TITLE 760 DEPARTMENT OF INSURANCE

Proposed Rule
LSA Document #07-144

DIGEST

Adds 760 IAC 1-75 to create a registration process and set standards for the conduct of insurance trusts created by public school corporations and to implement IC 20-42.5-2-1. Effective 30 days after filing with the Publisher.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

760 IAC 1-75

SECTION 1. 760 IAC 1-75 IS ADDED TO READ AS FOLLOWS:

Rule 75. School Trusts

760 IAC 1-75-1 Definitions

Authority: IC 20-42.5-2-1
Affected: IC 20-20-1; IC 27-1-3.1-6; IC 27-1-34-1; IC 27-7-2-2

Sec. 1. The following definitions apply throughout this rule:
(1) "Affiliate of" or "affiliated with" (a specific person) means a person that directly, or indirectly through one (1) or more intermediaries:
(A) controls;
(B) is controlled by; or
(C) is under common control with;
the person specified.
(2) "Commissioner" means the commissioner of the department of insurance.
(3) "Contributions" means monies contributed to the trust to fund payments for past, current, or future liabilities.
(4) "Department" means the Indiana department of insurance.
(5) "Educational service center" means an extended agency of school corporations established under IC 20-20-1.
(6) "Founding participants" means the original risk pool participants, including the following:
(A) Educational service centers.
(B) School corporations.
(C) Charter schools.
(7) "Fund balance" means the total assets in excess of total liabilities, except that assets pledged to secure debts not reflected on the books of the risk pool are not included in the fund balance. The term includes other:
(A) contributed capital;
(B) retained earnings;
(C) liquid capital; and
(D) loss fund assets.
(8) "ICRB" means the worker's compensation rating bureau of Indiana as defined in IC 27-7-2-2 and referenced throughout IC 27-7-2.
(9) "Loss fund" means a segregated fund consisting of amounts that may be utilized by the risk pool to satisfy section 3(d)(5) of this rule.
(10) "NAIC" means the National Association of Insurance Commissioners.
(11) "NAIC examiner's handbook" has the meaning set forth in IC 27-1-3.1-6.
(12) "Participation agreement" means the document pursuant to which a risk pool participant undertakes and agrees to fulfill obligations as a member of the risk pool.
(13) "Qualified actuary" means an actuary who:
(A) is not an employee of the risk pool, third party administrator, or trust administrator; and
(B) is:

(i) a fellow of the Society of Actuaries; or
(ii) a member of the:
(AA) Casualty Actuarial Society; and
(BB) American Academy of Actuaries.
(14) "Qualified financial institution" means an institution that:
(A) is a:
(i) national bank;
(ii) state bank; or
(iii) trust company;
that is a member of the Federal Reserve System;
(B) has been granted authority to operate with fiduciary powers; and
(C) is:
(i) regulated;
(ii) supervised; and
(iii) examined;
by federal or state authorities having regulatory authority over banks and trust companies.
(15) "Risk pool" means a trust created under Indiana law for the purpose of pooling risks of school corporations and educational service centers under the provisions of IC 20-42.5-2-1. A risk pool offering employee benefits that is registered under section 3 of this rule is not a multiple employer welfare arrangement as defined in IC 27-1-34-1.
(16) "Risk pool participant" means any participating member with coverage under the risk pool, including the following:
(A) Educational service centers.
(B) School corporations.
(C) Charter schools.

(Department of Insurance; 760 IAC 1-75-1)

760 IAC 1-75-2 Feasibility study

Authority: IC 20-42.5-2-1
Affected: IC 20-42.5-2-1

Sec. 2. (a) A risk pool shall obtain a feasibility study from a qualified actuary, or other expert approved by the commissioner, before submitting an application under section 3 of this rule. The feasibility study shall estimate the contributions necessary to cover losses and expenses for the risk pool. It shall include the expert's opinion that a risk pool is an appropriate vehicle for the founding participants of the risk pool. The following factors shall be considered and addressed in the feasibility study:
(1) Risks for which the risk pool will provide coverage.
(2) The amounts of initial capital and expenses the founding participants will commit to the risk pool from their own resources until the risk pool becomes self-supporting.
(3) The types of services the risk pool will require and their possible source. Services may include the following:
(A) Actuarial.
(B) Financial.
(C) Legal.
(D) Management.
(4) Goals and future changes anticipated by the organization.

