

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

# HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that Engrossed Senate Bill 386 be amended to read as follows:

- 1 Page 40, between lines 33 and 34, begin a new paragraph and insert:
- 2 "SECTION 12. IC 27-4-1-4 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. The following are
- 4 hereby defined as unfair methods of competition and unfair and
- 5 deceptive acts and practices in the business of insurance:
- 6 (1) Making, issuing, circulating, or causing to be made, issued, or
- 7 circulated, any estimate, illustration, circular, or statement:
- 8 (A) misrepresenting the terms of any policy issued or to be
- 9 issued or the benefits or advantages promised thereby or the
- 10 dividends or share of the surplus to be received thereon;
- 11 (B) making any false or misleading statement as to the
- 12 dividends or share of surplus previously paid on similar
- 13 policies;
- 14 (C) making any misleading representation or any
- 15 misrepresentation as to the financial condition of any insurer,
- 16 or as to the legal reserve system upon which any life insurer
- 17 operates;
- 18 (D) using any name or title of any policy or class of policies
- 19 misrepresenting the true nature thereof; or
- 20 (E) making any misrepresentation to any policyholder insured
- 21 in any company for the purpose of inducing or tending to
- 22 induce such policyholder to lapse, forfeit, or surrender his
- 23 insurance.
- 24 (2) Making, publishing, disseminating, circulating, or placing

- 1 before the public, or causing, directly or indirectly, to be made,  
2 published, disseminated, circulated, or placed before the public,  
3 in a newspaper, magazine, or other publication, or in the form of  
4 a notice, circular, pamphlet, letter, or poster, or over any radio or  
5 television station, or in any other way, an advertisement,  
6 announcement, or statement containing any assertion,  
7 representation, or statement with respect to any person in the  
8 conduct of his insurance business, which is untrue, deceptive, or  
9 misleading.
- 10 (3) Making, publishing, disseminating, or circulating, directly or  
11 indirectly, or aiding, abetting, or encouraging the making,  
12 publishing, disseminating, or circulating of any oral or written  
13 statement or any pamphlet, circular, article, or literature which is  
14 false, or maliciously critical of or derogatory to the financial  
15 condition of an insurer, and which is calculated to injure any  
16 person engaged in the business of insurance.
- 17 (4) Entering into any agreement to commit, or individually or by  
18 a concerted action committing any act of boycott, coercion, or  
19 intimidation resulting or tending to result in unreasonable  
20 restraint of, or a monopoly in, the business of insurance.
- 21 (5) Filing with any supervisory or other public official, or making,  
22 publishing, disseminating, circulating, or delivering to any person,  
23 or placing before the public, or causing directly or indirectly, to  
24 be made, published, disseminated, circulated, delivered to any  
25 person, or placed before the public, any false statement of  
26 financial condition of an insurer with intent to deceive. Making  
27 any false entry in any book, report, or statement of any insurer  
28 with intent to deceive any agent or examiner lawfully appointed  
29 to examine into its condition or into any of its affairs, or any  
30 public official to which such insurer is required by law to report,  
31 or which has authority by law to examine into its condition or into  
32 any of its affairs, or, with like intent, willfully omitting to make a  
33 true entry of any material fact pertaining to the business of such  
34 insurer in any book, report, or statement of such insurer.
- 35 (6) Issuing or delivering or permitting agents, officers, or  
36 employees to issue or deliver, agency company stock or other  
37 capital stock, or benefit certificates or shares in any common law  
38 corporation, or securities or any special or advisory board  
39 contracts or other contracts of any kind promising returns and  
40 profits as an inducement to insurance.
- 41 (7) Making or permitting any of the following:
- 42 (A) Unfair discrimination between individuals of the same  
43 class and equal expectation of life in the rates or assessments  
44 charged for any contract of life insurance or of life annuity or  
45 in the dividends or other benefits payable thereon, or in any  
46 other of the terms and conditions of such contract; however, in

1 determining the class, consideration may be given to the  
 2 nature of the risk, plan of insurance, the actual or expected  
 3 expense of conducting the business, or any other relevant  
 4 factor.

