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 13.8. (a) An insurer that is required to file an audited financial report under this chapter and has annual direct written and assumed premiums (excluding premiums reinsured with the Federal Crop Insurance Corporation and National Flood Insurance Program) equal to at least five hundred million dollars (\$500,000,000) shall:**

(1) prepare the insurer's or insurer group's report of internal control over financial reporting as of the December 31 immediately preceding the report; and

(2) file the report prepared under subdivision (1) with the commissioner, along with the communication required under section 12 of this chapter.

(b) The commissioner may require an insurer that has any amount of annual direct written and assumed premiums to file the insurer's report of internal controls over financial reporting if the insurer:

(1) meets one (1) or more of the standards of an insurer

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considered to be in hazardous financial condition as determined by the commissioner according to rules adopted under IC 4-22-2; or

(2) experiences a risk based capital level event described in IC 27-1-36.

(c) An insurer or insurer group that:

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

(2) is:

(A) directly subject to Section 404;

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

(C) not directly subject to Section 404 and is a Sarbanes-Oxley compliant entity; or

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

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

(ii) is a Sarbanes-Oxley compliant entity; and

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

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

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

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

(2) a Section 404 report and the insurer's or insurer group's report of internal control over financial reporting as described in subsection (a);

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for the internal controls over financial reporting that are not included in the Section 404 report.

(e) An insurer's or insurer group's report of internal control over financial reporting must include the following:

(1) A statement that management personnel are responsible for establishing and maintaining adequate internal control over financial reporting.

(2) A statement that management personnel have established internal control over financial reporting accompanied by:

(A) an assertion concerning whether:

(i) after diligent inquiry by; and

(ii) to the best of the knowledge of;

the management personnel, the insurer's or insurer group's internal control over financial reporting is effective to provide reasonable assurance that the financial statements are reliable and prepared in accordance with statutory accounting principles; and

(B) a disclosure of any unremediated material weakness:

(i) in the insurer's or insurer group's internal control over financial reporting; and

(ii) identified by management personnel as of the December 31 immediately preceding the date of the report.

(3) A statement that briefly describes the approach or process by which management personnel evaluate the effectiveness of the insurer's or insurer group's internal control over financial reporting.

(4) A statement that briefly describes the scope of work that is included in the report and whether any of the insurer's or insurer group's internal controls over financial reporting are excluded from the report.

(5) A statement regarding inherent limitations of the insurer's or insurer group's internal control over financial reporting system.

(6) Signatures of the chief executive officer and the chief financial officer or individuals holding equivalent positions.

(f) An insurer's or insurer group's management personnel:

(1) shall:

(A) document; and

(B) make available upon a financial condition examination; the basis for the assertions made under subsection (e);

(2) may partially base the assertions made under subsection

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(e) on review, monitoring, and testing of the insurer's or insurer group's internal control over financial reporting that is undertaken in the normal course of management activities; and

(3) shall determine the:

(A) nature of the insurer's or insurer group's internal control over financial reporting system; and

(B) nature and extent of documentation;

that are used to support the assertions made under subsection (e) in a cost effective manner, including assembly of or reference to existing documentation.

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

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

SECTION 35. IC 27-1-3.5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 14. (a) In response to a written application from a ~~domestic~~ an insurer, the commissioner may grant an exemption from compliance with this chapter if the commissioner finds, upon review of the application, that compliance with this chapter would constitute a financial or an organizational hardship upon the ~~domestic~~ insurer. An exemption may be granted at any time for a specified period.

(b) Within ten (10) days after the denial of a ~~domestic~~ an insurer's written request for an exemption from this chapter, the insurer may, in writing, request a hearing on its application for an exemption. The hearing shall be held under ~~IC 4-21.5~~. **IC 4-21.5-3.**

SECTION 36. IC 27-1-3.5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 16. **(a)** A domestic insurer that:

(1) is required to file an annual audited financial report under this chapter; and

(2) fails to file an audited annual financial report before July 1 or any other deadline established by the commissioner for the insurer under this chapter without having obtained an extension;

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is subject to a civil penalty of fifty dollars (\$50) per day until the report is received prescribed in rules adopted by the commissioner.

(b) Except as provided in subsections (d), (e), and (f), a domestic insurer shall comply with this chapter, as amended by amendments effective July 1, 2010, for the year ending December 31, 2010, and each subsequent year unless otherwise permitted by the commissioner.

(c) Except as provided in subsections (d), (e), and (f), a foreign or alien insurer shall comply with this chapter, as amended effective July 1, 2010, for the year ending December 31, 2010, and each year thereafter, unless otherwise permitted by the commissioner.

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

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

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

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

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

SECTION 37. IC 27-1-3.5-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 18. (a) In the case of a British or Canadian insurer, the annual audited financial report refers to the annual statement of total business on the form filed by the company with its domiciliary supervision authority audited by an

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~~independent auditor.~~ **accountant.**

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

SECTION 38. IC 27-1-9-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12. (a) In case of a merger or consolidation between a domestic and a foreign company, the articles of merger or consolidation shall be regarded as executed by the proper officers of said foreign company when such officers are duly authorized to execute same through such action on the part of the directors, shareholders, members, or policyholders of said foreign company as may be required by the laws of the state where the same is incorporated; and upon execution, said articles of merger or consolidation shall be submitted to the commissioner of insurance or other officer at the head of the insurance department of the state where such foreign company is incorporated. No such merger or consolidation shall take effect until it shall have been approved by the insurance official of the state where said foreign company is incorporated nor until a certificate of his approval has been filed in the office of the department of insurance of the state of Indiana. Such submission to and approval by the proper official of such other state shall not be required unless the same are required by the laws of such foreign state. The domestic company involved in such merger or consolidation shall not through anything contained in this section be relieved of any of the procedural requirements enumerated in the preceding sections of this article.

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

SECTION 39. IC 27-1-15.6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) Unless denied

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licensure under section 12 of this chapter, a person who has met the requirements of sections 5 and 6 of this chapter shall be issued an insurance producer license. An insurance producer may receive qualification for a license in one (1) or more of the following lines of authority:

- (1) Life — insurance coverage on human lives, including benefits of endowment and annuities, that may include benefits in the event of death or dismemberment by accident and benefits for disability income.
- (2) Accident and health or sickness — insurance coverage for sickness, bodily injury, or accidental death that may include benefits for disability income.
- (3) Property — insurance coverage for the direct or consequential loss of or damage to property of every kind.
- (4) Casualty — insurance coverage against legal liability, including liability for death, injury, or disability, or for damage to real or personal property.
- (5) Variable life and variable annuity products — insurance coverage provided under variable life insurance contracts and variable annuities.
- (6) Personal lines — property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes.
- (7) Credit — limited line credit insurance.
- (8) Title — insurance coverage against loss or damage on account of encumbrances on or defects in the title to real estate.
- (9) Any other line of insurance permitted under Indiana laws or administrative rules.