(b) The results of the feasibility study shall address the following two (2) distinct parts:
(1) A risk management analysis to determine the lines of coverage and types of losses that could best be financed through the risk pool.
(2) An operational analysis to project the costs and benefits under different scenarios that the founding participants could expect from the most reasonable use of a risk pool. At a minimum, the operational analysis shall include the following cost/benefit relationships of alternatives as determined from the following:
(A) Price quotations from reinsurers or excess insurers.
(B) Costs to be charged by management companies.
(C) Costs and benefits for other services on all activities relevant to the operation.

(Department of Insurance; 760 IAC 1-75-2)

760 IAC 1-75-3 Certificate of registration

Authority: IC 20-42.5-2-1
Affected: IC 4-21.5-5; IC 27-1-3.1; IC 27-1-13-3

Sec. 3. (a) A risk pool may not engage in business in Indiana without first obtaining a certificate of registration from the department.

(b) To obtain a certificate of registration, a risk pool shall submit an application for a certificate of registration. The application shall be on a form prescribed by the department. The application shall be completed and submitted along with the following information:

(1) Copies of all current articles, bylaws, participation agreements, trusts, and other documents describing the rights and obligations of risk pool participants.

(2) The most recent audited financial statement or, in the case of a start-up operation, a pro forma financial statement of the risk pool prepared in accordance with the Governmental Accounting Standards Board. The financial statement must:

(A) show the assets and liabilities; and

(B) project the income and expenses;

of the risk pool for the next twelve (12) months.

(3) Proof of a fidelity bond protecting the money, securities, and other property of the risk pool. Coverage shall be at least equal to the Crime Insuring Agreement of Employee Theft (CR 0020, CR 0021, CR 0022, CR 0023, CR 0028, and CR 0029) or Employee Dishonesty (AAIS SAA Crime Protection Policy). However, the definition of "employee" shall be broadened to include the following:

(A) Leased employees.

(B) Agents.

(C) Noncompensated officers.

(D) Students.

(E) Volunteer workers.

(F) Designated agents.

The bond shall be written for at least the suggested minimum amount specified in the formula presented in the NAIC examiner's handbook.

(4) A business plan for the risk pool.

(5) A feasibility study in compliance with section 2 of this rule.

(6) A signed statement from all of the founding participants that they have read the feasibility study and have individually concluded from the information contained in the study, the opinion of the qualified actuary or other expert, and the risk pool's goals and objectives, that the founding participants wish to proceed with the creation of, and participation in, the risk pool.

(7) Copies of the following:

(A) Specimen coverage forms, rules, rates to be charged, and underwriting guides.

(B) All insurance in force.

(C) Organizational chart illustrating all entities affiliated with the risk pool.

(D) Agreements with service providers.

(E) Stop loss, excess, and reinsurance agreements, which shall include the stop loss attachment point and aggregate retention.

(F) If a risk pool offers worker's compensation through an insurer, a certificate of insurance from an insurance company as required by section 5(c) of this rule.

(8) A statement of the costs for coverage, which must include an itemization of amounts for administration, reserves, and other expenses associated with operation of the risk pool, as required by section 6 of this rule.

(9) A statement of the risk pool's contingency provisions for financing in the event of any of the following:

(A) Unexpectedly costly or ineffective risk financing.

(B) Ongoing expenses above budgeted amounts.

(C) Outlays for unexpected or excessive losses.

(D) Income loss or expenses incurred.

