

# COMMITTEE REPORT

## MADAM PRESIDENT:

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

- 1           Page 1, delete lines 1 through 17, begin a new paragraph and insert:  
2           "SECTION 1. IC 9-13-2-0.9 IS ADDED TO THE INDIANA CODE  
3           AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
4           1, 2010]: **Sec. 0.9. "Accessible to the public", for purposes of**  
5           **IC 9-22-5, has the meaning set forth in IC 9-22-5-0.3.**  
6           SECTION 2. IC 9-13-2-111.5 IS ADDED TO THE INDIANA  
7           CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
8           [EFFECTIVE JULY 1, 2010]: **Sec. 111.5. "Nonconsenting police**  
9           **generated tow", for purposes of IC 9-22-5, has the meaning set**  
10           **forth in IC 9-22-5-0.7.**  
11           SECTION 3. IC 9-22-5-0.3 IS ADDED TO THE INDIANA CODE  
12           AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
13           1, 2010]: **Sec. 0.3. As used in this chapter, "accessible to the public"**  
14           **means that the place of business of a towing service is:**  
15                 **(1) staffed at least thirty (30) hours a week;**  
16                 **(2) staffed at least twenty (20) hours a week and a telephone**  
17                 **answering, paging, or mobile service is offered at least ten**  
18                 **(10) of the remaining hours of the week, for which the contact**  
19                 **telephone number is identified on the business sign at the**  
20                 **towing service; or**  
21                 **(3) open by appointment at least thirty (30) hours a week by**

1           **maintaining a staffed telephone or mobile paging telephone**  
 2           **service at least ten (10) hours a week and a telephone**  
 3           **answering, paging, or mobile service offered at least twenty**  
 4           **(20) hours a week, for which the contact telephone number is**  
 5           **identified on the business sign at the towing service.**

6           SECTION 4. IC 9-22-5-0.7 IS ADDED TO THE INDIANA CODE  
 7           AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 8           1, 2010]: **Sec. 0.7. As used in this chapter, "nonconsenting police**  
 9           **generated tow" means a professional service provided by a towing**  
 10          **service that was ordered by a police officer (as defined in**  
 11          **IC 9-13-2-127(b)).**

12          SECTION 5. IC 9-22-5-18 IS ADDED TO THE INDIANA CODE  
 13          AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 14          1, 2010]: **Sec. 18. (a) This section applies only to a nonconsenting**  
 15          **police generated tow for a passenger motor vehicle when the**  
 16          **payment for the nonconsenting police generated tow is expected to**  
 17          **be paid for by an insurer.**

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

20               **(1) Use a recovery vehicle that is registered under**  
 21               **IC 9-18-13-3(b).**

22               **(2) Meet the financial responsibility requirements of**  
 23               **IC 9-18-13-4(a).**

24               **(3) Use appropriately licensed operators when a recovery**  
 25               **vehicle is operated on highways.**

26               **(4) Have a properly zoned and secured storage lot, if**  
 27               **applicable.**

28               **(5) Comply with IC 24-4-6-2(b).**

29               **(6) Be accessible to the public.**

30               **(7) Submit the charges that the towing service charges for**  
 31               **professional services to the nearest state police post.**

32               **(8) Make charges for professional services that meet the**  
 33               **requirements of subsection (e).**

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

1 the passenger motor vehicle at the request of and receipt from the  
 2 owner or a representative of the owner of the passenger motor  
 3 vehicle of:

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

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

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

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

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

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

35 Delete pages 2 through 3.

36 Page 4, delete lines 1 through 23.

37 Page 4, delete lines 40 through 42.

38 Delete pages 5 through 29.

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

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

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

9 (2) in good standing with:

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

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

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

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

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

28 (3) The number of jurisdictions in which the domestic insurer  
29 transacts business.

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

33 (1) has been convicted of fraud, bribery, a violation of the  
34 Racketeer Influenced and Corrupt Organizations Act under  
35 federal law (18 U.S.C. 1961 through 1968) or state law (IC  
36 35-45-6) or any dishonest conduct or practices under federal or  
37 state law;

38 (2) has been found to have violated the insurance law of this state

1 with respect to any previous reports submitted under this chapter;  
 2 or  
 3 (3) has demonstrated a pattern or practice of failing to detect or  
 4 disclose material information in previous reports filed under this  
 5 chapter.

