

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WITHDRAWN	Noes _____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 32, between lines 6 and 7, begin a new paragraph and insert:
2 "SECTION 9. IC 27-1-15.6 IS ADDED TO THE INDIANA CODE
3 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
4 JANUARY 1, 2002]:
5 **Chapter 15.6. Insurance Producers**
6 **Sec. 1. This chapter governs the qualifications and procedures**
7 **for the licensing of insurance producers. This chapter does not**
8 **apply to surplus lines producers licensed under IC 27-1-15.8 except**
9 **as specifically provided in this chapter or in IC 27-1-15.8.**
10 **Sec. 2. The following definitions apply throughout this chapter,**
11 **IC 27-1-15.7, and IC 27-1-15.8:**
12 (1) "Bureau" refers to the child support bureau of the division
13 of family and children established under IC 12-17-2-5.
14 (2) "Business entity" means a corporation, an association, a
15 partnership, a limited liability company, a limited liability
16 partnership, or another legal entity.
17 (3) "Commissioner" means the insurance commissioner
18 appointed under IC 27-1-1-2.
19 (4) "Consultant" means a person who:
20 (A) holds himself or herself out to the public as being
21 engaged in the business of offering; or
22 (B) for a fee, offers;
23 any advice, counsel, opinion, or service with respect to the
24 benefits, advantages, or disadvantages promised under any

- 1 policy of insurance that could be issued in Indiana.
 2 (5) "Delinquent" means the condition of being at least:
 3 (A) two thousand dollars (\$2,000); or
 4 (B) three (3) months;
 5 past due in the payment of court ordered child support.
 6 (6) "Home state" means the District of Columbia or any state
 7 or territory of the United States in which an insurance
 8 producer:
 9 (A) maintains the insurance producer's principal place of
 10 residence or principal place of business; and
 11 (B) is licensed to act as an insurance producer.
 12 (7) "Insurance producer" means a person required to be
 13 licensed under the laws of Indiana to sell, solicit, or negotiate
 14 insurance.
 15 (8) "License" means a document issued by the commissioner
 16 authorizing a person to act as an insurance producer for the
 17 lines of authority specified in the document. The license itself
 18 does not create any authority, actual, apparent, or inherent,
 19 in the holder to represent or commit an insurance carrier.
 20 (9) "Limited line credit insurance" includes the following:
 21 (A) Credit life insurance.
 22 (B) Credit disability insurance.
 23 (C) Credit property insurance.
 24 (D) Credit unemployment insurance.
 25 (E) Involuntary unemployment insurance.
 26 (F) Mortgage life insurance.
 27 (G) Mortgage guaranty insurance.
 28 (H) Mortgage disability insurance.
 29 (I) Guaranteed automobile protection (gap) insurance.
 30 (J) Any other form of insurance:
 31 (i) that is offered in connection with an extension of
 32 credit and is limited to partially or wholly extinguishing
 33 that credit obligation; and
 34 (ii) that the insurance commissioner determines should
 35 be designated a form of limited line credit insurance.
 36 (10) "Limited line credit insurance producer" means a person
 37 who sells, solicits, or negotiates one (1) or more forms of
 38 limited line credit insurance coverage to individuals through
 39 a master, corporate, group, or individual policy.
 40 (11) "Limited lines insurance" means any of the following:
 41 (A) The lines of insurance defined in section 18 of this
 42 chapter.
 43 (B) Any line of insurance the recognition of which is
 44 considered necessary by the commissioner for the purpose
 45 of complying with section 8(e) of this chapter.
 46 (C) For purposes of section 8(e) of this chapter, any form
 47 of insurance with respect to which authority is granted by

