



January 29, 2010

HOUSE BILL No. 1240

DIGEST OF HB 1240 (Updated January 27, 2010 3:38 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 32-30; IC 32-31; IC 34-30; noncode.

Synopsis: Various insurance matters. Makes various changes to the law concerning: (1) pharmacy dispensing of certain prescriptions; (2) confidentiality and disclosures of insurer information related to examinations; (3) annual audited financial reporting; (4) foreign and alien insurer filing requirements; (5) insurance producer licensing; (6) insurance holding company transactions; (7) insurance administrator licensing; (8) insurance notice and set aside requirements for certain municipalities; (9) an unauthorized insurers exception in relation to an industrial insured; (10) consistency in application of certain requirements to various types of insurers and health maintenance organizations; (11) notice of foreclosure to residential property insurers; (12) requirements for out of state insurers for purposes of accident and sickness insurance; (13) passenger coverage under motor vehicle insurance policies; (14) small employer group insurance; (15) professional employer organizations; and (16) termination of residential property leases. Makes conforming amendments. Repeals definitions of unused terms.

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

Fry, Lehman

January 11, 2010, read first time and referred to Committee on Insurance.
January 28, 2010, amended, reported — Do Pass.

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January 29, 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.

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HOUSE BILL No. 1240

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

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

- 1 SECTION 1. IC 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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- 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 27-1-3.1-14 IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 14. (a) Upon the
42 adoption of an examination report under section 11(a)(1) of this

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1 chapter, the commissioner shall continue to hold the content of the
 2 examination report as confidential information for a period of thirty
 3 (30) days except to the extent provided in section 10(b) of this chapter.
 4 Thereafter, the report shall be open for public inspection.

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

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

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

24 SECTION 6. IC 27-1-3.1-15 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 15. All working papers,
 26 recorded information, documents, and copies thereof produced by,
 27 obtained by, or disclosed to the commissioner or any other person in
 28 the course of an examination under this chapter (**including trade**
 29 **secrets and information obtained from a federal agency, a foreign**
 30 **country, the National Association of Insurance Commissioners, or**
 31 **under another state law) are confidential for the purposes of**
 32 IC 5-14-3-4, are not subject to subpoena, and may not be made public
 33 by the commissioner or any other person, except to the extent provided
 34 in section 14 of this chapter. However, access may also be granted to
 35 the National Association of Insurance Commissioners. Those parties
 36 must agree in writing prior to receiving the information to provide to
 37 it the same confidential treatment as required by this section, unless the
 38 prior written consent of the company to which it pertains has been
 39 obtained.

40 SECTION 7. IC 27-1-3.5-0.5 IS ADDED TO THE INDIANA
 41 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 42 [EFFECTIVE JULY 1, 2010]: **Sec. 0.5. The commissioner may adopt**

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rules under IC 4-22-2 to implement this chapter.

SECTION 8. 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 9. 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 10. 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
 - (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 11. IC 27-1-3.5-2.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS

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1 [EFFECTIVE JULY 1, 2010]: **Sec. 2.8. (a) As used in this chapter,**
2 **"independent member" means an individual who is a member of**
3 **a committee or board established by an entity and meets all of the**
4 **following requirements:**

5 (1) **The individual does not, other than in the individual's**
6 **capacity as a member of an audit committee, a board of**
7 **directors, or another board committee of the entity, accept**
8 **any consulting fee, advisory fee, or other compensation from**
9 **the entity.**

10 (2) **The individual is not associated with:**

11 (A) **an affiliate of the entity; or**

12 (B) **a subsidiary of the entity or affiliate.**

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

16 (1) **another law requires participation on a board of directors**
17 **by an individual who is not an independent member;**

18 (2) **the individual is a member of the audit committee by**
19 **virtue of the individual's participation on the board of**
20 **directors described in subdivision (1); and**

21 (3) **the individual is not an officer or employee of the insurer**
22 **or an affiliate of the insurer.**

23 SECTION 12. IC 27-1-3.5-3.1 IS ADDED TO THE INDIANA
24 CODE AS A NEW SECTION TO READ AS FOLLOWS
25 [EFFECTIVE JULY 1, 2010]: **Sec. 3.1. As used in this chapter,**
26 **"insurer" refers to an insurer that is authorized under this title to**
27 **make any kind of insurance in Indiana.**

28 SECTION 13. IC 27-1-3.5-3.2 IS ADDED TO THE INDIANA
29 CODE AS A NEW SECTION TO READ AS FOLLOWS
30 [EFFECTIVE JULY 1, 2010]: **Sec. 3.2. As used in this chapter,**
31 **"insurer group" means a group of insurers that are:**

32 (1) **authorized to transact insurance business in Indiana and**
33 **subject to the reporting requirements of IC 27-1-23; or**

34 (2) **identified by the management personnel of an insurer to**
35 **assess the effectiveness of the insurer's internal control over**
36 **financial reporting.**

37 SECTION 14. IC 27-1-3.5-3.3 IS ADDED TO THE INDIANA
38 CODE AS A NEW SECTION TO READ AS FOLLOWS
39 [EFFECTIVE JULY 1, 2010]: **Sec. 3.3. (a) As used in this chapter,**
40 **"internal control over financial reporting" means a process that is:**

41 (1) **implemented by the board of directors, management**
42 **personnel, and other personnel of an entity; and**

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- 1 (2) designed to provide reasonable assurance that the entity's
2 financial statements are reliable.
- 3 **(b) The term includes policies and procedures that:**
- 4 **(1) pertain to the maintenance of records to accurately and**
5 **fairly reflect, in reasonable detail:**
- 6 **(A) transactions involving; and**
7 **(B) disposition of;**
8 **assets; and**
- 9 **(2) provide reasonable assurance that:**
- 10 **(A) transactions are recorded as necessary to permit**
11 **preparation of financial statements;**
- 12 **(B) receipts and expenditures are made only when**
13 **authorized by management personnel or directors; and**
- 14 **(C) unauthorized acquisition, use, or disposition of assets**
15 **that could have a material effect on financial statements is**
16 **prevented or detected in a timely manner.**
- 17 SECTION 15. IC 27-1-3.5-3.4 IS ADDED TO THE INDIANA
18 CODE AS A NEW SECTION TO READ AS FOLLOWS
19 [EFFECTIVE JULY 1, 2010]: **Sec. 3.4. As used in this chapter,**
20 **"SEC" refers to the federal Securities and Exchange Commission.**
- 21 SECTION 16. IC 27-1-3.5-3.6 IS ADDED TO THE INDIANA
22 CODE AS A NEW SECTION TO READ AS FOLLOWS
23 [EFFECTIVE JULY 1, 2010]: **Sec. 3.6. As used in this chapter,**
24 **"Section 404" refers to:**
- 25 **(1) Section 404; and**
26 **(2) SEC regulations promulgated under Section 404;**
27 **of the federal Sarbanes-Oxley Act of 2002.**
- 28 SECTION 17. IC 27-1-3.5-3.7 IS ADDED TO THE INDIANA
29 CODE AS A NEW SECTION TO READ AS FOLLOWS
30 [EFFECTIVE JULY 1, 2010]: **Sec. 3.7. As used in this chapter,**
31 **"Section 404 report" means a report of the management of an**
32 **entity concerning internal control over financial reporting and the**
33 **related attestation report of the entity's accountant.**
- 34 SECTION 18. IC 27-1-3.5-3.8 IS ADDED TO THE INDIANA
35 CODE AS A NEW SECTION TO READ AS FOLLOWS
36 [EFFECTIVE JULY 1, 2010]: **Sec. 3.8. As used in this chapter,**
37 **"Sarbanes-Oxley compliant entity" means an entity that complies**
38 **with all of the following provisions of the federal Sarbanes-Oxley**
39 **Act of 2002:**
- 40 **(1) The preapproval requirements of Section 201 (Section**
41 **10A(i) of the federal Securities Exchange Act of 1934).**
- 42 **(2) The audit committee independence requirements of**

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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 19. 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 20. 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 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~~

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1 audited financial report, ~~from the requirement to file an audited~~
2 ~~financial report with the commissioner under this chapter, if:~~

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

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

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

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

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

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

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

28 SECTION 21. IC 27-1-3.5-6 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) ~~A domestic An~~
30 ~~insurer shall have an audit by an independent auditor every year~~
31 **accountant** and shall file an audited financial report with the
32 commissioner every year ~~before not later than the~~ June 1 immediately
33 following the December 31 that ends the year reported on in the
34 financial report. The commissioner may require ~~a domestic an~~ insurer
35 to file an audited financial report earlier than June 1 if the
36 commissioner gives the ~~domestic~~ insurer ninety (90) days advance
37 notice of the earlier filing date.

