Reprinted
April 12, 2001

ENGROSSED
SENATE BILL No. 386

DIGEST OF SB 386 (Updated April 11, 2001 4:51 PM - DI 97)

Citations Affected: IC 2-5; IC 5-10; IC 27-1; IC 27-2; IC 27-4; IC 27-7; IC 27-8; IC 27-13; IC 34-30; noncode.

Synopsis: Various insurance matters. Authorizes the insurance commissioner to adopt rules providing for the accrual and quarterly billing of insurance filing fees. Adds a chapter to the Indiana insurance law concerning licensing of insurance producers. Adds a chapter to the Indiana insurance law concerning privacy of nonpublic personal financial information. Specifies that the premium charged for the issuance of a title insurance policy in Indiana in a real estate transaction in which title insurance is issued in at least 1 other state where title insurance premiums are computed based on filed rates may not be less than the average of the title insurance rates charged for title insurance in the other states where rates are filed. Provides that a violation is an unfair method of competition and unfair and deceptive act and practice in the business of insurance. Provides for the Office of Medicaid Policy and Planning to apply for a demonstration waiver to provide coverage to individuals with severe, chronic disease. Requires the health finance advisory committee to review issues related to the Indiana comprehensive health insurance association (ICHIA) and report to the health finance commission. Repeals the law concerning ICHIA effective January 1, 2004. Makes conforming amendments.

Effective: Upon passage; July 1, 2001; January 1, 2002; January 1, 2004.

Paul

(HOUSE SPONSORS — CROOKS, BODIKER, RIPLEY)

January 18, 2001, read first time and referred to Committee on Insurance and Financial Institutions.
February 8, 2001, reported favorably — Do Pass.
February 12, 2001, read second time, ordered engrossed.
February 13, 2001, engrossed.
February 15, 2001, read third time, passed. Yeas 48, nays 0.

HOUSE ACTION

February 26, 2001, read first time and referred to Committee on Insurance, Corporations and Small Business.
April 9, 2001, amended, reported — Do Pass.
April 11, 2001, read second time, amended, ordered engrossed.

Reprinted
April 12, 2001

First Regular Session 112th General Assembly (2001)

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 2000 General Assembly.

ENGROSSED
SENATE BILL No. 386

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

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

SECTION 1. IC 2-5-23-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 2.5. As used in this chapter, "health care facility" means an institution providing health care services that is licensed in Indiana, including institutions primarily engaged in providing services for health maintenance organizations or for the diagnosis or treatment of human disease, pain, injury, deformity, or physical condition. The term includes a general hospital, a special hospital, a mental hospital, a public health center, a diagnostic center, a treatment center, a rehabilitation center, an extended care facility, a skilled nursing home, a nursing home, an intermediate care facility, a tuberculosis hospital, a chronic disease hospital, a maternity hospital, an outpatient clinic, a home health care agency, a bioanalytical laboratory, or a central services facility servicing one (1) or more such institutions.**

SECTION 2. IC 2-5-23-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 8. ~~Beginning May 1, 1997,~~

The health policy advisory committee is established. At the request of the chairman, the health policy advisory committee shall provide information and otherwise assist the commission to perform the duties of the commission under this chapter. The health policy advisory committee members are ex officio and may not vote. The health policy advisory committee members shall be appointed from the general public and must include one (1) individual who represents each of the following:

(1) The interests of public hospitals.

(2) The interests of community mental health centers.

(3) The interests of community health centers.

(4) The interests of the long term care industry.

(5) The interests of health care professionals licensed under IC 25, but not licensed under IC 25-22.5.

(6) The interests of rural hospitals. An individual appointed under this subdivision must be licensed under IC 25-22.5.

(7) The interests of health maintenance organizations (as defined in IC 27-13-1-19).

~~(8) The interests of for-profit health care facilities (as defined in IC 27-8-10-1(l)).~~

~~(9)~~ **(8)** A statewide consumer organization.

~~(10)~~ **(9)** A statewide senior citizen organization.

~~(11)~~ **(10)** A statewide organization representing people with disabilities.

~~(12)~~ **(11)** Organized labor.

~~(13)~~ **(12)** The interests of businesses that purchase health insurance policies.

~~(14)~~ **(13)** The interests of businesses that provide employee welfare benefit plans (as defined in 29 U.S.C. 1002) that are self-funded.

~~(15)~~ **(14)** A minority community.

~~(16)~~ **(15)** The uninsured. An individual appointed under this subdivision must be and must have been chronically uninsured.

~~(17)~~ **(16)** An individual who is not associated with any organization, business, or profession represented in this subsection other than as a consumer.

SECTION 3. IC 5-10-8-8.1, AS AMENDED BY P.L.233-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 8.1. (a) This section applies only to the state and former legislators, instead of section 8 of this chapter.

(b) As used in this section, "legislator" means a member of the general assembly.

(c) After June 30, 1988, the state shall provide to each retired legislator:

(1) whose retirement date is after June 30, 1988;

(2) who is not participating in a group health insurance coverage plan:

(A) including Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.; but

(B) not including a group health insurance plan provided by the state; ~~or a health insurance plan provided under IC 27-8-10;~~

(3) who served as a legislator for at least ten (10) years; and

(4) who participated in a group health insurance plan provided by the state on the legislator's retirement date;

a group health insurance program that is equal to that offered active employees.

(d) A retired legislator who qualifies under subsection (c) may participate in the group health insurance program if the retired legislator:

(1) pays an amount equal to the employer's and employee's premium for the group health insurance for an active employee; and

(2) within ninety (90) days after the legislator's retirement date files a written request for insurance coverage with the employer.

(e) A retired legislator's eligibility to continue insurance under this section ends when the member becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq., or when the employer terminates the health insurance program.

(f) A retired legislator who is eligible for insurance coverage under this section may elect to have the legislator's spouse covered under the health insurance program at the time the legislator retires. If a retired legislator's spouse pays the amount the retired legislator would have been required to pay for coverage selected by the spouse, the spouse's subsequent eligibility to continue insurance under this section is not affected by the death of the retired legislator and is not affected by the retired legislator's eligibility for Medicare. The spouse's eligibility ends on the earliest of the following:

(1) When the spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the employer terminates the health insurance program.

(3) The date of the spouse's remarriage.

(g) The surviving spouse of a legislator who dies or has died in office may elect to participate in the group health insurance program

if all of the following apply:

(1) The deceased legislator would have been eligible to participate in the group health insurance program under this section had the legislator retired on the day of the legislator's death.

(2) The surviving spouse files a written request for insurance coverage with the employer.

(3) The surviving spouse pays an amount equal to the employer's and employee's premium for the group health insurance for an active employee.

(h) The eligibility of the surviving spouse of a legislator to purchase group health insurance under subsection (g) ends on the earliest of the following:

(1) When the employer terminates the health insurance program.

(2) The date of the spouse's remarriage.

(3) When the spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

SECTION 4. IC 27-1-3-15, AS AMENDED BY P.L.268-1999, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 15. (a) Except as provided in subsection (g), the commissioner shall collect the following filing fees:

Document	Fee
Articles of incorporation	$ 350
Amendment of articles of incorporation	$ 10
Filing of annual statement and consolidated statement	$ 100
Annual renewal of company license fee	$ 50
Withdrawal of certificate of authority	$ 25
Certified statement of condition	$ 5
Any other document required to be filed by this article	$ 25

(b) The commissioner shall collect a fee of ten dollars ($10) each time process is served on the commissioner under this title.

(c) The commissioner shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign corporation:

Per page for copying	As determined by the commissioner but not to exceed actual cost
For the certificate	$10

(d) Each domestic and foreign insurer shall remit annually to the commissioner for deposit into the department of insurance fund established by IC 27-1-3-28 three hundred fifty dollars ($350) as an internal audit fee. All assessment insurers, farm mutuals, fraternal benefit societies, and health maintenance organizations shall remit to the commissioner for deposit into the department of insurance fund one hundred dollars ($100) annually as an internal audit fee.

(e) Beginning July 1, 1994, each insurer shall remit to the commissioner for deposit into the department of insurance fund established by IC 27-1-3-28 a fee of thirty-five dollars ($35) for each policy, rider, and endorsement filed with the state. However, each policy, rider, and endorsement filed as part of a particular product filing and associated with that product filing shall be considered to be a single filing and subject only to one (1) thirty-five dollar ($35) fee.

(f) The commissioner shall pay into the state general fund by the end of each calendar month the amounts collected during that month under subsections (a), (b), and (c).

(g) The commissioner may not collect fees for quarterly statements filed under IC 27-1-20-33.

(h) The commissioner may adopt rules under IC 4-22-2 to provide for the accrual and quarterly billing of fees under this section.

SECTION 5. IC 27-1-15.6 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]:

Chapter 15.6. Insurance Producers

Sec. 1. This chapter governs the qualifications and procedures for the licensing of insurance producers. This chapter does not apply to surplus lines producers licensed under IC 27-1-15.8 except as specifically provided in this chapter or in IC 27-1-15.8.

Sec. 2. The following definitions apply throughout this chapter, IC 27-1-15.7, and IC 27-1-15.8:

(1) "Bureau" refers to the child support bureau of the division of family and children established under IC 12-17-2-5.

(2) "Business entity" means a corporation, an association, a partnership, a limited liability company, a limited liability partnership, or another legal entity.

(3) "Commissioner" means the insurance commissioner appointed under IC 27-1-1-2.

(4) "Consultant" means a person who:

(A) holds himself or herself out to the public as being engaged in the business of offering; or

(B) for a fee, offers;

any advice, counsel, opinion, or service with respect to the benefits, advantages, or disadvantages promised under any policy of insurance that could be issued in Indiana.

(5) "Delinquent" means the condition of being at least:

(A) two thousand dollars ($2,000); or

(B) three (3) months;

past due in the payment of court ordered child support.

(6) "Home state" means the District of Columbia or any state or territory of the United States in which an insurance producer:

(A) maintains the insurance producer's principal place of residence or principal place of business; and

(B) is licensed to act as an insurance producer.

(7) "Insurance producer" means a person required to be licensed under the laws of Indiana to sell, solicit, or negotiate insurance.

(8) "License" means a document issued by the commissioner authorizing a person to act as an insurance producer for the lines of authority specified in the document. The license itself does not create any authority, actual, apparent, or inherent, in the holder to represent or commit an insurance carrier.

(9) "Limited line credit insurance" includes the following:

(A) Credit life insurance.

(B) Credit disability insurance.

(C) Credit property insurance.

(D) Credit unemployment insurance.

(E) Involuntary unemployment insurance.

(F) Mortgage life insurance.

(G) Mortgage guaranty insurance.

(H) Mortgage disability insurance.

(I) Guaranteed automobile protection (gap) insurance.

(J) Any other form of insurance:

(i) that is offered in connection with an extension of credit and is limited to partially or wholly extinguishing that credit obligation; and

(ii) that the insurance commissioner determines should be designated a form of limited line credit insurance.

(10) "Limited line credit insurance producer" means a person who sells, solicits, or negotiates one (1) or more forms of limited line credit insurance coverage to individuals through a master, corporate, group, or individual policy.

(11) "Limited lines insurance" means any of the following:

(A) The lines of insurance defined in section 18 of this chapter.

(B) Any line of insurance the recognition of which is considered necessary by the commissioner for the purpose of complying with section 8(e) of this chapter.

(C) For purposes of section 8(e) of this chapter, any form of insurance with respect to which authority is granted by a home state that restricts the authority granted by a limited lines producer's license to less than total authority in the associated major lines described in section 7(a)(1) through 7(a)(6) of this chapter.

(12) "Limited lines producer" means a person authorized by the commissioner to sell, solicit, or negotiate limited lines insurance.

(13) "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.

(14) "Person" means an individual or business entity.

(15) "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of a company.

(16) "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company.

(17) "Surplus lines producer" means a person who sells, solicits, negotiates, or procures from an insurance company not licensed to transact business in Indiana an insurance policy that cannot be procured from insurers licensed to do business in Indiana.

(18) "Terminate" means:

(A) the cancellation of the relationship between an insurance producer and the insurer; or

(B) the termination of a producer's authority to transact insurance.

(19) "Uniform business entity application" means the current version of the national association of insurance commissioners uniform business entity application for resident and nonresident business entities.

(20) "Uniform application" means the current version of the national association of insurance commissioners uniform application for resident and nonresident producer licensing.

Sec. 3. (a) A person shall not sell, solicit, or negotiate insurance in Indiana for any class or classes of insurance unless the person is licensed for that line of authority under this chapter.

(b) An insurer shall require a person who sells, solicits, or negotiates insurance in Indiana by any means of communication on behalf of the insurer to be licensed under this chapter.

(c) A violation of subsection (b) is deemed an unfair method of competition and an unfair and deceptive act and practice in the business of insurance under IC 27-4-1-4.

Sec. 4. (a) As used in this section, "insurer" does not include an officer, director, employee, subsidiary, or affiliate of an insurer.

(b) This chapter does not require an insurer to obtain an insurance producer license.

(c) The following are not required to be licensed as an insurance producer:

(1) An officer, director, or employee of an insurer or of an insurance producer, if the officer, director, or employee does not receive any commission on policies written or sold to insure risks that reside, are located, or are to be performed in Indiana, and if:

(A) the officer, director, or employee's activities are executive, administrative, managerial, clerical, or a combination of these, and are only indirectly related to the sale, solicitation, or negotiation of insurance;

(B) the officer, director, or employee's function relates to underwriting, loss control, inspection, or the processing, adjusting, investigating, or settling of a claim on a contract of insurance; or

(C) the officer, director, or employee is acting in the capacity of a special agent or agency supervisor assisting insurance producers and the officer, director, or employee's activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation, or negotiation of insurance.

(2) A person who secures and furnishes information for the purpose of:

(A) group life insurance, group property and casualty insurance, group annuities, group or blanket accident and

sickness insurance;

(B) enrolling individuals under plans;

(C) issuing certificates under plans or otherwise assisting in administering plans; or

(D) performing administrative services related to mass marketed property and casualty insurance;

where no commission is paid to the person for the service.

(3) A person identified in clauses (A) through (C) who is not in any manner compensated, directly or indirectly, by a company issuing a contract, to the extent that the person is engaged in the administration or operation of a program of employee benefits for the employer's or association's employees, or for the employees of a subsidiary or affiliate of the employer or association, that involves the use of insurance issued by an insurer:

(A) An employer or association.

(B) An officer, director, or employee of an employer or association.

(C) The trustees of an employee trust plan.

(4) An:

(A) employee of an insurer; or

(B) organization employed by insurers;

that is engaged in the inspection, rating, or classification of risks, or in the supervision of the training of insurance producers, and that is not individually engaged in the sale, solicitation, or negotiation of insurance.

(5) A person whose activities in Indiana are limited to advertising, without the intent to solicit insurance in Indiana, through communications in printed publications or other forms of electronic mass media whose distribution is not limited to residents of Indiana, provided that the person does not sell, solicit, or negotiate insurance that would insure risks residing, located, or to be performed in Indiana.

(6) A person who is not a resident of Indiana and who sells, solicits, or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one state insured under that contract, provided that:

(A) the person is otherwise licensed as an insurance producer to sell, solicit, or negotiate the insurance in the state where the insured maintains its principal place of business; and

(B) the contract of insurance insures risks located in that state.

(7) A salaried full-time employee who counsels or advises the employee's employer about the insurance interests of the employer or of the subsidiaries or business affiliates of the employer, provided that the employee does not sell or solicit insurance or receive a commission.

(8) A representative of a county farmers mutual insurance company.

(9) An officer, employee, or representative of a rental company (as defined in IC 24-4-9-7) who negotiates or solicits insurance incidental to and in connection with the rental of a motor vehicle.

Sec. 5. (a) A resident individual applying for:

(1) an insurance producer license;

(2) a consultant's license; or

(3) a surplus lines producer license;

must pass a written examination unless the individual is exempt under section 9 of this chapter.

(b) The examination required under subsection (a) must test the knowledge of the individual concerning the:

(1) lines of authority for which application is made;

(2) duties and responsibilities of a licensee; and

(3) insurance laws and administrative rules of Indiana.

(c) Examinations required under this section must be developed and conducted under rules as may be prescribed by the commissioner.

(d) The commissioner may make arrangements, including contracting with an outside testing service, for administering examinations, collecting the nonrefundable examination fee as established by contract with an outside testing service, or collecting the nonrefundable licensure fee set forth in section 32 of this chapter.

(e) An individual who fails to appear for the examination required under subsection (a) as scheduled or who fails to pass the examination must reapply for an examination and remit all required fees and forms before being rescheduled for another examination.

Sec. 6. (a) A person applying for a resident insurance producer license shall make application to the commissioner on the uniform application and declare under penalty of refusal, suspension, or revocation of the license that the statements made in the

application are true, correct, and complete to the best of the individual's knowledge and belief.

(b) Before approving an application submitted under subsection (a), the commissioner must find that the individual meets the following requirements:

(1) Is at least eighteen (18) years of age.

(2) Has not committed any act that is a ground for denial, suspension, or revocation under section 12 of this chapter.

(3) Has completed, if required by the commissioner, a certified prelicensing course of study for the lines of authority for which the individual has applied.

(4) Has paid the nonrefundable fee set forth in section 32 of this chapter.

(5) Has successfully passed the examinations for the lines of authority for which the person has applied.

(c) An applicant for a resident insurance producer license must file with the commissioner on a form prescribed by the commissioner a certification of completion certifying that the applicant has completed an insurance producer program of study certified by the commissioner under IC 27-1-15.7-5 not more than six (6) months before the application for the license is received by the commissioner. This subsection applies only to licensees seeking qualification in the lines of insurance described in sections 7(a)(1) through 7(a)(6) of this chapter.

(d) A business entity, before acting as an insurance producer, is required to obtain an insurance producer license. The application submitted by a business entity under this subsection must be made using the uniform business entity application. Before approving the application, the commissioner must find that the business entity has:

(1) paid the fees required under section 32 of this chapter; and

(2) designated an individual licensed producer responsible for the business entity's compliance with the insurance laws and administrative rules of Indiana.

(e) The commissioner may require any documents reasonably necessary to verify the information contained in an application submitted under this subsection.

(f) An insurer that sells, solicits, or negotiates any form of limited line credit insurance shall provide a program of instruction approved by the commissioner to each individual whose duties will include selling, soliciting, or negotiating limited line credit insurance.

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

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

(1) is considered to have requested; and

(2) shall receive;

a life qualification under subsection (a)(1).

(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 non-governmental 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 non-governmental 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.

Sec. 8. (a) Unless denied licensure under section 12 of this chapter, a nonresident person shall receive a nonresident producer license if:

(1) the person is currently licensed as a resident and in good standing in the person's home state;

(2) the person has submitted the proper request for licensure and has paid the fees required under section 32 of this chapter;

(3) the person has submitted or transmitted to the commissioner:

(A) the application for licensure that the person submitted to the person's home state; or

(B) a completed uniform application; and

(4) the person's home state awards non-resident producer licenses to residents of Indiana on the same basis as non-resident producer licenses are awarded to residents of other states under this chapter.

(b) The commissioner may verify a producer's licensing status through the Producer Database maintained by the National Association of Insurance Commissioners and its affiliates or subsidiaries.

(c) A:

(1) person who holds an Indiana nonresident producer's license and moves from one state to another state; or

(2) a resident producer who moves from Indiana to another state;

shall file a change of address with the Indiana department of insurance and provide certification from the new resident state not more than thirty (30) days after the change of legal residence. No fee or license application is required under this subsection.

(d) Notwithstanding any other provision of this chapter, a person licensed as a surplus lines producer in the person's home state shall receive a nonresident surplus lines producer license under subsection (a). Except as provided in subsection (a), nothing in this section otherwise amends or supercedes IC 27-1-15.8, as added by this act.

(e) Notwithstanding any other provision of this chapter, a person who is not a resident of Indiana and who is licensed as a limited lines credit insurance producer or another type of limited lines producer in the person's home state shall, upon application, receive a nonresident limited lines producer license under

subsection (a) granting the same scope of authority as is granted under the license issued by the person's home state.

Sec. 9. (a) An individual who applies for an insurance producer license in Indiana and who was previously licensed for the same lines of authority in another state is not required to complete any prelicensing education or examination. However, the exemption provided by this subsection is available only if:

(1) the individual is currently licensed in the other state; or

(2) the application is received within ninety (90) days after the cancellation of the applicant's previous license and:

(A) the other state issues a certification that, at the time of cancellation, the applicant was in good standing in that state; or

(B) the state's Producer Database records that are maintained by the National Association of Insurance Commissioners, its affiliates, or its subsidiaries, indicate that the producer is or was licensed in good standing for the line of authority requested.

(b) If a person is licensed as an insurance producer in another state and moves to Indiana, the person, to be authorized to act as an insurance producer in Indiana, must make application to become a resident licensee under section 6 of this chapter within ninety (90) days after establishing legal residence in Indiana. However, the person is not required to take prelicensing education or examination to obtain a license for any line of authority for which the person held a license in the other state unless the commissioner determines otherwise by rule.

(c) An individual who:

(1) has attained the designation of chartered life underwriter, certified financial planner, or chartered financial consultant; and

(2) applies for an insurance producer license in Indiana requesting qualification under sections:

(A) 7(a)(1);

(B) 7(a)(2); or

(C) 7(a)(5);

of this chapter;

is not required to complete prelicensing education, and is required to take only the portion of the examination required under section 5(b) of this chapter that pertains to Indiana laws and rules.

(d) An individual who has:

(1) attained the designation of chartered property and

casualty underwriter, certified insurance counselor, or accredited advisor in insurance; and

(2) applies for an insurance producer license in Indiana requesting qualification under sections:

(A) 7(a)(3);

(B) 7(a)(4); or

(C) 7(a)(6);

of this chapter;

is not required to complete prelicensing education, and is required to take only the portion of the examination required under section 5(b) of this chapter that pertains to Indiana laws and rules.

Sec. 10. Before an insurance producer may do business in Indiana under any name other than the producer's legal name, the insurance producer shall notify the commissioner of the proposed use of the assumed name.

Sec. 11. (a) If the commissioner considers the issuance of a temporary license necessary for the servicing of an insurance business, the commissioner, without requiring an examination, may issue a temporary insurance producer license for a period of not more than one hundred eighty (180) days to any of the following:

(1) To the surviving spouse or court-appointed personal representative of a licensed individual insurance producer who dies or becomes mentally or physically disabled:

(A) to allow adequate time for the sale of the insurance business owned by the producer;

(B) to provide for the servicing of the insurance business until the recovery or return of the producer to the business; or

(C) to provide for the training and licensing of new personnel to operate the producer's business.

(2) To a member or employee of a business entity licensed as an insurance producer, upon the death or disability of an individual designated in the business entity application or the license.

(3) To the designee of a licensed individual insurance producer entering active service in the armed forces of the United States of America.

(4) To an individual in any other circumstance where the commissioner considers the public interest to be best served by the issuance to the individual of a temporary insurance producer license.

(b) The commissioner may by order limit the authority of a

temporary licensee in any way considered necessary to protect insureds and the public. The commissioner may require the temporary licensee to have a suitable sponsor who is a licensed producer or insurer and who assumes responsibility for all acts of the temporary licensee and may impose other, similar requirements designed to protect insureds and the public.

(c) The commissioner may by order revoke a temporary insurance producer license if the interest of insureds or the public are endangered. A temporary insurance producer license issued under subsection (a)(1)(A) expires at the time the owner or the personal representative disposes of the business.

Sec. 12. (a) For purposes of this section, "permanently revoke" means that:

(1) the producer's license shall never be reinstated; and

(2) the former licensee, after the license revocation, is not eligible to submit an application for a license to the department.

(b) The commissioner may levy a civil penalty, place an insurance producer on probation, suspend an insurance producer's license, revoke an insurance producer's license for a period of years, permanently revoke an insurance producer's license, or refuse to issue or renew an insurance producer license, or take any combination of these actions, for any of the following causes:

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

(2) Violating:

(A) an insurance law;

(B) a regulation;

(C) a subpoena of an insurance commissioner; or

(D) an order of an insurance commissioner;

of Indiana or of another state.

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

(4) Improperly withholding, misappropriating, or converting any monies or properties received in the course of doing insurance business.

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

(6) Having been convicted of a felony.

(7) Admitting to having committed or being found to have committed any unfair trade practice or fraud in the business of insurance.

(8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in Indiana or elsewhere.

(9) Having an insurance producer license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory.

(10) Forging another's name to an application for insurance or to any document related to an insurance transaction.

(11) Improperly using notes or any other reference material to complete an examination for an insurance license.

(12) Knowingly accepting insurance business from an individual who is not licensed.

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

(14) Failing to pay state income tax or to comply with any administrative or court order directing payment of state income tax.

(15) Failing to satisfy the continuing education requirements established by IC 27-1-15.7.

(16) Violating section 31 of this chapter.

(17) Failing to timely inform the commissioner of a change in legal name or address, in violation of section 7(h) of this chapter.

(c) The commissioner shall refuse to:

(1) issue a license; or

(2) renew a license issued;

under this chapter to any person who is the subject of an order issued by a court under IC 31-14-12-7 or IC 31-16-12-10 (or IC 31-1-11.5-13(m) or IC 31-6-6.1-16(m) before their repeal).

(d) If the commissioner refuses to renew a license or denies an application for a license, the commissioner shall notify the applicant or licensee and advise the applicant or licensee, in a writing sent through regular first class mail, of the reason for the denial of the applicant's application or the nonrenewal of the licensee's license. The applicant or licensee may, not more than sixty-three (63) days after notice of denial of the applicant's application or nonrenewal of the licensee's license is mailed, make written demand to the commissioner for a hearing before the commissioner to determine the reasonableness of the commissioner's action. The hearing shall be held not more than thirty (30) days after the applicant or licensee makes the written

demand, and shall be conducted under IC 4-21.5.

(e) The license of a business entity may be suspended, revoked, or refused if the commissioner finds, after hearing, that a violation of an individual licensee acting on behalf of the partnership or corporation was known or should have been known by one or more of the partners, officers, or managers of the partnership or corporation and:

(1) the violation was not reported to the commissioner; and

(2) no corrective action was taken.

(f) In addition to or in lieu of any applicable denial, suspension, or revocation of a license under subsection (b), a person may, after a hearing, be subject to the imposition by the commissioner under subsection (b) of a civil penalty of not less than fifty dollars ($50) and not more than ten thousand dollars ($10,000). A penalty imposed under this subsection may be enforced in the same manner as a civil judgement.

(g) A licensed insurance producer or limited lines producer shall, not more than ten (10) days after the producer receives a request in a registered or certified letter from the commissioner, furnish the commissioner with a full and complete report listing each insurer with which the licensee has held an appointment during the year preceding the request.

(h) If a licensee fails to provide the report requested under subsection (g) not more than ten (10) days after the licensee receives the request, the commissioner may, in the commissioner's sole discretion, without a hearing, and in addition to any other sanctions allowed by law, suspend any insurance license held by the licensee pending receipt of the appointment report.

(i) The commissioner shall promptly notify all appointing insurers and the licensee regarding any suspension, revocation, or termination of a license by the commissioner under this section.

(j) The commissioner may not grant, renew, continue, or permit to continue any license if the commissioner finds that the license is being used or will be used by the applicant or licensee for the purpose of writing controlled business. As used in this subsection, "controlled business" means:

(1) insurance written on the interests of:

(A) the applicant or licensee;

(B) the applicant's or licensee's immediate family; or

(C) the applicant's or licensee's employer; or

(2) insurance covering:

(A) the applicant or licensee;

(B) members of the applicant's or licensee's immediate family; or

(C) either:

(i) a corporation, limited liability company, association, or partnership; or

(ii) the officers, directors, substantial stockholders, partners, members, managers, employees of such a corporation, limited liability company, association, or partnership;

of which the applicant or licensee or a member of the applicant's or licensee's immediate family is an officer, director, substantial stockholder, partner, member, manager, associate, or employee.

However, this section does not apply to insurance written or interests insured in connection with or arising out of credit transactions. A license is considered to have been used or intended to be used for the purpose of writing controlled business if the commissioner finds that during any twelve (12) month period the aggregate commissions earned from the controlled business exceeded twenty-five percent (25%) of the aggregate commission earned on all business written by the applicant or licensee during the same period.

(k) The commissioner has the authority to:

(1) enforce the provisions of; and

(2) impose any penalty or remedy authorized by;

this chapter or any other provision of this title against any person who is under investigation for or charged with a violation of this chapter or any other provision of this title, even if the person's license or registration has been surrendered or has lapsed by operation of law.

(l) For purposes of this section, the violation of any provision of IC 28 concerning the sale of a life insurance policy or an annuity contract shall be considered a violation described in subsection (b)(2).

(m) The commissioner may order a licensee to make restitution if the commissioner finds that the licensee has committed a violation described in:

(1) subsection (b)(4);

(2) subsection (b)(7);

(3) subsection (b)(8); or

(4) subsection (b)(16).

(n) The commissioner shall notify the securities commissioner

appointed under IC 23-2-1-15 when an administrative action or civil proceeding is filed under this section and when an order is issued under this section denying, suspending, or revoking a license.

Sec. 13. (a) An insurance company or insurance producer shall not pay a commission, service fee, brokerage fee, or other valuable consideration to a person for selling, soliciting, or negotiating insurance in Indiana if the person is required to be licensed under this chapter and is not licensed.

(b) A person shall not accept a commission, service fee, brokerage fee, or other valuable consideration for selling, soliciting, or negotiating insurance in Indiana if the person is required to be licensed under this chapter and is not licensed.

(c) Renewal commissions or other deferred commissions may be paid to a person for selling, soliciting, or negotiating insurance in Indiana if the person was required to be licensed under this chapter and was licensed at the time of the sale, solicitation, or negotiation.

(d) An insurer or insurance producer may pay or assign commissions, service fees, brokerage fees, or other valuable consideration to an insurance agency or to a person who does not sell, solicit, or negotiate insurance in Indiana, unless the payment would violate IC 27-1-20-30.

Sec. 14. An insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed producer of the insurer. An insurance producer who is not acting as an agent of an insurer is not required to become appointed.

Sec. 15. (a) An insurer or authorized representative of an insurer that terminates the appointment, employment, contract, or other insurance business relationship with a producer shall notify the commissioner not more than thirty (30) days after the effective date of the termination using a format prescribed by the commissioner, if:

(1) the reason for termination is described in section 12 of this chapter; or

(2) the insurer has knowledge that the producer was found by a court, a government body, or a self-regulatory organization authorized by law to have engaged in any of the activities described in section 12 of this chapter.

Upon the written request of the insurance commissioner, the insurer shall provide additional information, documents, records, and other data pertaining to the termination or activity of the

producer.

(b) If an insurer discovers, upon further review or investigation, additional information that would have been reportable to the commissioner under subsection (a) had the insurer known of the existence of the additional information, the insurer or an authorized representative of the insurer shall promptly notify the commissioner of the additional information in a format acceptable to the commissioner.

(c) A copy of the notification of termination of a producer that must be provided to the commissioner under this section shall also be provided to the producer as follows:

(1) Not more than fifteen (15) days after making the notification required under subsection (a) or (b), the insurer shall mail a copy of the notification to the producer at the producer's last known address. If the producer is terminated for cause for any of the reasons described in section 12 of this chapter, the insurer shall provide a copy of the notification to the producer at the producer's last known address by certified mail, return receipt requested, postage prepaid, or by overnight delivery using a nationally recognized carrier.

(2) Not more than thirty (30) days after the producer has received the original or additional notification, the producer may file written comments concerning the substance of the notification with the commissioner. The producer shall, by the same means used by the producer to file the written comments with the commissioner, simultaneously send a copy of the comments to the reporting insurer, and the comments shall become a part of the commissioner's file and accompany every copy of a report distributed or disclosed for any reason about the producer as permitted under subsection (e).

(d) Immunities under this section are as follows:

(1) In the absence of actual malice, an insurer, an authorized representative of an insurer, a producer, the commissioner, and an organization of which the commissioner is a member and that compiles information and makes it available to other insurance commissioners or regulatory or law enforcement agencies are immune from civil liability, and a civil cause of action of any nature shall not arise against these entities or their respective agents or employees, as a result of:

(A) a statement or information required by or provided under this section or any information relating to a statement that may be requested in writing by the

commissioner from an insurer or producer; or

(B) a statement by a terminating insurer to a producer or by a producer to a terminating insurer;

limited solely and exclusively to whether a termination for cause referred to in subsection (a) was reported to the commissioner, provided that the propriety of any termination for cause referred to in subsection (a) is certified in writing by an officer or authorized representative of the insurer or producer terminating the relationship.

(2) In any action brought against a person that may have immunity under subdivision (1) for:

(A) making a statement required under this section; or

(B) providing information relating to a statement that may be requested by the commissioner;

the party bringing the action must plead specifically in any allegation that subdivision (1) does not apply because the person making the statement or providing the information did so with actual malice.

(3) Existing statutory or common law privileges or immunities are not abrogated or modified by subdivision (1) or (2).

(e) Confidentiality under this section is as follows:

(1) Documents, materials, and other forms of information in the control or possession of the department that are:

(A) furnished by:

(i) an insurer or producer; or

(ii) an employee or agent of an insurer acting on behalf of the insurer or producer; or

(B) obtained by the commissioner in an investigation under this section;

are confidential by law and privileged, are not subject to public inspection and copying under IC 5-14-3-3, are not subject to subpoena, and are not subject to discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's duties.

(2) Neither the commissioner nor any person who receives confidential documents, materials, or other information described in subdivision (1) while acting under the authority of the commissioner may be permitted or required to testify in any private civil action concerning the confidential

documents, materials, or information described in subdivision (1).

(3) To assist in the performance of the commissioner's duties under this chapter, the commissioner may:

(A) share documents, materials, and other information, including the confidential and privileged documents, materials, and information described in subdivision (1), with:

(i) other state, federal, and international regulatory agencies;

(ii) the National Association of Insurance Commissioners, its affiliates or subsidiaries; and

(iii) state, federal, and international law enforcement authorities;

provided that the recipient agrees to maintain the confidentiality and privileged status of the documents, materials, or other information;

(B) receive documents, materials, and information, including otherwise confidential and privileged documents, materials, and information, from:

(i) the National Association of Insurance Commissioners, its affiliates or subsidiaries; and

(ii) regulatory and law enforcement officials of other foreign or domestic jurisdictions;

and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information; and

(C) enter into agreements governing sharing and use of information consistent with this subsection.

(4) Disclosure of documents, materials, and information:

(A) to the commissioner; or

(B) by the commissioner;

under this section does not result in a waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information.

(5) This chapter does not prohibit the commissioner from releasing final, adjudicated actions, including for cause terminations that are open to public inspection under IC 5-14, to a database or other clearinghouse service maintained by the National Association of Insurance Commissioners or by its

affiliates or subsidiaries.

(f) If an insurer, an authorized representative of an insurer, or a producer fails to report as required under this section or is found to have reported falsely with actual malice by a court of competent jurisdiction, the commissioner may, after notice and hearing, suspend or revoke the license or certificate of authority of the insurer, authorized representative, or producer, and may fine the insurer, authorized representative, or producer under IC 27-4-1-6.

Sec. 16. (a) The commissioner shall waive any requirements, except the requirements imposed by section 8 of this chapter, for a nonresident license applicant with a valid license from the applicant's home state if the applicant's home state awards nonresident licenses to residents of Indiana on the same basis.

(b) A nonresident producer's satisfaction of the nonresident producer's home state's continuing education requirements for licensed insurance producers also satisfies Indiana's continuing education requirements if the non-resident producer's home state recognizes the satisfaction of the non-resident producer's home state's continuing education requirements imposed upon producers from Indiana on the same basis.

Sec. 17. (a) A producer shall report to the commissioner any administrative action taken against the producer in another jurisdiction or by another governmental agency in Indiana not more than thirty (30) days after the final disposition of the matter. The report shall include a copy of the order, consent to order, or other relevant legal documents.

(b) Not more than thirty (30) days after an initial pretrial hearing date, a producer shall report to the commissioner any criminal prosecution of the producer initiated in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing, and any other relevant legal documents.

Sec. 18. The commissioner may issue a limited lines producer's license to the following without examination:

(1) A person who is a ticket-selling producer of a common carrier and who will act only with reference to the issuance of insurance on personal effects carried as baggage, in connection with the transportation provided by such common carrier.

(2) A person who will only negotiate or solicit limited travel accident insurance in transportation terminals.

(3) A limited line credit insurance producer.

(4) A person who will only negotiate or solicit insurance under Class 2(j) of IC 27-1-5-1.

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

Sec. 19. (a) As used in this section, "prearranged funeral insurance" means insurance that is used to fund any of the following:

(1) A funeral trust under IC 30-2-10 and IC 30-2-13.

(2) Any other arrangement for advance payment of funeral and burial expenses.

(b) A person shall not sell, solicit, or negotiate prearranged funeral insurance unless the person is licensed as either of the following:

(1) An insurance producer with a life qualification under section 7 of this chapter.

(2) A limited lines producer.

(c) A person may be licensed as a limited lines producer to sell only prearranged funeral insurance if the person is:

(1) licensed under IC 25-15-4-3; 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 limit the person's insurance business solely to the sale of prearranged funeral insurance, the person must:

(1) request the commissioner to issue the person a limited lines producer's license under this chapter; and

(2) show proof of having completed ten (10) hours of continuing education credit approved by the department.

(e) If the commissioner receives a request and proof under subsection (d), the commissioner shall issue a limited lines producer's license, subject to the provisions of this chapter relating to limited lines producer licenses.

(f) A person issued a limited lines producer's license under subsection (e) may sell only prearranged funeral insurance.

Sec. 20. (a) As used in this section, "crop hail insurance" means insurance that is used only in the event of hail related disasters to growing farm crops.

(b) As used in this section, "multi-peril crop insurance" means insurance that is:

(1) used in the event of weather related disasters or insect infestations during the growing season; and

(2) guaranteed by the Federal Crop Insurance Corporation.

(c) To sell multi-peril crop insurance or crop hail insurance, a person must be licensed under this chapter.

(d) If, after a person is licensed under this chapter as an insurance producer, the person wants to limit the person's insurance business solely to the sale of:

(1) multi-peril crop insurance;

(2) crop hail insurance; or

(3) multi-peril crop insurance and crop hail insurance;

the person may request the commissioner to issue to the person a limited lines producer's license under this chapter.

(e) If the commissioner:

(1) receives a request from a person under subsection (d); and

(2) the person shows proof of having completed ten (10) hours of continuing education credit approved by the department;

the commissioner shall issue a limited lines producer's license to the person, subject to the provisions of this chapter relating to limited lines producer's licenses.

(f) A person issued a limited lines producer's license under subsection (e) may sell only:

(1) multi-peril crop insurance;

(2) crop hail insurance; or

(3) multi-peril crop insurance and crop hail insurance.

Sec. 21. (a) Service of process upon any nonresident producer licensee in any action or proceeding in any court of competent jurisdiction of Indiana arising out of the nonresident producer's insurance business in Indiana may be made by serving the commissioner with appropriate copies thereof and paying to the commissioner a fee of two dollars ($2). The commissioner shall forward a copy of such process by registered or certified mail to the licensee at the licensee's last known address of record or principal place of business, and shall keep a record of all processes so served upon the commissioner.

(b) The service of process under subsection (a) is sufficient if notice of the service and a copy of the process are sent to the licensee at the licensee's last known address of record or principal place of business by registered or certified mail, return receipt requested not more than ten (10) days after the commissioner is served.

Sec. 22. (a) An insurance producer may not receive compensation for the sale, solicitation, negotiation, or renewal of any insurance policy issued to any person or entity for whom the

insurance producer, for a fee, acts as a consultant for that policy unless:

(1) the insurance producer provides to the insured a written agreement in accordance with section 23(c) of this chapter; and

(2) the insurance producer discloses to the insured the following information prior to the sale, solicitation, negotiation, or renewal of any policy:

(A) The fact that the insurance producer will receive compensation for the sale of the policy.

(B) The method of compensation.

(b) The requirements of this subsection are in addition to the requirements set forth in subsection (a). A risk manager described in IC 27-1-22-2.5(b)(2) shall, before providing risk management services to an exempt commercial policyholder (as defined in IC 27-1-22-2.5), disclose in writing to the exempt commercial policyholder whether the risk manager will receive or expects to receive any commission, fee, or other consideration from an insurer in connection with the purchase of a commercial insurance policy by the exempt commercial policyholder. However, if the risk manager charges the exempt commercial policyholder a fee for risk management services, the risk manager shall disclose in writing to the exempt commercial policyholder the specific amount of any commission, fee, or other consideration that the risk manager may receive from an insurer in connection with the purchase of the policy. The risk manager shall, before providing the risk management services, obtain from the exempt commercial policyholder a written acknowledgment of the disclosures made by the risk manager to the exempt commercial policyholder under this subsection.

Sec. 23. (a) An individual or corporation shall not engage in the business of an insurance consultant until a consultant license has been issued to the individual or corporation by the commissioner. However, a consultant license is not required for the following:

(1) An attorney licensed to practice law in Indiana acting in the attorney's professional capacity.

(2) A duly licensed insurance producer or surplus lines producer.

(3) A trust officer of a bank acting in the normal course of the trust officer's employment.

(4) An actuary or a certified public accountant who provides information, recommendations, advice, or services in the

actuary's or certified public accountant's professional capacity.

(b) An application for a license to act as an insurance consultant shall be made to the commissioner on forms prescribed by the commissioner. An applicant may limit the scope of the applicant's consulting services by stating the limitation in the application. The areas of allowable consulting services are:

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

(2) Class 2 and Class 3, consulting regarding the kinds of insurance specified in IC 27-1-5-1, Class 2 and Class 3.

Within a reasonable time after receipt of a properly completed application form, the commissioner shall hold a written examination for the applicant that is limited to the type of consulting services designated by the applicant, and may conduct investigations and propound interrogatories concerning the applicant's qualifications, residence, business affiliations, and any other matter that the commissioner considers necessary or advisable in order to determine compliance with this chapter or for the protection of the public.