- 1 a home state that restricts the authority granted by a
2 limited lines producer's license to less than total authority
3 in the associated major lines described in section 7(a)(1)
4 through 7(a)(6) of this chapter.
- 5 (12) "Limited lines producer" means a person authorized by
6 the commissioner to sell, solicit, or negotiate limited lines
7 insurance.
- 8 (13) "Negotiate" means the act of conferring directly with or
9 offering advice directly to a purchaser or prospective
10 purchaser of a particular contract of insurance concerning
11 any of the substantive benefits, terms, or conditions of the
12 contract, provided that the person engaged in that act either
13 sells insurance or obtains insurance from insurers for
14 purchasers.
- 15 (14) "Person" means an individual or business entity.
- 16 (15) "Sell" means to exchange a contract of insurance by any
17 means, for money or its equivalent, on behalf of a company.
- 18 (16) "Solicit" means attempting to sell insurance or asking or
19 urging a person to apply for a particular kind of insurance
20 from a particular company.
- 21 (17) "Surplus lines producer" means a person who sells,
22 solicits, negotiates, or procures from an insurance company
23 not licensed to transact business in Indiana an insurance
24 policy that cannot be procured from insurers licensed to do
25 business in Indiana.
- 26 (18) "Terminate" means:
- 27 (A) the cancellation of the relationship between an
28 insurance producer and the insurer; or
- 29 (B) the termination of a producer's authority to transact
30 insurance.
- 31 (19) "Uniform business entity application" means the current
32 version of the national association of insurance commissioners
33 uniform business entity application for resident and
34 nonresident business entities.
- 35 (20) "Uniform application" means the current version of the
36 national association of insurance commissioners uniform
37 application for resident and nonresident producer licensing.
- 38 Sec. 3. (a) A person shall not sell, solicit, or negotiate insurance
39 in Indiana for any class or classes of insurance unless the person is
40 licensed for that line of authority under this chapter.
- 41 (b) An insurer shall require a person who sells, solicits, or
42 negotiates insurance in Indiana by any means of communication on
43 behalf of the insurer to be licensed under this chapter.
- 44 (c) A violation of subsection (b) is deemed an unfair method of
45 competition and an unfair and deceptive act and practice in the
46 business of insurance under IC 27-4-1-4.
- 47 Sec. 4. (a) As used in this section, "insurer" does not include an

1 officer, director, employee, subsidiary, or affiliate of an insurer.

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

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

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

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

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

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

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

28 (A) group life insurance, group property and casualty
29 insurance, group annuities, group or blanket accident and
30 sickness insurance;

31 (B) enrolling individuals under plans;

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

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

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

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

45 (A) An employer or association.

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

- 1 (C) The trustees of an employee trust plan.
- 2 **(4) An:**
- 3 (A) employee of an insurer; or
- 4 (B) organization employed by insurers;
- 5 that is engaged in the inspection, rating, or classification of
- 6 risks, or in the supervision of the training of insurance
- 7 producers, and that is not individually engaged in the sale,
- 8 solicitation, or negotiation of insurance.
- 9 **(5) A person whose activities in Indiana are limited to**
- 10 **advertising, without the intent to solicit insurance in Indiana,**
- 11 **through communications in printed publications or other**
- 12 **forms of electronic mass media whose distribution is not**
- 13 **limited to residents of Indiana, provided that the person does**
- 14 **not sell, solicit, or negotiate insurance that would insure risks**
- 15 **residing, located, or to be performed in Indiana.**
- 16 **(6) A person who is not a resident of Indiana and who sells,**
- 17 **solicits, or negotiates a contract of insurance for commercial**
- 18 **property and casualty risks to an insured with risks located in**
- 19 **more than one state insured under that contract, provided**
- 20 **that:**
- 21 (A) the person is otherwise licensed as an insurance
- 22 producer to sell, solicit, or negotiate the insurance in the
- 23 state where the insured maintains its principal place of
- 24 business; and
- 25 (B) the contract of insurance insures risks located in that
- 26 state.
- 27 **(7) A salaried full-time employee who counsels or advises the**
- 28 **employee's employer about the insurance interests of the**
- 29 **employer or of the subsidiaries or business affiliates of the**
- 30 **employer, provided that the employee does not sell or solicit**
- 31 **insurance or receive a commission.**
- 32 **(8) A representative of a county farmers mutual insurance**
- 33 **company.**
- 34 **(9) An officer, employee, or representative of a rental**
- 35 **company (as defined in IC 24-4-9-7) who negotiates or solicits**
- 36 **insurance incidental to and in connection with the rental of a**
- 37 **motor vehicle.**
- 38 **Sec. 5. (a) A resident individual applying for:**
- 39 (1) an insurance producer license;
- 40 (2) a consultant's license; or
- 41 (3) a surplus lines producer license;
- 42 **must pass a written examination unless the individual is exempt**
- 43 **under section 9 of this chapter.**
- 44 **(b) The examination required under subsection (a) must test the**
- 45 **knowledge of the individual concerning the:**
- 46 (1) lines of authority for which application is made;
- 47 (2) duties and responsibilities of a licensee; and

