

Adopted Rejected

COMMITTEE REPORT

YES: 7
NO: 0

MR. SPEAKER:

Your Committee on Insurance, to which was referred Senate Bill 357, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:

- 1 Page 2, delete lines 15 through 42, begin a new paragraph and
- 2 insert:
- 3 "SECTION 2. IC 16-42-22-8, AS AMENDED BY P.L.204-2005,
- 4 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 JULY 1, 2010]: Sec. 8. (a) ~~For~~ **This section applies to** substitution ~~to~~
- 6 ~~occur~~ for a prescription other than a prescription filled under the
- 7 Medicaid program (42 U.S.C. 1396 et seq.), the children's health
- 8 insurance program established under IC 12-17.6-2, or the Medicare
- 9 program (42 U.S.C. 1395 et seq.).
- 10 **(b) Except as provided in subsection (c), for substitution for a**
- 11 **prescription to occur:**
- 12 (1) the practitioner must:
- 13 (A) sign on the line under which the words "May substitute."
- 14 appear; or
- 15 (B) for an electronically transmitted prescription,
- 16 electronically transmit the instruction "May substitute."; and

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

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

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

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

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

14 **(B) verbally inform the customer of the substitution.**

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

17 SECTION 3. IC 25-26-13-33 IS ADDED TO THE INDIANA
 18 CODE AS A NEW SECTION TO READ AS FOLLOWS
 19 [EFFECTIVE JULY 1, 2010]: **Sec. 33. (a) Beginning January 1,**
 20 **2011, on the request of a customer who is blind (as defined in**
 21 **IC 12-7-2-21(2)) or visually impaired (as defined in**
 22 **IC 12-7-2-198(a)), a pharmacist shall dispense a prescription for a**
 23 **legend drug:**

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

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

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

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

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

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

- 1 **subsection (a), the pharmacist shall:**
 2 **(1) obtain the necessary equipment or technology to comply**
 3 **with subsection (a) within a reasonable period; or**
 4 **(2) refer the customer to another pharmacy that the**
 5 **pharmacist has confirmed is:**
 6 **(A) able to comply with subsection (a); and**
 7 **(B) a member of an applicable provider network for**
 8 **purposes of insurance coverage of the prescription.**

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

- 12 (1) The licensure laws of the state in which the mail order or
 13 Internet based pharmacy is domiciled.
 14 (2) The drug substitution laws of Indiana.
 15 **(3) IC 25-26-13-33.**

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

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

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

33 (b) This chapter does not prevent or prohibit the commissioner from
 34 disclosing the content of an examination report, preliminary
 35 examination report, or results, or any matter relating thereto, to **the**
 36 **National Association of Insurance Commissioners**, the insurance
 37 department of any other state or country, or to law enforcement
 38 officials of Indiana or any other state or agency of the federal

1 government at any time, if the agency or office receiving the report or
2 matters relating thereto agrees in writing to hold it confidential and in
3 a manner consistent with this chapter.

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

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

14 SECTION 7. IC 27-1-3.1-15 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 15. All working papers,
16 recorded information, documents, and copies thereof produced by,
17 obtained by, or disclosed to the commissioner or any other person in
18 the course of an examination under this chapter (**including trade
19 secrets and information obtained from a federal agency, a foreign
20 country, the National Association of Insurance Commissioners, or
21 under another state law**) are confidential for the purposes of
22 IC 5-14-3-4, are not subject to subpoena, and may not be made public
23 by the commissioner or any other person, except to the extent provided
24 in section 14 of this chapter. However, access may also be granted to
25 the National Association of Insurance Commissioners. Those parties
26 must agree in writing prior to receiving the information to provide to
27 it the same confidential treatment as required by this section, unless the
28 prior written consent of the company to which it pertains has been
29 obtained.

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

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

1 **(1) in good standing with the American Institute of Certified**
 2 **Public Accountants and in all states in which the accountant**
 3 **is licensed to practice;**

4 **(2) Canadian chartered if the insurer audited by the**
 5 **accountant is a Canadian insurer; or**

6 **(3) British chartered if the insurer audited by the accountant**
 7 **is a British insurer.**

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

13 **(1) controls;**

14 **(2) is controlled by; or**

15 **(3) is under common control with;**

16 **a specified person.**

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

21 **(1) a committee or equivalent body established by the board**
 22 **of directors of an entity to oversee:**

23 **(A) the accounting and financial reporting processes; and**

24 **(B) audits of financial statements;**

25 **of an insurer or insurer group;**

26 **(2) if elected by the controlling person of an entity that**
 27 **controls an insurer group and solely for purposes of this**
 28 **chapter, a committee or equivalent body established by the**
 29 **board of directors of the entity to oversee:**

30 **(A) the accounting and financial reporting processes; and**

31 **(B) audits of financial statements;**

32 **of the entity; or**

33 **(3) if subdivision (1) or (2) does not apply, the entire board of**
 34 **directors of the insurer or entity that controls an insurer.**

35 SECTION 12. IC 27-1-3.5-2.8 IS ADDED TO THE INDIANA
 36 CODE AS A NEW SECTION TO READ AS FOLLOWS
 37 [EFFECTIVE JULY 1, 2010]: **Sec. 2.8. (a) As used in this chapter,**
 38 **"independent member" means an individual who is a member of**

1 **a committee or board established by an entity and meets all of the**
 2 **following requirements:**

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 **(1) implemented by the board of directors, management**
 2 **personnel, and other personnel of an entity; and**
 3 **(2) designed to provide reasonable assurance that the entity's**
 4 **financial statements are reliable.**
- 5 **(b) The term includes policies and procedures that:**
- 6 **(1) pertain to the maintenance of records to accurately and**
 7 **fairly reflect, in reasonable detail:**
- 8 **(A) transactions involving; and**
 9 **(B) disposition of;**
 10 **assets; and**
- 11 **(2) provide reasonable assurance that:**
- 12 **(A) transactions are recorded as necessary to permit**
 13 **preparation of financial statements;**
 14 **(B) receipts and expenditures are made only when**
 15 **authorized by management personnel or directors; and**
 16 **(C) unauthorized acquisition, use, or disposition of assets**
 17 **that could have a material effect on financial statements is**
 18 **prevented or detected in a timely manner.**

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

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

- 27 **(1) Section 404; and**
 28 **(2) SEC regulations promulgated under Section 404;**
 29 **of the federal Sarbanes-Oxley Act of 2002.**

30 SECTION 18. IC 27-1-3.5-3.7 IS ADDED TO THE INDIANA
 31 CODE AS A NEW SECTION TO READ AS FOLLOWS
 32 [EFFECTIVE JULY 1, 2010]: **Sec. 3.7. As used in this chapter,**
 33 **"Section 404 report" means a report of the management of an**
 34 **entity concerning internal control over financial reporting and the**
 35 **related attestation report of the entity's accountant.**

36 SECTION 19. IC 27-1-3.5-3.8 IS ADDED TO THE INDIANA
 37 CODE AS A NEW SECTION TO READ AS FOLLOWS
 38 [EFFECTIVE JULY 1, 2010]: **Sec. 3.8. As used in this chapter,**

1 **"Sarbanes-Oxley compliant entity" means an entity that complies**
 2 **with all of the following provisions of the federal Sarbanes-Oxley**
 3 **Act of 2002:**

4 **(1) The preapproval requirements of Section 201 (Section**
 5 **10A(i) of the federal Securities Exchange Act of 1934).**

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

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

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

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

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

25 (2) support the ~~independent auditor's accountant's~~ opinion. ~~on~~
 26 ~~the domestic insurer's financial statements.~~

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

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

32 (1) direct written premiums of less than one million dollars
 33 (\$1,000,000) in any calendar year; ~~and~~

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

37 (3) ~~assumed premiums under contracts or treaties of~~
 38 ~~reinsurance of less than one million dollars (\$1,000,000) in a~~

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

6 (c) A foreign or an alien insurer that files an audited financial report
 7 in another state ~~or country pursuant to that~~ **under the other** state's ~~or~~
 8 ~~country's~~ requirement for **filing of annual** audited financial reports is
 9 exempt **from sections 6 through 13 of this chapter, except sections**
 10 **7.2 and 7.4 of this chapter**, with respect to the year of ~~that the annual~~
 11 audited financial report, ~~from the requirement to file an audited~~
 12 ~~financial report with the commissioner under this chapter~~, if:

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

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

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

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

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

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

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

38 SECTION 22. IC 27-1-3.5-6 IS AMENDED TO READ AS

1 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. (a) ~~A domestic An~~
 2 insurer shall have an audit by an ~~independent auditor every year~~
 3 **accountant** and shall file an audited financial report with the
 4 commissioner every year ~~before not later than the~~ June 1 immediately
 5 following the December 31 that ends the year reported on in the
 6 financial report. The commissioner may require ~~a domestic an~~ insurer
 7 to file an audited financial report earlier than June 1 if the
 8 commissioner gives the ~~domestic~~ insurer ninety (90) days advance
 9 notice of the earlier filing date.

