CONFERENCE COMMITTEE REPORT
DIGEST FOR EHB 1015

Citations Affected: IC 27-1; IC 27-8-12-18.

Synopsis: Insurance matters. Proposed conference committee report to EHB 1015. Amends the law concerning financial requirements that apply to limited purpose subsidiary life insurance companies, including: the definition of "parent"; filings with and reports to the commissioner of insurance; and valuation of admitted assets. Specifies qualifications and educational requirements for solicitation, negotiation, and sale of annuities. Makes changes to limitations on long term care insurance commission amounts. **(THIS CONFERENCE COMMITTEE REPORT: Amends the law concerning financial requirements that apply to limited purpose subsidiary life insurance companies, including: the definition of "parent"; filings with and reports to the commissioner of insurance; and valuation of admitted assets. Specifies qualifications and educational requirements for solicitation, negotiation, and sale of annuities.)**

Effective: Upon passage; July 1, 2011.

Adopted Rejected

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed Senate Amendments to Engrossed House Bill No. 1015 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

Delete everything after the enacting clause and insert the following:

SECTION 1. IC 27-1-12.1-4, AS ADDED BY HEA 1486-2011, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. As used in this chapter, "parent" means a person that through at least one (1) intermediary wholly owns ~~an organizing domestic life insurance company.~~ **a limited purpose subsidiary.**

SECTION 2. IC 27-1-12.1-7, AS ADDED BY HEA 1486-2011, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. Before assuming risk under a reinsurance contract, a limited purpose subsidiary must do all of the following:

(1) Comply with IC 27-1-6.

(2) File with the commissioner an affidavit, signed by the limited purpose subsidiary's president, vice president, treasurer, or chief financial officer, including all of the following to the best of the individual's knowledge after reasonable inquiry:

(A) That the proposed organization and operation of the limited purpose subsidiary complies with this chapter.

(B) That the limited purpose subsidiary's investment policy reflects and considers the liquidity of assets and the reasonable preservation, administration, and management of the assets

with respect to the risks associated with reinsurance contracts issued by the limited purpose subsidiary.

(C) That the reinsurance contract and any arrangement intended to secure the limited purpose subsidiary's obligations under the reinsurance contract (including an agreement to implement the arrangement) comply with this chapter.

(3) File with the commissioner the opinion of a qualified ~~independent~~ actuary ~~approved by the commissioner~~ that the methodology and assumptions (including significant stress tests of key assumptions) used to establish ~~and discount~~ reserves held by the limited purpose subsidiary are sufficient to provide for the risk assumed by the limited purpose subsidiary.

(4) File with the commissioner the limited purpose subsidiary's plan of operation, including the following:

(A) A statement that the limited purpose subsidiary will, before ~~each~~ **an** offer and sale of securities of or by the limited purpose subsidiary, file with the commissioner, in a form acceptable to the commissioner, a legal opinion that the offering and sale of securities:

(i) of the limited purpose subsidiary complies with all federal securities laws; and

(ii) by the limited purpose subsidiary complies with all Indiana securities laws.

For purposes of this clause, the issuance of stock by the limited purpose subsidiary to the organizing domestic life insurance company is not the offer and sale of securities requiring a legal opinion.

(B) A complete description of **the material terms of** all **proposed** reinsurance transactions, reinsurance security arrangements, securitizations, and any other material transactions or arrangements of the limited purpose subsidiary.

(C) **A description of** the source and form of the limited purpose subsidiary's capital and surplus.

(D) The investment policy of the limited purpose subsidiary.

(E) Pro forma balance sheets and income statements that illustrate at least one (1) adverse case scenario, as determined using criteria required by the commissioner, for the performance of the limited purpose subsidiary under all reinsurance contracts.

~~(F) Risk-based capital requirements, including a requirement that the limited purpose subsidiary must maintain risk-based capital equal to the product of two and one half (2 1/2) and the number determined under the life risk-based capital formula in accordance with the National Association of Insurance Commissioners' risk-based capital instructions.~~

~~(G) Notice and reporting of material transactions.~~

~~(H)~~ **(F)** Policies for payment of dividends and other distributions to the organizing domestic life insurance company.

~~(I)~~ **(G)** Copies of all contracts between the limited purpose subsidiary and affiliates.