- 1 **(3) insurance laws and administrative rules of Indiana.**
2 **(c) Examinations required under this section must be developed**
3 **and conducted under rules as may be prescribed by the**
4 **commissioner.**
5 **(d) The commissioner may make arrangements, including**
6 **contracting with an outside testing service, for administering**
7 **examinations, collecting the nonrefundable examination fee as**
8 **established by contract with an outside testing service, or collecting**
9 **the nonrefundable licensure fee set forth in section 32 of this**
10 **chapter.**
11 **(e) An individual who fails to appear for the examination**
12 **required under subsection (a) as scheduled or who fails to pass the**
13 **examination must reapply for an examination and remit all**
14 **required fees and forms before being rescheduled for another**
15 **examination.**
16 **Sec. 6. (a) A person applying for a resident insurance producer**
17 **license shall make application to the commissioner on the uniform**
18 **application and declare under penalty of refusal, suspension, or**
19 **revocation of the license that the statements made in the**
20 **application are true, correct, and complete to the best of the**
21 **individual's knowledge and belief.**
22 **(b) Before approving an application submitted under subsection**
23 **(a), the commissioner must find that the individual meets the**
24 **following requirements:**
25 **(1) Is at least eighteen (18) years of age.**
26 **(2) Has not committed any act that is a ground for denial,**
27 **suspension, or revocation under section 12 of this chapter.**
28 **(3) Has completed, if required by the commissioner, a**
29 **certified prelicensing course of study for the lines of authority**
30 **for which the individual has applied.**
31 **(4) Has paid the nonrefundable fee set forth in section 32 of**
32 **this chapter.**
33 **(5) Has successfully passed the examinations for the lines of**
34 **authority for which the person has applied.**
35 **(c) An applicant for a resident insurance producer license must**
36 **file with the commissioner on a form prescribed by the**
37 **commissioner a certification of completion certifying that the**
38 **applicant has completed an insurance producer program of study**
39 **certified by the commissioner under IC 27-1-15.7-5 not more than**
40 **six (6) months before the application for the license is received by**
41 **the commissioner. This subsection applies only to licensees seeking**
42 **qualification in the lines of insurance described in sections 7(a)(1)**
43 **through 7(a)(6) of this chapter.**
44 **(d) A business entity, before acting as an insurance producer, is**
45 **required to obtain an insurance producer license. The application**
46 **submitted by a business entity under this subsection must be made**
47 **using the uniform business entity application. Before approving the**

1 application, the commissioner must find that the business entity
2 has:

- 3 (1) paid the fees required under section 32 of this chapter; and
4 (2) designated an individual licensed producer responsible for
5 the business entity's compliance with the insurance laws and
6 administrative rules of Indiana.

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

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

15 Sec. 7. (a) Unless denied licensure under section 12 of this
16 chapter, a person who has met the requirements of sections 5 and
17 6 of this chapter shall be issued an insurance producer license. An
18 insurance producer may receive qualification for a license in one
19 or more of the following lines of authority:

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

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

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

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

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

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

38 (7) Credit — limited line credit insurance.

39 (8) Any other line of insurance permitted under Indiana laws
40 or administrative rules.

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

- 43 (1) is considered to have requested; and
44 (2) shall receive;

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

46 (c) A resident insurance producer may not request separate
47 qualifications for property insurance and casualty insurance under

1 subsection (a).

2 (d) An insurance producer license remains in effect unless
3 revoked or suspended, as long as the renewal fee set forth in section
4 32 of this chapter is paid and the educational requirements for
5 resident individual producers are met by the due date.

6 (e) An individual insurance producer who:

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

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

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

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

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

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

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

41 (j) The commissioner may participate, in whole or in part, with
42 the NAIC or any affiliate or subsidiary of the NAIC in a
43 centralized insurance producer license registry through which
44 insurance producer licenses are centrally or simultaneously
45 effected for states that require an insurance producer license and
46 participate in the centralized insurance producer license registry.
47 If the commissioner determines that participation in the

1 centralized insurance producer license registry is in the public
 2 interest, the commissioner may adopt rules under IC 4-22-2
 3 specifying uniform standards and procedures that are necessary
 4 for participation in the registry, including standards and
 5 procedures for centralized license fee collection.

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

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

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

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

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

18 (B) a completed uniform application; and

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

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

27 (c) A:

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

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

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

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

42 (e) Notwithstanding any other provision of this chapter, a
 43 person who is not a resident of Indiana and who is licensed as a
 44 limited lines credit insurance producer or another type of limited
 45 lines producer in the person's home state shall, upon application,
 46 receive a nonresident limited lines producer license under
 47 subsection (a) granting the same scope of authority as is granted

1 under the license issued by the person's home state.