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

- (1) is considered to have requested; and
- (2) shall receive;

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

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

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

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producers are met by the due date.

(e) An individual insurance producer who:

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

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

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

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

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

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

(j) The commissioner may participate, in whole or in part, with the NAIC or any affiliate or subsidiary of the NAIC in a centralized insurance producer license registry through which insurance producer licenses are centrally or simultaneously effected for states that require an insurance producer license and participate in the centralized insurance producer license registry. If the commissioner determines that participation in the centralized insurance producer license registry

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is in the public interest, the commissioner may adopt rules under IC 4-22-2 specifying uniform standards and procedures that are necessary for participation in the registry, including standards and procedures for centralized license fee collection.

SECTION 40. IC 27-1-15.6-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. (a) An individual who applies for an insurance producer license in Indiana and who was previously licensed for the same lines of authority in another state is not required to complete any preclicensing education or examination. However, the exemption provided by this subsection is available only if:

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

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

- (c) An individual who:
 - (1) has attained the designation of chartered life underwriter, certified financial planner, ~~or~~ chartered financial consultant, **or another nationally recognized designation approved by the commissioner or the National Association of Insurance Commissioners**; and
 - (2) applies for an insurance producer license in Indiana requesting qualification under sections:
 - (A) 7(a)(1);
 - (B) 7(a)(2); or
 - (C) 7(a)(5);
 of this chapter;

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

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

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

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

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

of this chapter;

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

(e) **An individual who:**

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

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

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

SECTION 41. IC 27-1-15.6-12, AS AMENDED BY P.L.27-2007, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12. (a) For purposes of this section, "permanently revoke" means that:

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

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

- (1) Providing incorrect, misleading, incomplete, or materially untrue information in a license application.
- (2) Violating:

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- (A) an insurance law;
 - (B) a regulation;
 - (C) a subpoena of an insurance commissioner; or
 - (D) an order of an insurance commissioner;
- of Indiana or of another state.
- (3) Obtaining or attempting to obtain a license through misrepresentation or fraud.
 - (4) Improperly withholding, misappropriating, or converting any monies or properties received in the course of doing insurance business.
 - (5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.
 - (6) Having been convicted of a felony.
 - (7) Admitting to having committed or being found to have committed any unfair trade practice or fraud in the business of insurance.
 - (8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in Indiana or elsewhere.
 - (9) Having an insurance producer license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory.
 - (10) Forging another's name to an application for insurance or to any document related to an insurance transaction.
 - (11) Improperly using notes or any other reference material to complete an examination for an insurance license.
 - (12) Knowingly accepting insurance business from an individual who is not licensed.
 - (13) Failing to comply with an administrative or court order imposing a child support obligation.
 - (14) Failing to pay state income tax or to comply with any administrative or court order directing payment of state income tax.
 - (15) Failing to satisfy the continuing education requirements established by IC 27-1-15.7.
 - (16) Violating section 31 of this chapter.
 - (17) Failing to timely inform the commissioner of a change in legal name or address, in violation of section 7(h) of this chapter.
- (c) The commissioner shall refuse to:
- (1) issue a license; or
 - (2) renew a license issued;
- under this chapter to any person who is the subject of an order issued

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by a court under IC 31-14-12-7 or IC 31-16-12-10 (or IC 31-1-11.5-13(m) or IC 31-6-6.1-16(m) before their repeal).

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

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

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

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

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

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

(i) The commissioner shall promptly notify all appointing insurers and the licensee regarding any suspension, revocation, or termination

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of a license by the commissioner under this section.

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

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

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

(k) The commissioner has the authority to:

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

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

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

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

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

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

SECTION 42. 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~~ **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

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education courses related to the business of title insurance or any aspect of real property law.

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

- (1) A limited lines producer who is licensed without examination under IC 27-1-15.6-18(1) or IC 27-1-15.6-18(2).
- (2) A limited line credit insurance producer.
- (3) 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~~ **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.

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

- (k) A licensee who completes a continuing education course that:
- (1) is approved by the commissioner under section 4 of this chapter;
 - (2) is held in a classroom setting; and
 - (3) concerns ethics;

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

SECTION 43. IC 27-1-15.7-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) To qualify as a certified prelicensing course of study for purposes of IC 27-1-15.6-6, an insurance producer program of study must meet all of the following 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.

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(C) For life and health insurance producers, not less than forty (40) hours of instruction in a structured setting or comparable self-study on:

- (i) ethical practices in the marketing and selling of insurance;
- (ii) requirements of the insurance laws and administrative rules of Indiana;
- (iii) principles of life insurance; and
- (iv) principles of health insurance.

(D) For property and casualty insurance producers, not less than forty (40) hours of instruction in a structured setting or comparable self-study on:

- (i) ethical practices in the marketing and selling of insurance;
- (ii) requirements of the insurance laws and administrative rules of Indiana;
- (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).

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

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

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

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

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

SECTION 44. IC 27-1-17-4, AS AMENDED BY P.L.193-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. Whenever a foreign or an alien insurance company desires to be admitted to do an insurance business in this state, it shall execute in the English language and present the following to the department, at its office, accompanied by the fees prescribed by law:

- (1) A copy of its articles of incorporation or association, with all amendments thereto, duly authenticated by the proper officer of the state, country, province, or government wherein it is incorporated or organized, or the state in which it is domiciled in the United States.
- (2) An application for admission, executed in the manner provided in this chapter, setting forth:
 - (A) the name of such company;
 - (B) the location of its principal office or place of business without this state;
 - (C) the names of the states in which it has been admitted or qualified to do business;
 - (D) the character of insurance business under its articles of incorporation or association which it intends to transact in this

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state, which must conform to the class or classes set forth in the provisions of IC 27-1-5-1;

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

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

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

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

The application shall be signed, ~~in duplicate~~ in the form prescribed by the department, by the president or a vice president and the secretary or an assistant secretary of the corporation, and verified under oath by the officers signing the same.

(3) A statement of its financial condition and business, in the form prescribed by law for annual statements, signed and sworn to by the president or secretary or other principal officers of the company; provided, however, that an alien company shall also furnish a separate statement comprising only its condition and business in the United States, which shall be signed and sworn to by its United States manager.