(E) Adverse loss experience incurred from withdrawal of risk pool participants.

(10) Any assessment formula used in subdivision (9) for determining the allocation of amounts needed between and among risk pool participants.
(11) The risk pool's:
(A) formulas for reallocation and reassessment when adding or deleting members;
(B) formulas for assessment of risk pool participants' contributions;
(C) dividend payment policy and dividend allocation formula; and
(D) formula for reassessment or reallocation upon termination or liquidation of the risk pool.
(12) Names and addresses of the following:
(A) The educational service center or centers associated with the risk pool.
(B) The members of the board of trustees of the risk pool.
(13) Biographical affidavits submitted on the form prescribed by the NAIC for insurers for the following:
(A) The members of the board of trustees.
(B) The trust administrator and those performing:
(i) actuarial;
(ii) financial;
(iii) legal;
(iv) loss control;
(v) underwriting; and
(vi) claims;
functions to be used by the risk pool.
(C) All other persons with decision making authority for the risk pool.
(14) The application fee required by section 15 of this rule.
(15) A copy of all proposed marketing materials.

(c) The commissioner:
(1) shall examine the application and documents submitted by the applicant;
(2) may request any additional information that he or she deems relevant to the application; and
(3) shall have the power to:
(A) conduct any investigation under IC 27-1-3.1 the commissioner may deem necessary;
(B) examine under oath any persons interested in or connected with the risk pool; and
(C) grant or deny approval of an application submitted under this section.

(d) A certificate of registration shall not be issued until the commissioner approves the risk pool's application. The commissioner may not approve an application unless the risk pool meets all of the following requirements:
(1) The risk pool must:
(A) consist of two (2) or more school corporations;
(B) be controlled and sponsored directly by risk pool participants;
(C) be operated pursuant to a trust agreement by a board of trustees who shall:
(i) have complete fiscal control over the risk pool;
(ii) be responsible for all operations of the risk pool; and
(iii) be employees of Indiana public school corporations or educational service centers; and
(D) be:
(i) mutual in organizational form;
(ii) assessable; and
(iii) a not-for-profit organization.
(2) The risk pool shall:
(A) have within its own organization adequate facilities and competent personnel, acceptable to the commissioner, to service the risk pool; or
(B) contract with a third party administrator.
(3) The risk pool shall have applications from not fewer than two (2) prospective risk pool participants. The annual gross contributions to the plan shall not be less than one million dollars ($1,000,000) for a risk pool that covers only worker's compensation liability and one million five hundred thousand dollars ($1,500,000) for a risk pool that covers any lines other than, or in addition to, worker's compensation liability.
(4) The risk pool shall possess a written commitment, binder, or policy for stop loss insurance issued by an insurer, reinsurer, or excess insurer with the equivalent of an A.M. Best rating of not less than A-, authorized to do business in this state. The stop loss insurance shall provide the following:
(A) Not less than sixty (60) days' notice to the commissioner of any cancellation or nonrenewal of

coverage.
(B) An aggregate stop loss attachment point of not more than one hundred twenty-five percent (125%) of the amount of expected claims for the following year.
(5) The risk pool contributions must be set to fund at least one hundred percent (100%) of the aggregate retention plus all other costs of the risk pool. The aggregate retention shall include all claims below the stop loss attachment point. Amounts contained in a loss fund are considered to be contributions that may be utilized by the risk pool to satisfy this requirement. Funds shall be on deposit with the risk pool upon issuance of its first policy.
(6) The risk pool must have procedures acceptable to the commissioner for the following:
(A) The routine handling of claims.
(B) Handling claims in the event of dissolution of the risk pool.
(7) The risk pool shall:
(A) obtain a fidelity bond in the amount required by subsection (b)(3); and
(B) be operated in accordance with sound actuarial principles.
(8) All funds of the risk pool shall be held in trust in the name of the risk pool in a qualified financial institution. A risk pool shall invest funds as described in IC 27-1-13-3(b). Any other form of investment must be specifically approved by the commissioner. The risk pool may:
(A) commingle the funds of the risk pool participants; and
(B) invest funds using a common investment policy.
(9) The risk pool's dividend:
(A) allocation formula; and
(B) payment policy;
must be acceptable to the commissioner.
(10) The risk pool's participation application and participation agreement must contain the language required by section 14 of this rule.