38 (b) An extension of the June 1 filing date may be granted by the
39 commissioner for thirty (30) days upon a showing by the insurer and ~~its~~
40 ~~independent auditor~~ **the insurer's accountant** of the reasons for
41 requesting the extension and a determination by the commissioner that
42 there is good cause for an extension. The request for an extension must

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1 be submitted in writing at least ten (10) days before the due date and
2 must include sufficient detail to permit the commissioner to make an
3 informed decision with respect to the requested extension.

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

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

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

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

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

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

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

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

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

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1 **accounting practices and procedures manual; and**
 2 **(B) include the following:**
 3 ~~(A)~~ a reconciliation of differences, if any, between the **audited**
 4 **statutory** financial statements included in the **audited**
 5 **financial report** and the annual **financial** statement filed by the
 6 insurer under IC 27-1-20-21, including a written description of
 7 the nature of these differences.
 8 ~~(B)~~ ~~A summary of the ownership and relationships of the~~
 9 ~~domestic insurer and all affiliated companies:~~
 10 ~~(d)~~ **(c)** The financial statements included in ~~a domestic an~~ insurer's
 11 **annual** audited financial report shall be prepared in the same form, and
 12 using language and groupings substantially the same, as the relevant
 13 sections of the annual statement of the insurer filed with the
 14 commissioner under IC 27-1-20-21.
 15 ~~(e)~~ **(d)** The financial statements included in ~~a domestic an~~ insurer's
 16 **annual** audited financial report must be comparative, presenting the
 17 amounts as of December 31 of the year of the report and comparative
 18 amounts as of the immediately preceding December 31. However, in
 19 the first year in which an insurer is required to file an **annual** audited
 20 financial report under this chapter, the comparative data may be
 21 omitted.
 22 SECTION 23. IC 27-1-3.5-7.2 IS ADDED TO THE INDIANA
 23 CODE AS A NEW SECTION TO READ AS FOLLOWS
 24 [EFFECTIVE JULY 1, 2010]: **Sec. 7.2. (a) This section does not**
 25 **apply to:**
 26 **(1) a foreign or an alien insurer that has a certificate of**
 27 **authority to transact insurance business in Indiana;**
 28 **(2) an insurer that is a Sarbanes-Oxley compliant entity; or**
 29 **(3) a wholly owned subsidiary of a Sarbanes-Oxley compliant**
 30 **entity.**
 31 **(b) Each member of an insurer's audit committee must be a**
 32 **member of the board of directors of:**
 33 **(1) the insurer; or**
 34 **(2) an entity elected under subsection (d) as described in**
 35 **section 1.4(2) of this chapter.**
 36 **(c) If an independent member of an audit committee ceases to**
 37 **be independent for reasons beyond the member's reasonable**
 38 **control, the member, with notice from the responsible entity to the**
 39 **commissioner, may remain an audit committee member until the**
 40 **earlier of:**
 41 **(1) the date of the next annual meeting of the responsible**
 42 **entity; or**

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

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1 system; and
 2 (2) any substantial differences among insurer members in the
 3 insurance holding company system are identified to the audit
 4 committee of the insurance holding company system;
 5 the reports required by subsection (f) may be provided to the audit
 6 committee on an aggregate basis for all insurer members.

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

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

13 (2) If the insurer's immediately preceding calendar year
 14 direct written and assumed premiums are more than three
 15 hundred million dollars (\$300,000,000) and not more than five
 16 hundred million dollars (\$500,000,000), at least fifty percent
 17 (50%) of members must be independent members.

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

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

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

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

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

38 SECTION 24. IC 27-1-3.5-7.4 IS ADDED TO THE INDIANA
 39 CODE AS A NEW SECTION TO READ AS FOLLOWS
 40 [EFFECTIVE JULY 1, 2010]: **Sec. 7.4. (a) A director or an officer of**
 41 **an insurer shall not, directly or indirectly, in connection with an**
 42 **audit, review, or communication required under this chapter:**

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

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1 provisions of IC 27 and the administrative rules of the department
 2 of insurance **of the insurer's state of domicile** that relate to
 3 ~~auditing~~, accounting and financial matters; and
 4 (2) affirms that the ~~independent auditor~~ **accountant** will express
 5 ~~its the accountant's~~ opinion on the financial statements ~~of the~~
 6 ~~domestic insurer~~ in the terms of their conformity to the statutory
 7 accounting practices prescribed or otherwise permitted by the
 8 department, specifying such exceptions as the ~~independent~~
 9 ~~auditor~~ **accountant** may believe appropriate.
 10 The ~~domestic~~ insurer shall file a copy of this letter with the
 11 commissioner.
 12 (c) If an ~~independent auditor~~ **accountant** that ~~served as the~~
 13 **accountant for the immediately preceding annual** audited the ~~most~~
 14 ~~recent~~ financial report filed by the insurer with the commissioner under
 15 this chapter subsequently ceases to be the ~~independent auditor~~
 16 **accountant** for the insurer, the insurer shall:
 17 (1) not more than five (5) business days after the cessation of the
 18 ~~independent auditor's~~ **accountant's** services, notify the
 19 commissioner in writing of the ~~identity and address of the new~~
 20 ~~independent auditor~~; **cessation**;
 21 (2) not more than ten (10) business days after the notification
 22 given ~~in~~ **under** subdivision (1), furnish the commissioner with a
 23 separate letter that states whether in the twenty-four (24) months
 24 preceding the ~~engagement~~ **cessation** of the ~~new independent~~
 25 ~~auditor~~ **accountant's services** there were any disagreements
 26 between the insurer and ~~its the~~ former ~~independent auditor~~
 27 **accountant** on any matter of accounting principles or practices,
 28 financial statement disclosure, or auditing scope or procedure,
 29 which, if not resolved to the satisfaction of the former
 30 ~~independent auditor~~ **accountant**, would have caused the former
 31 ~~independent auditor~~ **accountant** to make reference to the subject
 32 matter of the disagreement in **connection with** the former
 33 ~~independent auditor's~~ statement of ~~its~~ **accountant's** opinion. ~~on~~
 34 ~~the insurer's financial report~~, and, if there was such a
 35 disagreement, ~~provides a description of the disagreement~~.
 36 Disagreements required to be reported under this subdivision
 37 include those at the decision making level that were resolved:
 38 (A) to the former accountant's satisfaction; and
 39 (B) not to the former accountant's satisfaction; and
 40 (3) comply with subsection (d).
 41 For the purposes of this subsection, "decision making level" refers to
 42 the personnel of the insurer who are responsible for the presentation of

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1 the insurer's financial statements and the personnel of the ~~independent~~
2 ~~auditor accountant~~ who are responsible for rendering the ~~opinion of~~
3 ~~the auditor on the~~ insurer's **annual audited** financial report.

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

6 (1) provide its former ~~independent auditor accountant~~ with a
7 copy of the letter furnished to the commissioner under subsection
8 (c)(2); and

9 (2) request in writing its former ~~independent auditor accountant~~
10 to furnish a letter addressed to the insurer stating whether the
11 former ~~independent auditor accountant~~ agrees with the
12 statements contained in the letter furnished to the commissioner
13 under subsection (c)(2) and, if not, stating the reasons for the
14 former ~~independent auditor's accountant's~~ disagreement.

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

19 SECTION 26. IC 27-1-3.5-9 IS AMENDED TO READ AS
20 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. (a) **An accountant**
21 **that audits an insurer's annual audited financial report filed under**
22 **section 6 of this chapter must be recognized by the commissioner**
23 **to be qualified to serve as the insurer's accountant.**

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

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

29 (2) in good standing with:

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

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

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

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

41 (1) **is an accountant under section 1 of this chapter; and**
42 (2) **conforms to the standards of the accountant's profession**

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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.

~~(b)~~ (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.

~~(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 ~~(IC 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

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1 failing to detect or disclose material information in previous
2 reports filed under this chapter.

