



February 9, 2001

HOUSE BILL No. 1674

DIGEST OF HB 1674 (Updated February 6, 2001 4:16 PM - DI 97)

Citations Affected: IC 12-17; IC 27-1; IC 27-4; IC 27-5; IC 27-7; IC 27-8; IC 27-13; IC 28-5; IC 28-14; IC 31-14; IC 31-16; IC 34-30; IC 34-46; IC 35-43; noncode.

Synopsis: Licensing of insurance producers. Repeals the current insurance agent licensure statute. Adds chapters concerning: (1) insurance producer licensing; (2) insurance producer license renewal; and (3) surplus lines producers. Specifies qualifications and procedures required for licensure of resident and nonresident insurance producers, including reciprocity requirements. Provides for temporary insurance producer licensure. Specifies circumstances in which the commissioner of the department of insurance may suspend, revoke, or refuse to issue or renew a license, including procedural requirements. Provides for insurer termination of a business relationship with a producer. Specifies requirements regarding notification to the commissioner of a termination, including immunity and confidentiality provisions. Contains provisions concerning licensure of insurance consultants, solicitors, fraternal benefit society representatives, and limited lines producers. Specifies actions of the commissioner with regard to a court order concerning child support obligations of a licensee. Provides for fee payment, and prelicensing and continuing education requirements. Establishes an insurance producer education and continuing education advisory council. Specifies requirements for maintaining a surplus lines producer's license. Makes conforming amendments.

Effective: January 1, 2002.

Crooks

January 17, 2001, read first time and referred to Committee on Insurance, Corporations and Small Business.
February 8, 2001, amended, reported — Do Pass.

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February 9, 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.

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HOUSE BILL No. 1674

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

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

- 1 SECTION 1. IC 12-17-2-34 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 34. (a) When the
3 Title IV-D agency finds that an obligor is delinquent and can
4 demonstrate that all previous enforcement actions have been
5 unsuccessful, the Title IV-D agency shall send, to a verified address,
6 a notice to the obligor that includes the following:
7 (1) Specifies that the obligor is delinquent.
8 (2) Describes the amount of child support that the obligor is in
9 arrears.
10 (3) States that unless the obligor:
11 (A) pays the obligor's child support arrearage in full;
12 (B) requests the activation of an income withholding order
13 under IC 31-16-15-2 and establishes a payment plan with the
14 Title IV-D agency to pay the arrearage; or
15 (C) requests a hearing under section 35 of this chapter;
16 within twenty (20) days after the date the notice is mailed, the Title
17 IV-D agency shall issue an order to the bureau of motor vehicles stating

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1 that the obligor is delinquent and that the obligor's driving privileges
2 shall be suspended.

3 (4) Explains that the obligor has twenty (20) days after the notice
4 is mailed to do one (1) of the following:

5 (A) Pay the obligor's child support arrearage in full.

6 (B) Request the activation of an income withholding order
7 under IC 31-16-15-2 and establish a payment plan with the
8 Title IV-D agency to pay the arrearage.

9 (C) Request a hearing under section 35 of this chapter.

10 (5) Explains that if the obligor has not satisfied any of the
11 requirements of subdivision (4) within twenty (20) days after the
12 notice is mailed, that the Title IV-D agency shall issue a notice to:

13 (A) the board that regulates the obligor's profession or
14 occupation, if any, that the obligor is delinquent and that the
15 obligor may be subject to sanctions under IC 25-1-1.2,
16 including suspension or revocation of the obligor's
17 professional or occupational license;

18 (B) the supreme court disciplinary commission if the obligor
19 is licensed to practice law;

20 (C) the professional standards board as established by
21 IC 20-1-1.4 if the obligor is a licensed teacher;

22 (D) the Indiana horse racing commission if the obligor holds
23 or applies for a license issued under IC 4-31-6;

24 (E) the Indiana gaming commission if the obligor holds or
25 applies for a license issued under IC 4-33;

26 (F) the commissioner of the department of insurance if the
27 obligor holds or is an applicant for a license issued under
28 ~~IC 27-1-15.5~~ **IC 27-1-15.6, IC 27-1-15.8**, or IC 27-10-3; or

29 (G) the director of the department of natural resources if the
30 obligor holds or is an applicant for a license issued by the
31 department of natural resources under the following:

32 (i) IC 14-22-12 (fishing, hunting, and trapping licenses).

33 (ii) IC 14-22-14 (Lake Michigan commercial fishing
34 license).

35 (iii) IC 14-22-16 (bait dealer's license).

36 (iv) IC 14-22-17 (mussel license).

37 (v) IC 14-22-19 (fur buyer's license).

38 (vi) IC 14-24-7 (nursery dealer's license).

39 (vii) IC 14-31-3 (ginseng dealer's license).

40 (6) Explains that the only basis for contesting the issuance of an
41 order under subdivision (3) or (5) is a mistake of fact.

42 (7) Explains that an obligor may contest the Title IV-D agency's

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1 determination to issue an order under subdivision (3) or (5) by
 2 making written application to the Title IV-D agency within twenty
 3 (20) days after the date the notice is mailed.

4 (8) Explains the procedures to:

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

6 (B) establish a payment plan with the Title IV-D agency to pay
 7 the arrearage; and

8 (C) request the activation of an income withholding order
 9 under IC 31-16-15-2.

10 (b) Whenever the Title IV-D agency finds that an obligor is
 11 delinquent and has failed to:

12 (1) pay the obligor's child support arrearage in full;

13 (2) establish a payment plan with the Title IV-D agency to pay the
 14 arrearage and request the activation of an income withholding
 15 order under IC 31-16-15-2; or

16 (3) request a hearing under section 35 of this chapter within
 17 twenty (20) days after the date the notice described in subsection
 18 (a) is mailed;

19 the Title IV-D agency shall issue an order to the bureau of motor
 20 vehicles stating that the obligor is delinquent.

21 (c) An order issued under subsection (b) must require the following:

22 (1) If the obligor who is the subject of the order holds a driving
 23 license or permit on the date the order is issued, that the driving
 24 privileges of the obligor be suspended until further order of the
 25 Title IV-D agency.

26 (2) If the obligor who is the subject of the order does not hold a
 27 driving license or permit on the date the order is issued, that the
 28 bureau of motor vehicles may not issue a driving license or permit
 29 to the obligor until the bureau of motor vehicles receives a further
 30 order from the Title IV-D agency.

31 (d) The Title IV-D agency shall provide the:

32 (1) full name;

33 (2) date of birth;

34 (3) verified address; and

35 (4) Social Security number or driving license number;

36 of the obligor to the bureau of motor vehicles.

37 (e) When the Title IV-D agency finds that an obligor who is an
 38 applicant (as defined in IC 25-1-1.2-1) or a practitioner (as defined in
 39 IC 25-1-1.2-6) is delinquent and the applicant or practitioner has failed
 40 to:

41 (1) pay the obligor's child support arrearage in full;

42 (2) establish a payment plan with the Title IV-D agency to pay the

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1 arrearage or request the activation of an income withholding order
 2 under IC 31-2-10-7; or

3 (3) request a hearing under section 35 of this chapter;
 4 the Title IV-D agency shall issue an order to the board regulating the
 5 practice of the obligor's profession or occupation stating that the
 6 obligor is delinquent.