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

- 7 (1) the individual is currently licensed in the other state; or
 8 (2) the application is received within ninety (90) days after the
 9 cancellation of the applicant's previous license and:

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

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

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

27 (c) An individual who:

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

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

33 (A) 7(a)(1);

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

35 (C) 7(a)(5);

36 of this chapter;

37 is not required to complete prelicensing education, and is required
 38 to take only the portion of the examination required under section
 39 5(b) of this chapter that pertains to Indiana laws and rules.

40 (d) An individual who has:

41 (1) attained the designation of chartered property and
 42 casualty underwriter, certified insurance counselor, or
 43 accredited advisor in insurance; and

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

46 (A) 7(a)(3);

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

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**(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.**

- 1 **Sec. 12. (a) For purposes of this section, "permanently revoke"**
- 2 **means that:**
- 3 **(1) the producer's license shall never be reinstated; and**
- 4 **(2) the former licensee, after the license revocation, is not**
- 5 **eligible to submit an application for a license to the**
- 6 **department.**
- 7 **(b) The commissioner may levy a civil penalty, place an**
- 8 **insurance producer on probation, suspend an insurance producer's**
- 9 **license, revoke an insurance producer's license for a period of**
- 10 **years, permanently revoke an insurance producer's license, or**
- 11 **refuse to issue or renew an insurance producer license, or take any**
- 12 **combination of these actions, for any of the following causes:**
- 13 **(1) Providing incorrect, misleading, incomplete, or materially**
- 14 **untrue information in a license application.**
- 15 **(2) Violating:**
- 16 **(A) an insurance law;**
- 17 **(B) a regulation;**
- 18 **(C) a subpoena of an insurance commissioner; or**
- 19 **(D) an order of an insurance commissioner;**
- 20 **of Indiana or of another state.**
- 21 **(3) Obtaining or attempting to obtain a license through**
- 22 **misrepresentation or fraud.**
- 23 **(4) Improperly withholding, misappropriating, or converting**
- 24 **any monies or properties received in the course of doing**
- 25 **insurance business.**
- 26 **(5) Intentionally misrepresenting the terms of an actual or**
- 27 **proposed insurance contract or application for insurance.**
- 28 **(6) Having been convicted of a felony.**
- 29 **(7) Admitting to having committed or being found to have**
- 30 **committed any unfair trade practice or fraud in the business**
- 31 **of insurance.**
- 32 **(8) Using fraudulent, coercive, or dishonest practices, or**
- 33 **demonstrating incompetence, untrustworthiness, or financial**
- 34 **irresponsibility in the conduct of business in Indiana or**
- 35 **elsewhere.**
- 36 **(9) Having an insurance producer license, or its equivalent,**
- 37 **denied, suspended, or revoked in any other state, province,**
- 38 **district, or territory.**
- 39 **(10) Forging another's name to an application for insurance**
- 40 **or to any document related to an insurance transaction.**
- 41 **(11) Improperly using notes or any other reference material**
- 42 **to complete an examination for an insurance license.**
- 43 **(12) Knowingly accepting insurance business from an**
- 44 **individual who is not licensed.**
- 45 **(13) Failing to comply with an administrative or court order**
- 46 **imposing a child support obligation.**
- 47 **(14) Failing to pay state income tax or to comply with any**