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

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

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

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

22 **Chapter 28. Independent Adjuster Licensing**

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

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

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

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

32 (2) is used only by a licensee or a person described in section  
 33 6(b)(2) of this chapter;

34 (3) complies with all claim payment requirements of the  
 35 insurance laws of this state; and

36 (4) is certified as compliant as described in subdivision (3) by  
 37 a licensee who is an officer of a business entity that is licensed  
 38 under this chapter.

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

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

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

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

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

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

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

- 38           **(1) An attorney who:**

- 1                   **(A) is admitted to practice in Indiana; and**  
2                   **(B) acts in a professional capacity as an attorney.**  
3           **(2) A person employed solely to:**  
4                   **(A) obtain facts surrounding a claim;**  
5                   **(B) furnish technical assistance to a licensed independent**  
6                   **adjuster; or**  
7                   **(C) collect claim information from, or furnish claim**  
8                   **information to, policyholders or claimants and perform**  
9                   **data entry into an automated claims adjudication system**  
10                  **if both of the following apply:**  
11                   **(i) The person is an individual employee of an**  
12                   **independent adjuster licensed under this chapter or the**  
13                   **independent adjuster's affiliate.**  
14                   **(ii) The person is supervised by an individual**  
15                   **independent adjuster licensed under this chapter or an**  
16                   **individual licensed insurance producer described in**  
17                   **subdivision (10) who supervises not more than**  
18                   **twenty-five (25) persons described in item (i).**  
19           **(3) A person that is licensed under IC 25-30-1.**  
20           **(4) A person that:**  
21                   **(A) performs only executive, administrative, managerial,**  
22                   **or clerical duties; and**  
23                   **(B) does not investigate, negotiate, or settle claims with**  
24                   **policyholders, claimants, or legal representatives of**  
25                   **policyholders or claimants.**  
26           **(5) A person that settles only reinsurance or subrogation**  
27           **claims.**  
28           **(6) An officer, director, manager, or employee of an**  
29           **authorized insurer, a managing general agent, a surplus lines**  
30           **insurer, a risk retention group, or an attorney in fact of a**  
31           **reciprocal insurer.**  
32           **(7) A manager of the United States branch of an alien insurer.**  
33           **(8) A person that investigates, negotiates, or settles life,**  
34           **accident and health, annuity, or disability insurance claims.**  
35           **(9) Under a self-insured arrangement, an individual who**  
36           **adjusts claims on behalf of the individual's employer.**  
37           **(10) A licensed insurance producer, an attorney in fact of a**  
38           **reciprocal insurer, or a managing general agent of an insurer**

1 to whom claim authority has been granted by the insurer.

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

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

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

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

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

16 Sec. 10. A person shall not:

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

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

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

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

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

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

34 (c) An application submitted under subsection (b) must include  
35 the following information in a format prescribed by the  
36 commissioner:

- 37 (1) The name of the individual.  
38 (2) The Social Security number of the individual.

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

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

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

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

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

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

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

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

- 1           **under section 18 of this chapter.**
- 2           **(5) The individual has completed a preclicensing course of**
- 3           **study for the line of authority in which the individual has**
- 4           **applied for licensing under this section.**
- 5           **(6) The individual has successfully passed the written**
- 6           **examination administered under section 15 of this chapter for**
- 7           **the line of authority in which the individual has applied for**
- 8           **licensing under this section.**
- 9           **(c) The commissioner may require any documents reasonably**
- 10          **necessary to verify the information contained in the application.**
- 11          **Sec. 13. (a) A business entity may apply for a resident**
- 12          **independent adjuster license by submitting:**
- 13               **(1) a uniform business entity application to the commissioner**
- 14               **with a declaration, under penalty of suspension, revocation,**
- 15               **or refusal of licensure, that the statements made in the**
- 16               **application are true and complete to the best knowledge of the**
- 17               **individual submitting the application on behalf of the business**
- 18               **entity;**
- 19               **(2) an application fee of forty dollars (\$40); and**
- 20               **(3) the name, address, Social Security number, and criminal**
- 21               **and administrative history of each:**
- 22                       **(A) owner that has at least a ten percent (10%) interest or**
- 23                       **voting interest in the business entity;**
- 24                       **(B) partner of the business entity;**
- 25                       **(C) executive officer of the business entity; and**
- 26                       **(D) director of the business entity.**
- 27          **(b) The commissioner shall approve an application submitted by**
- 28          **a business entity under subsection (a) upon finding all of the**
- 29          **following:**
- 30               **(1) The business entity is eligible to designate Indiana as the**
- 31               **business entity's home state.**
- 32               **(2) The business entity has designated an individual**
- 33               **independent adjuster licensed under this chapter to be**
- 34               **responsible for the business entity's compliance with Indiana**
- 35               **insurance law.**
- 36               **(3) The business entity has not committed any act that is**
- 37               **grounds for probation, suspension, revocation, or refusal of**
- 38               **an independent adjuster license under section 18 of this**