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

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

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

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

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

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

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

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

34 **(5) Internal audit outsourcing services.**

35 **(6) Management functions or human resources.**

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

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

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

41 **(h) An insurer that has direct written and assumed premiums**
42 **totaling less than one hundred million dollars (\$100,000,000) in a**

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1 calendar year may request relief from subsection (g) by filing with
2 the commissioner a written statement describing the reasons the
3 insurer should be exempt from subsection (g). The commissioner
4 may grant the relief if, upon review of the written statement, the
5 commissioner finds that compliance with subsection (g) would
6 constitute a financial or organizational hardship on the insurer.

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

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

13 (2) served:
14 (A) as a member of the board;
15 (B) as the president;
16 (C) as the chief executive officer;
17 (D) as the controller;
18 (E) as the chief financial officer;
19 (F) as the chief accounting officer; or
20 (G) in another position equivalent to a position specified in
21 clauses (A) through (F);

22 for the insurer; and

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

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

29 (j) A qualified accountant that performs an audit may perform
30 for an insurer other nonaudit services, including tax services, that
31 are not described in subsection (g) or that do not conflict with
32 subsection (g)(2) if the performance of the nonaudit services is
33 preapproved by the insurer's audit committee under subsection (k).

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

38 (1) the insurer is:
39 (A) a Sarbanes-Oxley compliant entity; or
40 (B) a wholly owned subsidiary of a Sarbanes-Oxley
41 compliant entity; or

42 (2) all of the following apply:

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(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 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

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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 evidence of the relief in an electronic format that is acceptable to the National Association of Insurance Commissioners.

SECTION 27. 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 28. 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 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,~~ **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.****

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- 1 (2) Amounts for each insurer subject to this section shall be stated
- 2 separately.
- 3 (3) Noninsurance operations shall be shown on the ~~schedule~~
- 4 **worksheet on a combined or** an individual basis.
- 5 (4) Explanations of consolidating and eliminating entries shall be
- 6 included.
- 7 (5) A reconciliation shall be included of any differences between
- 8 the amounts shown in the individual insurer columns of the
- 9 ~~schedule worksheet~~ and comparable amounts shown on the
- 10 annual statements of the insurers.

11 SECTION 29. IC 27-1-3.5-11 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11. (a) ~~A domestic An~~
 13 insurer required to file **an** annual audited financial ~~reports report~~
 14 under this chapter shall require ~~its independent auditor~~ **the insurer's**
 15 **accountant** to report in writing to the board of directors or the ~~board~~
 16 ~~of director's~~ audit committee, not more than five (5) business days after
 17 making ~~a the~~ determination, the ~~independent auditor's accountant's~~
 18 determination that:

- 19 (1) the ~~domestic~~ insurer has materially misstated to the
- 20 commissioner the financial condition of the insurer as of the date
- 21 of the balance sheet being ~~examined audited~~ by the ~~independent~~
- 22 ~~auditor; accountant; or~~
- 23 (2) the ~~domestic~~ insurer does not meet the minimum capital and
- 24 surplus requirements ~~of Indiana of this title~~ as of the date of the
- 25 balance sheet being ~~examined audited~~ by the ~~independent~~
- 26 ~~auditor; accountant.~~

27 The ~~domestic~~ insurer ~~who that~~ has received a report under this section
 28 shall forward a copy of the report to the commissioner within five (5)
 29 business days after receipt of the report and shall provide the
 30 ~~independent~~ accountant making the report with evidence of the report
 31 being furnished to the commissioner. An ~~independent auditor who~~
 32 **accountant that** does not receive the evidence that the report was filed
 33 with the commissioner within the required five (5) business days shall
 34 furnish the commissioner a copy of the report within the next five (5)
 35 business days. An ~~independent auditor may~~ **accountant is** not be liable
 36 to any person for a statement made in connection with this subsection,
 37 if the statement is made in good faith compliance with this subsection.

38 (b) If the ~~independent auditor accountant~~ of a ~~domestic an~~ insurer,
 39 after the filing of the insurer's **annual** audited financial report under
 40 this chapter, becomes aware of facts that, if the ~~independent auditor~~
 41 **accountant** had been aware of the facts when writing ~~its the~~
 42 **accountant's** report, might have affected the ~~independent auditor's~~

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1 **accountant's** report that was included in the insurer's **annual** audited
2 financial report, the ~~independent auditor~~ **accountant** shall take such
3 action as is prescribed in ~~the~~ **Volume 1, Section AU 561 of the**
4 Professional Standards of the American Institute of Certified Public
5 Accountants.

6 SECTION 30. IC 27-1-3.5-12 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12. (a) ~~A domestic An~~
8 insurer required by this chapter to file an **annual** audited financial
9 report with the commissioner shall also furnish the commissioner with:

- 10 (1) a written report ~~(or a letter on reportable conditions)~~
11 **describing the significant deficiencies communication regarding**
12 **any unremediated material weakness (as defined in Statement**
13 **on Auditing Standard No. 112 of the American Institute of**
14 **Certified Public Accountants)** in the insurer's internal control
15 structure; if internal control deficiencies were **over financial**
16 **reporting as of the December 31 immediately preceding the**
17 **filing** noted by the ~~domestic insurer's independent auditor in~~
18 ~~connection with its accountant during the~~ audit; and
19 (2) a written discussion **description** of any remedial action taken
20 or proposed in connection with **to correct any unremediated**
21 **material weakness communicated in** the written report; and
22 (3) **if no material weakness is noted by the accountant during**
23 **the audit, a written communication noting that fact.**

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

28 SECTION 31. IC 27-1-3.5-12.5 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12.5. ~~The independent~~
30 ~~auditor~~ **An insurer's accountant** shall furnish the ~~domestic~~ insurer, in
31 connection with and for inclusion in the filing of the annual audited
32 financial report, a letter stating the following:

- 33 (1) That the ~~independent auditor~~ **accountant** is independent with
34 respect to the insurer and conforms to the standards of the
35 ~~independent auditor's~~ **accountant's** profession as contained in the
36 Code of Professional Ethics and Pronouncements of the American
37 Institute of Certified Public Accountants and the rules of
38 professional conduct of the Indiana state board of accountancy **or**
39 **a similar code.**
- 40 (2) The:
 - 41 (A) general background and experience; and
 - 42 (B) experience in audits of insurers;

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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 32. IC 27-1-3.5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 13. (a) ~~A domestic An~~ **An** 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

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1 examination covering the period of the audit but not later than seven
2 (7) years after the date of the audit report.

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

11 SECTION 33. IC 27-1-3.5-13.8 IS ADDED TO THE INDIANA
12 CODE AS A NEW SECTION TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2010]: **Sec. 13.8. (a) An insurer that is**
14 **required to file an audited financial report under this chapter and**
15 **has annual direct written and assumed premiums (excluding**
16 **premiums reinsured with the Federal Crop Insurance Corporation**
17 **and National Flood Insurance Program) equal to at least five**
18 **hundred million dollars (\$500,000,000) shall:**

- 19 (1) prepare the insurer's or insurer group's report of internal
20 control over financial reporting as of the December 31
21 immediately preceding the report; and
- 22 (2) file the report prepared under subdivision (1) with the
23 commissioner, along with the communication required under
24 section 12 of this chapter.

25 (b) The commissioner may require an insurer that has any
26 amount of annual direct written and assumed premiums to file the
27 insurer's report of internal controls over financial reporting if the
28 insurer:

- 29 (1) meets one (1) or more of the standards of an insurer
30 considered to be in hazardous financial condition as
31 determined by the commissioner according to rules adopted
32 under IC 4-22-2; or
- 33 (2) experiences a risk based capital level event described in
34 IC 27-1-36.

- 35 (c) An insurer or insurer group that:
 - 36 (1) is subject to subsection (a) or (b);
 - 37 (2) is:
 - 38 (A) directly subject to Section 404;
 - 39 (B) part of a holding company system whose parent is
40 directly subject to Section 404;
 - 41 (C) not directly subject to Section 404 and is a
42 Sarbanes-Oxley compliant entity; or

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

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

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1 over financial reporting, the insurer's or insurer group's
 2 management personnel shall not conclude that the internal control
 3 over financial reporting is effective to provide reasonable
 4 assurance regarding the reliability of the insurer's or insurer
 5 group's financial statements in accordance with statutory
 6 accounting principles.

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

10 SECTION 34. IC 27-1-3.5-14 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 14. (a) In response to
 12 a written application from a ~~domestic an~~ insurer, the commissioner
 13 may grant an exemption from compliance with this chapter if the
 14 commissioner finds, upon review of the application, that compliance
 15 with this chapter would constitute a financial or an organizational
 16 hardship upon the ~~domestic~~ insurer. An exemption may be granted at
 17 any time for a specified period.