7 (f) An order issued under subsection (e) must direct the board
 8 regulating the obligor's profession or occupation to impose the
 9 appropriate sanctions described under IC 25-1-1.2.

10 (g) When the Title IV-D agency finds that an obligor who is an
 11 attorney or a licensed teacher is delinquent and the attorney or licensed
 12 teacher has failed to:

- 13 (1) pay the obligor's child support arrearage in full;
 14 (2) establish a payment plan with the Title IV-D agency to pay the
 15 arrearage or request the activation of an income withholding order
 16 under IC 31-16-15-2; or

17 (3) request a hearing under section 35 of this chapter;
 18 the Title IV-D agency shall notify the supreme court disciplinary
 19 commission if the obligor is an attorney, or the professional standards
 20 board if the obligor is a licensed teacher, that the obligor is delinquent.

21 (h) When the Title IV-D agency finds that an obligor who holds a
 22 license issued under IC 4-31-6 or IC 4-33 has failed to:

- 23 (1) pay the obligor's child support arrearage in full;
 24 (2) establish a payment plan with the Title IV-D agency to pay the
 25 arrearage and request the activation of an income withholding
 26 order under IC 31-16-15-2; or

27 (3) request a hearing under section 35 of this chapter;
 28 the Title IV-D agency shall issue an order to the Indiana horse racing
 29 commission if the obligor holds a license issued under IC 4-31-6, or to
 30 the Indiana gaming commission if the obligor holds a license issued
 31 under IC 4-33, stating that the obligor is delinquent and directing the
 32 commission to impose the appropriate sanctions described in
 33 IC 4-31-6-11 or IC 4-33-8.5-3.

34 (i) When the Title IV-D agency finds that an obligor who holds a
 35 license issued under ~~IC 27-1-15.5~~ **IC 27-1-15.6, IC 27-1-15.8**, or
 36 IC 27-10-3 has failed to:

- 37 (1) pay the obligor's child support arrearage in full;
 38 (2) establish a payment plan with the Title IV-D agency to pay the
 39 arrearage and request the activation of an income withholding
 40 order under IC 31-16-15-2; or

41 (3) request a hearing under section 35 of this chapter;
 42 the Title IV-D agency shall issue an order to the commissioner of the

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1 department of insurance stating that the obligor is delinquent and
 2 directing the commissioner to impose the appropriate sanctions
 3 described in ~~IC 27-1-15.5-22~~ **IC 27-1-15.6-29** or IC 27-10-3-20.

4 (j) When the Title IV-D agency finds that an obligor who holds a
 5 license issued by the department of natural resources under
 6 IC 14-22-12, IC 14-22-14, IC 14-22-16, IC 14-22-17, IC 14-22-19,
 7 IC 14-24-7, or IC 14-31-3 has failed to:

8 (1) pay the obligor's child support arrearage in full;

9 (2) establish a payment plan with the Title IV-D agency to pay the
 10 arrearage and request the activation of an income withholding
 11 order under IC 31-16-15-2; or

12 (3) request a hearing under section 35 of this chapter;

13 the Title IV-D agency shall issue an order to the director of the
 14 department of natural resources stating that the obligor is delinquent
 15 and directing the director to suspend or revoke a license issued to the
 16 obligor by the department of natural resources as provided in
 17 IC 14-11-3.

18 SECTION 2. IC 12-17-2-36 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 36. (a) As used
 20 in this section, "board" has the meaning set forth in IC 25-1-1.2-2.

21 (b) If an obligor holds a license issued by a board and requests a
 22 hearing under section 35 of this chapter but fails to appear or appears
 23 and is found to be delinquent, the Title IV-D agency shall issue an
 24 order to the board that issued the obligor's license:

25 (1) stating that the obligor is delinquent; and

26 (2) requiring the board to comply with the actions required under
 27 IC 25-1-1.2-8(b).

28 (c) If an obligor holds a license issued under IC 4-31-6 or IC 4-33
 29 and requests a hearing under section 35 of this chapter but fails to
 30 appear or appears and is found to be delinquent, the Title IV-D agency
 31 shall issue an order to the:

32 (1) Indiana horse racing commission, if the obligor holds a license
 33 issued under IC 4-31-6; or

34 (2) Indiana gaming commission, if the obligor holds a license
 35 issued under IC 4-33;

36 stating that the obligor is delinquent and requiring the commission to
 37 comply with the actions required under IC 4-31-6-11 or IC 4-33-8.5-3.

38 (d) If an obligor holds a license issued under ~~IC 27-1-15.5~~
 39 **IC 27-1-15.6**, **IC 27-1-15.8**, or IC 27-10-3 and requests a hearing
 40 under section 35 of this chapter but fails to appear or appears and is
 41 found to be delinquent, the Title IV-D agency shall issue an order to the
 42 commissioner of the department of insurance:



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- 1 (1) stating that the obligor is delinquent; and
 2 (2) requiring the commissioner to comply with the actions
 3 required under ~~IC 27-1-15.5-22~~ IC 27-1-15.6-29 or
 4 IC 27-10-3-20.

5 (e) If an obligor holds a license issued by the department of natural
 6 resources under IC 14-22-12, IC 14-22-14, IC 14-22-16, IC 14-22-17,
 7 IC 14-22-19, IC 14-24-7, or IC 14-31-3 and requests a hearing under
 8 section 35 of this chapter but fails to appear, or appears and is found to
 9 be delinquent, the Title IV-D agency shall issue an order to the director
 10 of the department of natural resources:

- 11 (1) stating that the obligor is delinquent; and
 12 (2) requiring the director to suspend or revoke a license issued by
 13 the department as provided in this section.

14 SECTION 3. IC 27-1-15.6 IS ADDED TO THE INDIANA CODE
 15 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 16 JANUARY 1, 2002]:

17 **Chapter 15.6. Insurance Producers**

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

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

- 24 (1) "Bureau" refers to the child support bureau of the division
 25 of family and children established under IC 12-17-2-5.
 26 (2) "Business entity" means a corporation, an association, a
 27 partnership, a limited liability company, a limited liability
 28 partnership, or another legal entity.
 29 (3) "Commissioner" means the insurance commissioner
 30 appointed under IC 27-1-1-2.
 31 (4) "Consultant" means a person who:
 32 (A) holds himself or herself out to the public as being
 33 engaged in the business of offering; or
 34 (B) for a fee, offers;
 35 any advice, counsel, opinion, or service with respect to the
 36 benefits, advantages, or disadvantages promised under any
 37 policy of insurance that could be issued in Indiana.
 38 (5) "Delinquent" means the condition of being at least:
 39 (A) two thousand dollars (\$2,000); or
 40 (B) three (3) months;
 41 past due in the payment of court ordered child support.
 42 (6) "Home state" means the District of Columbia or any state

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1 or territory of the United States in which an insurance
2 producer:

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

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

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

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

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

15 (A) Credit life insurance.