- 1 **administrative or court order directing payment of state**
- 2 **income tax.**
- 3 **(15) Failing to satisfy the continuing education requirements**
- 4 **established by IC 27-1-15.7.**
- 5 **(16) Violating section 31 of this chapter.**
- 6 **(17) Failing to timely inform the commissioner of a change in**
- 7 **legal name or address, in violation of section 7(h) of this**
- 8 **chapter.**
- 9 **(c) The commissioner shall refuse to:**
- 10 **(1) issue a license; or**
- 11 **(2) renew a license issued;**
- 12 **under this chapter to any person who is the subject of an order**
- 13 **issued by a court under IC 31-14-12-7 or IC 31-16-12-10 (or**
- 14 **IC 31-1-11.5-13(m) or IC 31-6-6.1-16(m) before their repeal).**
- 15 **(d) If the commissioner refuses to renew a license or denies a**
- 16 **application for a license, the commissioner shall notify the**
- 17 **applicant or licensee and advise the applicant or licensee, in a**
- 18 **writing sent through regular first class mail, of the reason for the**
- 19 **denial of the applicant's application or the nonrenewal of the**
- 20 **licensee's license. The applicant or licensee may, not more than**
- 21 **sixty-three (63) days after notice of denial of the applicant's**
- 22 **application or nonrenewal of the licensee's license is mailed, make**
- 23 **written demand to the commissioner for a hearing before the**
- 24 **commissioner to determine the reasonableness of the**
- 25 **commissioner's action. The hearing shall be held not more than**
- 26 **thirty (30) days after the applicant or licensee makes the written**
- 27 **demand, and shall be conducted under IC 4-21.5.**
- 28 **(e) The license of a business entity may be suspended, revoked,**
- 29 **or refused if the commissioner finds, after hearing, that a violation**
- 30 **of an individual licensee acting on behalf of the partnership or**
- 31 **corporation was known or should have been known by one or more**
- 32 **of the partners, officers, or managers of the partnership or**
- 33 **corporation and:**
- 34 **(1) the violation was not reported to the commissioner; and**
- 35 **(2) no corrective action was taken.**
- 36 **(f) In addition to or in lieu of any applicable denial, suspension,**
- 37 **or revocation of a license under subsection (b), a person may, after**
- 38 **a hearing, be subject to the imposition by the commissioner under**
- 39 **subsection (b) of a civil penalty of not less than fifty dollars (\$50)**
- 40 **and not more than ten thousand dollars (\$10,000). A penalty**
- 41 **imposed under this subsection may be enforced in the same**
- 42 **manner as a civil judgement.**
- 43 **(g) A licensed insurance producer or limited lines producer**
- 44 **shall, not more than ten (10) days after the producer receives a**
- 45 **request in a registered or certified letter from the commissioner,**
- 46 **furnish the commissioner with a full and complete report listing**
- 47 **each insurer with which the licensee has held an appointment**

1 during the year preceding the request.

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

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

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

- 16 (1) insurance written on the interests of:
17 (A) the applicant or licensee;
18 (B) the applicant's or licensee's immediate family; or
19 (C) the applicant's or licensee's employer; or
20 (2) insurance covering:
21 (A) the applicant or licensee;
22 (B) members of the applicant's or licensee's immediate
23 family; or
24 (C) either:
25 (i) a corporation, limited liability company, association,
26 or partnership; or
27 (ii) the officers, directors, substantial stockholders,
28 partners, members, managers, employees of such a
29 corporation, limited liability company, association, or
30 partnership;
31 of which the applicant or licensee or a member of the
32 applicant's or licensee's immediate family is an officer,
33 director, substantial stockholder, partner, member,
34 manager, associate, or employee.

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

44 (k) The commissioner has the authority to:
45 (1) enforce the provisions of; and
46 (2) impose any penalty or remedy authorized by;
47 this chapter or any other provision of this title against any person

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

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

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

- 12 (1) subsection (b)(4);
- 13 (2) subsection (b)(7);
- 14 (3) subsection (b)(8); or
- 15 (4) subsection (b)(16).

16 (n) The commissioner shall notify the securities commissioner
17 appointed under IC 23-2-1-15 when an administrative action or
18 civil proceeding is filed under this section and when an order is
19 issued under this section denying, suspending, or revoking a
20 license.

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

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

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

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

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

44 **Sec. 15. (a)** An insurer or authorized representative of an
45 insurer that terminates the appointment, employment, contract, or
46 other insurance business relationship with a producer shall notify
47 the commissioner not more than thirty (30) days after the effective

1 date of the termination using a format prescribed by the
2 commissioner, if:

- 3 (1) the reason for termination is described in section 12 of this
- 4 chapter; or
- 5 (2) the insurer has knowledge that the producer was found by
- 6 a court, a government body, or a self-regulatory organization
- 7 authorized by law to have engaged in any of the activities
- 8 described in section 12 of this chapter.

9 Upon the written request of the insurance commissioner, the
10 insurer shall provide additional information, documents, records,
11 and other data pertaining to the termination or activity of the
12 producer.

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

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

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

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

42 (d) Immunities under this section are as follows:

43 (1) In the absence of actual malice, an insurer, an authorized
44 representative of an insurer, a producer, the commissioner,
45 and an organization of which the commissioner is a member
46 and that compiles information and makes it available to other
47 insurance commissioners or regulatory or law enforcement

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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