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

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

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

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

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

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

35 (b) ~~The financial statements included in the annual audited financial~~
 36 ~~report filed by a domestic insurer under this chapter shall be examined~~
 37 ~~by an independent auditor. The independent auditor shall conduct its~~
 38 ~~examination of the domestic insurer's financial statements in~~

1 accordance with generally accepted auditing standards, and shall
 2 consider such other procedures illustrated in the Financial Condition
 3 Examiner's Handbook published by the National Association of
 4 Insurance Commissioners as the independent auditor considers
 5 necessary.

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

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

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

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

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

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

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

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

1 omitted.

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

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

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

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

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

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

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

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

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

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

- 38 (1) appointment, compensation, and oversight of the work;

1 **and**
 2 **(2) resolution of financial reporting disagreements with the**
 3 **insurer's management personnel;**
 4 **of an accountant in the accountant's preparation or issuance of the**
 5 **insurer's annual audited financial report or related work under**
 6 **this chapter. An accountant reports directly to the audit committee**
 7 **of the insurer.**

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

13 **(1) All significant accounting policies and material permitted**
 14 **practices.**

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

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

25 **(g) If:**

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

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

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

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

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

1 **(2) If the insurer's immediately preceding calendar year**
 2 **direct written and assumed premiums are more than three**
 3 **hundred million dollars (\$300,000,000) and not more than five**
 4 **hundred million dollars (\$500,000,000), at least fifty percent**
 5 **(50%) of members must be independent members.**

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

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

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

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

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

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

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

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

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

35 **(b) A director or an officer, or another person acting under the**
 36 **direction of a director or an officer, of an insurer shall not, directly**
 37 **or indirectly, coerce, manipulate, mislead, or fraudulently**
 38 **influence an accountant engaged in the performance of an audit**

1 **under this chapter if the director, officer, or other person knows or**
 2 **should know that the action could result in rendering the insurer's**
 3 **financial statements materially misleading. Actions prohibited**
 4 **under this subsection include actions to coerce, manipulate,**
 5 **mislead, or fraudulently influence the accountant:**

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

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

13 (3) **not to withdraw an issued report; or**

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

16 SECTION 26. IC 27-1-3.5-8 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 8. (a) ~~A domestic An~~ **An**
 18 **insurer that is required by this chapter to file an annual audited**
 19 **financial reports report shall, not more than sixty (60) days after**
 20 **becoming subject to the requirement, register in writing with the**
 21 **commissioner the name and address of the independent auditor**
 22 **accountant retained by the insurer to conduct the annual audits audit**
 23 **required by this chapter. The domestic insurer shall continuously**
 24 **ensure that the information provided to the commissioner under this**
 25 **section is accurate; and shall inform the commissioner in writing of any**
 26 **change in the identity or address of its independent auditor. An insurer**
 27 **that does not have an accountant on retainer on July 1, 2010, shall**
 28 **register the name and address of the insurer's retained accountant**
 29 **at least six (6) months before the first date after June 30, 2010, by**
 30 **which the insurer's first annual audited financial report is to be**
 31 **filed.**

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

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

38 (2) affirms that the independent auditor accountant will express

1 ~~its~~ **the accountant's** opinion on the financial statements ~~of the~~
 2 **domestic insurer** in the terms of their conformity to the statutory
 3 accounting practices prescribed or otherwise permitted by the
 4 department, specifying such exceptions as the **independent**
 5 **auditor accountant** may believe appropriate.

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

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

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

17 (2) not more than ten (10) business days after the notification
 18 given ~~in~~ **under** subdivision (1), furnish the commissioner with a
 19 separate letter that states whether in the twenty-four (24) months
 20 preceding the **engagement cessation** of the ~~new independent~~
 21 **auditor accountant's services** there were any disagreements
 22 between the insurer and ~~its~~ **the former independent auditor**
 23 **accountant** on any matter of accounting principles or practices,
 24 financial statement disclosure, or auditing scope or procedure,
 25 which, if not resolved to the satisfaction of the former
 26 **independent auditor accountant**, would have caused the former
 27 **independent auditor accountant** to make reference to the subject
 28 matter of the disagreement in **connection with** the former
 29 **independent auditor's statement of its accountant's** opinion. ~~on~~
 30 **the insurer's financial report, and, if there was such a**
 31 **disagreement, provides a description of the disagreement.**
 32 Disagreements required to be reported under this subdivision
 33 include those at the decision making level that were resolved:

34 (A) to the former accountant's satisfaction; and

35 (B) not to the former accountant's satisfaction; and

36 (3) comply with subsection (d).

37 For the purposes of this subsection, "decision making level" refers to
 38 the personnel of the insurer who are responsible for the presentation of

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 27. 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**

1 **commissioner shall recognize an accountant as qualified if the**
2 **accountant:**

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

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

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

10 **or a similar code.**

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

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

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

31 **(2) The premium volume of the domestic insurer.**

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

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

38 **(1) The individual** has been convicted of fraud, bribery, a

1 violation of the Racketeer Influenced and Corrupt Organizations
 2 Act under federal law (18 U.S.C. 1961 through 1968) ~~or state law~~
 3 ~~(C 35-45-6)~~ or any dishonest conduct or practices under federal
 4 or state law.

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

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

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

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

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

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

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

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

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

- 1 **(C) The actuary tests the reasonableness of the reserves**
 2 **after the insurer's management personnel have determined**
 3 **the amount of the reserves.**
- 4 **(5) Internal audit outsourcing services.**
- 5 **(6) Management functions or human resources.**
- 6 **(7) Broker, dealer, investment adviser, or investment banking**
 7 **services.**
- 8 **(8) Legal services or expert services unrelated to the audit.**
- 9 **(9) Any other services that the commissioner determines by**
 10 **rule are impermissible.**
- 11 **(h) An insurer that has direct written and assumed premiums**
 12 **totaling less than one hundred million dollars (\$100,000,000) in a**
 13 **calendar year may request relief from subsection (g) by filing with**
 14 **the commissioner a written statement describing the reasons the**
 15 **insurer should be exempt from subsection (g). The commissioner**
 16 **may grant the relief if, upon review of the written statement, the**
 17 **commissioner finds that compliance with subsection (g) would**
 18 **constitute a financial or organizational hardship on the insurer.**
- 19 **(i) The commissioner shall not recognize a person as an**
 20 **accountant qualified for a particular insurer if the person**
 21 **employed, as the person's partner or senior manager, an individual**
 22 **who:**
- 23 **(1) was involved in the audit in the individual's capacity as a**
 24 **partner or senior manager;**
- 25 **(2) served:**
- 26 **(A) as a member of the board;**
- 27 **(B) as the president;**
- 28 **(C) as the chief executive officer;**
- 29 **(D) as the controller;**
- 30 **(E) as the chief financial officer;**
- 31 **(F) as the chief accounting officer; or**
- 32 **(G) in another position equivalent to a position specified in**
 33 **clauses (A) through (F);**
- 34 **for the insurer; and**
- 35 **(3) participated in the audit of the insurer in the individual's**
 36 **capacity described in subdivision (2) during the one (1) year**
 37 **period preceding the date on which the most current statutory**
 38 **opinion is due.**

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

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

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

12 **(1) the insurer is:**

13 **(A) a Sarbanes-Oxley compliant entity; or**

14 **(B) a wholly owned subsidiary of a Sarbanes-Oxley**
 15 **compliant entity; or**

16 **(2) all of the following apply:**

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

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

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

28 **(i) the audit committee; or**

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

33 ~~(d)~~ **(l) The commissioner may conduct a hearing under ~~IC 4-21.5~~**
 34 **IC 4-21.5-3 to determine whether an independent auditor engaged by**
 35 **a domestic insurer accountant is sufficiently independent of that**
 36 **domestic insurer to be capable of exercising independent judgment and**
 37 **qualified and, after considering the evidence presented, may:**

38 **(1) rule that the accountant is not qualified for purposes of**

1 expressing ~~an objective~~ **the accountant's** opinion on the financial
 2 statements in the annual **audited** financial report filed by the
 3 insurer under this chapter; ~~if the commissioner determines that~~
 4 ~~the auditor is not sufficiently independent of the insurer, the~~
 5 ~~commissioner shall and~~