(4) A copy of the last report of examination certified to by the insurance commissioner or other proper supervisory official of the state in which such company is domiciled; provided, however, that the commissioner may cause an examination to be made of the condition and affairs of such company before authority to transact business in this state is given.

(5) A certificate from the proper official of the state, country, province, or government wherein it is incorporated or organized, or the state in which it is domiciled in the United States, that it is duly organized or incorporated under those laws and authorized to make the kind or kinds of insurance which it proposes to make in this state.

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(6) A copy of its bylaws or regulations, if any, certified to by the secretary or similar officer of the insurance company.

(7) A duly executed power of attorney in a form prescribed by the department which constitutes and appoints an individual or a corporate resident of Indiana, or an authorized Indiana insurer, as the insurance company's agent, its true and lawful attorney upon whom, except as provided in section 4.2 of this chapter, all lawful processes in any action in law or in equity against it shall be served. Such power of attorney shall contain an agreement by the insurance company that any lawful process against it which may be served upon the agent as its attorney shall be of the same force and validity as if served upon the insurance company and that such power of attorney shall continue in force and be irrevocable so long as any liability of the insurance company remains outstanding in this state. Such power of attorney shall be executed by the president and secretary of the insurance company or other duly authorized officers under its seal and shall be accompanied by a certified copy of the resolution of the board of directors of the company making said appointment and authorizing the execution of said power of attorney. Service of any lawful process shall be by delivering to and leaving with the agent two (2) copies of such process, with copy of the pertinent complaint attached. The agent shall forthwith transmit to the defendant company at its last known principal place of business by registered or certified mail, return receipt requested, one (1) of the copies of such process, with complaint attached, the other copy to be retained in a record which shall show all process served upon and transmitted by him. Such service shall be sufficient provided the returned receipt or, if the defendant company shall refuse to accept such mailing, the registered mail together with an affidavit of plaintiff or his attorney stating that service was made upon the agent and forwarded as above set forth but that such mail was returned by the post office department is filed with the court. The agent shall make information and receipts available to plaintiff, defendant, or their attorneys. No plaintiff or complainant shall be entitled to a judgment by default based on service authorized by this section until the expiration of at least thirty (30) days from the date on which either the post office receipt or the unclaimed mail together with affidavit is filed with the court. Nothing in this section shall limit or abridge the right to serve any process, notice, or demand upon any company in any other manner permitted by law.

(8) Proof which satisfies the department that it has complied with

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the financial requirements imposed in this chapter upon foreign and alien insurance companies which transact business in this state and that it is entitled to public confidence and that its admission to transact business in this state will not be prejudicial to public interest.

SECTION 45. IC 27-1-18-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) Any foreign or alien corporation admitted to do business in this state may alter or enlarge the character of the business which it is authorized to transact in this state under its articles of incorporation or association, and any amendments thereof filed with the department as provided in section 3 of this chapter, by procuring an amended certificate of authority from the department in the manner provided in subsection (b).

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

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

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

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SECTION 46. IC 27-1-23-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) Material transactions within an insurance holding company system to which an insurer subject to registration is a party shall be subject to the following standards:

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

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

- (1) Sales, purchases, exchanges, loans or extensions of credit, guarantees, or investments, provided those transactions are equal to or exceed:
 - (A) with respect to nonlife insurers, the lesser of three percent (3%) of the insurer's admitted assets or twenty-five percent (25%) of surplus as regards policyholders; and
 - (B) with respect to life insurers, three percent (3%) of the insurer's admitted assets;

each as of December 31 next preceding.

- (2) Loans or extensions of credit to any person who is not an affiliate, where the insurer makes those loans or extensions of credit with the agreement or understanding that the proceeds of such transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in, any affiliate of the insurer making such

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loans or extensions of credit, provided those transactions are equal to or exceed:

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

each as of December 31 next preceding.

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

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

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

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

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

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

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

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

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shall be considered:

- (1) The size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, insurance in force and other appropriate criteria.
- (2) The extent to which the insurer's business is diversified among the several lines of insurance.
- (3) The number and size of risks insured in each line of business.
- (4) The extent of the geographical dispersion of the insurer's insured risks.
- (5) The nature and extent of the insurer's reinsurance program.
- (6) The quality, diversification, and liquidity of the insurer's investment portfolio.
- (7) The recent past and projected future trend in the size of the insurer's surplus as regards policyholders.
- (8) The surplus as regards policyholders maintained by other comparable insurers in respect of the factors described in subdivisions (1) through (7).
- (9) The adequacy of the insurer's reserves.
- (10) The quality and liquidity of investments in subsidiaries, except that the commissioner may discount or treat any such investment in subsidiaries as a disallowed asset for purposes of determining the adequacy of surplus whenever in his judgment such investment so warrants.
- (11) The quality of the earnings of the insurer and the extent to which the reported earnings of the insurer include extraordinary items.

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

- (1) thirty (30) days after the commissioner has received notice of the declaration thereof and has not within such period disapproved such payment; or
- (2) the commissioner shall have approved such payment within such thirty (30) day period.

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

- (1) ten percent (10%) of such insurer's surplus as regards policyholders as of the most recently preceding December 31; or

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

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

- (1) the commissioner has approved the payment of such dividend or distribution; or
- (2) the commissioner has not disapproved the payment within the thirty (30) day period referred to in subsection (g)."

Delete pages 3 through 4.

Page 5, delete lines 1 through 22.

Page 8, delete lines 11 through 20, begin a new paragraph and insert:

"(h) A license that is issued under this section is valid:

- (1) for one (1) year after the date of issuance; or**
- (2) until:**

~~(1)~~ **(A)** the license is:

~~(A)~~ **(i)** surrendered; or

~~(B)~~ **(ii)** suspended or revoked by the commissioner; or

~~(2)~~ **(B)** the administrator:

~~(A)~~ **(i)** ceases to do business in Indiana; or

~~(B)~~ **(ii)** is not in compliance with this chapter;

whichever occurs first."

Page 11, delete lines 5 through 42.

Delete pages 12 through 25.

Page 26, delete lines 1 through 33, begin a new paragraph and insert:

"SECTION 50. 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 51. 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:

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- (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 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 52. 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).

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(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
- (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 53. 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 54. 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.