~~(J)~~ **(H)** Other documentation or information required by the commissioner.

(5) Obtain from the commissioner a certificate of authority to engage in the business of reinsurance in Indiana.

SECTION 3. IC 27-1-12.1-9, AS ADDED BY HEA 1486-2011, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. A limited purpose subsidiary that is granted a certificate of authority by the commissioner under this chapter:

~~(1) is wholly owned by the organizing domestic life insurance company;~~

~~(2)~~ **(1)** is authorized to engage in the business of reinsurance for purposes of IC 27-6-10 only for the lines of insurance for which the:

(A) organizing domestic life insurance company; and

(B) affiliates of the organizing domestic life insurance company;

are authorized;

~~(3)~~ **(2)** may reinsure only risks of:

(A) the organizing domestic life insurance company; and

(B) affiliates of the organizing domestic life insurance company; and

~~(4)~~ **(3)** may access alternative forms of financing.

SECTION 4. IC 27-1-12.1-13, AS ADDED BY HEA 1486-2011, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 13. **(a) If approved by the commissioner, the following are considered to be and must be reported as admitted** assets of a limited purpose subsidiary: ~~that are approved by the commissioner as admitted assets must:~~

~~(1) comply with requirements established by the commissioner under section 14 of this chapter; and~~

~~(2) be reported as admitted assets of the limited purpose subsidiary.~~

(1) Proceeds from a securitization, premiums, and other amounts payable by an affiliate to the limited purpose subsidiary.

(2) Letters of credit.

(3) Guarantees of the parent.

(4) Other assets.

(b) If the commissioner determines that the value of admitted assets that:

(1) were previously approved by the commissioner under subsection (a); and

(2) are not assets that are addressed by the Accounting Practices and Procedures Manual of the National Association of Insurance Commissioners;

has decreased, the commissioner may require the limited purpose subsidiary to provide additional security or collateral.

(c) The commissioner shall, at least thirty (30) days before taking action under subsection (b):

(1) notify the limited purpose subsidiary of the action; and

(2) provide to the limited purpose subsidiary an opportunity

to remedy the issues identified by the commissioner.

SECTION 5. IC 27-1-12.1-14, AS ADDED BY HEA 1486-2011, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 14. (a) A limited purpose subsidiary shall do the following:

(1) Provide to the commissioner, not later than forty-five (45) days after the closing date of the transactions of an insurance securitization, a copy of a complete set of executed documentation of the insurance securitization.

(2) Notify the commissioner, not later than two (2) business days after any material change in the financial condition or management of the limited purpose subsidiary, written notice of the material change.

(3) Annually file with the commissioner the actuarial opinion of the limited purpose subsidiary's internal actuary concerning reserves held by the limited purpose subsidiary for all risks assumed by the limited purpose subsidiary under the limited purpose subsidiary's reinsurance contracts.

(4) Biennially file with the commissioner the actuarial opinion

~~(A)~~ of a qualified ~~independent~~ actuary ~~approved by the commissioner; and~~

~~(B)~~ concerning the methodology and assumptions used by the limited purpose subsidiary in establishing the reserves held by the limited purpose subsidiary.

~~(5) Annually file with the commissioner a report of the limited purpose subsidiary's risk-based capital level as of the end of the immediately preceding calendar year, including the information required by the risk-based capital instructions of the National Association of Insurance Commissioners.~~

~~(6)~~ **(5)** Immediately notify the commissioner concerning any action by a ceding insurer or other person to foreclose on or otherwise take possession of collateral provided by the limited purpose subsidiary to secure an obligation of the limited purpose subsidiary.

(6) Comply with IC 27-1-23 and IC 27-1-36.

~~(b) A limited purpose subsidiary may, after approval of the commissioner, discount the reserves held by the limited purpose subsidiary in accordance with an actuarial opinion filed under subsection (a)(3).~~

~~(c)~~ **(b)** Unless otherwise required by the commissioner, a limited purpose subsidiary is not required to file a report, notice, or other document with the National Association of Insurance Commissioners.

SECTION 6. IC 27-1-12.1-15, AS ADDED BY HEA 1486-2011, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) The commissioner ~~shall, before approving a limited purpose subsidiary under this chapter,~~ **may** adopt rules under IC 4-22-2 to implement this chapter.

