



April 8, 2011

**ENGROSSED
HOUSE BILL No. 1385**

DIGEST OF HB 1385 (Updated April 7, 2011 11:25 am - DI 110)

Citations Affected: IC 27-1.

Synopsis: Discrimination in premium rates. Provides that certain property and casualty insurance premium rate differences are not unfairly discriminatory, unfair or deceptive acts or practices, or premium rebating.

Effective: July 1, 2011.

Lehman

(SENATE SPONSOR — HOLDMAN)

January 18, 2011, read first time and referred to Committee on Insurance.
February 17, 2011, amended, reported — Do Pass.
February 21, 2011, read second time, ordered engrossed. Engrossed.
March 28, 2011, read third time, passed. Yeas 97, nays 0.

SENATE ACTION

March 29, 2011, read first time and referred to Committee on Insurance and Financial Institutions.
April 7, 2011, reported favorably — Do Pass.

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EH 1385—LS 6630/DI 97+



April 8, 2011

First Regular Session 117th General Assembly (2011)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2010 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1385

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

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

1 SECTION 1. IC 27-1-22-3 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) Rates shall be
 3 made in accordance with the following provisions:
 4 (1) Due consideration shall be given to the past and prospective
 5 loss experience within and outside this state, to conflagration and
 6 catastrophe hazards, if any, to a reasonable margin for
 7 underwriting profit and contingencies, to dividends or savings
 8 allowed or returned by insurers to their policyholders or members,
 9 to past and prospective expenses both countrywide and those
 10 specifically applicable to this state, to all other relevant factors,
 11 including trend factors, within and outside this state, and in the
 12 case of fire insurance rates, to the underwriting experience of the
 13 fire insurance business during a period of not less than the most
 14 recent five (5) year period for which such experience is available
 15 and relevant.
 16 (2) Risks may be grouped by classifications, by rating schedules,
 17 or by any other reasonable methods, for the establishment of rates

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1 and minimum premiums. Classification rates may be modified to
 2 produce rates for individual risks in accordance with rating plans
 3 which establish standards for measuring variations in hazards or
 4 expense provisions, or both. Such standards may measure any
 5 difference among risks that can be demonstrated to have a
 6 probable effect upon losses or expenses.

7 (3) The systems of expense provisions included in the rates for
 8 use by any insurer or group of insurers may differ from those of
 9 other insurers or groups of insurers to reflect the requirements of
 10 the operating methods of any such insurer or group with respect
 11 to any kind of insurance, or with respect to any subdivision or
 12 combination thereof for which subdivision or combination
 13 separate expense provisions are applicable.

14 (4) Rates shall not be excessive, inadequate, or unfairly
 15 discriminatory.

16 No rate shall be held to be excessive unless such rate is unreasonably
 17 high for the insurance coverage provided and a reasonable degree of
 18 competition does not exist in the area with respect to the classification
 19 to which such rate is applicable. No rate shall be held to be inadequate
 20 unless such rate is unreasonably low for the insurance coverage
 21 provided and is insufficient to sustain projected losses and expenses,
 22 or unless such rate is unreasonably low for the insurance coverage
 23 provided and the use of such rate has, or if continued, will have, the
 24 effect of destroying competition or creating a monopoly. **A rating
 25 difference that results from application of a rating plan that is
 26 intended to control rate changes applicable to a current
 27 policyholder upon renewal of the policy or the transfer of a policy
 28 in force among insurers is not unfairly discriminatory, is not an
 29 unfair or deceptive act or practice in the business of insurance
 30 under IC 27-4-1-4, and is not a violation of IC 27-1-20-30.**

31 (b) Except to the extent necessary to meet the provisions of
 32 subsection (a)(4), uniformity among insurers in any matters within the
 33 scope of this section is neither required nor prohibited.

34 (c) For the purpose of making rates upon automobiles and other
 35 motor vehicles under the provisions of this chapter, the terms "fleet" or
 36 "fleet policy" shall mean an insurance risk of five (5) or more
 37 automobiles and other vehicles of any kind, all owned by one (1)
 38 insured and all under one (1) direct operating management; provided,
 39 that automobiles and other motor vehicles owned by employees may
 40 not be included or insured under a fleet policy of an employer under
 41 any circumstances.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred House Bill 1385, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 25, delete "is based on policy inception date or".

Page 2, line 27, after "a" insert "**current**".

Page 2, line 27, after "policyholder" insert "**upon renewal of the policy or the transfer of a policy in force among insurers**".

Page 2, line 27, delete "." and insert ", **is not an unfair or deceptive act or practice in the business of insurance under IC 27-4-1-4, and is not a violation of IC 27-1-20-30.**".

Page 2, delete lines 39 through 42.

Delete page 3.

and when so amended that said bill do pass.

(Reference is to HB 1385 as introduced.)

LEHMAN, Chair

Committee Vote: yeas 8, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Insurance and Financial Institutions, to which was referred House Bill No. 1385, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to House Bill 1385 as printed February 18, 2011.)

PAUL, Chairperson

Committee Vote: Yeas 8, Nays 0.

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