SECTION 55. IC 27-2-22 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

Chapter 22. Health Plan Use of Premiums

Sec. 1. As used in this chapter, "administrative expenses" includes health plan expenses associated with the following:

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- (1) Claims processing.
- (2) Collection of premiums.
- (3) Marketing.
- (4) Operations.
- (5) Taxes.
- (6) General overhead.
- (7) Salaries and benefits.
- (8) Quality assurance.
- (9) Utilization review and management.
- (10) Benefit management.
- (11) Network contracting and management.
- (12) State and federal regulatory compliance.

Sec. 2. As used in this chapter, "commissioner" refers to the insurance commissioner appointed under IC 27-1-1-2.

Sec. 3. As used in this chapter, "covered individual" means an individual entitled to coverage under a health plan policy or contract.

Sec. 4. As used in this chapter, "department" refers to the department of insurance created by IC 27-1-1-1.

Sec. 5. As used in this chapter, "health plan" means any of the following:

- (1) An insurer that issues a policy of accident and sickness insurance (as defined in IC 27-8-5-1).
- (2) A health maintenance organization (as defined in IC 27-13-1-19).
- (3) A limited service health maintenance organization (as defined in IC 27-13-34-4).

Sec. 6. (a) As used in this chapter, "medical expense" means the financial obligation of a health plan to pay for direct health care services and products provided to covered individuals.

(b) The term includes health plan payments to health care providers for quality or efficiency enhancing initiatives.

(c) The term does not include:

- (1) administrative expenses; or
- (2) amounts that are the financial responsibility of a covered individual or a party other than the health plan.

Sec. 7. As used in this chapter, "medical loss ratio" means the quotient of:

- (1) actual claim expenses; divided by
- (2) earned premiums;

in a calendar year.

Sec. 8. (a) A health plan shall, before March 1 of each year, file

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with the department a report containing health plan information specific to each of the following categories for the immediately preceding calendar year:

(1) Health coverage provided by the health plan under each of the following:

(A) A policy of accident and sickness insurance using a preferred provider plan under IC 27-8-11.

(B) A policy of accident and sickness insurance not using a preferred provider plan under IC 27-8-11.

(2) Health coverage provided by the health plan under a health maintenance organization contract or limited service health maintenance organization contract under IC 27-13.

(3) Health coverage provided by the health plan through a point of service product (as defined in IC 27-13-1-26).

(4) Health coverage provided by the health plan under a high deductible health plan (as defined in 26 U.S.C. 220(c)(2) or 26 U.S.C. 223(c)(2)).

(b) The report for each category specified in subsection (a) must include the following information:

(1) A specific breakdown of administrative expenses as follows:

(A) Chief executive officer and executive salaries and benefits.

(B) Commissions and other broker fees.

(C) Utilization and other benefit management expenses.

(D) Advertising and marketing expenses.

(E) Insurance, including the following categories of commercial insurance:

(i) Reinsurance.

(ii) General liability.

(iii) Professional liability.

(iv) Other.

(F) Taxes, including the following:

(i) State and local insurance.

(ii) State premium.

(iii) Payroll.

(iv) Federal and state income.

(v) Real estate.

(vi) Other.

(G) Travel and entertainment expenses.

(H) State and federal lobbying expenses.

(I) Other expenses, including the following:

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- (i) Nonexecutive salaries, wages, and benefits.
- (ii) Rent and real estate expenses.
- (iii) Certification, accreditation, board, bureau, and association fees.
- (iv) Auditing and actuarial fees.
- (v) Collection and bank service charges.
- (vi) Occupancy, depreciation, and amortization.
- (vii) Cost or depreciation of electronic data processing, claims, and other services.
- (viii) Regulatory authority licenses and fees.
- (ix) Investment expenses.
- (x) Aggregate write-ins for expenses.

(J) Total expenses incurred.

- (2) The health plan's name and address.**
- (3) The health plan's total premium.**
- (4) The amount of interest earned on premiums.**
- (5) The amount recovered from uninsured motorist insurance, accident insurance, workers compensation insurance, and other third party liability.**
- (6) The total medical expense incurred.**
- (7) The medical loss ratio.**
- (8) Certification by a member of the American Academy of Actuaries that the information provided in the report is accurate and complete and that the health plan is in compliance with this chapter.**
- (9) Any other information requested by the commissioner.**

Sec. 9. (a) The department shall:

- (1) publish and maintain each report filed under section 8 of this chapter on the department's Internet web site; and**
- (2) make a hard copy of each report filed under section 8 of this chapter available to the public upon request.**

(b) A report filed under section 8 of this chapter is a public record.

Sec. 10. The commissioner shall adopt rules under IC 4-22-2 to implement this chapter.

Sec. 11. (a) The commissioner may audit a health plan at any time to determine compliance with this chapter.

(b) If the commissioner, after notice and hearing under IC 4-21.5, determines that a health plan has violated this chapter, the commissioner may impose a civil penalty equal to:

- (1) at least one thousand dollars (\$1,000); and**
- (2) not more than ten thousand dollars (\$10,000);**

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for each day of noncompliance.

(c) Civil penalties collected under this section must be deposited in the state general fund.

SECTION 56. IC 27-4-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) It is a Class A infraction for an insurer to transact insurance business in this state, as set forth in subsection (b), without a certificate of authority from the commissioner. However, this section does not apply to the following:

- (1) The lawful transaction of surplus lines insurance.
- (2) The lawful transaction of reinsurance by insurers.
- (3) Transactions in this state involving a policy lawfully solicited, written, and delivered outside of this state covering only subjects of insurance not resident, located, or expressly to be performed in this state at the time of issuance, and which transactions are subsequent to the issuance of such policy.
- (4) Attorneys acting in the ordinary relation of attorney and client in the adjustment of claims or losses.
- (5) Transactions in this state involving group life and group sickness and accident or blanket sickness and accident insurance or group annuities where the master policy of such groups was lawfully issued and delivered in and pursuant to the laws of a state in which the insurer was authorized to do an insurance business, to a group organized for purposes other than the procurement of insurance, and where the policyholder is domiciled or otherwise has a bona fide situs.
- (6) Transactions in this state relative to a policy issued or to be issued outside this state involving insurance on vessels, craft or hulls, cargos, marine builder's risk, marine protection and indemnity or other risk, including strikes and war risks commonly insured under ocean or wet marine forms of policy.
- (7) Transactions in this state involving life insurance, health insurance, or annuities provided to religious or charitable institutions organized and operated without profit to any private shareholder or individual for the benefit of such institutions and individuals engaged in the service of such institutions.
- (8) Transactions in this state involving contracts of insurance not readily obtainable in the ordinary insurance market and issued to one (1) or more industrial insureds. For purposes of this section, an "industrial insured" means an insured:
 - (A) who procures the insurance of any risk or risks by use of the services of a full-time employee acting as an insurance manager or buyer or the services of a regularly retained and

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

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

(E) who files with the department, with the amount remitted under clause (D), an affidavit specifying all transactions undertaken and policies and contracts procured during the preceding six (6) months, including the following:

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

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

- (A) must have its ambulance service program approved by an ordinance of the legislative body of the county or city in which it operates; and

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(B) may not offer any membership program that includes benefits exceeding one (1) year in duration.