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

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

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

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

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

22 **If a nondomestic state accepts electronic filing with the National**
 23 **Association of Insurance Commissioners, the insurer shall file the**
 24 **evidence of the relief in an electronic format that is acceptable to**
 25 **the National Association of Insurance Commissioners.**

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

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

35 **(1)** obtain an understanding of internal control sufficient to
 36 plan the audit;

37 **(2)** for an insurer required to file a report of internal control
 38 over financial reporting under this chapter, consider the most

1 **recently available financial report under Statement on**
 2 **Auditing Standards No. 102 of the American Institute of**
 3 **Certified Public Accountants, in planning and performing the**
 4 **audit of the statutory financial statements; and**
 5 **(3) if considered necessary by the accountant, consider the**
 6 **procedures in the National Association of Insurance**
 7 **Commissioners Financial Condition Examiners Handbook.**

8 SECTION 29. IC 27-1-3.5-10 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 10. ~~A domestic An~~
 10 insurer may apply in writing to the commissioner for approval to ~~satisfy~~
 11 ~~the requirements of this chapter by filing file~~ audited consolidated or
 12 combined financial statements instead of separate annual audited
 13 financial statements if the insurer is part of a group of insurance
 14 companies that utilizes a pooling or one hundred percent (100%)
 15 reinsurance agreement that affects the solvency and integrity of the
 16 insurer's reserves and the insurer cedes all of the insurer's direct and
 17 assumed business to the pool. If ~~a domestic an~~ insurer whose
 18 application is approved elects to file a consolidated return, the insurer
 19 shall file, with its financial statements, a columnar consolidating or
 20 combining ~~schedule~~, **worksheet**, which must meet the following
 21 requirements:

22 (1) Amounts shown on the consolidated or combined **annual**
 23 audited financial report shall be shown on the ~~schedule~~.
 24 **worksheet.**

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

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

29 (4) Explanations of consolidating and eliminating entries shall be
 30 included.

31 (5) A reconciliation shall be included of any differences between
 32 the amounts shown in the individual insurer columns of the
 33 ~~schedule worksheet~~ and comparable amounts shown on the
 34 annual statements of the insurers.

35 SECTION 30. IC 27-1-3.5-11 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11. (a) ~~A domestic An~~
 37 insurer required to file **an annual audited financial reports report**
 38 under this chapter shall require ~~its independent auditor~~ **the insurer's**

1 **accountant** to report in writing to the board of directors or the ~~board~~
 2 ~~of director's~~ audit committee, not more than five (5) business days after
 3 making ~~a the~~ determination, the ~~independent auditor's~~ **accountant's**
 4 determination that:

5 (1) the ~~domestic~~ insurer has materially misstated to the
 6 commissioner the financial condition of the insurer as of the date
 7 of the balance sheet being ~~examined~~ **audited** by the ~~independent~~
 8 ~~auditor;~~ **accountant;** or

9 (2) the ~~domestic~~ insurer does not meet the minimum capital and
 10 surplus requirements ~~of Indiana of this title~~ as of the date of the
 11 balance sheet being ~~examined~~ **audited** by the ~~independent~~
 12 ~~auditor;~~ **accountant.**

13 The ~~domestic~~ insurer ~~who that~~ has received a report under this section
 14 shall forward a copy of the report to the commissioner within five (5)
 15 business days after receipt of the report and shall provide the
 16 ~~independent~~ accountant making the report with evidence of the report
 17 being furnished to the commissioner. An ~~independent auditor who~~
 18 **accountant that** does not receive the evidence that the report was filed
 19 with the commissioner within the required five (5) business days shall
 20 furnish the commissioner a copy of the report within the next five (5)
 21 business days. An ~~independent auditor may~~ **accountant is not be** liable
 22 to any person for a statement made in connection with this subsection,
 23 if the statement is made in good faith compliance with this subsection.

24 (b) If the ~~independent auditor~~ **accountant** of a ~~domestic an~~ insurer,
 25 after the filing of the insurer's **annual** audited financial report under
 26 this chapter, becomes aware of facts that, if the ~~independent auditor~~
 27 **accountant** had been aware of the facts when writing ~~its the~~
 28 **accountant's** report, might have affected the ~~independent auditor's~~
 29 **accountant's** report that was included in the insurer's **annual** audited
 30 financial report, the ~~independent auditor~~ **accountant** shall take such
 31 action as is prescribed in ~~the~~ **Volume 1, Section AU 561 of the**
 32 **Professional Standards of the American Institute of Certified Public**
 33 **Accountants.**

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

38 (1) a written report ~~(or a letter on reportable conditions)~~

1 ~~describing the significant deficiencies communication regarding~~
 2 ~~any unremediated material weakness (as defined in Statement~~
 3 ~~on Auditing Standard No. 112 of the American Institute of~~
 4 ~~Certified Public Accountants) in the insurer's internal control~~
 5 ~~structure; if internal control deficiencies were over financial~~
 6 ~~reporting as of the December 31 immediately preceding the~~
 7 ~~filing noted by the domestic insurer's independent auditor in~~
 8 ~~connection with its accountant during the audit; and~~

9 (2) a written ~~discussion~~ **description** of any remedial action taken
 10 or proposed in ~~connection with~~ **to correct any unremediated**
 11 **material weakness communicated in** the written report; **and**
 12 **(3) if no material weakness is noted by the accountant during**
 13 **the audit, a written communication noting that fact.**

14 (b) The written ~~report communication~~ and written ~~discussion~~
 15 **description** required under subsection (a) must be filed not later than
 16 sixty (60) days after the filing of the annual audited financial
 17 **statements report.**

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

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

30 (2) The:

31 (A) general background and experience; and

32 (B) experience in audits of insurers;

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

- 1 (3) That the ~~independent auditor~~ **accountant** understands that the:
 2 **(A) annual audited financial report and the accountant's**
 3 **opinion on the annual audited financial report will be filed**
 4 **with the commissioner in compliance with this chapter; and**
 5 **(B) commissioner** will be relying on the ~~independent auditor's~~
 6 ~~annual audited financial report and the independent auditor's~~
 7 ~~opinion in the report for~~ **filed report and opinion in the**
 8 **monitoring and regulation of the financial positions position**
 9 **of the insurers: insurer.**
- 10 (4) That the ~~independent auditor~~ **accountant** consents to the
 11 requirements of section 13 of this chapter and **consents and**
 12 agrees to make available for review by the commissioner, the
 13 commissioner's designee, or the commissioner's appointed agent,
 14 any of the ~~independent auditor's accountant's~~ work papers. ~~and~~
 15 ~~significant communications.~~
- 16 (5) That the ~~independent auditor~~ **accountant** is properly licensed
 17 by an appropriate state licensing authority and is a member in
 18 good standing in the American Institute of Certified Public
 19 Accountants.
- 20 (6) That the ~~independent auditor~~ **accountant** is in compliance
 21 with the requirements of section 9 of this chapter.
- 22 SECTION 33. IC 27-1-3.5-13 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 13. (a) ~~A domestic An~~
 24 insurer required to file an audited financial report under this chapter
 25 shall require its ~~independent auditor~~ **the insurer's accountant** to make
 26 available for review by department examiners:
- 27 (1) all work papers prepared in the conduct of the ~~independent~~
 28 ~~auditor's examination;~~ **accountant's audit;** and
 29 (2) any ~~record of significant~~ communications, related to the audit,
 30 between the ~~independent auditor~~ **accountant** and the insurer;
 31 ~~that took place at~~ ~~(A)~~ the offices of the insurer, ~~(B)~~ the department, ~~(C)~~
 32 ~~the offices of the independent auditor;~~ or ~~(D)~~ any other reasonable
 33 place designated by the commissioner.
- 34 ~~The~~ **(b) An insurer described in subsection (a)** shall require the
 35 ~~independent auditor~~ **accountant** to retain the audit work papers and
 36 communications until the department has filed a report on the
 37 examination covering the period of the audit but not later than seven
 38 (7) years after the date of the audit report.

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

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

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

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

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

33 **(c) An insurer or insurer group that:**

- 34 **(1) is subject to subsection (a) or (b);**
 35 **(2) is:**
 36 **(A) directly subject to Section 404;**
 37 **(B) part of a holding company system whose parent is**
 38 **directly subject to Section 404;**

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

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

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

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

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

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

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

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

35 **(1) is required to file an annual audited financial report under**
 36 **this chapter; and**
 37 **(2) fails to file an audited annual financial report before July 1 or**
 38 **any other deadline established by the commissioner for the insurer**

1 under this chapter without having obtained an extension;
2 is subject to a civil penalty of fifty dollars (\$50) per day until the report
3 is received prescribed in rules adopted by the commissioner.