- 1 in any private civil action concerning the confidential
- 2 documents, materials, or information described in subdivision
- 3 (1).
- 4 (3) To assist in the performance of the commissioner's duties
- 5 under this chapter, the commissioner may:
- 6 (A) share documents, materials, and other information,
- 7 including the confidential and privileged documents,
- 8 materials, and information described in subdivision (1),
- 9 with:
- 10 (i) other state, federal, and international regulatory
- 11 agencies;
- 12 (ii) the National Association of Insurance
- 13 Commissioners, its affiliates or subsidiaries; and
- 14 (iii) state, federal, and international law enforcement
- 15 authorities;
- 16 provided that the recipient agrees to maintain the
- 17 confidentiality and privileged status of the documents,
- 18 materials, or other information;
- 19 (B) receive documents, materials, and information,
- 20 including otherwise confidential and privileged documents,
- 21 materials, and information, from:
- 22 (i) the National Association of Insurance Commissioners,
- 23 its affiliates or subsidiaries; and
- 24 (ii) regulatory and law enforcement officials of other
- 25 foreign or domestic jurisdictions;
- 26 and shall maintain as confidential or privileged any
- 27 document, material, or information received with notice or
- 28 the understanding that it is confidential or privileged
- 29 under the laws of the jurisdiction that is the source of the
- 30 document, material, or information; and
- 31 (C) enter into agreements governing sharing and use of
- 32 information consistent with this subsection.
- 33 (4) Disclosure of documents, materials, and information:
- 34 (A) to the commissioner; or
- 35 (B) by the commissioner;
- 36 under this section does not result in a waiver of any applicable
- 37 privilege or claim of confidentiality in the documents,
- 38 materials, or information.
- 39 (5) This chapter does not prohibit the commissioner from
- 40 releasing final, adjudicated actions, including for cause
- 41 terminations that are open to public inspection under IC 5-14,
- 42 to a database or other clearinghouse service maintained by
- 43 the National Association of Insurance Commissioners or by its
- 44 affiliates or subsidiaries.
- 45 (f) If an insurer, an authorized representative of an insurer, or
- 46 a producer fails to report as required under this section or is found
- 47 to have reported falsely with actual malice by a court of competent

1 jurisdiction, the commissioner may, after notice and hearing,
2 suspend or revoke the license or certificate of authority of the
3 insurer, authorized representative, or producer, and may fine the
4 insurer, authorized representative, or producer under IC 27-4-1-6.

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

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

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

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

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

- 31 (1) A person who is a ticket-selling producer of a common
32 carrier and who will act only with reference to the issuance of
33 insurance on personal effects carried as baggage, in
34 connection with the transportation provided by such common
35 carrier.
- 36 (2) A person who will only negotiate or solicit limited travel
37 accident insurance in transportation terminals.
- 38 (3) A limited line credit insurance producer.
- 39 (4) A person who will only negotiate or solicit insurance under
40 Class 2(j) of IC 27-1-5-1.
- 41 (5) Any person who will negotiate or solicit a kind of
42 insurance that the commissioner finds does not require an
43 examination to demonstrate professional competency.

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

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

- 1 (2) Any other arrangement for advance payment of funeral
2 and burial expenses.
- 3 (b) A person shall not sell, solicit, or negotiate prearranged
4 funeral insurance unless the person is licensed as either of the
5 following:
- 6 (1) An insurance producer with a life qualification under
7 section 7 of this chapter.
- 8 (2) A limited lines producer.
- 9 (c) A person may be licensed as a limited lines producer to sell
10 only prearranged funeral insurance if the person is:
- 11 (1) licensed under IC 25-15-4-3; and
12 (2) granted a change in status under subsection (d).
- 13 (d) If, after a person is licensed under this chapter as an
14 insurance producer with a life qualification, the person wants to
15 limit the person's insurance business solely to the sale of
16 prearranged funeral insurance, the person must:
- 17 (1) request the commissioner to issue the person a limited
18 lines producer's license under this chapter; and
19 (2) show proof of having completed ten (10) hours of
20 continuing education credit approved by the department.
- 21 (e) If the commissioner receives a request and proof under
22 subsection (d), the commissioner shall issue a limited lines
23 producer's license, subject to the provisions of this chapter relating
24 to limited lines producer licenses.
- 25 (f) A person issued a limited lines producer's license under
26 subsection (e) may sell only prearranged funeral insurance.
- 27 Sec. 20. (a) As used in this section, "crop hail insurance" means
28 insurance that is used only in the event of hail related disasters to
29 growing farm crops.
- 30 (b) As used in this section, "multi-peril crop insurance" means
31 insurance that is:
- 32 (1) used in the event of weather related disasters or insect
33 infestations during the growing season; and
34 (2) guaranteed by the Federal Crop Insurance Corporation.
- 35 (c) To sell multi-peril crop insurance or crop hail insurance, a
36 person must be licensed under this chapter.
- 37 (d) If, after a person is licensed under this chapter as an
38 insurance producer, the person wants to limit the person's
39 insurance business solely to the sale of:
- 40 (1) multi-peril crop insurance;
41 (2) crop hail insurance; or
42 (3) multi-peril crop insurance and crop hail insurance;
43 the person may request the commissioner to issue to the person a
44 limited lines producer's license under this chapter.
- 45 (e) If the commissioner:
- 46 (1) receives a request from a person under subsection (d); and
47 (2) the person shows proof of having completed ten (10) hours

1 of continuing education credit approved by the department;
 2 the commissioner shall issue a limited lines producer's license to
 3 the person, subject to the provisions of this chapter relating to
 4 limited lines producer's licenses.

