
HOUSE BILL No. 1240

DIGEST OF INTRODUCED BILL

Citations Affected: IC 27-1-15.5.

Synopsis: Insurance agent licensure. Provides that a license issued to an insurance agent, a limited insurance representative, a surplus lines insurance agent, or a consultant must be renewed every 48 months (instead of every 24 months). Removes the requirement for an affidavit from an agent who requests a duplicate license due to loss, theft, or destruction of a license. Makes conforming amendments.

Effective: July 1, 2000.

Smith M

January 10, 2000, read first time and referred to Committee on Insurance, Corporations and Small Business.

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Introduced

Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

HOUSE BILL No. 1240

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 27-1-15.5-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 3. (a) A person may not
3 act as or hold himself out to be an insurance agent, surplus lines
4 insurance agent, limited insurance representative, or consultant unless
5 he is duly licensed. An insurance agent, surplus lines insurance agent,
6 or limited insurance representative may not make application for,
7 procure, negotiate for, or place for others any policies for any kinds of
8 insurance as to which he is not then qualified and duly licensed. An
9 insurance agent and a limited insurance representative may receive
10 qualification for a license in one (1) or more of the kinds of insurance
11 defined in Class I, Class II, and Class III of IC 27-1-5-1. A surplus lines
12 insurance agent may receive qualification for a license in one (1) or
13 more of the kinds of insurance defined in Class II and Class III of
14 IC 27-1-5-1 from insurers that are authorized to do business in one (1)
15 or more states of the United States of America but which insurers are
16 not authorized to do business in Indiana, whenever, after diligent effort,
17 as determined to the satisfaction of the insurance department, such

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1 licensee is unable to procure the amount of insurance desired from
 2 insurers authorized and licensed to transact business in Indiana. The
 3 commissioner may issue a limited insurance representative's license to
 4 the following without examination:

5 (1) a person who is a ticket-selling agent of a common carrier who
 6 will act only with reference to the issuance of insurance on
 7 personal effects carried as baggage, in connection with the
 8 transportation provided by such common carrier;

9 (2) a person who will only negotiate or solicit limited travel
 10 accident insurance in transportation terminals;

11 (3) a person who will only negotiate or solicit insurance covered
 12 by IC 27-8-4;

13 (4) a person who will only negotiate or solicit insurance under
 14 Class II(j); or

15 (5) to any person who will negotiate or solicit a kind of insurance
 16 that the commissioner finds does not require an examination to
 17 demonstrate professional competency.

18 (b) A corporation or limited liability company may be licensed as an
 19 insurance agent, surplus lines insurance agent, or limited insurance
 20 representative. Every officer, director, stockholder, or employee of the
 21 corporation or limited liability company personally engaged in Indiana
 22 in soliciting or negotiating policies of insurance shall be registered with
 23 the commissioner as to its license, and each such member, officer,
 24 director, stockholder, or employee shall also qualify as an individual
 25 licensee. However, this section does not apply to a management
 26 association, partnership, or corporation whose operations do not entail
 27 the solicitation of insurance from the public.

28 (c) The commissioner may not grant, renew, continue or permit to
 29 continue any license if he finds that the license is being or will be used
 30 by the applicant or licensee for the purpose of writing controlled
 31 business. "Controlled business" means:

32 (1) insurance written on the interests of the licensee or those of
 33 his immediate family or of his employer; or

34 (2) insurance covering himself or members of his immediate
 35 family or a corporation, limited liability company, association, or
 36 partnership, or the officers, directors, substantial stockholders,
 37 partners, members, managers, employees of such a corporation,
 38 limited liability company, association, or partnership, of which he
 39 is or a member of his immediate family is an officer, director,
 40 substantial stockholder, partner, member, manager, associate, or
 41 employee.