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

(1) The making of or proposing to make, as an insurer, an insurance contract.

(2) The making of or proposing to make, as guarantor or surety, any contract of guaranty or suretyship as a vocation and not merely incidental to any other legitimate business or activity of the guarantor or surety.

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

(4) The receiving or collection of any premium, commission, membership fees, assessments, dues, or other consideration for any insurance or any part thereof.

(5) The issuance or delivery of contracts of insurance to residents of this state or to persons authorized to do business in this state.

(6) Acting as an agent for or otherwise representing or aiding on behalf of another person or insurer in the solicitation, negotiation, procurement, or effectuation of insurance or renewals thereof or in the dissemination of information as to coverage or rates, or forwarding of applications, or delivery of policies or contracts, or inspection of risks, a fixing of rates or investigation or adjustment of claims or losses or in the transaction of matters subsequent to effectuation of the contract and arising out of it, or representing or assisting a person or an insurer in the transaction of insurance with respect to subjects of insurance resident, located, or to be performed in this state. This subdivision does not prohibit full-time salaried employees of a corporate insured from acting in the capacity of an insurance manager or buyer in placing insurance in behalf of the employer.

(c)(1) The failure of an insurer transacting insurance business in this state to obtain a certificate of authority does not impair the validity of any act or contract of such insurer and does not prevent such insurer from defending any action at law or suit in equity in any court of this state, but no insurer transacting insurance business in this state without a certificate of authority may maintain an action in any court of this

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state to enforce any right, claim, or demand arising out of the transaction of such business until such insurer obtains a certificate of authority.

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

SECTION 57. IC 27-7-3-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. **(a)** Any domestic corporation having:

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

(2) a physical office in Indiana;

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

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

SECTION 58. IC 27-7-3-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3.5. **(a) A domestic corporation admitted to do business as described in section 3 of this chapter is subject to the following:**

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

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

(3) IC 27-9.

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

SECTION 59. IC 27-8-5-1.5, AS AMENDED BY P.L.111-2008, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. **(a)** This section applies to a policy of

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accident and sickness insurance issued on an individual, a group, a franchise, or a blanket basis, including a policy issued by an assessment company or a fraternal benefit society.

(b) As used in this section, "commissioner" refers to the insurance commissioner appointed under IC 27-1-1-2.

(c) As used in this section, "grossly inadequate filing" means a policy form filing:

- (1) that fails to provide key information, including state specific information, regarding a product, policy, or rate; or
- (2) that demonstrates an insufficient understanding of applicable legal requirements.

(d) As used in this section, "policy form" means a policy, a contract, a certificate, a rider, an endorsement, an evidence of coverage, or any amendment that is required by law to be filed with the commissioner for approval before use in Indiana.

(e) As used in this section, "type of insurance" refers to a type of coverage listed on the National Association of Insurance Commissioners Uniform Life, Accident and Health, Annuity and Credit Product Coding Matrix, or a successor document, under the heading "Continuing Care Retirement Communities", "Health", "Long Term Care", or "Medicare Supplement".

(f) Each person having a role in the filing process described in subsection (i) shall act in good faith and with due diligence in the performance of the person's duties.

(g) A policy form may not be issued or delivered in Indiana unless the policy form has been filed with and approved by the commissioner.

(h) The commissioner shall do the following:

- (1) Create a document containing a list of all product filing requirements for each type of insurance, with appropriate citations to the law, administrative rule, or bulletin that specifies the requirement, including the citation for the type of insurance to which the requirement applies.
- (2) Make the document described in subdivision (1) available on the department of insurance Internet site.
- (3) Update the document described in subdivision (1) at least annually and not more than thirty (30) days following any change in a filing requirement.

(i) The filing process is as follows:

- (1) A filer shall submit a policy form filing that:
 - (A) includes a copy of the document described in subsection (h);
 - (B) indicates the location within the policy form or supplement

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that relates to each requirement contained in the document described in subsection (h); and

(C) certifies that the policy form meets all requirements of state law.

(2) The commissioner shall review a policy form filing and, not more than thirty (30) days after the commissioner receives the filing under subdivision (1):

(A) approve the filing **or, if the filing is for a premium rate increase, schedule a public meeting under section 1.6 of this chapter;** or

(B) provide written notice of a determination:

(i) that deficiencies exist in the filing; or

(ii) that the commissioner disapproves the filing.

A written notice provided by the commissioner under clause (B) must be based only on the requirements set forth in the document described in subsection (h) and must cite the specific requirements not met by the filing. A written notice provided by the commissioner under clause (B)(i) must state the reasons for the commissioner's determination in sufficient detail to enable the filer to bring the policy form into compliance with the requirements not met by the filing.

(3) A filer may resubmit a policy form that:

(A) was determined deficient under subdivision (2) and has been amended to correct the deficiencies; or

(B) was disapproved under subdivision (2) and has been revised.

A policy form resubmitted under this subdivision must meet the requirements set forth as described in subdivision (1) and must be resubmitted not more than thirty (30) days after the filer receives the commissioner's written notice of deficiency or disapproval. If a policy form is not resubmitted within thirty (30) days after receipt of the written notice, the commissioner's determination regarding the policy form is final.

(4) The commissioner shall review a policy form filing resubmitted under subdivision (3) and, not more than thirty (30) days after the commissioner receives the resubmission:

(A) approve the resubmitted policy form **or, if the filing is for a premium rate increase, schedule a public meeting under section 1.6 of this chapter;** or

(B) provide written notice that the commissioner disapproves the resubmitted policy form.