16 (B) Credit disability insurance.

17 (C) Credit property insurance.

18 (D) Credit unemployment insurance.

19 (E) Involuntary unemployment insurance.

20 (F) Mortgage life insurance.

21 (G) Mortgage guaranty insurance.

22 (H) Mortgage disability insurance.

23 (I) Guaranteed automobile protection (gap) insurance.

24 (J) Any other form of insurance:

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

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

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

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

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

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

40 (C) For purposes of section 8(e) of this chapter, any form
41 of insurance with respect to which authority is granted by
42 a home state that restricts the authority granted by a

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

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1 competition and an unfair and deceptive act and practice in the
2 business of insurance under IC 27-4-1-4.

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

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

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

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

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

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

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

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

31 (A) group life insurance, group property and casualty
32 insurance, group annuities, group or blanket accident and
33 sickness insurance;

34 (B) enrolling individuals under plans;

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

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

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

40 (3) A person identified in clauses (A) through (C) who is not
41 in any manner compensated, directly or indirectly, by a
42 company issuing a contract, to the extent that the person is

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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

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1 company (as defined in IC 24-4-9-7) who negotiates or solicits
2 insurance incidental to and in connection with the rental of a
3 motor vehicle.

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

- 5 (1) an insurance producer license;
6 (2) a consultant's license; or
7 (3) a surplus lines producer license;

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

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

- 12 (1) lines of authority for which application is made;
13 (2) duties and responsibilities of a licensee; and
14 (3) insurance laws and administrative rules of Indiana.

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

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

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

29 **Sec. 6. (a) A person applying for a resident insurance producer**
30 **license shall make application to the commissioner on the uniform**
31 **application and declare under penalty of refusal, suspension, or**
32 **revocation of the license that the statements made in the**
33 **application are true, correct, and complete to the best of the**
34 **individual's knowledge and belief.**

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

- 38 (1) Is at least eighteen (18) years of age.
39 (2) Has not committed any act that is a ground for denial,
40 suspension, or revocation under section 12 of this chapter.
41 (3) Has completed, if required by the commissioner, a
42 certified prelicensing course of study for the lines of authority



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- 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

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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

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1 license renewal procedures due to military service or some other
2 extenuating circumstance may request a waiver of the license
3 renewal procedures. The producer may also request a waiver of
4 any examination requirement or any other fine or sanction
5 imposed for failure to comply with the license renewal procedures.

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

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

15 (i) To assist in the performance of the commissioner's duties, the
16 commissioner may contract with non-governmental entities,
17 including the National Association of Insurance Commissioners
18 (NAIC), or any affiliates or subsidiaries that the NAIC oversees, to
19 perform ministerial functions, including the collection of fees
20 related to producer licensing, that the commissioner and the
21 non-governmental entity consider appropriate.

22 (j) The commissioner may participate, in whole or in part, with
23 the NAIC or any affiliate or subsidiary of the NAIC in a
24 centralized insurance producer license registry through which
25 insurance producer licenses are centrally or simultaneously
26 effected for states that require an insurance producer license and
27 participate in the centralized insurance producer license registry.
28 If the commissioner determines that participation in the
29 centralized insurance producer license registry is in the public
30 interest, the commissioner may adopt rules under IC 4-22-2
31 specifying uniform standards and procedures that are necessary
32 for participation in the registry, including standards and
33 procedures for centralized license fee collection.

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

- 37 (1) the person is currently licensed as a resident and in good
38 standing in the person's home state;
- 39 (2) the person has submitted the proper request for licensure
40 and has paid the fees required under section 32 of this
41 chapter;
- 42 (3) the person has submitted or transmitted to the

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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:

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(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

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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

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1 personal representative disposes of the business.

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

- 4 (1) the producer's license shall never be reinstated; and
- 5 (2) the former licensee, after the license revocation, is not
6 eligible to submit an application for a license to the
7 department.

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

- 14 (1) Providing incorrect, misleading, incomplete, or materially
15 untrue information in a license application.
- 16 (2) Violating an insurance law or a regulation, a subpoena, or
17 an order of the insurance commissioner of another state.
- 18 (3) Obtaining or attempting to obtain a license through
19 misrepresentation or fraud.
- 20 (4) Improperly withholding, misappropriating, or converting
21 any monies or properties received in the course of doing
22 insurance business.
- 23 (5) Intentionally misrepresenting the terms of an actual or
24 proposed insurance contract or application for insurance.
- 25 (6) Having been convicted of a felony.
- 26 (7) Admitting to having committed or being found to have
27 committed any unfair trade practice or fraud in the business
28 of insurance.
- 29 (8) Using fraudulent, coercive, or dishonest practices, or
30 demonstrating incompetence, untrustworthiness, or financial
31 irresponsibility in the conduct of business in Indiana or
32 elsewhere.
- 33 (9) Having an insurance producer license, or its equivalent,
34 denied, suspended, or revoked in any other state, province,
35 district, or territory.
- 36 (10) Forging another's name to an application for insurance
37 or to any document related to an insurance transaction.
- 38 (11) Improperly using notes or any other reference material
39 to complete an examination for an insurance license.
- 40 (12) Knowingly accepting insurance business from an
41 individual who is not licensed.
- 42 (13) Failing to comply with an administrative or court order

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- 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

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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

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

9 (k) The commissioner has the authority to:

- 10 (1) enforce the provisions of; and
 11 (2) impose any penalty or remedy authorized by;

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

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

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

- 24 (1) subsection (b)(4);
 25 (2) subsection (b)(7);
 26 (3) subsection (b)(8); or
 27 (4) subsection (b)(16).

28 (n) The commissioner shall notify the securities commissioner
 29 appointed under IC 23-2-1-15 when an administrative action or
 30 civil proceeding is filed under this section and when an order is
 31 issued under this section denying, suspending, or revoking a
 32 license.

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

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

42 (c) Renewal commissions or other deferred commissions may be

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1 paid to a person for selling, soliciting, or negotiating insurance in
2 Indiana if the person was required to be licensed under this
3 chapter and was licensed at the time of the sale, solicitation, or
4 negotiation.

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

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

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

- 20 (1) the reason for termination is described in section 12 of this
- 21 chapter; or
- 22 (2) the insurer has knowledge that the producer was found by
- 23 a court, a government body, or a self-regulatory organization
- 24 authorized by law to have engaged in any of the activities
- 25 described in section 12 of this chapter.

26 Upon the written request of the insurance commissioner, the
27 insurer shall provide additional information, documents, records,
28 and other data pertaining to the termination or activity of the
29 producer.

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

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

- 40 (1) Not more than fifteen (15) days after making the
- 41 notification required under subsection (a) or (b), the insurer
- 42 shall mail a copy of the notification to the producer at the

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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;

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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;

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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

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1 producer's home state's continuing education requirements for
 2 licensed insurance producers also satisfies Indiana's continuing
 3 education requirements if the non-resident producer's home state
 4 recognizes the satisfaction of the non-resident producer's home
 5 state's continuing education requirements imposed upon producers
 6 from Indiana on the same basis.