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

22 SECTION 35. IC 27-1-3.5-16 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 16. (a) A domestic
 24 insurer that:

25 (1) is required to file an annual audited financial report under
 26 this chapter; and

27 (2) fails to file an audited annual financial report before July 1 or
 28 any other deadline established by the commissioner for the insurer
 29 under this chapter without having obtained an extension;

30 is subject to a civil penalty of fifty dollars (\$50) per day until the report
 31 is received prescribed in rules adopted by the commissioner.

32 (b) Except as provided in subsections (d), (e), and (f), a domestic
 33 insurer shall comply with this chapter, as amended by amendments
 34 effective July 1, 2010, for the year ending December 31, 2010, and
 35 each subsequent year unless otherwise permitted by the
 36 commissioner.

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

42 (d) The requirements of section 9(e) of this chapter are in effect

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1 for an annual audited financial report for the year ending
2 December 31, 2010, and each subsequent year.

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

7 (1) section 7.2(h)(1) of this chapter and in a subsequent
8 calendar year is described in section 7.2(h)(2) or 7.2(h)(3) of
9 this chapter; or

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

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

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

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

37 SECTION 37. IC 27-1-9-12 IS AMENDED TO READ AS
38 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12. (a) In case of a
39 merger or consolidation between a domestic and a foreign company,
40 the articles of merger or consolidation shall be regarded as executed by
41 the proper officers of said foreign company when such officers are duly
42 authorized to execute same through such action on the part of the

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

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

28 SECTION 38. IC 27-1-15.6-7 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) Unless denied
 30 licensure under section 12 of this chapter, a person who has met the
 31 requirements of sections 5 and 6 of this chapter shall be issued an
 32 insurance producer license. An insurance producer may receive
 33 qualification for a license in one (1) or more of the following lines of
 34 authority:

- 35 (1) Life — insurance coverage on human lives, including benefits
 36 of endowment and annuities, that may include benefits in the
 37 event of death or dismemberment by accident and benefits for
 38 disability income.
- 39 (2) Accident and health or sickness — insurance coverage for
 40 sickness, bodily injury, or accidental death that may include
 41 benefits for disability income.
- 42 (3) Property — insurance coverage for the direct or consequential

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

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

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

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

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

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

34 SECTION 39. IC 27-1-15.6-9 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. (a) An individual
 36 who applies for an insurance producer license in Indiana and who was
 37 previously licensed for the same lines of authority in another state is
 38 not required to complete any prelicensing education or examination.
 39 However, the exemption provided by this subsection is available only
 40 if:

- 41 (1) the individual is currently licensed in the other state; or
 42 (2) the application is received within ninety (90) days after the

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1 cancellation of the applicant's previous license and:
 2 (A) the other state issues a certification that, at the time of
 3 cancellation, the applicant was in good standing in that state;
 4 or
 5 (B) the state's Producer Database records that are maintained
 6 by the National Association of Insurance Commissioners, its
 7 affiliates, or its subsidiaries, indicate that the producer is or
 8 was licensed in good standing for the line of authority
 9 requested.

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

18 (c) An individual who:
 19 (1) has attained the designation of chartered life underwriter,
 20 certified financial planner, ~~or~~ chartered financial consultant, **or**
 21 **another nationally recognized designation approved by the**
 22 **commissioner or the National Association of Insurance**
 23 **Commissioners; and**
 24 (2) applies for an insurance producer license in Indiana requesting
 25 qualification under sections:
 26 (A) 7(a)(1);
 27 (B) 7(a)(2); or
 28 (C) 7(a)(5);
 29 of this chapter;
 30 is not required to complete prelicensing education and is required to
 31 take only the portion of the examination required under section 5(b) of
 32 this chapter that pertains to Indiana laws and rules.

33 (d) An individual who: ~~has:~~
 34 (1) **has** attained the designation of chartered property and casualty
 35 underwriter, certified insurance counselor, ~~or~~ accredited advisor
 36 in insurance, **or another nationally recognized designation**
 37 **approved by the commissioner or the National Association of**
 38 **Insurance Commissioners; and**
 39 (2) applies for an insurance producer license in Indiana requesting
 40 qualification under sections:
 41 (A) 7(a)(3);
 42 (B) 7(a)(4); or

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- 1 (C) 7(a)(6);
 2 of this chapter;
 3 is not required to complete prelicensing education and is required to
 4 take only the portion of the examination required under section 5(b) of
 5 this chapter that pertains to Indiana laws and rules.
 6 **(e) An individual who:**
 7 **(1) has attained a bachelor's degree in insurance; and**
 8 **(2) applies for an insurance producer license in Indiana**
 9 **requesting qualification under section 7(a)(1) through 7(a)(6)**
 10 **of this chapter;**
 11 **is not required to complete prelicensing education and is required**
 12 **to take only the part of the examination required under section**
 13 **5(b) of this chapter that pertains to Indiana laws and rules.**
 14 SECTION 40. IC 27-1-15.6-12, AS AMENDED BY P.L.27-2007,
 15 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2010]: Sec. 12. (a) For purposes of this section, "permanently
 17 revoke" means that:
 18 (1) the producer's license shall never be reinstated; and
 19 (2) the former licensee, after the license revocation, is not eligible
 20 to submit an application for a license to the department.
 21 (b) The commissioner may **reprimand**, levy a civil penalty, place
 22 an insurance producer on probation, suspend an insurance producer's
 23 license, revoke an insurance producer's license for a period of years,
 24 permanently revoke an insurance producer's license, or refuse to issue
 25 or renew an insurance producer license, or take any combination of
 26 these actions, for any of the following causes:
 27 (1) Providing incorrect, misleading, incomplete, or materially
 28 untrue information in a license application.
 29 (2) Violating:
 30 (A) an insurance law;
 31 (B) a regulation;
 32 (C) a subpoena of an insurance commissioner; or
 33 (D) an order of an insurance commissioner;
 34 of Indiana or of another state.
 35 (3) Obtaining or attempting to obtain a license through
 36 misrepresentation or fraud.
 37 (4) Improperly withholding, misappropriating, or converting any
 38 monies or properties received in the course of doing insurance
 39 business.
 40 (5) Intentionally misrepresenting the terms of an actual or
 41 proposed insurance contract or application for insurance.
 42 (6) Having been convicted of a felony.

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

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1 shall be conducted under IC 4-21.5.

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

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

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

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

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

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

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

- 36 (1) insurance written on the interests of:
37 (A) the applicant or licensee;
38 (B) the applicant's or licensee's immediate family; or
39 (C) the applicant's or licensee's employer; or
40 (2) insurance covering:
41 (A) the applicant or licensee;
42 (B) members of the applicant's or licensee's immediate family;

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1 or
 2 (C) either:
 3 (i) a corporation, limited liability company, association, or
 4 partnership; or
 5 (ii) the officers, directors, substantial stockholders, partners,
 6 members, managers, employees of such a corporation,
 7 limited liability company, association, or partnership;
 8 of which the applicant or licensee or a member of the
 9 applicant's or licensee's immediate family is an officer,
 10 director, substantial stockholder, partner, member, manager,
 11 associate, or employee.

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

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

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

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

- 33 (1) subsection (b)(4);
- 34 (2) subsection (b)(7);
- 35 (3) subsection (b)(8); or
- 36 (4) subsection (b)(16).

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

41 SECTION 41. IC 27-1-15.7-2, AS AMENDED BY P.L.173-2007,
 42 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 JULY 1, 2010]: Sec. 2. (a) Except as provided in subsection (b), to
2 renew a license issued under IC 27-1-15.6,

3 ~~(1) a resident insurance producer must complete at least twenty~~
4 ~~(20) twenty-four (24) hours of credit in continuing education~~
5 ~~courses. and~~

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

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

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

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

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

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

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

42 (d) To satisfy the requirements of subsection (a) or (b), a licensee

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1 may use only those credit hours earned in continuing education courses
2 completed by the licensee:

- 3 (1) after the effective date of the licensee's last renewal of a
4 license under this chapter; or
5 (2) if the licensee is renewing a license for the first time, after the
6 date on which the licensee was issued the license under this
7 chapter.