A written notice of disapproval provided by the commissioner

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under clause (B) must be based only on the requirements set forth in the document described in subsection (h), must cite the specific requirements not met by the filing, and must state the reasons for the commissioner's determination in detail. The commissioner's approval or disapproval of a resubmitted policy form under this subdivision is final, except that the commissioner may allow the filer to resubmit a further revised policy form if the filer, in the filer's resubmission under subdivision (3), introduced new provisions or materially modified a substantive provision of the policy form. If the commissioner allows a filer to resubmit a further revised policy form under this subdivision, the filer must resubmit the further revised policy form not more than thirty (30) days after the filer receives notice under clause (B), and the commissioner shall issue a final determination **or, if the filing is for a premium rate increase, schedule a public meeting under section 1.6 of this chapter**, on the further revised policy form not more than thirty (30) days after the commissioner receives the further revised policy form.

(5) If the commissioner disapproves a policy form filing under this subsection, the commissioner shall notify the filer, in writing, of the filer's right to a hearing as described in subsection (m). A disapproved policy form filing may not be used for a policy of accident and sickness insurance unless the disapproval is overturned in a hearing conducted under this subsection.

(6) If the commissioner does not take any action on a policy form that is:

- (A) **not a filing for a premium rate increase; and**
- (B) filed or resubmitted under this subsection in accordance with any applicable period specified in subdivision (2), (3), or (4);

the policy form filing is considered to be approved.

(7) If the policy form filing is a filing for a premium rate increase, before approval of the filing the commissioner shall:

- (A) **conduct a public meeting under section 1.6 of this chapter; and**
- (B) **consider oral and written comment received from the public concerning the increase in making a determination to approve or disapprove the filing.**

The commissioner shall make the determination not more than fifteen (15) days after conducting the public meeting.

(j) Except as provided in this subsection, the commissioner may not disapprove a policy form resubmitted under subsection (i)(3) or (i)(4)

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for a reason other than a reason specified in the original notice of determination under subsection (i)(2)(B). The commissioner may disapprove a resubmitted policy form for a reason other than a reason specified in the original notice of determination under subsection (i)(2) if:

- (1) the filer has introduced a new provision in the resubmission;
- (2) the filer has materially modified a substantive provision of the policy form in the resubmission;
- (3) there has been a change in requirements applying to the policy form; or
- (4) there has been reviewer error and the written disapproval fails to state a specific requirement with which the policy form does not comply.

(k) The commissioner may return a grossly inadequate filing to the filer without triggering a deadline set forth in this section.

(l) The commissioner may disapprove a policy form if:

- (1) the benefits provided under the policy form are not reasonable in relation to the premium charged; or
- (2) the policy form contains provisions that are unjust, unfair, inequitable, misleading, or deceptive, or that encourage misrepresentation of the policy.

(m) Upon disapproval of a filing under this section, the commissioner shall provide written notice to the filer or insurer of the right to a hearing within twenty (20) days of a request for a hearing.

(n) Unless a policy form approved under this chapter contains a material error or omission, the commissioner may not:

- (1) retroactively disapprove the policy form; or
- (2) examine the filer of the policy form during a routine or targeted market conduct examination for compliance with a policy form filing requirement that was not in existence at the time the policy form was filed.

(o) All communications between the commissioner and the filer or insurer concerning a premium rate increase filing:

(1) must be conducted:

(A) in writing; or

(B) at a public meeting conducted under section 1.6 of this chapter; and

(2) must be made available to the public upon request.

All documentation supporting a request for a premium rate increase filing and provided to the commissioner under this section must be made available to the public upon request.

SECTION 60. IC 27-8-5-1.6 IS ADDED TO THE INDIANA CODE

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AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 1.6. (a) Before approving a premium rate increase filing under section 1.5 of this chapter, the commissioner shall conduct a public meeting concerning the premium rate increase as provided in section 1.5(i) of this chapter.**

(b) The:

(1) commissioner shall publish on the department of insurance Internet web site; and

(2) filer or insurer proposing the premium rate increase shall send, by first class mail, to each policyholder that will be affected by the proposed premium rate increase;

notice of the public meeting one (1) time at least fifteen (15) days before the date of the public meeting.

(c) The notice described in subsection (b) must include the following:

(1) A statement of the date, time, place, and nature of the meeting.

(2) The name, official title, and contact information for the individual who will conduct the meeting.

(3) A statement of the factual basis for the proposed premium rate increase along with any supporting information from the commissioner and the filer or insurer.

(4) A reference to the specific statutes and administrative rules that relate to the proposed premium rate increase.

(5) A solicitation of oral or written comment from the public.

(6) The procedure to be followed during the meeting.

SECTION 61. IC 27-8-5-16.5, AS AMENDED BY P.L.127-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 16.5. (a) As used in this section, "delivery state" means any state other than Indiana in which a policy is delivered or issued for delivery.**

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

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

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

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

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

(A) substantially similar to the provisions required by:

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- (i) section 19 of this chapter;
 - (ii) section 21 of this chapter; and
 - (iii) IC 27-8-5.6; and
- (B) consistent with the requirements set forth in:
- (i) section 24 of this chapter;
 - (ii) IC 27-8-6;
 - (iii) IC 27-8-14;
 - (iv) IC 27-8-23;
 - (v) 760 IAC 1-38.1; and
 - (vi) 760 IAC 1-39.

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

- (1) the delivery state has a law substantially similar to section 16 of this chapter;
- (2) the delivery state has approved the group policy; and
- (3) the policy or the certificate contains provisions that are:
 - (A) substantially similar to the provisions required by:
 - (i) section 19 of this chapter or, if the policy or certificate is described in section 2.5(b)(2) of this chapter, section 2.5 of this chapter;
 - (ii) section ~~19.2~~ **19.3** of this chapter if the policy or certificate contains a waiver of coverage;
 - (iii) section 21 of this chapter; and
 - (iv) IC 27-8-5.6; and
 - (B) consistent with the requirements set forth in:
 - (i) section 15.6 of this chapter;
 - (ii) section 24 of this chapter;
 - (iii) section 26 of this chapter;
 - (iv) IC 27-8-6;
 - (v) IC 27-8-14;
 - (vi) IC 27-8-14.1;
 - (vii) IC 27-8-14.5;
 - (viii) IC 27-8-14.7;
 - (ix) IC 27-8-14.8;
 - (x) IC 27-8-20;
 - (xi) IC 27-8-23;
 - (xii) IC 27-8-24.3;
 - (xiii) IC 27-8-26;
 - (xiv) IC 27-8-28;
 - (xv) IC 27-8-29;

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- (xvi) 760 IAC 1-38.1; and
- (xvii) 760 IAC 1-39.