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

7 (1) multi-peril crop insurance;

8 (2) crop hail insurance; or

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

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

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

26 Sec. 22. (a) An insurance producer may not receive
 27 compensation for the sale, solicitation, negotiation, or renewal of
 28 any insurance policy issued to any person or entity for whom the
 29 insurance producer, for a fee, acts as a consultant for that policy
 30 unless:

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

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

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

39 (B) The method of compensation.

40 (b) The requirements of this subsection are in addition to the
 41 requirements set forth in subsection (a). A risk manager described
 42 in IC 27-1-22-2.5(b)(2) shall, before providing risk management
 43 services to an exempt commercial policyholder (as defined in
 44 IC 27-1-22-2.5), disclose in writing to the exempt commercial
 45 policyholder whether the risk manager will receive or expects to
 46 receive any commission, fee, or other consideration from an
 47 insurer in connection with the purchase of a commercial insurance

1 policy by the exempt commercial policyholder. However, if the risk
 2 manager charges the exempt commercial policyholder a fee for
 3 risk management services, the risk manager shall disclose in
 4 writing to the exempt commercial policyholder the specific amount
 5 of any commission, fee, or other consideration that the risk
 6 manager may receive from an insurer in connection with the
 7 purchase of the policy. The risk manager shall, before providing
 8 the risk management services, obtain from the exempt commercial
 9 policyholder a written acknowledgment of the disclosures made by
 10 the risk manager to the exempt commercial policyholder under this
 11 subsection.

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

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

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

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

22 (4) An actuary or a certified public accountant who provides
 23 information, recommendations, advice, or services in the
 24 actuary's or certified public accountant's professional
 25 capacity.

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

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

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

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

44 (c) For purposes of this subsection, "consultant's fee" does not
 45 include a late fee charged under section 24 of this chapter or fees
 46 otherwise allowed by law. A consultant shall provide consultant
 47 services as outlined in a written agreement. The agreement must

1 be signed by the person receiving services, and a copy of the
2 agreement must be provided to the person receiving services before
3 any services are performed. The agreement must outline the nature
4 of the work to be performed by the consultant and the method of
5 compensation of the consultant. The signed agreement must be
6 retained by the consultant for not less than two (2) years after
7 completion of the services. A copy of the agreement shall be made
8 available to the commissioner. In the absence of an agreement on
9 the consultant's fee, the consultant shall not be entitled to recover
10 a fee in any action at law or in equity.

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

15 (e) A licensed consultant shall not:

- 16 (1) employ;
- 17 (2) be employed by;
- 18 (3) be in partnership with; or
- 19 (4) receive any remuneration whatsoever;

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

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

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

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

- 34 (1) serve with objectivity and complete loyalty solely the
35 insurance interests of the consultant's client; and
- 36 (2) render the client such information, counsel, and service as
37 within the knowledge, understanding, and opinion, in good
38 faith of the licensee, best serves the client's insurance needs
39 and interests.

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

1 withdrawn.

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

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

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

13 (1) Before incurring any expense described in this subsection,
14 the insurance producer must provide written notice to the
15 commercial insured stating that a fee will be charged and
16 setting forth the:

17 (A) amount of the fee; or

18 (B) basis for calculating the fee.

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

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

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

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

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

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

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

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

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

7 **Sec. 27.** A person who held a valid solicitor's license on July 1,
 8 1977, is subject to the same rights and responsibilities under a
 9 solicitor's license as the rights and responsibilities that were in
 10 effect before enactment of this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

47 (3) Explains that the person may contest the bureau's

1 determination that the person is delinquent and subject to an
 2 order placing the person on probationary status by making
 3 written application to the bureau within twenty (20) days
 4 after the date the notice is mailed.