42 However, this section does not apply to insurance written or interests

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1 insured in connection with or arising out of credit transactions. Such a
 2 license shall be deemed to have been or intended to be used for the
 3 purpose of writing controlled business, if the commissioner finds that
 4 during any twelve (12) month period the aggregate commissions earned
 5 from such controlled business has exceeded twenty-five percent (25%)
 6 of the aggregate commission earned on all business written by such
 7 applicant or licensee during the same period.

8 (d) An insurer, insurance agent, surplus lines insurance agent, or
 9 limited insurance representative may not pay any commission,
 10 brokerage, or other valuable consideration to any person for services as
 11 an insurance agent, surplus lines insurance agent, or limited insurance
 12 representative within Indiana, unless the person held, at the time the
 13 services were performed, a valid license for that kind of insurance as
 14 required by the laws of Indiana for such services. A person, other than
 15 a person duly licensed by the state of Indiana as an insurance agent,
 16 surplus lines insurance agent, or limited insurance representative, may
 17 not, at the time such services were performed, accept any such
 18 commission, brokerage, or other valuable consideration. However, any
 19 such person duly licensed under this chapter may:

20 (1) pay or assign his commissions or direct that his commissions
 21 be paid:

22 (A) to a partnership of which he is a member, an employee, or
 23 an agent; or

24 (B) to a corporation of which he is an officer, employee, or
 25 agent; or

26 (2) pay, pledge, assign, or grant a security interest in the person's
 27 commission to a lending institution as collateral for a loan if the
 28 payment, pledge, assignment, or grant of a security interest is not,
 29 directly or indirectly, in exchange for insurance services
 30 performed.

31 This section shall not prevent payment or receipt of renewal or other
 32 deferred commissions to or by any person entitled thereto under this
 33 section.

34 (e) The license shall state the name and resident address of the
 35 licensee, date of issue, the renewal or expiration date, the line or lines
 36 of insurance covered by the license, and such other information as the
 37 commissioner considers proper for inclusion in the license.

38 (f) All licenses issued under this chapter shall continue in force ~~not~~
 39 ~~longer than twenty-four (24)~~ **for forty-eight (48)** months. The
 40 insurance department shall establish procedures for the renewal of
 41 licenses. A license may be renewed after it expires as follows:

42 (1) A person who applies for a license renewal not more than



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1 twenty-four (24) months after the person's license expires must:

2 (A) satisfy the requirements of IC 27-1-15.5-7.1(b); and

3 (B) pass to the department's satisfaction the laws portion of the
4 examination required of an applicant under
5 IC 27-1-15.5-4(g)(5) for the type of license for which the
6 person seeks renewal.

7 (2) A person who applies for a license renewal more than
8 twenty-four (24) months after it expires must successfully
9 complete the education requirements of IC 27-1-15.5-4(e) and
10 pass to the department's satisfaction the examination required of
11 an applicant for the type of license for which the person seeks
12 renewal.

13 All license renewals must be accompanied by payment of the renewal
14 fee as provided in section 4(d) of this chapter.

15 (g) A license as an insurance agent, surplus lines insurance agent,
16 or limited insurance representative may not be required of the
17 following:

18 (1) Any regular salaried officer or employee of an insurance
19 company, or of a licensed insurance agent, surplus lines insurance
20 agent, or limited insurance representative if such officer or
21 employee's duties and responsibilities do not include the
22 negotiation or solicitation of insurance.

23 (2) Persons who secure and furnish information for the purpose
24 of group or wholesale life insurance, or annuities, or group,
25 blanket, or franchise health insurance, or for enrolling individuals
26 under such plans or issuing certificates thereunder or otherwise
27 assisting in administering such plans, where no commission is
28 paid for such service.

29 (3) Employers or their officers or employees, or the trustees of
30 any employee trust plan, to the extent that such employers,
31 officers, employees, or trustees are engaged in the administration
32 or operation of any program of employee benefits for their own
33 employees or the employees of their subsidiaries or affiliates
34 involving the use of insurance issued by a licensed insurance
35 company, provided that such employers, officers, employees, or
36 trustees are not in any manner compensated, directly or indirectly,
37 by the insurance company issuing such insurance.