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

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

SECTION 62. IC 27-8-5-17, AS AMENDED BY P.L.218-2007, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 17. (a) A group accident and sickness insurance policy shall not be delivered or issued for delivery in Indiana to a group that is not described in section 16(1)(A), 16(2)(A), 16(3)(A), 16(4)(A), 16(5)(A), 16(6)(A), 16(7), or 16(8) of this chapter unless:

- (1) the group applies to the commissioner for approval as a discretionary group;**
- (2) the commissioner reviews the group according to the same standards as a group described in section 16 of this chapter; and**
- (3) the commissioner finds that:**
 - ~~(1)~~ **(A)** the issuance of the policy is not contrary to the best interest of the public;
 - ~~(2)~~ **(B)** the issuance of the policy would result in economies of acquisition or administration; and
 - ~~(3)~~ **(C)** the benefits of the policy are reasonable in relation to the premiums charged.

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

SECTION 63. IC 27-8-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) An association policy issued under this chapter may pay an amount for medically necessary eligible expenses related to the diagnosis or treatment of illness or injury that exceed the deductible and coinsurance amounts applicable under section 4 of this chapter. Payment under an association policy must be **made as follows:**

- (1) If an eligible expense would be covered under the federal Medicare program (42 U.S.C. 1395 et seq.), the association shall pay an amount equal to the amount that would be paid**

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for the eligible expense under the federal Medicare program plus twenty percent (20%).

(2) If an eligible expense would not be covered under the federal Medicare program, the association payment for the eligible expense must be based on one (1) or a combination of the following reimbursement methods, as determined by the board of directors:

~~(1)~~ **(A)** The association's usual and customary fee schedule in effect on January 1, 2004. If payment is based on the usual and customary fee schedule in effect on January 1, 2004, the rates of reimbursement under the fee schedule must be adjusted annually by a percentage equal to the percentage change in the Indiana medical care component of the Consumer Price Index for all Urban Consumers, as published by the United States Bureau of Labor Statistics during the preceding calendar year.

~~(2)~~ **(B)** A health care provider network arrangement. If payment is based on a health care provider network arrangement, reimbursement under an association policy must be made according to:

~~(A)~~ **(i)** a network fee schedule for network health care providers and nonnetwork health care providers; and

~~(B)~~ **(ii)** any additional coinsurance that applies to the insured under the association policy if the insured obtains health care services from a nonnetwork health care provider.

(b) Eligible expenses are the charges for the following health care services and articles to the extent furnished by a health care provider in an emergency situation or furnished or prescribed by a physician:

(1) Hospital services, including charges for the institution's most common semiprivate room, and for private room only when medically necessary, but limited to a total of one hundred eighty (180) days in a year.

(2) Professional services for the diagnosis or treatment of injuries, illnesses, or conditions, other than mental or dental, that are rendered by a physician or, at the physician's direction, by the physician's staff of registered or licensed nurses, and allied health professionals.

(3) The first twenty (20) professional visits for the diagnosis or treatment of one (1) or more mental conditions rendered during the year by one (1) or more physicians or, at their direction, by their staff of registered or licensed nurses, and allied health professionals.

(4) Drugs and contraceptive devices requiring a physician's

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prescription.

- (5) Services of a skilled nursing facility for not more than one hundred eighty (180) days in a year.
- (6) Services of a home health agency up to two hundred seventy (270) days of service a year.
- (7) Use of radium or other radioactive materials.
- (8) Oxygen.
- (9) Anesthetics.
- (10) Prostheses, other than dental.
- (11) Rental of durable medical equipment which has no personal use in the absence of the condition for which prescribed.
- (12) Diagnostic X-rays and laboratory tests.
- (13) Oral surgery for:
 - (A) excision of partially or completely erupted impacted teeth;
 - (B) excision of a tooth root without the extraction of the entire tooth; or
 - (C) the gums and tissues of the mouth when not performed in connection with the extraction or repair of teeth.
- (14) Services of a physical therapist and services of a speech therapist.
- (15) Professional ambulance services to the nearest health care facility qualified to treat the illness or injury.
- (16) Other medical supplies required by a physician's orders.

An association policy may also include comparable benefits for those who rely upon spiritual means through prayer alone for healing upon such conditions, limitations, and requirements as may be determined by the board of directors.

(c) A managed care organization that issues an association policy may not refuse to enter into an agreement with a hospital solely because the hospital has not obtained accreditation from an accreditation organization that:

- (1) establishes standards for the organization and operation of hospitals;
- (2) requires the hospital to undergo a survey process for a fee paid by the hospital; and
- (3) was organized and formed in 1951.

(d) This section does not prohibit a managed care organization from using performance indicators or quality standards that:

- (1) are developed by private organizations; and
- (2) do not rely upon a survey process for a fee charged to the hospital to evaluate performance.

(e) For purposes of this section, if benefits are provided in the form

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of services rather than cash payments, their value shall be determined on the basis of their monetary equivalency.

(f) The following are not eligible expenses in any association policy within the scope of this chapter:

(1) Services for which a charge is not made in the absence of insurance or for which there is no legal obligation on the part of the patient to pay.

(2) Services and charges made for benefits provided under the laws of the United States, including Medicare and Medicaid, military service connected disabilities, medical services provided for members of the armed forces and their dependents or for employees of the armed forces of the United States, medical services financed in the future on behalf of all citizens by the United States.

(3) Benefits which would duplicate the provision of services or payment of charges for any care for injury or disease either:

(A) arising out of and in the course of an employment subject to a worker's compensation or similar law; or

(B) for which benefits are payable without regard to fault under a coverage statutorily required to be contained in any motor vehicle or other liability insurance policy or equivalent self-insurance.

However, this subdivision does not authorize exclusion of charges that exceed the benefits payable under the applicable worker's compensation or no-fault coverage.

(4) Care which is primarily for a custodial or domiciliary purpose.

(5) Cosmetic surgery unless provided as a result of an injury or medically necessary surgical procedure.

(6) Any charge for services or articles the provision of which is not within the scope of the license or certificate of the institution or individual rendering the services.

(g) The coverage and benefit requirements of this section for association policies may not be altered by any other inconsistent state law without specific reference to this chapter indicating a legislative intent to add or delete from the coverage requirements of this chapter.

(h) This chapter does not prohibit the association from issuing additional types of health insurance policies with different types of benefits that, in the opinion of the board of directors, may be of benefit to the citizens of Indiana.

(i) This chapter does not prohibit the association or its administrator from implementing uniform procedures to review the medical necessity and cost effectiveness of proposed treatment, confinement, tests, or

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other medical procedures. Those procedures may take the form of preadmission review for nonemergency hospitalization, case management review to verify that covered individuals are aware of treatment alternatives, or other forms of utilization review. Any cost containment techniques of this type must be adopted by the board of directors and approved by the commissioner.