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

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

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

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

21 (1) section 7.2(h)(1) of this chapter and in a subsequent
22 calendar year is described in section 7.2(h)(2) or 7.2(h)(3) of
23 this chapter; or

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

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

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

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

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

35 (b) No merger or consolidation between a domestic and a foreign
36 company shall take effect, unless and until the surviving or new
37 company, if such is a foreign company, ~~shall file with the department~~
38 ~~a power of attorney appointing the commissioner and his successors in~~

1 office; the attorney for service of said foreign company, upon whom all
 2 lawful process against said company may be served. Said power of
 3 attorney shall be irrevocable so long as said foreign company has
 4 outstanding in this state any contract of insurance, or other obligation
 5 whatsoever, and shall by its terms so provide. Service upon the
 6 commissioner shall be deemed sufficient service upon the company.
 7 **complies with IC 27-1-17-4(7).**

8 SECTION 39. IC 27-1-15.6-7 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) Unless denied
 10 licensure under section 12 of this chapter, a person who has met the
 11 requirements of sections 5 and 6 of this chapter shall be issued an
 12 insurance producer license. An insurance producer may receive
 13 qualification for a license in one (1) or more of the following lines of
 14 authority:

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

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

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

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

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

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

33 (7) Credit — limited line credit insurance.

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

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

38 (b) A person who requests and receives qualification under

1 subsection (a)(5) for variable life and annuity products:

2 (1) is considered to have requested; and

3 (2) shall receive;

4 a life qualification under subsection (a)(1). **The insurance producer's**
 5 **license document must clearly indicate that the life qualification**
 6 **received under this subsection includes a qualification for variable**
 7 **life and variable annuity products.**

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

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

15 (e) An individual insurance producer who:

16 (1) allows the individual insurance producer's license to lapse;
 17 and

18 (2) completed all required continuing education before the license
 19 expired;

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

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

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

37 (h) A licensee shall inform the commissioner of a change of address
 38 not more than thirty (30) days after the change by any means

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

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

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

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

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

1 requested.

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

10 (c) An individual who:

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

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

18 (A) 7(a)(1);

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

20 (C) 7(a)(5);

21 of this chapter;

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

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

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

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

33 (A) 7(a)(3);

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

35 (C) 7(a)(6);

36 of this chapter;

37 is not required to complete preclicensing education and is required to
38 take only the portion of the examination required under section 5(b) of

1 this chapter that pertains to Indiana laws and rules.

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

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

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

7 **is not required to complete prelicensing education and is required**
 8 **to take only the part of the examination required under section**
 9 **5(b) of this chapter that pertains to Indiana laws and rules.**

10 SECTION 41. IC 27-1-15.6-12, AS AMENDED BY P.L.27-2007,
 11 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2010]: Sec. 12. (a) For purposes of this section, "permanently
 13 revoke" means that:

14 (1) the producer's license shall never be reinstated; and

15 (2) the former licensee, after the license revocation, is not eligible
 16 to submit an application for a license to the department.

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

23 (1) Providing incorrect, misleading, incomplete, or materially
 24 untrue information in a license application.

25 (2) Violating:

26 (A) an insurance law;

27 (B) a regulation;

28 (C) a subpoena of an insurance commissioner; or

29 (D) an order of an insurance commissioner;

30 of Indiana or of another state.

31 (3) Obtaining or attempting to obtain a license through
 32 misrepresentation or fraud.

33 (4) Improperly withholding, misappropriating, or converting any
 34 monies or properties received in the course of doing insurance
 35 business.

36 (5) Intentionally misrepresenting the terms of an actual or
 37 proposed insurance contract or application for insurance.

38 (6) Having been convicted of a felony.

- 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

1 license is mailed, make written demand to the commissioner for a
2 hearing before the commissioner to determine the reasonableness of the
3 commissioner's action. The hearing shall be held not more than thirty
4 (30) days after the applicant or licensee makes the written demand, and
5 shall be conducted under IC 4-21.5.

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

11 (1) the violation was not reported to the commissioner; and

12 (2) no corrective action was taken.

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

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

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

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

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

1 business" means:

2 (1) insurance written on the interests of:

3 (A) the applicant or licensee;

4 (B) the applicant's or licensee's immediate family; or

5 (C) the applicant's or licensee's employer; or

6 (2) insurance covering:

7 (A) the applicant or licensee;

8 (B) members of the applicant's or licensee's immediate family;

9 or

10 (C) either:

11 (i) a corporation, limited liability company, association, or
12 partnership; or

13 (ii) the officers, directors, substantial stockholders, partners,
14 members, managers, employees of such a corporation,
15 limited liability company, association, or partnership;

16 of which the applicant or licensee or a member of the
17 applicant's or licensee's immediate family is an officer,
18 director, substantial stockholder, partner, member, manager,
19 associate, or employee.

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

28 (k) The commissioner has the authority to:

29 (1) enforce the provisions of; and

30 (2) impose any penalty or remedy authorized by;

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

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

38 (m) The commissioner may order a licensee to make restitution if

1 the commissioner finds that the licensee has committed a violation
2 described in:

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

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

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

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

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

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

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

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

37 An attorney in good standing who is admitted to the practice of law in
38 Indiana and holds a license issued under IC 27-1-15.6 with a title

1 qualification under IC 27-1-15.6-7(a)(8) may complete all or any
 2 number of hours of continuing education required by this subsection by
 3 completing an equivalent number of hours in continuing legal
 4 education courses related to the business of title insurance or any
 5 aspect of real property law.

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

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

10 (2) A limited line credit insurance producer.

11 (3) An insurance producer who, **before July 1, 2011:**

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

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

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

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

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

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

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

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

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

37 (1) a continuing education statement that:

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

- 1 (B) is signed by the licensee under oath; and
 2 (C) lists the continuing education courses completed by the
 3 licensee to satisfy the continuing education requirements of
 4 this section; and
 5 (2) any other information required by the commissioner.
- 6 (i) A continuing education statement submitted under subsection (h)
 7 may be reviewed and audited by the department.
- 8 (j) A licensee shall retain a copy of the original certificate of
 9 completion received by the licensee for completion of a continuing
 10 education course.
- 11 (k) A licensee who completes a continuing education course that:
 12 (1) is approved by the commissioner under section 4 of this
 13 chapter;
 14 (2) is held in a classroom setting; and
 15 (3) concerns ethics;
 16 shall receive continuing education credit for the number of hours for
 17 which the course is approved plus additional hours, not to exceed two
 18 (2) hours in a renewal period, equal to the number of hours for which
 19 the course is approved.
- 20 SECTION 43. IC 27-1-15.7-5 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) To qualify as a
 22 certified prelicensing course of study for purposes of IC 27-1-15.6-6,
 23 an insurance producer program of study must meet all of the following
 24 criteria:
- 25 (1) Be conducted or developed by an:
 26 (A) insurance trade association;
 27 (B) accredited college or university;
 28 (C) educational organization certified by the insurance
 29 producer education and continuing education advisory council;
 30 or
 31 (D) insurance company licensed to do business in Indiana.
- 32 (2) Provide for self-study or instruction provided by an approved
 33 instructor in a structured setting, as follows:
 34 (A) For life insurance producers, not less than ~~twenty-four (24)~~
 35 **twenty (20)** hours of instruction in a structured setting or
 36 comparable self-study on:
 37 (i) ethical practices in the marketing and selling of
 38 insurance;

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

- 1 noncommercial purposes.
- 2 (F) For title insurance producers, not less than ten (10) hours
3 of instruction in a structured setting or comparable self-study
4 on:
- 5 (i) ethical practices in the marketing and selling of title
6 insurance;
- 7 (ii) requirements of the insurance laws and administrative
8 rules of Indiana;
- 9 (iii) principles of title insurance, including underwriting and
10 escrow issues; and
- 11 (iv) principles of the federal Real Estate Settlement
12 Procedures Act (12 U.S.C. 2608).
- 13 (3) Instruction provided in a structured setting must be provided
14 only by individuals who meet the qualifications established by the
15 commissioner under subsection (b).
- 16 (b) The commissioner, after consulting with the insurance producer
17 education and continuing education advisory council, shall adopt rules
18 under IC 4-22-2 prescribing the criteria that a person must meet to
19 render instruction in a certified prelicensing course of study.
- 20 (c) The commissioner shall adopt rules under IC 4-22-2 prescribing
21 the subject matter that an insurance producer program of study must
22 cover to qualify for certification as a certified prelicensing course of
23 study under this section.
- 24 (d) The commissioner may make recommendations that the
25 commissioner considers necessary for improvements in course
26 materials.
- 27 (e) The commissioner shall designate a program of study that meets
28 the requirements of this section as a certified prelicensing course of
29 study for purposes of IC 27-1-15.6-6.
- 30 (f) The commissioner may, after notice and opportunity for a
31 hearing, withdraw the certification of a course of study that does not
32 maintain reasonable standards, as determined by the commissioner for
33 the protection of the public.
- 34 (g) Current course materials for a prelicensing course of study that
35 is certified under this section must be submitted to the commissioner
36 upon request, but not less frequently than once every three (3) years.
- 37 SECTION 44. IC 27-1-17-4, AS AMENDED BY P.L.193-2006,
38 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