(e) A denial of an application shall:
(1) be in writing;
(2) specify the reasons for denial; and
(3) provide notice of an applicant's right to request a hearing. Any request for a hearing shall be submitted within sixty (60) days of receipt of the department's denial. A final order of the commissioner is a final order subject to judicial review under IC 4-21.5-5.

(Department of Insurance; 760 IAC 1-75-3)

760 IAC 1-75-4 Participation agreements

Authority: IC 20-42.5-2-1
Affected: IC 20-42.5-2-1

Sec. 4. (a) The participation agreement shall include the following:
(1) Procedures for individual risk pool participant entry and withdrawal. The participation agreement shall include the following:
(A) Provisions for any ownership or investment interest.
(B) Penalties for withdrawal, if any.
(C) Rights to risk pool assets or income.
(D) Obligations for any continuing liabilities for current and future expenses of the risk pool.
(E) A continuing obligation for the risk pool to calculate and report incurred but not reported losses incurred during the risk pool participant's tenure with the risk pool.
(F) The formula used to determine how the:
(i) assets;
(ii) liabilities;
(iii) income; and
(iv) expenses;
will be apportioned among risk pool participants or reapportioned among risk pool participants when adding new risk pool participants or deleting retiring risk pool participants.
(G) Provisions delineating a risk pool participant's voting rights during and after participation periods.
(2) An individual risk pool participant's right to obtain, within not more than thirty (30) days from the

date of the request, the individual loss experience for all lines of coverage purchased by any risk pool participant for the period of time the risk pool participant was covered by the risk pool.
(3) Procedures for termination of the risk pool, or the entity operating the risk pool, including allocation of current and future:
(A) assets;
(B) liabilities;
(C) income; and
(D) expenses;
among current and former risk pool participants.

(b) The participation agreement may not include any of the following provisions:
(1) An initial participation, or membership, by any risk pool participant into the risk pool for a period longer than one (1) year.
(2) A notice of termination of coverage or withdrawal from the risk pool longer than ninety (90) days.
(3) A provision relieving the risk pool of liability and requiring the withdrawing risk pool participant to individually assume, upon termination, any of the pooled losses or claims, whether known or unknown, occurring during the time the risk pool participant was a member of the risk pool.
(4) A provision that entitles a risk pool participant to segregated investments.

(Department of Insurance; 760 IAC 1-75-4)

760 IAC 1-75-5 Coverage and forms

Authority: IC 20-42.5-2-1
Affected: IC 27-1-5-1; IC 27-7-2-28.1

Sec. 5. (a) A risk pool may offer any of the following coverages:
(1) Liability insurance.
(2) Property insurance.
(3) Casualty insurance.
(4) Worker's compensation insurance.
(5) Employee health insurance.
(6) Vision insurance.
(7) Dental insurance.
(8) Automobile liability insurance.
(9) Professional liability insurance.
(10) Boiler and machinery insurance.
(11) Crime insurance.
(12) Any other insurance.

(b) A risk pool may issue initial coverage for the first policy term of a new risk pool participant at any time. A renewal policy issued by the risk pool to a risk pool participant after the first policy term shall be written for a policy term concurrent with the risk pool's operating fiscal year.

(c) If a risk pool offers worker's compensation through an insurer, it must be by a primary or excess insurer holding a license described in Class 2(b) of IC 27-1-5-1. The risk pool and the insurer shall comply with all requirements of IC 27-7-2. The risk pool or the primary or excess insurer shall report data required by IC 27-7-2-28.1 to the ICRB for the risk pool and for each individual risk pool participant.