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

9 (5) Explains the procedures to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

46 (c) If the commissioner receives a notice by the bureau (Title
 47 IV-D agency) under IC 12-17-2-34(i) that the person whose license

- 1 has been placed on probationary status has failed to:
- 2 (1) pay the person's child support arrearage in full; or
- 3 (2) establish a payment plan with the bureau to pay the
- 4 arrearage and request the activation of an income
- 5 withholding order under IC 31-16-15-2;
- 6 within twenty (20) days after the notice required under subsection
- 7 (b) is mailed, the commissioner shall suspend the person's license.
- 8 (d) The commissioner may not reinstate any license placed on
- 9 probation or suspended under this section until the commissioner
- 10 receives a notice from the bureau that the person has:
- 11 (1) paid the person's child support arrearage in full; or
- 12 (2) established a payment plan with the bureau to pay the
- 13 arrearage and requested the activation of an income
- 14 withholding order under IC 31-16-15-2.
- 15 **Sec. 30.** The commissioner and the director of the department
- 16 of financial institutions shall consult with each other and assist
- 17 each other in enforcing compliance with the provisions of IC 28
- 18 concerning the sale of life insurance policies and annuity contracts.
- 19 The commissioner and the director of the department of financial
- 20 institutions may jointly conduct investigations, prosecute suits, and
- 21 take other official action they consider appropriate under this
- 22 section if either of them is empowered to take the action. If the
- 23 director of the department of financial institutions is informed by
- 24 a financial institution or its affiliate of a violation or suspected
- 25 violation of any provision of IC 28 concerning the sale of life
- 26 insurance policies or annuity contracts or of the insurance laws
- 27 and rules of Indiana, the director of the department of financial
- 28 institutions shall timely advise the commissioner of the violation.
- 29 If the commissioner is informed by a financial institution or its
- 30 affiliate of a violation or suspected violation of any provision of
- 31 IC 28 concerning the sale of life insurance policies or annuity
- 32 contracts or of the insurance laws and rules of Indiana, the
- 33 commissioner shall timely advise the director of the department of
- 34 financial institutions of the violation.
- 35 **Sec. 31.** An insurance producer shall not:
- 36 (1) be named a beneficiary of;
- 37 (2) become an owner of; or
- 38 (3) receive a collateral assignment of;
- 39 an individual life insurance policy or individual annuity contract
- 40 unless the insurance producer has an insurable interest in the life
- 41 of the insured or annuitant. A beneficiary designation, ownership
- 42 designation, or collateral assignment made in violation of this
- 43 section is void.
- 44 **Sec. 32. (a)** The department shall adopt rules under IC 4-22-2 to
- 45 set fees for licensure under this chapter, IC 27-1-15.7, and
- 46 IC 27-1-15.8.
- 47 (b) Insurance producer and limited lines producer license

1 renewal fees are due every four (4) years. The fee charged by the
2 department every four (4) years for a:

- 3 (1) resident license is forty dollars (\$40); and
- 4 (2) nonresident license is ninety dollars (\$90).
- 5 (c) Consultant renewal fees are due every twenty-four (24)
- 6 months.

- 7 (d) Surplus lines producer renewal fees are due annually.
- 8 (e) The commissioner may issue a duplicate license for any
- 9 license issued under this chapter. The fee charged by the
- 10 commissioner for the issuance of a duplicate:

- 11 (1) insurance producer license;
- 12 (2) surplus lines producer license;
- 13 (3) limited lines producer license; or
- 14 (4) consultant license;

- 15 may not exceed ten dollars (\$10).
- 16 Sec. 33. Except as otherwise provided in section 32 of this
- 17 chapter, the commissioner may adopt rules under IC 4-22-2 to
- 18 carry out the purposes of this chapter.

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

- 23 Page 77, between lines 9 and 10, begin a new paragraph and insert:
- 24 "SECTION 48. [EFFECTIVE JANUARY 1, 2002] (a) After
- 25 December 31, 2001:

- 26 (1) any reference in the Indiana Code to an insurance agent
- 27 shall be treated as a reference to an insurance producer (as
- 28 defined in IC 27-1-15.6-2(7), as added by this act);
- 29 (2) any reference in the Indiana Code to a surplus lines
- 30 insurance agent shall be treated as a reference to a surplus
- 31 lines producer (as defined in IC 27-1-15.6-2(17), as added by
- 32 this act); and
- 33 (3) any reference in the Indiana Code to a limited insurance

- 1 **representative shall be treated as a reference to a limited lines**
- 2 **producer (as defined in IC 27-1-15.6-2(12), as added by this act).**
- 3 **(b) This SECTION expires June 30, 2005."**
- 4 Renumber all SECTIONS consecutively.
(Reference is to ESB 386 as printed April 9, 2001.)

Representative Ripley