(b) The rules adopted under subsection (a) ~~must~~ **may** specify the following concerning limited purpose subsidiaries:

(1) Requirements for reserves, including actuarial certification.

(2) Requirements for securities.

(3) Authorized investments.

(4) Requirements with respect to reinsurance ceded or assumed by the limited purpose subsidiary.

(5) Requirements for dividends and distributions.

(6) Requirements for operations.

(7) Conditions of, forms for, and approval of the financing of a limited purpose subsidiary.

(c) The commissioner may adopt emergency rules under IC 4-22-2-37.1 to implement this section if the commissioner determines that:

(1) the need for a rule is so immediate and substantial that rulemaking procedures under IC 4-22-2-23 through IC 4-22-2-36 are inadequate to address the need; and

(2) an emergency rule is likely to address the need.

SECTION 7. IC 27-1-15.6-7, AS AMENDED BY HEA 1486-2011, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 7. (a) Unless denied licensure under section 12 of this chapter, a person who has met the requirements of sections 5 and 6 of this chapter shall be issued an insurance producer license. An insurance producer may receive qualification for a license in one (1) or more of the following lines of authority:

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

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

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

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

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

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

(7) Credit — limited line credit insurance.

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

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

(b) A person who requests qualification under subsection (a)(5) for variable life and annuity products **must:**

(1) ~~is considered to have requested; and~~ **be licensed as an insurance producer with a life qualification under subsection (a)(1);**

(2) ~~shall receive;~~ **be registered with FINRA; and**

(3) meet the broker-dealer registration requirements of:

(A) FINRA for a Series 6 limited representative license; or

(B) FINRA for a Series 7 general securities registered representative license.

~~a life qualification under subsection (a)(1) until the person completes the educational requirement specified in section 19.5 of this chapter and changes the person's life qualification status to a variable life and variable annuity products qualification status under section 19.5 of this chapter.~~

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

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

(e) An individual insurance producer who:

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

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

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

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

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

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

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

(j) The commissioner may participate, in whole or in part, with the NAIC or any affiliate or subsidiary of the NAIC in a centralized

insurance producer license registry through which insurance producer licenses are centrally or simultaneously effected for states that require an insurance producer license and participate in the centralized insurance producer license registry. If the commissioner determines that participation in the centralized insurance producer license registry is in the public interest, the commissioner may adopt rules under IC 4-22-2 specifying uniform standards and procedures that are necessary for participation in the registry, including standards and procedures for centralized license fee collection.

SECTION 8. IC 27-1-15.6-19.5, AS ADDED BY HEA 1486-2011, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 19.5. (a) As used in this section, ~~"variable life and~~ "annuity" means ~~insurance~~ **an annuity** that is: ~~used to fund insurance coverage provided under variable life insurance contracts and variable annuities.~~

(1) an insurance product under Indiana law; and

(2) solicited individually, regardless of whether the insurance product is classified as an individual annuity or a group annuity.

(b) A person ~~shall~~ **may** not sell, solicit, or negotiate ~~variable life and~~ **an** annuity ~~insurance~~ unless the person meets the following requirements:

(1) The person is licensed as: ~~either of the following:~~

(A) an insurance producer with a life qualification under section 7(a)(1) of this chapter; **or**

(B) **in the case of a variable annuity,** an insurance producer with ~~an accident and health or sickness~~ **a variable annuity** qualification under section ~~7(a)(2)~~ **7(a)(5)** of this chapter.

(2) The person has adequate knowledge of an annuity product to recommend the annuity product.

(3) The person complies with the insurer's training standards for ~~variable life and~~ annuity products.