1           **chapter.**

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

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

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

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

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

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

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

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

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

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

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

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

28               **(1) military service;**

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

30               **(3) another extenuating circumstance determined by the**  
 31 **commissioner;**

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

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

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

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

- 1           **(3) The date of expiration.**
- 2           **(4) Other information considered necessary by the**  
3           **commissioner.**
- 4           **(g) An independent adjuster shall, not more than thirty (30)**  
5           **days after the occurrence of a change of the independent**  
6           **adjuster's:**
- 7               **(1) legal name; or**  
8               **(2) home state address;**
- 9           **provide written notice to the commissioner of the change.**
- 10          **(h) The commissioner may contract with a nongovernmental**  
11          **entity to perform ministerial functions required by this section,**  
12          **including the collection of data and fees related to licensing.**
- 13          **Sec. 15. (a) Except as provided in section 16 of this chapter, an**  
14          **individual who applies for an independent adjuster license under**  
15          **this chapter must pass a written examination that is:**
- 16               **(1) developed and conducted according to rules adopted by**  
17               **the commissioner under IC 4-22-2; and**
- 18               **(2) intended to test the knowledge of the individual**  
19               **concerning:**
- 20                   **(A) the lines of authority in which the applicant has**  
21                   **applied for licensing under this chapter;**
- 22                   **(B) the duties and responsibilities of an independent**  
23                   **adjuster; and**
- 24                   **(C) Indiana insurance law.**
- 25          **(b) The commissioner may contract with a nongovernmental**  
26          **entity to administer the written examination required by this**  
27          **section.**
- 28          **(c) An individual described in subsection (a) shall remit, with**  
29          **the application to take the written examination required by this**  
30          **section, a nonrefundable examination fee in an amount set by the**  
31          **commissioner or the organization administering the examination.**
- 32          **(d) If an individual:**
- 33               **(1) fails to appear for or to pass an examination; and**  
34               **(2) desires to reschedule the examination;**
- 35          **the individual shall reapply for the written examination and remit**  
36          **all fees and forms before scheduling an examination date.**
- 37          **Sec. 16. (a) An individual who applies for an independent**  
38          **adjuster license under this chapter and who:**

1           **(1) possesses an independent adjuster license for the same line**  
 2           **of authority in which the individual has applied for licensing**  
 3           **under this chapter in a state in which a prelicensing**  
 4           **independent adjuster licensure examination is required;**

5           **(2) possessed an independent adjuster license that:**

6               **(A) was for the same line of authority in which the**  
 7               **individual has applied for licensing under this chapter in**  
 8               **a state in which a prelicensing independent adjuster**  
 9               **licensure examination is required; and**

10              **(B) expired less than ninety (90) days before the date the**  
 11              **commissioner receives the application; or**

12           **(3) provides proof from contracting insurers that the**  
 13           **individual has participated in claims adjudication in the same**  
 14           **line of authority during the five (5) years immediately**  
 15           **preceding the date of application;**

16           **is not required to complete a prelicensing course under section**  
 17           **12(b)(5) of this chapter or pass a prelicensing examination under**  
 18           **section 15 of this chapter before being licensed under this chapter.**

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

22               **(1) is currently in good standing; or**

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

24           **(c) A person that:**

25               **(1) is licensed as an independent adjuster in another state**  
 26               **where a prelicensing independent adjuster licensure**  
 27               **examination is required;**

28               **(2) establishes legal residency in Indiana; and**

29               **(3) applies for a resident independent adjuster license under**  
 30               **this chapter less than ninety (90) days after the person**  
 31               **establishes legal residency in Indiana;**

32           **is not required to complete a prelicensing course under section**  
 33           **12(b)(5) of this chapter or pass a prelicensing examination under**  
 34           **section 15 of this chapter before being licensed under this chapter.**