(c) For purposes of this subsection, "consultant's fee" does not include a late fee charged under section 24 of this chapter or fees otherwise allowed by law. A consultant shall provide consultant services as outlined in a written agreement. The agreement must be signed by the person receiving services, and a copy of the agreement must be provided to the person receiving services before any services are performed. The agreement must outline the nature of the work to be performed by the consultant and the method of compensation of the consultant. The signed agreement must be retained by the consultant for not less than two (2) years after completion of the services. A copy of the agreement shall be made available to the commissioner. In the absence of an agreement on the consultant's fee, the consultant shall not be entitled to recover a fee in any action at law or in equity.

(d) An individual or corporation shall not concurrently hold a consultant license and an insurance producer's license, surplus lines producer's license, or limited lines producer's license at any time.

(e) A licensed consultant shall not:

(1) employ;

(2) be employed by;

(3) be in partnership with; or

(4) receive any remuneration whatsoever;

from a licensed insurance producer, surplus lines producer, or limited lines producer or insurer, except that a consultant may be compensated by an insurer for providing consulting services to the insurer.

(f) A consultant license shall be valid for not longer than twenty-four (24) months and may be renewed and extended in the same manner as an insurance producer's license. The commissioner shall designate on the license the consulting services that the licensee is entitled to perform.

(g) All requirements and standards relating to the denial, revocation, or suspension of an insurance producer's license, including penalties, apply to the denial, revocation, and suspension of a consultant license as nearly as practicable.

(h) A consultant is obligated under the consultant's license to:

(1) serve with objectivity and complete loyalty solely the insurance interests of the consultant's client; and

(2) render the client such information, counsel, and service as within the knowledge, understanding, and opinion, in good faith of the licensee, best serves the client's insurance needs and interests.

(i) Except as provided in subsection (j), the form of a written agreement required by subsection (c) must be filed with the commissioner not less than thirty (30) days before the form is used. If the commissioner does not expressly approve or disapprove the form within thirty (30) days after filing, the form is considered approved. At any time after notice and for cause shown, the commissioner may withdraw approval of a form effective thirty (30) days after the commissioner issues notice that the approval is withdrawn.

(j) Subsection (i) does not apply to the form of a written agreement under subsection (c) that is executed by an insurance producer and an exempt commercial policyholder (as defined in IC 27-1-22-2.5).

Sec. 24. (a) This section applies to commercial property and casualty insurance coverage described in Class 2 and Class 3 of IC 27-1-5-1.

(b) A licensed insurance producer may charge a commercial insured a reasonable fee to reimburse the insurance producer for expenses incurred by the insurance producer at the specific request of the commercial insured, subject to the following requirements:

(1) Before incurring any expense described in this subsection,

the insurance producer must provide written notice to the commercial insured stating that a fee will be charged and setting forth the:

(A) amount of the fee; or

(B) basis for calculating the fee.

(2) The amount of a fee and the basis for calculating a fee may not vary among commercial insureds.

(3) Any fee that is charged must be identified separately from premium and itemized in any bill provided to the commercial insured.

(c) A licensed insurance producer may charge a commercial insured a reasonable fee for services that are provided at the request of the commercial insured in connection with a policy that provides coverage described in subsection (a) and for which the insurance producer does not receive a commission or other compensation, subject to the following requirements:

(1) Before providing services, the insurance producer must provide to the commercial insured a written description of the services to be provided and the fee for the services.

(2) Any fee that is charged must be identified separately from premium and itemized in any bill provided to the commercial insured.

(d) A licensed insurance producer who acts as a consultant and provides services described in this section shall comply with the requirements of this section and section 23 of this chapter.

(e) A licensed insurance producer may charge a late fee for agency billed accounts or policies that are more than thirty (30) days delinquent. A late fee may not exceed one and three quarters percent (1.75%) per month of the amount due on the due date.

Sec. 25. An individual who performed the functions of a person representing a fraternal benefit society before July 1, 1977, is not required to take an examination, but is entitled to have an insurance producer's license issued to the individual, subject to IC 27-1-15.7 and the requirements of this chapter.

Sec. 26. A person who performed the functions of a limited lines producer negotiating or soliciting the type of insurance described in IC 27-1-5-1, Class 2(j) before July 1, 1977, is not required to take an examination, but is entitled to have an insurance producer's license issued to the individual, subject to IC 27-1-15.7 and the requirements of this chapter.

Sec. 27. A person who held a valid solicitor's license on July 1, 1977, is subject to the same rights and responsibilities under a

solicitor's license as the rights and responsibilities that were in effect before enactment of this chapter.

Sec. 28. (a) Upon receiving an order of a court issued under IC 31-14-12-7 or IC 31-16-12-10 (or IC 31-1-11.5-13(m) or IC 31-6-6.1-16(m) before their repeal), the commissioner shall:

(1) suspend a license issued under this chapter to the person who is the subject of the order; and

(2) promptly mail a notice to the last known address of the person who is the subject of the order, stating the following:

(A) That the person's license is suspended beginning five (5) business days after the date the notice is mailed, and that the suspension will terminate not earlier than ten (10) business days after the commissioner receives an order allowing reinstatement from the court that issued the suspension order.

(B) That the person has the right to petition for reinstatement of a license issued under this chapter to the court that issued the order for suspension.

(b) The commissioner shall not reinstate a license suspended under subsection (a) until the commissioner receives an order allowing reinstatement from the court that issued the order for suspension.

Sec. 29. (a) Upon receiving an order from the bureau (Title IV-D agency) under IC 12-17-2-34(i), the commissioner shall send to the person who is the subject of the order a notice that does the following:

(1) States that the person is delinquent and is subject to an order placing the person on probationary status.

(2) Explains that unless the person contacts the bureau and:

(A) pays the person's child support arrearage in full;

(B) requests the activation of an income withholding order under IC 31-16-15-2, and establishes a payment plan with the bureau to pay the arrearage; or

(C) requests a hearing under IC 12-17-2-35;

within twenty (20) days after the date the notice is mailed, the commissioner shall place the person on probationary status with respect to a license issued to the person under this chapter.

(3) Explains that the person may contest the bureau's determination that the person is delinquent and subject to an order placing the person on probationary status by making written application to the bureau within twenty (20) days

after the date the notice is mailed.

(4) Explains that the only basis for contesting the bureau's determination that the person is delinquent and subject to an order placing the person on probationary status is a mistake of fact.

(5) Explains the procedures to:

(A) pay the person's child support arrearage in full;

(B) establish a payment plan with the bureau to pay the arrearage;

(C) request the activation of an income withholding order under IC 31-16-15-2; and

(D) request a hearing under IC 12-17-2-35.

(6) Explains that the probation will terminate ten (10) business days after the commissioner receives a notice from the bureau that the person has:

(A) paid the person's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage and requested the activation of an income withholding order under IC 31-16-15-2.

(b) Upon receiving an order from the bureau (Title IV-D agency) under IC 12-17-2-36(d), the commissioner shall send a notice to the person who is the subject of the order stating the following:

(1) That a license issued to the person under this chapter has been placed on probationary status, beginning five (5) business days after the date the notice was mailed, and that the probation will terminate ten (10) business days after the commissioner receives a notice from the bureau that the person has:

(A) paid the person's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage and requested the activation of an income withholding order under IC 31-16-15-2.

(2) That if the commissioner is advised by the bureau that the person whose license has been placed on probationary status has failed to:

(A) pay the person's child support arrearage in full; or

(B) establish a payment plan with the bureau to pay the arrearage and request the activation of an income withholding order under IC 31-16-15-2;

within twenty (20) days after the date the notice is mailed, the commissioner shall suspend the person's license.

(c) If the commissioner receives a notice by the bureau (Title IV-D agency) under IC 12-17-2-34(i) that the person whose license has been placed on probationary status has failed to:

(1) pay the person's child support arrearage in full; or

(2) establish a payment plan with the bureau to pay the arrearage and request the activation of an income withholding order under IC 31-16-15-2;

within twenty (20) days after the notice required under subsection (b) is mailed, the commissioner shall suspend the person's license.

(d) The commissioner may not reinstate any license placed on probation or suspended under this section until the commissioner receives a notice from the bureau that the person has:

(1) paid the person's child support arrearage in full; or

(2) established a payment plan with the bureau to pay the arrearage and requested the activation of an income withholding order under IC 31-16-15-2.

Sec. 30. The commissioner and the director of the department of financial institutions shall consult with each other and assist each other in enforcing compliance with the provisions of IC 28 concerning the sale of life insurance policies and annuity contracts. The commissioner and the director of the department of financial institutions may jointly conduct investigations, prosecute suits, and take other official action they consider appropriate under this section if either of them is empowered to take the action. If the director of the department of financial institutions is informed by a financial institution or its affiliate of a violation or suspected violation of any provision of IC 28 concerning the sale of life insurance policies or annuity contracts or of the insurance laws and rules of Indiana, the director of the department of financial institutions shall timely advise the commissioner of the violation. If the commissioner is informed by a financial institution or its affiliate of a violation or suspected violation of any provision of IC 28 concerning the sale of life insurance policies or annuity contracts or of the insurance laws and rules of Indiana, the commissioner shall timely advise the director of the department of financial institutions of the violation.

Sec. 31. An insurance producer shall not:

(1) be named a beneficiary of;

(2) become an owner of; or

(3) receive a collateral assignment of;

an individual life insurance policy or individual annuity contract unless the insurance producer has an insurable interest in the life

of the insured or annuitant. A beneficiary designation, ownership designation, or collateral assignment made in violation of this section is void.

Sec. 32. (a) The department shall adopt rules under IC 4-22-2 to set fees for licensure under this chapter, IC 27-1-15.7, and IC 27-1-15.8.

(b) Insurance producer and limited lines producer license renewal fees are due every four (4) years. The fee charged by the department every four (4) years for a:

(1) resident license is forty dollars ($40); and

(2) nonresident license is ninety dollars ($90).

(c) Consultant renewal fees are due every twenty-four (24) months.

(d) Surplus lines producer renewal fees are due annually.

(e) The commissioner may issue a duplicate license for any license issued under this chapter. The fee charged by the commissioner for the issuance of a duplicate:

(1) insurance producer license;

(2) surplus lines producer license;

(3) limited lines producer license; or

(4) consultant license;

may not exceed ten dollars ($10).

Sec. 33. Except as otherwise provided in section 32 of this chapter, the commissioner may adopt rules under IC 4-22-2 to carry out the purposes of this chapter.

Sec. 34. All hearings held under this chapter are governed by IC 4-21.5-3. The commissioner may appoint members of the commissioner's staff to act as hearing officers for purposes of hearings held under this chapter.

SECTION 6. IC 27-2-20 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 20. Privacy of Consumer Information

Sec. 1. (a) This chapter applies to nonpublic personal financial information regarding individuals who:

(1) obtain; or

(2) are claimants or beneficiaries of;

products or services primarily for personal, family, or household purposes from licensees of the department of insurance.

(b) This chapter does not apply to information regarding companies or regarding individuals who obtain products or services for business, commercial, or agricultural purposes.

Sec. 2. The following definitions apply throughout this chapter:

(1) "Affiliate" means a company that controls, is controlled by, or is under common control with, another company.

(2) "Clear and conspicuous" means that a notice is reasonably understandable and designed to call attention to the nature and significance of the information in the notice. The following are examples:

(A) A licensee makes the licensee's notice reasonably understandable if the licensee does the following:

(i) Presents the information in the notice in clear, concise sentences, paragraphs, and sections.

(ii) Uses short explanatory sentences or bullet lists whenever possible.

(iii) Uses definite, concrete, everyday words and active voice whenever possible.

(iv) Avoids multiple negatives.

(v) Avoids legal and highly technical business terminology whenever possible.

(vi) Avoids explanations that are imprecise and readily subject to different interpretations.

(B) A licensee designs the licensee's notice to call attention to the nature and significance of the information in the notice if the licensee does the following:

(i) Uses a plain-language heading to call attention to the notice.

(ii) Uses a typeface and type size that are easy to read.

(iii) Provides wide margins and ample line spacing.

(iv) Uses boldface or italics for key words.

(v) In a form that combines the licensee's notice with other information, uses distinctive type size, style, and graphic devices, such as shading or sidebars.

(C) If a licensee provides a notice on a Web page, the licensee designs the licensee's notice to call attention to the nature and significance of the information in the notice if the licensee uses text or visual cues to encourage scrolling down the page if necessary to view the entire notice and ensure that other elements on the Web site, such as text, graphics, hyperlinks, or sound, do not distract attention from the notice, and the licensee does either of the following:

(i) Places the notice on a screen that consumers frequently access, such as a page on which transactions

are conducted.

(ii) Places a link on a screen that consumers frequently access, such as a page on which transactions are conducted, that connects directly to the notice and is labeled appropriately to convey the importance, nature, and relevance of the notice.

(3) "Collect" means to obtain information that a licensee organizes or can retrieve by the name of an individual or by identifying number, symbol, or other identifying particular assigned to the individual, regardless of the source of the underlying information.

(4) "Commissioner" means the commissioner of the Indiana department of insurance.

(5) "Company" means a corporation, limited liability company, business trust, general or limited partnership, association, sole proprietorship, or similar organization.

(6) "Consumer" means an individual who seeks to obtain, obtains, or has obtained an insurance product or service from a licensee that is to be used primarily for personal, family, or household purposes, and about whom the licensee has nonpublic personal information, or the individual's legal representative, including the following:

(A) An individual provides nonpublic personal information to a licensee in connection with obtaining or seeking to obtain financial, investment or economic advisory services relating to an insurance product or service is a consumer regardless of whether the licensee establishes an ongoing advisory relationship.

(B) An applicant for insurance prior to the inception of insurance coverage is a licensee's consumer.

(C) An individual who is a consumer of another financial institution is not a licensee's consumer solely because the licensee is acting as an agent for, or provides processing or other services to, that financial institution.

(D) An individual is a licensee's consumer if the individual is:

(i) a beneficiary of a life insurance policy underwritten by the licensee;

(ii) a claimant under an insurance policy issued by the licensee;

(iii) an insured or an annuitant under an insurance policy or an annuity, respectively, issued by the licensee;

or

(iv) a mortgagor of a mortgage covered under a mortgage insurance policy;

and the licensee discloses nonpublic personal financial information about the individual to a nonaffiliated third party other than as permitted under sections 12, 13, and 14 of this chapter.

(E) If the licensee provides the initial, annual, and revised notices under sections 3, 4, and 7 of this chapter to the plan sponsor, group, or blanket insurance policyholder or group annuity contractholder, and if the licensee does not disclose to a nonaffiliated third party nonpublic personal financial information about the individual other than as permitted under sections 12, 13, and 14 of this chapter, an individual is not the consumer of the licensee solely because the individual is:

(i) a participant or a beneficiary of an employee benefit plan that the licensee administers or sponsors or for which the licensee acts as a trustee, insurer, or fiduciary;

(ii) covered under a group or blanket insurance policy or group annuity contract issued by the licensee; or

(iii) a beneficiary in a workers' compensation plan.

(F) The individuals described in clause (E)(i) through (E)(iii) are consumers of a licensee if the licensee does not meet all the conditions of this subdivision. In no event shall the individuals, solely by virtue of the status described in clause (E)(i) through (E)(iii), be considered to be customers.

(G) An individual is not a licensee's consumer solely because the individual is a beneficiary of a trust for which the licensee is a trustee.

(H) An individual is not a licensee's consumer solely because the individual has designated the licensee as trustee for a trust.

(7) "Consumer reporting agency" has the meaning set forth in section 603(f) of the federal Fair Credit Reporting Act (15 U.S.C. 1681a(f)).

(8) "Control" means any of the following:

(A) Ownership, control, or power to vote twenty-five percent (25%) or more of the outstanding shares of any class of voting security of a company, directly or indirectly, or acting through one (1) or more other persons.

(B) Control in any manner over the election of a majority of the directors, trustees, general partners, or individuals exercising similar functions, of a company.

(C) The power to exercise, directly or indirectly, a controlling influence over the management or policies of a company, as determined by the commissioner.

(9) "Customer" means a consumer who has a customer relationship with a licensee.

(10) "Customer relationship" means a continuing relationship between a consumer and a licensee under which the licensee provides one (1) or more insurance products or services to the consumer that are to be used primarily for personal, family, or household purposes, including the following:

(A) A consumer has a continuing relationship with a licensee if the consumer:

(i) is a current policyholder of an insurance product issued by or through the licensee; or

(ii) obtains financial, investment, or economic advisory services relating to an insurance product or service from the licensee for a fee.

(B) A consumer does not have a continuing relationship with a licensee in any of the following circumstances:

(i) The consumer applies for insurance but does not purchase the insurance.

(ii) The licensee sells the consumer airline travel insurance in an isolated transaction.

(iii) The individual is no longer a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee.

(iv) The consumer is a beneficiary or claimant under a policy and has submitted a claim under a policy choosing a settlement option involving an ongoing relationship with the licensee.

(v) The consumer is a beneficiary or a claimant under a policy and has submitted a claim under that policy choosing a lump sum settlement option.

(vi) The customer's policy is lapsed, expired, or otherwise inactive or dormant under the licensee's business practices, and the licensee has not communicated with the customer about the relationship for a period of twelve (12) consecutive months, other than annual privacy notices, material required by law or

rule, communication at the direction of a state or federal authority, or promotional materials.

(vii) The individual is an insured or an annuitant under an insurance policy or annuity, respectively, but is not the policyholder or owner of the insurance policy or annuity.

(viii) For the purposes of this chapter, the individual's last known address, according to the licensee's records, is considered invalid. An address of record is considered invalid if mail sent to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful.

(11) "Financial institution" means an institution the business of which is engaging in activities that are financial in nature or incidental to financial activities as described in section 4(k) of the Bank Holding Company Act of 1956, 12 U.S.C. 1843(k). The term does not include the following:

(A) A person or entity with respect to any financial activity that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act, 7 U.S.C. 1 et seq.

(B) The Federal Agricultural Mortgage Corporation or any entity charged and operating under the Farm Credit Act of 1971, 12 U.S.C. 2001 et seq.

(C) Institutions chartered by Congress specifically to engage in securitizations, secondary market sales (including sales of servicing rights), or similar transactions related to a transaction of a consumer, as long as the institutions do not sell or transfer nonpublic personal information to a nonaffiliated third party.

(12) "Financial product or service" means a product or service that a financial holding company could offer by engaging in an activity that is financial in nature or incidental to such a financial activity under section 4(k) of the Bank Holding Company Act of 1956, 12 U.S.C. 1843(k). "Financial service" includes a financial institution's evaluation or brokerage of information that the financial institution collects in connection with a request or an application from a consumer for a financial product or service.

(13) "Health information" means any information or data,

except age or gender, whether oral or recorded in any form or medium, created by or derived from a health care provider or a consumer that relates to any of the following:

(A) The past, present, or future physical, mental, or behavioral health or condition of an individual.

(B) The provision of health care to an individual.

(C) Payment for the provision of health care to an individual.

(14) "Insurance product or service" means any product or service that is offered by a licensee under the insurance laws of Indiana. "Insurance service" includes a licensee's evaluation, brokerage, or distribution of information that the licensee collects in connection with a request or an application from a consumer for an insurance product or service.

(15) "Licensee" means licensed insurers, health maintenance organizations, agents, producers, and other persons licensed or required to be licensed, or authorized or required to be authorized, or registered or required to be registered under IC 27. The following requirements apply:

(A) A licensee is not subject to the notice and opt out requirements for nonpublic personal financial information set forth in section 1 of this chapter, this section, and sections 3 through 15 of this chapter if the licensee is an employee, agent, or other representative of another licensee and:

(i) the other licensee otherwise complies with, and provides the notices required under this chapter; and

(ii) the licensee does not disclose any nonpublic personal information to any person other than the principal or affiliates of the principal in a manner permitted under this chapter.

(B) A licensee includes an unauthorized insurer that accepts business placed through a licensed surplus lines broker in Indiana, but only with regard to the surplus lines placements placed under IC 27-1-15.5-5. A surplus lines broker or surplus lines insurer is considered to be in compliance with the notice and opt out requirements for nonpublic personal financial information set forth in section 1 of this chapter, this section, and sections 3 through 15 of this chapter if the surplus lines agent or insurer:

(i) does not disclose nonpublic personal information of a

consumer or a customer to a nonaffiliated third party for any purpose, including joint servicing or marketing under section 12 of this chapter, except as permitted under section 13 or 14 of this chapter; and

(ii) delivers a notice to the consumer at the time a customer relationship is established on which the following is printed in 16 point type:

PRIVACY NOTICE

NEITHER THE U.S. SURPLUS LINES AGENTS THAT HANDLED THIS INSURANCE NOR THE INSURERS THAT HAVE UNDERWRITTEN THIS INSURANCE WILL DISCLOSE NONPUBLIC PERSONAL INFORMATION CONCERNING THE BUYER TO NONAFFILIATES OF THE BROKERS OR INSURERS EXCEPT AS PERMITTED BY LAW.

(16) "Nonaffiliated third party" means a person other than a licensee's affiliate or a person employed jointly by a licensee and any company that is not the licensee's affiliate. The term includes either of the following:

(A) The other company that jointly employs the person.

(B) A company that is an affiliate solely by virtue of the direct or indirect ownership or control of the company by the licensee or the licensee's affiliate in conducting merchant banking or investment banking activities or insurance company investment activities of the type described in the federal Bank Holding Company Act, 12 U.S.C. 1843(k)(4)(H) and 12 U.S.C. 1843(k)(4)(I).

(17) "Nonpublic personal financial information" means personally identifiable financial information and a list, description, or other grouping of consumers (and publicly available information pertaining to them) that is derived using a personally identifiable financial information that is not publicly available, including a list of individuals' names and street addresses that is derived in whole or in part using personally identifiable financial information that is not publicly available, such as account numbers. The term does not include any of the following:

(A) Health information.

(B) Publicly available information, except as included on a list described in subdivision (23).

(C) A list, description, or other grouping of consumers (and publicly available information pertaining to them)

that is derived without using any personally identifiable financial information that is not publicly available.

(D) A list of the names and addresses of individuals that contains only publicly available information, is not derived in whole or in part using personally identifiable financial information that is not publicly available, and is not disclosed in a manner that indicates that any of the individuals on the list is a consumer of a financial institution.

(18) "Nonpublic personal information" means nonpublic personal financial information.

(19) "Personally identifiable financial information" means information provided by a consumer to a licensee to obtain an insurance product or service from the licensee, information about a consumer resulting from a transaction involving an insurance product or service between a licensee and a consumer, or information a licensee otherwise obtains about a consumer in connection with providing an insurance product or service to the consumer, including the following:

(A) Information a consumer provides to a licensee on an application to obtain an insurance product or service.

(B) Account balance information and payment history.

(C) The fact that an individual is or has been a customer of the licensee or has obtained an insurance product or service from the licensee.

(D) Information about the licensee's consumer if it is disclosed in a manner that indicates that the individual is or has been a consumer of the licensee.

(E) Information that a consumer provides to a licensee or that the licensee or an agent of the licensee otherwise obtains in connection with collecting on a loan or servicing a loan.

(F) Information the licensee collects through an Internet cookie (an information-collecting device from a Web server).

(G) Information from a consumer report.

The term does not include health information, a list of names and addresses of customers of an entity that is not a financial institution, or information that does not identify a consumer, including aggregate information or blind data that does not contain personal identifiers, such as account numbers, names or addresses.

(20) "Publicly available information" means information that a licensee has a reasonable basis to believe is lawfully made available to the general public from federal, state, or local government records, widely distributed media, or disclosures to the general public that are required to be made by federal, state, or local law. The following requirements apply:

(A) A licensee has a reasonable basis to believe that information is lawfully made available to the general public if the licensee has taken steps to determine that the information is of the type that is available to the general public and whether an individual can direct that the information not be made available to the general public, and, if so, that the licensee's consumer has not done so.

(B) Publicly available information in government records includes information in government real estate records and security interest filings.

(C) Publicly available information from widely distributed media includes information from a:

(i) telephone book;

(ii) television;

(iii) radio program,

(iv) newspaper; or

(v) Web site;

that is available to the general public on an unrestricted basis. A Web site is not restricted merely because an Internet service provider or a site operator requires a fee or a password, so long as access is available to the general public.

(D) A licensee has a reasonable basis to believe that mortgage information is lawfully made available to the general public if the licensee has determined that the information is of the type included on the public record in the jurisdiction where the mortgage would be recorded.

(E) A licensee has a reasonable basis to believe that an individual's telephone number is lawfully made available to the general public if the licensee has located the telephone number in the telephone book or the consumer has informed you that the telephone number is not unlisted.

Sec. 3. (a) A licensee shall provide a clear and conspicuous notice that accurately reflects the privacy policies and practices of the licensee to the following:

(1) An individual who becomes the licensee's customer, not later than when the licensee establishes a customer relationship, except as provided in subsection (e).

(2) A consumer, before the licensee discloses any nonpublic personal financial information about the consumer to any nonaffiliated third party, if the licensee makes a disclosure other than as authorized under sections 13 and 14 of this chapter.

(b) A licensee is not required to provide an initial notice to a consumer under subsection (a) in either of the following instances:

(1) The licensee does not disclose any nonpublic personal financial information about the consumer to any nonaffiliated third party, other than as authorized under sections 13 and 14 of this chapter, and the licensee does not have a customer relationship with the consumer.

(2) A notice has been provided by an affiliated licensee, as long as the notice clearly identifies all licensees to whom the notice applies and is accurate with respect to the licensee and the other institutions.

(c) A licensee establishes a customer relationship at the time the licensee and the consumer enter into a continuing relationship. The following are examples of establishing customer relationship:

(1) The consumer becomes a policyholder of a licensee that is an insurer when the insurer delivers an insurance policy or contract to the consumer, or in the case of a licensee that is an insurance producer or insurance agent, obtains insurance through that licensee.

(2) The consumer agrees to obtain financial, economic, or investment advisory services relating to insurance products or services from the licensee for a fee.

(d) When an existing customer obtains a new insurance product or service from a licensee that is to be used primarily for personal, family, or household purposes, the licensee satisfies the initial notice requirements of subsection (a) if:

(1) the licensee provides a revised policy notice, under section 7 of this chapter, that covers the customer's new insurance product or service; or

(2) the initial, revised, or annual notice that the licensee most recently provided to the customer was accurate with respect to the new insurance product or service.

(e) The following are exceptions that allow subsequent delivery of the required notice:

(1) A licensee may provide the initial notice required under subsection (a)(1) within a reasonable time after the licensee establishes a customer relationship if:

(A) establishing the customer relationship is not at the customer's election; or

(B) providing notice not later than when the licensee establishes a customer relationship would substantially delay the customer's transaction and the customer agrees to receive the notice at a later time.

(2) The following are examples of exceptions:

(A) Establishing a customer relationship is not at the customer's election if a licensee acquires or is assigned a customer's policy from another financial institution or residual market mechanism and the customer does not have a choice about the licensee's acquisition or assignment.

(B) Providing notice not later than when a licensee establishes a customer relationship would substantially delay the customer's transaction when the licensee and the individual agree over the telephone to enter into a customer relationship involving prompt delivery of the insurance product or service.

(C) Providing notice not later than when a licensee establishes a customer relationship would not substantially delay the customer's transaction when the relationship is initiated in person at the licensee's office or through other means by which the customer may view the notice, such as on a Web site.

(f) When a licensee is required to deliver an initial privacy notice under this section, the licensee shall deliver the notice as specified in section 8 of this chapter. If the licensee uses a short form initial notice for non-customers as specified in section 5 of this chapter, the licensee may deliver the privacy notice as specified in section 5(f) of this chapter.

Sec. 4. (a) A licensee shall provide a clear and conspicuous notice to customers that accurately reflects the licensee's privacy policies and practices not less than annually during the continuation of the customer relationship.

(1) As used in this section, "annually" means at least one (1) time in any period of twelve (12) consecutive months during which the relationship exists. A licensee may define the twelve (12) consecutive month period, but the licensee shall apply the

period to the customer on a consistent basis.

(2) A licensee provides a notice annually if the licensee defines the twelve (12) consecutive month period as a calendar year and provides the annual notice to the customer once in each calendar year following the calendar year in which the licensee provided the initial notice.

(b) A licensee is not required to provide an annual notice to a former customer. As used in this section, "former customer" means an individual with whom a licensee no longer has a continuing relationship and includes the following:

(1) The individual is not a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee.

(2) The individual's policy is lapsed, expired, or otherwise inactive or dormant under the licensee's business practices, and the licensee has not communicated with the customer about the relationship for a period of twelve (12) consecutive months, other than to provide annual privacy notices, material required by law or rule, or promotional materials.

(3) An individual if the individual's last known address according to the licensee's records is considered invalid. An address of record is considered invalid if mail sent to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful.

(4) In the case of providing real estate settlement services, at the time the customer completes execution of all documents related to the real estate closing, payment for the services has been received, or the licensee has completed all of the licensee's responsibilities with respect to the settlement, including filing documents on the public record, whichever is later.

(c) When a licensee is required under this section to deliver an annual privacy notice, the licensee shall deliver the notice as specified under section 8 of this chapter.

Sec. 5. (a) The initial, annual, and revised privacy notices that a licensee provides under sections 3, 4, and 7 of this chapter must include each of the following items of information, in addition to any other information that the licensee provides, that applies to the licensee and to the consumers to whom the licensee sends the licensee's privacy notice:

(1) The categories of nonpublic personal financial information that the licensee collects.

(2) The categories of nonpublic personal financial information that the licensee discloses.

(3) The categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information, other than those parties to whom the licensee discloses information under sections 13 and 14 of this chapter.

(4) The categories of nonpublic personal financial information about the licensee's former customers that the licensee discloses and the categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information about the licensee's former customers, other than the parties to whom the licensee discloses information under sections 13 and 14 of this chapter.

(5) If a licensee discloses nonpublic personal financial information to a nonaffiliated third party under section 12 of this chapter (and no other exception in sections 13 and 14 of this chapter applies to the disclosure), a separate description of the categories of information that the licensee discloses and the categories of third parties with whom the licensee has contracted.

(6) An explanation of the consumer's right under section 9(a) of this chapter to opt out of the disclosure of nonpublic personal financial information to nonaffiliated third parties, including the methods by which the consumer may exercise the right at that time.

(7) Any disclosures that the licensee makes under section 603(d)(2)(A)(iii) of the federal Fair Credit Reporting Act, 15 U.S.C. 1681a(d)(2)(A)(iii), regarding the ability to opt out of disclosures of information among affiliates.

(8) The licensee's policies and practices with respect to protecting the confidentiality and security of nonpublic personal information.

(9) Any disclosure that the licensee makes under subsection (b).

(b) If a licensee discloses nonpublic personal financial information as authorized under sections 13 and 14 of this chapter, the licensee is not required to list the exceptions in the initial or annual privacy notices required by sections 3 and 4 of this chapter. When describing the categories of parties to whom disclosure is made, the licensee shall state only that the licensee makes

disclosures to other affiliated or nonaffiliated third parties, as applicable, as permitted by law.

(c) The following are examples of compliance with this section:

(1) A licensee satisfies the requirement to categorize the nonpublic personal financial information that the licensee collects if the licensee categorizes the information according to the source of the information, as applicable information:

(A) from the consumer;

(B) about the consumer's transactions with the licensee or its affiliates;

(C) about the consumer's transactions with nonaffiliated third parties; and

(D) from a consumer reporting agency.

(2) A licensee satisfies the requirement to categorize nonpublic personal financial information the licensee discloses if the licensee categorizes the information according to source, as described in subdivision (1), as applicable, and provides examples to illustrate the types of information in each category. The examples include the following:

(A) Information from the consumer, including application information, such as assets and income and identifying information, such as name, address, and Social Security number.

(B) Transaction information, such as information about balances, payment history, and parties to the transaction.

(C) Information from consumer reports, such as a consumer's creditworthiness and credit history.

(3) A licensee does not adequately categorize the information that the licensee discloses if the licensee uses only general terms, such as transaction information about the consumer. If a licensee reserves the right to disclose all of the nonpublic personal financial information about consumers that the licensee collects, the licensee may simply state that fact without describing the categories or examples of nonpublic personal information that the licensee discloses.

(4) A licensee satisfies the requirement to categorize the affiliates and nonaffiliated third parties to which the licensee discloses nonpublic personal financial information about consumers if the licensee identifies the types of businesses in which they engage.

(A) Types of businesses may be described by general terms only if the licensee uses a few illustrative examples of

significant lines of business.

(B) A licensee also may categorize the affiliates and nonaffiliated third parties to which the licensee discloses nonpublic personal financial information about consumers using more detailed categories.

(5) If a licensee discloses nonpublic personal financial information under the exception in section 12 of this chapter to a nonaffiliated third party to market products or services that the licensee offers alone or jointly with another financial institution, the licensee satisfies the disclosure requirement of subsection (a)(5) if the licensee:

(A) lists the categories of nonpublic personal financial information that the licensee discloses, using the same categories and examples the licensee used to meet the requirements of subsection (a)(2), as applicable; and

(B) states whether the third party is a:

(i) service provider that performs marketing services on the licensee's behalf or on behalf of the licensee and another financial institution; or

(ii) financial institution with whom the licensee has a joint marketing agreement.

(6) If a licensee does not disclose, and does not reserve the right to disclose, nonpublic personal financial information about customers or former customers to affiliates or nonaffiliated third parties, except as authorized under sections 13 and 14 of this chapter, the licensee may state that fact, in addition to the information that the licensee shall provide under subsections (a)(1), (a)(8), (a)(9), and (b).

(7) A licensee describes the licensee's policies and practices with respect to protecting the confidentiality and security of nonpublic personal financial information if the licensee does both of the following:

(A) Describes in general terms who is authorized to have access to the information.

(B) States whether the licensee has security practices and procedures in place to ensure the confidentiality of the information in accordance with the licensee's policy. The licensee is not required to describe technical information about the safeguards that the licensee uses.

(d) A licensee may satisfy the initial notice requirements of sections 3(a)(2) and 6(d) of this chapter for a consumer who is not a customer by providing a short form initial notice at the same

time that the licensee delivers an opt out notice as required under section 6 of this chapter. A short form notice must:

(1) be clear and conspicuous;

(2) state that the licensee's privacy notice is available upon request; and

(3) explain a reasonable means by which the consumer may obtain the notice.

(e) A licensee shall deliver the licensee's short form initial notice as specified under section 8 of this chapter. The licensee is not required to deliver the licensee's privacy notice with the licensee's short form initial notice. The licensee may provide the consumer a reasonable means to obtain the licensee's privacy notice. If a consumer who receives the licensee's short form notice requests the licensee's privacy notice, the licensee shall deliver the licensee's privacy notice as specified under section 8 of this chapter.

(f) A licensee provides a reasonable means by which a consumer may obtain a copy of the licensee's privacy notice if the licensee does either of the following:

(1) Provides a toll free telephone number that the consumer may call to request the notice.

(2) For a consumer who conducts business in person at the licensee's office, maintains copies of the notice on hand that the licensee provides to the consumer immediately upon request.

(g) A licensee's notice may include the following:

(1) Categories of nonpublic personal financial information that the licensee reserves the right to disclose in the future, but does not currently disclose.

(2) Categories of affiliates or nonaffiliated third parties to whom the licensee reserves the right in the future to disclose, but to whom the license does not currently disclose, nonpublic financial information.

Sec. 6. (a) If a licensee is required to provide an opt out notice under section 9(a) of this chapter, the licensee shall provide a clear and conspicuous notice to each of the licensee's consumers that accurately explains the right to opt out under section 9(a) of this chapter. The notice shall state all of the following:

(1) The licensee discloses or reserves the right to disclose nonpublic personal financial information about its consumer to a nonaffiliated third party.

(2) The consumer has the right to opt out of that disclosure.

(3) A reasonable means by which the consumer may exercise

the opt out right.

(b) The following are examples of compliance with subsection (a):

(1) A licensee provides adequate notice that a consumer can opt out of the disclosure of nonpublic personal financial information to a nonaffiliated third party if the licensee does all of the following:

(A) Identifies all of the categories of nonpublic personal financial information that the licensee discloses or reserves the right to disclose, and all of the categories of nonaffiliated third parties to which the licensee discloses the information, as described in section 5(a)(2) and 5(a)(3) of this chapter.

(B) States that the consumer can opt out of the disclosure of the information.

(C) Identifies the insurance products or services that the consumer obtains from the licensee, either singly or jointly, to which the opt out direction would apply.

(2) A licensee provides a reasonable means to exercise an opt out right if the licensee does any of the following:

(A) Designates check-off boxes in a prominent position on the relevant forms with the opt out notice.

(B) Includes a reply form together with the opt out notice.

(C) Provides an electronic means to opt out, such as a form that can be sent via electronic mail or a process at the licensee's Web site, if the consumer agrees to the electronic delivery of information.

(D) Provides a toll free telephone number that consumers may call to opt out.

(3) A licensee does not provide a reasonable means of opting out if the only means of opting out:

(A) is for the consumer to write the consumer's own letter to exercise that opt out right; or

(B) as described in any notice subsequent to the initial notice, is to use a check-off box that the licensee provided with the initial notice, but did not include with the subsequent notice.

(4) A licensee may require each consumer to opt out through a specific means as long as the means is reasonable for the consumer.

(c) A licensee may provide an opt out notice together with or on the same written or electronic form as the initial notice that the

licensee provides in under section 3 of this chapter.

(d) If a licensee provides an opt out notice later than required for the initial notice under section 3 of this chapter, the licensee shall include a copy of the initial notice with the opt out notice in writing or, if the consumer agrees, electronically.

(e) The following apply to joint relationships:

(1) If two (2) or more consumers jointly obtain an insurance product or service from a licensee, the licensee may provide a single opt out notice. The licensee's opt out notice shall explain how the licensee will treat an opt out direction by a joint consumer.

(2) Any of the joint consumers may exercise the right to opt out. The licensee may either:

(A) treat an opt out direction by a joint consumer as applying to all of the associated joint consumers; or

(B) permit each joint consumer to opt out separately.

(3) If a licensee permits each joint consumer to opt out separately, the licensee shall permit one (1) of the joint consumers to opt out on behalf of all of the joint consumers.

(4) A licensee may not require all joint consumers to opt out before the licensee implements any opt out direction.

(f) A licensee shall comply with a consumer's opt out direction as soon as reasonably practicable after the direction is received by the licensee.

(g) A consumer may exercise the right to opt out at any time.

(h) A consumer's direction to opt out under this section is effective until the consumer revokes the direction in writing or, if the consumer agrees, electronically. When a consumer relationship terminates, the customer's opt out direction continues to apply to the nonpublic personal financial information that the licensee collected during or related to that relationship. If the individual subsequently establishes a new customer relationship with the licensee, the opt out direction that applied to the former relationship does not apply to the new relationship.

(i) When a licensee is required to deliver an opt out notice under this section, the licensee shall deliver the notice as specified under section 8 of this chapter.

Sec. 7. (a) Except as otherwise authorized in this chapter, a licensee shall not, directly or through an affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party other than as described in the initial notice that the licensee provided to the consumer under section 3

of this chapter unless the:

(1) licensee has provided to the consumer a clear and conspicuous revised notice that accurately describes the licensee's policies and practices;

(2) licensee has provided to the consumer a new opt out notice;

(3) licensee has given the consumer a reasonable opportunity, before the licensee discloses the information to the nonaffiliated third party, to opt out of the disclosure; and

(4) consumer does not opt out.

(b) Except as otherwise permitted under sections 12 through 14 of this chapter, a licensee shall provide a revised notice before the licensee does any of the following:

(1) Discloses a new category of nonpublic personal financial information to any nonaffiliated third party.

(2) Discloses nonpublic personal financial information to a new category of nonaffiliated third party.

(3) Discloses nonpublic personal financial information regarding a former customer to a nonaffiliated third party, if the former customer has not had the opportunity to exercise an opt out right regarding the disclosure.

(c) A revised notice is not required if the licensee discloses nonpublic personal financial information to a new nonaffiliated third party that the licensee adequately described in the licensee's prior notice.

(d) When a licensee is required to deliver a revised privacy notice under this section, the licensee shall deliver the notice as specified under section 8 of this chapter.

Sec. 8. (a) A licensee shall provide notices required under this chapter so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, electronically.

(b) A licensee may reasonably expect that a consumer will receive actual notice if the licensee does any of the following:

(1) Hand delivers a printed copy of the notice to the consumer.

(2) Mails a printed copy of the notice to the last known address of the consumer separately, or in a policy, billing, or other written communication.

(3) For a consumer who conducts transactions electronically, posts the notice on the electronic site and requires the consumer to acknowledge receipt of the notice as a necessary step to obtaining a particular insurance product or service.

(4) For an isolated transaction with a consumer, such as the licensee providing an insurance quote or selling the consumer travel insurance, posts the notice and requires the consumer to acknowledge receipt of the notice as a necessary step to obtaining the particular insurance product or service.

(c) A licensee may not reasonably expect that a consumer will receive actual notice of the licensee's privacy policies and practices if the licensee does either of the following:

(1) Only posts a sign in the licensee's office or generally publishes advertisements of the licensee's privacy policies and practices.

(2) Sends the notice via electronic mail to a consumer who does not obtain an insurance product or service from the licensee electronically.

(d) A licensee may reasonably expect that a customer will receive actual notice of the licensee's annual privacy notice if the customer:

(1) uses the licensee's Web site to access insurance products and services electronically and agrees to receive notices at the Web site and the licensee posts the licensee's current privacy notice continuously in a clear and conspicuous manner on the Web site; or

(2) has requested that the licensee refrain from sending any information regarding the customer relationship, and the licensee's current privacy notice remains available to the customer upon request.

(e) A licensee may not provide any notice required under this chapter solely by orally explaining the notice, either in person or over the telephone.

(f) For customers only, a licensee shall provide the initial notice required under section 3(a)(1) of this chapter, the annual notice required under section 4(a) of this chapter, and the revised notice required under section 7 of this chapter so that the customer can retain them or obtain them later in writing or, if the customer agrees, electronically. A licensee provides a privacy notice to the customer so that the customer can retain the notice or obtain the notice later if the licensee does any of the following:

(1) Hand delivers a printed copy of the notice to the customer.