1 JULY 1, 2010]: Sec. 4. Whenever a foreign or an alien insurance
2 company desires to be admitted to do an insurance business in this
3 state, it shall execute in the English language and present the following
4 to the department, at its office, accompanied by the fees prescribed by
5 law:

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

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

13 (A) the name of such company;

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

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

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

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

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

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

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

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

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

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

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

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

26 (7) A duly executed power of attorney in a form prescribed by the
27 department which constitutes and appoints an individual or a
28 corporate resident of Indiana, or an authorized Indiana insurer, as
29 the insurance company's agent, its true and lawful attorney upon
30 whom, except as provided in section 4.2 of this chapter, all lawful
31 processes in any action in law or in equity against it shall be
32 served. Such power of attorney shall contain an agreement by the
33 insurance company that any lawful process against it which may
34 be served upon the agent as its attorney shall be of the same force
35 and validity as if served upon the insurance company and that
36 such power of attorney shall continue in force and be irrevocable
37 so long as any liability of the insurance company remains
38 outstanding in this state. Such power of attorney shall be executed

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

27 (8) Proof which satisfies the department that it has complied with
28 the financial requirements imposed in this chapter upon foreign
29 and alien insurance companies which transact business in this
30 state and that it is entitled to public confidence and that its
31 admission to transact business in this state will not be prejudicial
32 to public interest.

33 SECTION 45. IC 27-1-18-4 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) Any foreign or
35 alien corporation admitted to do business in this state may alter or
36 enlarge the character of the business which it is authorized to transact
37 in this state under its articles of incorporation or association, and any
38 amendments thereof filed with the department as provided in section

1 3 of this chapter, by procuring an amended certificate of authority from
2 the department in the manner provided in subsection (b).

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

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

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

32 SECTION 46. IC 27-1-23-4 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4. (a) Material
34 transactions within an insurance holding company system to which an
35 insurer subject to registration is a party shall be subject to the following
36 standards:

- 37 (1) The terms shall be fair and reasonable.
38 (2) The charges or fees for services performed shall be

- 1 reasonable.
- 2 (3) The expenses incurred for any payment received shall be
3 allocated to the insurer in conformity with customary insurance
4 accounting practices consistently applied.
- 5 (4) The books, accounts, and records of each party as to all
6 transactions described in this subsection shall be so maintained as
7 to clearly and accurately disclose the precise nature and details of
8 the transactions, including accounting information necessary to
9 support the reasonableness of the charges or fees to the respective
10 parties.
- 11 (5) The insurer's surplus as regards policyholders following any
12 transactions with affiliates or shareholder dividend shall be
13 reasonable in relation to the insurer's outstanding liabilities and
14 adequate to its financial needs.
- 15 (b) The following transactions involving a domestic insurer and any
16 person in its insurance holding company system may not be entered
17 into unless the insurer has notified the commissioner in writing of its
18 intention to enter into such transaction at least thirty (30) days prior
19 thereto, or such shorter period as the commissioner may permit, and the
20 commissioner has not disapproved it within that period:
- 21 (1) Sales, purchases, exchanges, loans or extensions of credit,
22 guarantees, or investments, provided those transactions are equal
23 to or exceed:
- 24 (A) with respect to nonlife insurers, the lesser of three percent
25 (3%) of the insurer's admitted assets or twenty-five percent
26 (25%) of surplus as regards policyholders; and
- 27 (B) with respect to life insurers, three percent (3%) of the
28 insurer's admitted assets;
- 29 each as of December 31 next preceding.
- 30 (2) Loans or extensions of credit to any person who is not an
31 affiliate, where the insurer makes those loans or extensions of
32 credit with the agreement or understanding that the proceeds of
33 such transactions, in whole or in substantial part, are to be used
34 to make loans or extensions of credit to, to purchase assets of, or
35 to make investments in, any affiliate of the insurer making such
36 loans or extensions of credit, provided those transactions are
37 equal to or exceed:
- 38 (A) with respect to nonlife insurers, the lesser of three percent

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

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

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

1 distributions made within the twelve (12) consecutive months ending
2 on the date on which the proposed dividend or distribution is scheduled
3 to be made, exceeds the greater of:

- 4 (1) ten percent (10%) of such insurer's surplus as regards
- 5 policyholders as of the most recently preceding December 31; or
- 6 (2) the net gain from operations of such insurer, if such insurer is
- 7 a life insurer, or the net income, if such insurer is not a life
- 8 insurer, for the twelve (12) month period ending on the most
- 9 recently preceding December 31.

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

- 14 (1) the commissioner has approved the payment of such dividend
- 15 or distribution; or
- 16 (2) the commissioner has not disapproved the payment within the
- 17 thirty (30) day period referred to in subsection (g)."

18 Delete pages 3 through 4.

19 Page 5, delete lines 1 through 22.

20 Page 8, delete lines 11 through 20, begin a new paragraph and
21 insert:

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

- 23 **(1) for one (1) year after the date of issuance; or**
- 24 **(2) until:**

25 ~~(1)~~ **(A)** the license is:

26 ~~(A)~~ **(i)** surrendered; or

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

28 ~~(2)~~ **(B)** the administrator:

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

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

31 **whichever occurs first."**

32 Page 11, delete lines 5 through 42.

33 Delete pages 12 through 25.

34 Page 26, delete lines 1 through 33, begin a new paragraph and
35 insert:

36 "SECTION 50. IC 27-2-15-4.2 IS ADDED TO THE INDIANA
37 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
38 [EFFECTIVE JULY 1, 2010]: **Sec. 4.2. As used in this chapter,**

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

2 SECTION 51. IC 27-2-15-4.5 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 4.5. (a) ~~As used in this~~
4 ~~section, "city" refers to a city having a population of more than~~
5 ~~thirty-five thousand (35,000) that is located in a county having a~~
6 ~~population of more than four hundred thousand (400,000) but less than~~
7 ~~seven hundred thousand (700,000):~~

8 ~~(b)~~ (a) An insurer that:

9 (1) issued an insurance policy:

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

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

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

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

14 **(2) receives a request for notice about the existence of the**
15 **insurance policy:**

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

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

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

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

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

29 (1) be in writing;

30 (2) identify the insurer and state the insurer's address;

31 (3) identify the building or structure and state the location of the
32 building or structure; and

33 (4) disclose the nature and extent of the coverage of the building
34 or structure provided by the policy.

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

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

3 SECTION 52. IC 27-2-15-5 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 5. (a) If:

5 (1) a fire or explosion damages a building or other structure
6 located in a ~~city~~; **municipality**; and

7 (2) the enforcement authority of the ~~city~~ **municipality** certifies to
8 an insurer that issued a policy covering the building or structure
9 the amount of demolition or rehabilitation expenses that the ~~city~~
10 **municipality** anticipates incurring or has incurred under
11 IC 36-7-9 in connection with the building or structure;

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

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

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

19 (2) comply with subsection (c).

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

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

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

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

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

34 SECTION 53. IC 27-2-15-6 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 6. Upon a judgment
36 being rendered under IC 36-7-9-13(c) or IC 36-7-9-13(d), the ~~city~~
37 **municipality** is entitled to the available insurance proceeds set aside
38 to the extent of the costs set forth in IC 36-7-9-12. All claims by the

1 **city municipality** against the available insurance proceeds must be
 2 made within one (1) year after the date of the fire or explosion or
 3 within one (1) year after the final outcome of a case or appeal initiated
 4 under IC 36-7-9, whichever is later. Proceeds in the escrow account
 5 that are not claimed in this manner shall be paid to the insured.