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

38               **(1) the person is currently licensed in good standing as an**

- 1           **independent adjuster in the person's home state;**  
 2           **(2) the person has submitted:**  
 3               **(A) the proper application for licensure;**  
 4               **(B) a nonresident application fee of ninety dollars (\$90);**  
 5               **and**  
 6               **(C) in the case of a business entity, the information**  
 7               **required by section 13(a)(3) of this chapter; and**  
 8           **(3) the person's designated home state awards nonresident**  
 9           **independent adjuster licenses to residents of Indiana on the**  
 10           **same basis as nonresident independent adjuster licenses are**  
 11           **awarded under this chapter to residents of other states.**
- 12           **(b) Except as provided in section 18 of this chapter, if a person**  
 13           **that:**  
 14               **(1) is not a resident of Indiana; and**  
 15               **(2) is not licensed as an independent adjuster in another state;**  
 16           **desires to obtain an independent adjuster license under this**  
 17           **chapter, the person must comply with the requirements of section**  
 18           **12 or 13 of this chapter, and sections 14 and 15 of this chapter, and**  
 19           **must remit the nonresident application fee of ninety dollars (\$90).**
- 20           **(c) The commissioner may:**  
 21               **(1) verify an independent adjuster's licensure status in**  
 22               **another state through an appropriate data base, including the**  
 23               **insurance producer data base maintained by the NAIC or an**  
 24               **affiliate or a subsidiary of the NAIC; or**  
 25               **(2) request certification of good standing as described in**  
 26               **section 16(b) of this chapter.**
- 27           **(d) To maintain a valid nonresident independent adjuster license**  
 28           **issued under this chapter:**  
 29               **(1) the independent adjuster must maintain a valid resident**  
 30               **independent adjuster license in the independent adjuster's**  
 31               **home state; and**  
 32               **(2) the independent adjuster's home state must award**  
 33               **nonresident independent adjuster licenses to residents of**  
 34               **Indiana on the same basis as nonresident independent**  
 35               **adjuster licenses are awarded under this chapter to residents**  
 36               **of other states.**
- 37           **(e) For a nonresident independent adjuster license issued under**  
 38           **this chapter to be renewed:**

- 1           **(1) the independent adjuster must:**
- 2                 **(A) maintain a valid resident independent adjuster license**
- 3                 **in the independent adjuster's home state; and**
- 4                 **(B) remit to the commissioner a nonresident independent**
- 5                 **adjuster license renewal fee of ninety dollars (\$90); and**
- 6           **(2) the independent adjuster's home state must award**
- 7           **nonresident independent adjuster licenses to residents of**
- 8           **Indiana on the same basis as nonresident independent**
- 9           **adjuster licenses are awarded under this chapter to residents**
- 10           **of other states.**
- 11           **(f) If a nonresident independent adjuster's home state license**
- 12           **terminates for any reason other than issuance of a new resident**
- 13           **independent adjuster license in a new home state:**
- 14                 **(1) the person's nonresident independent adjuster license**
- 15                 **issued under this chapter also terminates immediately; and**
- 16                 **(2) the person shall immediately surrender the nonresident**
- 17                 **independent adjuster license to the commissioner.**
- 18           **(g) If a nonresident independent adjuster's home state license**
- 19           **terminates due to the issuance of a new resident independent**
- 20           **adjuster license in a new home state, the independent adjuster**
- 21           **shall, not more than thirty (30) days after the nonresident**
- 22           **independent adjuster's home state license termination date,**
- 23           **provide notice of the termination to the commissioner and the**
- 24           **insurance commissioner of any state that has issued a nonresident**
- 25           **independent adjuster license to the independent adjuster. The**
- 26           **notice must specify the independent adjuster's previous home state**
- 27           **address and new home state address.**
- 28           **(h) If a resident independent adjuster's license issued under this**
- 29           **chapter terminates for any reason, the resident independent**
- 30           **adjuster shall, not more than thirty (30) days after the resident**
- 31           **adjuster license termination date, provide notice of the termination**
- 32           **to the insurance commissioner of any state that has issued a**
- 33           **nonresident independent adjuster license to the resident**
- 34           **independent adjuster. If the termination results from a change of**
- 35           **the resident independent adjuster's home state, the notice must**
- 36           **specify the independent adjuster's previous home state address and**
- 37           **new home state address.**
- 38           **Sec. 18. (a) The commissioner may suspend, revoke, or refuse to**

1 issue or renew an independent adjuster license, or place an  
2 independent adjuster on probation, for a cause set forth in  
3 subsection (b).