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

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

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

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

- 21 (1) a continuing education statement that:
22 (A) is in a format authorized by the commissioner;
23 (B) is signed by the licensee under oath; and
24 (C) lists the continuing education courses completed by the
25 licensee to satisfy the continuing education requirements of
26 this section; and

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

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

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

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

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

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

42 SECTION 42. IC 27-1-15.7-5 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) To qualify as a
 2 certified prelicensing course of study for purposes of IC 27-1-15.6-6,
 3 an insurance producer program of study must meet all of the following
 4 criteria:

5 (1) Be conducted or developed by an:

6 (A) insurance trade association;

7 (B) accredited college or university;

8 (C) educational organization certified by the insurance
 9 producer education and continuing education advisory council;

10 or

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

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

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

17 (i) ethical practices in the marketing and selling of
 18 insurance;

19 (ii) requirements of the insurance laws and administrative
 20 rules of Indiana; and

21 (iii) principles of life insurance.

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

25 (i) ethical practices in the marketing and selling of
 26 insurance;

27 (ii) requirements of the insurance laws and administrative
 28 rules of Indiana; and

29 (iii) principles of health insurance.

30 (C) For life and health insurance producers, not less than forty
 31 **(40)** hours of instruction in a structured setting or comparable
 32 self-study on:

33 (i) ethical practices in the marketing and selling of
 34 insurance;

35 (ii) requirements of the insurance laws and administrative
 36 rules of Indiana;

37 (iii) principles of life insurance; and

38 (iv) principles of health insurance.

39 (D) For property and casualty insurance producers, not less
 40 than forty **(40)** hours of instruction in a structured setting or
 41 comparable self-study on:

42 (i) ethical practices in the marketing and selling of

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

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1 study for purposes of IC 27-1-15.6-6.

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

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

9 SECTION 43. IC 27-1-17-4, AS AMENDED BY P.L.193-2006,
10 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2010]: Sec. 4. Whenever a foreign or an alien insurance
12 company desires to be admitted to do an insurance business in this
13 state, it shall execute in the English language and present the following
14 to the department, at its office, accompanied by the fees prescribed by
15 law:

16 (1) A copy of its articles of incorporation or association, with all
17 amendments thereto, duly authenticated by the proper officer of
18 the state, country, province, or government wherein it is
19 incorporated or organized, or the state in which it is domiciled in
20 the United States.

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

23 (A) the name of such company;

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

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

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

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

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

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(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 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

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1 so long as any liability of the insurance company remains
 2 outstanding in this state. Such power of attorney shall be executed
 3 by the president and secretary of the insurance company or other
 4 duly authorized officers under its seal and shall be accompanied
 5 by a certified copy of the resolution of the board of directors of
 6 the company making said appointment and authorizing the
 7 execution of said power of attorney. Service of any lawful process
 8 shall be by delivering to and leaving with the agent two (2) copies
 9 of such process, with copy of the pertinent complaint attached.
 10 The agent shall forthwith transmit to the defendant company at its
 11 last known principal place of business by registered or certified
 12 mail, return receipt requested, one (1) of the copies of such
 13 process, with complaint attached, the other copy to be retained in
 14 a record which shall show all process served upon and transmitted
 15 by him. Such service shall be sufficient provided the returned
 16 receipt or, if the defendant company shall refuse to accept such
 17 mailing, the registered mail together with an affidavit of plaintiff
 18 or his attorney stating that service was made upon the agent and
 19 forwarded as above set forth but that such mail was returned by
 20 the post office department is filed with the court. The agent shall
 21 make information and receipts available to plaintiff, defendant, or
 22 their attorneys. No plaintiff or complainant shall be entitled to a
 23 judgment by default based on service authorized by this section
 24 until the expiration of at least thirty (30) days from the date on
 25 which either the post office receipt or the unclaimed mail together
 26 with affidavit is filed with the court. Nothing in this section shall
 27 limit or abridge the right to serve any process, notice, or demand
 28 upon any company in any other manner permitted by law.
 29 (8) Proof which satisfies the department that it has complied with
 30 the financial requirements imposed in this chapter upon foreign
 31 and alien insurance companies which transact business in this
 32 state and that it is entitled to public confidence and that its
 33 admission to transact business in this state will not be prejudicial
 34 to public interest.
 35 SECTION 44. IC 27-1-18-4 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) Any foreign or
 37 alien corporation admitted to do business in this state may alter or
 38 enlarge the character of the business which it is authorized to transact
 39 in this state under its articles of incorporation or association, and any
 40 amendments thereof filed with the department as provided in section
 41 3 of this chapter, by procuring an amended certificate of authority from
 42 the department in the manner provided in subsection (b).

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

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

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

30 SECTION 45. IC 27-1-23-4 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) Material
 32 transactions within an insurance holding company system to which an
 33 insurer subject to registration is a party shall be subject to the following
 34 standards:

- 35 (1) The terms shall be fair and reasonable.
- 36 (2) The charges or fees for services performed shall be
 37 reasonable.
- 38 (3) The expenses incurred for any payment received shall be
 39 allocated to the insurer in conformity with customary insurance
 40 accounting practices consistently applied.
- 41 (4) The books, accounts, and records of each party as to all
 42 transactions described in this subsection shall be so maintained as

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1 to clearly and accurately disclose the precise nature and details of
2 the transactions, including accounting information necessary to
3 support the reasonableness of the charges or fees to the respective
4 parties.

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

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

15 (1) Sales, purchases, exchanges, loans or extensions of credit,
16 guarantees, or investments, provided those transactions are equal
17 to or exceed:

18 (A) with respect to nonlife insurers, the lesser of three percent
19 (3%) of the insurer's admitted assets or twenty-five percent
20 (25%) of surplus as regards policyholders; and

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

23 each as of December 31 next preceding.

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

32 (A) with respect to nonlife insurers, the lesser of three percent
33 (3%) of the insurer's admitted assets or twenty-five percent
34 (25%) of surplus as regards policyholders; and

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

37 each as of December 31 next preceding.

38 (3) Reinsurance agreements or modifications thereto in which the
39 amount of cash or invested assets transferred by the insurer equals
40 or exceeds five percent (5%) of the insurer's surplus as regards
41 policyholders, as of December 31 next preceding, including those
42 agreements that may require as consideration the transfer of assets

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1 from an insurer to a nonaffiliate, if an agreement or understanding
 2 exists between the insurer and nonaffiliate that any portion of the
 3 assets will be transferred to one (1) or more affiliates of the
 4 insurer.

5 (4) Management agreements, service contracts, ~~and~~ cost-sharing
 6 arrangements, **lease agreements, and tax allocation**
 7 **agreements.**

8 (5) Material transactions, specified by rule, that the commissioner
 9 determines may adversely affect the interests of the insurer's
 10 policyholders.

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

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

19 (d) The commissioner, in reviewing transactions pursuant to
 20 subsection (b), shall consider whether the transactions comply with the
 21 standards set forth in subsection (a) and whether the transactions may
 22 adversely affect the interests of policyholders.

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

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

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

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

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

37 (4) The extent of the geographical dispersion of the insurer's
 38 insured risks.

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

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

42 (7) The recent past and projected future trend in the size of the

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1 insurer's surplus as regards policyholders.
 2 (8) The surplus as regards policyholders maintained by other
 3 comparable insurers in respect of the factors described in
 4 subdivisions (1) through (7).
 5 (9) The adequacy of the insurer's reserves.
 6 (10) The quality and liquidity of investments in subsidiaries,
 7 except that the commissioner may discount or treat any such
 8 investment in subsidiaries as a disallowed asset for purposes of
 9 determining the adequacy of surplus whenever in his judgment
 10 such investment so warrants.
 11 (11) The quality of the earnings of the insurer and the extent to
 12 which the reported earnings of the insurer include extraordinary
 13 items.
 14 (g) No domestic insurer subject to registration under section 3 of
 15 this chapter shall pay an extraordinary dividend or make any other
 16 extraordinary distribution to its security holders until:
 17 (1) thirty (30) days after the commissioner has received notice of
 18 the declaration thereof and has not within such period
 19 disapproved such payment; or
 20 (2) the commissioner shall have approved such payment within
 21 such thirty (30) day period.
 22 (h) For purposes of subsection (g), an extraordinary dividend or
 23 distribution is any dividend or distribution of cash or other property
 24 whose fair market value, together with that of other dividends or
 25 distributions made within the twelve (12) consecutive months ending
 26 on the date on which the proposed dividend or distribution is scheduled
 27 to be made, exceeds the greater of:
 28 (1) ten percent (10%) of such insurer's surplus as regards
 29 policyholders as of the most recently preceding December 31; or
 30 (2) the net gain from operations of such insurer, if such insurer is
 31 a life insurer, or the net income, if such insurer is not a life
 32 insurer, for the twelve (12) month period ending on the most
 33 recently preceding December 31.
 34 (i) Notwithstanding any other provision of law, a domestic insurer
 35 may declare an extraordinary dividend or distribution which is
 36 conditional upon the commissioner's approval thereof, but such a
 37 declaration shall confer no rights upon shareholders until:
 38 (1) the commissioner has approved the payment of such dividend
 39 or distribution; or
 40 (2) the commissioner has not disapproved the payment within the
 41 thirty (30) day period referred to in subsection (g).
 42 SECTION 46. IC 27-1-25-11.1 IS AMENDED TO READ AS