38 (h) An insurer shall require that a person who, on behalf of the
39 insurer, makes any oral, written, or electronic communication with an
40 individual regarding insurance coverage, rates, benefits, or policy
41 terms, for the purpose of soliciting insurance shall be licensed under
42 this chapter.



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1 (i) A violation of subsection (h) is deemed an unfair method of
 2 competition and an unfair and deceptive act and practice in the
 3 business of insurance subject to the provisions of IC 27-4-1-4.

4 SECTION 2. IC 27-1-15.5-7 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 7. Consultants. (a) No
 6 individual or corporation shall engage in the business of an insurance
 7 consultant until a license therefor has been issued to him or it by the
 8 commissioner. However, no consultant license is required for the
 9 following:

10 (1) Attorneys licensed to practice law in Indiana acting in their
 11 professional capacity.

12 (2) A duly licensed insurance agent, or surplus lines insurance
 13 agent.

14 (3) A trust officer of a bank acting in the normal course of his
 15 employment.

16 (4) An actuary or a certified public accountant who provides
 17 information, recommendations, advice, or services in his
 18 professional capacity.

19 (b) An application for a license to act as an insurance consultant
 20 shall be made to the commissioner on forms prescribed by the
 21 commissioner. An applicant may limit the scope of his consulting
 22 services by so stating on his application. Areas of allowable consulting
 23 services shall be:

24 (1) Class I, consulting regarding the kinds of insurance specified
 25 in IC 27-1-5-1 as Class I; and

26 (2) Class II and Class III, consulting regarding the kinds of
 27 insurance specified in IC 27-1-5-1 as Class II and Class III.

28 Within a reasonable time after receipt of a properly completed
 29 application form, the commissioner shall hold a written examination
 30 for the applicant limited to the type of consulting services designated
 31 by the applicant, and may conduct investigations and propound
 32 interrogatories concerning the applicant's qualifications, residence,
 33 business affiliations and any other matter which he deems necessary or
 34 advisable to determine compliance with this chapter or for the
 35 protection of the public.

36 (c) Consultants shall provide their services as outlined in a written
 37 agreement, the form of which shall be approved by the commissioner.
 38 The agreement shall be signed by and a copy provided to the person
 39 receiving services before any services are performed. The agreement
 40 must outline the nature of the work to be performed by the consultant,
 41 the method of compensation of the consultant and shall be retained by
 42 the consultant for not less than two (2) years after completion of the



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1 services. A copy of the agreement shall be available to the
 2 commissioner. In the absence of an agreement on the consultant's fee,
 3 the consultant shall not be entitled to recover a fee in any action at law
 4 or in equity.

5 (d) No individual or corporation may concurrently hold a
 6 consultant's license and an insurance agent's, surplus lines insurance
 7 agent's, or limited insurance representative's license at any time.

8 (e) No licensed consultant may employ, be employed by, or be in
 9 partnership with, nor receive any remuneration whatsoever, from any
 10 licensed insurance agent, surplus lines insurance agent, or limited
 11 insurance representative, or insurer, except that a consultant may be
 12 compensated by an insurer for providing consulting services to the
 13 insurer.

14 (f) Such license shall be valid for ~~not longer than twenty-four (24)~~
 15 **forty-eight (48)** months and may be renewed and extended in the same
 16 manner as an insurance agent's license. The commissioner shall
 17 designate on the license those consulting services which the licensee
 18 is entitled to perform.

19 (g) All requirements and standards relating to the denial, revocation
 20 or suspension of an insurance agent's license, including penalties, shall
 21 apply to the denial, revocation and suspension of an insurance
 22 consultant's license as nearly as practicable.