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

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

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

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

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

28 **(3)** A limited line credit insurance producer.

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

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

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

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

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

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

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- 1 (1) An insurance producer with a life qualification under
2 section 7 of this chapter.
- 3 (2) A limited lines producer.
- 4 (c) A person may be licensed as a limited lines producer to sell
5 only prearranged funeral insurance if the person is:
- 6 (1) licensed under IC 25-15-4-3; and
7 (2) granted a change in status under subsection (d).
- 8 (d) If, after a person is licensed under this chapter as an
9 insurance producer with a life qualification, the person wants to
10 limit the person's insurance business solely to the sale of
11 prearranged funeral insurance, the person must:
- 12 (1) request the commissioner to issue the person a limited
13 lines producer's license under this chapter; and
14 (2) show proof of having completed ten (10) hours of
15 continuing education credit approved by the department.
- 16 (e) If the commissioner receives a request and proof under
17 subsection (d), the commissioner shall issue a limited lines
18 producer's license, subject to the provisions of this chapter relating
19 to limited lines producer licenses.
- 20 (f) A person issued a limited lines producer's license under
21 subsection (e) may sell only prearranged funeral insurance.
- 22 Sec. 20. (a) As used in this section, "crop hail insurance" means
23 insurance that is used only in the event of hail related disasters to
24 growing farm crops.
- 25 (b) As used in this section, "multi-peril crop insurance" means
26 insurance that is:
- 27 (1) used in the event of weather related disasters or insect
28 infestations during the growing season; and
29 (2) guaranteed by the Federal Crop Insurance Corporation.
- 30 (c) To sell multi-peril crop insurance or crop hail insurance, a
31 person must be licensed under this chapter.
- 32 (d) If, after a person is licensed under this chapter as an
33 insurance producer, the person wants to limit the person's
34 insurance business solely to the sale of:
- 35 (1) multi-peril crop insurance;
36 (2) crop hail insurance; or
37 (3) multi-peril crop insurance and crop hail insurance;
38 the person may request the commissioner to issue to the person a
39 limited lines producer's license under this chapter.
- 40 (e) If the commissioner:
- 41 (1) receives a request from a person under subsection (d); and
42 (2) the person shows proof of having completed ten (10) hours

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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

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1 services to an exempt commercial policyholder (as defined in
 2 IC 27-1-22-2.5), disclose in writing to the exempt commercial
 3 policyholder whether the risk manager will receive or expects to
 4 receive any commission, fee, or other consideration from an
 5 insurer in connection with the purchase of a commercial insurance
 6 policy by the exempt commercial policyholder. However, if the risk
 7 manager charges the exempt commercial policyholder a fee for
 8 risk management services, the risk manager shall disclose in
 9 writing to the exempt commercial policyholder the specific amount
 10 of any commission, fee, or other consideration that the risk
 11 manager may receive from an insurer in connection with the
 12 purchase of the policy. The risk manager shall, before providing
 13 the risk management services, obtain from the exempt commercial
 14 policyholder a written acknowledgment of the disclosures made by
 15 the risk manager to the exempt commercial policyholder under this
 16 subsection.

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

- 21 (1) An attorney licensed to practice law in Indiana acting in
 22 the attorney's professional capacity.
- 23 (2) A duly licensed insurance producer or surplus lines
 24 producer.
- 25 (3) A trust officer of a bank acting in the normal course of the
 26 trust officer's employment.
- 27 (4) An actuary or a certified public accountant who provides
 28 information, recommendations, advice, or services in the
 29 actuary's or certified public accountant's professional
 30 capacity.

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

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

40 Within a reasonable time after receipt of a properly completed
 41 application form, the commissioner shall hold a written
 42 examination for the applicant that is limited to the type of

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1 consulting services designated by the applicant, and may conduct
2 investigations and propound interrogatories concerning the
3 applicant's qualifications, residence, business affiliations, and any
4 other matter that the commissioner considers necessary or
5 advisable in order to determine compliance with this chapter or for
6 the protection of the public.

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

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

25 (e) A licensed consultant shall not:
26 (1) employ;
27 (2) be employed by;
28 (3) be in partnership with; or
29 (4) receive any remuneration whatsoever;
30 from a licensed insurance producer, surplus lines producer, or
31 limited lines producer or insurer, except that a consultant may be
32 compensated by an insurer for providing consulting services to the
33 insurer.

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

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

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(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

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1 insurance producer does not receive a commission or other
2 compensation, subject to the following requirements:

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

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

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

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

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

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

27 Sec. 27. A person who held a valid solicitor's license on July 1,
28 1977, is subject to the same rights and responsibilities under a
29 solicitor's license as the rights and responsibilities that were in
30 effect before enactment of this chapter.

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

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

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

38 (A) That the person's license is suspended beginning five

39 (5) business days after the date the notice is mailed, and
40 that the suspension will terminate not earlier than ten (10)

41 business days after the commissioner receives an order
42 allowing reinstatement from the court that issued the

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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

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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

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1 arrearage and requested the activation of an income
2 withholding order under IC 31-16-15-2.

3 **Sec. 30. The commissioner and the director of the department**
4 **of financial institutions shall consult with each other and assist**
5 **each other in enforcing compliance with the provisions of IC 28**
6 **concerning the sale of life insurance policies and annuity contracts.**
7 **The commissioner and the director of the department of financial**
8 **institutions may jointly conduct investigations, prosecute suits, and**
9 **take other official action they consider appropriate under this**
10 **section if either of them is empowered to take the action. If the**
11 **director of the department of financial institutions is informed by**
12 **a financial institution or its affiliate of a violation or suspected**
13 **violation of any provision of IC 28 concerning the sale of life**
14 **insurance policies or annuity contracts or of the insurance laws**
15 **and rules of Indiana, the director of the department of financial**
16 **institutions shall timely advise the commissioner of the violation.**
17 **If the commissioner is informed by a financial institution or its**
18 **affiliate of a violation or suspected violation of any provision of**
19 **IC 28 concerning the sale of life insurance policies or annuity**
20 **contracts or of the insurance laws and rules of Indiana, the**
21 **commissioner shall timely advise the director of the department of**
22 **financial institutions of the violation.**

23 **Sec. 31. An insurance producer shall not:**

- 24 (1) be named a beneficiary of;
25 (2) become an owner of; or
26 (3) receive a collateral assignment of;

27 **an individual life insurance policy or individual annuity contract**
28 **unless the insurance producer has an insurable interest in the life**
29 **of the insured or annuitant. A beneficiary designation, ownership**
30 **designation, or collateral assignment made in violation of this**
31 **section is void.**

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

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

- 38 (1) resident license is forty dollars (\$40); and
39 (2) nonresident license is ninety dollars (\$90).