(2) Mails a printed copy of the notice to the last known address of the customer.

(3) Makes the licensee's current privacy notice available on a Web site (or a link to another Web site) for the customer who

obtains an insurance product or service electronically and agrees to receive the notice at the Web site.

(g) A licensee may provide a joint notice from the licensee and one (1) or more of the licensee's affiliates or other financial institutions, as identified in the notice, as long as the notice is accurate with respect to the licensee and the other institutions. A licensee also may provide a notice on behalf of another financial institution.

(h) If two (2) or more consumers jointly obtain an insurance product or service from a licensee, the licensee may satisfy the initial, annual, and revised notice requirements of sections 3(a), 4(a), and 7(a) of this chapter, by providing one (1) notice to the consumers jointly.

Sec. 9. (a) Except as otherwise authorized in this chapter, a licensee may not, directly or through an affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party unless the:

(1) licensee has provided to the consumer an initial notice as required under section 3 of this chapter;

(2) licensee has provided to the consumer an opt out notice as required under section 6 of this chapter;

(3) licensee has given the consumer a reasonable opportunity, before the licensee discloses the information to the nonaffiliated third party, to opt out of the disclosure; and

(4) consumer does not opt out.

(b) Opt out means a direction by the consumer that the licensee not disclose nonpublic personal financial information about the consumer to a nonaffiliated third party, other than as permitted under sections 12 through 14 of this chapter.

(c) A licensee provides a consumer with a reasonable opportunity to opt out if the licensee does any of the following:

(1) Mails the notices required under subsection (a) to the consumer and allows the consumer to opt out by mailing a form, calling a toll free telephone number or any other reasonable means within thirty (30) days from the date the licensee mailed the notices.

(2) If a customer opens an on-line account with the licensee and agrees to receive the notices required under subsection (a) electronically, allows the customer to opt out by any reasonable means within thirty (30) days after the date that the customer acknowledges receipt of the notices in conjunction with opening the account.

(3) For an isolated transaction, such as providing the consumer with an insurance quote, provides the consumer with a reasonable opportunity to opt out if the licensee provides the notices required under subsection (a) at the time of the transaction and requests that the consumer decide, as a necessary part of the transaction, whether to opt out before completing the transaction.

(d) A licensee shall comply with this section, regardless of whether the licensee and the consumer have established a customer relationship. Unless a licensee complies with this section, the licensee may not, directly or through any affiliate, disclose any nonpublic personal financial information about a consumer that the licensee has collected, regardless of whether the licensee collected the information before or after receiving the direction to opt out from the consumer.

(e) A licensee may allow a consumer to select certain nonpublic personal financial information or certain nonaffiliated third parties with respect to which the consumer wishes to opt out.

Sec. 10. (a) If a licensee receives nonpublic personal financial information from a nonaffiliated financial institution under an exception under section 13 or 14 of this chapter, the licensee's disclosure and use of the information is limited as follows:

(1) The licensee may disclose the information to the affiliates of the financial institution from which the licensee received the information.

(2) The licensee may disclose the information to the licensee's affiliates, but the licensee's affiliates may, in turn, disclose and use the information only to the extent that the licensee may disclose and use the information.

(3) The licensee may disclose and use the information under an exception in section 13 or 14 of this chapter, in the ordinary course of business to carry out the activity covered by the exception under which the licensee received the information.

(b) If a licensee receives nonpublic personal financial information from a nonaffiliated financial institution other than under an exception under section 13 or 14 of this chapter, the licensee may disclose the information only to:

(1) the affiliates of the financial institution from which the licensee received the information;

(2) the licensee's affiliates, but the licensee's affiliates may, in turn, disclose the information only to the extent that the

licensee may disclose the information; and

(3) any other person, if the disclosure would be lawful if made directly to that person by the financial institution from which the licensee received the information.

(c) If a licensee discloses nonpublic personal financial information to a nonaffiliated third party under an exception under section 13 or 14 of this chapter, the third party may disclose and use the information only as follows:

(1) The third party may disclose the information to the licensee's affiliates.

(2) The third party may disclose the information to the third party's affiliates, but the third party's affiliates may, in turn, disclose and use the information only to the extent that the third party may disclose and use the information.

(3) The third party may disclose and use the information under an exception under section 13 or 14 of this chapter in the ordinary course of business to carry out the activity covered by the exception under which the third party received the information.

(d) If a licensee discloses nonpublic personal financial information to a nonaffiliated third party other than under an exception under section 13 or 14 of this chapter, the third party may disclose the information only to:

(1) the licensee's affiliates;

(2) the third party's affiliates, but the third party's affiliates, in turn, may disclose the information only to the extent the third party can disclose the information; and

(3) any other person, if the disclosure would be lawful if the licensee made the disclosure directly to the person.

Sec. 11. (a) A licensee shall not, directly or through an affiliate, disclose, other than to a consumer reporting agency, a policy number or similar form of access number or access code for a consumer's policy or transaction account to any nonaffiliated third party for use in telemarketing, direct mail marketing, or other marketing through electronic mail to the consumer.

(b) Subsection (a) does not apply if a licensee discloses a policy number or similar form of access number or access code to any of the following:

(1) The licensee's service provider solely in order to perform marketing for the licensee's own products or services, as long as the service provider is not authorized to directly initiate charges to the account.

(2) A licensee who is a producer solely in order to perform marketing for the licensee's own products or services.

(3) A participant in an affinity or similar program where the participants in the program are identified to the customer when the customer enters into the program.

(c) A policy number, or similar form of access number or access code, does not include a number or code in an encrypted form, as long as the licensee does not provide the recipient with a means to decode the number or code.

(d) For purposes of this section, a policy or transaction account is an account other than a deposit account or a credit card account. A policy or transaction account does not include an account to which third parties cannot initiate charges.

Sec. 12. (a) The opt out requirements under sections 6 and 9 of this chapter do not apply when a licensee provides nonpublic personal financial information to a nonaffiliated third party to perform services for the licensee or functions on the licensee's behalf, if the licensee:

(1) provides the initial notice as provided under section 3 of this chapter; and

(2) enters into a contractual agreement with the third party that prohibits the third party from disclosing or using the information other than to carry out the purposes for which the licensee disclosed the information, including use under an exception under section 13 or 14 of this chapter in the ordinary course of business to carry out those purposes.

(b) The services a nonaffiliated third party performs for a licensee under subsection (a) may include marketing of the licensee's own products or services or marketing of financial products or services offered under joint agreements between the licensee and one (1) or more financial institutions.

(c) For purposes of this section, "joint agreement" means a written contract under which a licensee and one (1) or more financial institutions jointly offer, endorse, or sponsor a financial product or service.

Sec. 13. (a) The requirements for initial notice under section 3(a)(2) of this chapter, the opt out under sections 6 and 9 of this chapter, and service providers and joint marketing under section 12 of this chapter do not apply if a licensee discloses nonpublic personal financial information as necessary to effect, administer, or enforce a transaction that a consumer requests or authorizes, or in connection with any of the following:

(1) Servicing or processing an insurance product or service that the consumer requests or authorizes.

(2) Maintaining or servicing the consumer's account with a licensee, or with another entity as part of a private label credit card program or other extension of credit on behalf of such entity.

(3) A proposed or actual securitization, secondary market sale, including sales of servicing rights, or similar transaction related to a transaction of the consumer.

(4) Reinsurance or stop loss or excess loss insurance.

(b) As used in this section, "necessary to effect, administer, or enforce a transaction" means that the disclosure is required, or is:

(1) one (1) of the lawful or appropriate methods, to enforce the licensee's rights or the rights of other persons engaged in carrying out the financial transaction or providing the product or service; or

(2) a usual, appropriate, or acceptable method to:

(A) carry out the transaction or the product or service business of which the transaction is a part, and record, service, or maintain the consumer's account in the ordinary course of providing the insurance product or service;

(B) administer or service benefits or claims relating to the transaction or the product or service business of which the transaction is a part;

(C) provide a confirmation, statement, or other record of the transaction, or information on the status or value of the insurance product or service to the consumer or the consumer's agent or broker;

(D) accrue or recognize incentives or bonuses associated with the transaction that are provided by a licensee or any other party; and

(E) underwrite insurance at the consumer's request or for any of the following purposes as they relate to a consumer's insurance:

(i) Account administration.

(ii) Reporting.

(iii) Investigating or preventing fraud or material misrepresentation.

(iv) Processing premium payments.

(v) Processing insurance claims.

(vi) Administering insurance benefits, including

utilization review activities.

(vii) Participating in research projects.

(viii) As otherwise required or specifically permitted by federal or state law.

(ix) In connection with the authorization, settlement, billing, processing, clearing, transferring, reconciling, or collection of amounts charged, debited, or otherwise paid using a debit, credit, or other payment card, check, or account number, or by other payment means.

(x) In connection with the transfer of receivables, accounts, or interests in the receivables or accounts.

(xi) In connection with the audit of debit, credit, or other payment information.

Sec. 14. (a) The requirements for initial notice to consumers under section 3(a)(2) of this chapter, the opt out under sections 6 and 9 of this chapter, and service providers and joint marketing under section 12 of this chapter do not apply when a licensee discloses nonpublic personal financial information as follows:

(1) With the consent or at the direction of the consumer, provided that the consumer has not revoked the consent or direction;

(2) In any of the following situations:

(A) To protect the confidentiality or security of a licensee's records pertaining to the consumer, service, product, or transaction.

(B) To protect against or prevent actual or potential fraud or unauthorized transactions.

(C) For required institutional risk control or for resolving consumer disputes or inquiries.

(D) To persons holding a legal or beneficial interest relating to the consumer.

(E) To persons acting in a fiduciary or representative capacity on behalf of the consumer.

(3) To provide information to:

(A) insurance rate advisory organizations;

(B) guaranty funds or agencies;

(C) agencies that are rating a licensee;

(D) persons who are assessing the licensee's compliance with industry standards; and

(E) the licensee's attorneys, accountants, and auditors.

(4) To the extent specifically permitted or required under other provisions of law and in accordance with the federal

Right to Privacy Act of 1978 (12 U.S.C. 3401 et seq.), to law enforcement agencies, including the Federal Reserve Board, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, Office of Thrift Supervision, National Credit Union Administration, the Securities and Exchange Commission, the Secretary of the Treasury, with respect to 31 U.S.C. Chapter 53, Subchapter II (Records and Reports on Monetary Instruments and Transactions) and 12 U.S.C. Chapter 21 (Financial Recordkeeping), a state insurance authority, and the Federal Trade Commission, self-regulatory organization or for an investigation on a matter related to public safety.

(5) To a consumer reporting agency in accordance with the federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) or from a consumer report reported by a consumer reporting agency.

(6) In connection with a proposed or actual sale, merger, transfer, or exchange of all or a portion of a business or operating unit if the disclosure of nonpublic personal financial information concerns solely consumers of the business or unit.

(7) To comply with or respond to any of the following:

(A) Federal, state, or local laws, rules, and other applicable legal requirements.

(B) Properly authorized civil, criminal, or regulatory investigation, or subpoena, or summons by federal, state, or local authorities.

(C) Judicial process or governmental regulatory authorities having jurisdiction over a licensee for examination, compliance, or other purposes as authorized by law.

(8) For purposes related to the replacement of a group benefit plan, a group health plan, a group welfare plan, or a workers' compensation plan.

(b) A consumer may revoke consent by subsequently exercising the right to opt out of future disclosures of nonpublic personal information as permitted under section 6(g) of this chapter.

Sec. 15. This chapter shall not be construed to modify, limit, or supersede the operation of the federal Fair Credit Reporting Act, 15 U.S.C. 1681 et seq., and no inference shall be drawn on the basis of the provisions of this chapter regarding whether information is transaction or experience information under Section 603 of the Fair Credit Reporting Act.

Sec. 16. A licensee shall not unfairly discriminate against any consumer or customer because that consumer or customer has opted out from the disclosure of the consumer's or customer's nonpublic personal financial information.

Sec. 17. A violation of this chapter is an unfair method of competition and an unfair and deceptive act and practice in the business of insurance subject to IC 27-4-1.

SECTION 7. IC 27-4-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. The following are hereby defined as unfair methods of competition and unfair and deceptive acts and practices in the business of insurance:

(1) Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, or statement:

(A) misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon;

(B) making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies;

(C) making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates;

(D) using any name or title of any policy or class of policies misrepresenting the true nature thereof; or

(E) making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender his insurance.

(2) Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to any person in the conduct of his insurance business, which is untrue, deceptive, or misleading.

(3) Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral or written

statement or any pamphlet, circular, article, or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance.

(4) Entering into any agreement to commit, or individually or by a concerted action committing any act of boycott, coercion, or intimidation resulting or tending to result in unreasonable restraint of, or a monopoly in, the business of insurance.

(5) Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive. Making any false entry in any book, report, or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to which such insurer is required by law to report, or which has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report, or statement of such insurer.

(6) Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

(7) Making or permitting any of the following:

(A) Unfair discrimination between individuals of the same class and equal expectation of life in the rates or assessments charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract; however, in determining the class, consideration may be given to the nature of the risk, plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(B) Unfair discrimination between individuals of the same class involving essentially the same hazards in the amount of premium, policy fees, assessments, or rates charged or made for any policy or contract of accident or health insurance or in

the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever; however, in determining the class, consideration may be given to the nature of the risk, the plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(C) Excessive or inadequate charges for premiums, policy fees, assessments, or rates, or making or permitting any unfair discrimination between persons of the same class involving essentially the same hazards, in the amount of premiums, policy fees, assessments, or rates charged or made for:

(i) policies or contracts of reinsurance or joint reinsurance, or abstract and title insurance;

(ii) policies or contracts of insurance against loss or damage to aircraft, or against liability arising out of the ownership, maintenance, or use of any aircraft, or of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance; or

(iii) policies or contracts of any other kind or kinds of insurance whatsoever.

However, nothing contained in clause (C) shall be construed to apply to any of the kinds of insurance referred to in clauses (A) and (B) nor to reinsurance in relation to such kinds of insurance. Nothing in clause (A), (B), or (C) shall be construed as making or permitting any excessive, inadequate, or unfairly discriminatory charge or rate or any charge or rate determined by the department or commissioner to meet the requirements of any other insurance rate regulatory law of this state.

(8) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract or policy of insurance of any kind or kinds whatsoever, including but not in limitation, life annuities, or agreement as to such contract or policy other than as plainly expressed in such contract or policy issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends, savings, or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract or policy; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in

connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, limited liability company, or partnership, or any dividends, savings, or profits accrued thereon, or anything of value whatsoever not specified in the contract. Nothing in this subdivision and subdivision (7) shall be construed as including within the definition of discrimination or rebates any of the following practices:

(A) Paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, so long as any such bonuses or abatement of premiums are fair and equitable to policyholders and for the best interests of the company and its policyholders.

(B) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense.

(C) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first year or of any subsequent year of insurance thereunder, which may be made retroactive only for such policy year.

(D) Paying by an insurer or agent thereof duly licensed as such under the laws of this state of money, commission, or brokerage, or giving or allowing by an insurer or such licensed agent thereof anything of value, for or on account of the solicitation or negotiation of policies or other contracts of any kind or kinds, to a broker, agent, or solicitor duly licensed under the laws of this state, but such broker, agent, or solicitor receiving such consideration shall not pay, give, or allow credit for such consideration as received in whole or in part, directly or indirectly, to the insured by way of rebate.

(9) Requiring, as a condition precedent to loaning money upon the security of a mortgage upon real property, that the owner of the property to whom the money is to be loaned negotiate any policy of insurance covering such real property through a particular insurance agent or broker or brokers. However, this subdivision shall not prevent the exercise by any lender of its or his right to approve or disapprove of the insurance company selected by the borrower to underwrite the insurance.

(10) Entering into any contract, combination in the form of a trust

or otherwise, or conspiracy in restraint of commerce in the business of insurance.

(11) Monopolizing or attempting to monopolize or combining or conspiring with any other person or persons to monopolize any part of commerce in the business of insurance. However, participation as a member, director, or officer in the activities of any nonprofit organization of agents or other workers in the insurance business shall not be interpreted, in itself, to constitute a combination in restraint of trade or as combining to create a monopoly as provided in this subdivision and subdivision (10). The enumeration in this chapter of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the commissioner or department or of any court of review under section 8 of this chapter.

(12) Requiring as a condition precedent to the sale of real or personal property under any contract of sale, conditional sales contract, or other similar instrument or upon the security of a chattel mortgage, that the buyer of such property negotiate any policy of insurance covering such property through a particular insurance company, agent, or broker or brokers. However, this subdivision shall not prevent the exercise by any seller of such property or the one making a loan thereon, of his, her, or its right to approve or disapprove of the insurance company selected by the buyer to underwrite the insurance.

(13) Issuing, offering, or participating in a plan to issue or offer, any policy or certificate of insurance of any kind or character as an inducement to the purchase of any property, real, personal, or mixed, or services of any kind, where a charge to the insured is not made for and on account of such policy or certificate of insurance. However, this subdivision shall not apply to any of the following:

(A) Insurance issued to credit unions or members of credit unions in connection with the purchase of shares in such credit unions.

(B) Insurance employed as a means of guaranteeing the performance of goods and designed to benefit the purchasers or users of such goods.

(C) Title insurance.

(D) Insurance written in connection with an indebtedness and intended as a means of repaying such indebtedness in the event of the death or disability of the insured.

(E) Insurance provided by or through motorists service clubs or associations.

(F) Insurance that is provided to the purchaser or holder of an air transportation ticket and that:

(i) insures against death or nonfatal injury that occurs during the flight to which the ticket relates;

(ii) insures against personal injury or property damage that occurs during travel to or from the airport in a common carrier immediately before or after the flight;

(iii) insures against baggage loss during the flight to which the ticket relates; or

(iv) insures against a flight cancellation to which the ticket relates.

(14) Refusing, because of the for-profit status of a hospital or medical facility, to make payments otherwise required to be made under a contract or policy of insurance for charges incurred by an insured in such a for-profit hospital or other for-profit medical facility licensed by the state department of health.

(15) Refusing to insure an individual, refusing to continue to issue insurance to an individual, limiting the amount, extent, or kind of coverage available to an individual, or charging an individual a different rate for the same coverage, solely because of that individual's blindness or partial blindness, except where the refusal, limitation, or rate differential is based on sound actuarial principles or is related to actual or reasonably anticipated experience.

(16) Committing or performing, with such frequency as to indicate a general practice, unfair claim settlement practices (as defined in section 4.5 of this chapter).

(17) Between policy renewal dates, unilaterally canceling an individual's coverage under an individual or group health insurance policy solely because of the individual's medical or physical condition.

(18) Using a policy form or rider that would permit a cancellation of coverage as described in subdivision (17).

(19) Violating IC 27-1-22-25 or IC 27-1-22-26 concerning motor vehicle insurance rates.

(20) Violating IC 27-8-21-2 concerning advertisements referring to interest rate guarantees.

(21) Violating IC 27-8-24.3 concerning insurance and health plan coverage for victims of abuse.

(22) Violating IC 27-1-15.5-3(h).

(23) Violating IC 27-8-26 concerning genetic screening or testing.

(24) Violating IC 27-7-3-21 concerning title insurance premiums in multistate transactions.

SECTION 8. IC 27-7-3-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 18. The provisions of this chapter, ~~shall~~ **except section 21 of this chapter, do** not apply to any insurance company organized or desiring to organize under and pursuant to IC 27-1 nor to any person, firm, partnership, corporation, limited liability company, association, or company whose business is the making of abstracts of title to real estate and attaching their certificate thereto and not engaging in the business of making title insurance, nor to any person, firm, partnership, corporation, limited liability company, or association acting as an authorized agent for a duly qualified title insurance company.

SECTION 9. IC 27-7-3-21 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 21. (a) This section applies to the issuance of title insurance in Indiana in a real estate transaction in which title insurance is being issued in at least one (1) other state in which title insurance premiums are computed based on rates filed with a governmental entity.**

(b) The title insurance premium rate charged by the title insurance company providing title insurance in Indiana may not be less than the average of the title insurance rates charged for title insurance in the other participating states that have filed rates.

SECTION 10. IC 27-8-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 2. (a) As used in this chapter:

"Account" means one of the three (3) accounts created under section 3 of this chapter.

"Association" means the Indiana life and health insurance guaranty association created under section 3 of this chapter.

"Commissioner" refers to the commissioner of insurance.

"Contractual obligation" means an obligation under covered policies.

"Covered policy" means any policy or contract that is of a type described in section 1(a) of this chapter and is not excluded by section 1(b) of this chapter.

"Impaired insurer" means a member insurer deemed by the commissioner to be potentially unable to fulfill its contractual obligations.

"Insolvent insurer" means a member insurer who becomes insolvent

and is placed under a final order of liquidation, rehabilitation, or conservation by a court.

"Member insurer" means any person that is licensed or holds a certificate of authority to transact in Indiana any kind of insurance for which coverage is provided under this chapter. The term includes any insurer whose license or certificate of authority to transact such insurance in Indiana may have been suspended, revoked, not renewed, or voluntarily withdrawn but does not include the following:

(1) A medical and hospital service organization.

(2) A health maintenance organization under IC 27-13.

(3) A fraternal benefit society under IC 27-11.

(4) ~~The Indiana Comprehensive Health Insurance Association or any other~~ **A** mandatory state pooling plan or arrangement.

(5) An assessment company or any other person that operates an assessment plan (as defined in IC 27-1-2-3(y)).

(6) An interinsurance exchange authorized by IC 27-6-6.

(7) A prepaid limited health service organization or a limited service health maintenance organization under IC 27-13-34.

~~(8) A special service health care delivery plan under IC 27-8-7.~~

~~(9)~~ **(8)** A farmer's mutual insurance company under IC 27-5.

~~(10)~~ **(9)** Any person similar to any person described in subdivisions (1) through ~~(9).~~ **(8).**

"Premiums" means direct gross insurance premiums and annuity considerations received on covered policies, less return premiums and considerations, and dividends paid or credited to policyholders on direct business. It does not include premiums and considerations on contracts between insurers and reinsurers. For purposes of assessments made under section 6 of this chapter, "premiums" for covered policies shall not be reduced on account of any limitation on benefits for which the association is obligated under section 5(l) of this chapter. However, "premiums" for assessment purposes does not include that portion of any premium exceeding five million dollars ($5,000,000) for any one (1) unallocated annuity contract.

"Person" means any natural person, corporation, limited liability company, partnership, association, voluntary organization, trust, governmental organization or entity, or other business organization or entity.

"Resident" means any person who resides in Indiana at the time the association becomes obligated for an impaired or insolvent insurer. Persons other than natural persons are considered to reside in the state where their principal place of business is located.

"Unallocated annuity contract" means an annuity contract or group

annuity certificate that is not issued to and held by a natural person (excluding a natural person acting as a trustee), except to the extent of any annuity benefits guaranteed to a natural person by an insurer under the contract or certificate. For the purposes of section 1.5 of this chapter, an unallocated annuity contract shall not be considered a group covered policy.

(b) For purposes of this chapter, a policy, contract, or certificate is considered to be held by the person identified on the policy, contract, or certificate as the holder or owner of the policy, contract, or certificate.

SECTION 11. IC 27-8-15-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 28. (a) As used in this section, "health insurance plan" means coverage provided under any of the following:

(1) A hospital or medical expense incurred policy or certificate.

(2) A hospital or medical service plan contract.

(3) A health maintenance organization subscriber contract.

(4) Medicare or Medicaid.

(5) An employer based health insurance arrangement.

(6) An individual health insurance policy.

~~(7) A policy issued by the Indiana comprehensive health insurance association under IC 27-8-10.~~

~~(8)~~ **(7)** An employee welfare benefit plan (as defined in 29 U.S.C. 1002) that is self-funded.

~~(9)~~ **(8)** A conversion policy issued under section 31 or 31.1 of this chapter.

(b) Except as provided in section 29 of this chapter, a small employer insurer shall waive the exclusion period described in section 27 of this chapter applicable to a preexisting condition or the limitation period with respect to a particular service in a health insurance plan for the time an eligible employee or a dependent of an eligible employee was previously covered by a health insurance plan if the following conditions are met:

(1) The eligible employee or a dependent of the eligible employee was previously covered by a health insurance plan that provided benefits with respect to the particular service.

(2) Coverage under the health insurance plan was continuous to a date not more than sixty-three (63) days before the effective date of enrollment by:

(A) the eligible employee; or

(B) a dependent of the eligible employee.

(c) In determining whether an eligible employee or a dependent of

the eligible employee meets the requirements of subsection (b)(2), a waiting period imposed by a small employer insurer or small employer before new coverage may become effective must be excluded from the calculation.

(d) This section does not preclude the application of any waiting period applicable to all new enrollees under a plan.

SECTION 12. IC 34-30-12-1, AS AMENDED BY P.L.1-1999, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 1. (a) This section does not apply to services rendered by a health care provider (as defined in IC 34-18-2-14 or IC 27-12-2-14 before its repeal) to a patient in a health care facility (as defined in ~~IC 27-8-10-1~~ **IC 2-5-23-2.5).**

(b) Except as provided in subsection (c), a person who comes upon the scene of an emergency or accident or is summoned to the scene of an emergency or accident and, in good faith, gratuitously renders emergency care at the scene of the emergency or accident is immune from civil liability for any personal injury that results from:

(1) any act or omission by the person in rendering the emergency care; or

(2) any act or failure to act to provide or arrange for further medical treatment or care for the injured person;

except for acts or omissions amounting to gross negligence or willful or wanton misconduct.

(c) This subsection applies to a person to whom IC 16-31-6.5 applies. A person who gratuitously renders emergency care involving the use of an automatic external defibrillator is immune from liability for any act or omission not amounting to gross negligence or willful or wanton misconduct if the person fulfills the requirements set forth in IC 16-31-6.5.

(d) This subsection applies to an individual, business, or organization to which IC 16-31-6.5 applies. An individual, business, or organization that allows a person who is an expected user to use an automatic external defibrillator of the individual, business, or organization to in good faith gratuitously render emergency care is immune from civil liability for any damages resulting from an act or omission not amounting to gross negligence or willful or wanton misconduct by the user or for acquiring or providing the automatic external defibrillator to the user for the purpose of rendering the emergency care if the individual, business, or organization and the user fulfill the requirements set forth in IC 16-31-6.5.

SECTION 13. [EFFECTIVE JULY 1, 2001] **(a) As used in this SECTION, "waiver" means a Section 1115 demonstration waiver**

under the federal Social Security Act (42 U.S.C. 1315).

(b) The office of Medicaid policy and planning may apply to the United States Department of Health and Human Services for approval of a waiver to provide coverage to individuals with severe chronic diseases.

(c) If a provision under this SECTION differs from the requirements of a waiver, the office of Medicaid policy and planning shall submit a waiver request in a manner that complies with the requirements of the waiver. However, after the waiver is approved, the office shall apply not more than one hundred twenty (120) days after the waiver is approved for an amendment to the approved waiver that contains the provisions of this SECTION that were not included in the approved waiver.

(d) The office of Medicaid policy and planning may not implement a waiver until the office files an affidavit with the governor attesting that a federal waiver applied for under this SECTION is in effect. The office shall file the affidavit under this subsection not more than five (5) days after the office is notified that a waiver is approved.

(e) If the office or Medicaid policy and planning receives a waiver under this SECTION from the United States Department of Health and Human services and the governor receives the affidavit filed under subsection (d), the office shall implement the waiver not more than sixty (60) days after the governor receives the affidavit.

(f) The office of Medicaid policy and planning may adopt rules under IC 4-22-2 that are necessary to implement this SECTION.

(g) This SECTION expires July 1, 2004.

SECTION 14. [EFFECTIVE JULY 1, 2001] **(a) As used in this SECTION, "commission" refers to the health finance commission established under IC 2-5-23.**

(b) As used in this SECTION, "association" refers to the Indiana comprehensive health insurance association established under IC 27-8-10-2.1.

(c) As used in this SECTION, "association policy" has the meaning set forth in IC 27-8-10-1.

(d) The health finance advisory committee created under IC 2-5-23-6 shall review the following issues and make recommendations to the commission not later than May 1, 2002:

(1) The current program used by the association to provide coverage for health care services provided to individuals who are covered under an association policy.

(2) Potential sources of funding coverage of association policies and administrative expenses.

(3) Current criteria for determining eligibility and methodology for establishing premiums.

(4) A plan for administration of the association program by an existing state agency with review by the commission or another legislative body not less than every two (2) years.

(5) Potential transfer of individuals who are covered under an association policy to private insurance coverage.

(e) The commission shall make recommendations concerning the issues specified in subsection (d) to the legislative council not later than November 1, 2002.

(f) This SECTION expires December 1, 2002.

SECTION 15. [EFFECTIVE UPON PASSAGE]: **(a) A licensee shall, not later than July 1, 2001, provide an initial notice, as required under IC 27-2-20-3, as added by this act, of this chapter, to consumers who are the licensee's customers on July 1, 2001.**

(b) Until July 1, 2002, a contract entered into before July 1, 2000, by a licensee with a nonaffiliated third party to perform services for the licensee or functions on behalf of the licensee is considered to be in compliance with the requirements of IC 27-2-20-12(a), as added by this act, regardless of whether the contract includes a requirement that the third party maintain the confidentiality of nonpublic personal information.

(c) This SECTION expires July 1, 2005.

SECTION 16. [EFFECTIVE JANUARY 1, 2002] **(a) After December 31, 2001:**

(1) any reference in the Indiana Code to an insurance agent shall be treated as a reference to an insurance producer (as defined in IC 27-1-15.6-2(7), as added by this act);

(2) any reference in the Indiana Code to a surplus lines insurance agent shall be treated as a reference to a surplus lines producer (as defined in IC 27-1-15.6-2(17), as added by this act); and

(3) any reference in the Indiana Code to a limited insurance representative shall be treated as a reference to a limited lines producer (as defined in IC 27-1-15.6-2(12), as added by this act).

(b) This SECTION expires June 30, 2005.

SECTION 17. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2004]: IC 27-8-10; IC 27-13-16-4; IC 34-30-2-116.

COMMITTEE REPORT

Mr. President: The Senate Committee on Insurance and Financial Institutions, to which was referred Senate Bill No. 386, 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 Senate Bill 386 as introduced.)

PAUL, Chairperson

Committee Vote: Yeas 8, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, Corporations and Small Business, to which was referred Senate Bill 386, 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 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 2-5-23-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: **Sec. 2.5. As used in this chapter, "health care facility" means an institution providing health care services that is licensed in Indiana, including institutions primarily engaged in providing services for health maintenance organizations or for the diagnosis or treatment of human disease, pain, injury, deformity, or physical condition. The term includes a general hospital, a special hospital, a mental hospital, a public health center, a diagnostic center, a treatment center, a rehabilitation center, an extended care facility, a skilled nursing home, a nursing home, an intermediate care facility, a tuberculosis hospital, a chronic disease hospital, a maternity hospital, an outpatient clinic, a home health care agency, a bioanalytical laboratory, or a central services facility servicing one (1) or more such institutions.**

SECTION 2. IC 2-5-23-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 8. ~~Beginning May 1, 1997,~~ The health policy advisory committee is established. At the request of the chairman, the health policy advisory committee shall provide information and otherwise assist the commission to perform the duties of the commission under this chapter. The health policy advisory committee members are ex officio and may not vote. The health policy advisory committee members shall be appointed from the general public and must include one (1) individual who represents each of the following:

(1) The interests of public hospitals.

(2) The interests of community mental health centers.

(3) The interests of community health centers.

(4) The interests of the long term care industry.

(5) The interests of health care professionals licensed under IC 25, but not licensed under IC 25-22.5.

(6) The interests of rural hospitals. An individual appointed under this subdivision must be licensed under IC 25-22.5.

(7) The interests of health maintenance organizations (as defined in IC 27-13-1-19).

~~(8) The interests of for-profit health care facilities (as defined in IC 27-8-10-1(l)).~~

~~(9)~~ **(8)** A statewide consumer organization.

~~(10)~~ **(9)** A statewide senior citizen organization.

~~(11)~~ **(10)** A statewide organization representing people with disabilities.

~~(12)~~ **(11)** Organized labor.

~~(13)~~ **(12)** The interests of businesses that purchase health insurance policies.

~~(14)~~ **(13)** The interests of businesses that provide employee welfare benefit plans (as defined in 29 U.S.C. 1002) that are self-funded.

~~(15)~~ **(14)** A minority community.

~~(16)~~ **(15)** The uninsured. An individual appointed under this subdivision must be and must have been chronically uninsured.

~~(17)~~ **(16)** An individual who is not associated with any organization, business, or profession represented in this subsection other than as a consumer.

SECTION 3. IC 5-10-8-8.1, AS AMENDED BY P.L.233-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 8.1. (a) This section applies only to the state and former legislators, instead of section 8 of this chapter.

(b) As used in this section, "legislator" means a member of the general assembly.

(c) After June 30, 1988, the state shall provide to each retired legislator:

(1) whose retirement date is after June 30, 1988;

(2) who is not participating in a group health insurance coverage plan:

(A) including Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.; but

(B) not including a group health insurance plan provided by the state; ~~or a health insurance plan provided under IC 27-8-10;~~

(3) who served as a legislator for at least ten (10) years; and

(4) who participated in a group health insurance plan provided by the state on the legislator's retirement date;

a group health insurance program that is equal to that offered active employees.

(d) A retired legislator who qualifies under subsection (c) may participate in the group health insurance program if the retired legislator:

(1) pays an amount equal to the employer's and employee's premium for the group health insurance for an active employee; and

(2) within ninety (90) days after the legislator's retirement date files a written request for insurance coverage with the employer.

(e) A retired legislator's eligibility to continue insurance under this section ends when the member becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq., or when the employer terminates the health insurance program.

(f) A retired legislator who is eligible for insurance coverage under this section may elect to have the legislator's spouse covered under the health insurance program at the time the legislator retires. If a retired legislator's spouse pays the amount the retired legislator would have been required to pay for coverage selected by the spouse, the spouse's subsequent eligibility to continue insurance under this section is not affected by the death of the retired legislator and is not affected by the retired legislator's eligibility for Medicare. The spouse's eligibility ends on the earliest of the following:

(1) When the spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

(2) When the employer terminates the health insurance program.

(3) The date of the spouse's remarriage.

(g) The surviving spouse of a legislator who dies or has died in office may elect to participate in the group health insurance program if all of the following apply:

(1) The deceased legislator would have been eligible to participate in the group health insurance program under this section had the legislator retired on the day of the legislator's death.

(2) The surviving spouse files a written request for insurance coverage with the employer.

(3) The surviving spouse pays an amount equal to the employer's and employee's premium for the group health insurance for an active employee.

(h) The eligibility of the surviving spouse of a legislator to purchase group health insurance under subsection (g) ends on the earliest of the following:

(1) When the employer terminates the health insurance program.

(2) The date of the spouse's remarriage.

(3) When the spouse becomes eligible for Medicare coverage as prescribed by 42 U.S.C. 1395 et seq.

SECTION 4. IC 16-21-3-2 IS AMENDED TO READ AS

FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. The state health commissioner may take action under section 1 of this chapter on any of the following grounds:

(1) Violation of any of the provisions of this chapter or of the rules adopted under this chapter.

(2) Permitting, aiding, or abetting the commission of any illegal act in an institution.

(3) **Knowingly collecting or attempting to collect from a subscriber (as defined in IC 27-13-1-32) or an enrollee (as defined in IC 27-13-1-12) of a health maintenance organization (as defined in IC 27-13-1-19) any amounts that are owed by the health maintenance organization.**

(4) Conduct or practice found by the council to be detrimental to the welfare of the patients of an institution.

SECTION 5. IC 22-2-6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) Any assignment of the wages of an employee is valid only if all of the following conditions are satisfied:

(1) The assignment is:

(A) in writing;

(B) signed by the employee personally;

(C) by its terms revocable at any time by the employee upon written notice to the employer; and

(D) agreed to in writing by the employer.

(2) An executed copy of the assignment is delivered to the employer within ten (10) days after its execution.

(3) The assignment is made for a purpose described in subsection (b).

(b) A wage assignment under this section may be made for the purpose of paying any of the following:

(1) Premium on a policy of insurance. ~~obtained for the employee by the employer.~~

(2) Pledge or contribution of the employee to a charitable or nonprofit organization.

(3) Purchase price of bonds or securities, issued or guaranteed by the United States.

(4) Purchase price of shares of stock, or fractional interests therein, of the employing company, or of a company owning the majority of the issued and outstanding stock of the employing company, whether purchased from such company, in the open market or otherwise. However, if such shares are to be purchased on installments pursuant to a written purchase agreement, the

employee has the right under the purchase agreement at any time before completing purchase of such shares to cancel said agreement and to have repaid promptly the amount of all installment payments which theretofore have been made.

(5) Dues to become owing by the employee to a labor organization of which the employee is a member.

(6) Purchase price of merchandise sold by the employer to the employee, at the written request of the employee.

(7) Amount of a loan made to the employee by the employer and evidenced by a written instrument executed by the employee.

(8) Contributions, assessments, or dues of the employee to a hospital service or a surgical or medical expense plan or to an employees' association, trust, or plan existing for the purpose of paying pensions or other benefits to said employee or to others designated by the employee.

(9) Payment to any credit union, nonprofit organizations, or associations of employees of such employer organized under any law of this state or of the United States.

(10) Payment to any person or organization regulated under the Uniform Consumer Credit Code (IC 24-4.5) for deposit or credit to the employee's account by electronic transfer or as otherwise designated by the employee.

(11) Premiums on policies of insurance and annuities purchased by the employee on the employee's life.

(12) The purchase price of shares or fractional interest in shares in one (1) or more mutual funds.

SECTION 6. IC 25-1-9-4, AS AMENDED BY P.L.22-1999, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) A practitioner shall conduct the practitioner's practice in accordance with the standards established by the board regulating the profession in question and is subject to the exercise of the disciplinary sanctions under section 9 of this chapter if, after a hearing, the board finds:

(1) a practitioner has:

(A) engaged in or knowingly cooperated in fraud or material deception in order to obtain a license to practice;

(B) engaged in fraud or material deception in the course of professional services or activities; or

(C) advertised services in a false or misleading manner;

(2) a practitioner has been convicted of a crime that has a direct bearing on the practitioner's ability to continue to practice competently;

(3) a practitioner has knowingly violated any state statute or rule, or federal statute or regulation, regulating the profession in question;

(4) a practitioner has continued to practice although the practitioner has become unfit to practice due to:

(A) professional incompetence that:

(i) may include the undertaking of professional activities that the practitioner is not qualified by training or experience to undertake; and

(ii) does not include activities performed under IC 16-21-2-9;

(B) failure to keep abreast of current professional theory or practice;

(C) physical or mental disability; or

(D) addiction to, abuse of, or severe dependency upon alcohol or other drugs that endanger the public by impairing a practitioner's ability to practice safely;

(5) a practitioner has engaged in a course of lewd or immoral conduct in connection with the delivery of services to the public;

(6) a practitioner has allowed the practitioner's name or a license issued under this chapter to be used in connection with an individual who renders services beyond the scope of that individual's training, experience, or competence;

(7) a practitioner has had disciplinary action taken against the practitioner or the practitioner's license to practice in any other state or jurisdiction on grounds similar to those under this chapter;

(8) a practitioner has diverted:

(A) a legend drug (as defined in IC 16-18-2-199); or

(B) any other drug or device issued under a drug order (as defined in IC 16-42-19-3) for another person;

(9) a practitioner, except as otherwise provided by law, has knowingly prescribed, sold, or administered any drug classified as a narcotic, addicting, or dangerous drug to a habitue or addict; ~~or~~

(10) a practitioner has failed to comply with an order imposing a sanction under section 9 of this chapter; **or**

(11) a practitioner who is a participating provider of a health maintenance organization has knowingly collected or attempted to collect from a subscriber or enrollee of the health maintenance organization any sums that are owed by the health maintenance organization.

(b) A certified copy of the record of disciplinary action is conclusive evidence of the other jurisdiction's disciplinary action under subsection (a)(7).".

Page 2, after line 30, begin a new paragraph and insert:

"SECTION 8. IC 27-1-12-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) The following definitions apply to this section:

(1) "Acceptable collateral" means, as to securities lending transactions:

(A) cash;

(B) cash equivalents;

(C) letters of credit; and

(D) direct obligations of, or securities that are fully guaranteed as to principal and interest by, the government of the United States or any agency of the United States, including the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(2) "Acceptable collateral" means, as to lending foreign securities, sovereign debt that is rated:

(A) A- or higher by Standard & Poor's Corporation;

(B) A3 or higher by Moody's Investors Service, Inc.;

(C) A- or higher by Duff and Phelps, Inc.; or

(D) 1 by the Securities Valuation Office.

(3) "Acceptable collateral" means, as to repurchase transactions:

(A) cash;

(B) cash equivalents; and

(C) direct obligations of, or securities that are fully guaranteed as to principal and interest by, the government of the United States or any agency of the United States, including the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.

(4) "Acceptable collateral" means, as to reverse repurchase transactions:

(A) cash; and

(B) cash equivalents.

(5) "Admitted assets" means assets permitted to be reported as admitted assets on the statutory financial statement of the life insurance company most recently required to be filed with the commissioner.

(6) "Business entity" means:

(A) a sole proprietorship;

(B) a corporation;

(C) a limited liability company;
(D) an association;
(E) a partnership;
(F) a joint stock company;
(G) a joint venture;
(H) a mutual fund;
(I) a trust;
(J) a joint tenancy; or
(K) other, similar form of business organization;

whether organized for-profit or not-for-profit.

(7) "Cash" means any of the following:

(A) United States denominated paper currency and coins.
(B) Negotiable money orders and checks.
(C) Funds held in any time or demand deposit in any depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation.

(8) "Cash equivalent" means any of the following:

(A) A certificate of deposit issued by a depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation.
(B) A banker's acceptance issued by a depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation.
(C) A government money market mutual fund.
(D) A class one money market mutual fund.