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1 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11.1. (a) If the home
2 state of a person is Indiana, the person shall:

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

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

7 ~~(2)~~ (3) receive a license from the commissioner;

8 before performing the function of an administrator in Indiana. **The**
9 **commissioner shall deposit a fee paid under subdivision (2) into the**
10 **department of insurance fund established by IC 27-1-3-28.**

11 (b) The uniform application must include or be accompanied by the
12 following:

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

14 (A) articles of incorporation;

15 (B) articles of association;

16 (C) partnership agreement;

17 (D) trade name certificate;

18 (E) trust agreement;

19 (F) shareholder agreement;

20 (G) other applicable documents; and

21 (H) amendments to the documents specified in clauses (A)
22 through (G).

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

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

27 (A) members of the applicant's:

28 (i) board of directors;

29 (ii) board of trustees;

30 (iii) executive committee; or

31 (iv) other governing board or committee;

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

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

34 (i) a partnership;

35 (ii) an association; or

36 (iii) a limited liability company;

37 (D) shareholders or members that hold, directly or indirectly,
38 at least ten percent (10%) of the:

39 (i) voting stock;

40 (ii) voting securities; or

41 (iii) voting interest;

42 of the applicant; and

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

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

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

5 (A) is not:

6 (i) competent;

7 (ii) trustworthy;

8 (iii) financially responsible; or

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

10 (B) has had an:

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

12 (ii) administrator certificate of authority or administrator
13 license;

14 denied or revoked for cause by any jurisdiction;

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

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

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

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

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

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

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

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

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

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

32 **(2) until:**

33 ~~(A)~~ (A) the license is:

34 ~~(A)~~ (i) surrendered; or

35 ~~(B)~~ (ii) suspended or revoked by the commissioner; or

36 ~~(B)~~ (B) the administrator:

37 ~~(A)~~ (i) ceases to do business in Indiana; or

38 ~~(B)~~ (ii) is not in compliance with this chapter;

39 **whichever occurs first.**

40 SECTION 47. IC 27-1-25-12.2, AS AMENDED BY P.L.234-2007,
41 SECTION 191, IS AMENDED TO READ AS FOLLOWS
42 [EFFECTIVE JULY 1, 2010]: Sec. 12.2. (a) An administrator that:

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1 (1) performs the duties of an administrator in Indiana; and
 2 (2) does not hold a license issued under section 11.1 of this
 3 chapter;
 4 shall obtain a nonresident administrator license under this section by
 5 filing a uniform application, **accompanied by an application fee in an**
 6 **amount determined by the commissioner**, with the commissioner.
 7 **The commissioner shall deposit a fee paid under this subsection**
 8 **into the department of insurance fund established by IC 27-1-3-28.**
 9 (b) Unless the commissioner verifies the nonresident administrator's
 10 home state license status through an electronic data base maintained by
 11 the NAIC or by an affiliate or a subsidiary of the NAIC, a uniform
 12 application filed under subsection (a) must be accompanied by a letter
 13 of certification from the nonresident administrator's home state,
 14 verifying that the nonresident administrator holds a resident
 15 administrator license in the home state.
 16 (c) A nonresident administrator is not eligible for a nonresident
 17 administrator license under this section unless the nonresident
 18 administrator is licensed as a resident administrator in a home state that
 19 has a law or regulation that is substantially similar to this chapter.
 20 (d) Except as provided in subsections (b) and (h), the commissioner
 21 shall issue a nonresident administrator license to a nonresident
 22 administrator that makes a filing under subsections (a) and (b) upon
 23 receipt of the filing.
 24 (e) Unless a nonresident administrator is notified by the
 25 commissioner that the commissioner is able to verify the nonresident
 26 administrator's home state licensure through an electronic data base
 27 described in subsection (b), the nonresident administrator shall:
 28 (1) on September 15 of each year, file a **renewal application and**
 29 **a statement with the commissioner affirming that the nonresident**
 30 **administrator maintains a current license in the nonresident**
 31 **administrator's home state; and**
 32 (2) pay **to the commissioner** a filing fee **as required in an**
 33 **amount determined** by the commissioner.
 34 The commissioner shall ~~collect~~ **deposit** a filing fee **required paid** under
 35 subdivision (2) ~~and deposit the fee~~ into the department of insurance
 36 fund established by IC 27-1-3-28.
 37 (f) A nonresident administrator that applies for licensure under this
 38 section shall:
 39 (1) produce the accounts of the nonresident administrator;
 40 (2) produce the records and files of the nonresident administrator
 41 for examination; and
 42 (3) make the officers of the nonresident administrator available to

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1 provide information with respect to the affairs of the nonresident
2 administrator;
3 when reasonably required by the commissioner.

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

9 (h) The commissioner may refuse to issue or may delay the issuance
10 of a nonresident administrator license if the commissioner determines
11 that:

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

19 (i) If the commissioner makes a determination described in
20 subsection (h), the commissioner:

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

30 SECTION 48. IC 27-1-25-12.3, AS AMENDED BY P.L.234-2007,
31 SECTION 192, IS AMENDED TO READ AS FOLLOWS
32 [EFFECTIVE JULY 1, 2010]: Sec. 12.3. (a) An administrator that is
33 licensed under section 11.1 of this chapter shall, not later than July 1
34 of each year unless the commissioner grants an extension of time for
35 good cause, file a report for the previous calendar year that complies
36 with the following:

- 37 (1) The report must contain financial information reflecting a
38 positive net worth prepared in accordance with section 11.1(b)(4)
39 of this chapter.
- 40 (2) The report must be in the form and contain matters prescribed
41 by the commissioner.
- 42 (3) The report must be verified by at least two (2) officers of the

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- 1 administrator.
- 2 (4) The report must include the complete names and addresses of
- 3 insurers with which the administrator had a written agreement
- 4 during the preceding fiscal year.
- 5 (5) The report must be accompanied by a filing fee **in an amount**
- 6 determined by the commissioner.

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

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

9 by IC 27-1-3-28.

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

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

12 Upon completion of the review, the commissioner shall:

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

24 SECTION 49. IC 27-2-15-4.2 IS ADDED TO THE INDIANA

25 CODE AS A NEW SECTION TO READ AS FOLLOWS

26 [EFFECTIVE JULY 1, 2010]: **Sec. 4.2. As used in this chapter,**

27 **"municipality" has the meaning set forth in IC 36-1-2-11.**

28 SECTION 50. IC 27-2-15-4.5 IS AMENDED TO READ AS

29 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4.5. ~~(a)~~ **As used in this**

30 **section; "city" refers to a city having a population of more than**

31 **thirty-five thousand (35,000) that is located in a county having a**

32 **population of more than four hundred thousand (400,000) but less than**

33 **seven hundred thousand (700,000):**

- 34 ~~(b)~~ **(a) An insurer that:**
- 35 **(1) issued an insurance policy:**
- 36 **(A) covering a building or other structure that is:**
- 37 ~~(1)~~ **(i) located in a city; municipality; and**
- 38 ~~(2)~~ **(ii) damaged by a fire or explosion; and**
- 39 **(B) that is in effect at the time of the fire or explosion; and**
- 40 **(2) receives a request for notice about the existence of the**
- 41 **insurance policy:**
- 42 **(A) from the enforcement authority of the municipality**

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

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

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

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

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

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

However, it is not necessary for the enforcement authority to provide

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1 the certification within thirty (30) days after the fire or explosion if the
2 insurer fails to provide notice to the enforcement authority under
3 section 4.5 of this chapter within ten (10) days after the fire or
4 explosion.