(Department of Insurance; 760 IAC 1-75-5)

760 IAC 1-75-6 Contributions

Authority: IC 20-42.5-2-1
Affected: IC 20-42.5-2-1

Sec. 6. (a) Contributions shall be established by the risk pool board of trustees based on all of the

following factors:

(1) The funding level of the loss fund recommended by the risk pool's actuary in accordance with this rule. Contributions must be based on actuarial and financial assumptions regarding the risk pool's:

(A) participants' collective loss experience;
(B) operating expenses;
(C) investment income;
(D) dividend:
(i) projections;
(ii) allocation formula; and
(iii) payment policy.

(2) The charge for stop loss insurance.

(3) Administrative expenses, including, but not limited to, the following:

(A) Claims adjusting.
(B) Program administration.
(C) Loss prevention.
(D) Actuarial services.
(E) Legal services.
(F) Accounting services.
(G) Regulatory fees.
(H) Board meetings.
(I) General administration.

(b) The risk pool's contribution and rating plan must be:

(1) adopted by the risk pool's board of trustees; and

(2) filed annually with the department.

(Department of Insurance; 760 IAC 1-75-6)

760 IAC 1-75-7 Duties of administrators

Authority: IC 20-42.5-2-1
Affected: IC 27-7-2

Sec. 7. (a) A risk pool administrator shall maintain the following:

(1) Loss data and coverage information for each individual risk pool participant in a risk pool on a year to year basis and provide loss data and coverage information to current and former risk pool participants upon reasonable notice.

(2) Accounting records so that the total of all liabilities and expenses whether actual, unpaid, accrued, or reserved are updated on a fiscal year basis and, using a formula developed by the risk pool, allocated among risk pool participants. The total liability for each risk pool participant for each year of pool participation shall:

(A) be calculable using the formula developed by the risk pool; and
(B) represent the retained risk potential and total estimated assessment, should it ultimately be declared, of each risk pool participant for the years the risk pool participant was a member of the risk pool.

(3) On an annual basis, an estimate of the amount of each risk pool participant's total individually accrued liability to the risk pool and the potential assessment for the period of time the risk pool participant is or was a member in the risk pool.

(b) If the risk pool offers worker's compensation through an insurer, the trust administrator shall maintain and provide, at the request of the risk pool participant, the accurate individual risk pool participant's own distinct experience modification factor calculated in accordance with the rules of, and acceptable to, the ICRB.

(Department of Insurance; 760 IAC 1-75-7)

760 IAC 1-75-8 Filings

Authority: IC 20-42.5-2-1

Affected: IC 27-1-3-13

Sec. 8. (a) A risk pool shall file an annual report with the commissioner by March 1 of the year following the end of the risk pool's fiscal year. The report shall be verified by the oath of the chair of the board of trustees. The report must summarize the business activities of the trust for the immediately preceding year and must contain all of the following items:

(1) Management discussion and analysis.

(2) Financial statements, prepared in the form required by IC 27-1-3-13.

(3) A rate and reserve analysis prepared and certified by a qualified actuary, or other professional approved by the commissioner, that states the following:

(A) The risk pool is being operated in accordance with sound actuarial principles.

(B) A description and explanation of actuarial:

(i) assumptions; and

(ii) methods.

(C) The risk pool maintains a stop loss, reinsurance, or excess insurance policy with an aggregate retention of not more than one hundred twenty-five percent (125%) of the amount of expected claims for the following year.

(4) If the risk pool has been examined by a regulatory authority, the report shall:

(A) identify the entity that conducted the examination; and

(B) include a copy of the examination report.

(5) The risk pool's contribution and rating plan, as required by section 6 of this rule.

(6) The names and addresses of all risk pool participants.

(7) Any material changes to the initial application for the certificate of registration.