(9) "Class one money market mutual fund" means a money market mutual fund that at all times qualifies for investment pursuant to the "Purposes and Procedures of the Securities Valuation Office" or any successor publication either using the bond class one reserve factor or because it is exempt from asset valuation reserve requirements.

(10) "Dollar roll transaction" means two (2) simultaneous transactions that have settlement dates not more than ninety-six (96) days apart and that meet the following description:

(A) In one (1) transaction, a life insurance company sells to a business entity one (1) or both of the following:
(i) Asset-backed securities that are issued, assumed, or guaranteed by the Government National Mortgage Association, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation or the successor of an entity referred to in this item.
(ii) Other asset-backed securities referred to in Section 106

of Title I of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r-1), as amended.

(B) In the other transaction, the life insurance company is obligated to purchase from the same business entity securities that are substantially similar to the securities sold under clause (A).

(11) "Domestic jurisdiction" means:

(A) the United States;

(B) any state, territory, or possession of the United States;

(C) the District of Columbia;

(D) Canada; or

(E) any province of Canada.

(12) "Earnings available for fixed charges" means income, after deducting:

(A) operating and maintenance expenses other than expenses that are fixed charges;

(B) taxes other than federal and state income taxes;

(C) depreciation; and

(D) depletion;

but excluding extraordinary nonrecurring items of income or expense appearing in the regular financial statements of a business entity.

(13) "Fixed charges" includes:

(A) interest on funded and unfunded debt;

(B) amortization of debt discount; and

(C) rentals for leased property.

(14) "Foreign currency" means a currency of a foreign jurisdiction.

(15) "Foreign jurisdiction" means a jurisdiction other than a domestic jurisdiction.

(16) "Government money market mutual fund" means a money market mutual fund that at all times:

(A) invests only in:

(i) obligations that are issued, guaranteed, or insured by the United States; or

(ii) collateralized repurchase agreements composed of obligations that are issued, guaranteed, or insured by the United States; and

(B) qualifies for investment without a reserve pursuant to the "Purposes and Procedures of the Securities Valuation Office" or any successor publication.

(17) "Guaranteed or insured," when used in reference to an

obligation acquired under this section, means that the guarantor or insurer has agreed to:

(A) perform or insure the obligation of the obligor or purchase the obligation; or

(B) be unconditionally obligated, until the obligation is repaid, to maintain in the obligor a minimum net worth, fixed charge coverage, stockholders' equity, or sufficient liquidity to enable the obligor to pay the obligation in full.

(18) "Investment company" means:

(A) an investment company as defined in Section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), as amended; or

(B) a person described in Section 3(c) of the Investment Company Act of 1940.

(19) "Investment company series" means an investment portfolio of an investment company that is organized as a series company to which assets of the investment company have been specifically allocated.

(20) "Letter of credit" means a clean, irrevocable, and unconditional letter of credit that is:

(A) issued or confirmed by; and

(B) payable and presentable at;

a financial institution on the list of financial institutions meeting the standards for issuing letters of credit under the "Purposes and Procedures of the Securities Valuation Office" or any successor publication. To constitute acceptable collateral for the purposes of paragraph 29 of subsection (b) of this section, a letter of credit must have an expiration date beyond the term of the subject transaction.

(21) "Market value" means the following:

(A) As to cash, the amount of the cash.

(B) As to cash equivalents, the amount of the cash equivalents.

(C) As to letters of credit, the amount of the letters of credit.

(D) As to a security as of any date:

(i) the price for the security on that date obtained from a generally recognized source, or the most recent quotation from such a source; or

(ii) if no generally recognized source exists, the price for the security as determined in good faith by the parties to a transaction;

plus accrued but unpaid income on the security to the extent not included in the price as of that date.

(22) "Money market mutual fund" means a mutual fund that meets the conditions of 17 CFR 270.2a-7, under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.).

(23) "Multilateral development bank" means an international development organization of which the United States is a member.

(24) "Mutual fund" means:

(A) an investment company; or

(B) in the case of an investment company that is organized as a series company, an investment company series;

that is registered with the United States Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.).

(25) "Obligation" means any of the following:

(A) A bond.

(B) A note.

(C) A debenture.

(D) Any other form of evidence of debt.

(26) "Person" means:

(A) an individual;

(B) a business entity;

(C) a multilateral development bank; or

(D) a government or quasi-governmental body, such as a political subdivision or a government sponsored enterprise.

(27) "Repurchase transaction" means a transaction in which a life insurance company purchases securities from a business entity that is obligated to repurchase the purchased securities or equivalent securities from the life insurance company at a specified price, either within a specified period of time or upon demand.

(28) "Reverse repurchase transaction" means a transaction in which a life insurance company sells securities to a business entity and is obligated to repurchase the sold securities or equivalent securities from the business entity at a specified price, either within a specified period of time or upon demand.

(29) "Securities lending transaction" means a transaction in which securities are loaned by a life insurance company to a business entity that is obligated to return the loaned securities or equivalent securities to the life insurance company, either within a specified period of time or upon demand.

(30) "Securities Valuation Office" refers to:

(A) the Securities Valuation Office of the National Association

of Insurance Commissioners; or

(B) any successor of the office referred to in Clause (A) established by the National Association of Insurance Commissioners.

(31) "Series company" means an investment company that is organized as a series company (as defined in Rule 18f-2(a) adopted under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.), as amended).

(32) "Supported", when used in reference to an obligation, by whomever issued or made, means that:

(a) repayment of the obligation by:

(i) a domestic jurisdiction or by an administration, agency, authority, or instrumentality of a domestic jurisdiction; or

(ii) a business entity;

as the case may be, is secured by real or personal property of value at least equal to the principal amount of the obligation by means of mortgage, assignment of vendor's interest in one (1) or more conditional sales contracts, other title retention device, or by means of other security interest in such property for the benefit of the holder of the obligation; and

(b) the:

(i) domestic jurisdiction or administration, agency, authority, or instrumentality of the domestic jurisdiction; or

(ii) business entity;

as the case may be, has entered into a firm agreement to rent or use the property pursuant to which it is obligated to pay money as rental or for the use of such property in amounts and at times which shall be sufficient, after provision for taxes upon and other expenses of use of the property, to repay in full the obligation with interest and when such agreement and the money obligated to be paid thereunder are assigned, pledged, or secured for the benefit of the holder of the obligation. However, where the security for the repayment of the obligation consists of a first mortgage lien or deed of trust on a fee interest in real property, the obligation may provide for the amortization, during the initial, fixed period of the lease or contract, of less than one hundred percent (100%) of the obligation if there is pledged or assigned, as additional security for the obligation, sufficient rentals payable under the lease, or of contract payments, to secure the amortized obligation payments required during the initial, fixed period of the lease or contract, including but not limited to payments of

principal, interest, and taxes other than the income taxes of the borrower, and if there is to be left unamortized at the end of such period an amount not greater than the original appraised value of the land only, exclusive of all improvements, as prescribed by law.

(b) Investments of domestic life insurance companies at the time they are made shall conform to the following categories, conditions, limitations, and standards:

1. Obligations of a domestic jurisdiction or of any administration, agency, authority, or instrumentality of a domestic jurisdiction.

2. Obligations guaranteed, supported, or insured as to principal and interest by a domestic jurisdiction or by an administration, agency, authority, or instrumentality of a domestic jurisdiction.

3. Obligations issued under or pursuant to the Farm Credit Act of 1971 (12 U.S.C. 2001 through 2279aa-14) as in effect on December 31, 1990, or the Federal Home Loan Bank Act (12 U.S.C. 1421 through 1449) as in effect on December 31, 1990, interest bearing obligations of the FSLIC Resolution Fund or shares of any institution whose deposits are insured by the Savings Association Insurance Fund of the Federal Deposit Insurance Corporation to the extent that such shares are insured, obligations issued or guaranteed by a multilateral development bank, and obligations issued or guaranteed by the African Development Bank.

4. Obligations issued, guaranteed, or insured as to principal and interest by a city, county, drainage district, road district, school district, tax district, town, township, village, or other civil administration, agency, authority, instrumentality, or subdivision of a domestic jurisdiction, providing such obligations are authorized by law and are:

(a) direct and general obligations of the issuing, guaranteeing or insuring governmental unit, administration, agency, authority, district, subdivision, or instrumentality;

(b) payable from designated revenues pledged to the payment of the principal and interest thereof; or

(c) improvement bonds or other obligations constituting a first lien, except for tax liens, against all of the real estate within the improvement district or on that part of such real estate not discharged from such lien through payment of the assessment. The area to which such improvement bonds or other obligations relate shall be situated within the limits of a town or city and at least fifty percent (50%) of the properties within such area shall be improved with business buildings or residences.

5. Loans evidenced by obligations secured by first mortgage liens

on otherwise unencumbered real estate or otherwise unencumbered leaseholds having at least fifty (50) years of unexpired term, such real estate, or leaseholds to be located in a domestic jurisdiction. Such loans shall not exceed eighty percent (80%) of the fair value of the security determined in a manner satisfactory to the department, except that the percentage stated may be exceeded if and to the extent such excess is guaranteed or insured by:

(a) a domestic jurisdiction or by an administration, agency, authority, or instrumentality of any domestic jurisdiction; or

(b) a private mortgage insurance corporation approved by the department.

If improvements constitute a part of the value of the real estate or leaseholds, such improvements shall be insured against fire for the benefit of the mortgagee in an amount not less than the difference between the value of the land and the unpaid balance of the loan.

For the purpose of this section, real estate or a leasehold shall not be deemed to be encumbered by reason of the existence in relation thereto of:

(1) liens inferior to the lien securing the loan made by the life insurance company;

(2) taxes or assessment liens not delinquent;

(3) instruments creating or reserving mineral, oil, water or timber rights, rights-of-way, common or joint driveways, sewers, walls, or utility connections;

(4) building restrictions or other restrictive covenants; or

(5) an unassigned lease reserving rents or profits to the owner.

A loan that is authorized by this paragraph remains qualified under this paragraph notwithstanding any refinancing, modification, or extension of the loan. Investments authorized by this paragraph shall not in the aggregate exceed forty-five percent (45%) of the life insurance company's admitted assets.

6. Loans evidenced by obligations guaranteed or insured, but only to the extent guaranteed or insured, by a domestic jurisdiction or by any agency, administration, authority, or instrumentality of any domestic jurisdiction, and secured by second or subsequent mortgages or deeds of trust on real estate or leaseholds, provided the terms of the leasehold mortgages or deeds of trust shall not exceed four-fifths (4/5) of the unexpired lease term, including enforceable renewable options remaining at the time of the loan.

7. Real estate contracts involving otherwise unencumbered real estate situated in a domestic jurisdiction, to be secured by the title to such real estate, which shall be transferred to the life insurance

company or to a trustee or nominee of its choosing. For statement and deposit purposes, the value of a contract acquired pursuant to this paragraph shall be whichever of the following amounts is the least:

(a) eighty percent (80%) of the contract price of the real estate;

(b) eighty percent (80%) of the fair value of the real estate at the time the contract is purchased, such value to be determined in a manner satisfactory to the department; or

(c) the amount due under the contract.

For the purpose of this paragraph, real estate shall not be deemed encumbered by reason of the existence in relation thereto of: (1) taxes or assessment liens not delinquent; (2) instruments creating or reserving mineral, oil, water or timber rights, rights-of-way, common or joint driveways, sewers, walls or utility connections; (3) building restrictions or other restrictive covenants; or (4) an unassigned lease reserving rents or profits to the owner. Fire insurance upon improvements constituting a part of the real estate described in the contract shall be maintained in an amount at least equal to the unpaid balance due under the contract or the fair value of improvements, whichever is the lesser.

8. Improved or unimproved real property, whether encumbered or unencumbered, or any interest therein, held directly or evidenced by joint venture interests, general or limited partnership interests, trust certificates, or any other instruments, and acquired by the life insurance company as an investment, which real property, if unimproved, is developed within five (5) years. Real property acquired for investment under this paragraph, whether leased or intended to be developed for commercial or residential purposes or otherwise lawfully held, is subject to the following conditions and limitations:

(a) The real estate shall be located in a domestic jurisdiction.

(b) The admitted assets of the life insurance company must exceed twenty-five million dollars ($25,000,000).

(c) The life insurance company shall have the right to expend from time to time whatever amount or amounts may be necessary to conform the real estate to the needs and purposes of the lessee and the amount so expended shall be added to and become a part of the investment in such real estate.

(d) The value for statement and deposit purposes of an investment under this paragraph shall be reduced annually by amortization of the costs of improvement and development, less land costs, over the expected life of the property, which value and amortization shall for statement and deposit purposes be determined in a manner satisfactory to the commissioner. In determining such

value with respect to the calendar years in which an investment begins or ends with respect to a point in time other than the beginning or end of a calendar year, the amortization provided above shall be made on a proportional basis.

(e) Fire insurance shall be maintained in an amount at least equal to the insurable value of the improvements or the difference between the value of the land and the value at which such real estate is carried for statement and deposit purposes, whichever amount is smaller.

(f) Real estate acquired in any of the manners described and sanctioned under section 3 of this chapter, or otherwise lawfully held, except paragraph 5 of that section which specifically relates to the acquisition of real estate under this paragraph, shall not be affected in any respect by this paragraph unless such real estate at or subsequent to its acquisition fulfills the conditions and limitations of this paragraph, and is declared by the life insurance company in a writing filed with the department to be an investment under this paragraph. The value of real estate acquired under section 3 of this chapter, or otherwise lawfully held, and invested under this paragraph shall be initially that at which it was carried for statement and deposit purposes under that section.

(g) Neither the cost of each parcel of improved real property nor the aggregate cost of all unimproved real property acquired under the authority of this paragraph may exceed two percent (2%) of the life insurance company's admitted assets. For purposes of this paragraph, "unimproved real property" means land containing no structures intended for commercial, industrial, or residential occupancy, and "improved real property" consists of all land containing any such structure. When applying the limitations of subparagraph (d) of this paragraph, unimproved real property becomes improved real property as soon as construction of any commercial, industrial, or residential structure is so completed as to be capable of producing income. In the event the real property is mortgaged with recourse to the life insurance company or the life insurance company commences a plan of construction upon real property at its own expense or guarantees payment of borrowed funds to be used for such construction, the total project cost of the real property will be used in applying the two percent (2%) test. Further, no more than ten percent (10%) of the life insurance company's admitted assets may be invested in all property, measured by the property value for statement and deposit purposes as defined in this paragraph, held under this

paragraph at the same time.

9. Deposits of cash in a depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation, or certificates of deposit issued by a depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation.

10. Bank and bankers' acceptances and other bills of exchange of kinds and maturities eligible for purchase or rediscount by federal reserve banks.

11. Obligations that are issued, guaranteed, assumed, or supported by a business entity organized under the laws of a domestic jurisdiction and that are rated:

(a) BBB- or higher by Standard & Poor's Corporation (or A-2 or higher in the case of commercial paper);

(b) Baa 3 or higher by Moody's Investors Service, Inc. (or P-2 or higher in the case of commercial paper);

(c) BBB- or higher by Duff and Phelps, Inc. (or D-2 or higher in the case of commercial paper); or

(d) 1 or 2 by the Securities Valuation Office.

Investments may also be made under this paragraph in obligations that have not received a rating if the earnings available for fixed charges of the business entity for the period of its five (5) fiscal years next preceding the date of purchase shall have averaged per year not less than one and one-half (1 1/2) times its average annual fixed charges applicable to such period and if during either of the last two (2) years of such period such earnings available for fixed charges shall have been not less than one and one-half (1 1/2) times its fixed charges for such year. However, if the business entity is a finance company or other lending institution at least eighty percent (80%) of the assets of which are cash and receivables representing loans or discounts made or purchased by it, the multiple shall be one and one-quarter (1 1/4) instead of one and one-half (1 1/2).

11.(A) Obligations issued, guaranteed, or assumed by a business entity organized under the laws of a domestic jurisdiction, which obligations have not received a rating or, if rated, have not received a rating that would qualify the obligations for investment under paragraph 11 of this section. Investments authorized by this paragraph may not exceed ten percent (10%) of the life insurance company's admitted assets.

12. Preferred stock of, or common or preferred stock guaranteed as to dividends by, any corporation organized under the laws of a domestic jurisdiction, which over the period of the seven (7) fiscal years immediately preceding the date of purchase earned an average

amount per annum at least equal to five percent (5%) of the par value of its common and preferred stock (or, in the case of stocks having no par value, of its issued or stated value) outstanding at date of purchase, or which over such period earned an average amount per annum at least equal to two (2) times the total of its annual interest charges, preferred dividends and dividends guaranteed by it, determined with reference to the date of purchase. No investment shall be made under this paragraph in a stock upon which any dividend is in arrears or has been in arrears for ninety (90) days within the immediately preceding five (5) year period.

13. Common stock of any solvent corporation organized under the laws of a domestic jurisdiction which over the seven (7) fiscal years immediately preceding purchase earned an average amount per annum at least equal to six percent (6%) of the par value of its capital stock (or, in the case of stock having no par value, of the issued or stated value of such stock) outstanding at date of purchase, but the conditions and limitations of this paragraph shall not apply to the special area of investment to which paragraph 23 of this section pertains.

13.(A) Stock or shares of any mutual fund that:

(a) has been in existence for a period of at least five (5) years immediately preceding the date of purchase, has assets of not less than twenty-five million dollars ($25,000,000) at the date of purchase, and invests substantially all of its assets in investments permitted under this section; or

(b) is a class one money market mutual fund or a class one bond mutual fund.

Investments authorized by this paragraph 13(A) in mutual funds having the same or affiliated investment advisers shall not at any one (1) time exceed in the aggregate ten percent (10%) of the life insurance company's admitted assets. The limitations contained in paragraph 22 of this subsection apply to investments in the types of mutual funds described in subparagraph (a). For the purposes of this paragraph, "class one bond mutual fund" means a mutual fund that at all times qualifies for investment using the bond class one reserve factor under the "Purposes and Procedures of the Securities Valuation Office" or any successor publication.

The aggregate amount of investments under this paragraph may be limited by the commissioner if the commissioner finds that investments under this paragraph may render the operation of the life insurance company hazardous to the company's policyholders or creditors or to the general public.

14. Loans upon the pledge of any of the investments described in

this section other than real estate and those qualifying solely under paragraph 20 of this subsection, but the amount of such a loan shall not exceed seventy-five percent (75%) of the value of the investment pledged.

15. Real estate acquired or otherwise lawfully held under the provisions of IC 27-1, except under paragraph 7 or 8 of this subsection, which real estate as an investment shall also include the value of improvements or betterments made thereon subsequent to its acquisition. The value of such real estate for deposit and statement purposes is to be determined in a manner satisfactory to the department.

15.(A) Tangible personal property, equipment trust obligations, or other instruments evidencing an ownership interest or other interest in tangible personal property when the life insurance company purchasing such property has admitted assets in excess of twenty-five million dollars ($25,000,000), and where there is a right to receive determined portions of rental, purchase, or other fixed obligatory payments for the use of such personal property from a corporation whose obligations would be eligible for investment under the provisions of paragraph 11 of this subsection, provided that the aggregate of such payments together with the estimated salvage value of such property at the end of its minimum useful life, to be determined in a manner acceptable to the insurance commissioner, and the estimated tax benefits to the insurer resulting from ownership of such property, is adequate to return the cost of the investment in such property, and provided further, that each net investment in tangible personal property for which any single private corporation is obligated to pay rental, purchase, or other obligatory payments thereon does not exceed one-half of one percent (1/2%) of the life insurance company's admitted assets, and the aggregate net investments made under the provisions of this paragraph do not exceed five percent (5%) of the life insurance company's admitted assets.

16. Loans to policyholders of the life insurance company in amounts not exceeding in any case the reserve value of the policy at the time the loan is made.

17. A life insurance company doing business in a foreign jurisdiction may, if permitted or required by the laws of such jurisdiction, invest funds equal to its obligations in such jurisdiction in investments legal for life insurance companies domiciled in such jurisdiction or doing business therein as alien companies.

17.(A) Investments in (i) obligations issued, guaranteed, assumed, or supported by a foreign jurisdiction or by a business entity organized

under the laws of a foreign jurisdiction and (ii) preferred stock and common stock issued by any such business entity, if the obligations of such foreign jurisdiction or business entity, as appropriate, are rated:

(a) BBB- or higher by Standard & Poor's Corporation (or A-2 or higher in the case of commercial paper);

(b) Baa 3 or higher by Moody's Investors Service, Inc. (or P-2 or higher in the case of commercial paper);

(c) BBB- or higher by Duff and Phelps, Inc. (or D-2 or higher in the case of commercial paper); or

(d) 1 or 2 by the Securities Valuation Office.

If the obligations issued by a business entity organized under the laws of a foreign jurisdiction have not received a rating, investments may nevertheless be made under this paragraph in such obligations and in the preferred and common stock of the business entity if the earnings available for fixed charges of the business entity for a period of five (5) fiscal years preceding the date of purchase have averaged at least three (3) times its average fixed charges applicable to such period, and if during either of the last two (2) years of such period, the earnings available for fixed charges were at least three (3) times its fixed charges for such year. in Investments authorized by this paragraph in a single foreign jurisdiction shall not exceed ten percent (10%) of the life insurance company's admitted assets. Subject to section 2.2(g) of this chapter, investments authorized by this paragraph denominated in foreign currencies shall not in the aggregate exceed ten percent (10%) of a life insurance company's admitted assets, and investments in any one (1) foreign currency shall not exceed five percent (5%) of the life insurance company's admitted assets. Investments authorized by this paragraph and paragraph 17(B) shall not in the aggregate exceed twenty percent (20%) of the life insurance company's admitted assets. This paragraph in no way limits or restricts investments which are otherwise specifically eligible for deposit under this section.

17.(B) Investments in:

(a) obligations issued, guaranteed, or assumed by a foreign jurisdiction or by a business entity organized under the laws of a foreign jurisdiction; and

(b) preferred stock and common stock issued by a business entity organized under the laws of a foreign jurisdiction;

which investments are not eligible for investment under paragraph 17.(A).

Investments authorized by this paragraph 17(B) shall not in the aggregate exceed five percent (5%) of the life insurance company’s admitted assets. Subject to section 2.2(g) of this chapter, if investments

authorized by this paragraph 17(B) are denominated in a foreign currency, the investments shall not, as to such currency, exceed two percent (2%) of the life insurance company's admitted assets. Investments authorized by this paragraph 17(B) in any one (1) foreign jurisdiction shall not exceed two percent (2%) of the life insurance company's admitted assets.

Investments authorized by paragraph 17(A) of this subsection and this paragraph 17(B) shall not in the aggregate exceed twenty percent (20%) of the life insurance company's admitted assets.

18. To protect itself against loss, a company may in good faith receive in payment of or as security for debts due or to become due, investments or property which do not conform to the categories, conditions, limitations, and standards set out above.

19. A life insurance company may purchase for its own benefit any of its outstanding annuity or insurance contracts or other obligations and the claims of holders thereof.

20. A life insurance company may make investments although not conforming to the categories, conditions, limitations, and standards contained in paragraphs 1 through 11, 12 through 19, and 29 through 30.(A) of this subsection, but limited in aggregate amount to the lesser of:

(a) ten percent (10%) of the company's admitted assets; or

(b) the aggregate of the company's capital, surplus, and contingency reserves reported on the statutory financial statement of the insurer most recently required to be filed with the commissioner.

This paragraph 20 does not apply to investments authorized by paragraph 11.(A) of this subsection.

20.(A) Investments under paragraphs 1 through 20 and paragraphs 29 through 30.(A) of this subsection are subject to the general conditions, limitations, and standards contained in paragraphs 21 through 28 of this subsection.

21. Investments in obligations (other than real estate mortgage indebtedness) and capital stock of, and in real estate and tangible personal property leased to, a single corporation, shall not exceed two percent (2%) of the life insurance company's admitted assets, taking into account the provisions of section 2.2(h) of this chapter. The conditions and limitations of this paragraph shall not apply to investments under paragraph 13(A) of this subsection or the special area of investment to which paragraph 23 of this subsection pertains.

22. Investments in:

(a) preferred stock; and

(b) common stock;

shall not, in the aggregate, exceed twenty percent (20%) of the life insurance company's admitted assets, exclusive of assets held in segregated accounts of the nature defined in class 1(c) of IC 27-1-5-1. These limitations shall not apply to investments for the special purposes described in paragraph 23 of this subsection nor to investments in connection with segregated accounts provided for in class 1(c) of IC 27-1-5-1.

23. ~~Limitations defined in paragraphs 13, 20, 21, 22, and 26 of this subsection upon the right of a life insurance company to invest in obligations, and capital stock, of corporations shall be inapplicable when, within IC 27-2-9, the result of such investment, whether in one (1) or more transactions, is to effect, between a life insurance company and another company, a relationship of primary and subsidiary companies, or to enlarge a life insurance company's investment in its subsidiary insurance company. However, except as otherwise provided in IC 27-2-9-3(c), the total of a life insurance company's investments in a company or companies to which it stands in the relation of primary company shall not at any time exceed ten percent (10%) of its admitted assets. In the event that a primary and subsidiary relationship ceases to exist between a life insurance company and another company, the life insurance company shall have until December 31 of the succeeding calendar year and such additional period of time as the commissioner may determine within which to conform its investments in stocks and securities of such other company to the conditions and limitations defined in this section, exclusive of this paragraph.~~ **Investments in subsidiary companies must be made in accordance with IC 27-1-23-2.6.**

24. No investment, other than commercial bank deposits and loans on life insurance policies, shall be made unless authorized by the life insurance company's board of directors or a committee designated by the board of directors and charged with the duty of supervising loans or investments.

25. No life insurance company shall subscribe to or participate in any syndicate or similar underwriting of the purchase or sale of securities or property or enter into any transaction for such purchase or sale on account of said company, jointly with any other corporation, firm, or person, or enter into any agreement to withhold from sale any of its securities or property, but the disposition of its assets shall at all times be within its control. Nothing contained in this paragraph shall be construed to invalidate or prohibit an agreement by two (2) or more companies to join and share in the purchase of investments for bona

fide investment purposes.

26. No life insurance company may invest in the stocks or obligations, except investments under paragraphs 9 and 10 of this subsection, of any corporation in which an officer of such life insurance company is either an officer or director. However, this limitation shall not apply with respect to such investments in:

(a) a corporation which is a subsidiary or affiliate of such life insurance company; or

(b) a trade association, provided such investment meets the requirements of paragraph 5 of this subsection.

27. Except for the purpose of mutualization provided for in section 23 of this chapter, or for the purpose of retirement of outstanding shares of capital stock pursuant to amendment of its articles of incorporation, or in connection with a plan approved by the commissioner for purchase of such shares by the life insurance company's officers, employees, or agents, no life insurance company shall invest in its own stock.

28. In applying the conditions, limitations, and standards prescribed in paragraphs 11, 12, and 13 of this subsection to the stocks or obligations of a corporation which in the seven (7) year period preceding purchase of such stocks or obligations acquired its property or a substantial part thereof through consolidation, merger, or purchase, the earnings of the several predecessors or constituent corporations shall be consolidated.

29. A. Before a life insurance company may engage in securities lending transactions, repurchase transactions, reverse repurchase transactions, or dollar roll transactions, the life insurance company's board of directors must adopt a written plan that includes guidelines and objectives to be followed, including the following:

(1) A description of how cash received will be invested or used for general corporate purposes of the company.

(2) Operational procedures for managing interest rate risk, counterparty default risk, and the use of acceptable collateral in a manner that reflects the liquidity needs of the transaction.

(3) A statement of the extent to which the company may engage in securities lending transactions, repurchase transactions, reverse repurchase transactions, and dollar roll transactions.

B. A life insurance company must enter into a written agreement for all transactions authorized by this paragraph, other than dollar roll transactions. The written agreement:

(1) must require the termination of each transaction not more than one (1) year after its inception or upon the earlier demand of the

company; and

(2) must be with the counterparty business entity, except that, for securities lending transactions, the agreement may be with an agent acting on behalf of the life insurance company if:

(A) the agent is:

(i) a business entity, the obligations of which are rated BBB- or higher by Standard & Poor's Corporation (or A-2 or higher in the case of commercial paper), Baa3 or higher by Moody's Investors Service, Inc. (or P-2 or higher in the case of commercial paper), BBB- or higher by Duff and Phelps, Inc. (or D-2 or higher in the case of commercial paper), or 1 or 2 by the Securities Valuation Office;

(ii) a business entity that is a primary dealer in United States government securities, recognized by the Federal Reserve Bank of New York; or

(iii) any other business entity approved by the commissioner; and

(B) the agreement requires the agent to enter into with each counterparty separate agreements that are consistent with the requirements of this paragraph.

C. Cash received in a transaction under this paragraph shall be:

(1) invested:

(A) in accordance with this section 2; and

(B) in a manner that recognizes the liquidity needs of the transaction; or

(2) used by the life insurance company for its general corporate purposes.

D. For as long as a transaction under this paragraph remains outstanding, the life insurance company or its agent or custodian shall maintain, as to acceptable collateral received in the transaction, either physically or through book entry systems of the Federal Reserve, the Depository Trust Company, the Participants Trust Company, or another securities depository approved by the commissioner:

(1) possession of the acceptable collateral;

(2) a perfected security interest in the acceptable collateral; or

(3) in the case of a jurisdiction outside the United States:

(A) title to; or

(B) rights of a secured creditor to;

the acceptable collateral.

E. The limitations set forth in paragraphs 17 and 21 of this subsection do not apply to transactions under this paragraph 29. For purposes of calculations made to determine compliance with this

paragraph, no effect may be given to the future obligation of the life insurance company to:

(1) resell securities, in the case of a repurchase transaction; or

(2) repurchase securities, in the case of a reverse repurchase transaction.

F. A life insurance company shall not enter into a transaction under this paragraph if, as a result of the transaction, and after giving effect to the transaction:

(1) the aggregate amount of securities then loaned, sold to, or purchased from any one (1) business entity under this paragraph would exceed five percent (5%) of the company's admitted assets (but in calculating the amount sold to or purchased from a business entity under repurchase or reverse repurchase transactions, effect may be given to netting provisions under a master written agreement); or

(2) the aggregate amount of all securities then loaned, sold to, or purchased from all business entities under this paragraph would exceed forty percent (40%) of the admitted assets of the company (provided, however, that this limitation does not apply to a reverse repurchase transaction if the borrowing is used to meet operational liquidity requirements resulting from an officially declared catastrophe and is subject to a plan approved by the commissioner).

G. The following collateral requirements apply to all transactions under this paragraph:

(1) In a securities lending transaction, the life insurance company must receive acceptable collateral having a market value as of the transaction date at least equal to one hundred two percent (102%) of the market value of the securities loaned by the company in the transaction as of that date. If at any time the market value of the acceptable collateral received from a particular business entity is less than the market value of all securities loaned by the company to that business entity, the business entity shall be obligated to deliver additional acceptable collateral to the company, the market value of which, together with the market value of all acceptable collateral then held in connection with all securities lending transactions with that business entity, equals at least one hundred two percent (102%) of the market value of the loaned securities.

(2) In a reverse repurchase transaction, other than a dollar roll transaction, the life insurance company must receive acceptable collateral having a market value as of the transaction date equal

to at least ninety-five percent (95%) of the market value of the securities transferred by the company in the transaction as of that date. If at any time the market value of the acceptable collateral received from a particular business entity is less than ninety-five percent (95%) of the market value of all securities transferred by the company to that business entity, the business entity shall be obligated to deliver additional acceptable collateral to the company, the market value of which, together with the market value of all acceptable collateral then held in connection with all reverse repurchase transactions with that business entity, equals at least ninety-five percent (95%) of the market value of the transferred securities.

(3) In a dollar roll transaction, the life insurance company must receive cash in an amount at least equal to the market value of the securities transferred by the company in the transaction as of the transaction date.

(4) In a repurchase transaction, the life insurance company must receive acceptable collateral having a market value equal to at least one hundred two percent (102%) of the purchase price paid by the company for the securities. If at any time the market value of the acceptable collateral received from a particular business entity is less than one hundred percent (100%) of the purchase price paid by the life insurance company in all repurchase transactions with that business entity, the business entity shall be obligated to provide additional acceptable collateral to the company, the market value of which, together with the market value of all acceptable collateral then held in connection with all repurchase transactions with that business entity, equals at least one hundred two percent (102%) of the purchase price. Securities acquired by a life insurance company in a repurchase transaction shall not be:

(A) sold in a reverse repurchase transaction;

(B) loaned in a securities lending transaction; or

(C) otherwise pledged.

30. A life insurance company may invest in obligations or interests in trusts or partnerships regardless of the issuer, which are secured by:

(a) investments authorized by paragraphs 1, 2, 3, 4, or 11 of this subsection; or

(b) collateral with the characteristics and limitations prescribed for loans under paragraph 5 of this subsection.

For the purposes of this paragraph 30, collateral may be substituted for other collateral if it is in the same amount with the same or greater

interest rate and qualifies as collateral under subparagraph (a) or (b) of this paragraph.

30.(A) A life insurance company may invest in obligations or interests in trusts or partnerships, regardless of the issuer, secured by any form of collateral other than that described in subparagraphs (a) and (b) of paragraph 30 of this subsection, which obligations or interests in trusts or partnerships are rated:

(a) A- or higher by Standard & Poor's Corporation or Duff and Phelps, Inc.;

(b) A 3 or higher by Moody's Investor Service, Inc.; or

(c) 1 by the Securities Valuation Office.

Investments authorized by this paragraph may not exceed ten percent (10%) of the life insurance company's admitted assets.

31.A. A life insurance company may invest in short-term pooling arrangements as provided in this paragraph.

B. The following definitions apply throughout this paragraph:

(1) "Affiliate" means, as to any person, another person that, directly or indirectly through one (1) or more intermediaries, controls, is controlled by, or is under common control with the person.

(2) "Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract (other than a commercial contract for goods or non-management services), or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if a person, directly or indirectly, owns, controls, holds with the power to vote or holds proxies representing ten percent (10%) or more of the voting securities of another person. This presumption may be rebutted by a showing that control does not exist in fact. The commissioner may determine, after furnishing all interested persons notice and an opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(3) "Qualified bank" means a national bank, state bank, or trust company that at all times is not less than adequately capitalized as determined by standards adopted by United States banking regulators and that is either regulated by state banking laws or is a member of the Federal Reserve System.

C. A life insurer may participate in investment pools qualified under this paragraph that invest only in:

(1) obligations that are rated BBB- or higher by Standard & Poor's Corporation (or A-2 or higher in the case of commercial paper), Baa 3 or higher by Moody's Investors Service, Inc. (or P-2 or higher in the case of commercial paper), BBB- or higher by Duff and Phelps, Inc. (or D-2 or higher in the case of commercial paper), or 1 or 2 by the Securities Valuation Office, and have:

(A) a remaining maturity of three hundred ninety-seven (397) days or less or a put that entitles the holder to receive the principal amount of the obligation which put may be exercised through maturity at specified intervals not exceeding three hundred ninety-seven (397) days; or

(B) a remaining maturity of three (3) years or less and a floating interest rate that resets not less frequently than quarterly on the basis of a current short-term index (for example, federal funds, prime rate, treasury bills, London InterBank Offered Rate (LIBOR) or commercial paper) and is not subject to a maximum limit, if the obligations do not have an interest rate that varies inversely to market interest rate changes;

(2) government money market mutual funds or class one money market mutual funds; or

(3) securities lending, repurchase, and reverse repurchase and dollar roll transactions that meet the requirements of paragraph 29 of this subsection and any applicable regulations of the department;

provided that the investment pool shall not acquire investments in any one (1) business entity that exceed ten percent (10%) of the total assets of the investment pool.

D. For an investment pool to be qualified under this paragraph, the investment pool shall not:

(1) acquire securities issued, assumed, guaranteed, or insured by the life insurance company or an affiliate of the company; or

(2) borrow or incur any indebtedness for borrowed money, except for securities lending, reverse repurchase, and dollar roll transactions that meet the requirements of paragraph 29 of this subsection.

E. A life insurance company shall not participate in an investment pool qualified under this paragraph if, as a result of and after giving effect to the participation, the aggregate amount of participation then held by the company in all investment pools under this paragraph and section 2.4 of this chapter would exceed thirty-five percent (35%) of its admitted assets.

F. For an investment pool to be qualified under this paragraph:

(1) the manager of the investment pool must:

(A) be organized under the laws of the United States, a state or territory of the United States, or the District of Columbia, and designated as the pool manager in a pooling agreement; and

(B) be the life insurance company, an affiliated company, a business entity affiliated with the company, or a qualified bank or a business entity registered under the Investment Advisors Act of 1940 (15 U.S.C. 80a-I et seq.);

(2) the pool manager or an entity designated by the pool manager of the type set forth in subdivision (1) of this subparagraph F shall compile and maintain detailed accounting records setting forth:

(A) the cash receipts and disbursements reflecting each participant's proportionate participation in the investment pool;

(B) a complete description of all underlying assets of the investment pool (including amount, interest rate, maturity date (if any) and other appropriate designations); and

(C) other records which, on a daily basis, allow third parties to verify each participant's interest in the investment pool; and

(3) the assets of the investment pool shall be held in one (1) or more accounts, in the name of or on behalf of the investment pool, under a custody agreement or trust agreement with a qualified bank, which must:

(A) state and recognize the claims and rights of each participant;

(B) acknowledge that the underlying assets of the investment pool are held solely for the benefit of each participant in proportion to the aggregate amount of its participation in the investment pool; and

(C) contain an agreement that the underlying assets of the investment pool shall not be commingled with the general assets of the qualified bank or any other person.

G. The pooling agreement for an investment pool qualified under this paragraph must be in writing and must include the following provisions:

(1) Insurers, subsidiaries, or affiliates of insurers holding interests in the pool, or any pension or profit sharing plan of such insurers or their subsidiaries or affiliates, shall, at all times, hold one hundred percent (100%) of the interests in the investment pool.

(2) The underlying assets of the investment pool shall not be commingled with the general assets of the pool manager or any other person.

(3) In proportion to the aggregate amount of each pool participant's interest in the investment pool:

(A) each participant owns an undivided interest in the underlying assets of the investment pool; and

(B) the underlying assets of the investment pool are held solely for the benefit of each participant.

(4) A participant or (in the event of the participant's insolvency, bankruptcy, or receivership) its trustee, receiver, or other successor-in-interest may withdraw all or any portion of its participation from the investment pool under the terms of the pooling agreement.

(5) Withdrawals may be made on demand without penalty or other assessment on any business day, but settlement of funds shall occur within a reasonable and customary period thereafter. Payments upon withdrawals under this paragraph shall be calculated in each case net of all then applicable fees and expenses of the investment pool. The pooling agreement shall provide for such payments to be made to the participants in one (1) of the following forms, at the discretion of the pool manager:

(A) in cash, the then fair market value of the participant's pro rata share of each underlying asset of the investment pool;

(B) in kind, a pro rata share of each underlying asset; or

(C) in a combination of cash and in kind distributions, a pro rata share in each underlying asset.

(6) The records of the investment pool shall be made available for inspection by the commissioner.

SECTION 9. IC 27-1-17-4, AS AMENDED BY P.L.268-1999, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. Whenever a foreign or an alien insurance company desires to be admitted to do an insurance business in this state, it shall execute in the English language and present the following to the department, at its office, accompanied by the fees prescribed by law:

(a) A copy of its articles of incorporation or association, with all amendments thereto, duly authenticated by the proper officer of the state, country, province, or government wherein it is incorporated or organized, or the state in which it is domiciled in the United States.

(b) An application for admission, executed in the manner provided in this chapter, setting forth:

(1) the name of such company;

(2) the location of its principal office or place of business

without this state;

(3) the names of the states in which it has been admitted or qualified to do business;

(4) the character of insurance business under its articles of incorporation or association which it intends to transact in this state, which must conform to the class or classes set forth in the provisions of IC 27-1-5-1;

(5) the total authorized capital stock of the company and the amount thereof issued and outstanding, and the surplus required of such company by the laws of the state, country, province, or government under which it is organized, or the state in which it is domiciled in the United States, if a stock company, which shall equal at least the requirements set forth in section 5(a) of this chapter;

(6) the total amount of assets and the surplus of assets over all its liabilities, if other than a stock company, which shall equal at least the requirements set forth in section 5(b) of this chapter;

(7) if an alien company, the surplus of assets invested according to the laws of the state in the United States where it has its deposit, which shall equal at least the requirements set forth in section 5(c) of this chapter; and

(8) such further and additional information as the department may from time to time require.

The application shall be signed in duplicate, in the form prescribed by the department, by the president or a vice president and the secretary or an assistant secretary of the corporation, and verified under oath by the officers signing the same.

(c) A statement of its financial condition and business, in the form prescribed by law for annual statements, signed and sworn to by the president or secretary or other principal officers of the company; provided, however, that an alien company shall also furnish a separate statement comprising only its condition and business in the United States, which shall be signed and sworn to by its United States manager.

(d) A copy of the last report of examination certified to by the insurance commissioner or other proper supervisory official of the state in which such company is domiciled; provided, however, that the commissioner may cause an examination to be made of the condition and affairs of such company before authority to transact business in this state is given.

(e) A certificate from the proper official of the state, country,

province, or government wherein it is incorporated or organized, or the state in which it is domiciled in the United States, that it is duly organized or incorporated under those laws and authorized to make the kind or kinds of insurance which it proposes to make in this state.

(f) A copy of its bylaws or regulations, if any, certified to by the secretary or similar officer of the insurance company.