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

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



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

- 4 (1) insurance producer license;
- 5 (2) surplus lines producer license;
- 6 (3) limited lines producer license; or
- 7 (4) consultant license;

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

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

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

16 SECTION 4. IC 27-1-15.7 IS ADDED TO THE INDIANA CODE
17 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
18 JANUARY 1, 2002]:

19 **Chapter 15.7. Insurance Producer License Renewal**

20 **Sec. 1. The definitions in IC 27-1-15.6-2 apply throughout this**
21 **chapter.**

22 **Sec. 2. (a) To renew a license issued under IC 27-1-15.6:**

- 23 (1) a resident insurance producer must complete at least forty
- 24 (40) hours of credit in continuing education courses; and
- 25 (2) a resident limited lines producer must complete at least ten
- 26 (10) hours of credit in continuing education courses.

27 An attorney in good standing who is admitted to the practice of law
28 in Indiana and holds a license issued under IC 27-1-15.6 may
29 complete all or any number of hours of continuing education
30 required by this subsection by completing an equivalent number of
31 hours in continuing legal education courses that are related to the
32 business of insurance.

33 (b) The following limited lines producers are not required to
34 complete continuing education courses to renew a license under
35 this chapter:

- 36 (1) A limited lines producer who is licensed without
- 37 examination under IC 27-1-15.6-18(a)(1) or
- 38 IC 27-1-15.6-18(a)(2).
- 39 (2) A limited line credit insurance producer.

40 (c) To satisfy the requirements of subsection (a), a licensee may
41 use only those credit hours earned in continuing education courses
42 completed by the licensee:

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- 1 (1) after the effective date of the licensee's last renewal of a
- 2 license under this chapter; or
- 3 (2) if the licensee is renewing a license for the first time, after
- 4 the date on which the licensee was issued the license under
- 5 this chapter.
- 6 (d) If an insurance producer receives qualification for a license
- 7 in more than one (1) line of authority under IC 27-1-15.6, the
- 8 insurance producer may not be required to complete a total of
- 9 more than forty (40) hours of credit in continuing education
- 10 courses to renew the license.
- 11 (e) Except as provided in subsection (f), a licensee may receive
- 12 credit only for completing continuing education courses that have
- 13 been approved by the commissioner under section 4 of this chapter.
- 14 (f) A licensee who teaches a course approved by the
- 15 commissioner under section 4 of this chapter shall receive
- 16 continuing education credit for teaching the course.
- 17 (g) When a licensee renews a license issued under this chapter,
- 18 the licensee must submit:
 - 19 (1) a continuing education statement that:
 - 20 (A) is in a format authorized by the commissioner;
 - 21 (B) is signed by the licensee under oath; and
 - 22 (C) lists the continuing education courses completed by the
 - 23 licensee to satisfy the continuing education requirements
 - 24 of this section; and
 - 25 (2) any other information required by the commissioner.
 - 26 (h) A continuing education statement submitted under
 - 27 subsection (g) may be reviewed and audited by the department.
 - 28 (i) A licensee shall retain a copy of the original certificate of
 - 29 completion received by the licensee for completion of a continuing
 - 30 education course.
- 31 Sec. 3. (a) The commissioner may grant an extension for
- 32 complying with the continuing education requirement set forth in
- 33 section 2 of this chapter.
- 34 (b) To receive an extension under this section, a licensee must
- 35 file a request with the commissioner on a form provided by the
- 36 commissioner.
- 37 (c) After a licensee files a request for an extension, the license of
- 38 the licensee remains in effect until the commissioner makes a
- 39 decision on the request.
- 40 (d) If the commissioner denies a licensee's request for an
- 41 extension, the licensee must complete continuing education
- 42 requirements set forth in section 2 of this chapter within ninety

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(90) days after the commissioner notifies the licensee of the denial.

Sec. 4. (a) The commissioner shall approve and disapprove continuing education courses after considering recommendations made by the insurance producer education and continuing education advisory council created under section 6 of this chapter.

(b) The commissioner may not approve a course under this section if the course:

- (1) is designed to prepare an individual to receive an initial license under this chapter;
- (2) concerns only office skills;
- (3) concerns sales promotion and sales techniques;
- (4) concerns motivation, psychology, or time management; or
- (5) may be completed by a licensee without supervision by an instructor, unless the course involves an examination process that is:
 - (A) completed and passed by the licensee as determined by the provider of the course; and
 - (B) approved by the commissioner.

(c) Approval of a continuing education course under this section shall be for a period of not more than two (2) years.

(d) A prospective provider of a continuing education course shall pay:

- (1) a fee of forty dollars (\$40) for each course submitted for approval of the commissioner under this section; or
- (2) an annual fee of five hundred dollars (\$500) not later than January 1 of a calendar year, which entitles the prospective provider to submit an unlimited number of courses for approval of the commissioner under this section during the calendar year.

The commissioner may waive all or a portion of the fee for a course submitted under a reciprocity agreement with another state for the approval or disapproval of continuing education courses. Fees collected under this subsection shall be deposited in the department of insurance fund established under IC 27-1-3-28.

(e) The commissioner shall adopt rules under IC 4-22-2 to establish procedures for approving continuing education courses.

Sec. 5. (a) To qualify as a certified prelicensing course of study for purposes of IC 27-1-15.6-6, an insurance producer program of study must meet all of the following criteria:

- (1) Be conducted or developed by an:
 - (A) insurance trade association;
 - (B) accredited college or university;

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- 1 (C) educational organization certified by the insurance
 2 producer education and continuing education advisory
 3 council; or
 4 (D) insurance company licensed to do business in Indiana.
- 5 (2) Provide for self-study or instruction provided by an
 6 approved instructor in a structured setting, as follows:
- 7 (A) For life insurance producers, not less than twenty-four
 8 (24) hours of instruction in a structured setting or
 9 comparable self-study on:
- 10 (i) ethical practices in the marketing and selling of
 11 insurance;
 12 (ii) requirements of the insurance laws and
 13 administrative rules of Indiana; and
 14 (iii) principles of life insurance.
- 15 (B) For health insurance producers, not less than
 16 twenty-four (24) hours of instruction in a structured
 17 setting or comparable self-study on:
- 18 (i) ethical practices in the marketing and selling of
 19 insurance;
 20 (ii) requirements of the insurance laws and
 21 administrative rules of Indiana; and
 22 (iii) principles of health insurance.
- 23 (C) For life and health insurance producers, not less than
 24 forty (40) hours of instruction in a structured setting or
 25 comparable self-study on:
- 26 (i) ethical practices in the marketing and selling of
 27 insurance;
 28 (ii) requirements of the insurance laws and
 29 administrative rules of Indiana;
 30 (iii) principles of life insurance; and
 31 (iv) principles of health insurance.
- 32 (D) For property and casualty insurance producers, not
 33 less than forty (40) hours of instruction in a structured
 34 setting or comparable self-study on:
- 35 (i) ethical practices in the marketing and selling of
 36 insurance;
 37 (ii) requirements of the insurance laws and
 38 administrative rules of Indiana;
 39 (iii) principles of property insurance; and
 40 (iv) principles of liability insurance.
- 41 (E) For personal lines producers, a minimum of
 42 twenty-four (24) hours of instruction in a structured

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setting or comparable self-study on:

- (i) ethical practices in the marketing and selling of insurance;
- (ii) requirements of the insurance laws and administrative rules of Indiana; and
- (iii) principles of property and liability insurance applicable to coverages sold to individuals and families for primarily noncommercial purposes.