(4) The person

~~(A) is registered with the FINRA; and~~

~~(B) meets the broker-dealer registration requirements of:~~

~~(i) FINRA for a Series 6 limited representative license and IC 23-19-4 for a Series 63 securities license; or~~

~~(ii) FINRA for a Series 7 general securities registered representative license and IC 23-19-4 for a Series 63 securities license.~~

~~(c) A person may be licensed as an insurance producer with a variable life and variable annuity products qualification if the person is:~~

~~(1) licensed under section 7 of this chapter; and~~

~~(2) granted a change in status under subsection (d).~~

~~(d) If, after a person is licensed under this chapter as an insurance producer with a life qualification, the person wants to solicit the sale of an annuity product, the person shall:~~

~~(1) request that the commissioner change the person's status as an insurance producer with a life qualification to status as an insurance producer with a variable life and variable annuity~~

~~products qualification under section 7(a)(5) of this chapter; and (2) show proof of having~~ **has** completed a single four (4) hour annuity training course that is conducted through a structured setting or self-study method and approved by the department in accordance with the requirements for approval that apply to continuing education courses under IC 27-1-15.7.

SECTION 9. IC 27-1-15.7-5, AS AMENDED BY HEA 1486-2011, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) To qualify as a certified prelicensing course of study for purposes of IC 27-1-15.6-6, an insurance producer program of study must meet all of the following criteria:

(1) Be conducted or developed by an:

(A) insurance trade association;

(B) accredited college or university;

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

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

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

(A) For life insurance producers, not less than twenty (20) hours of instruction in a structured setting or comparable self-study on:

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

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

(iii) principles of life insurance.

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

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

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

(iii) principles of health insurance.

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

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

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

(iii) principles of life insurance; and

(iv) principles of health insurance.

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

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

(ii) requirements of the insurance laws and administrative

rules of Indiana;

(iii) principles of property insurance; and

(iv) principles of liability insurance.

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

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

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

(iii) principles of property and liability insurance applicable to coverages sold to individuals and families for primarily noncommercial purposes.

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

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

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

(iii) principles of title insurance, including underwriting and escrow issues; and

(iv) principles of the federal Real Estate Settlement Procedures Act (12 U.S.C. 2608).

(G) For ~~variable life and variable~~ annuity product producers, not less than four (4) hours of instruction in a structured setting or comparable self-study on:

(i) types and classifications of annuities;

(ii) identification of the parties to an annuity;

(iii) the manner in which fixed, variable, and indexed annuity contract provisions affect consumers;

(iv) income taxation of qualified and non-qualified annuities;

(v) primary uses of annuities; and

(vi) appropriate sales practices, replacement, and disclosure requirements.

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

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

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

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

(e) The commissioner shall designate a program of study that meets

the requirements of this section as a certified prelicensing course of study for purposes of IC 27-1-15.6-6.

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

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

SECTION 10. IC 27-8-12-18, AS AMENDED BY P.L.173-2007, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 18. (a) An insurer or other entity that provides a commission to an insurance producer or other representative for the sale of a long term care insurance policy may not violate the following conditions:

(1) The ~~amount of the first year~~ **insurer or other entity shall, for at least six (6) years, pay to the insurance producer or other representative an annual** commission for selling or servicing the policy. ~~may not exceed two hundred percent (200%) of the amount of the commission paid in the second year.~~

(2) The amount of commission provided in years after the ~~second~~ **first** year must be ~~equal to the amount provided in the second~~ **determined based on the premium charged for the long term care insurance policy during the first** year.

~~(3) A commission must be provided each year for at least five (5) years after the first year.~~

(b) If an existing long term care policy or certificate is replaced, the insurer or other entity that issues the replacement policy may not provide, and its insurance producer may not accept, a commission in an amount greater than the renewal commission payable by the replacing insurer on renewal policies, unless the benefits of the replacement policy or certificate are clearly and substantially greater than the benefits under the replaced policy or certificate.

(c) This section does not apply to the following:

(1) Life insurance policies and certificates.

(2) A policy or certificate that is sponsored by an employer for the benefit of:

(A) the employer's employees; or

(B) the employer's employees and their dependents.

SECTION 11. [EFFECTIVE JULY 1, 2011] **(a) IC 27-1-15.7-5, as amended by this act, applies to insurance producer prelicensing self-study or instruction provided after December 31, 2011.**

(b) This SECTION expires December 31, 2013.

SECTION 12. **An emergency is declared for this act.**

(Reference is to EHB 1015 as reprinted April 5, 2011.)

Conference Committee Report
on
Engrossed House Bill 1015

Signed by:

_____	_____
Representative Torr Chairperson	Senator Paul
_____	_____
Representative Brown C	Senator Simpson
House Conferees	**Senate Conferees**