~~(g) Copies of forms of all policies which the insurance company proposes to issue in this state and also copies of the forms of application for such policies.~~

~~(h)~~ **(g)** A duly executed power of attorney in a form prescribed by the department which constitutes and appoints an individual or a corporate resident of Indiana, or an authorized Indiana insurer, as the insurance company's agent, its true and lawful attorney upon whom all lawful processes in any action in law or in equity against it shall be served. Such power of attorney shall contain an agreement by the insurance company that any lawful process against it which may be served upon the agent as its attorney shall be of the same force and validity as if served upon the insurance company and that such power of attorney shall continue in force and be irrevocable so long as any liability of the insurance company remains outstanding in this state. Such power of attorney shall be executed by the president and secretary of the insurance company or other duly authorized officers under its seal and shall be accompanied by a certified copy of the resolution of the board of directors of the company making said appointment and authorizing the execution of said power of attorney. Service of any lawful process shall be by delivering to and leaving with the agent two (2) copies of such process, with copy of the pertinent complaint attached. The agent shall forthwith transmit to the defendant company at its last known principal place of business by registered or certified mail, return receipt requested, one (1) of the copies of such process, with complaint attached, the other copy to be retained in a record which shall show all process served upon and transmitted by him. Such service shall be sufficient provided the returned receipt or, if the defendant company shall refuse to accept such mailing, the registered mail together with an affidavit of plaintiff or his attorney stating that service was made upon the agent and forwarded as above set forth but that such mail was returned by the post office department is filed with the court. The agent shall make information and receipts available to plaintiff, defendant or their attorneys. No

plaintiff or complainant shall be entitled to a judgment by default based on service authorized by this section until the expiration of at least thirty (30) days from the date on which either the post office receipt or the unclaimed mail together with affidavit is filed with the court. Nothing in this section shall limit or abridge the right to serve any process, notice or demand upon any company in any other manner permitted by law.

~~(i)~~ **(h)** Proof which satisfies the department that it has complied with the financial requirements imposed in this chapter upon foreign and alien insurance companies which transact business in this state and that it is entitled to public confidence and that its admission to transact business in this state will not be prejudicial to public interest.

SECTION 10. IC 27-1-23-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. As used in this chapter, the following terms shall have the respective meanings set forth in this section, unless the context shall otherwise require:

(a) An "acquiring party" is the specific person by whom an acquisition of control of a domestic insurer or of any corporation controlling a domestic insurer is to be effected, and each person who directly, or indirectly through one (1) or more intermediaries, controls the person specified.

(b) An "affiliate" of, or person "affiliated" with, a specific person, is a person that directly, or indirectly through one (1) or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.

(c) A "beneficial owner" of a voting security includes any person who, directly or indirectly, through any contract, arrangement, understanding, relationship, revocable or irrevocable proxy, or otherwise has or shares:

(1) voting power including the power to vote, or to direct the voting of, the security; or

(2) investment power which includes the power to dispose, or to direct the disposition, of the security.

(d) "Commissioner" means the insurance commissioner of this state.

(e) "Control" (including the terms "controlling", "controlled by", and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the beneficial ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position or corporate office. Control shall be

presumed to exist if any person beneficially owns ten percent (10%) or more of the voting securities of any other person. The commissioner may determine this presumption has been rebutted only by a showing made in the manner provided by section 3(k) of this chapter that control does not exist in fact, after giving all interested persons notice and an opportunity to be heard. Control shall be presumed again to exist upon the acquisition of beneficial ownership of each additional five percent (5%) or more of the voting securities of the other person. The commissioner may determine, after furnishing all persons in interest notice and opportunity to be heard, that control exists in fact, notwithstanding the absence of a presumption to that effect.

(f) "Department" means the department of insurance created by IC 27-1-1-1.

(g) A "domestic insurer" is an insurer organized under the laws of this state.

(h) "Earned surplus" means an amount equal to the unassigned funds of an insurer as set forth in the most recent annual statement of an insurer that is submitted to the commissioner, excluding surplus arising from unrealized capital gains or revaluation of assets.

(i) An "insurance holding company system" consists of two (2) or more affiliated persons, one (1) or more of which is an insurer.

(j) "Insurer" has the same meaning as set forth in IC 27-1-2-3, except that it does not include:

(1) agencies, authorities, or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state;

(2) fraternal benefit societies; or

(3) nonprofit medical and hospital service associations.

The term includes a health maintenance organization (as defined in IC 27-13-1-19) and a limited service health maintenance organization (as defined in IC 27-13-1-27).

(k) A "person" is an individual, a corporation, a limited liability company, a partnership, an association, a joint stock company, a trust, an unincorporated organization, any similar entity or any combination of the foregoing acting in concert, but shall not include any securities broker performing no more than the usual and customary broker's function.

(l) A "policyholder" of a domestic insurer includes any person who owns an insurance policy or annuity contract issued by the domestic insurer, any person reinsured by the domestic insurer under a reinsurance contract or treaty between the person and the domestic

insurer, and any health maintenance organization with which the domestic insurer has contracted to provide services or protection against the cost of care.

(m) A "subsidiary" of a specified person is an affiliate controlled by that person directly or indirectly through one or more intermediaries.

(n) "Surplus" means the total of gross paid in and contributed surplus, special surplus funds, and unassigned surplus, less treasury stock at cost.

(o) "Voting security" includes any security convertible into or evidencing a right to acquire a voting security.

SECTION 11. IC 27-1-23-2.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 2.6. (a) As used in this section, "entity" means:**

(1) a sole proprietorship;

(2) a corporation;

(3) a limited liability company;

(4) a partnership;

(5) an association;

(6) a joint stock company;

(7) a mutual fund;

(8) a joint venture;

(9) a trust;

(10) a joint tenancy;

(11) an unincorporated organization; or

(12) a similar entity.

(b) As used in this section, "primary company" means a domestic insurance company that beneficially owns more than fifty percent (50%) of one (1) or more subsidiary companies.

(c) As used in this section, "subsidiary company" means an entity of which more than fifty percent (50%) is beneficially owned by an insurance company.

(d) As used in this section, "total investment of the primary company" means the total of:

(1) a direct investment by a primary company in an asset; plus

(2) the primary company's proportionate share of an investment made by a subsidiary company of the primary company.

The primary company's proportionate share must be determined by multiplying the amount of the subsidiary company's investment by the percentage of the primary company's ownership interest in

the subsidiary company.

(e) A primary company may, independently or in cooperation with another person, organize or acquire one (1) or more subsidiary companies.

(f) A subsidiary company of a primary company may conduct business of any kind, and the authority to conduct the business is not limited because of the status of the subsidiary company as a subsidiary company of the primary company.

(g) In addition to investments in common stock, preferred stock, debt obligations, and other securities as permitted under IC 27-1-12-2 or IC 27-1-13-3, a primary company to which this section applies may, directly or through one (1) or more subsidiary companies, also do the following:

(1) Invest in common stock, preferred stock, debt obligations, and other securities of one (1) or more subsidiary companies, amounts that in total do not exceed the lesser of ten percent (10%) of the primary company's admitted assets or fifty percent (50%) of the primary company's surplus as regards policyholders, if, after the investments, the primary company's surplus as regards policyholders is reasonable in relation to the primary company's outstanding liabilities and adequate to the primary company's financial needs. In calculating the amount of investments permitted under this subdivision:

(A) investments, whether made directly or through one (1) or more subsidiary companies, in domestic or foreign insurance subsidiary companies and health maintenance organizations must be excluded; and

(B) to the extent that expenditures relate to an investment other than an investment described in clause (A), the following must be included:

(i) Total net money or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary company, including all organizational expenses and contributions to capital and surplus of the subsidiary company, whether or not represented by the purchase of capital stock or issuance of other securities.

(ii) All amounts expended in acquiring additional common stock, preferred stock, debt obligations, and other securities and all contributions to the capital or surplus of a subsidiary company subsequent to the subsidiary company's acquisition or formation.

(2) Notwithstanding subdivision (1), invest an amount in common stock, preferred stock, debt obligations, and other securities of one (1) or more subsidiary companies engaged or organized to engage exclusively in the ownership and management of assets authorized as investments for the primary company if the subsidiary company agrees to limit the subsidiary company's investment in an asset so that, when combined with the investments of the primary company, the total investment of the primary company will not exceed the investment limitations described in subdivision (1) or in any applicable provision of IC 27-1-12-2 or IC 27-1-13-3.

(3) Notwithstanding subdivision (1), with the prior approval of the commissioner, invest a greater amount in common stock, preferred stock, debt obligations, or other securities of one (1) or more subsidiary companies if, after the investment, the primary company's surplus regarding policyholders is reasonable in relation to the primary company's outstanding liabilities and adequate to the primary company's financial needs.

(h) Investments that are made under this section in common stock, preferred stock, debt obligations, or other securities of a subsidiary company are not subject to restrictions or prohibitions under IC 27-1-12-2 or IC 27-1-13-3 that otherwise apply to investments of primary companies.

(i) Before a primary company to which this section applies makes an investment described in subsection (g), a primary company shall make a determination regarding whether the proposed investment meets the applicable requirements by determining the applicable investment limitations as though the investment has been made, considering:

(1) the currently outstanding principal balance on previous investments in debt obligations; and

(2) the value of previous investments in equity securities as of the day that the investments in equity securities were made;

net of any return of capital invested.

(j) If a primary company ceases to control a subsidiary company, the primary company shall dispose of any investment in the subsidiary company made under this section:

(1) not more than three (3) years from the time of the cessation of control; or

(2) within the period determined appropriate by the commissioner;

unless the investment meets the requirements for investment under any applicable provision of IC 27-1-12-2 or IC 27-1-13-3 and the primary company has notified the commissioner that the investment meets the requirements.

(k) A primary company, at the time of establishing a subsidiary company, must possess:

(1) assets of not less than twenty-five million dollars ($25,000,000); or

(2) not less than three million five hundred thousand dollars ($3,500,000) of:

(A) combined capital and surplus in the case of a stock company; and

(B) surplus in the case of a mutual company.

(l) The department has the power to:

(1) conduct periodic examinations of a subsidiary company;

(2) require reports that reflect the effect of the condition and operation of a subsidiary company on the financial condition of a primary company; and

(3) make additional examinations or require other reports with respect to a subsidiary company that are necessary to carry out the purposes of this section.

A noninsurance subsidiary company shall annually furnish the department financial statements that are prepared under generally accepted accounting principles and certified by an independent certified public accountant, and the department may rely on the statements. If a subsidiary company conducts the business of the subsidiary company in a manner that clearly tends to impair the capital or surplus fund of the primary company, or otherwise makes the operation of the primary company financially unsafe, the department may act under IC 27-1-3-19 with respect to the primary company.

(m) A primary company and a subsidiary company shall, in all respects, stand before the law as separate and distinct companies and neither company is liable to the creditors, policyholders, or stockholders of the other company, acts or omissions of an officer, director, stockholder, or member of either company notwithstanding.

(n) The board of directors and officers of a primary company and a subsidiary company may be identical. However, the affairs of each company shall be carried on separate and distinct from the other company.

(o) A foreign subsidiary company shall be treated in the same

manner as other foreign companies, except that the treatment may be withheld or suspended with respect to a subsidiary company that is domiciled in a state that does not treat a:

(1) primary company; or

(2) subsidiary company;

that is domiciled in Indiana in a manner equal to a foreign or domestic company doing business in the other state.

(p) Interests in a subsidiary company that are owned by a primary company must be registered in the name of the primary company except for shares that are required under Indiana law to be registered in the name of another person.

SECTION 12. IC 27-4-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) If after a hearing under IC 4-21.5-3, the commissioner determines that the method of competition or the act or practice in question is defined in section 4 of this chapter and that the person complained of has engaged in such method of competition, act, or practice in violation of this chapter, he shall reduce his findings to writing and shall issue and cause to be served on the person charged with the violation an order requiring such person to cease and desist from such method of competition, act, or practice, and the commissioner may at his discretion order one (1) or more of the following:

(1) Payment of a civil penalty of not more than twenty-five thousand dollars ($25,000) for each act or violation. ~~but not to exceed an aggregate penalty of one hundred thousand dollars ($100,000) in any twelve (12) month period unless~~ **If** the person knew or reasonably should have known that he was in violation of this chapter, ~~in which case~~ the penalty may be not more than fifty thousand dollars ($50,000) for each act or violation. ~~but not to exceed an aggregate penalty of two hundred thousand dollars ($200,000) in any twelve (12) month period.~~

(2) Suspension or revocation of the person's license, or certificate of authority, if he knew or reasonably should have known he was in violation of this chapter.

(b) **In determining the amount of a civil penalty under subsection (a)(1), the commissioner shall consider the remediation efforts undertaken by the person.**

(c) All civil penalties imposed and collected under this section shall be deposited in the state general fund.

SECTION 13. IC 27-7-12 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]:

Chapter 12. Termination of Residential Policies

Sec. 1. (a) This chapter applies to policies of insurance covering risks to property located in Indiana that take effect or are renewed after June 30, 2001, and that insure loss of or damage to:

(1) real property consisting of not more than four (4) residential units, one (1) of which is the principal place of residence of the named insured; or

(2) personal property:

(A) in which the named insured has an insurable interest; and

(B) that is used within a residential dwelling for personal, family, or household purposes.

(b) This chapter does not apply to the following:

(1) A policy of inland marine insurance.

(2) The cancellation or nonrenewal of an automobile insurance policy under IC 27-7-6.

(3) The cancellation or nonrenewal of a commercial property and casualty insurance policy under IC 27-1-31-2.5.

Sec. 2. (a) As used in this chapter, "cancellation" or "canceled" refers to a termination of property insurance coverage that occurs during the policy term.

(b) As used in this chapter, "nonpayment of premium" means the failure of the named insured to discharge any obligation in connection with the payment of premiums on policies of insurance subject to this chapter, regardless of whether the payments are directly payable to the insurer or its agent or indirectly payable under a premium finance plan or extension of credit. The term includes the failure to pay dues or fees where payment of the dues or fees is a prerequisite to obtaining or continuing property insurance coverage.

(c) As used in this chapter, "nonrenewal" or "nonrenewed" refers to a termination of property insurance coverage that occurs at the end of the policy term.

(d) As used in this chapter, "renewal" or "to renew" refers to:

(1) the issuance and delivery by an insurer at the end of a policy period of a policy superseding a policy previously issued and delivered by the same insurer; or

(2) the issuance and delivery of a certificate or notice extending the term of an existing policy beyond its policy period or term.

(e) As used in this chapter, "termination" means a cancellation or nonrenewal. The term does not include:

(1) the requirement of a reasonable deductible;

(2) reasonable changes in the amount of insurance; or

(3) reasonable reductions in policy limits or coverage;

if the requirements or changes are directly related to the hazard involved and are made on the renewal date for the policy. The term does not include a transfer of a policy to another insurer.

Sec. 3. (a) Notice of cancellation of property insurance coverage by an insurer must:

(1) be in writing;

(2) be delivered or mailed to the named insured at the last known address of the named insured;

(3) state the effective date of the cancellation; and

(4) upon request of the named insured, be accompanied by a written explanation of the specific reasons for the cancellation.

(b) An insurer shall provide written notice of cancellation to the named insured at least:

(1) ten (10) days before canceling a policy, if the cancellation is for nonpayment of a premium;

(2) twenty (20) days before canceling a policy, if the cancellation occurs more than sixty (60) days after the date of issuance of the policy; and

(3) ten (10) days before canceling a policy, if the cancellation occurs not more than sixty (60) days after the date of issuance of the policy.

(c) If the policy was procured by an independent agent licensed in Indiana, the insurer shall deliver or mail notice of cancellation to the agent not less than ten (10) days before the insurer delivers or mails the notice to the named insured, unless the obligation to notify the agent is waived in writing by the agent.

Sec. 4. (a) Notice of nonrenewal by an insurer must:

(1) be in writing;

(2) be delivered or mailed to the named insured at the last known address of the named insured;

(3) state the insurer's intention not to renew the policy upon expiration of the current policy period;

(4) upon request of the named insured, be accompanied by a written explanation of the specific reasons for the nonrenewal; and

(5) be provided to the named insured at least twenty (20) days before the expiration of the current policy period.

(b) If the policy was procured by an independent agent licensed

in Indiana, the insurer shall deliver or mail notice of nonrenewal to the agent not less than ten (10) days before the insurer delivers or mails the notice to the named insured, unless the obligation to notify the agent is waived in writing by the agent.

(c) If an insurer mails or delivers to an insured a renewal notice, bill, certificate, or policy indicating the insurer's willingness to renew a policy and the insured does not respond, the insurer is not required to provide to the insured notice of intention not to renew.

Sec. 5. (a) A written explanation provided under section 3 or 4 of this chapter must be of sufficient clarity and specificity to enable a reasonable lay person to identify the basis for the insurer's decision without further inquiry.

(b) If notice is not provided under section 4 of this chapter, coverage is considered to be renewed only for the ensuing policy period upon payment of the appropriate premiums under the same terms and conditions, and subject to section 6 of this chapter, unless the named insured has accepted replacement coverage with another insurer or unless the named insured has agreed to the nonrenewal.

Sec. 6. After coverage has been in effect for more than sixty (60) days or after the effective date of a renewal policy, a notice of cancellation may not be issued unless cancellation is based on at least one (1) of the following:

(1) Nonpayment of a premium.

(2) Discovery of fraud or material misrepresentation made by or with the knowledge of the named insured in obtaining the policy, continuing the policy, or in presenting a claim under the policy.

(3) Discovery of willful or reckless acts or omissions on the part of the named insured that increase a hazard insured against.

(4) The occurrence of a change in the risk that substantially increases a hazard insured against after insurance coverage has been issued or renewed.

(5) A violation of any local fire, health, safety, building, or construction regulation or ordinance with respect to an insured property or the occupancy of the property that substantially increases any hazard insured against.

(6) A determination by the insurance commissioner that the continuation of the policy would place the insurer in violation of the insurance laws of Indiana.

(7) Real property taxes owing on the insured property have

been delinquent for two (2) or more years and continue to be delinquent at the time notice of cancellation is issued.

Sec. 7. Termination of property insurance coverage by an insurer is prohibited if the termination is based on any of the following:

(1) Upon the race, religion, nationality, ethnic group, age, sex, or marital status of the applicant or named insured.

(2) Solely upon the lawful occupation or profession of the applicant or named insured. However, this subdivision does not apply to an insurer that limits its market to one (1) lawful occupation or profession or to several related lawful occupations or professions.

(3) Upon the age or location of the residence of the applicant or named insured, unless that decision is for a business purpose that is not a mere pretext for a decision based on factors prohibited in this chapter or any other provision of this title.

(4) Upon the fact that another insurer previously declined to insure the applicant or terminated an existing policy in which the applicant was the named insured.

(5) Upon the fact that the applicant or named insured previously obtained insurance coverage through a residual market insurance mechanism.

Sec. 8. The named insured must be given notice of a transfer of a policy, including a transfer between insurers within the same insurance group. The notice must:

(1) be in writing;

(2) be delivered or mailed to the named insured at the last known address of the named insured;

(3) be provided to the named insured at least twenty (20) days before the transfer; and

(4) identify the insurer to which the policy will be transferred.

Sec. 9. (a) The following persons are immune from civil liability for any communication giving notice of or specifying the reasons for a termination or for any statement made in connection with an attempt to discover or verify the existence of conditions that would be a reason for a termination under this chapter:

(1) Employees of the department of insurance.

(2) An insurer or its authorized representative, agent, or employee.

(3) A licensed insurance agent.

(4) A person furnishing information to an insurer as to

reasons for a termination.

(b) This section does not apply to statements made in bad faith with malice in fact.

SECTION 14. IC 27-7-13 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]:

Chapter 13. Required Notice of Flood Coverage in a Residential Policy

Sec. 1. (a) This chapter applies to policies of insurance covering risks to property located in Indiana that are issued or renewed after December 31, 2001, and that insure against loss of or damage to:

(1) real property consisting of not more than four (4) residential units, one (1) of which is the principal place of residence of the named insured; or

(2) personal property:

(A) in which the named insured has an insurable interest; and

(B) that is used within a residential dwelling for personal, family, or household purposes.

(b) This chapter does not apply to the following:

(1) A policy of inland marine insurance.

(2) An automobile insurance policy under IC 27-7-6.

(3) A commercial property and casualty insurance policy under IC 27-1-31.

Sec. 2. If a policy of insurance described in section 1 of this chapter does not provide coverage for flood damage:

(1) the policy jacket must contain a prominently printed notice stating; or

(2) the policyholder must be given written notice when the policy is issued, or upon the first renewal after December 31, 2001;

that coverage for flood damage may be available through the National Flood Insurance Program.

SECTION 15. IC 27-8-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 2. (a) As used in this chapter:

"Account" means one of the three (3) accounts created under section 3 of this chapter.

"Association" means the Indiana life and health insurance guaranty association created under section 3 of this chapter.

"Commissioner" refers to the commissioner of insurance.

"Contractual obligation" means an obligation under covered policies.

"Covered policy" means any policy or contract that is of a type described in section 1(a) of this chapter and is not excluded by section 1(b) of this chapter.

"Impaired insurer" means a member insurer deemed by the commissioner to be potentially unable to fulfill its contractual obligations.

"Insolvent insurer" means a member insurer who becomes insolvent and is placed under a final order of liquidation, rehabilitation, or conservation by a court.

"Member insurer" means any person that is licensed or holds a certificate of authority to transact in Indiana any kind of insurance for which coverage is provided under this chapter. The term includes any insurer whose license or certificate of authority to transact such insurance in Indiana may have been suspended, revoked, not renewed, or voluntarily withdrawn but does not include the following:

(1) A medical and hospital service organization.

(2) A health maintenance organization under IC 27-13.

(3) A fraternal benefit society under IC 27-11.

(4) ~~The Indiana Comprehensive Health Insurance Association or any other~~ **A** mandatory state pooling plan or arrangement.

(5) An assessment company or any other person that operates an assessment plan (as defined in IC 27-1-2-3(y)).

(6) An interinsurance exchange authorized by IC 27-6-6.

(7) A prepaid limited health service organization or a limited service health maintenance organization under IC 27-13-34.

~~(8) A special service health care delivery plan under IC 27-8-7.~~

~~(9)~~ **(8)** A farmer's mutual insurance company under IC 27-5.

~~(10)~~ **(9)** Any person similar to any person described in subdivisions (1) through ~~(9).~~ **(8).**

"Premiums" means direct gross insurance premiums and annuity considerations received on covered policies, less return premiums and considerations, and dividends paid or credited to policyholders on direct business. It does not include premiums and considerations on contracts between insurers and reinsurers. For purposes of assessments made under section 6 of this chapter, "premiums" for covered policies shall not be reduced on account of any limitation on benefits for which the association is obligated under section 5(l) of this chapter. However, "premiums" for assessment purposes does not include that portion of any premium exceeding five million dollars ($5,000,000) for any one (1) unallocated annuity contract.

"Person" means any natural person, corporation, limited liability company, partnership, association, voluntary organization, trust, governmental organization or entity, or other business organization or entity.

"Resident" means any person who resides in Indiana at the time the association becomes obligated for an impaired or insolvent insurer. Persons other than natural persons are considered to reside in the state where their principal place of business is located.

"Unallocated annuity contract" means an annuity contract or group annuity certificate that is not issued to and held by a natural person (excluding a natural person acting as a trustee), except to the extent of any annuity benefits guaranteed to a natural person by an insurer under the contract or certificate. For the purposes of section 1.5 of this chapter, an unallocated annuity contract shall not be considered a group covered policy.

(b) For purposes of this chapter, a policy, contract, or certificate is considered to be held by the person identified on the policy, contract, or certificate as the holder or owner of the policy, contract, or certificate.

SECTION 16. IC 27-8-15-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2004]: Sec. 28. (a) As used in this section, "health insurance plan" means coverage provided under any of the following:

(1) A hospital or medical expense incurred policy or certificate.

(2) A hospital or medical service plan contract.

(3) A health maintenance organization subscriber contract.

(4) Medicare or Medicaid.

(5) An employer based health insurance arrangement.

(6) An individual health insurance policy.

~~(7) A policy issued by the Indiana comprehensive health insurance association under IC 27-8-10.~~

~~(8)~~ **(7)** An employee welfare benefit plan (as defined in 29 U.S.C. 1002) that is self-funded.

~~(9)~~ **(8)** A conversion policy issued under section 31 or 31.1 of this chapter.

(b) Except as provided in section 29 of this chapter, a small employer insurer shall waive the exclusion period described in section 27 of this chapter applicable to a preexisting condition or the limitation period with respect to a particular service in a health insurance plan for the time an eligible employee or a dependent of an eligible employee was previously covered by a health insurance plan if the following conditions are met:

(1) The eligible employee or a dependent of the eligible employee was previously covered by a health insurance plan that provided benefits with respect to the particular service.

(2) Coverage under the health insurance plan was continuous to a date not more than sixty-three (63) days before the effective date of enrollment by:

(A) the eligible employee; or

(B) a dependent of the eligible employee.

(c) In determining whether an eligible employee or a dependent of the eligible employee meets the requirements of subsection (b)(2), a waiting period imposed by a small employer insurer or small employer before new coverage may become effective must be excluded from the calculation.

(d) This section does not preclude the application of any waiting period applicable to all new enrollees under a plan.

SECTION 17. IC 27-8-17-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 12. (a) A utilization review agent shall make available ~~upon request~~ **to an enrollee at the time an adverse utilization review determination is made, and to a provider of record upon request:**

(1) a written description of the appeals procedure by which an enrollee or a provider of record may ~~obtain a review of a~~ **appeal the** utilization review determination by the utilization review agent; **and**

(2) in the case of an enrollee covered under an accident and sickness policy or a health maintenance organization contract described in subsection (d), notice that the enrollee has the right to appeal the utilization review determination under IC 27-8-28 or IC 27-13-10 and the toll free telephone number that the enrollee may call to request a review of the determination or obtain further information about the right to appeal.

(b) The appeals procedure provided by a utilization review agent must meet the following requirements:

(1) On appeal, the determination not to certify an admission, a service, or a procedure as necessary or appropriate must be made by a health care provider licensed in the same discipline as the provider of record.

(2) The determination of the appeal of a utilization review determination not to certify an admission, service, or procedure must be completed within thirty (30) days after:

(A) the appeal is filed; and

(B) all information necessary to complete the appeal is received.

(c) A utilization review agent shall provide an expedited appeals process for emergency or life threatening situations. The determination of an expedited appeal under the process required by this subsection shall be made by a physician and completed within forty-eight (48) hours after:

(1) the appeal is initiated; and

(2) all information necessary to complete the appeal is received by the utilization review agent.

(d) If an enrollee is covered under an accident and sickness insurance policy (as defined in IC 27-8-28-1) or a contract issued by a health maintenance organization (as defined in IC 27-13-1-19), the enrollee's exclusive right to appeal a utilization review determination is provided under IC 27-8-28 or IC 27-13-10, respectively.

(e) A utilization review agent shall make available upon request a written description of the appeals procedure that an enrollee or provider of record may use to obtain a review of a utilization review determination by the utilization review agent.

SECTION 18. IC 27-8-28 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

Chapter 28. Internal Grievance Procedures

Sec. 1. (a) As used in this chapter, "accident and sickness insurance policy" means an insurance policy that provides one (1) or more of the kinds of insurance described in Class 1(b) and 2(a) of IC 27-1-5-1.

(b) The term does not include the following:

(1) Accident only, credit, dental, vision, Medicare supplement, long term care, or disability income insurance.

(2) Coverage issued as a supplement to liability insurance.

(3) Automobile medical payment insurance.

(4) A specified disease policy issued as an individual policy.

(5) A limited benefit health insurance policy issued as an individual policy.

(6) A short term insurance plan that:

(A) may not be renewed; and

(B) has a duration of not more than six (6) months.

(7) A policy that provides a stipulated daily, weekly, or monthly payment to an insured during hospital confinement without regard to the actual expense of the confinement.

(8) Worker's compensation or similar insurance.

Sec. 2. As used in this chapter, "commissioner" refers to the insurance commissioner appointed under IC 27-1-1-2.

Sec. 3. As used in this chapter, "covered individual" means an individual who is covered under an accident and sickness insurance policy.

Sec. 4. As used in this chapter, "department" refers to the department of insurance.

Sec. 5. As used in this chapter, "external grievance" means the independent review under IC 27-8-29 of a grievance filed under this chapter.

Sec. 6. As used in this chapter, "grievance" means any dissatisfaction expressed by or on behalf of a covered individual regarding:

(1) a determination that a service or proposed service is not appropriate or medically necessary;

(2) a determination that a service or proposed service is experimental or investigational;

(3) the availability of participating providers;

(4) the handling or payment of claims for health care services; or

(5) matters pertaining to the contractual relationship between:

(A) a covered individual and an insurer; or

(B) a group policyholder and an insurer;

and for which the covered individual has a reasonable expectation that action will be taken to resolve or reconsider the matter that is the subject of dissatisfaction.

Sec. 7. As used in this chapter, "grievance procedure" means a written procedure established and maintained by an insurer for filing, investigating, and resolving grievances and appeals.

Sec. 8. As used in this chapter, "insured" means:

(1) an individual whose employment status or other status except family dependency is the basis for coverage under a group accident and sickness insurance policy; or

(2) in the case of an individual accident and sickness insurance policy, the individual in whose name the policy is issued.

Sec. 9. As used in this chapter, "insurer" means any person who delivers or issues for delivery an accident and sickness insurance policy or certificate in Indiana.

Sec. 10. An insurer shall establish and maintain a grievance procedure that complies with the requirements of this chapter for

the resolution of grievances initiated by a covered individual.

Sec. 11. The commissioner may examine the grievance procedure of an insurer.

Sec. 12. An insurer shall maintain all grievance records received by the insurer after the most recent examination of the insurer's grievance procedure by the commissioner.

Sec. 13. (a) An insurer shall provide timely, adequate, and appropriate notice to each insured of:

(1) the grievance procedure required under this chapter;

(2) the external grievance procedure required under IC 27-8-29;

(3) information on how to file:

(A) a grievance under this chapter; and

(B) a request for an external grievance review under IC 27-8-29; and

(4) a toll free telephone number through which a covered individual may contact the insurer at no cost to the covered individual to obtain information and to file a grievance.

(b) An insurer shall prominently display on all notices to covered individuals the toll free telephone number and the address at which a grievance or request for external grievance review may be filed.

Sec. 14. (a) A covered individual may file a grievance orally or in writing.

(b) An insurer shall make available to covered individuals a toll free telephone number through which a grievance may be filed. The toll free telephone number must:

(1) be staffed by a qualified representative of the insurer;

(2) be available for at least forty (40) hours per week during normal business hours; and

(3) accept grievances in the languages of the major population groups served by the insurer.

(c) A grievance is considered to be filed on the first date it is received, either by telephone or in writing.

Sec. 15. (a) An insurer shall establish procedures to assist covered individuals in filing grievances.

(b) A covered individual may designate a representative to file a grievance for the covered individual and to represent the covered individual in a grievance under this chapter.

Sec. 16. (a) An insurer shall establish written policies and procedures for the timely resolution of grievances filed under this chapter. The policies and procedures must include the following:

(1) An acknowledgment of the grievance, oral or in writing, to the covered individual within five (5) business days after receipt of the grievance.

(2) Documentation of the substance of the grievance and any actions taken.

(3) An investigation of the substance of the grievance, including any aspects involving clinical care.

(4) Notification to the covered individual of the disposition of the grievance and the right to appeal.

(5) Standards for timeliness in:

(A) responding to grievances; and

(B) providing notice to covered individuals of:

(i) the disposition of the grievance; and

(ii) the right to appeal;

that accommodate the clinical urgency of the situation.

(b) An insurer shall appoint at least one (1) individual to resolve a grievance.

(c) A grievance must be resolved as expeditiously as possible, but not more than twenty (20) business days after the grievance is filed. If an insurer is unable to make a decision regarding the grievance within the twenty (20) day period due to circumstances beyond the insurer's control, the insurer shall:

(1) before the twentieth business day, notify the covered individual in writing of the reason for the delay; and

(2) issue a written decision regarding the grievance within an additional ten (10) business days.

(d) An insurer shall notify a covered individual in writing of the resolution of a grievance within five (5) business days after completing an investigation. The grievance resolution notice must include the following:

(1) A statement of the decision reached by the insurer.

(2) A statement of the reasons, policies, and procedures that are the basis of the decision.

(3) Notice of the covered individual's right to appeal the decision.

(4) The department, address, and telephone number through which a covered individual may contact a qualified representative to obtain additional information about the decision or the right to appeal.

Sec. 17. (a) An insurer shall establish written policies and procedures for the timely resolution of appeals of grievance decisions. The procedures for registering and responding to oral

and written appeals of grievance decisions must include the following:

(1) Written or oral acknowledgment of the appeal not more than five (5) business days after the appeal is filed.

(2) Documentation of the substance of the appeal and the actions taken.

(3) Investigation of the substance of the appeal, including any aspects of clinical care involved.

(4) Notification to the covered individual:

(A) of the disposition of an appeal; and

(B) that the covered individual may have the right to further remedies allowed by law.

(5) Standards for timeliness in:

(A) responding to an appeal; and

(B) providing notice to covered individuals of:

(i) the disposition of an appeal; and

(ii) the right to initiate an external grievance review under IC 27-8-29;

that accommodate the clinical urgency of the situation.

(b) In the case of an appeal of a grievance decision described in section 6(1) or 6(2) of this chapter, an insurer shall appoint a panel of one (1) or more qualified individuals to resolve an appeal. The panel must include one (1) or more individuals who:

(1) have knowledge in the medical condition, procedure, or treatment at issue;

(2) are licensed in the same profession and have a similar specialty as the provider who proposed or delivered the health care procedure, treatment, or service;

(3) are not involved in the matter giving rise to the appeal or in the initial investigation of the grievance; and

(4) do not have a direct business relationship with the covered individual or the health care provider who previously recommended the health care procedure, treatment, or service giving rise to the grievance.

(c) An appeal of a grievance decision must be resolved:

(1) as expeditiously as possible, reflecting the clinical urgency of the situation; and

(2) in any case, not later than forty-five (45) days after the appeal is filed.

(d) An insurer shall allow a covered individual the opportunity to:

(1) appear in person before; or

(2) if unable to appear in person, otherwise appropriately communicate with;

the panel appointed under subsection (b).

(e) An insurer shall notify a covered individual in writing of the resolution of an appeal of a grievance decision within five (5) business days after completing the investigation. The appeal resolution notice must include the following:

(1) A statement of the decision reached by the insurer.

(2) A statement of the reasons, policies, and procedures that are the basis of the decision.

(3) Notice of the covered individual's right to further remedies allowed by law, including the right to external grievance review by an independent review organization under IC 27-8-29.

(4) The department, address, and telephone number through which a covered individual may contact a qualified representative to obtain more information about the decision or the right to an external grievance review.

Sec. 18. An insurer may not take action against a provider solely on the basis that the provider represents a covered individual in a grievance filed under this chapter.

Sec. 19. (a) An insurer shall each year file with the commissioner a description of the grievance procedure of the insurer established under this chapter, including:

(1) the total number of grievances handled through the procedure during the preceding calendar year;

(2) a compilation of the causes underlying the grievances; and

(3) a summary of the final disposition of the grievances.

(b) The information required by subsection (a) must be filed with the commissioner on or before March 1 of each year. The commissioner shall:

(1) make the information required to be filed under this section available to the public; and

(2) prepare an annual compilation of the data required under subsection (a) that allows for comparative analysis.

(c) The commissioner may require any additional reports as are necessary and appropriate for the commissioner to carry out the commissioner's duties under this article.

Sec. 20. The department may adopt rules under IC 4-22-2 to implement this chapter.

SECTION 19. IC 27-8-29 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2001]:

Chapter 29. External Review of Grievances

Sec. 1. As used in this chapter, "accident and sickness insurance policy" has the meaning set forth in IC 27-8-28-1.

Sec. 2. As used in this chapter, "appeal" means the procedure described in IC 27-8-28-17.

Sec. 3. As used in this chapter, "commissioner" refers to the insurance commissioner appointed under IC 27-1-1-2.

Sec. 4. As used in this chapter, "covered individual" has the meaning set forth in IC 27-8-28-3.

Sec. 5. As used in this chapter, "department" refers to the department of insurance.

Sec. 6. As used in this chapter, "external grievance" means the independent review under this chapter of a grievance filed under IC 27-8-28.

Sec. 7. As used in this chapter, "grievance" has the meaning set forth in IC 27-8-28-6.

Sec. 8. As used in this chapter, "grievance procedure" has the meaning set forth in IC 27-8-28-7.

Sec. 9. As used in this chapter, "health care provider" means a person:

(1) that provides physician services (as defined in IC 12-15-11-1(a)); or

(2) who is licensed under IC 25-33.

Sec. 10. As used in this chapter, "insured" has the meaning set forth in IC 27-8-28-8.

Sec. 11. As used in this chapter, "insurer" has the meaning set forth in IC 27-8-28-9.

Sec. 12. An insurer shall establish and maintain an external grievance procedure for the resolution of external grievances regarding:

(1) an adverse determination of appropriateness;

(2) an adverse determination of medical necessity; or

(3) a determination that a proposed service is experimental or investigational;

made by an insurer or an agent of an insurer regarding a service proposed by the treating health care provider.

Sec. 13. (a) An external grievance procedure established under section 12 of this chapter must:

(1) allow a covered individual or a covered individual's representative to file a written request with the insurer for an external grievance review of the insurer's appeal resolution

under IC 27-8-28-17 not more than forty-five (45) days after the covered individual is notified of the resolution; and

(2) provide for:

(A) an expedited external grievance review for a grievance related to an illness, a disease, a condition, an injury, or a disability if the time frame for a standard review would seriously jeopardize the covered individual's:

(i) life or health; or

(ii) ability to reach and maintain maximum function; or

(B) a standard external grievance review for a grievance not described in clause (A).

A covered individual may file not more than one (1) external grievance of an insurer's appeal resolution under this chapter.

(b) Subject to the requirements of subsection (d), when a request is filed under subsection (a), the insurer shall:

(1) select a different independent review organization for each external grievance filed under this chapter from the list of independent review organizations that are certified by the department under section 19 of this chapter; and

(2) rotate the choice of an independent review organization among all certified independent review organizations before repeating a selection.

(c) The independent review organization chosen under subsection (b) shall assign a medical review professional who is board certified in the applicable specialty for resolution of an external grievance.

(d) The independent review organization and the medical review professional conducting the external review under this chapter may not have a material professional, familial, financial, or other affiliation with any of the following:

(1) The insurer.

(2) Any officer, director, or management employee of the insurer.

(3) The health care provider or the health care provider's medical group that is proposing the service.

(4) The facility at which the service would be provided.

(5) The development or manufacture of the principal drug, device, procedure, or other therapy that is proposed for use by the treating health care provider.

However, the medical review professional may have an affiliation under which the medical review professional provides health care services to covered individuals of the insurer and may have an

affiliation that is limited to staff privileges at the health facility, if the affiliation is disclosed to the covered individual and the insurer before commencing the review and neither the covered individual nor the insurer objects.

(e) A covered individual may be required to pay not more than twenty-five dollars ($25) of the costs associated with the services of an independent review organization under this chapter. All additional costs must be paid by the insurer.

Sec. 14. (a) A covered individual who files an external grievance under this chapter:

(1) may not be subject to retaliation for exercising the covered individual's right to an external grievance under this chapter;

(2) shall be permitted to use the assistance of other individuals, including health care providers, attorneys, friends, and family members throughout the review process;

(3) shall be permitted to submit additional information relating to the proposed service throughout the review process; and

(4) shall cooperate with the independent review organization by:

(A) providing any requested medical information; or

(B) authorizing the release of necessary medical information.

(b) An insurer shall cooperate with an independent review organization selected under section 13(b) of this chapter by promptly providing any information requested by the independent review organization.

Sec. 15. (a) An independent review organization shall:

(1) for an expedited external grievance filed under section 13(a)(2)(A) of this chapter, within three (3) business days after the external grievance is filed; or

(2) for a standard appeal filed under section 13(a)(2)(B) of this chapter, within fifteen (15) business days after the appeal is filed;

make a determination to uphold or reverse the insurer's appeal resolution under IC 27-8-28-17 based on information gathered from the covered individual or the covered individual's designee, the insurer, and the treating health care provider, and any additional information that the independent review organization considers necessary and appropriate.

(b) When making the determination under this section, the independent review organization shall apply:

(1) standards of decision making that are based on objective clinical evidence; and

(2) the terms of the covered individual's accident and sickness insurance policy.

(c) The independent review organization shall notify the insurer and the covered individual of the determination made under this section:

(1) for an expedited external grievance filed under section 13(a)(2)(A) of this chapter, within twenty-four (24) hours after making the determination; and

(2) for a standard external grievance filed under section 13(a)(2)(B) of this chapter, within seventy-two (72) hours after making the determination.

Sec. 16. A determination made under section 15 of this chapter is binding on the insurer.

Sec. 17. (a) If, at any time during an external review performed under this chapter, the covered individual submits information to the insurer that is relevant to the insurer's resolution of the covered individual's appeal of a grievance decision under IC 27-8-28-17 and that was not considered by the insurer under IC 27-8-28:

(1) the insurer may reconsider the resolution under IC 27-8-28-17; and

(2) if the insurer chooses to reconsider, the independent review organization shall cease the external review process until the reconsideration under subsection (b) is completed.

(b) An insurer reconsidering the resolution of an appeal of a grievance decision due to the submission of information under subsection (a) shall reconsider the resolution under IC 27-8-28-17 based on the information and notify the covered individual of the insurer's decision:

(1) within seventy-two (72) hours after the information is submitted, for a reconsideration related to an illness, a disease, a condition, an injury, or a disability that would seriously jeopardize the covered individual's:

(A) life or health; or

(B) ability to reach and maintain maximum function; or

(2) within fifteen (15) days after the information is submitted, for a reconsideration not described in subdivision (1).

(c) If the decision reached under subsection (b) is adverse to the covered individual, the covered individual may request that the independent review organization resume the external review under

this chapter.

(d) If an insurer to which information is submitted under subsection (a) chooses not to reconsider the insurer's resolution under IC 27-8-28-17, the insurer shall forward the submitted information to the independent review organization not more than two (2) business days after the insurer's receipt of the information.

Sec. 18. This chapter does not add to or otherwise change the terms of coverage included in a policy, certificate, or contract under which a covered individual receives health care benefits under IC 27-8.

Sec. 19. (a) The department shall establish and maintain a process for annual certification of independent review organizations.

(b) The department shall certify a number of independent review organizations determined by the department to be sufficient to fulfill the purposes of this chapter.