(3) Instruction provided in a structured setting must be provided only by individuals who meet the qualifications established by the commissioner under subsection (b).

(b) The commissioner, after consulting with the insurance producer education and continuing education advisory council, shall adopt rules under IC 4-22-2 prescribing the criteria that a person must meet to render instruction in a certified prelicensing course of study.

(c) The commissioner shall adopt rules under IC 4-22-2 prescribing the subject matter that an insurance producer program of study must cover to qualify for certification as a certified prelicensing course of study under this section.

(d) The commissioner may make recommendations that the commissioner considers necessary for improvements in course materials.

(e) The commissioner shall designate a program of study that meets the requirements of this section as a certified prelicensing course of study for purposes of IC 27-1-15.6-6.

(f) The commissioner may, after notice and opportunity for a hearing, withdraw the certification of a course of study that does not maintain reasonable standards, as determined by the commissioner for the protection of the public.

(g) Current course materials for a prelicensing course of study that is certified under this section must be submitted to the commissioner upon request, but not less frequently than once every three (3) years.

Sec. 6. (a) As used in this section, "council" refers to the insurance producer education and continuing education advisory council created under subsection (b).

(b) The insurance producer education and continuing education advisory council is created within the department. The council consists of the commissioner and twelve (12) members appointed by the governor as follows:

- (1) Two (2) members recommended by the Professional

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- 1 Insurance Agents of Indiana.
2 (2) Two (2) members recommended by the Independent
3 Insurance Agents of Indiana.
4 (3) Two (2) members recommended by the Indiana
5 Association of Insurance and Financial Advisors.
6 (4) Two (2) representatives of direct writing or exclusive
7 producer's insurance companies.
8 (5) One (1) representative of the Association of Life Insurance
9 Companies.
10 (6) One (1) member recommended by the Insurance Institute
11 of Indiana.
12 (7) Two (2) other individuals.
13 (c) Members of the council serve for a term of three (3) years.
14 Members may not serve more than two (2) consecutive terms.
15 (d) Before making appointments to the council, the governor
16 must:
17 (1) solicit; and
18 (2) select appointees to the council from;
19 nominations made by organizations and associations that represent
20 individuals and corporations selling insurance in Indiana.
21 (e) The council shall meet at least semiannually.
22 (f) A member of the council is entitled to the minimum salary
23 per diem provided under IC 4-10-11-2.1(b). A member is also
24 entitled to reimbursement for traveling expenses and other
25 expenses actually incurred in connection with the member's duties,
26 as provided in the state travel policies and procedures established
27 by the state department of administration and approved by the
28 state budget agency.
29 (g) The council shall review and make recommendations to the
30 commissioner with respect to course materials, curriculum, and
31 credentials of instructors of each prelicensing course of study for
32 which certification by the commissioner is sought under section 5
33 of this chapter and shall make recommendations to the
34 commissioner with respect to educational requirements for
35 insurance producers.
36 (h) A member of the council or designee of the commissioner
37 shall be permitted access to any classroom while instruction is in
38 progress to monitor the classroom instruction.
39 (i) The council shall make recommendations to the
40 commissioner concerning the following:
41 (1) Continuing education courses for which the approval of
42 the commissioner is sought under section 4 of this chapter.

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(2) Rules proposed for adoption by the commissioner that would affect continuing education.

Sec. 7. The commissioner may adopt rules under IC 4-22-2 to implement this chapter.

Sec. 8. 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 5. IC 27-1-15.8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]:

Chapter 15.8. Surplus Lines Producers

Sec. 1. The definitions in IC 27-1-15.6-2 apply throughout this chapter.

Sec. 2. The following provisions of IC 27-1-15.6 apply to licensure of surplus lines producers under this chapter:

- (1) IC 27-1-15.6-5.
- (2) IC 27-1-15.6-6.
- (3) IC 27-1-15.6-8 through IC 27-1-15.6-13.
- (4) IC 27-1-15.6-15 through IC 27-1-15.6-17.
- (5) IC 27-1-15.6-21.
- (6) IC 27-1-15.6-32 through IC 27-1-15.6-34.

Sec. 3. (a) A surplus lines producer may receive qualification for a license in one (1) or more of the kinds of insurance defined in Class 2 and Class 3 of IC 27-1-5-1 from insurers that are authorized to do business in one (1) or more states of the United States of America but are not authorized to do business in Indiana whenever, after diligent effort, as determined to the satisfaction of the department, the licensee is unable to procure the amount of insurance desired from insurers authorized and licensed to do business in Indiana.

(b) An applicant for a surplus lines producer's license must be licensed in Indiana as an insurance producer qualified as to the line or lines of insurance to be written.

Sec. 4. (a) During the period that a surplus lines producer's license is in effect, the licensee shall keep in force a bond in the penal sum of not less than twenty thousand dollars (\$20,000) with an authorized corporate surety approved by the commissioner. The aggregate liability of the surety for any and all claims on a bond does not exceed the penal sum of the bond. A bond may not be terminated unless written notice of termination is provided by the surety to the licensee and the commissioner not less than thirty (30)

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1 days before termination. Upon termination of a license for which
 2 a bond was in effect, the commissioner shall notify the surety of the
 3 termination within ten (10) business days. All surety protection
 4 under this section inures to the benefit of the state of Indiana to
 5 assure the payment of all premium taxes.

6 (b) A surplus lines producer shall, at the time of an initial filing
 7 under subsection (c), file with the commissioner proof of the bond
 8 in the amount required under subsection (a). In each subsequent
 9 calendar year, the surplus lines producer shall file proof that the
 10 bond remains in effect. A subsequent filing under this subsection
 11 shall be made in conjunction with the annual filing required under
 12 subsection (e).

13 (c) In addition to all other charges, fees, and taxes that may be
 14 imposed by law, a surplus lines producer licensed under this
 15 chapter shall, on or before February 1 and August 1 of each year,
 16 collect from the insured and remit to the department for the use
 17 and benefit of the state of Indiana an amount equal to two and
 18 one-half percent (2 1/2%) of all gross premiums upon all policies
 19 and contracts procured by the surplus lines producer under the
 20 provisions of this section during the preceding six (6) month period
 21 ending December 31 and June 30, respectively. The declarations
 22 page of a policy referred to in this subsection must itemize the
 23 amounts of all charges for taxes, fees, and premiums.