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

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

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

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

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

30 SECTION 54. IC 27-4-5-2 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2. (a) It is a Class A
32 infraction for an insurer to transact insurance business in this state, as
33 set forth in subsection (b), without a certificate of authority from the
34 commissioner. However, this section does not apply to the following:

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

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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 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**

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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

(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.

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

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

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

36 SECTION 55. IC 27-7-3-3 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 3. (a) Any domestic
 38 corporation having:

- 39 (1) among its purposes the insuring against loss or damage on
- 40 account of encumbrances upon or defects in the title to real estate;
- 41 **and**
- 42 (2) a physical office in Indiana;

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

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

14 SECTION 56. IC 27-7-3-3.5 IS ADDED TO THE INDIANA CODE
15 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
16 1, 2010]: **Sec. 3.5. (a) A domestic corporation admitted to do**
17 **business as described in section 3 of this chapter is subject to the**
18 **following:**

- 19 (1) IC 27-1-7-11.
- 20 (2) IC 27-1-6-21.
- 21 (3) IC 27-9.

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

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

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

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

- 35 (1) ten (10) days before canceling a policy, if the cancellation is
36 for nonpayment of a premium;
- 37 (2) twenty (20) days before canceling a policy, if:
 - 38 **(A) the cancellation occurs more than sixty (60) days after the**
39 **date of issuance of the policy; or**
 - 40 **(B) the insurer has received a copy of a complaint under**
41 **IC 32-30-10.5-8(d)(2) concerning the property; and**
- 42 (3) ten (10) days before canceling a policy, if the cancellation

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1 occurs not more than sixty (60) days after the date of issuance of
2 the policy.

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

9 SECTION 58. IC 27-8-5-16.5, AS AMENDED BY P.L.127-2006,
10 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2010]: Sec. 16.5. (a) As used in this section, "delivery state"
12 means any state other than Indiana in which a policy is delivered or
13 issued for delivery.

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

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

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

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

- 39 (1) the delivery state has a law substantially similar to section 16
- 40 of this chapter;
- 41 (2) the delivery state has approved the group policy; and
- 42 (3) the policy or the certificate contains provisions that are:

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- 1 (A) substantially similar to the provisions required by:
- 2 (i) section 19 of this chapter or, if the policy or certificate is
- 3 described in section 2.5(b)(2) of this chapter, section 2.5 of
- 4 this chapter;
- 5 (ii) section ~~19.2~~ **19.3** of this chapter if the policy or
- 6 certificate contains a waiver of coverage;
- 7 (iii) section 21 of this chapter; and
- 8 (iv) IC 27-8-5.6; and
- 9 (B) consistent with the requirements set forth in:
- 10 (i) section 15.6 of this chapter;
- 11 (ii) section 24 of this chapter;
- 12 (iii) section 26 of this chapter;
- 13 (iv) IC 27-8-6;
- 14 (v) IC 27-8-14;
- 15 (vi) IC 27-8-14.1;
- 16 (vii) IC 27-8-14.5;
- 17 (viii) IC 27-8-14.7;
- 18 (ix) IC 27-8-14.8;
- 19 (x) IC 27-8-20;
- 20 (xi) IC 27-8-23;
- 21 (xii) IC 27-8-24.3;
- 22 (xiii) IC 27-8-26;
- 23 (xiv) IC 27-8-28;
- 24 (xv) IC 27-8-29;
- 25 (xvi) 760 IAC 1-38.1; and
- 26 (xvii) 760 IAC 1-39.

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

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

35 SECTION 59. IC 27-8-5-17, AS AMENDED BY P.L.218-2007,
 36 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2010]: Sec. 17. (a) A group accident and sickness insurance
 38 policy shall not be delivered or issued for delivery in Indiana to a group
 39 that is not described in section 16(1)(A), 16(2)(A), 16(3)(A), 16(4)(A),
 40 16(5)(A), 16(6)(A), 16(7), or 16(8) of this chapter unless:

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

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1 **(2) the commissioner reviews the group according to the same**
 2 **standards as a group described in section 16 of this chapter;**
 3 **and**
 4 **(3) the commissioner finds that:**
 5 ~~(1)~~ **(A)** the issuance of the policy is not contrary to the best
 6 interest of the public;
 7 ~~(2)~~ **(B)** the issuance of the policy would result in economies of
 8 acquisition or administration; and
 9 ~~(3)~~ **(C)** the benefits of the policy are reasonable in relation to
 10 the premiums charged.

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

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

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

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

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

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

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

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

38 SECTION 61. IC 27-8-15-1 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. This chapter applies
 40 to any ~~individual or~~ group health insurance plan that is issued for
 41 delivery in Indiana to at least ~~three~~ ~~(3)~~ **two (2)** employees of a small
 42 employer located in Indiana if one (1) of the following conditions is

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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 62. 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;

(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.

SECTION 63. IC 27-8-15-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. (a) Except as provided in section 28 of this chapter, as used in this chapter, "health insurance plan" or "plan" means any:

(1) hospital or medical expense incurred policy or certificate;

(2) hospital or medical service plan contract; or

(3) health maintenance organization subscriber contract;

provided to the employees of a small employer.

(b) The term does not include the following:

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- 1 (1) Accident-only, credit, dental, vision, Medicare supplement,
 2 long term care, or disability income insurance.
 3 (2) Coverage issued as a supplement to liability insurance.
 4 (3) Worker's compensation or similar insurance.
 5 (4) Automobile medical payment insurance.
 6 (5) A specified disease policy. ~~issued as an individual policy.~~
 7 ~~(6) A limited benefit health insurance policy issued as an~~
 8 ~~individual policy.~~
 9 ~~(7)~~ **(6)** A short term insurance plan that:
 10 (A) may not be renewed; and
 11 (B) has a duration of not more than six (6) months.
 12 ~~(8)~~ **(7)** A policy that provides a stipulated daily, weekly, or
 13 monthly payment to an insured during hospital confinement;
 14 without regard to the actual expense of the confinement;
 15 **indemnity benefits not based on any expense incurred**
 16 **requirement, including a plan that provides coverage for:**
 17 **(A) hospital confinement, critical illness, or intensive care;**
 18 **or**
 19 **(B) gaps for deductibles or copayments.**
 20 **(8)** A supplemental plan that always pays in addition to other
 21 coverage.
 22 **(9)** A student health plan.
 23 **(10)** An employer sponsored health benefit plan that is:
 24 **(A) provided to individuals who are eligible for Medicare;**
 25 **and**
 26 **(B) not marketed as, or held out to be, a Medicare**
 27 **supplement policy.**
 28 SECTION 64. IC 27-8-15-31 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 31. (a) If an eligible
 30 employee who has been continuously covered under a health insurance
 31 plan for at least ninety (90) days:
 32 (1) loses coverage under the plan as the result of:
 33 (A) termination of employment;
 34 (B) reduction of hours;
 35 (C) marriage dissolution; or
 36 (D) attainment of any age specified in the plan; ~~and~~
 37 **(2) is not eligible for continuation coverage under the federal**
 38 **Consolidated Omnibus Budget Reconciliation Act of 1985;**
 39 **and**
 40 ~~(2)~~ **(3)** requests a conversion policy from the small employer
 41 insurer that insured the health insurance plan;
 42 the individual is entitled to receive a conversion policy from the small

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1 employer insurer.

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

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

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

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

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

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

33 SECTION 65. IC 27-13-2-10 IS ADDED TO THE INDIANA
34 CODE AS A NEW SECTION TO READ AS FOLLOWS
35 [EFFECTIVE JULY 1, 2010]: **Sec. 10. (a) A health maintenance**
36 **organization that is admitted to transact business in Indiana shall**
37 **do the following:**

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

41 (2) **If the health maintenance organization changes the**
42 **physical location of its home office, provide written notice to**

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1 **the department and all subscribers at least thirty (30) days**
2 **before the location is changed, including the address and**
3 **telephone number of the new location.**

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

6 SECTION 66. IC 27-13-34-12 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12. A limited service
8 health maintenance organization operated under this chapter is subject
9 to the following:

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

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

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

15 ~~(4)~~ **(4)** IC 27-13-9-3 concerning termination of providers.

16 ~~(5)~~ **(5)** IC 27-13-10-1 through IC 27-13-10-3 concerning
17 grievance procedures.