(b) For purposes of this rule, expected claims shall be expressed by the actuary at a confidence level of at least seventy-five percent (75%).

(c) Each filing made with the department shall be accompanied by the filing fee required by section 15 of this rule.

(Department of Insurance; 760 IAC 1-75-8)

760 IAC 1-75-9 Examinations

Authority: IC 20-42.5-2-1
Affected: IC 20-42.5-2-1; IC 27-1-3.1

Sec. 9. (a) The commissioner or any person appointed by the commissioner shall have the power to examine the affairs of any registered risk pool, or an applicant for registration, and for such purposes shall have free access to all the books, records, and documents that relate to the business of the plan and may examine under oath its:

(1) trustees or directors;

(2) administrators;

(3) officers;

(4) agents; and

(5) employees;

in relation to the affairs, transactions, and conditions of the risk pool. The costs and expenses of the examination shall be paid by the risk pool. The examination shall be conducted in accordance with IC 27-1-3.1 and may cover financial or market conduct issues.

(b) Each risk pool must:

(1) have and maintain a place of business in Indiana; and

(2) make available to the commissioner complete records of its:

(A) assets;

(B) transactions; and

(C) affairs;

in accordance with such methods and systems as are customary for or suitable to the kind or kinds of

business transacted.

(Department of Insurance; 760 IAC 1-75-9)

760 IAC 1-75-10 Enforcement

Authority: IC 20-42.5-2-1
Affected: IC 4-21.5-3; IC 4-21.5-5; IC 27-4-1-4.5

Sec. 10. (a) The commissioner may deny, suspend, or revoke a certificate of registration if the commissioner finds that the risk pool has failed to meet the requirements of this rule or any applicable statute. If a risk pool's certificate of registration is denied, suspended, or revoked under this subsection, the commissioner shall notify the risk pool and advise the risk pool in writing of the reasons for the denial, suspension, or revocation. Not later than sixty (60) days after receiving a notice from the commissioner under this subsection, the risk pool may make a written demand upon the commissioner for a hearing to determine the reasonableness of the commissioner's action. The hearing shall be:
(1) held within sixty (60) days from the date of receipt of the written demand of the risk pool; and
(2) conducted in accordance with IC 4-21.5-3.
A final order of the commissioner is a final order subject to judicial review under IC 4-21.5-5.

(b) The commissioner shall deny, suspend, or revoke the certificate of registration of a risk pool if the commissioner finds the risk pool has:
(1) a negative fund balance;
(2) refused to:
(A) be examined; or
(B) produce the risk pool's accounts, records, and files for examination or any of the risk pool's officers have refused to give information with respect to the risk pool's affairs to perform any other legal obligation as to such examination when required by the commissioner; or
(3) failed to:
(A) pay a final judgment rendered against it in court within thirty (30) days; or
(B) post the assigned appeal bond.

(Department of Insurance; 760 IAC 1-75-10)

760 IAC 1-75-11 Withdrawal

Authority: IC 20-42.5-2-1
Affected: IC 20-42.5-2-1

Sec. 11. (a) A risk pool participant may withdraw from a risk pool under the following conditions:
(1) The risk pool participant has fulfilled any minimum time commitment required under the participation agreement.
(2) The risk pool participant provides written notice to the risk pool of its intent to withdraw.

(b) A risk pool may require a risk pool participant to provide written notice of withdrawal not more than ninety (90) days before the withdrawal date.

(Department of Insurance; 760 IAC 1-75-11)

760 IAC 1-75-12 Termination

Authority: IC 20-42.5-2-1
Affected: IC 20-42.5-2-1

Sec. 12. If a risk pool is terminated for any reason, the trust may not be dissolved until all outstanding financial obligations of the risk pool are paid. The risk pool shall retain sufficient funds to provide coverage for an additional period as the trustees of the risk pool consider prudent. The trustees may

purchase additional insurance for protection against potential future claims. Any funds remaining in the risk pool after satisfaction of all obligations must be paid to risk pool participants in an equitable manner approved by the commissioner.