24 (d) A licensed surplus lines producer shall execute and file with
 25 the department of insurance on or before the twentieth day of each
 26 month an affidavit that specifies all transactions, policies, and
 27 contracts procured during the preceding calendar month,
 28 including:

- 29 (1) the description and location of the insured property or risk
- 30 and the name of the insured;
- 31 (2) the gross premiums charged in the policy or contract;
- 32 (3) the name and home office address of the insurer whose
- 33 policy or contract is issued, and the kind of insurance
- 34 effected; and
- 35 (4) a statement that:

36 (A) the licensee, after diligent effort, was unable to procure
 37 from any insurer authorized to transact the particular
 38 class of insurance business in Indiana the full amount of
 39 insurance required to protect the insured; and

40 (B) the insurance placed under this chapter is not placed
 41 for the purpose of procuring it at a premium rate lower
 42 than would be accepted by an insurer authorized and



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- 1 licensed to transact insurance business in Indiana.
- 2 (e) A licensed surplus lines producer shall file with the
3 department, not later than March 31 of each year, the financial
4 statement, dated as of December 31 of the preceding year, of each
5 unauthorized insurer from whom the surplus lines producer has
6 procured a policy or contract. The insurance commissioner may,
7 in the commissioner's discretion, after reviewing the financial
8 statement of the unauthorized insurer, order the surplus lines
9 producer to cancel an unauthorized insurer's policies and contracts
10 if the commissioner is of the opinion that the financial statement or
11 condition of the unauthorized insurer does not warrant
12 continuance of the risk.
- 13 (f) A licensed surplus lines producer shall keep a separate
14 account of all business transacted under this section. The account
15 may be inspected at any time by the commissioner or the
16 commissioner's deputy or examiner.
- 17 (g) An insurer that issues a policy or contract to insure a risk
18 under this section is considered to have appointed the
19 commissioner as the insurer's attorney upon whom process may be
20 served in Indiana in any suit, action, or proceeding based upon or
21 arising out of the policy or contract.
- 22 (h) The commissioner may revoke or refuse to renew a surplus
23 lines producer's license for failure to comply with this section.
- 24 (i) A surplus lines producer licensed under this chapter may
25 accept and place policies or contracts authorized under this section
26 for an insurance producer duly licensed in Indiana, and may
27 compensate the insurance producer even though the insurance
28 producer is not licensed under this chapter.
- 29 (j) If a surplus lines producer does not remit an amount due to
30 the department within the time prescribed in subsection (c), the
31 commissioner shall assess the surplus lines producer a penalty of
32 ten percent (10%) of the amount due. The commissioner shall
33 assess a further penalty of an additional one percent (1%) of the
34 amount due for each month or portion of a month that any amount
35 due remains unpaid after the first month. Penalties assessed under
36 this subsection are payable by the surplus lines producer and are
37 not collectible from an insured.
- 38 SECTION 6. IC 27-1-22-2.5, AS ADDED BY P.L.268-1999,
39 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 JANUARY 1, 2002]: Sec. 2.5. (a) As used in this chapter, "exempt
41 commercial policyholder" means an entity that:
42 (1) makes written certification to the entity's insurer on a form

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1 prescribed by the department that the entity is an exempt
2 commercial policyholder;

3 (2) has purchased the policy of insurance through an insurance
4 agent licensed under ~~IC 27-1-15.5-3~~; **IC 27-1-15.6** or
5 **IC 27-1-15.8**; and

6 (3) meets any three (3) of the following criteria:

7 (A) Has a net worth of more than twenty-five million dollars
8 (\$25,000,000) at the time the policy of insurance is issued.

9 (B) Has a net revenue or sales of more than fifty million
10 dollars (\$50,000,000) in the preceding fiscal year.

11 (C) Has more than twenty-five (25) employees per individual
12 company or fifty (50) employees per holding company
13 aggregate at the time the policy of insurance is issued.

14 (D) Has aggregate annual commercial insurance premiums,
15 excluding any worker's compensation and professional liability
16 insurance premiums, of more than seventy-five thousand
17 dollars (\$75,000) in the preceding fiscal year.

18 (E) Is a nonprofit or a public entity with an annual budget of
19 at least twenty-five million dollars (\$25,000,000) or assets of
20 at least twenty-five million dollars (\$25,000,000) in the
21 preceding fiscal year.

22 (F) Procures commercial insurance with the services of a risk
23 manager.

24 An entity meets the written certification requirement under subdivision
25 (1) if the entity provides a copy of a certification previously submitted
26 under subdivision (1) and if there has been no significant material
27 change in the entity's status.

28 (b) As used in this chapter, "risk manager" means a person qualified
29 to assess an exempt commercial policyholder's insurance needs and
30 analyze and negotiate a policy of insurance on behalf of an exempt
31 commercial policyholder. A risk manager may be:

32 (1) a full-time employee of an exempt commercial policyholder
33 who is qualified through education and experience or training and
34 experience; or

35 (2) a person retained by an exempt commercial policyholder who
36 holds a professional designation relevant to the type of insurance
37 to be purchased by the exempt commercial policyholder.

38 SECTION 7. IC 27-1-25-1, AS AMENDED BY P.L.255-1999,
39 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 JANUARY 1, 2002]: Sec. 1. As used in this chapter:

41 (a) "Administrator", except as provided in section 7.5 of this
42 chapter, means a person who collects charges or premiums from, or

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1 who adjusts or settles claims on, residents of Indiana in connection
 2 with life or health coverage or annuities, whether provided for by an
 3 insurer or a self-funded plan. The term "administrator" does not include
 4 the following persons:

- 5 (1) An employer for its employees or for the employees of a
 6 subsidiary or affiliated corporation of the employer.
 7 (2) A union for its members.
 8 (3) An insurer, including:
 9 (A) an insurer operating a health maintenance organization or
 10 a limited service health maintenance organization; and
 11 (B) the sales representative of an insurer operating a health
 12 maintenance organization or a limited service health
 13 maintenance organization when that sales representative is
 14 licensed in Indiana and when it is engaged in the performance
 15 of its duties as the sales representative.
 16 (4) A life or health insurance agent licensed under ~~IC 27-1-15.5~~
 17 **IC 27-1-15.6** whose activities are limited exclusively to the sale
 18 of insurance.
 19 (5) A creditor for its debtors regarding insurance covering a debt
 20 between them.
 21 (6) A trust established under 29 U.S.C. 186 and the trustees,
 22 agents, and employees acting pursuant to that trust.
 23 (7) A trust that is exempt from taxation under Section 501(a) of
 24 the Internal Revenue Code and:
 25 (A) the trustees and employees acting pursuant to that trust; or
 26 (B) a custodian and the agents and employees of the custodian
 27 acting pursuant to a custodian account that meets the
 28 requirements of Section 401(f) of the Internal Revenue Code.
 29 (8) A financial institution that is subject to supervision or
 30 examination by federal or state banking authorities.
 31 (9) A credit card issuing company that advances for and collects
 32 premiums or charges from its credit cardholders as long as that
 33 company does not adjust or settle claims.
 34 (10) An individual who adjusts or settles claims in the normal
 35 course of his practice or employment as an attorney at law, and
 36 who does not collect charges or premiums in connection with life
 37 or health insurance coverage or annuities.
 38 (11) A health maintenance organization that has a certificate of
 39 authority issued under IC 27-13.
 40 (12) A limited service health maintenance organization that has
 41 a certificate of authority issued under IC 27-13.
 42 (b) "Certificate of registration" refers to the certificate required by

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1 section 11 of this chapter.

2 (c) "Commissioner" refers to the commissioner of insurance.