(c) An independent review organization must meet the following minimum requirements for certification by the department:

(1) Medical review professionals assigned by the independent review organization to perform external grievance reviews under this chapter:

(A) must be board certified in the specialty in which a covered individual's proposed service would be provided;

(B) must be knowledgeable about a proposed service through actual clinical experience;

(C) must hold an unlimited license to practice in a state of the United States; and

(D) must not have any history of disciplinary actions or sanctions, including:

(i) loss of staff privileges; or

(ii) restriction on participation;

taken or pending by any hospital, government, or regulatory body.

(2) The independent review organization must have a quality assurance mechanism to ensure:

(A) the timeliness and quality of reviews;

(B) the qualifications and independence of medical review professionals;

(C) the confidentiality of medical records and other review materials; and

(D) the satisfaction of covered individuals with the procedures utilized by the independent review

organization, including the use of covered individual satisfaction surveys.

(3) The independent review organization must file with the department the following information on or before March 1 of each year:

(A) The number and percentage of determinations made in favor of covered individuals.

(B) The number and percentage of determinations made in favor of insurers.

(C) The average time to process a determination.

(D) Any other information required by the department.

The information required under this subdivision must be specified for each insurer for which the independent review organization performed reviews during the reporting year.

(4) Any additional requirements established by the department.

(d) The department may not certify an independent review organization that is one (1) of the following:

(1) A professional or trade association of health care providers or a subsidiary or an affiliate of a professional or trade association of health care providers.

(2) An insurer, a health maintenance organization, or a health plan association, or a subsidiary or an affiliate of an insurer, health maintenance organization, or health plan association.

(e) The department may suspend or revoke an independent review organization's certification if the department finds that the independent review organization is not in substantial compliance with the certification requirements under this section.

(f) The department shall make available to insurers a list of all certified independent review organizations.

(g) The department shall make the information provided to the department under subsection (c)(3) available to the public in a format that does not identify individual covered individuals.

Sec. 20. Except as provided in section 19(g) of this chapter, documents and other information created or received by the independent review organization or the medical review professional in connection with an external grievance review under this chapter:

(1) are not public records;

(2) may not be disclosed under IC 5-14-3; and

(3) must be treated in accordance with confidentiality requirements of state and federal law.

Sec. 21. (a) An insurer shall each year file with the commissioner a description of the grievance procedure established by the insurer under this chapter, including:

(1) the total number of external grievances handled through the procedure during the preceding calendar year;

(2) a compilation of the causes underlying the grievances; and

(3) a summary of the final disposition of the grievances;

for each independent review organization used by the insurer during the reporting year.

(b) The information required by subsection (a) must be filed with the commissioner on or before March 1 of each year. The commissioner shall:

(1) make the information required to be filed under this section available to the public; and

(2) prepare an annual compilation of the data required under subsection (a) that allows for comparative analysis.

(c) The commissioner may require any additional reports that are necessary and appropriate for the commissioner to carry out the commissioner's duties under this article.

Sec. 22. (a) An independent review organization is immune from civil liability for actions taken in good faith in connection with an external review under this chapter.

(b) The work product or determination, or both, of an independent review organization under this chapter are admissible in a judicial or administrative proceeding. However, the work product or determination, or both, do not, without other supporting evidence, satisfy a party's burden of proof or persuasion concerning any material issue of fact or law.

Sec. 23. If a covered individual has the right to an external review of a grievance under Medicare, the covered individual may not request an external review of the same grievance under this chapter.

Sec. 24. The department may adopt rules under IC 4-22-2 to implement this chapter.

SECTION 20. IC 27-13-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) A foreign corporation, other than a foreign corporation defined under IC 27-1-2-3, may obtain a certificate of authority if the foreign corporation:

(1) is authorized to do business in Indiana under IC 23-1-49 or IC 23-17-26; and

(2) complies with this article.

(b) A foreign corporation (as defined in IC 27-1-2-3) may obtain a certificate of authority if the foreign corporation complies with this article.

(c) A foreign or alien health maintenance organization granted a certificate of authority under this section has the same but no greater rights and privileges than a domestic health maintenance organization.

SECTION 21. IC 27-13-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. (a) An applicant shall submit to the commissioner any modifications or amendments to the items of information required in an application under section 5 of this chapter.

(b) The commissioner may adopt rules under this section that provide that any modifications or amendments to the items of information in the application required of a health maintenance organization:

(1) must be submitted to the commissioner before the modification or amendment takes effect:

(A) for the approval of the commissioner; or

(B) for the information of the commissioner only; or

(2) must be indicated by the health maintenance organization to the commissioner at the time of the next succeeding site visit or examination of the organization by the department of insurance.

(c) A health maintenance organization shall file any assumed corporate name with the department at least thirty (30) days before assuming the name.

SECTION 22. IC 27-13-2-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 9. (a) A health maintenance organization established under this article may not:**

(1) use as a part of its corporate name the words "United States", "Federal", "government", "official", or any word that would imply that the company is an administrative agency of the state of Indiana or of the United States, or that it is subject to supervision of any department other than the department of insurance; or

(2) take or assume a corporate name the same as, or confusingly similar to, an existing name of any other insurance company or other entity licensed or regulated under IC 27, unless at the same time:

(A) the other company changes its corporate name or withdraws from transacting business in Indiana; and

(B) the written consent of the other company, signed and verified under oath by its secretary, is filed with the department.

(b) This section does not affect the right of any health maintenance organization that:

(1) exists under the laws of Indiana as of July 1, 2001;

(2) exists under the laws of Indiana as of July 1, 2001, and reorganizes or reincorporates under this article at a later date; or

(3) is authorized to transact business in Indiana as of July 1, 2001;

to continue the use of its corporate name.

SECTION 23. IC 27-13-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) Subject to section 3 of this chapter, the powers of a health maintenance organization include the following:

(1) The purchase, lease, construction, renovation, operation, or maintenance of:

(A) hospitals and medical facilities;

(B) equipment for hospitals and medical facilities; and

(C) other property reasonably required for the principal office of the health maintenance organization or for purposes necessary in the transaction of the business of the organization.

(2) Engaging in transactions between affiliated entities, including loans and the transfer of responsibility under any or all contracts:

(A) between affiliates; or

(B) between the health maintenance organization and the parent organization of the health maintenance organization.

(3) The furnishing of health care services through:

(A) providers;

(B) provider associations; and

(C) agents for providers;

who are under contract with or are employed by the health maintenance organization. The contracts with providers, provider associations, or agents of providers may include fee for service, cost plus, capitation, or other payment or risk-sharing arrangements.

(4) Contracting with any person for the performance on behalf of the health maintenance organization of certain functions, including:

(A) marketing;

(B) enrollment; and

(C) administration.

(5) Contracting with:

(A) an insurance company licensed in Indiana;

(B) an authorized reinsurer; or

(C) a hospital authorized to conduct business in Indiana;

for the provision of insurance, indemnity, or reimbursement against the cost of health care services provided by the health maintenance organization.

(6) The offering of point-of-service products.

(7) The joint marketing of products with:

(A) an insurance company that is licensed in Indiana; or

(B) a hospital that is authorized to conduct business in Indiana;

if the company that is offering each product is clearly identified.

(8) Administration of the provision of health care services at the expense of a self-funded plan.

(b) A health maintenance organization may offer any of the following:

(1) Plans that include only basic health care services.

(2) Plans that include basic health care services and other health care services.

(3) Plans that include health care services other than basic health care services so long as at least one (1) of the plans offered by the health maintenance organization includes basic health care services.

(c) Notwithstanding subsection (a)(5), a health maintenance organization may not take credit for reinsurance unless the risk is ceded to a reinsurer qualified under IC 27-6-10.

SECTION 24. IC 27-13-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) A **domestic** health maintenance organization must file notice with the commissioner, with supporting information that the commissioner deems adequate, before exercising any power granted in:

(1) section 1(a)(1); or

(2) section 1(a)(4);

of this chapter if the proposed transaction is equal to or greater than ten percent (10%) of the health maintenance organization's admitted assets.

(b) A **domestic** health maintenance organization must file notice with the commissioner, with the supporting information that the commissioner deems adequate, before exercising any power granted in section 1(a)(2), if the proposed transaction is equal to or greater than three percent (3%) of the health maintenance organization's admitted assets.

(c) The commissioner may disapprove an exercise of power referred to in a notice received under subsection (a) or (b) only if, in the opinion of the commissioner, the exercise of the power would:

(1) substantially and adversely affect the financial soundness of the health maintenance organization; and

(2) endanger the ability of the health maintenance organization to meet its obligations.

(d) If the commissioner does not disapprove an exercise of power referred to in a notice received under subsection (a) or (b) within thirty (30) days after the notice is filed with the commissioner, the exercise of power is considered approved.

(e) The commissioner may adopt rules under IC 4-22-2 exempting from the filing requirement of this section certain activities that have a minimal effect on:

(1) the financial soundness of the health maintenance organization; and

(2) the ability of the health maintenance organization to meet its obligations.

SECTION 25. IC 27-13-8-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 1.5. (a) Each health maintenance organization authorized to conduct business in Indiana and required to file an annual statement with the department under this chapter shall prepare the health maintenance organization's statement:**

(1) on the National Association of Insurance Commissioners (NAIC) Annual Statement Blank;

(2) in accordance with NAIC Annual Statement Instructions; and

(3) following practices and procedures prescribed by the most recent NAIC Accounting Practices and Procedures Manual.

(b) To the extent that the NAIC Annual Statement Instructions require disclosure under subsection (a) of compensation paid to or on behalf of a health maintenance organization's officers, directors, or employees, the information may be filed with the department as an exhibit separate from the annual statement blank. The compensation information described under this subsection shall be maintained by the department as confidential and may not be disclosed to the public under IC 5-14-3.

SECTION 26. IC 27-13-8-2, AS AMENDED BY P.L.133-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) In addition to the report required by section

1 of this chapter, a health maintenance organization shall each year file with the commissioner the following:

(1) Audited financial statements of the health maintenance organization for the preceding calendar year **prepared in conformity with statutory accounting practices prescribed or otherwise permitted by the department.**

(2) A list of participating providers who provide health care services to enrollees or subscribers of the health maintenance organization.

(3) A description of the grievance procedure of the health maintenance organization:

(A) established under IC 27-13-10, including:

(i) the total number of grievances handled through the procedure during the preceding calendar year;

(ii) a compilation of the causes underlying those grievances; and

(iii) a summary of the final disposition of those grievances; and

(B) established under IC 27-13-10.1, including:

(i) the total number of external grievances handled through the procedure during the preceding calendar year;

(ii) a compilation of the causes underlying those grievances; and

(iii) a summary of the final disposition of those grievances;

for each independent review organization used by the health maintenance organization during the reporting year.

(4) The percentage of providers credentialed by the health maintenance organization according to the most current standards or guidelines, if any, developed by the National Committee on Quality Assurance or a successor organization.

(5) The health maintenance organization's Health Plan Employer Data and Information Set (HEDIS) data.

(b) The information required by subsection (a)(2) through (a)(4) must be filed with the commissioner on or before March 1 of each year. The audited financial statements required by subsection (a)(1) must be filed with the commissioner on or before June 1 of each year. The health maintenance organization's HEDIS data required by subsection (a)(5) must be filed with the commissioner on or before July 1 of each year. The commissioner shall:

(1) make the information required to be filed under this section available to the public; and

(2) prepare an annual compilation of the data required under

subsection (a)(3) through (a)(5) that allows for comparative analysis.

(c) **Upon a determination by a health maintenance organization's auditor that the health maintenance organization:**

(1) does not meet the requirements of IC 27-13-12-3; or

(2) is in the condition described in IC 27-13-24-1(a)(5);

the health maintenance organization shall notify the commissioner within five (5) business days after the auditor's determination.

(d) The commissioner may require any additional reports as are necessary and appropriate for the commissioner to carry out the commissioner's duties under this article.

SECTION 27. IC 27-13-8-3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 3. (a) This section applies to a domestic health maintenance organization that is authorized to transact business in Indiana.**

(b) As used in this section, "NAIC" refers to the National Association of Insurance Commissioners.

(c) On or before March 1 of each year, a health maintenance organization shall file with the National Association of Insurance Commissioners and with the department a copy of the health maintenance organization's annual statement convention blank and additional filings prescribed by the commissioner for the preceding year. A health maintenance organization shall also file quarterly statements with the NAIC and with the department, on or before May 15, August 15, and November 15 of each year, in a form prescribed by the commissioner. The information filed with the NAIC under this subsection:

(1) must be:

(A) in the same format; and

(B) of the same scope;

as is required by the commissioner under section 1 of this chapter;

(2) to the extent required by the NAIC, must include the signed jurat page and the actuarial certification; and

(3) must be filed electronically in accordance with NAIC electronic filing specifications.

The commissioner may, for good cause shown, grant an exemption from the requirement of this section to domestic health maintenance organizations that operate only in Indiana. If a health maintenance organization files any amendment or addendum to the health maintenance organization's annual statement

convention blank or quarterly statement with the commissioner, the health maintenance organization shall also file a copy of the amendment or addendum with the NAIC. Annual and quarterly financial statements are considered filed with the NAIC when delivered to the address designated by the NAIC for the filings, regardless of whether the filing is accompanied by any applicable fee.

(d) The commissioner may, for good cause shown, grant a health maintenance organization an extension of time for the filing required by subsection (c).

(e) In the absence of actual malice:

(1) members of the NAIC;

(2) duly authorized committees, subcommittees, and task forces of members of the NAIC;

(3) delegates of members of the NAIC;

(4) employees of the NAIC; and

(5) other persons responsible for collecting, reviewing, analyzing, and disseminating information developed from the filing of annual statement convention blanks under this section;

shall be considered to be acting as agents of the commissioner under the authority of this section and are not subject to civil liability for libel, slander, or any other cause of action by virtue of the collection, review, analysis, or dissemination of the data and information collected from the filings required by this section.

(f) The commissioner may suspend, revoke, or refuse to renew the certificate of authority of a health maintenance organization that fails to file the health maintenance organization's annual statement convention blank or quarterly statements with the NAIC or with the department within the time allowed by subsection (c) or (d).

SECTION 28. IC 27-13-8-4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 4. (a) The commissioner may impose a civil penalty of five hundred dollars ($500), after notice and hearing under IC 4-21.5-3, on a health maintenance organization that fails to file an annual statement under this chapter.**

(b) A domestic health maintenance organization that fails to file an audited annual financial statement under section 2(a)(1) of this chapter before June 1 of each year without obtaining an extension is subject to a civil penalty of fifty dollars ($50) per day until the report is received by the commissioner.

SECTION 29. IC 27-13-13-9 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 9. (a) As used in this section, "noncovered health care expenditures" means the costs to a health maintenance organization for health care services:**

(1) that are the obligation of the health maintenance organization;

(2) for which the enrollee may be liable in the event of the health maintenance organization's insolvency; and

(3) for which:

(A) no alternative arrangements have been made that are acceptable to the commissioner; or

(B) statutory deposits and net worth of the health maintenance organization are determined by the commissioner to be inadequate.

(b) If noncovered health care expenditures exceed ten percent (10%) of total health care expenditures, a health maintenance organization shall deposit cash or securities that are acceptable to the commissioner with:

(1) the commissioner; or

(2) an organization or trustee approved by the commissioner through which a custodial or controlled account is maintained.

(c) The deposit made under subsection (b) must have a fair market value:

(1) calculated on the first day of each month; and

(2) maintained for the remainder of the month;

of not less than one hundred twenty percent (120%) of the health maintenance organization's outstanding liability for noncovered health care expenditures for enrollees in Indiana, including incurred but not reported claims.

(d) The commissioner may require a health maintenance organization to file periodic reports, including reports on liability for noncovered health care expenditures and audit opinions, that the commissioner considers necessary to monitor compliance with this section.

SECTION 30. IC 27-13-15-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. If:

(1) the contract between a health maintenance organization and a participating provider has not been reduced to writing as required by this chapter; or

(2) the contract fails to contain the provision required by section

~~1(2)~~ **1(a)(4)** of this chapter;

the participating provider may not collect or attempt to collect from the subscriber or enrollee any sums that are owed by the health maintenance organization.

SECTION 31. IC 27-13-15-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. **(a)** A:

(1) participating provider; or

(2) trustee, an agent, a representative, or an assignee of a participating provider;

may not **bring or** maintain any legal action against a subscriber or an enrollee of a health maintenance organization to collect sums owed by the health maintenance organization.

(b) Except as provided in subsection (c), if a participating provider of a health maintenance organization brings or maintains a legal action against a subscriber or enrollee for an amount owed to the participating provider by the health maintenance organization, the participating provider is liable to the subscriber or enrollee for costs and attorney's fees incurred by the subscriber or enrollee in defending the legal action.

(c) A participating provider may not be liable to the subscriber or enrollee for costs and attorney's fees described in subsection (b) if the participating provider can demonstrate a reasonable basis for believing at the time the legal action was brought and while the legal action was maintained that the health maintenance organization did not owe the sums the participating provider sought to collect from the subscriber or enrollee.

SECTION 32. IC 27-13-18-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) In the event of receivership of a health maintenance organization, the commissioner may order all other carriers that participated in the enrollment process of the group covered by the organization in receivership at the last regular enrollment period of the group to offer the enrollees of the organization in receivership an enrollment period of thirty (30) days beginning on the date of receivership.

(b) Each carrier referred to in subsection (a) shall offer the enrollees of the health maintenance organization in receivership:

(1) the same coverage;

(2) under the same terms; and

(3) at the same rates;

as the carrier had offered at the last regular enrollment period of the group. The coverage required under this chapter shall begin on the date of receivership and end on the date the contract period would have

ended had the health maintenance organization not gone into receivership.

(c) If there is no carrier referred to in subsection (a), or the commissioner determines that there is no carrier referred to in subsection (a) that has adequate or accessible resources, the commissioner shall equitably allocate the:

(1) group contracts of the health maintenance organization in receivership; and

(2) individual contracts of the health maintenance organization in receivership belonging to enrollees who are unable to obtain other coverage;

among all health maintenance organizations operating within a portion of the service area of the health maintenance organization in receivership. The commissioner shall not allocate individual contracts to a health maintenance organization that does not offer direct individual enrollment.

(d) A health maintenance organization to which the commissioner allocates a group contract under subsection (c)(1) shall offer to the group existing coverage that is most similar to the group's coverage with the health maintenance organization in receivership, at rates consistent with the successor health maintenance organization's existing rating methodology.

(e) A health maintenance organization to which the commissioner allocates individual contracts under subsection (c)(2) shall offer to the enrollee existing individual or conversion coverage that is most similar to the enrollee's coverage with the health maintenance organization in receivership, at rates consistent with the successor health maintenance organization's existing rating methodology.

SECTION 33. IC 27-13-22-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. **(a) This section does not apply to a health maintenance organization granted a certificate of authority under this article before July 1, 2001.**

(b) A licensed insurer or a hospital authorized to conduct business in Indiana may, ~~either directly or~~ through a subsidiary or an affiliate, organize and operate a health maintenance organization under this article.

SECTION 34. IC 27-13-23-8 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 8. A health maintenance organization shall file a copy of any examination report filed by the insurance commissioner of another state during the preceding**

calendar year with the annual statement required under IC 27-13-8-1.

SECTION 35. IC 27-13-32-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) This section does not apply to a health maintenance organization or a limited service health maintenance organization that is a foreign corporation. ~~or is owned by a foreign corporation.~~

(b) As used in this section, "foreign corporation" means a corporation organized or reorganized under the law of a state or jurisdiction other than Indiana.

(c) A person may not acquire control, as that term is defined in IC 27-1-23-1, of a health maintenance organization or a limited service health maintenance organization unless:

(1) that person complies with the requirements of IC 27-1-23-2; and

(2) the acquisition is approved by the commissioner under the procedure set forth in IC 27-1-23-2.

SECTION 36. IC 27-13-32.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

Chapter 32.5. Voluntary Dissolution

Sec. 1. Upon authorization of voluntary dissolution by the board of directors and any shareholders entitled to vote in respect of the voluntary dissolution, the board of directors shall:

(1) cause a notice that the health maintenance organization is about to be dissolved to be published at least once in a newspaper of general circulation, printed and published in the English language, in the county in which the principal office of the health maintenance organization is located, and at least once in a newspaper of general circulation, printed and published in the English language in the city of Indianapolis, Marion County, Indiana;

(2) cause a copy of the publication under subdivision (1) to be mailed to each subscriber;

(3) file a copy of the publication under subdivision (1) with the department;

(4) file a certified copy of the articles of dissolution with the department; and

(5) present to the department the certificate of authority issued or renewed under IC 27-13-3-1 for cancellation.

The department shall file the certified copy of the articles of dissolution, cancel the certificate of authority, endorse the

cancellation on the certificate, and return the canceled certificate of authority to the health maintenance organization or its representatives.

Sec. 2. The dissolution of a health maintenance organization under this chapter does not alter the rights of an enrollee under IC 27-13-7-13.

SECTION 37. IC 27-13-34-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7. (a) After December 31, 1994, a person, corporation, partnership, limited liability company, or other entity may not operate a limited service health maintenance organization in Indiana without obtaining and maintaining a certificate of authority from the commissioner under this chapter.

(b) A for-profit or nonprofit corporation organized under the laws of another state, other than a foreign corporation defined under IC 27-1-2-3, may obtain a certificate of authority to operate a limited service health maintenance organization in Indiana if the foreign corporation is authorized to do business in Indiana under IC 23-1-49 or IC 23-17-26 and complies with this chapter.

(c) A foreign corporation (as defined in IC 27-1-2-3) may obtain a certificate of authority to operate a limited service health maintenance organization in Indiana if the foreign corporation complies with this chapter.

(d) A foreign or alien limited service health maintenance organization granted a certificate of authority under this chapter has the same but not greater rights and privileges than a domestic limited service health maintenance organization.

SECTION 38. IC 34-30-2-114.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 114.5. IC 27-7-12-9 (Concerning communications regarding termination of a homeowner's insurance policy).**

SECTION 39. IC 34-30-2-116.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 116.7. IC 27-8-29-22 (Concerning independent review organizations).**

SECTION 40. IC 34-30-2-119.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 119.3. IC 27-13-8-3 (Concerning data and information collected from health maintenance organization filings).**

SECTION 41. IC 34-30-12-1, AS AMENDED BY P.L.1-1999, SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JANUARY 1, 2004]: Sec. 1. (a) This section does not apply to services rendered by a health care provider (as defined in IC 34-18-2-14 or IC 27-12-2-14 before its repeal) to a patient in a health care facility (as defined in ~~IC 27-8-10-1~~ **IC 2-5-23-2.5).**

(b) Except as provided in subsection (c), a person who comes upon the scene of an emergency or accident or is summoned to the scene of an emergency or accident and, in good faith, gratuitously renders emergency care at the scene of the emergency or accident is immune from civil liability for any personal injury that results from:

(1) any act or omission by the person in rendering the emergency care; or

(2) any act or failure to act to provide or arrange for further medical treatment or care for the injured person;

except for acts or omissions amounting to gross negligence or willful or wanton misconduct.

(c) This subsection applies to a person to whom IC 16-31-6.5 applies. A person who gratuitously renders emergency care involving the use of an automatic external defibrillator is immune from liability for any act or omission not amounting to gross negligence or willful or wanton misconduct if the person fulfills the requirements set forth in IC 16-31-6.5.

(d) This subsection applies to an individual, business, or organization to which IC 16-31-6.5 applies. An individual, business, or organization that allows a person who is an expected user to use an automatic external defibrillator of the individual, business, or organization to in good faith gratuitously render emergency care is immune from civil liability for any damages resulting from an act or omission not amounting to gross negligence or willful or wanton misconduct by the user or for acquiring or providing the automatic external defibrillator to the user for the purpose of rendering the emergency care if the individual, business, or organization and the user fulfill the requirements set forth in IC 16-31-6.5.

SECTION 42. [EFFECTIVE JULY 1, 2001] **(a) As used in this SECTION, "waiver" means a Section 1115 demonstration waiver under the federal Social Security Act (42 U.S.C. 1315).**

(b) The office of Medicaid policy and planning may apply to the United States Department of Health and Human Services for approval of a waiver to provide coverage to individuals with severe chronic diseases.

(c) If a provision under this SECTION differs from the requirements of a waiver, the office of Medicaid policy and planning shall submit a waiver request in a manner that complies

with the requirements of the waiver. However, after the waiver is approved, the office shall apply not more than one hundred twenty (120) days after the waiver is approved for an amendment to the approved waiver that contains the provisions of this SECTION that were not included in the approved waiver.

(d) The office of Medicaid policy and planning may not implement a waiver until the office files an affidavit with the governor attesting that a federal waiver applied for under this SECTION is in effect. The office shall file the affidavit under this subsection not more than five (5) days after the office is notified that a waiver is approved.

(e) If the office or Medicaid policy and planning receives a waiver under this SECTION from the United States Department of Health and Human services and the governor receives the affidavit filed under subsection (d), the office shall implement the waiver not more than sixty (60) days after the governor receives the affidavit.

(f) The office of Medicaid policy and planning may adopt rules under IC 4-22-2 that are necessary to implement this SECTION.

(g) This SECTION expires July 1, 2004.

SECTION 43. [EFFECTIVE JULY 1, 2001] **(a) As used in this SECTION, "commission" refers to the health finance commission established under IC 2-5-23.**

(b) As used in this SECTION, "association" refers to the Indiana comprehensive health insurance association established under IC 27-8-10-2.1.

(c) As used in this SECTION, "association policy" has the meaning set forth in IC 27-8-10-1.

(d) The health finance advisory committee created under IC 2-5-23-6 shall review the following issues and make recommendations to the commission not later than May 1, 2002:

(1) The current program used by the association to provide coverage for health care services provided to individuals who are covered under an association policy.

(2) Potential sources of funding coverage of association policies and administrative expenses.

(3) Current criteria for determining eligibility and methodology for establishing premiums.

(4) A plan for administration of the association program by an existing state agency with review by the commission or another legislative body not less than every two (2) years.

(5) Potential transfer of individuals who are covered under an

association policy to private insurance coverage.

(e) The commission shall make recommendations concerning the issues specified in subsection (d) to the legislative council not later than November 1, 2002.

(f) This SECTION expires December 1, 2002.

SECTION 44. [EFFECTIVE JULY 1, 2001] **(a) Notwithstanding IC 27-8-28-19 and IC 27-8-29-21, both as added by this act, the information required under IC 27-8-28-19 and IC 27-8-29-21, both as added by this act, must be filed beginning March 1, 2003.**

(b) This SECTION expires June 30, 2005.

SECTION 45. [EFFECTIVE UPON PASSAGE] **(a) The commissioner of the department of insurance shall, not later than July 1, 2001, in consultation with representatives of the health insurance industry, begin to study potential solutions to the following issues:**

(1) Accelerated rate increases for individual health insurance policies that are not actively marketed.

(2) Consumer misunderstanding of precertification and preauthorization requirements under preferred provider plans.

(b) The commissioner of the department of insurance shall, not later than July 1, 2002, report to the following individuals any potential solutions that result from the study required under subsection (a):

(1) The chairman of the insurance, corporations, and small business committee of the Indiana house of representatives.

(2) The chairman of the insurance and financial institutions committee of the Indiana senate.

(c) This SECTION expires June 30, 2003.

SECTION 46. THE FOLLOWING ARE REPEALED [EFFECTIVE JANUARY 1, 2004]: IC 27-8-10; IC 27-13-16-4; IC 34-30-2-116.

SECTION 47. IC 27-2-9 IS REPEALED [EFFECTIVE JULY 1, 2001].

SECTION 48. **An emergency is declared for this act.**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 386 as printed February 9, 2001.)

CROOKS, Chair

Committee Vote: yeas 12, nays 0.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 386 be amended to read as follows:

Page 4, delete lines 18 through 42.

Delete pages 5 through 6.

Page 7, delete lines 1 through 21.

Page 8, delete lines 27 through 42.

Delete pages 9 through 45.

Page 46, delete lines 1 through 14.

Page 48, delete lines 38 through 42.

Delete pages 49 through 73.

Page 74, delete lines 1 through 20.

Page 76, delete lines 28 through 42.

Page 77, delete lines 1 through 9.

Page 77, delete lines 12 through 14.

Renumber all SECTIONS consecutively.

(Reference is to ESB 386 as printed April 9, 2001.)

CROOKS

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 386 be amended to read as follows:

Page 40, between lines 33 and 34, begin a new paragraph and insert:

"SECTION 12. IC 27-2-20 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

Chapter 20. Privacy of Consumer Information

Sec. 1. (a) This chapter applies to nonpublic personal financial information regarding individuals who:

(1) obtain; or

(2) are claimants or beneficiaries of;

products or services primarily for personal, family, or household purposes from licensees of the department of insurance.

(b) This chapter does not apply to information regarding companies or regarding individuals who obtain products or services for business, commercial, or agricultural purposes.

Sec. 2. The following definitions apply throughout this chapter:

(1) "Affiliate" means a company that controls, is controlled

by, or is under common control with, another company.

(2) "Clear and conspicuous" means that a notice is reasonably understandable and designed to call attention to the nature and significance of the information in the notice. The following are examples:

(A) A licensee makes the licensee's notice reasonably understandable if the licensee does the following:

(i) Presents the information in the notice in clear, concise sentences, paragraphs, and sections.

(ii) Uses short explanatory sentences or bullet lists whenever possible.

(iii) Uses definite, concrete, everyday words and active voice whenever possible.

(iv) Avoids multiple negatives.

(v) Avoids legal and highly technical business terminology whenever possible.

(vi) Avoids explanations that are imprecise and readily subject to different interpretations.

(B) A licensee designs the licensee's notice to call attention to the nature and significance of the information in the notice if the licensee does the following:

(i) Uses a plain-language heading to call attention to the notice.

(ii) Uses a typeface and type size that are easy to read.

(iii) Provides wide margins and ample line spacing.

(iv) Uses boldface or italics for key words.

(v) In a form that combines the licensee's notice with other information, uses distinctive type size, style, and graphic devices, such as shading or sidebars.

(C) If a licensee provides a notice on a Web page, the licensee designs the licensee's notice to call attention to the nature and significance of the information in the notice if the licensee uses text or visual cues to encourage scrolling down the page if necessary to view the entire notice and ensure that other elements on the Web site, such as text, graphics, hyperlinks, or sound, do not distract attention from the notice, and the licensee does either of the following:

(i) Places the notice on a screen that consumers frequently access, such as a page on which transactions are conducted.

(ii) Places a link on a screen that consumers frequently

access, such as a page on which transactions are conducted, that connects directly to the notice and is labeled appropriately to convey the importance, nature, and relevance of the notice.

(3) "Collect" means to obtain information that a licensee organizes or can retrieve by the name of an individual or by identifying number, symbol, or other identifying particular assigned to the individual, regardless of the source of the underlying information.

(4) "Commissioner" means the commissioner of the Indiana department of insurance.

(5) "Company" means a corporation, limited liability company, business trust, general or limited partnership, association, sole proprietorship, or similar organization.

(6) "Consumer" means an individual who seeks to obtain, obtains, or has obtained an insurance product or service from a licensee that is to be used primarily for personal, family, or household purposes, and about whom the licensee has nonpublic personal information, or the individual's legal representative, including the following:

(A) An individual provides nonpublic personal information to a licensee in connection with obtaining or seeking to obtain financial, investment or economic advisory services relating to an insurance product or service is a consumer regardless of whether the licensee establishes an ongoing advisory relationship.

(B) An applicant for insurance prior to the inception of insurance coverage is a licensee's consumer.

(C) An individual who is a consumer of another financial institution is not a licensee's consumer solely because the licensee is acting as an agent for, or provides processing or other services to, that financial institution.

(D) An individual is a licensee's consumer if the individual is:

(i) a beneficiary of a life insurance policy underwritten by the licensee;

(ii) a claimant under an insurance policy issued by the licensee;

(iii) an insured or an annuitant under an insurance policy or an annuity, respectively, issued by the licensee; or

(iv) a mortgagor of a mortgage covered under a

mortgage insurance policy;

and the licensee discloses nonpublic personal financial information about the individual to a nonaffiliated third party other than as permitted under sections 12, 13, and 14 of this chapter.

(E) If the licensee provides the initial, annual, and revised notices under sections 3, 4, and 7 of this chapter to the plan sponsor, group, or blanket insurance policyholder or group annuity contractholder, and if the licensee does not disclose to a nonaffiliated third party nonpublic personal financial information about the individual other than as permitted under sections 12, 13, and 14 of this chapter, an individual is not the consumer of the licensee solely because the individual is:

(i) a participant or a beneficiary of an employee benefit plan that the licensee administers or sponsors or for which the licensee acts as a trustee, insurer, or fiduciary;

(ii) covered under a group or blanket insurance policy or group annuity contract issued by the licensee; or

(iii) a beneficiary in a workers' compensation plan.

(F) The individuals described in clause (E)(i) through (E)(iii) are consumers of a licensee if the licensee does not meet all the conditions of this subdivision. In no event shall the individuals, solely by virtue of the status described in clause (E)(i) through (E)(iii), be considered to be customers.

(G) An individual is not a licensee's consumer solely because the individual is a beneficiary of a trust for which the licensee is a trustee.

(H) An individual is not a licensee's consumer solely because the individual has designated the licensee as trustee for a trust.

(7) "Consumer reporting agency" has the meaning set forth in section 603(f) of the federal Fair Credit Reporting Act (15 U.S.C. 1681a(f)).

(8) "Control" means any of the following:

(A) Ownership, control, or power to vote twenty-five percent (25%) or more of the outstanding shares of any class of voting security of a company, directly or indirectly, or acting through one (1) or more other persons.

(B) Control in any manner over the election of a majority of the directors, trustees, general partners, or individuals

exercising similar functions, of a company.

(C) The power to exercise, directly or indirectly, a controlling influence over the management or policies of a company, as determined by the commissioner.

(9) "Customer" means a consumer who has a customer relationship with a licensee.

(10) "Customer relationship" means a continuing relationship between a consumer and a licensee under which the licensee provides one (1) or more insurance products or services to the consumer that are to be used primarily for personal, family, or household purposes, including the following:

(A) A consumer has a continuing relationship with a licensee if the consumer:

(i) is a current policyholder of an insurance product issued by or through the licensee; or

(ii) obtains financial, investment, or economic advisory services relating to an insurance product or service from the licensee for a fee.

(B) A consumer does not have a continuing relationship with a licensee in any of the following circumstances:

(i) The consumer applies for insurance but does not purchase the insurance.

(ii) The licensee sells the consumer airline travel insurance in an isolated transaction.

(iii) The individual is no longer a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee.

(iv) The consumer is a beneficiary or claimant under a policy and has submitted a claim under a policy choosing a settlement option involving an ongoing relationship with the licensee.

(v) The consumer is a beneficiary or a claimant under a policy and has submitted a claim under that policy choosing a lump sum settlement option.

(vi) The customer's policy is lapsed, expired, or otherwise inactive or dormant under the licensee's business practices, and the licensee has not communicated with the customer about the relationship for a period of twelve (12) consecutive months, other than annual privacy notices, material required by law or rule, communication at the direction of a state or federal authority, or promotional materials.

(vii) The individual is an insured or an annuitant under an insurance policy or annuity, respectively, but is not the policyholder or owner of the insurance policy or annuity.

(viii) For the purposes of this chapter, the individual's last known address, according to the licensee's records, is considered invalid. An address of record is considered invalid if mail sent to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful.

(11) "Financial institution" means an institution the business of which is engaging in activities that are financial in nature or incidental to financial activities as described in section 4(k) of the Bank Holding Company Act of 1956, 12 U.S.C. 1843(k). The term does not include the following:

(A) A person or entity with respect to any financial activity that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act, 7 U.S.C. 1 et seq.

(B) The Federal Agricultural Mortgage Corporation or any entity charged and operating under the Farm Credit Act of 1971, 12 U.S.C. 2001 et seq.

(C) Institutions chartered by Congress specifically to engage in securitizations, secondary market sales (including sales of servicing rights), or similar transactions related to a transaction of a consumer, as long as the institutions do not sell or transfer nonpublic personal information to a nonaffiliated third party.

(12) "Financial product or service" means a product or service that a financial holding company could offer by engaging in an activity that is financial in nature or incidental to such a financial activity under section 4(k) of the Bank Holding Company Act of 1956, 12 U.S.C. 1843(k). "Financial service" includes a financial institution's evaluation or brokerage of information that the financial institution collects in connection with a request or an application from a consumer for a financial product or service.

(13) "Health information" means any information or data, except age or gender, whether oral or recorded in any form or medium, created by or derived from a health care provider or

a consumer that relates to any of the following:

(A) The past, present, or future physical, mental, or behavioral health or condition of an individual.

(B) The provision of health care to an individual.

(C) Payment for the provision of health care to an individual.

(14) "Insurance product or service" means any product or service that is offered by a licensee under the insurance laws of Indiana. "Insurance service" includes a licensee's evaluation, brokerage, or distribution of information that the licensee collects in connection with a request or an application from a consumer for an insurance product or service.

(15) "Licensee" means licensed insurers, health maintenance organizations, agents, producers, and other persons licensed or required to be licensed, or authorized or required to be authorized, or registered or required to be registered under IC 27. The following requirements apply:

(A) A licensee is not subject to the notice and opt out requirements for nonpublic personal financial information set forth in section 1 of this chapter, this section, and sections 3 through 15 of this chapter if the licensee is an employee, agent, or other representative of another licensee and:

(i) the other licensee otherwise complies with, and provides the notices required under this chapter; and

(ii) the licensee does not disclose any nonpublic personal information to any person other than the principal or affiliates of the principal in a manner permitted under this chapter.

(B) A licensee includes an unauthorized insurer that accepts business placed through a licensed surplus lines broker in Indiana, but only with regard to the surplus lines placements placed under IC 27-1-15.5-5. A surplus lines broker or surplus lines insurer is considered to be in compliance with the notice and opt out requirements for nonpublic personal financial information set forth in section 1 of this chapter, this section, and sections 3 through 15 of this chapter if the surplus lines agent or insurer:

(i) does not disclose nonpublic personal information of a consumer or a customer to a nonaffiliated third party for any purpose, including joint servicing or marketing

under section 12 of this chapter, except as permitted under section 13 or 14 of this chapter; and

(ii) delivers a notice to the consumer at the time a customer relationship is established on which the following is printed in 16 point type:

PRIVACY NOTICE

NEITHER THE U.S. SURPLUS LINES AGENTS THAT HANDLED THIS INSURANCE NOR THE INSURERS THAT HAVE UNDERWRITTEN THIS INSURANCE WILL DISCLOSE NONPUBLIC PERSONAL INFORMATION CONCERNING THE BUYER TO NONAFFILIATES OF THE BROKERS OR INSURERS EXCEPT AS PERMITTED BY LAW.

(16) "Nonaffiliated third party" means a person other than a licensee's affiliate or a person employed jointly by a licensee and any company that is not the licensee's affiliate. The term includes either of the following:

(A) The other company that jointly employs the person.

(B) A company that is an affiliate solely by virtue of the direct or indirect ownership or control of the company by the licensee or the licensee's affiliate in conducting merchant banking or investment banking activities or insurance company investment activities of the type described in the federal Bank Holding Company Act, 12 U.S.C. 1843(k)(4)(H) and 12 U.S.C. 1843(k)(4)(I).

(17) "Nonpublic personal financial information" means personally identifiable financial information and a list, description, or other grouping of consumers (and publicly available information pertaining to them) that is derived using a personally identifiable financial information that is not publicly available, including a list of individuals' names and street addresses that is derived in whole or in part using personally identifiable financial information that is not publicly available, such as account numbers. The term does not include any of the following:

(A) Health information.

(B) Publicly available information, except as included on a list described in subdivision (23).

(C) A list, description, or other grouping of consumers (and publicly available information pertaining to them) that is derived without using any personally identifiable financial information that is not publicly available.

(D) A list of the names and addresses of individuals that contains only publicly available information, is not derived in whole or in part using personally identifiable financial information that is not publicly available, and is not disclosed in a manner that indicates that any of the individuals on the list is a consumer of a financial institution.

(18) "Nonpublic personal information" means nonpublic personal financial information.

(19) "Personally identifiable financial information" means information provided by a consumer to a licensee to obtain an insurance product or service from the licensee, information about a consumer resulting from a transaction involving an insurance product or service between a licensee and a consumer, or information a licensee otherwise obtains about a consumer in connection with providing an insurance product or service to the consumer, including the following:

(A) Information a consumer provides to a licensee on an application to obtain an insurance product or service.

(B) Account balance information and payment history.

(C) The fact that an individual is or has been a customer of the licensee or has obtained an insurance product or service from the licensee.

(D) Information about the licensee's consumer if it is disclosed in a manner that indicates that the individual is or has been a consumer of the licensee.

(E) Information that a consumer provides to a licensee or that the licensee or an agent of the licensee otherwise obtains in connection with collecting on a loan or servicing a loan.

(F) Information the licensee collects through an Internet cookie (an information-collecting device from a Web server).

(G) Information from a consumer report.

The term does not include health information, a list of names and addresses of customers of an entity that is not a financial institution, or information that does not identify a consumer, including aggregate information or blind data that does not contain personal identifiers, such as account numbers, names or addresses.

(20) "Publicly available information" means information that a licensee has a reasonable basis to believe is lawfully made

available to the general public from federal, state, or local government records, widely distributed media, or disclosures to the general public that are required to be made by federal, state, or local law. The following requirements apply:

(A) A licensee has a reasonable basis to believe that information is lawfully made available to the general public if the licensee has taken steps to determine that the information is of the type that is available to the general public and whether an individual can direct that the information not be made available to the general public, and, if so, that the licensee's consumer has not done so.

(B) Publicly available information in government records includes information in government real estate records and security interest filings.

(C) Publicly available information from widely distributed media includes information from a:

(i) telephone book;

(ii) television;

(iii) radio program,

(iv) newspaper; or

(v) Web site;

that is available to the general public on an unrestricted basis. A Web site is not restricted merely because an Internet service provider or a site operator requires a fee or a password, so long as access is available to the general public.