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

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

8 (2) Violating an insurance law, a subpoena, or an order of the  
9 commissioner or another state's insurance commissioner.

10 (3) Obtaining or attempting to obtain a license through  
11 misrepresentation or fraud.

12 (4) Improperly withholding, misappropriating, or converting  
13 money or property received in the course of doing insurance  
14 business.

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

17 (6) Having been convicted of a felony.

18 (7) Having admitted or been found to have committed any  
19 unfair trade practice or fraud in the business of insurance.

20 (8) Using fraudulent, coercive, or dishonest practices, or  
21 demonstrating incompetence, untrustworthiness, or financial  
22 irresponsibility, in the conduct of insurance business.

23 (9) Having an insurance license, or its equivalent, probated,  
24 suspended, revoked, or refused in another state, province,  
25 district, or territory.

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

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

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

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

36 (c) If the commissioner refuses an application for licensure or  
37 for the renewal of an existing license under this chapter, the  
38 commissioner shall notify the applicant or licensee in writing,

1       **advising of the reason for the refusal. The applicant or licensee**  
 2       **may, not more than thirty (30) days after receiving the**  
 3       **commissioner's notice of refusal, make written demand upon the**  
 4       **commissioner for a hearing to determine the reasonableness of the**  
 5       **refusal. The hearing must be held under IC 4-21.5 not more than**  
 6       **twenty (20) days after the commissioner receives the applicant's or**  
 7       **licensee's written demand.**

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

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

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

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

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

23       **(e) In addition to or instead of a penalty imposed under**  
 24       **subsection (a), the commissioner may, after a hearing under**  
 25       **IC 4-21.5, impose a civil penalty of at least fifty dollars (\$50) and**  
 26       **not more than ten thousand dollars (\$10,000), regardless of**  
 27       **whether the person on whom the penalty is imposed holds an**  
 28       **independent adjuster license issued under this chapter that is in**  
 29       **effect. A penalty imposed under this subsection may be enforced in**  
 30       **the same manner as a civil judgment.**

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

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

37               **(1) An individual who is licensed for less than twelve (12)**  
 38               **months before the end of the applicable continuing education**

1           **biennium.**

2           **(2) A licensed nonresident independent adjuster who has met**  
3           **the continuing education requirements of the designated home**  
4           **state.**

5           **Sec. 20. An independent adjuster shall:**

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

8           **(2) comply with the record retention policy agreed to in the**  
9           **contract described in subdivision (1).**

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

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

13          **(2) Give policyholders and claimants prompt and**  
14          **knowledgeable service and courteous, fair, and objective**  
15          **treatment.**

16          **(3) Refrain from:**

17               **(A) giving legal advice; or**

18               **(B) dealing directly with a policyholder or claimant who is**  
19               **represented by legal counsel unless the legal counsel**  
20               **consents to the direct contact.**

21          **(4) Comply with all local, state, and federal privacy and**  
22          **information security laws.**

23          **(5) Identify:**

24               **(A) itself, herself, or himself as an independent adjuster;**  
25               **and**

26               **(B) if applicable, identify the independent adjuster's**  
27               **employer;**

28          **when dealing with a policyholder or claimant.**

29          **(6) Refrain from:**

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

31               **(B) acquiring, for the independent adjuster or any person,**  
32               **an interest or a title in salvage without first receiving**  
33               **written authority from the principal.**

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

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

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

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

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

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

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

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

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

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

20 Delete pages 43 through 59.

21 Page 60, delete lines 1 through 23.

22 Page 61, delete lines 9 through 42.

23 Delete page 62.

24 Page 63, delete lines 1 through 14.

25 Page 63, delete lines 38 through 42.

26 Delete pages 64 through 69.

27 Page 70, delete lines 1 through 34.

28 Page 72, delete lines 14 through 42.

29 Delete page 73.

- 1 Page 74, delete lines 1 through 23.
- 2 Page 74, delete lines 30 through 33.
- 3 Renumber all SECTIONS consecutively.  
(Reference is to HB 1240 as reprinted February 2, 2010.)

**and when so amended that said bill do pass.**

Committee Vote: Yeas 8, Nays 0.

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**Paul**

**Chairperson**