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

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

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

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

- 18 (1) Claims processing.
- 19 (2) Collection of premiums.
- 20 (3) Marketing.
- 21 (4) Operations.
- 22 (5) Taxes.
- 23 (6) General overhead.
- 24 (7) Salaries and benefits.
- 25 (8) Quality assurance.
- 26 (9) Utilization review and management.
- 27 (10) Benefit management.
- 28 (11) Network contracting and management.
- 29 (12) State and federal regulatory compliance.

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

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

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

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

1 **(1) An insurer that issues a policy of accident and sickness**
 2 **insurance (as defined in IC 27-8-5-1).**

3 **(2) A health maintenance organization (as defined in**
 4 **IC 27-13-1-19).**

5 **(3) A limited service health maintenance organization (as**
 6 **defined in IC 27-13-34-4).**

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

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

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

13 **(1) administrative expenses; or**

14 **(2) amounts that are the financial responsibility of a covered**
 15 **individual or a party other than the health plan.**

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

18 **(1) actual claim expenses; divided by**

19 **(2) earned premiums;**

20 **in a calendar year.**

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

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

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

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

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

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

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

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

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

5 **(A) Chief executive officer and executive salaries and**
6 **benefits.**

7 **(B) Commissions and other broker fees.**

8 **(C) Utilization and other benefit management expenses.**

9 **(D) Advertising and marketing expenses.**

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

12 **(i) Reinsurance.**

13 **(ii) General liability.**

14 **(iii) Professional liability.**

15 **(iv) Other.**

16 **(F) Taxes, including the following:**

17 **(i) State and local insurance.**

18 **(ii) State premium.**

19 **(iii) Payroll.**

20 **(iv) Federal and state income.**

21 **(v) Real estate.**

22 **(vi) Other.**

23 **(G) Travel and entertainment expenses.**

24 **(H) State and federal lobbying expenses.**

25 **(I) Other expenses, including the following:**

26 **(i) Nonexecutive salaries, wages, and benefits.**

27 **(ii) Rent and real estate expenses.**

28 **(iii) Certification, accreditation, board, bureau, and**
29 **association fees.**

30 **(iv) Auditing and actuarial fees.**

31 **(v) Collection and bank service charges.**

32 **(vi) Occupancy, depreciation, and amortization.**

33 **(vii) Cost or depreciation of electronic data processing,**
34 **claims, and other services.**

35 **(viii) Regulatory authority licenses and fees.**

36 **(ix) Investment expenses.**

37 **(x) Aggregate write-ins for expenses.**

38 **(J) Total expenses incurred.**

- 1 **(2) The health plan's name and address.**
- 2 **(3) The health plan's total premium.**
- 3 **(4) The amount of interest earned on premiums.**
- 4 **(5) The amount recovered from uninsured motorist insurance,**
- 5 **accident insurance, workers compensation insurance, and**
- 6 **other third party liability.**
- 7 **(6) The total medical expense incurred.**
- 8 **(7) The medical loss ratio.**
- 9 **(8) Certification by a member of the American Academy of**
- 10 **Actuaries that the information provided in the report is**
- 11 **accurate and complete and that the health plan is in**
- 12 **compliance with this chapter.**
- 13 **(9) Any other information requested by the commissioner.**

14 **Sec. 9. (a) The department shall:**

- 15 **(1) publish and maintain each report filed under section 8 of**
- 16 **this chapter on the department's Internet web site; and**
- 17 **(2) make a hard copy of each report filed under section 8 of**
- 18 **this chapter available to the public upon request.**

19 **(b) A report filed under section 8 of this chapter is a public**
20 **record.**

21 **Sec. 10. The commissioner shall adopt rules under IC 4-22-2 to**
22 **implement this chapter.**

23 **Sec. 11. (a) The commissioner may audit a health plan at any**
24 **time to determine compliance with this chapter.**

25 **(b) If the commissioner, after notice and hearing under**
26 **IC 4-21.5, determines that a health plan has violated this chapter,**
27 **the commissioner may impose a civil penalty equal to:**

- 28 **(1) at least one thousand dollars (\$1,000); and**
- 29 **(2) not more than ten thousand dollars (\$10,000);**

30 **for each day of noncompliance.**

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

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

- 38 **(1) The lawful transaction of surplus lines insurance.**

- 1 (2) The lawful transaction of reinsurance by insurers.
- 2 (3) Transactions in this state involving a policy lawfully solicited,
3 written, and delivered outside of this state covering only subjects
4 of insurance not resident, located, or expressly to be performed in
5 this state at the time of issuance, and which transactions are
6 subsequent to the issuance of such policy.
- 7 (4) Attorneys acting in the ordinary relation of attorney and client
8 in the adjustment of claims or losses.
- 9 (5) Transactions in this state involving group life and group
10 sickness and accident or blanket sickness and accident insurance
11 or group annuities where the master policy of such groups was
12 lawfully issued and delivered in and pursuant to the laws of a
13 state in which the insurer was authorized to do an insurance
14 business, to a group organized for purposes other than the
15 procurement of insurance, and where the policyholder is
16 domiciled or otherwise has a bona fide situs.
- 17 (6) Transactions in this state relative to a policy issued or to be
18 issued outside this state involving insurance on vessels, craft or
19 hulls, cargos, marine builder's risk, marine protection and
20 indemnity or other risk, including strikes and war risks commonly
21 insured under ocean or wet marine forms of policy.
- 22 (7) Transactions in this state involving life insurance, health
23 insurance, or annuities provided to religious or charitable
24 institutions organized and operated without profit to any private
25 shareholder or individual for the benefit of such institutions and
26 individuals engaged in the service of such institutions.
- 27 (8) Transactions in this state involving contracts of insurance not
28 readily obtainable in the ordinary insurance market and issued to
29 one (1) or more industrial insureds. For purposes of this section,
30 an "industrial insured" means an insured:
- 31 (A) who procures the insurance of any risk or risks by use of
32 the services of a full-time employee acting as an insurance
33 manager or buyer or the services of a regularly retained and
34 continuously qualified insurance consultant;
- 35 (B) whose aggregate annual premium for insurance on all risks
36 totals at least twenty-five thousand dollars (\$25,000); ~~and~~
- 37 (C) who has at least twenty-five (25) full-time employees;
- 38 **(D) who, on or before February 1 (for the preceding six (6)**

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

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

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

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

19 **(i) The description and location of the insured property**
20 **or risk and the name of the insured.**

21 **(ii) The gross premiums charged for the policy or**
22 **contract.**

23 **(iii) The name and home office address of the insurer**
24 **that issues the policy or contract and the kind of**
25 **insurance effected.**

26 **(iv) A statement that the insured, after diligent effort,**
27 **was unable to procure from any insurer authorized to**
28 **transact the particular kind of insurance business in**
29 **Indiana the full amount of insurance coverage required**
30 **to protect the insured.**

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

35 **(A) must have its ambulance service program approved by an**
36 **ordinance of the legislative body of the county or city in which**
37 **it operates; and**

38 **(B) may not offer any membership program that includes**

1 benefits exceeding one (1) year in duration.

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

10 (1) The making of or proposing to make, as an insurer, an
11 insurance contract.

12 (2) The making of or proposing to make, as guarantor or surety,
13 any contract of guaranty or suretyship as a vocation and not
14 merely incidental to any other legitimate business or activity of
15 the guarantor or surety.

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

17 (4) The receiving or collection of any premium, commission,
18 membership fees, assessments, dues, or other consideration for
19 any insurance or any part thereof.

20 (5) The issuance or delivery of contracts of insurance to residents
21 of this state or to persons authorized to do business in this state.

22 (6) Acting as an agent for or otherwise representing or aiding on
23 behalf of another person or insurer in the solicitation, negotiation,
24 procurement, or effectuation of insurance or renewals thereof or
25 in the dissemination of information as to coverage or rates, or
26 forwarding of applications, or delivery of policies or contracts, or
27 inspection of risks, a fixing of rates or investigation or adjustment
28 of claims or losses or in the transaction of matters subsequent to
29 effectuation of the contract and arising out of it, or representing
30 or assisting a person or an insurer in the transaction of insurance
31 with respect to subjects of insurance resident, located, or to be
32 performed in this state. This subdivision does not prohibit
33 full-time salaried employees of a corporate insured from acting in
34 the capacity of an insurance manager or buyer in placing
35 insurance in behalf of the employer.

36 (c)(1) The failure of an insurer transacting insurance business in this
37 state to obtain a certificate of authority does not impair the validity of
38 any act or contract of such insurer and does not prevent such insurer

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

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

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

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

18 **and**

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

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

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

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

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

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

2 **(3) IC 27-9.**

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

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

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

13 (c) As used in this section, "grossly inadequate filing" means a
14 policy form filing:

15 (1) that fails to provide key information, including state specific
16 information, regarding a product, policy, or rate; or

17 (2) that demonstrates an insufficient understanding of applicable
18 legal requirements.