5 (B) Unfair discrimination between individuals of the same  
 6 class involving essentially the same hazards in the amount of  
 7 premium, policy fees, assessments, or rates charged or made  
 8 for any policy or contract of accident or health insurance or in  
 9 the benefits payable thereunder, or in any of the terms or  
 10 conditions of such contract, or in any other manner whatever;  
 11 however, in determining the class, consideration may be given  
 12 to the nature of the risk, the plan of insurance, the actual or  
 13 expected expense of conducting the business, or any other  
 14 relevant factor.

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

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

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

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

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

38 (8) Except as otherwise expressly provided by law, knowingly  
 39 permitting or offering to make or making any contract or policy  
 40 of insurance of any kind or kinds whatsoever, including but not in  
 41 limitation, life annuities, or agreement as to such contract or  
 42 policy other than as plainly expressed in such contract or policy  
 43 issued thereon, or paying or allowing, or giving or offering to pay,  
 44 allow, or give, directly or indirectly, as inducement to such  
 45 insurance, or annuity, any rebate of premiums payable on the  
 46 contract, or any special favor or advantage in the dividends,

1 savings, or other benefits thereon, or any valuable consideration  
2 or inducement whatever not specified in the contract or policy; or  
3 giving, or selling, or purchasing or offering to give, sell, or  
4 purchase as inducement to such insurance or annuity or in  
5 connection therewith, any stocks, bonds, or other securities of any  
6 insurance company or other corporation, association, limited  
7 liability company, or partnership, or any dividends, savings, or  
8 profits accrued thereon, or anything of value whatsoever not  
9 specified in the contract. Nothing in this subdivision and  
10 subdivision (7) shall be construed as including within the  
11 definition of discrimination or rebates any of the following  
12 practices:

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

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

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

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

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

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

- 1 or otherwise, or conspiracy in restraint of commerce in the  
2 business of insurance.
- 3 (11) Monopolizing or attempting to monopolize or combining or  
4 conspiring with any other person or persons to monopolize any  
5 part of commerce in the business of insurance. However,  
6 participation as a member, director, or officer in the activities of  
7 any nonprofit organization of agents or other workers in the  
8 insurance business shall not be interpreted, in itself, to constitute  
9 a combination in restraint of trade or as combining to create a  
10 monopoly as provided in this subdivision and subdivision (10).  
11 The enumeration in this chapter of specific unfair methods of  
12 competition and unfair or deceptive acts and practices in the  
13 business of insurance is not exclusive or restrictive or intended to  
14 limit the powers of the commissioner or department or of any  
15 court of review under section 8 of this chapter.
- 16 (12) Requiring as a condition precedent to the sale of real or  
17 personal property under any contract of sale, conditional sales  
18 contract, or other similar instrument or upon the security of a  
19 chattel mortgage, that the buyer of such property negotiate any  
20 policy of insurance covering such property through a particular  
21 insurance company, agent, or broker or brokers. However, this  
22 subdivision shall not prevent the exercise by any seller of such  
23 property or the one making a loan thereon, of his, her, or its right  
24 to approve or disapprove of the insurance company selected by  
25 the buyer to underwrite the insurance.
- 26 (13) Issuing, offering, or participating in a plan to issue or offer,  
27 any policy or certificate of insurance of any kind or character as  
28 an inducement to the purchase of any property, real, personal, or  
29 mixed, or services of any kind, where a charge to the insured is  
30 not made for and on account of such policy or certificate of  
31 insurance. However, this subdivision shall not apply to any of the  
32 following:
- 33 (A) Insurance issued to credit unions or members of credit  
34 unions in connection with the purchase of shares in such credit  
35 unions.
  - 36 (B) Insurance employed as a means of guaranteeing the  
37 performance of goods and designed to benefit the purchasers  
38 or users of such goods.
  - 39 (C) Title insurance.
  - 40 (D) Insurance written in connection with an indebtedness and  
41 intended as a means of repaying such indebtedness in the  
42 event of the death or disability of the insured.
  - 43 (E) Insurance provided by or through motorists service clubs  
44 or associations.
  - 45 (F) Insurance that is provided to the purchaser or holder of an  
46 air transportation ticket and that:

- 1 (i) insures against death or nonfatal injury that occurs during  
 2 the flight to which the ticket relates;  
 3 (ii) insures against personal injury or property damage that  
 4 occurs during travel to or from the airport in a common  
 5 carrier immediately before or after the flight;  
 6 (iii) insures against baggage loss during the flight to which  
 7 the ticket relates; or  
 8 (iv) insures against a flight cancellation to which the ticket  
 9 relates.
- 10 (14) Refusing, because of the for-profit status of a hospital or  
 11 medical facility, to make payments otherwise required to be made  
 12 under a contract or policy of insurance for charges incurred by an  
 13 insured in such a for-profit hospital or other for-profit medical  
 14 facility licensed by the state department of health.
- 15 (15) Refusing to insure an individual, refusing to continue to issue  
 16 insurance to an individual, limiting the amount, extent, or kind of  
 17 coverage available to an individual, or charging an individual a  
 18 different rate for the same coverage, solely because of that  
 19 individual's blindness or partial blindness, except where the  
 20 refusal, limitation, or rate differential is based on sound actuarial  
 21 principles or is related to actual or reasonably anticipated  
 22 experience.
- 23 (16) Committing or performing, with such frequency as to  
 24 indicate a general practice, unfair claim settlement practices (as  
 25 defined in section 4.5 of this chapter).
- 26 (17) Between policy renewal dates, unilaterally canceling an  
 27 individual's coverage under an individual or group health  
 28 insurance policy solely because of the individual's medical or  
 29 physical condition.
- 30 (18) Using a policy form or rider that would permit a cancellation  
 31 of coverage as described in subdivision (17).
- 32 (19) Violating IC 27-1-22-25 or IC 27-1-22-26 concerning motor  
 33 vehicle insurance rates.
- 34 (20) Violating IC 27-8-21-2 concerning advertisements referring  
 35 to interest rate guarantees.
- 36 (21) Violating IC 27-8-24.3 concerning insurance and health plan  
 37 coverage for victims of abuse.
- 38 (22) Violating IC 27-1-15.5-3(h).
- 39 (23) Violating IC 27-8-26 concerning genetic screening or testing.
- 40 **(24) Violating IC 27-7-3-21 concerning title insurance**  
 41 **premiums in multistate transactions."**
- 42 Page 41, between lines 19 and 20, begin a new paragraph and insert:  
 43 "SECTION 14. IC 27-7-3-18 IS AMENDED TO READ AS  
 44 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 18. The provisions of  
 45 this chapter, **shall except section 21 of this chapter, do** not apply to  
 46 any insurance company organized or desiring to organize under and

1 pursuant to IC 27-1 nor to any person, firm, partnership, corporation,  
2 limited liability company, association, or company whose business is  
3 the making of abstracts of title to real estate and attaching their  
4 certificate thereto and not engaging in the business of making title  
5 insurance, nor to any person, firm, partnership, corporation, limited  
6 liability company, or association acting as an authorized agent for a  
7 duly qualified title insurance company.

8 SECTION 15. IC 27-7-3-21 IS ADDED TO THE INDIANA CODE  
9 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
10 1, 2001]: **Sec. 21. (a) This section applies to the issuance of title  
11 insurance in Indiana in a real estate transaction in which title  
12 insurance is being issued in at least one (1) other state in which title  
13 insurance premiums are computed based on rates filed with a  
14 governmental entity.**

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

19 Renumber all SECTIONS consecutively.

(Reference is to ESB 386 as printed April 9, 2001.)

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Representative Dvorak