(D) A licensee has a reasonable basis to believe that mortgage information is lawfully made available to the general public if the licensee has determined that the information is of the type included on the public record in the jurisdiction where the mortgage would be recorded.

(E) A licensee has a reasonable basis to believe that an individual's telephone number is lawfully made available to the general public if the licensee has located the telephone number in the telephone book or the consumer has informed you that the telephone number is not unlisted.

Sec. 3. (a) A licensee shall provide a clear and conspicuous notice that accurately reflects the privacy policies and practices of the licensee to the following:

(1) An individual who becomes the licensee's customer, not later than when the licensee establishes a customer

relationship, except as provided in subsection (e).

(2) A consumer, before the licensee discloses any nonpublic personal financial information about the consumer to any nonaffiliated third party, if the licensee makes a disclosure other than as authorized under sections 13 and 14 of this chapter.

(b) A licensee is not required to provide an initial notice to a consumer under subsection (a) in either of the following instances:

(1) The licensee does not disclose any nonpublic personal financial information about the consumer to any nonaffiliated third party, other than as authorized under sections 13 and 14 of this chapter, and the licensee does not have a customer relationship with the consumer.

(2) A notice has been provided by an affiliated licensee, as long as the notice clearly identifies all licensees to whom the notice applies and is accurate with respect to the licensee and the other institutions.

(c) A licensee establishes a customer relationship at the time the licensee and the consumer enter into a continuing relationship. The following are examples of establishing customer relationship:

(1) The consumer becomes a policyholder of a licensee that is an insurer when the insurer delivers an insurance policy or contract to the consumer, or in the case of a licensee that is an insurance producer or insurance agent, obtains insurance through that licensee.

(2) The consumer agrees to obtain financial, economic, or investment advisory services relating to insurance products or services from the licensee for a fee.

(d) When an existing customer obtains a new insurance product or service from a licensee that is to be used primarily for personal, family, or household purposes, the licensee satisfies the initial notice requirements of subsection (a) if:

(1) the licensee provides a revised policy notice, under section 7 of this chapter, that covers the customer's new insurance product or service; or

(2) the initial, revised, or annual notice that the licensee most recently provided to the customer was accurate with respect to the new insurance product or service.

(e) The following are exceptions that allow subsequent delivery of the required notice:

(1) A licensee may provide the initial notice required under subsection (a)(1) within a reasonable time after the licensee

establishes a customer relationship if:

(A) establishing the customer relationship is not at the customer's election; or

(B) providing notice not later than when the licensee establishes a customer relationship would substantially delay the customer's transaction and the customer agrees to receive the notice at a later time.

(2) The following are examples of exceptions:

(A) Establishing a customer relationship is not at the customer's election if a licensee acquires or is assigned a customer's policy from another financial institution or residual market mechanism and the customer does not have a choice about the licensee's acquisition or assignment.

(B) Providing notice not later than when a licensee establishes a customer relationship would substantially delay the customer's transaction when the licensee and the individual agree over the telephone to enter into a customer relationship involving prompt delivery of the insurance product or service.

(C) Providing notice not later than when a licensee establishes a customer relationship would not substantially delay the customer's transaction when the relationship is initiated in person at the licensee's office or through other means by which the customer may view the notice, such as on a Web site.

(f) When a licensee is required to deliver an initial privacy notice under this section, the licensee shall deliver the notice as specified in section 8 of this chapter. If the licensee uses a short form initial notice for non-customers as specified in section 5 of this chapter, the licensee may deliver the privacy notice as specified in section 5(f) of this chapter.

Sec. 4. (a) A licensee shall provide a clear and conspicuous notice to customers that accurately reflects the licensee's privacy policies and practices not less than annually during the continuation of the customer relationship.

(1) As used in this section, "annually" means at least one (1) time in any period of twelve (12) consecutive months during which the relationship exists. A licensee may define the twelve (12) consecutive month period, but the licensee shall apply the period to the customer on a consistent basis.

(2) A licensee provides a notice annually if the licensee defines

the twelve (12) consecutive month period as a calendar year and provides the annual notice to the customer once in each calendar year following the calendar year in which the licensee provided the initial notice.

(b) A licensee is not required to provide an annual notice to a former customer. As used in this section, "former customer" means an individual with whom a licensee no longer has a continuing relationship and includes the following:

(1) The individual is not a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee.

(2) The individual's policy is lapsed, expired, or otherwise inactive or dormant under the licensee's business practices, and the licensee has not communicated with the customer about the relationship for a period of twelve (12) consecutive months, other than to provide annual privacy notices, material required by law or rule, or promotional materials.

(3) An individual if the individual's last known address according to the licensee's records is considered invalid. An address of record is considered invalid if mail sent to that address by the licensee has been returned by the postal authorities as undeliverable and if subsequent attempts by the licensee to obtain a current valid address for the individual have been unsuccessful.

(4) In the case of providing real estate settlement services, at the time the customer completes execution of all documents related to the real estate closing, payment for the services has been received, or the licensee has completed all of the licensee's responsibilities with respect to the settlement, including filing documents on the public record, whichever is later.

(c) When a licensee is required under this section to deliver an annual privacy notice, the licensee shall deliver the notice as specified under section 8 of this chapter.

Sec. 5. (a) The initial, annual, and revised privacy notices that a licensee provides under sections 3, 4, and 7 of this chapter must include each of the following items of information, in addition to any other information that the licensee provides, that applies to the licensee and to the consumers to whom the licensee sends the licensee's privacy notice:

(1) The categories of nonpublic personal financial information that the licensee collects.

(2) The categories of nonpublic personal financial information that the licensee discloses.

(3) The categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information, other than those parties to whom the licensee discloses information under sections 13 and 14 of this chapter.

(4) The categories of nonpublic personal financial information about the licensee's former customers that the licensee discloses and the categories of affiliates and nonaffiliated third parties to whom the licensee discloses nonpublic personal financial information about the licensee's former customers, other than the parties to whom the licensee discloses information under sections 13 and 14 of this chapter.

(5) If a licensee discloses nonpublic personal financial information to a nonaffiliated third party under section 12 of this chapter (and no other exception in sections 13 and 14 of this chapter applies to the disclosure), a separate description of the categories of information that the licensee discloses and the categories of third parties with whom the licensee has contracted.

(6) An explanation of the consumer's right under section 9(a) of this chapter to opt out of the disclosure of nonpublic personal financial information to nonaffiliated third parties, including the methods by which the consumer may exercise the right at that time.

(7) Any disclosures that the licensee makes under section 603(d)(2)(A)(iii) of the federal Fair Credit Reporting Act, 15 U.S.C. 1681a(d)(2)(A)(iii), regarding the ability to opt out of disclosures of information among affiliates.

(8) The licensee's policies and practices with respect to protecting the confidentiality and security of nonpublic personal information.

(9) Any disclosure that the licensee makes under subsection (b).

(b) If a licensee discloses nonpublic personal financial information as authorized under sections 13 and 14 of this chapter, the licensee is not required to list the exceptions in the initial or annual privacy notices required by sections 3 and 4 of this chapter. When describing the categories of parties to whom disclosure is made, the licensee shall state only that the licensee makes disclosures to other affiliated or nonaffiliated third parties, as applicable, as permitted by law.

(c) The following are examples of compliance with this section:

(1) A licensee satisfies the requirement to categorize the nonpublic personal financial information that the licensee collects if the licensee categorizes the information according to the source of the information, as applicable information:

(A) from the consumer;

(B) about the consumer's transactions with the licensee or its affiliates;

(C) about the consumer's transactions with nonaffiliated third parties; and

(D) from a consumer reporting agency.

(2) A licensee satisfies the requirement to categorize nonpublic personal financial information the licensee discloses if the licensee categorizes the information according to source, as described in subdivision (1), as applicable, and provides examples to illustrate the types of information in each category. The examples include the following:

(A) Information from the consumer, including application information, such as assets and income and identifying information, such as name, address, and Social Security number.

(B) Transaction information, such as information about balances, payment history, and parties to the transaction.

(C) Information from consumer reports, such as a consumer's creditworthiness and credit history.

(3) A licensee does not adequately categorize the information that the licensee discloses if the licensee uses only general terms, such as transaction information about the consumer. If a licensee reserves the right to disclose all of the nonpublic personal financial information about consumers that the licensee collects, the licensee may simply state that fact without describing the categories or examples of nonpublic personal information that the licensee discloses.

(4) A licensee satisfies the requirement to categorize the affiliates and nonaffiliated third parties to which the licensee discloses nonpublic personal financial information about consumers if the licensee identifies the types of businesses in which they engage.

(A) Types of businesses may be described by general terms only if the licensee uses a few illustrative examples of significant lines of business.

(B) A licensee also may categorize the affiliates and

nonaffiliated third parties to which the licensee discloses nonpublic personal financial information about consumers using more detailed categories.

(5) If a licensee discloses nonpublic personal financial information under the exception in section 12 of this chapter to a nonaffiliated third party to market products or services that the licensee offers alone or jointly with another financial institution, the licensee satisfies the disclosure requirement of subsection (a)(5) if the licensee:

(A) lists the categories of nonpublic personal financial information that the licensee discloses, using the same categories and examples the licensee used to meet the requirements of subsection (a)(2), as applicable; and

(B) states whether the third party is a:

(i) service provider that performs marketing services on the licensee's behalf or on behalf of the licensee and another financial institution; or

(ii) financial institution with whom the licensee has a joint marketing agreement.

(6) If a licensee does not disclose, and does not reserve the right to disclose, nonpublic personal financial information about customers or former customers to affiliates or nonaffiliated third parties, except as authorized under sections 13 and 14 of this chapter, the licensee may state that fact, in addition to the information that the licensee shall provide under subsections (a)(1), (a)(8), (a)(9), and (b).

(7) A licensee describes the licensee's policies and practices with respect to protecting the confidentiality and security of nonpublic personal financial information if the licensee does both of the following:

(A) Describes in general terms who is authorized to have access to the information.

(B) States whether the licensee has security practices and procedures in place to ensure the confidentiality of the information in accordance with the licensee's policy. The licensee is not required to describe technical information about the safeguards that the licensee uses.

(d) A licensee may satisfy the initial notice requirements of sections 3(a)(2) and 6(d) of this chapter for a consumer who is not a customer by providing a short form initial notice at the same time that the licensee delivers an opt out notice as required under section 6 of this chapter. A short form notice must:

(1) be clear and conspicuous;

(2) state that the licensee's privacy notice is available upon request; and

(3) explain a reasonable means by which the consumer may obtain the notice.

(e) A licensee shall deliver the licensee's short form initial notice as specified under section 8 of this chapter. The licensee is not required to deliver the licensee's privacy notice with the licensee's short form initial notice. The licensee may provide the consumer a reasonable means to obtain the licensee's privacy notice. If a consumer who receives the licensee's short form notice requests the licensee's privacy notice, the licensee shall deliver the licensee's privacy notice as specified under section 8 of this chapter.

(f) A licensee provides a reasonable means by which a consumer may obtain a copy of the licensee's privacy notice if the licensee does either of the following:

(1) Provides a toll free telephone number that the consumer may call to request the notice.

(2) For a consumer who conducts business in person at the licensee's office, maintains copies of the notice on hand that the licensee provides to the consumer immediately upon request.

(g) A licensee's notice may include the following:

(1) Categories of nonpublic personal financial information that the licensee reserves the right to disclose in the future, but does not currently disclose.

(2) Categories of affiliates or nonaffiliated third parties to whom the licensee reserves the right in the future to disclose, but to whom the license does not currently disclose, nonpublic financial information.

Sec. 6. (a) If a licensee is required to provide an opt out notice under section 9(a) of this chapter, the licensee shall provide a clear and conspicuous notice to each of the licensee's consumers that accurately explains the right to opt out under section 9(a) of this chapter. The notice shall state all of the following:

(1) The licensee discloses or reserves the right to disclose nonpublic personal financial information about its consumer to a nonaffiliated third party.

(2) The consumer has the right to opt out of that disclosure.

(3) A reasonable means by which the consumer may exercise the opt out right.

(b) The following are examples of compliance with subsection

(a):

(1) A licensee provides adequate notice that a consumer can opt out of the disclosure of nonpublic personal financial information to a nonaffiliated third party if the licensee does all of the following:

(A) Identifies all of the categories of nonpublic personal financial information that the licensee discloses or reserves the right to disclose, and all of the categories of nonaffiliated third parties to which the licensee discloses the information, as described in section 5(a)(2) and 5(a)(3) of this chapter.

(B) States that the consumer can opt out of the disclosure of the information.

(C) Identifies the insurance products or services that the consumer obtains from the licensee, either singly or jointly, to which the opt out direction would apply.

(2) A licensee provides a reasonable means to exercise an opt out right if the licensee does any of the following:

(A) Designates check-off boxes in a prominent position on the relevant forms with the opt out notice.

(B) Includes a reply form together with the opt out notice.

(C) Provides an electronic means to opt out, such as a form that can be sent via electronic mail or a process at the licensee's Web site, if the consumer agrees to the electronic delivery of information.

(D) Provides a toll free telephone number that consumers may call to opt out.

(3) A licensee does not provide a reasonable means of opting out if the only means of opting out:

(A) is for the consumer to write the consumer's own letter to exercise that opt out right; or

(B) as described in any notice subsequent to the initial notice, is to use a check-off box that the licensee provided with the initial notice, but did not include with the subsequent notice.

(4) A licensee may require each consumer to opt out through a specific means as long as the means is reasonable for the consumer.

(c) A licensee may provide an opt out notice together with or on the same written or electronic form as the initial notice that the licensee provides in under section 3 of this chapter.

(d) If a licensee provides an opt out notice later than required

for the initial notice under section 3 of this chapter, the licensee shall include a copy of the initial notice with the opt out notice in writing or, if the consumer agrees, electronically.

(e) The following apply to joint relationships:

(1) If two (2) or more consumers jointly obtain an insurance product or service from a licensee, the licensee may provide a single opt out notice. The licensee's opt out notice shall explain how the licensee will treat an opt out direction by a joint consumer.

(2) Any of the joint consumers may exercise the right to opt out. The licensee may either:

(A) treat an opt out direction by a joint consumer as applying to all of the associated joint consumers; or

(B) permit each joint consumer to opt out separately.

(3) If a licensee permits each joint consumer to opt out separately, the licensee shall permit one (1) of the joint consumers to opt out on behalf of all of the joint consumers.

(4) A licensee may not require all joint consumers to opt out before the licensee implements any opt out direction.

(f) A licensee shall comply with a consumer's opt out direction as soon as reasonably practicable after the direction is received by the licensee.

(g) A consumer may exercise the right to opt out at any time.

(h) A consumer's direction to opt out under this section is effective until the consumer revokes the direction in writing or, if the consumer agrees, electronically. When a consumer relationship terminates, the customer's opt out direction continues to apply to the nonpublic personal financial information that the licensee collected during or related to that relationship. If the individual subsequently establishes a new customer relationship with the licensee, the opt out direction that applied to the former relationship does not apply to the new relationship.

(i) When a licensee is required to deliver an opt out notice under this section, the licensee shall deliver the notice as specified under section 8 of this chapter.

Sec. 7. (a) Except as otherwise authorized in this chapter, a licensee shall not, directly or through an affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party other than as described in the initial notice that the licensee provided to the consumer under section 3 of this chapter unless the:

(1) licensee has provided to the consumer a clear and

conspicuous revised notice that accurately describes the licensee's policies and practices;

(2) licensee has provided to the consumer a new opt out notice;

(3) licensee has given the consumer a reasonable opportunity, before the licensee discloses the information to the nonaffiliated third party, to opt out of the disclosure; and

(4) consumer does not opt out.

(b) Except as otherwise permitted under sections 12 through 14 of this chapter, a licensee shall provide a revised notice before the licensee does any of the following:

(1) Discloses a new category of nonpublic personal financial information to any nonaffiliated third party.

(2) Discloses nonpublic personal financial information to a new category of nonaffiliated third party.

(3) Discloses nonpublic personal financial information regarding a former customer to a nonaffiliated third party, if the former customer has not had the opportunity to exercise an opt out right regarding the disclosure.

(c) A revised notice is not required if the licensee discloses nonpublic personal financial information to a new nonaffiliated third party that the licensee adequately described in the licensee's prior notice.

(d) When a licensee is required to deliver a revised privacy notice under this section, the licensee shall deliver the notice as specified under section 8 of this chapter.

Sec. 8. (a) A licensee shall provide notices required under this chapter so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, electronically.

(b) A licensee may reasonably expect that a consumer will receive actual notice if the licensee does any of the following:

(1) Hand delivers a printed copy of the notice to the consumer.

(2) Mails a printed copy of the notice to the last known address of the consumer separately, or in a policy, billing, or other written communication.

(3) For a consumer who conducts transactions electronically, posts the notice on the electronic site and requires the consumer to acknowledge receipt of the notice as a necessary step to obtaining a particular insurance product or service.

(4) For an isolated transaction with a consumer, such as the licensee providing an insurance quote or selling the consumer

travel insurance, posts the notice and requires the consumer to acknowledge receipt of the notice as a necessary step to obtaining the particular insurance product or service.

(c) A licensee may not reasonably expect that a consumer will receive actual notice of the licensee's privacy policies and practices if the licensee does either of the following:

(1) Only posts a sign in the licensee's office or generally publishes advertisements of the licensee's privacy policies and practices.

(2) Sends the notice via electronic mail to a consumer who does not obtain an insurance product or service from the licensee electronically.

(d) A licensee may reasonably expect that a customer will receive actual notice of the licensee's annual privacy notice if the customer:

(1) uses the licensee's Web site to access insurance products and services electronically and agrees to receive notices at the Web site and the licensee posts the licensee's current privacy notice continuously in a clear and conspicuous manner on the Web site; or

(2) has requested that the licensee refrain from sending any information regarding the customer relationship, and the licensee's current privacy notice remains available to the customer upon request.

(e) A licensee may not provide any notice required under this chapter solely by orally explaining the notice, either in person or over the telephone.

(f) For customers only, a licensee shall provide the initial notice required under section 3(a)(1) of this chapter, the annual notice required under section 4(a) of this chapter, and the revised notice required under section 7 of this chapter so that the customer can retain them or obtain them later in writing or, if the customer agrees, electronically. A licensee provides a privacy notice to the customer so that the customer can retain the notice or obtain the notice later if the licensee does any of the following:

(1) Hand delivers a printed copy of the notice to the customer.

(2) Mails a printed copy of the notice to the last known address of the customer.

(3) Makes the licensee's current privacy notice available on a Web site (or a link to another Web site) for the customer who obtains an insurance product or service electronically and agrees to receive the notice at the Web site.

(g) A licensee may provide a joint notice from the licensee and one (1) or more of the licensee's affiliates or other financial institutions, as identified in the notice, as long as the notice is accurate with respect to the licensee and the other institutions. A licensee also may provide a notice on behalf of another financial institution.

(h) If two (2) or more consumers jointly obtain an insurance product or service from a licensee, the licensee may satisfy the initial, annual, and revised notice requirements of sections 3(a), 4(a), and 7(a) of this chapter, by providing one (1) notice to the consumers jointly.

Sec. 9. (a) Except as otherwise authorized in this chapter, a licensee may not, directly or through an affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party unless the:

(1) licensee has provided to the consumer an initial notice as required under section 3 of this chapter;

(2) licensee has provided to the consumer an opt out notice as required under section 6 of this chapter;

(3) licensee has given the consumer a reasonable opportunity, before the licensee discloses the information to the nonaffiliated third party, to opt out of the disclosure; and

(4) consumer does not opt out.

(b) Opt out means a direction by the consumer that the licensee not disclose nonpublic personal financial information about the consumer to a nonaffiliated third party, other than as permitted under sections 12 through 14 of this chapter.

(c) A licensee provides a consumer with a reasonable opportunity to opt out if the licensee does any of the following:

(1) Mails the notices required under subsection (a) to the consumer and allows the consumer to opt out by mailing a form, calling a toll free telephone number or any other reasonable means within thirty (30) days from the date the licensee mailed the notices.

(2) If a customer opens an on-line account with the licensee and agrees to receive the notices required under subsection (a) electronically, allows the customer to opt out by any reasonable means within thirty (30) days after the date that the customer acknowledges receipt of the notices in conjunction with opening the account.

(3) For an isolated transaction, such as providing the consumer with an insurance quote, provides the consumer

with a reasonable opportunity to opt out if the licensee provides the notices required under subsection (a) at the time of the transaction and requests that the consumer decide, as a necessary part of the transaction, whether to opt out before completing the transaction.

(d) A licensee shall comply with this section, regardless of whether the licensee and the consumer have established a customer relationship. Unless a licensee complies with this section, the licensee may not, directly or through any affiliate, disclose any nonpublic personal financial information about a consumer that the licensee has collected, regardless of whether the licensee collected the information before or after receiving the direction to opt out from the consumer.

(e) A licensee may allow a consumer to select certain nonpublic personal financial information or certain nonaffiliated third parties with respect to which the consumer wishes to opt out.

Sec. 10. (a) If a licensee receives nonpublic personal financial information from a nonaffiliated financial institution under an exception under section 13 or 14 of this chapter, the licensee's disclosure and use of the information is limited as follows:

(1) The licensee may disclose the information to the affiliates of the financial institution from which the licensee received the information.

(2) The licensee may disclose the information to the licensee's affiliates, but the licensee's affiliates may, in turn, disclose and use the information only to the extent that the licensee may disclose and use the information.

(3) The licensee may disclose and use the information under an exception in section 13 or 14 of this chapter, in the ordinary course of business to carry out the activity covered by the exception under which the licensee received the information.

(b) If a licensee receives nonpublic personal financial information from a nonaffiliated financial institution other than under an exception under section 13 or 14 of this chapter, the licensee may disclose the information only to:

(1) the affiliates of the financial institution from which the licensee received the information;

(2) the licensee's affiliates, but the licensee's affiliates may, in turn, disclose the information only to the extent that the licensee may disclose the information; and

(3) any other person, if the disclosure would be lawful if made

directly to that person by the financial institution from which the licensee received the information.

(c) If a licensee discloses nonpublic personal financial information to a nonaffiliated third party under an exception under section 13 or 14 of this chapter, the third party may disclose and use the information only as follows:

(1) The third party may disclose the information to the licensee's affiliates.

(2) The third party may disclose the information to the third party's affiliates, but the third party's affiliates may, in turn, disclose and use the information only to the extent that the third party may disclose and use the information.

(3) The third party may disclose and use the information under an exception under section 13 or 14 of this chapter in the ordinary course of business to carry out the activity covered by the exception under which the third party received the information.

(d) If a licensee discloses nonpublic personal financial information to a nonaffiliated third party other than under an exception under section 13 or 14 of this chapter, the third party may disclose the information only to:

(1) the licensee's affiliates;

(2) the third party's affiliates, but the third party's affiliates, in turn, may disclose the information only to the extent the third party can disclose the information; and

(3) any other person, if the disclosure would be lawful if the licensee made the disclosure directly to the person.

Sec. 11. (a) A licensee shall not, directly or through an affiliate, disclose, other than to a consumer reporting agency, a policy number or similar form of access number or access code for a consumer's policy or transaction account to any nonaffiliated third party for use in telemarketing, direct mail marketing, or other marketing through electronic mail to the consumer.

(b) Subsection (a) does not apply if a licensee discloses a policy number or similar form of access number or access code to any of the following:

(1) The licensee's service provider solely in order to perform marketing for the licensee's own products or services, as long as the service provider is not authorized to directly initiate charges to the account.

(2) A licensee who is a producer solely in order to perform marketing for the licensee's own products or services.

(3) A participant in an affinity or similar program where the participants in the program are identified to the customer when the customer enters into the program.

(c) A policy number, or similar form of access number or access code, does not include a number or code in an encrypted form, as long as the licensee does not provide the recipient with a means to decode the number or code.

(d) For purposes of this section, a policy or transaction account is an account other than a deposit account or a credit card account. A policy or transaction account does not include an account to which third parties cannot initiate charges.

Sec. 12. (a) The opt out requirements under sections 6 and 9 of this chapter do not apply when a licensee provides nonpublic personal financial information to a nonaffiliated third party to perform services for the licensee or functions on the licensee's behalf, if the licensee:

(1) provides the initial notice as provided under section 3 of this chapter; and

(2) enters into a contractual agreement with the third party that prohibits the third party from disclosing or using the information other than to carry out the purposes for which the licensee disclosed the information, including use under an exception under section 13 or 14 of this chapter in the ordinary course of business to carry out those purposes.

(b) The services a nonaffiliated third party performs for a licensee under subsection (a) may include marketing of the licensee's own products or services or marketing of financial products or services offered under joint agreements between the licensee and one (1) or more financial institutions.

(c) For purposes of this section, "joint agreement" means a written contract under which a licensee and one (1) or more financial institutions jointly offer, endorse, or sponsor a financial product or service.

Sec. 13. (a) The requirements for initial notice under section 3(a)(2) of this chapter, the opt out under sections 6 and 9 of this chapter, and service providers and joint marketing under section 12 of this chapter do not apply if a licensee discloses nonpublic personal financial information as necessary to effect, administer, or enforce a transaction that a consumer requests or authorizes, or in connection with any of the following:

(1) Servicing or processing an insurance product or service that the consumer requests or authorizes.

(2) Maintaining or servicing the consumer's account with a licensee, or with another entity as part of a private label credit card program or other extension of credit on behalf of such entity.

(3) A proposed or actual securitization, secondary market sale, including sales of servicing rights, or similar transaction related to a transaction of the consumer.

(4) Reinsurance or stop loss or excess loss insurance.

(b) As used in this section, "necessary to effect, administer, or enforce a transaction" means that the disclosure is required, or is:

(1) one (1) of the lawful or appropriate methods, to enforce the licensee's rights or the rights of other persons engaged in carrying out the financial transaction or providing the product or service; or

(2) a usual, appropriate, or acceptable method to:

(A) carry out the transaction or the product or service business of which the transaction is a part, and record, service, or maintain the consumer's account in the ordinary course of providing the insurance product or service;

(B) administer or service benefits or claims relating to the transaction or the product or service business of which the transaction is a part;

(C) provide a confirmation, statement, or other record of the transaction, or information on the status or value of the insurance product or service to the consumer or the consumer's agent or broker;

(D) accrue or recognize incentives or bonuses associated with the transaction that are provided by a licensee or any other party; and

(E) underwrite insurance at the consumer's request or for any of the following purposes as they relate to a consumer's insurance:

(i) Account administration.

(ii) Reporting.

(iii) Investigating or preventing fraud or material misrepresentation.

(iv) Processing premium payments.

(v) Processing insurance claims.

(vi) Administering insurance benefits, including utilization review activities.

(vii) Participating in research projects.

(viii) As otherwise required or specifically permitted by federal or state law.

(ix) In connection with the authorization, settlement, billing, processing, clearing, transferring, reconciling, or collection of amounts charged, debited, or otherwise paid using a debit, credit, or other payment card, check, or account number, or by other payment means.

(x) In connection with the transfer of receivables, accounts, or interests in the receivables or accounts.

(xi) In connection with the audit of debit, credit, or other payment information.

Sec. 14. (a) The requirements for initial notice to consumers under section 3(a)(2) of this chapter, the opt out under sections 6 and 9 of this chapter, and service providers and joint marketing under section 12 of this chapter do not apply when a licensee discloses nonpublic personal financial information as follows:

(1) With the consent or at the direction of the consumer, provided that the consumer has not revoked the consent or direction;

(2) In any of the following situations:

(A) To protect the confidentiality or security of a licensee's records pertaining to the consumer, service, product, or transaction.

(B) To protect against or prevent actual or potential fraud or unauthorized transactions.

(C) For required institutional risk control or for resolving consumer disputes or inquiries.

(D) To persons holding a legal or beneficial interest relating to the consumer.

(E) To persons acting in a fiduciary or representative capacity on behalf of the consumer.

(3) To provide information to:

(A) insurance rate advisory organizations;

(B) guaranty funds or agencies;

(C) agencies that are rating a licensee;

(D) persons who are assessing the licensee's compliance with industry standards; and

(E) the licensee's attorneys, accountants, and auditors.

(4) To the extent specifically permitted or required under other provisions of law and in accordance with the federal Right to Privacy Act of 1978 (12 U.S.C. 3401 et seq.), to law enforcement agencies, including the Federal Reserve Board,

Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, Office of Thrift Supervision, National Credit Union Administration, the Securities and Exchange Commission, the Secretary of the Treasury, with respect to 31 U.S.C. Chapter 53, Subchapter II (Records and Reports on Monetary Instruments and Transactions) and 12 U.S.C. Chapter 21 (Financial Recordkeeping), a state insurance authority, and the Federal Trade Commission, self-regulatory organization or for an investigation on a matter related to public safety.

(5) To a consumer reporting agency in accordance with the federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) or from a consumer report reported by a consumer reporting agency.

(6) In connection with a proposed or actual sale, merger, transfer, or exchange of all or a portion of a business or operating unit if the disclosure of nonpublic personal financial information concerns solely consumers of the business or unit.

(7) To comply with or respond to any of the following:

(A) Federal, state, or local laws, rules, and other applicable legal requirements.

(B) Properly authorized civil, criminal, or regulatory investigation, or subpoena, or summons by federal, state, or local authorities.

(C) Judicial process or governmental regulatory authorities having jurisdiction over a licensee for examination, compliance, or other purposes as authorized by law.

(8) For purposes related to the replacement of a group benefit plan, a group health plan, a group welfare plan, or a workers' compensation plan.

(b) A consumer may revoke consent by subsequently exercising the right to opt out of future disclosures of nonpublic personal information as permitted under section 6(g) of this chapter.

Sec. 15. This chapter shall not be construed to modify, limit, or supersede the operation of the federal Fair Credit Reporting Act, 15 U.S.C. 1681 et seq., and no inference shall be drawn on the basis of the provisions of this chapter regarding whether information is transaction or experience information under Section 603 of the Fair Credit Reporting Act.

Sec. 16. A licensee shall not unfairly discriminate against any consumer or customer because that consumer or customer has

opted out from the disclosure of the consumer's or customer's nonpublic personal financial information.

Sec. 17. A violation of this chapter is an unfair method of competition and an unfair and deceptive act and practice in the business of insurance subject to IC 27-4-1.".

Page 77, between lines 9 and 10, begin a new paragraph and insert:

SECTION 47. [EFFECTIVE UPON PASSAGE]: **(a) A licensee shall, not later than July 1, 2001, provide an initial notice, as required under IC 27-2-20-3, as added by this act, of this chapter, to consumers who are the licensee's customers on July 1, 2001.**

(b) Until July 1, 2002, a contract entered into before July 1, 2000, by a licensee with a nonaffiliated third party to perform services for the licensee or functions on behalf of the licensee is considered to be in compliance with the requirements of IC 27-2-20-12(a), as added by this act, regardless of whether the contract includes a requirement that the third party maintain the confidentiality of nonpublic personal information.

(c) This SECTION expires July 1, 2005.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 386 as printed April 9, 2001.)

CROOKS

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 386 be amended to read as follows:

Page 40, between lines 33 and 34, begin a new paragraph and insert:

"SECTION 12. IC 27-4-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. The following are hereby defined as unfair methods of competition and unfair and deceptive acts and practices in the business of insurance:

(1) Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, or statement:

(A) misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon;

(B) making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies;

(C) making any misleading representation or any

misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates;

(D) using any name or title of any policy or class of policies misrepresenting the true nature thereof; or

(E) making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender his insurance.

(2) Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to any person in the conduct of his insurance business, which is untrue, deceptive, or misleading.

(3) Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance.

(4) Entering into any agreement to commit, or individually or by a concerted action committing any act of boycott, coercion, or intimidation resulting or tending to result in unreasonable restraint of, or a monopoly in, the business of insurance.

(5) Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive. Making any false entry in any book, report, or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to which such insurer is required by law to report, or which has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a

true entry of any material fact pertaining to the business of such insurer in any book, report, or statement of such insurer.

(6) Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

(7) Making or permitting any of the following:

(A) Unfair discrimination between individuals of the same class and equal expectation of life in the rates or assessments charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract; however, in determining the class, consideration may be given to the nature of the risk, plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(B) Unfair discrimination between individuals of the same class involving essentially the same hazards in the amount of premium, policy fees, assessments, or rates charged or made for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever; however, in determining the class, consideration may be given to the nature of the risk, the plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

(C) Excessive or inadequate charges for premiums, policy fees, assessments, or rates, or making or permitting any unfair discrimination between persons of the same class involving essentially the same hazards, in the amount of premiums, policy fees, assessments, or rates charged or made for:

(i) policies or contracts of reinsurance or joint reinsurance, or abstract and title insurance;

(ii) policies or contracts of insurance against loss or damage to aircraft, or against liability arising out of the ownership, maintenance, or use of any aircraft, or of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance; or

(iii) policies or contracts of any other kind or kinds of

insurance whatsoever.

However, nothing contained in clause (C) shall be construed to apply to any of the kinds of insurance referred to in clauses (A) and (B) nor to reinsurance in relation to such kinds of insurance. Nothing in clause (A), (B), or (C) shall be construed as making or permitting any excessive, inadequate, or unfairly discriminatory charge or rate or any charge or rate determined by the department or commissioner to meet the requirements of any other insurance rate regulatory law of this state.

(8) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract or policy of insurance of any kind or kinds whatsoever, including but not in limitation, life annuities, or agreement as to such contract or policy other than as plainly expressed in such contract or policy issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends, savings, or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract or policy; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, limited liability company, or partnership, or any dividends, savings, or profits accrued thereon, or anything of value whatsoever not specified in the contract. Nothing in this subdivision and subdivision (7) shall be construed as including within the definition of discrimination or rebates any of the following practices:

(A) Paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, so long as any such bonuses or abatement of premiums are fair and equitable to policyholders and for the best interests of the company and its policyholders.

(B) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense.

(C) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at

the end of the first year or of any subsequent year of insurance thereunder, which may be made retroactive only for such policy year.

(D) Paying by an insurer or agent thereof duly licensed as such under the laws of this state of money, commission, or brokerage, or giving or allowing by an insurer or such licensed agent thereof anything of value, for or on account of the solicitation or negotiation of policies or other contracts of any kind or kinds, to a broker, agent, or solicitor duly licensed under the laws of this state, but such broker, agent, or solicitor receiving such consideration shall not pay, give, or allow credit for such consideration as received in whole or in part, directly or indirectly, to the insured by way of rebate.

(9) Requiring, as a condition precedent to loaning money upon the security of a mortgage upon real property, that the owner of the property to whom the money is to be loaned negotiate any policy of insurance covering such real property through a particular insurance agent or broker or brokers. However, this subdivision shall not prevent the exercise by any lender of its or his right to approve or disapprove of the insurance company selected by the borrower to underwrite the insurance.

(10) Entering into any contract, combination in the form of a trust or otherwise, or conspiracy in restraint of commerce in the business of insurance.

(11) Monopolizing or attempting to monopolize or combining or conspiring with any other person or persons to monopolize any part of commerce in the business of insurance. However, participation as a member, director, or officer in the activities of any nonprofit organization of agents or other workers in the insurance business shall not be interpreted, in itself, to constitute a combination in restraint of trade or as combining to create a monopoly as provided in this subdivision and subdivision (10). The enumeration in this chapter of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the commissioner or department or of any court of review under section 8 of this chapter.

(12) Requiring as a condition precedent to the sale of real or personal property under any contract of sale, conditional sales contract, or other similar instrument or upon the security of a chattel mortgage, that the buyer of such property negotiate any policy of insurance covering such property through a particular

insurance company, agent, or broker or brokers. However, this subdivision shall not prevent the exercise by any seller of such property or the one making a loan thereon, of his, her, or its right to approve or disapprove of the insurance company selected by the buyer to underwrite the insurance.

(13) Issuing, offering, or participating in a plan to issue or offer, any policy or certificate of insurance of any kind or character as an inducement to the purchase of any property, real, personal, or mixed, or services of any kind, where a charge to the insured is not made for and on account of such policy or certificate of insurance. However, this subdivision shall not apply to any of the following:

(A) Insurance issued to credit unions or members of credit unions in connection with the purchase of shares in such credit unions.

(B) Insurance employed as a means of guaranteeing the performance of goods and designed to benefit the purchasers or users of such goods.

(C) Title insurance.

(D) Insurance written in connection with an indebtedness and intended as a means of repaying such indebtedness in the event of the death or disability of the insured.

(E) Insurance provided by or through motorists service clubs or associations.

(F) Insurance that is provided to the purchaser or holder of an air transportation ticket and that:

(i) insures against death or nonfatal injury that occurs during the flight to which the ticket relates;

(ii) insures against personal injury or property damage that occurs during travel to or from the airport in a common carrier immediately before or after the flight;

(iii) insures against baggage loss during the flight to which the ticket relates; or

(iv) insures against a flight cancellation to which the ticket relates.

(14) Refusing, because of the for-profit status of a hospital or medical facility, to make payments otherwise required to be made under a contract or policy of insurance for charges incurred by an insured in such a for-profit hospital or other for-profit medical facility licensed by the state department of health.

(15) Refusing to insure an individual, refusing to continue to issue insurance to an individual, limiting the amount, extent, or kind of

coverage available to an individual, or charging an individual a different rate for the same coverage, solely because of that individual's blindness or partial blindness, except where the refusal, limitation, or rate differential is based on sound actuarial principles or is related to actual or reasonably anticipated experience.

(16) Committing or performing, with such frequency as to indicate a general practice, unfair claim settlement practices (as defined in section 4.5 of this chapter).

(17) Between policy renewal dates, unilaterally canceling an individual's coverage under an individual or group health insurance policy solely because of the individual's medical or physical condition.

(18) Using a policy form or rider that would permit a cancellation of coverage as described in subdivision (17).

(19) Violating IC 27-1-22-25 or IC 27-1-22-26 concerning motor vehicle insurance rates.

(20) Violating IC 27-8-21-2 concerning advertisements referring to interest rate guarantees.

(21) Violating IC 27-8-24.3 concerning insurance and health plan coverage for victims of abuse.

(22) Violating IC 27-1-15.5-3(h).

(23) Violating IC 27-8-26 concerning genetic screening or testing.

(24) Violating IC 27-7-3-21 concerning title insurance premiums in multistate transactions.".

Page 41, between lines 19 and 20, begin a new paragraph and insert:

"SECTION 14. IC 27-7-3-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 18. The provisions of this chapter, ~~shall~~ **except section 21 of this chapter, do** not apply to any insurance company organized or desiring to organize under and pursuant to IC 27-1 nor to any person, firm, partnership, corporation, limited liability company, association, or company whose business is the making of abstracts of title to real estate and attaching their certificate thereto and not engaging in the business of making title insurance, nor to any person, firm, partnership, corporation, limited liability company, or association acting as an authorized agent for a duly qualified title insurance company.

SECTION 15. IC 27-7-3-21 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 21. (a) This section applies to the issuance of title insurance in Indiana in a real estate transaction in which title insurance is being issued in at least one (1) other state in which title**

insurance premiums are computed based on rates filed with a governmental entity.

(b) The title insurance premium rate charged by the title insurance company providing title insurance in Indiana may not be less than the average of the title insurance rates charged for title insurance in the other participating states that have filed rates.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 386 as printed April 9, 2001.)

DVORAK

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 386 be amended to read as follows:

Page 32, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 9. IC 27-1-15.6 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]:

Chapter 15.6. Insurance Producers

Sec. 1. This chapter governs the qualifications and procedures for the licensing of insurance producers. This chapter does not apply to surplus lines producers licensed under IC 27-1-15.8 except as specifically provided in this chapter or in IC 27-1-15.8.

Sec. 2. The following definitions apply throughout this chapter, IC 27-1-15.7, and IC 27-1-15.8:

(1) "Bureau" refers to the child support bureau of the division of family and children established under IC 12-17-2-5.

(2) "Business entity" means a corporation, an association, a partnership, a limited liability company, a limited liability partnership, or another legal entity.

(3) "Commissioner" means the insurance commissioner appointed under IC 27-1-1-2.

(4) "Consultant" means a person who:

(A) holds himself or herself out to the public as being engaged in the business of offering; or

(B) for a fee, offers;

any advice, counsel, opinion, or service with respect to the benefits, advantages, or disadvantages promised under any policy of insurance that could be issued in Indiana.

(5) "Delinquent" means the condition of being at least:

(A) two thousand dollars ($2,000); or

(B) three (3) months;

past due in the payment of court ordered child support.

(6) "Home state" means the District of Columbia or any state or territory of the United States in which an insurance producer:

(A) maintains the insurance producer's principal place of residence or principal place of business; and

(B) is licensed to act as an insurance producer.

(7) "Insurance producer" means a person required to be licensed under the laws of Indiana to sell, solicit, or negotiate insurance.

(8) "License" means a document issued by the commissioner authorizing a person to act as an insurance producer for the lines of authority specified in the document. The license itself does not create any authority, actual, apparent, or inherent, in the holder to represent or commit an insurance carrier.

(9) "Limited line credit insurance" includes the following:

(A) Credit life insurance.

(B) Credit disability insurance.

(C) Credit property insurance.

(D) Credit unemployment insurance.

(E) Involuntary unemployment insurance.

(F) Mortgage life insurance.

(G) Mortgage guaranty insurance.

(H) Mortgage disability insurance.

(I) Guaranteed automobile protection (gap) insurance.

(J) Any other form of insurance:

(i) that is offered in connection with an extension of credit and is limited to partially or wholly extinguishing that credit obligation; and

(ii) that the insurance commissioner determines should be designated a form of limited line credit insurance.

(10) "Limited line credit insurance producer" means a person who sells, solicits, or negotiates one (1) or more forms of limited line credit insurance coverage to individuals through a master, corporate, group, or individual policy.

(11) "Limited lines insurance" means any of the following:

(A) The lines of insurance defined in section 18 of this chapter.

(B) Any line of insurance the recognition of which is considered necessary by the commissioner for the purpose

of complying with section 8(e) of this chapter.