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

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

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

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

34 (h) The commissioner shall do the following:

35 (1) Create a document containing a list of all product filing
36 requirements for each type of insurance, with appropriate
37 citations to the law, administrative rule, or bulletin that specifies
38 the requirement, including the citation for the type of insurance

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

1 requirements set forth as described in subdivision (1) and must be
 2 resubmitted not more than thirty (30) days after the filer receives
 3 the commissioner's written notice of deficiency or disapproval. If
 4 a policy form is not resubmitted within thirty (30) days after
 5 receipt of the written notice, the commissioner's determination
 6 regarding the policy form is final.

7 (4) The commissioner shall review a policy form filing
 8 resubmitted under subdivision (3) and, not more than thirty (30)
 9 days after the commissioner receives the resubmission:

10 (A) approve the resubmitted policy form **or, if the filing is for**
 11 **a premium rate increase, schedule a public meeting under**
 12 **section 1.6 of this chapter;** or

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

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

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

1 overturned in a hearing conducted under this subsection.
 2 (6) If the commissioner does not take any action on a policy form
 3 that is:

- 4 **(A) not a filing for a premium rate increase; and**
 5 **(B) filed or resubmitted under this subsection in accordance**
 6 **with any applicable period specified in subdivision (2), (3), or**
 7 **(4);**

8 the policy form filing is considered to be approved.

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

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

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

18 (j) Except as provided in this subsection, the commissioner may not
 19 disapprove a policy form resubmitted under subsection (i)(3) or (i)(4)
 20 for a reason other than a reason specified in the original notice of
 21 determination under subsection (i)(2)(B). The commissioner may
 22 disapprove a resubmitted policy form for a reason other than a reason
 23 specified in the original notice of determination under subsection (i)(2)
 24 if:

- 25 (1) the filer has introduced a new provision in the resubmission;
 26 (2) the filer has materially modified a substantive provision of the
 27 policy form in the resubmission;
 28 (3) there has been a change in requirements applying to the policy
 29 form; or
 30 (4) there has been reviewer error and the written disapproval fails
 31 to state a specific requirement with which the policy form does
 32 not comply.

33 (k) The commissioner may return a grossly inadequate filing to the
 34 filer without triggering a deadline set forth in this section.

35 (l) The commissioner may disapprove a policy form if:

- 36 (1) the benefits provided under the policy form are not reasonable
 37 in relation to the premium charged; or
 38 (2) the policy form contains provisions that are unjust, unfair,

1 inequitable, misleading, or deceptive, or that encourage
2 misrepresentation of the policy.

3 (m) Upon disapproval of a filing under this section, the
4 commissioner shall provide written notice to the filer or insurer of the
5 right to a hearing within twenty (20) days of a request for a hearing.

6 (n) Unless a policy form approved under this chapter contains a
7 material error or omission, the commissioner may not:

- 8 (1) retroactively disapprove the policy form; or
9 (2) examine the filer of the policy form during a routine or
10 targeted market conduct examination for compliance with a policy
11 form filing requirement that was not in existence at the time the
12 policy form was filed.

13 **(o) All communications between the commissioner and the filer
14 or insurer concerning a premium rate increase filing:**

15 **(1) must be conducted:**

16 **(A) in writing; or**

17 **(B) at a public meeting conducted under section 1.6 of this
18 chapter; and**

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

20 **All documentation supporting a request for a premium rate
21 increase filing and provided to the commissioner under this section
22 must be made available to the public upon request.**

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

29 **(b) The:**

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

32 **(2) filer or insurer proposing the premium rate increase shall
33 send, by first class mail, to each policyholder that will be
34 affected by the proposed premium rate increase;**

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

37 **(c) The notice described in subsection (b) must include the
38 following:**

- 1 **(1) A statement of the date, time, place, and nature of the**
 2 **meeting.**
 3 **(2) The name, official title, and contact information for the**
 4 **individual who will conduct the meeting.**
 5 **(3) A statement of the factual basis for the proposed premium**
 6 **rate increase along with any supporting information from the**
 7 **commissioner and the filer or insurer.**
 8 **(4) A reference to the specific statutes and administrative**
 9 **rules that relate to the proposed premium rate increase.**
 10 **(5) A solicitation of oral or written comment from the public.**
 11 **(6) The procedure to be followed during the meeting.**

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

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

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

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

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

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

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

28 (i) section 19 of this chapter;

29 (ii) section 21 of this chapter; and

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

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

32 (i) section 24 of this chapter;

33 (ii) IC 27-8-6;

34 (iii) IC 27-8-14;

35 (iv) IC 27-8-23;

36 (v) 760 IAC 1-38.1; and

37 (vi) 760 IAC 1-39.

38 (d) A certificate may be issued to a resident of Indiana under an

1 association group policy, a discretionary group policy, or a trust group
 2 policy that is delivered or issued for delivery in a state other than
 3 Indiana if:

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

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

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

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

9 (i) section 19 of this chapter or, if the policy or certificate is
 10 described in section 2.5(b)(2) of this chapter, section 2.5 of
 11 this chapter;

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

14 (iii) section 21 of this chapter; and

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

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

17 (i) section 15.6 of this chapter;

18 (ii) section 24 of this chapter;

19 (iii) section 26 of this chapter;

20 (iv) IC 27-8-6;

21 (v) IC 27-8-14;

22 (vi) IC 27-8-14.1;

23 (vii) IC 27-8-14.5;

24 (viii) IC 27-8-14.7;

25 (ix) IC 27-8-14.8;

26 (x) IC 27-8-20;

27 (xi) IC 27-8-23;

28 (xii) IC 27-8-24.3;

29 (xiii) IC 27-8-26;

30 (xiv) IC 27-8-28;

31 (xv) IC 27-8-29;

32 (xvi) 760 IAC 1-38.1; and

33 (xvii) 760 IAC 1-39.

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

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

4 SECTION 62. IC 27-8-5-17, AS AMENDED BY P.L.218-2007,
 5 SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2010]: Sec. 17. (a) A group accident and sickness insurance
 7 policy shall not be delivered or issued for delivery in Indiana to a group
 8 that is not described in section 16(1)(A), 16(2)(A), 16(3)(A), 16(4)(A),
 9 16(5)(A), 16(6)(A), 16(7), or 16(8) of this chapter unless:

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

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

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

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

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

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

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

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

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

38 **(2) If an eligible expense would not be covered under the**

1 **federal Medicare program, the association payment for the**
 2 **eligible expense must be** based on one (1) or a combination of
 3 the following reimbursement methods, as determined by the board
 4 of directors:

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

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

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

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

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

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

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

34 (3) The first twenty (20) professional visits for the diagnosis or
 35 treatment of one (1) or more mental conditions rendered during
 36 the year by one (1) or more physicians or, at their direction, by
 37 their staff of registered or licensed nurses, and allied health
 38 professionals.

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

1 using performance indicators or quality standards that:

- 2 (1) are developed by private organizations; and
 3 (2) do not rely upon a survey process for a fee charged to the
 4 hospital to evaluate performance.

5 (e) For purposes of this section, if benefits are provided in the form
 6 of services rather than cash payments, their value shall be determined
 7 on the basis of their monetary equivalency.

8 (f) The following are not eligible expenses in any association policy
 9 within the scope of this chapter:

10 (1) Services for which a charge is not made in the absence of
 11 insurance or for which there is no legal obligation on the part of
 12 the patient to pay.

13 (2) Services and charges made for benefits provided under the
 14 laws of the United States, including Medicare and Medicaid,
 15 military service connected disabilities, medical services provided
 16 for members of the armed forces and their dependents or for
 17 employees of the armed forces of the United States, medical
 18 services financed in the future on behalf of all citizens by the
 19 United States.

20 (3) Benefits which would duplicate the provision of services or
 21 payment of charges for any care for injury or disease either:

22 (A) arising out of and in the course of an employment subject
 23 to a worker's compensation or similar law; or

24 (B) for which benefits are payable without regard to fault
 25 under a coverage statutorily required to be contained in any
 26 motor vehicle or other liability insurance policy or equivalent
 27 self-insurance.

28 However, this subdivision does not authorize exclusion of charges
 29 that exceed the benefits payable under the applicable worker's
 30 compensation or no-fault coverage.

31 (4) Care which is primarily for a custodial or domiciliary purpose.