(Department of Insurance; 760 IAC 1-75-12)

760 IAC 1-75-13 Liability of risk pool participants

Authority: IC 20-42.5-2-1
Affected: IC 20-42.5-2-1

Sec. 13. (a) The liability of each risk pool participant for the obligations of the risk pool is joint and several.

(b) Each risk pool participant has a contingent assessment liability under this section for payment of actual losses and expenses incurred during participation in the risk pool.

(c) Each participation agreement issued by the risk pool must contain a statement of the contingent liability of risk pool participants as required by section 14 of this rule.

(Department of Insurance; 760 IAC 1-75-13)

760 IAC 1-75-14 Written notice

Authority: IC 20-42.5-2-1
Affected: IC 20-42.5-2-1

Sec. 14. (a) The first page of the application for participation and the participation agreement must contain, in not less than 12-point type, the following statement: "This is a fully assessable contract. In the event (the Risk Pool) is unable to pay its obligations, participating members will be required to contribute through an equitable assessment the money necessary to meet any unfulfilled obligations.".

(b) Every application and coverage form must contain, in not less than 12-point type, the following notice: "Your coverage is issued by a Risk Pool. The Risk Pool is regulated by the Indiana Department of Insurance. State insurance guaranty funds are not available for your Risk Pool.".

(Department of Insurance; 760 IAC 1-75-14)

760 IAC 1-75-15 Fees

Authority: IC 20-42.5-2-1
Affected: IC 27-1-3-28

Sec. 15. (a) The following fees apply to risk pools:
(1) An applicant shall pay a nonrefundable fee of three hundred fifty dollars ($350) for filing an application for a certificate of registration.
(2) Each risk pool holding a certificate of registration shall pay an annual internal audit fee of two hundred fifty dollars ($250).
(3) An annual report fee of one hundred dollars ($100) shall accompany the filing of the annual report required by section 8 of this rule.

(b) The commissioner shall deposit fees collected under this section into the department of insurance fund established by IC 27-1-3-28.

(Department of Insurance; 760 IAC 1-75-15)

760 IAC 1-75-16 Transparency of vendors

Authority: IC 20-42.5-2-1
Affected: IC 4-21.5-3

Sec. 16. (a) All vendors providing services to the risk pool shall fully and completely disclose to the risk pool any and all compensation received by the vendor associated with the services provided by the vendor to the risk pool. The disclosure shall be:
(1) in writing; and
(2) delivered to the risk pool annually on or before March 1.

(b) No insurance producer or any affiliate of a producer may accept or receive any compensation from an insurer or other third party for placement of insurance for the risk pool unless the producer or affiliate has, prior to the purchase of the insurance, obtained the written acknowledgment and consent of the risk pool.

(c) If the commissioner finds that any vendor has committed a material violation of this section, the risk pool shall not be permitted to continue to receive services from that vendor. The commissioner shall notify the risk pool and vendor in writing of the reasons for the findings. Not later than sixty (60) days after receiving a notice from the commissioner under this subsection, the risk pool or vendor may make a written demand upon the commissioner for a hearing to determine the reasonableness of the commissioner's action. The hearing shall be:
(1) held within sixty (60) days from the date of receipt of the written demand of the risk pool or vendor; and
(2) conducted in accordance with IC 4-21.5-3.

(Department of Insurance; 760 IAC 1-75-16)

760 IAC 1-75-17 Severability

Authority: IC 20-42.5-2-1
Affected: IC 20-42.5-2-1

Sec. 17. If:
(1) any section or portion of a section of this rule; or
(2) its applicability to any person or circumstance;
is held invalid by a court, the remainder of the rule or the applicability of the provision to other persons or circumstances shall not be affected.

(Department of Insurance; 760 IAC 1-75-17)

Notice of Public Hearing

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