23 (h) A consultant is obligated under his license to serve with
 24 objectivity and complete loyalty solely the insurance interests of his
 25 client and to render his client such information, counsel, and service as
 26 within the knowledge, understanding, and opinion, in good faith of the
 27 licensee, best serves the client's insurance needs and interests.

28 SECTION 3. IC 27-1-15.5-7.7 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 7.7. (a) The
 30 commissioner shall adopt rules under IC 4-22-2 to establish a ~~biennial~~
 31 license **renewal** fee from each licensee required to meet the
 32 requirements of section 7.1 of this chapter.

33 (b) The commissioner shall adopt rules under IC 4-22-2 to establish
 34 appropriate fees from licensees and providers of continuing education
 35 courses for the administration of the information required under
 36 sections 4 and 7.1 of this chapter. The fees collected under this
 37 subsection must produce sufficient revenue to pay the expenses
 38 incurred by the department of insurance in implementing this chapter
 39 and shall be deposited in the department of insurance fund established
 40 by IC 27-1-3-28.

41 SECTION 4. IC 27-1-15.5-10 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 10. Surrender of

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1 license, loss or destruction of license. (a) The commissioner shall
 2 promptly notify all appointing insurers, where applicable, and the
 3 licensee regarding any suspension, revocation, or termination of license
 4 by the commissioner.

5 (b) Upon suspension, revocation, or termination of the license of a
 6 resident of Indiana, the commissioner shall notify the central office of
 7 the National Association of Insurance Commissioners and the
 8 insurance commissioner of each state for whom he has executed a
 9 certificate as provided for in section 4 of this chapter.

10 (c) Upon suspension, revocation, or termination of a license, the
 11 licensee shall forthwith deliver it to the commissioner by personal
 12 delivery or by mail.

13 (d) Any licensee who ceases to maintain his residency in Indiana (as
 14 defined in section 4 of this chapter) shall deliver his insurance license
 15 to the commissioner by personal delivery or by mail within thirty (30)
 16 days after terminating said residency.

17 (e) The commissioner may issue a duplicate license for any lost,
 18 stolen, or destroyed license issued pursuant to this chapter. ~~upon~~
 19 ~~affidavit of the licensee prescribed by the commissioner concerning the~~
 20 ~~facts of such loss, theft, or destruction.~~ The fee charged by the
 21 commissioner for the issuance of a duplicate:

- 22 (1) insurance agent license;
- 23 (2) surplus lines insurance agent license;
- 24 (3) limited insurance representative license; or
- 25 (4) consultant license;

26 may not exceed ten dollars (\$10).

27 **SECTION 5. [EFFECTIVE JULY 1, 2000] (a) IC 27-1-15.5-3 and**
 28 **IC 27-1-15.5-7, both as amended by this act, apply to a license that**
 29 **is renewed or issued after June 30, 2000.**

30 **(b) An individual or entity who:**

- 31 **(1) is licensed under IC 27-1-15.5; and**
- 32 **(2) voluntarily surrenders the license before July 1, 2002;**

33 **may not renew the license or obtain a new license before the**
 34 **expiration date of the license that the individual or entity**
 35 **surrendered.**

36 **(c) Until the commissioner adopts rules to establish a license**
 37 **renewal fee under IC 27-1-15.5-7.7, as amended by this act, the**
 38 **license renewal fee for a license renewed or issued after June 30,**
 39 **2000 is:**

- 40 **(1) two (2) times the fee that was charged for the license on**
 41 **June 30, 2000, if the license renewal period for the license was**
 42 **two (2) years; and**



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1 **(2) four (4) times the fee that was charged for the license on**
2 **June 30, 2000, if the license renewal period for the license was**
3 **one (1) year.**

4 **(d) An individual who holds a valid solicitor's license on June**
5 **30, 2000, is subject to the same rights and responsibilities under a**
6 **solicitor's license as were in effect before the effective date of this**
7 **act.**

8 **(e) This SECTION expires July 1, 2003.**

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