32 (5) Cosmetic surgery unless provided as a result of an injury or
 33 medically necessary surgical procedure.

34 (6) Any charge for services or articles the provision of which is
 35 not within the scope of the license or certificate of the institution
 36 or individual rendering the services.

37 (g) The coverage and benefit requirements of this section for
 38 association policies may not be altered by any other inconsistent state

1 law without specific reference to this chapter indicating a legislative
2 intent to add or delete from the coverage requirements of this chapter.

3 (h) This chapter does not prohibit the association from issuing
4 additional types of health insurance policies with different types of
5 benefits that, in the opinion of the board of directors, may be of benefit
6 to the citizens of Indiana.

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

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

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

1 **association's next fiscal year is completed. Net gains, if any, must**
 2 **be held at interest to offset future losses or allocated to reduce**
 3 **future premiums. Assessments must be determined by the board**
 4 **members specified in section 2.1(b)(1) of this chapter, subject to**
 5 **final approval by the commissioner.**

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

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

10 SECTION 65. IC 27-8-11-4.7 IS ADDED TO THE INDIANA
 11 CODE AS A NEW SECTION TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 2010]: **Sec. 4.7. (a) As used in this section,**
 13 **"covered service" means a health care service for which any**
 14 **coverage is provided under an insured's policy, regardless of**
 15 **whether payment under the policy for the health care service is**
 16 **contractually limited by a deductible, copayment, coinsurance,**
 17 **waiting period, annual or lifetime maximum, frequency limitation,**
 18 **alternative benefit payment, or another limitation.**

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

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

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

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

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

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

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

8 ~~The term includes:~~

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

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

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

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

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

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

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

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

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

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

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

25 (2) a seasonal employee."

26 Page 28, line 35, delete "domestic".

27 Page 29, between lines 5 and 6, begin a new paragraph and insert:

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

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

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

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

1 **(b) The:**
 2 **(1) commissioner shall publish on the department of insurance**
 3 **Internet web site; and**
 4 **(2) health maintenance organization proposing the premium**
 5 **rate increase shall send, by first class mail, to each subscriber**
 6 **that will be affected by the proposed premium rate increase;**
 7 **notice of the public meeting one (1) time at least fifteen (15) days**
 8 **before the date of the public meeting.**

9 **(c) The notice described in subsection (b) must include the**
 10 **following:**

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

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

15 **(3) A statement of the factual basis for the proposed premium**
 16 **rate increase along with any supporting information from the**
 17 **commissioner and the health maintenance organization.**

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

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

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

22 **(d) All communications between the commissioner and the**
 23 **health maintenance organization concerning a premium rate**
 24 **increase filing:**

25 **(1) must be conducted:**

26 **(A) in writing; or**

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

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

29 **All documentation supporting a request for a premium rate**
 30 **increase filing and provided to the commissioner under this**
 31 **chapter must be made available to the public upon request."**

32 Page 29, delete lines 31 through 34, begin a new paragraph and
 33 insert:

34 "SECTION 73. IC 27-13-34-15.2 IS ADDED TO THE INDIANA
 35 CODE AS A NEW SECTION TO READ AS FOLLOWS
 36 [EFFECTIVE JULY 1, 2010]: **Sec. 15.2. (a) As used in this section,**
 37 **"covered service" means a limited health service for which any**
 38 **coverage is provided under an enrollee's individual contract or**

1 **group contract, regardless of whether payment under the**
 2 **individual contract or group contract for the health care service is**
 3 **contractually limited by a deductible, copayment, coinsurance,**
 4 **waiting period, annual or lifetime maximum, frequency limitation,**
 5 **alternative benefit payment, or another limitation.**

6 **(b) A limited service health maintenance organization may not,**
 7 **under a contract described in section 15 of this chapter, require a**
 8 **dentist to accept an amount set by the limited service health**
 9 **maintenance organization as payment for a limited health service**
 10 **provided to an enrollee unless the limited health service is a**
 11 **covered service under the enrollee's individual contract or group**
 12 **contract.**

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

15 Page 32, line 2, after "Internet" insert "web".

16 Page 32, line 6, delete "JULY 1, 2010]:" and insert "JULY 1,
 17 2012]:".

18 Page 32, line 35, delete "JULY 1, 2010]:" and insert "JULY 1,
 19 2012]:".

20 Page 32, delete lines 39 through 40, begin a new paragraph and
 21 insert:

22 "SECTION 78. IC 32-31-9-3, AS ADDED BY P.L.22-2007,
 23 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2010]: Sec. 3. As used in this chapter, "applicable offense"
 25 refers to any of the following:

26 (1) A crime involving domestic or family violence (as defined in
 27 IC 35-41-1-6.5).

28 (2) ~~A sex~~ **An offense against the person under ~~IC 35-42-4.~~**
 29 **IC 35-42.**

30 (3) Stalking under IC 35-45-10.

31 **(4) Any of the following offenses if the offense is committed at**
 32 **the dwelling of the victim:**

33 **(A) Burglary under IC 35-43-2-1.**

34 **(B) Residential entry under IC 35-43-2-1.5.**

35 **(C) Criminal trespass under IC 35-43-2-2(a)(1),**
 36 **IC 35-43-2-2(a)(2), IC 35-43-2-2(a)(4), or**
 37 **IC 35-43-2-2(a)(5).**

38 SECTION 79. IC 32-31-9-7, AS ADDED BY P.L.22-2007,

1 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2010]: Sec. 7. As used in this chapter, "protected individual"
3 means a tenant or applicant:

4 (1) who is:

5 (A) a victim; or

6 (B) an alleged victim;

7 of an applicable offense; and

8 (2) who has received ~~either one~~ **(1)** of the following:

9 (A) A civil order for protection issued or recognized by a court
10 under IC 34-26-5 that restrains a perpetrator from contact with
11 the individual.

12 (B) A criminal no contact order that restrains a perpetrator
13 from contact with the individual.

14 **(C) In the case of an applicable offense listed in section**
15 **3(2), 3(3), or 3(4) of this chapter, a copy of a police report**
16 **that was filed with the law enforcement agency with**
17 **respect to the applicable offense.**

18 SECTION 80. IC 32-31-9-12, AS ADDED BY P.L.22-2007,
19 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
20 JULY 1, 2010]: Sec. 12. (a) A protected individual who is a tenant may
21 terminate the protected individual's rights and obligations under a
22 rental agreement by providing the landlord with a written notice of
23 termination in compliance with this section.

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

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

28 (1) a copy of:

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

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

34 **(C) in the case of an applicable offense listed in section**
35 **3(2), 3(3), or 3(4) of this chapter, a police report that was**
36 **filed with the law enforcement agency with respect to the**
37 **applicable offense; and**

38 (2) if the protected individual is a victim of domestic violence or

1 sexual assault, a copy of a safety plan, which must satisfy the
2 following:

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

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

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

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

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

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

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

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

27 SECTION 81. IC 34-30-2-111 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 111. IC 27-2-15-9
29 (Concerning the state fire marshal, a deputy fire marshal, an
30 enforcement authority, or an officer of a **city municipality** for
31 compliance with the statute concerning the set aside of insurance
32 proceeds in arson cases).

33 SECTION 82. THE FOLLOWING ARE REPEALED [EFFECTIVE
34 JULY 1, 2010]: IC 27-1-3.5-3; IC 27-1-3.5-3.5; IC 27-2-15-2.

35 SECTION 83. [EFFECTIVE JULY 1, 2010] **(a) IC 27-8-15, as**
36 **amended by this act, applies to a health insurance plan (as defined**
37 **in IC 27-8-15-9) that is issued, entered into, delivered, amended, or**
38 **renewed after June 30, 2010.**

1 **(b) This SECTION expires July 1, 2015.**
2 SECTION 84. [EFFECTIVE JULY 1, 2010] **(a) IC 27-1-15.7-2, as**
3 **amended by this act, applies only to an insurance producer license**
4 **renewed after June 30, 2011.**
5 **(b) IC 27-1-15.7-5, as amended by this act, applies only to an**
6 **insurance producer license issued after June 30, 2011.**
7 **(c) This SECTION expires July 1, 2016.**
8 SECTION 85. [EFFECTIVE JULY 1, 2010] **(a) IC 27-2-15, as**
9 **amended by this act, applies to damage occurring by fire or**
10 **explosion after June 30, 2010.**
11 **(b) This SECTION expires July 1, 2015.**
12 SECTION 86. **An emergency is declared for this act."**
13 Renumber all SECTIONS consecutively.
 (Reference is to SB 357 as reprinted February 2, 2010.)

and when so amended that said bill do pass.

Representative Fry