18 ~~(6)~~ **(6)** IC 27-13-11 concerning investments.

19 ~~(7)~~ **(7)** IC 27-13-15-1(a)(2) through IC 27-13-15-1(a)(3)
20 concerning gag clauses in contracts.

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

22 ~~(9)~~ **(9)** IC 27-13-29 concerning statutory construction and
23 relationship to other laws.

24 ~~(10)~~ **(10)** IC 27-13-30 concerning public records.

25 ~~(11)~~ **(11)** IC 27-13-31 concerning confidentiality of medical
26 information and limitation of liability.

27 ~~(12)~~ **(12)** IC 27-13-36-5 and IC 27-13-36-6 concerning referrals
28 to out of network providers and continuation of care.

29 ~~(13)~~ **(13)** IC 27-13-40 concerning comparison sheets of services
30 provided by the limited service health maintenance organization.

31 SECTION 67. IC 27-16-2-16 IS ADDED TO THE INDIANA
32 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
33 [EFFECTIVE JULY 1, 2010]: **Sec. 16. "Working capital" means the**
34 **difference between a person's:**

35 **(1) current assets; and**

36 **(2) current liabilities;**

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

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

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

3 (1) The name or names under which the applicant conducts
4 business.

5 (2) The address of the principal place of business of the applicant
6 and the address of each office the applicant maintains in Indiana.

7 (3) The applicant's taxpayer or employer identification number.

8 (4) A list by jurisdiction of each name under which the applicant
9 has operated in the preceding five (5) years, including any
10 alternative names, names of predecessors, and, if known,
11 successor business entities.

12 (5) A statement of ownership that includes the name and evidence
13 of the business experience of any person that, individually or
14 acting in concert with one (1) or more other persons, owns or
15 controls, directly or indirectly, twenty-five percent (25%) or more
16 of the equity interests of the applicant.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (A) substantially the same as; or

20 (B) more restrictive than;

21 the requirements of this article;

22 (3) does not:

23 (A) maintain an office; or

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

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

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

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

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

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

39 (1) maintain; **and**

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

41 a list of PEOs that are registered under this article.

42 SECTION 71. IC 27-16-6-1, AS ADDED BY P.L.245-2005,

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1 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2010]: Sec. 1. (a) A PEO or PEO group shall maintain either:
3 **do one (1) of the following:**

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

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

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

11 **(2) If the PEO or PEO group does not meet the requirement**
12 **of subdivision (1), maintain any of the following with a**
13 **minimum aggregate value in an amount that is at least**
14 **sufficient to eliminate the PEO's or PEO group's negative**
15 **working capital plus one hundred thousand dollars**
16 **(\$100,000):**

17 **(A) A surety bond.**

18 **(B) An irrevocable letter of credit.**

19 **(C) Securities.**

20 **(D) Cash.**

21 **(E) A combination of items listed in clauses (A) through**
22 **(D).**

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

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

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

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1 IC 5-20-1-3. In prescribing the form required by this section, the
2 Indiana housing and community development authority shall include
3 in the notice the statement set forth in IC 24-5.5-3-1. In addition, the
4 notice required by this subsection must:

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

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

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

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

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

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

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1 section if:

- 2 (1) the loan is secured by a dwelling that is not the debtor's
 3 primary residence;
 4 (2) the loan has been the subject of a prior foreclosure prevention
 5 agreement under this chapter and the debtor has defaulted with
 6 respect to the terms of that foreclosure prevention agreement; or
 7 (3) bankruptcy law prohibits the creditor from participating in a
 8 settlement conference under this chapter with respect to the loan.

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

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

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

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

- 34 (1) who is:
 35 (A) a victim; or
 36 (B) an alleged victim;
 37 of an applicable offense; and
 38 (2) who has received ~~either one~~ **(1)** of the following:
 39 (A) A civil order for protection issued or recognized by a court
 40 under IC 34-26-5 that restrains a perpetrator from contact with
 41 the individual.
 42 (B) A criminal no contact order that restrains a perpetrator

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from contact with the individual.
(C) In the case of an applicable offense listed in section 3(2), 3(3), or 3(4) of this chapter, a copy of a police report that was filed with the law enforcement agency with respect to the applicable offense.

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

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

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

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

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

- (A) The plan must be dated not more than thirty (30) days before the date on which the protected individual provides the written notice to the landlord under this section.
- (B) The plan must be provided by an accredited domestic violence or sexual assault program.
- (C) The plan must recommend relocation of the protected individual.

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

- (1) prorated to the effective date of the termination; and
- (2) payable at the time when payment of rent would have been required under the rental agreement.

A protected individual whose rights and obligations under a rental

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

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

11 SECTION 77. IC 34-30-2-111 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 111. IC 27-2-15-9
 13 (Concerning the state fire marshal, a deputy fire marshal, an
 14 enforcement authority, or an officer of a city municipality for
 15 compliance with the statute concerning the set aside of insurance
 16 proceeds in arson cases).

17 SECTION 78. THE FOLLOWING ARE REPEALED [EFFECTIVE
 18 JULY 1, 2010] IC 27-1-3.5-3; IC 27-1-3.5-3.5; IC 27-2-15-2.

19 SECTION 79. [EFFECTIVE JULY 1, 2010] (a) **IC 27-8-15, as**
 20 **amended by this act, applies to a health insurance plan (as defined**
 21 **in IC 27-8-15-9) that is issued, entered into, delivered, amended, or**
 22 **renewed after June 30, 2010.**

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

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

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

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

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

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

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred House Bill 1240, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, delete lines 15 through 42, begin a new paragraph and insert:

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

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

(1) the practitioner must:

(A) sign on the line under which the words "May substitute." appear; or

(B) for an electronically transmitted prescription, electronically transmit the instruction "May substitute."; and

(2) the pharmacist must inform the customer of the substitution.

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

(1) the pharmacist must, at the time the prescription is refilled, request written approval from the practitioner to substitute the generically equivalent drug product; and

(2) the practitioner must, at the time the prescription is refilled:

(A) forward to the pharmacist a written or electronically transmitted prescription with the "May substitute." instruction indicated as described in subsection (b)(1); and

(B) verbally inform the customer of the substitution.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) The drug substitution laws of Indiana.

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

Page 3, delete line 1.

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

Page 10, line 30, delete "or".

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

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

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

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

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

Page 21, line 5, delete "may".

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

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

Page 24, delete line 36.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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- insurance;
- (ii) requirements of the insurance laws and administrative rules of Indiana;
- (iii) principles of life insurance; and
- (iv) principles of health insurance.

(D) For property and casualty insurance producers, not less than forty (40) hours of instruction in a structured setting or comparable self-study on:

- (i) ethical practices in the marketing and selling of insurance;
- (ii) requirements of the insurance laws and administrative rules of Indiana;
- (iii) principles of property insurance; and
- (iv) principles of liability insurance.

(E) For personal lines producers, a minimum of ~~twenty-four (24)~~ **twenty (20)** hours of instruction in a structured setting or comparable self-study on:

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

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

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

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

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

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

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

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

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

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

Page 41, delete lines 1 through 34.

Page 45, delete lines 14 through 42.

Delete page 46.

Page 47, delete lines 1 through 17.

Page 50, delete lines 30 through 42.

Delete pages 51 through 52.

Page 53, delete lines 1 through 37.

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

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

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

(b) (a) An insurer that:

(1) issued an insurance policy:

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

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

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

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

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

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insurance policy:

(A) from the enforcement authority of the municipality and

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

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

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

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

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

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

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

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

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

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

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

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

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(2) comply with subsection (c).

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

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

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

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

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

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

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

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

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

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

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written explanation of the specific reasons for the cancellation.

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

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

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

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

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

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

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

Page 65, delete lines 20 through 42.

Delete pages 66 through 69.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Page 73, delete lines 19 through 20.

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

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

determined in accordance with generally accepted accounting principles.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) substantially the same as; or

(B) more restrictive than;

the requirements of this article;

(3) does not:

(A) maintain an office; or

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

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

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

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

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

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

(1) maintain; and

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

a list of PEOs that are registered under this article.

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

do one (1) of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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termination date stated in the notice.

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

(1) a copy of:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Page 74, delete line 6.

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

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

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

(c) This SECTION expires July 1, 2016.

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

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

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1240 as introduced.)

FRY, Chair

Committee Vote: yeas 12, nays 0.

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