(j) The association may not be charged, and shall not pay, any fee associated with the association's use of a provider network.

SECTION 64. IC 27-8-10-15 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 15. (a) Notwithstanding section 2.1(g) of this chapter, following the close of the association's fiscal year, the association shall determine the net premiums, the expenses of administration, and the incurred losses for the year. Fifty percent (50%) of any net loss shall be assessed by the association to all members in proportion to their respective shares of total health insurance premiums as reported to the department of insurance, excluding premiums for Medicaid contracts with the state of Indiana, received in Indiana during the calendar year (or with paid losses in the year) coinciding with or ending during the fiscal year of the association. Fifty percent (50%) of any net loss shall be paid by the state. In sharing losses, the association may abate or defer in any part the assessment of a member, if, in the opinion of the board, payment of the assessment would endanger the ability of the member to fulfill its contractual obligations. The association may also provide for interim assessments against members of the association if necessary to assure the financial capability of the association to meet the incurred or estimated claims expenses or operating expenses of the association until the association's next fiscal year is completed. Net gains, if any, must be held at interest to offset future losses or allocated to reduce future premiums. Assessments must be determined by the board members specified in section 2.1(b)(1) of this chapter, subject to final approval by the commissioner.**

(b) The association shall periodically certify to the budget agency the amount necessary to pay fifty percent (50%) of any net loss as specified in subsection (a).

(c) This section expires June 30, 2013.

SECTION 65. IC 27-8-11-4.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 4.7. (a) As used in this section, "covered service" means a health care service for which any**

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coverage is provided under an insured's policy, regardless of whether payment under the policy for the health care service is contractually limited by a deductible, copayment, coinsurance, waiting period, annual or lifetime maximum, frequency limitation, alternative benefit payment, or another limitation.

(b) An insurer may not, under an agreement under section 3 of this chapter, require a dentist to accept an amount set by the insurer as payment for a health care service provided to an insured unless the health care service is a covered service under the insured's policy.

(c) This section does not apply to a discount medical card program provider agreement regulated under IC 27-17."

SECTION 66. IC 27-8-15-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. This chapter applies to any ~~individual~~ or group health insurance plan that is issued for delivery in Indiana to at least ~~three~~ ~~(3)~~ **two (2)** employees of a small employer located in Indiana if one (1) of the following conditions is met:

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

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

SECTION 67. IC 27-8-15-8.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8.5. (a) As used in this chapter, "eligible employee" means an employee:

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

(A) a sole proprietor; and

(B) a partner in a partnership;

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

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

(b) The term includes:

(1) a sole proprietor;

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**(2) a partner in a partnership; and
(3) an owner of an S corporation;**
regardless of whether the sole proprietor, partner, or owner is included as an employee for purposes of taxation of a small employer.

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

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

Page 28, line 35, delete "domestic".

Page 29, between lines 5 and 6, begin a new paragraph and insert:
"SECTION 71. IC 27-13-7-11.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 11.5. (a) The commissioner shall, before approving a filing of a proposed premium rate increase:**

- (1) conduct a public meeting under this section; and**
- (2) consider oral and written comment received from the public concerning the increase in making a determination to approve or disapprove the filing.**

The commissioner shall make the determination not more than fifteen (15) days after conducting the public meeting.

(b) The:

- (1) commissioner shall publish on the department of insurance Internet web site; and**
- (2) health maintenance organization proposing the premium rate increase shall send, by first class mail, to each subscriber that will be affected by the proposed premium rate increase; notice of the public meeting one (1) time at least fifteen (15) days before the date of the public meeting.**

(c) The notice described in subsection (b) must include the following:

- (1) A statement of the date, time, place, and nature of the meeting.**
- (2) The name, official title, and contact information for the individual who will conduct the meeting.**
- (3) A statement of the factual basis for the proposed premium rate increase along with any supporting information from the commissioner and the health maintenance organization.**
- (4) A reference to the specific statutes and administrative rules that relate to the proposed premium rate increase.**
- (5) A solicitation of oral or written comment from the public.**
- (6) The procedure to be followed during the meeting.**

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(d) All communications between the commissioner and the health maintenance organization concerning a premium rate increase filing:

(1) must be conducted:

(A) in writing; or

(B) at a public meeting conducted under this section; and

(2) must be made available to the public upon request.

All documentation supporting a request for a premium rate increase filing and provided to the commissioner under this chapter must be made available to the public upon request."

Page 29, delete lines 31 through 34, begin a new paragraph and insert:

"SECTION 73. IC 27-13-34-15.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: **Sec. 15.2. (a) As used in this section, "covered service" means a limited health service for which any coverage is provided under an enrollee's individual contract or group contract, regardless of whether payment under the individual contract or group contract for the health care service is contractually limited by a deductible, copayment, coinsurance, waiting period, annual or lifetime maximum, frequency limitation, alternative benefit payment, or another limitation.**

(b) A limited service health maintenance organization may not, under a contract described in section 15 of this chapter, require a dentist to accept an amount set by the limited service health maintenance organization as payment for a limited health service provided to an enrollee unless the limited health service is a covered service under the enrollee's individual contract or group contract.

(c) This section does not apply to a discount medical card program provider agreement regulated under IC 27-17."

Page 32, line 2, after "Internet" insert "web".

Page 32, line 6, delete "JULY 1, 2010]:" and insert "JULY 1, 2012]:".

Page 32, line 35, delete "JULY 1, 2010]:" and insert "JULY 1, 2012]:".

Page 32, delete lines 39 through 40, begin a new paragraph and insert:

"SECTION 78. 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:**

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- (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 79. 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~~ **(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 80. 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 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

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

SECTION 82. THE FOLLOWING ARE REPEALED [EFFECTIVE



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JULY 1, 2010]: IC 27-1-3.5-3; IC 27-1-3.5-3.5; IC 27-2-15-2.

SECTION 83. [EFFECTIVE JULY 1, 2010] (a) **IC 27-8-15, as amended by this act, applies to a health insurance plan (as defined in IC 27-8-15-9) that is issued, entered into, delivered, amended, or renewed after June 30, 2010.**

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

SECTION 84. [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 85. [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.**

SECTION 86. **An emergency is declared for this act."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 357 as reprinted February 2, 2010.)

FRY, Chair

Committee Vote: yeas 7, nays 0.

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