(C) For purposes of section 8(e) of this chapter, any form of insurance with respect to which authority is granted by a home state that restricts the authority granted by a limited lines producer's license to less than total authority in the associated major lines described in section 7(a)(1) through 7(a)(6) of this chapter.

(12) "Limited lines producer" means a person authorized by the commissioner to sell, solicit, or negotiate limited lines insurance.

(13) "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.

(14) "Person" means an individual or business entity.

(15) "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of a company.

(16) "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company.

(17) "Surplus lines producer" means a person who sells, solicits, negotiates, or procures from an insurance company not licensed to transact business in Indiana an insurance policy that cannot be procured from insurers licensed to do business in Indiana.

(18) "Terminate" means:

(A) the cancellation of the relationship between an insurance producer and the insurer; or

(B) the termination of a producer's authority to transact insurance.

(19) "Uniform business entity application" means the current version of the national association of insurance commissioners uniform business entity application for resident and nonresident business entities.

(20) "Uniform application" means the current version of the national association of insurance commissioners uniform application for resident and nonresident producer licensing.

Sec. 3. (a) A person shall not sell, solicit, or negotiate insurance in Indiana for any class or classes of insurance unless the person is

licensed for that line of authority under this chapter.

(b) An insurer shall require a person who sells, solicits, or negotiates insurance in Indiana by any means of communication on behalf of the insurer to be licensed under this chapter.

(c) A violation of subsection (b) is deemed an unfair method of competition and an unfair and deceptive act and practice in the business of insurance under IC 27-4-1-4.

Sec. 4. (a) As used in this section, "insurer" does not include an officer, director, employee, subsidiary, or affiliate of an insurer.

(b) This chapter does not require an insurer to obtain an insurance producer license.

(c) The following are not required to be licensed as an insurance producer:

(1) An officer, director, or employee of an insurer or of an insurance producer, if the officer, director, or employee does not receive any commission on policies written or sold to insure risks that reside, are located, or are to be performed in Indiana, and if:

(A) the officer, director, or employee's activities are executive, administrative, managerial, clerical, or a combination of these, and are only indirectly related to the sale, solicitation, or negotiation of insurance;

(B) the officer, director, or employee's function relates to underwriting, loss control, inspection, or the processing, adjusting, investigating, or settling of a claim on a contract of insurance; or

(C) the officer, director, or employee is acting in the capacity of a special agent or agency supervisor assisting insurance producers and the officer, director, or employee's activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation, or negotiation of insurance.

(2) A person who secures and furnishes information for the purpose of:

(A) group life insurance, group property and casualty insurance, group annuities, group or blanket accident and sickness insurance;

(B) enrolling individuals under plans;

(C) issuing certificates under plans or otherwise assisting in administering plans; or

(D) performing administrative services related to mass

marketed property and casualty insurance;

where no commission is paid to the person for the service.

(3) A person identified in clauses (A) through (C) who is not in any manner compensated, directly or indirectly, by a company issuing a contract, to the extent that the person is engaged in the administration or operation of a program of employee benefits for the employer's or association's employees, or for the employees of a subsidiary or affiliate of the employer or association, that involves the use of insurance issued by an insurer:

(A) An employer or association.

(B) An officer, director, or employee of an employer or association.

(C) The trustees of an employee trust plan.

(4) An:

(A) employee of an insurer; or

(B) organization employed by insurers;

that is engaged in the inspection, rating, or classification of risks, or in the supervision of the training of insurance producers, and that is not individually engaged in the sale, solicitation, or negotiation of insurance.

(5) A person whose activities in Indiana are limited to advertising, without the intent to solicit insurance in Indiana, through communications in printed publications or other forms of electronic mass media whose distribution is not limited to residents of Indiana, provided that the person does not sell, solicit, or negotiate insurance that would insure risks residing, located, or to be performed in Indiana.

(6) A person who is not a resident of Indiana and who sells, solicits, or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one state insured under that contract, provided that:

(A) the person is otherwise licensed as an insurance producer to sell, solicit, or negotiate the insurance in the state where the insured maintains its principal place of business; and

(B) the contract of insurance insures risks located in that state.

(7) A salaried full-time employee who counsels or advises the employee's employer about the insurance interests of the employer or of the subsidiaries or business affiliates of the

employer, provided that the employee does not sell or solicit insurance or receive a commission.

(8) A representative of a county farmers mutual insurance company.

(9) An officer, employee, or representative of a rental company (as defined in IC 24-4-9-7) who negotiates or solicits insurance incidental to and in connection with the rental of a motor vehicle.

Sec. 5. (a) A resident individual applying for:

(1) an insurance producer license;

(2) a consultant's license; or

(3) a surplus lines producer license;

must pass a written examination unless the individual is exempt under section 9 of this chapter.

(b) The examination required under subsection (a) must test the knowledge of the individual concerning the:

(1) lines of authority for which application is made;

(2) duties and responsibilities of a licensee; and

(3) insurance laws and administrative rules of Indiana.

(c) Examinations required under this section must be developed and conducted under rules as may be prescribed by the commissioner.

(d) The commissioner may make arrangements, including contracting with an outside testing service, for administering examinations, collecting the nonrefundable examination fee as established by contract with an outside testing service, or collecting the nonrefundable licensure fee set forth in section 32 of this chapter.

(e) An individual who fails to appear for the examination required under subsection (a) as scheduled or who fails to pass the examination must reapply for an examination and remit all required fees and forms before being rescheduled for another examination.

Sec. 6. (a) A person applying for a resident insurance producer license shall make application to the commissioner on the uniform application and declare under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief.

(b) Before approving an application submitted under subsection (a), the commissioner must find that the individual meets the following requirements:

(1) Is at least eighteen (18) years of age.

(2) Has not committed any act that is a ground for denial, suspension, or revocation under section 12 of this chapter.

(3) Has completed, if required by the commissioner, a certified prelicensing course of study for the lines of authority for which the individual has applied.

(4) Has paid the nonrefundable fee set forth in section 32 of this chapter.

(5) Has successfully passed the examinations for the lines of authority for which the person has applied.

(c) An applicant for a resident insurance producer license must file with the commissioner on a form prescribed by the commissioner a certification of completion certifying that the applicant has completed an insurance producer program of study certified by the commissioner under IC 27-1-15.7-5 not more than six (6) months before the application for the license is received by the commissioner. This subsection applies only to licensees seeking qualification in the lines of insurance described in sections 7(a)(1) through 7(a)(6) of this chapter.

(d) A business entity, before acting as an insurance producer, is required to obtain an insurance producer license. The application submitted by a business entity under this subsection must be made using the uniform business entity application. Before approving the application, the commissioner must find that the business entity has:

(1) paid the fees required under section 32 of this chapter; and

(2) designated an individual licensed producer responsible for the business entity's compliance with the insurance laws and administrative rules of Indiana.

(e) The commissioner may require any documents reasonably necessary to verify the information contained in an application submitted under this subsection.

(f) An insurer that sells, solicits, or negotiates any form of limited line credit insurance shall provide a program of instruction approved by the commissioner to each individual whose duties will include selling, soliciting, or negotiating limited line credit insurance.

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

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

(1) is considered to have requested; and

(2) shall receive;

a life qualification under subsection (a)(1).

(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 non-governmental 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 non-governmental 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.

Sec. 8. (a) Unless denied licensure under section 12 of this chapter, a nonresident person shall receive a nonresident producer license if:

(1) the person is currently licensed as a resident and in good

standing in the person's home state;

(2) the person has submitted the proper request for licensure and has paid the fees required under section 32 of this chapter;

(3) the person has submitted or transmitted to the commissioner:

(A) the application for licensure that the person submitted to the person's home state; or

(B) a completed uniform application; and

(4) the person's home state awards non-resident producer licenses to residents of Indiana on the same basis as non-resident producer licenses are awarded to residents of other states under this chapter.

(b) The commissioner may verify a producer's licensing status through the Producer Database maintained by the National Association of Insurance Commissioners and its affiliates or subsidiaries.

(c) A:

(1) person who holds an Indiana nonresident producer's license and moves from one state to another state; or

(2) a resident producer who moves from Indiana to another state;

shall file a change of address with the Indiana department of insurance and provide certification from the new resident state not more than thirty (30) days after the change of legal residence. No fee or license application is required under this subsection.

(d) Notwithstanding any other provision of this chapter, a person licensed as a surplus lines producer in the person's home state shall receive a nonresident surplus lines producer license under subsection (a). Except as provided in subsection (a), nothing in this section otherwise amends or supercedes IC 27-1-15.8, as added by this act.

(e) Notwithstanding any other provision of this chapter, a person who is not a resident of Indiana and who is licensed as a limited lines credit insurance producer or another type of limited lines producer in the person's home state shall, upon application, receive a nonresident limited lines producer license under subsection (a) granting the same scope of authority as is granted under the license issued by the person's home state.

Sec. 9. (a) An individual who applies for an insurance producer license in Indiana and who was previously licensed for the same lines of authority in another state is not required to complete any

prelicensing education or examination. However, the exemption provided by this subsection is available only if:

(1) the individual is currently licensed in the other state; or

(2) the application is received within ninety (90) days after the cancellation of the applicant's previous license and:

(A) the other state issues a certification that, at the time of cancellation, the applicant was in good standing in that state; or

(B) the state's Producer Database records that are maintained by the National Association of Insurance Commissioners, its affiliates, or its subsidiaries, indicate that the producer is or was licensed in good standing for the line of authority requested.

(b) If a person is licensed as an insurance producer in another state and moves to Indiana, the person, to be authorized to act as an insurance producer in Indiana, must make application to become a resident licensee under section 6 of this chapter within ninety (90) days after establishing legal residence in Indiana. However, the person is not required to take prelicensing education or examination to obtain a license for any line of authority for which the person held a license in the other state unless the commissioner determines otherwise by rule.

(c) An individual who:

(1) has attained the designation of chartered life underwriter, certified financial planner, or chartered financial consultant; and

(2) applies for an insurance producer license in Indiana requesting qualification under sections:

(A) 7(a)(1);

(B) 7(a)(2); or

(C) 7(a)(5);

of this chapter;

is not required to complete prelicensing education, and is required to take only the portion of the examination required under section 5(b) of this chapter that pertains to Indiana laws and rules.

(d) An individual who has:

(1) attained the designation of chartered property and casualty underwriter, certified insurance counselor, or accredited advisor in insurance; and

(2) applies for an insurance producer license in Indiana requesting qualification under sections:

(A) 7(a)(3);

(B) 7(a)(4); or

(C) 7(a)(6);

of this chapter;

is not required to complete prelicensing education, and is required to take only the portion of the examination required under section 5(b) of this chapter that pertains to Indiana laws and rules.

Sec. 10. Before an insurance producer may do business in Indiana under any name other than the producer's legal name, the insurance producer shall notify the commissioner of the proposed use of the assumed name.

Sec. 11. (a) If the commissioner considers the issuance of a temporary license necessary for the servicing of an insurance business, the commissioner, without requiring an examination, may issue a temporary insurance producer license for a period of not more than one hundred eighty (180) days to any of the following:

(1) To the surviving spouse or court-appointed personal representative of a licensed individual insurance producer who dies or becomes mentally or physically disabled:

(A) to allow adequate time for the sale of the insurance business owned by the producer;

(B) to provide for the servicing of the insurance business until the recovery or return of the producer to the business; or

(C) to provide for the training and licensing of new personnel to operate the producer's business.

(2) To a member or employee of a business entity licensed as an insurance producer, upon the death or disability of an individual designated in the business entity application or the license.

(3) To the designee of a licensed individual insurance producer entering active service in the armed forces of the United States of America.

(4) To an individual in any other circumstance where the commissioner considers the public interest to be best served by the issuance to the individual of a temporary insurance producer license.

(b) The commissioner may by order limit the authority of a temporary licensee in any way considered necessary to protect insureds and the public. The commissioner may require the temporary licensee to have a suitable sponsor who is a licensed producer or insurer and who assumes responsibility for all acts of the temporary licensee and may impose other, similar

requirements designed to protect insureds and the public.

(c) The commissioner may by order revoke a temporary insurance producer license if the interest of insureds or the public are endangered. A temporary insurance producer license issued under subsection (a)(1)(A) expires at the time the owner or the personal representative disposes of the business.

Sec. 12. (a) For purposes of this section, "permanently revoke" means that:

(1) the producer's license shall never be reinstated; and

(2) the former licensee, after the license revocation, is not eligible to submit an application for a license to the department.

(b) The commissioner may levy a civil penalty, place an insurance producer on probation, suspend an insurance producer's license, revoke an insurance producer's license for a period of years, permanently revoke an insurance producer's license, or refuse to issue or renew an insurance producer license, or take any combination of these actions, for any of the following causes:

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

(2) Violating:

(A) an insurance law;

(B) a regulation;

(C) a subpoena of an insurance commissioner; or

(D) an order of an insurance commissioner;

of Indiana or of another state.

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

(4) Improperly withholding, misappropriating, or converting any monies or properties received in the course of doing insurance business.

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

(6) Having been convicted of a felony.

(7) Admitting to having committed or being found to have committed any unfair trade practice or fraud in the business of insurance.

(8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility in the conduct of business in Indiana or elsewhere.

(9) Having an insurance producer license, or its equivalent,

denied, suspended, or revoked in any other state, province, district, or territory.

(10) Forging another's name to an application for insurance or to any document related to an insurance transaction.

(11) Improperly using notes or any other reference material to complete an examination for an insurance license.

(12) Knowingly accepting insurance business from an individual who is not licensed.

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

(14) Failing to pay state income tax or to comply with any administrative or court order directing payment of state income tax.

(15) Failing to satisfy the continuing education requirements established by IC 27-1-15.7.

(16) Violating section 31 of this chapter.

(17) Failing to timely inform the commissioner of a change in legal name or address, in violation of section 7(h) of this chapter.

(c) The commissioner shall refuse to:

(1) issue a license; or

(2) renew a license issued;

under this chapter to any person who is the subject of an order issued by a court under IC 31-14-12-7 or IC 31-16-12-10 (or IC 31-1-11.5-13(m) or IC 31-6-6.1-16(m) before their repeal).

(d) If the commissioner refuses to renew a license or denies an application for a license, the commissioner shall notify the applicant or licensee and advise the applicant or licensee, in a writing sent through regular first class mail, of the reason for the denial of the applicant's application or the nonrenewal of the licensee's license. The applicant or licensee may, not more than sixty-three (63) days after notice of denial of the applicant's application or nonrenewal of the licensee's license is mailed, make written demand to the commissioner for a hearing before the commissioner to determine the reasonableness of the commissioner's action. The hearing shall be held not more than thirty (30) days after the applicant or licensee makes the written demand, and shall be conducted under IC 4-21.5.

(e) The license of a business entity may be suspended, revoked, or refused if the commissioner finds, after hearing, that a violation of an individual licensee acting on behalf of the partnership or corporation was known or should have been known by one or more

of the partners, officers, or managers of the partnership or corporation and:

(1) the violation was not reported to the commissioner; and

(2) no corrective action was taken.

(f) In addition to or in lieu of any applicable denial, suspension, or revocation of a license under subsection (b), a person may, after a hearing, be subject to the imposition by the commissioner under subsection (b) of a civil penalty of not less than fifty dollars ($50) and not more than ten thousand dollars ($10,000). A penalty imposed under this subsection may be enforced in the same manner as a civil judgement.

(g) A licensed insurance producer or limited lines producer shall, not more than ten (10) days after the producer receives a request in a registered or certified letter from the commissioner, furnish the commissioner with a full and complete report listing each insurer with which the licensee has held an appointment during the year preceding the request.

(h) If a licensee fails to provide the report requested under subsection (g) not more than ten (10) days after the licensee receives the request, the commissioner may, in the commissioner's sole discretion, without a hearing, and in addition to any other sanctions allowed by law, suspend any insurance license held by the licensee pending receipt of the appointment report.

(i) The commissioner shall promptly notify all appointing insurers and the licensee regarding any suspension, revocation, or termination of a license by the commissioner under this section.

(j) The commissioner may not grant, renew, continue, or permit to continue any license if the commissioner finds that the license is being used or will be used by the applicant or licensee for the purpose of writing controlled business. As used in this subsection, "controlled business" means:

(1) insurance written on the interests of:

(A) the applicant or licensee;

(B) the applicant's or licensee's immediate family; or

(C) the applicant's or licensee's employer; or

(2) insurance covering:

(A) the applicant or licensee;

(B) members of the applicant's or licensee's immediate family; or

(C) either:

(i) a corporation, limited liability company, association, or partnership; or

(ii) the officers, directors, substantial stockholders, partners, members, managers, employees of such a corporation, limited liability company, association, or partnership;

of which the applicant or licensee or a member of the applicant's or licensee's immediate family is an officer, director, substantial stockholder, partner, member, manager, associate, or employee.

However, this section does not apply to insurance written or interests insured in connection with or arising out of credit transactions. A license is considered to have been used or intended to be used for the purpose of writing controlled business if the commissioner finds that during any twelve (12) month period the aggregate commissions earned from the controlled business exceeded twenty-five percent (25%) of the aggregate commission earned on all business written by the applicant or licensee during the same period.

(k) The commissioner has the authority to:

(1) enforce the provisions of; and

(2) impose any penalty or remedy authorized by;

this chapter or any other provision of this title against any person who is under investigation for or charged with a violation of this chapter or any other provision of this title, even if the person's license or registration has been surrendered or has lapsed by operation of law.

(l) For purposes of this section, the violation of any provision of IC 28 concerning the sale of a life insurance policy or an annuity contract shall be considered a violation described in subsection (b)(2).

(m) The commissioner may order a licensee to make restitution if the commissioner finds that the licensee has committed a violation described in:

(1) subsection (b)(4);

(2) subsection (b)(7);

(3) subsection (b)(8); or

(4) subsection (b)(16).

(n) The commissioner shall notify the securities commissioner appointed under IC 23-2-1-15 when an administrative action or civil proceeding is filed under this section and when an order is issued under this section denying, suspending, or revoking a license.

Sec. 13. (a) An insurance company or insurance producer shall

not pay a commission, service fee, brokerage fee, or other valuable consideration to a person for selling, soliciting, or negotiating insurance in Indiana if the person is required to be licensed under this chapter and is not licensed.

(b) A person shall not accept a commission, service fee, brokerage fee, or other valuable consideration for selling, soliciting, or negotiating insurance in Indiana if the person is required to be licensed under this chapter and is not licensed.

(c) Renewal commissions or other deferred commissions may be paid to a person for selling, soliciting, or negotiating insurance in Indiana if the person was required to be licensed under this chapter and was licensed at the time of the sale, solicitation, or negotiation.

(d) An insurer or insurance producer may pay or assign commissions, service fees, brokerage fees, or other valuable consideration to an insurance agency or to a person who does not sell, solicit, or negotiate insurance in Indiana, unless the payment would violate IC 27-1-20-30.

Sec. 14. An insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed producer of the insurer. An insurance producer who is not acting as an agent of an insurer is not required to become appointed.

Sec. 15. (a) An insurer or authorized representative of an insurer that terminates the appointment, employment, contract, or other insurance business relationship with a producer shall notify the commissioner not more than thirty (30) days after the effective date of the termination using a format prescribed by the commissioner, if:

(1) the reason for termination is described in section 12 of this chapter; or

(2) the insurer has knowledge that the producer was found by a court, a government body, or a self-regulatory organization authorized by law to have engaged in any of the activities described in section 12 of this chapter.

Upon the written request of the insurance commissioner, the insurer shall provide additional information, documents, records, and other data pertaining to the termination or activity of the producer.

(b) If an insurer discovers, upon further review or investigation, additional information that would have been reportable to the commissioner under subsection (a) had the insurer known of the existence of the additional information, the insurer or an

authorized representative of the insurer shall promptly notify the commissioner of the additional information in a format acceptable to the commissioner.

(c) A copy of the notification of termination of a producer that must be provided to the commissioner under this section shall also be provided to the producer as follows:

(1) Not more than fifteen (15) days after making the notification required under subsection (a) or (b), the insurer shall mail a copy of the notification to the producer at the producer's last known address. If the producer is terminated for cause for any of the reasons described in section 12 of this chapter, the insurer shall provide a copy of the notification to the producer at the producer's last known address by certified mail, return receipt requested, postage prepaid, or by overnight delivery using a nationally recognized carrier.

(2) Not more than thirty (30) days after the producer has received the original or additional notification, the producer may file written comments concerning the substance of the notification with the commissioner. The producer shall, by the same means used by the producer to file the written comments with the commissioner, simultaneously send a copy of the comments to the reporting insurer, and the comments shall become a part of the commissioner's file and accompany every copy of a report distributed or disclosed for any reason about the producer as permitted under subsection (e).

(d) Immunities under this section are as follows:

(1) In the absence of actual malice, an insurer, an authorized representative of an insurer, a producer, the commissioner, and an organization of which the commissioner is a member and that compiles information and makes it available to other insurance commissioners or regulatory or law enforcement agencies are immune from civil liability, and a civil cause of action of any nature shall not arise against these entities or their respective agents or employees, as a result of:

(A) a statement or information required by or provided under this section or any information relating to a statement that may be requested in writing by the commissioner from an insurer or producer; or

(B) a statement by a terminating insurer to a producer or by a producer to a terminating insurer;

limited solely and exclusively to whether a termination for cause referred to in subsection (a) was reported to the

commissioner, provided that the propriety of any termination for cause referred to in subsection (a) is certified in writing by an officer or authorized representative of the insurer or producer terminating the relationship.

(2) In any action brought against a person that may have immunity under subdivision (1) for:

(A) making a statement required under this section; or

(B) providing information relating to a statement that may be requested by the commissioner;

the party bringing the action must plead specifically in any allegation that subdivision (1) does not apply because the person making the statement or providing the information did so with actual malice.

(3) Existing statutory or common law privileges or immunities are not abrogated or modified by subdivision (1) or (2).

(e) Confidentiality under this section is as follows:

(1) Documents, materials, and other forms of information in the control or possession of the department that are:

(A) furnished by:

(i) an insurer or producer; or

(ii) an employee or agent of an insurer acting on behalf of the insurer or producer; or

(B) obtained by the commissioner in an investigation under this section;

are confidential by law and privileged, are not subject to public inspection and copying under IC 5-14-3-3, are not subject to subpoena, and are not subject to discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's duties.

(2) Neither the commissioner nor any person who receives confidential documents, materials, or other information described in subdivision (1) while acting under the authority of the commissioner may be permitted or required to testify in any private civil action concerning the confidential documents, materials, or information described in subdivision (1).

(3) To assist in the performance of the commissioner's duties under this chapter, the commissioner may:

(A) share documents, materials, and other information,

including the confidential and privileged documents, materials, and information described in subdivision (1), with:

(i) other state, federal, and international regulatory agencies;

(ii) the National Association of Insurance Commissioners, its affiliates or subsidiaries; and

(iii) state, federal, and international law enforcement authorities;

provided that the recipient agrees to maintain the confidentiality and privileged status of the documents, materials, or other information;

(B) receive documents, materials, and information, including otherwise confidential and privileged documents, materials, and information, from:

(i) the National Association of Insurance Commissioners, its affiliates or subsidiaries; and

(ii) regulatory and law enforcement officials of other foreign or domestic jurisdictions;

and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information; and

(C) enter into agreements governing sharing and use of information consistent with this subsection.

(4) Disclosure of documents, materials, and information:

(A) to the commissioner; or

(B) by the commissioner;

under this section does not result in a waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information.

(5) This chapter does not prohibit the commissioner from releasing final, adjudicated actions, including for cause terminations that are open to public inspection under IC 5-14, to a database or other clearinghouse service maintained by the National Association of Insurance Commissioners or by its affiliates or subsidiaries.

(f) If an insurer, an authorized representative of an insurer, or a producer fails to report as required under this section or is found to have reported falsely with actual malice by a court of competent jurisdiction, the commissioner may, after notice and hearing,

suspend or revoke the license or certificate of authority of the insurer, authorized representative, or producer, and may fine the insurer, authorized representative, or producer under IC 27-4-1-6.

Sec. 16. (a) The commissioner shall waive any requirements, except the requirements imposed by section 8 of this chapter, for a nonresident license applicant with a valid license from the applicant's home state if the applicant's home state awards nonresident licenses to residents of Indiana on the same basis.

(b) A nonresident producer's satisfaction of the nonresident producer's home state's continuing education requirements for licensed insurance producers also satisfies Indiana's continuing education requirements if the non-resident producer's home state recognizes the satisfaction of the non-resident producer's home state's continuing education requirements imposed upon producers from Indiana on the same basis.

Sec. 17. (a) A producer shall report to the commissioner any administrative action taken against the producer in another jurisdiction or by another governmental agency in Indiana not more than thirty (30) days after the final disposition of the matter. The report shall include a copy of the order, consent to order, or other relevant legal documents.

(b) Not more than thirty (30) days after an initial pretrial hearing date, a producer shall report to the commissioner any criminal prosecution of the producer initiated in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing, and any other relevant legal documents.

Sec. 18. The commissioner may issue a limited lines producer's license to the following without examination:

(1) A person who is a ticket-selling producer of a common carrier and who will act only with reference to the issuance of insurance on personal effects carried as baggage, in connection with the transportation provided by such common carrier.

(2) A person who will only negotiate or solicit limited travel accident insurance in transportation terminals.

(3) A limited line credit insurance producer.

(4) A person who will only negotiate or solicit insurance under Class 2(j) of IC 27-1-5-1.

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

Sec. 19. (a) As used in this section, "prearranged funeral insurance" means insurance that is used to fund any of the following:

(1) A funeral trust under IC 30-2-10 and IC 30-2-13.

(2) Any other arrangement for advance payment of funeral and burial expenses.

(b) A person shall not sell, solicit, or negotiate prearranged funeral insurance unless the person is licensed as either of the following:

(1) An insurance producer with a life qualification under section 7 of this chapter.

(2) A limited lines producer.

(c) A person may be licensed as a limited lines producer to sell only prearranged funeral insurance if the person is:

(1) licensed under IC 25-15-4-3; 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 limit the person's insurance business solely to the sale of prearranged funeral insurance, the person must:

(1) request the commissioner to issue the person a limited lines producer's license under this chapter; and

(2) show proof of having completed ten (10) hours of continuing education credit approved by the department.

(e) If the commissioner receives a request and proof under subsection (d), the commissioner shall issue a limited lines producer's license, subject to the provisions of this chapter relating to limited lines producer licenses.

(f) A person issued a limited lines producer's license under subsection (e) may sell only prearranged funeral insurance.

Sec. 20. (a) As used in this section, "crop hail insurance" means insurance that is used only in the event of hail related disasters to growing farm crops.

(b) As used in this section, "multi-peril crop insurance" means insurance that is:

(1) used in the event of weather related disasters or insect infestations during the growing season; and

(2) guaranteed by the Federal Crop Insurance Corporation.

(c) To sell multi-peril crop insurance or crop hail insurance, a person must be licensed under this chapter.

(d) If, after a person is licensed under this chapter as an insurance producer, the person wants to limit the person's

insurance business solely to the sale of:

(1) multi-peril crop insurance;

(2) crop hail insurance; or

(3) multi-peril crop insurance and crop hail insurance;

the person may request the commissioner to issue to the person a limited lines producer's license under this chapter.

(e) If the commissioner:

(1) receives a request from a person under subsection (d); and

(2) the person shows proof of having completed ten (10) hours of continuing education credit approved by the department;

the commissioner shall issue a limited lines producer's license to the person, subject to the provisions of this chapter relating to limited lines producer's licenses.

(f) A person issued a limited lines producer's license under subsection (e) may sell only:

(1) multi-peril crop insurance;

(2) crop hail insurance; or

(3) multi-peril crop insurance and crop hail insurance.

Sec. 21. (a) Service of process upon any nonresident producer licensee in any action or proceeding in any court of competent jurisdiction of Indiana arising out of the nonresident producer's insurance business in Indiana may be made by serving the commissioner with appropriate copies thereof and paying to the commissioner a fee of two dollars ($2). The commissioner shall forward a copy of such process by registered or certified mail to the licensee at the licensee's last known address of record or principal place of business, and shall keep a record of all processes so served upon the commissioner.

(b) The service of process under subsection (a) is sufficient if notice of the service and a copy of the process are sent to the licensee at the licensee's last known address of record or principal place of business by registered or certified mail, return receipt requested not more than ten (10) days after the commissioner is served.

Sec. 22. (a) An insurance producer may not receive compensation for the sale, solicitation, negotiation, or renewal of any insurance policy issued to any person or entity for whom the insurance producer, for a fee, acts as a consultant for that policy unless:

(1) the insurance producer provides to the insured a written agreement in accordance with section 23(c) of this chapter; and

(2) the insurance producer discloses to the insured the following information prior to the sale, solicitation, negotiation, or renewal of any policy:

(A) The fact that the insurance producer will receive compensation for the sale of the policy.

(B) The method of compensation.

(b) The requirements of this subsection are in addition to the requirements set forth in subsection (a). A risk manager described in IC 27-1-22-2.5(b)(2) shall, before providing risk management services to an exempt commercial policyholder (as defined in IC 27-1-22-2.5), disclose in writing to the exempt commercial policyholder whether the risk manager will receive or expects to receive any commission, fee, or other consideration from an insurer in connection with the purchase of a commercial insurance policy by the exempt commercial policyholder. However, if the risk manager charges the exempt commercial policyholder a fee for risk management services, the risk manager shall disclose in writing to the exempt commercial policyholder the specific amount of any commission, fee, or other consideration that the risk manager may receive from an insurer in connection with the purchase of the policy. The risk manager shall, before providing the risk management services, obtain from the exempt commercial policyholder a written acknowledgment of the disclosures made by the risk manager to the exempt commercial policyholder under this subsection.

Sec. 23. (a) An individual or corporation shall not engage in the business of an insurance consultant until a consultant license has been issued to the individual or corporation by the commissioner. However, a consultant license is not required for the following:

(1) An attorney licensed to practice law in Indiana acting in the attorney's professional capacity.

(2) A duly licensed insurance producer or surplus lines producer.

(3) A trust officer of a bank acting in the normal course of the trust officer's employment.

(4) An actuary or a certified public accountant who provides information, recommendations, advice, or services in the actuary's or certified public accountant's professional capacity.

(b) An application for a license to act as an insurance consultant shall be made to the commissioner on forms prescribed by the commissioner. An applicant may limit the scope of the applicant's

consulting services by stating the limitation in the application. The areas of allowable consulting services are:

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

(2) Class 2 and Class 3, consulting regarding the kinds of insurance specified in IC 27-1-5-1, Class 2 and Class 3.

Within a reasonable time after receipt of a properly completed application form, the commissioner shall hold a written examination for the applicant that is limited to the type of consulting services designated by the applicant, and may conduct investigations and propound interrogatories concerning the applicant's qualifications, residence, business affiliations, and any other matter that the commissioner considers necessary or advisable in order to determine compliance with this chapter or for the protection of the public.

(c) For purposes of this subsection, "consultant's fee" does not include a late fee charged under section 24 of this chapter or fees otherwise allowed by law. A consultant shall provide consultant services as outlined in a written agreement. The agreement must be signed by the person receiving services, and a copy of the agreement must be provided to the person receiving services before any services are performed. The agreement must outline the nature of the work to be performed by the consultant and the method of compensation of the consultant. The signed agreement must be retained by the consultant for not less than two (2) years after completion of the services. A copy of the agreement shall be made available to the commissioner. In the absence of an agreement on the consultant's fee, the consultant shall not be entitled to recover a fee in any action at law or in equity.

(d) An individual or corporation shall not concurrently hold a consultant license and an insurance producer's license, surplus lines producer's license, or limited lines producer's license at any time.

(e) A licensed consultant shall not:

(1) employ;

(2) be employed by;

(3) be in partnership with; or

(4) receive any remuneration whatsoever;

from a licensed insurance producer, surplus lines producer, or limited lines producer or insurer, except that a consultant may be compensated by an insurer for providing consulting services to the insurer.

(f) A consultant license shall be valid for not longer than twenty-four (24) months and may be renewed and extended in the same manner as an insurance producer's license. The commissioner shall designate on the license the consulting services that the licensee is entitled to perform.

(g) All requirements and standards relating to the denial, revocation, or suspension of an insurance producer's license, including penalties, apply to the denial, revocation, and suspension of a consultant license as nearly as practicable.

(h) A consultant is obligated under the consultant's license to:

(1) serve with objectivity and complete loyalty solely the insurance interests of the consultant's client; and

(2) render the client such information, counsel, and service as within the knowledge, understanding, and opinion, in good faith of the licensee, best serves the client's insurance needs and interests.

(i) Except as provided in subsection (j), the form of a written agreement required by subsection (c) must be filed with the commissioner not less than thirty (30) days before the form is used. If the commissioner does not expressly approve or disapprove the form within thirty (30) days after filing, the form is considered approved. At any time after notice and for cause shown, the commissioner may withdraw approval of a form effective thirty (30) days after the commissioner issues notice that the approval is withdrawn.

(j) Subsection (i) does not apply to the form of a written agreement under subsection (c) that is executed by an insurance producer and an exempt commercial policyholder (as defined in IC 27-1-22-2.5).

Sec. 24. (a) This section applies to commercial property and casualty insurance coverage described in Class 2 and Class 3 of IC 27-1-5-1.

(b) A licensed insurance producer may charge a commercial insured a reasonable fee to reimburse the insurance producer for expenses incurred by the insurance producer at the specific request of the commercial insured, subject to the following requirements:

(1) Before incurring any expense described in this subsection, the insurance producer must provide written notice to the commercial insured stating that a fee will be charged and setting forth the:

(A) amount of the fee; or

(B) basis for calculating the fee.

(2) The amount of a fee and the basis for calculating a fee may not vary among commercial insureds.

(3) Any fee that is charged must be identified separately from premium and itemized in any bill provided to the commercial insured.

(c) A licensed insurance producer may charge a commercial insured a reasonable fee for services that are provided at the request of the commercial insured in connection with a policy that provides coverage described in subsection (a) and for which the insurance producer does not receive a commission or other compensation, subject to the following requirements:

(1) Before providing services, the insurance producer must provide to the commercial insured a written description of the services to be provided and the fee for the services.

(2) Any fee that is charged must be identified separately from premium and itemized in any bill provided to the commercial insured.

(d) A licensed insurance producer who acts as a consultant and provides services described in this section shall comply with the requirements of this section and section 23 of this chapter.

(e) A licensed insurance producer may charge a late fee for agency billed accounts or policies that are more than thirty (30) days delinquent. A late fee may not exceed one and three quarters percent (1.75%) per month of the amount due on the due date.

Sec. 25. An individual who performed the functions of a person representing a fraternal benefit society before July 1, 1977, is not required to take an examination, but is entitled to have an insurance producer's license issued to the individual, subject to IC 27-1-15.7 and the requirements of this chapter.

Sec. 26. A person who performed the functions of a limited lines producer negotiating or soliciting the type of insurance described in IC 27-1-5-1, Class 2(j) before July 1, 1977, is not required to take an examination, but is entitled to have an insurance producer's license issued to the individual, subject to IC 27-1-15.7 and the requirements of this chapter.

Sec. 27. A person who held a valid solicitor's license on July 1, 1977, is subject to the same rights and responsibilities under a solicitor's license as the rights and responsibilities that were in effect before enactment of this chapter.

Sec. 28. (a) Upon receiving an order of a court issued under IC 31-14-12-7 or IC 31-16-12-10 (or IC 31-1-11.5-13(m) or IC 31-6-6.1-16(m) before their repeal), the commissioner shall:

(1) suspend a license issued under this chapter to the person who is the subject of the order; and

(2) promptly mail a notice to the last known address of the person who is the subject of the order, stating the following:

(A) That the person's license is suspended beginning five (5) business days after the date the notice is mailed, and that the suspension will terminate not earlier than ten (10) business days after the commissioner receives an order allowing reinstatement from the court that issued the suspension order.

(B) That the person has the right to petition for reinstatement of a license issued under this chapter to the court that issued the order for suspension.

(b) The commissioner shall not reinstate a license suspended under subsection (a) until the commissioner receives an order allowing reinstatement from the court that issued the order for suspension.

Sec. 29. (a) Upon receiving an order from the bureau (Title IV-D agency) under IC 12-17-2-34(i), the commissioner shall send to the person who is the subject of the order a notice that does the following:

(1) States that the person is delinquent and is subject to an order placing the person on probationary status.

(2) Explains that unless the person contacts the bureau and:

(A) pays the person's child support arrearage in full;

(B) requests the activation of an income withholding order under IC 31-16-15-2, and establishes a payment plan with the bureau to pay the arrearage; or

(C) requests a hearing under IC 12-17-2-35;

within twenty (20) days after the date the notice is mailed, the commissioner shall place the person on probationary status with respect to a license issued to the person under this chapter.

(3) Explains that the person may contest the bureau's determination that the person is delinquent and subject to an order placing the person on probationary status by making written application to the bureau within twenty (20) days after the date the notice is mailed.

(4) Explains that the only basis for contesting the bureau's determination that the person is delinquent and subject to an order placing the person on probationary status is a mistake of fact.

(5) Explains the procedures to:

(A) pay the person's child support arrearage in full;

(B) establish a payment plan with the bureau to pay the arrearage;

(C) request the activation of an income withholding order under IC 31-16-15-2; and

(D) request a hearing under IC 12-17-2-35.

(6) Explains that the probation will terminate ten (10) business days after the commissioner receives a notice from the bureau that the person has:

(A) paid the person's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage and requested the activation of an income withholding order under IC 31-16-15-2.

(b) Upon receiving an order from the bureau (Title IV-D agency) under IC 12-17-2-36(d), the commissioner shall send a notice to the person who is the subject of the order stating the following:

(1) That a license issued to the person under this chapter has been placed on probationary status, beginning five (5) business days after the date the notice was mailed, and that the probation will terminate ten (10) business days after the commissioner receives a notice from the bureau that the person has:

(A) paid the person's child support arrearage in full; or

(B) established a payment plan with the bureau to pay the arrearage and requested the activation of an income withholding order under IC 31-16-15-2.

(2) That if the commissioner is advised by the bureau that the person whose license has been placed on probationary status has failed to:

(A) pay the person's child support arrearage in full; or

(B) establish a payment plan with the bureau to pay the arrearage and request the activation of an income withholding order under IC 31-16-15-2;

within twenty (20) days after the date the notice is mailed, the commissioner shall suspend the person's license.

(c) If the commissioner receives a notice by the bureau (Title IV-D agency) under IC 12-17-2-34(i) that the person whose license has been placed on probationary status has failed to:

(1) pay the person's child support arrearage in full; or

(2) establish a payment plan with the bureau to pay the

arrearage and request the activation of an income withholding order under IC 31-16-15-2;

within twenty (20) days after the notice required under subsection (b) is mailed, the commissioner shall suspend the person's license.

(d) The commissioner may not reinstate any license placed on probation or suspended under this section until the commissioner receives a notice from the bureau that the person has:

(1) paid the person's child support arrearage in full; or

(2) established a payment plan with the bureau to pay the arrearage and requested the activation of an income withholding order under IC 31-16-15-2.

Sec. 30. The commissioner and the director of the department of financial institutions shall consult with each other and assist each other in enforcing compliance with the provisions of IC 28 concerning the sale of life insurance policies and annuity contracts. The commissioner and the director of the department of financial institutions may jointly conduct investigations, prosecute suits, and take other official action they consider appropriate under this section if either of them is empowered to take the action. If the director of the department of financial institutions is informed by a financial institution or its affiliate of a violation or suspected violation of any provision of IC 28 concerning the sale of life insurance policies or annuity contracts or of the insurance laws and rules of Indiana, the director of the department of financial institutions shall timely advise the commissioner of the violation. If the commissioner is informed by a financial institution or its affiliate of a violation or suspected violation of any provision of IC 28 concerning the sale of life insurance policies or annuity contracts or of the insurance laws and rules of Indiana, the commissioner shall timely advise the director of the department of financial institutions of the violation.

Sec. 31. An insurance producer shall not:

(1) be named a beneficiary of;

(2) become an owner of; or

(3) receive a collateral assignment of;

an individual life insurance policy or individual annuity contract unless the insurance producer has an insurable interest in the life of the insured or annuitant. A beneficiary designation, ownership designation, or collateral assignment made in violation of this section is void.

Sec. 32. (a) The department shall adopt rules under IC 4-22-2 to set fees for licensure under this chapter, IC 27-1-15.7, and

IC 27-1-15.8.

(b) Insurance producer and limited lines producer license renewal fees are due every four (4) years. The fee charged by the department every four (4) years for a:

(1) resident license is forty dollars ($40); and

(2) nonresident license is ninety dollars ($90).

(c) Consultant renewal fees are due every twenty-four (24) months.

(d) Surplus lines producer renewal fees are due annually.

(e) The commissioner may issue a duplicate license for any license issued under this chapter. The fee charged by the commissioner for the issuance of a duplicate:

(1) insurance producer license;

(2) surplus lines producer license;

(3) limited lines producer license; or

(4) consultant license;

may not exceed ten dollars ($10).

Sec. 33. Except as otherwise provided in section 32 of this chapter, the commissioner may adopt rules under IC 4-22-2 to carry out the purposes of this chapter.

Sec. 34. All hearings held under this chapter are governed by IC 4-21.5-3. The commissioner may appoint members of the commissioner's staff to act as hearing officers for purposes of hearings held under this chapter.".

Page 77, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 48. [EFFECTIVE JANUARY 1, 2002] **(a) After December 31, 2001:**

(1) any reference in the Indiana Code to an insurance agent shall be treated as a reference to an insurance producer (as defined in IC 27-1-15.6-2(7), as added by this act);

(2) any reference in the Indiana Code to a surplus lines insurance agent shall be treated as a reference to a surplus lines producer (as defined in IC 27-1-15.6-2(17), as added by this act); and

(3) any reference in the Indiana Code to a limited insurance representative shall be treated as a reference to a limited lines producer (as defined in IC 27-1-15.6-2(12), as added by this act).

(b) This SECTION expires June 30, 2005.".

Renumber all SECTIONS consecutively.

(Reference is to ESB 386 as printed April 9, 2001.)

RIPLEY