3 (d) "Financial institution" means a bank, savings association, credit
4 union, or any other institution regulated under IC 28 or federal law.

5 (e) "Insurer" means a person who obtains a certificate of authority
6 under IC 27-1-3-20.

7 (f) "Person" means an individual, a corporation, a partnership, a
8 limited liability company, or an unincorporated association.

9 (g) "Self-funded plan" means a plan for providing benefits for life,
10 health, or annuity coverage by a person who is not an insurer.

11 SECTION 8. IC 27-4-1-4 IS AMENDED TO READ AS FOLLOWS
12 [EFFECTIVE JANUARY 1, 2002]: Sec. 4. The following are hereby
13 defined as unfair methods of competition and unfair and deceptive acts
14 and practices in the business of insurance:

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

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

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

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

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

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

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

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

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1 class involving essentially the same hazards in the amount of
 2 premium, policy fees, assessments, or rates charged or made
 3 for any policy or contract of accident or health insurance or in
 4 the benefits payable thereunder, or in any of the terms or
 5 conditions of such contract, or in any other manner whatever;
 6 however, in determining the class, consideration may be given
 7 to the nature of the risk, the plan of insurance, the actual or
 8 expected expense of conducting the business, or any other
 9 relevant factor.

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

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

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

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

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

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

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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

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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.

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- 1 (D) Insurance written in connection with an indebtedness and
2 intended as a means of repaying such indebtedness in the
3 event of the death or disability of the insured.
4 (E) Insurance provided by or through motorists service clubs
5 or associations.
6 (F) Insurance that is provided to the purchaser or holder of an
7 air transportation ticket and that:
8 (i) insures against death or nonfatal injury that occurs during
9 the flight to which the ticket relates;
10 (ii) insures against personal injury or property damage that
11 occurs during travel to or from the airport in a common
12 carrier immediately before or after the flight;
13 (iii) insures against baggage loss during the flight to which
14 the ticket relates; or
15 (iv) insures against a flight cancellation to which the ticket
16 relates.
17 (14) Refusing, because of the for-profit status of a hospital or
18 medical facility, to make payments otherwise required to be made
19 under a contract or policy of insurance for charges incurred by an
20 insured in such a for-profit hospital or other for-profit medical
21 facility licensed by the state department of health.
22 (15) Refusing to insure an individual, refusing to continue to issue
23 insurance to an individual, limiting the amount, extent, or kind of
24 coverage available to an individual, or charging an individual a
25 different rate for the same coverage, solely because of that
26 individual's blindness or partial blindness, except where the
27 refusal, limitation, or rate differential is based on sound actuarial
28 principles or is related to actual or reasonably anticipated
29 experience.
30 (16) Committing or performing, with such frequency as to
31 indicate a general practice, unfair claim settlement practices (as
32 defined in section 4.5 of this chapter).
33 (17) Between policy renewal dates, unilaterally canceling an
34 individual's coverage under an individual or group health
35 insurance policy solely because of the individual's medical or
36 physical condition.
37 (18) Using a policy form or rider that would permit a cancellation
38 of coverage as described in subdivision (17).
39 (19) Violating IC 27-1-22-25 or IC 27-1-22-26 concerning motor
40 vehicle insurance rates.
41 (20) Violating IC 27-8-21-2 concerning advertisements referring
42 to interest rate guarantees.

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

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

4 ~~(23) (22) Violating IC 27-8-26 concerning genetic screening or~~
5 testing.

6 **(23) Violating IC 27-1-15.6-3(b) concerning licensure of**
7 **insurance producers.**

8 SECTION 9. IC 27-5-3-3 IS AMENDED TO READ AS FOLLOWS
9 [EFFECTIVE JANUARY 1, 2002]: Sec. 3. (a) With respect to writing,
10 making, or taking the kinds of insurance specifically excepted in
11 IC 27-5-2-1(1)(B) and with respect to writing, making, or taking
12 liability insurance, worker's compensation, fidelity, and surety
13 insurance such farmers' mutual insurance company shall be subject to
14 the following statutes, anything in IC 27-1 or IC 27-5-1 to the contrary
15 notwithstanding:

16 (1) IC 27-1-3, IC 27-9, IC 27-1-5-3, IC 27-1-6-15, IC 27-1-7-14,
17 IC 27-1-7-15, IC 27-1-7-16, IC 27-6-1.1-2, IC 27-1-7-21,
18 IC 27-1-7-22, IC 27-1-7-23, IC 27-1-9, IC 27-1-13-3,
19 IC 27-1-13-4, IC 27-1-13-6, IC 27-1-13-7, IC 27-1-13-8,
20 IC 27-1-13-9, IC 27-1-20-1, IC 27-1-20-4, IC 27-1-20-6,
21 IC 27-1-20-9, IC 27-1-20-10, IC 27-1-20-11, IC 27-1-20-14,
22 IC 27-1-20-19, IC 27-1-20-20, IC 27-1-20-21, IC 27-1-20-23,
23 IC 27-1-20-24, and IC 27-1-20-30.

24 (2) All of IC 27-1-22.

25 (3) IC 27-1-13-7.

26 (4) All of IC 27-7-2.

27 ~~(c)~~ **(b)** An agent representing a farmers' mutual insurance company
28 with respect to insurance authorized to be written by this chapter and
29 not authorized before March 13, 1953, to be written by a farmers'
30 mutual insurance company shall comply with ~~IC 27-1-15.5~~
31 **IC 27-1-15.6.**

32 SECTION 10. IC 27-5-4-2 IS AMENDED TO READ AS
33 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 2. Any such
34 farmers' mutual insurance company may elect to become subject to the
35 provisions of IC 27-1 as provided by IC 27-1-11-1 and thereafter may
36 avail itself of all rights, privileges, and franchises provided by IC 27-1
37 in accordance with IC 27-1. Nothing contained in IC 27-1 shall affect
38 ~~nor~~ or invalidate any policies issued or bound by such company and in
39 full force and effect at the time said election becomes effective, but any
40 such policy or contract of insurance and the rights and obligations
41 thereunder may continue in full force and effect until expiration or
42 termination; provided, that not later than five (5) years following the



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1 effective date of said election, all such policies or contracts of
 2 insurance shall be subject to the provisions of IC 27-1. Any agent or
 3 representative of such company who is exempt from the provisions of
 4 ~~IC 27-1-15.5~~ **IC 27-1-15.6** at the time said election becomes effective
 5 may continue to represent such company only within the scope of such
 6 existing representation without compliance with the provisions of
 7 ~~IC 27-1-15.5~~ **IC 27-1-15.6** for a period not to exceed one (1) year
 8 following the effective date of said election, but thereafter such
 9 representation shall be subject to compliance with ~~IC 27-1-15.5~~
 10 **IC 27-1-15.6**. Such election provided for in this section shall become
 11 effective upon the date of issuance of the new certificate of authority
 12 pursuant to IC 27-1-11-7.

13 SECTION 11. IC 27-7-10-30 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 30. No individual,
 15 firm, association, limited liability company, or corporation may act or
 16 aid in any manner in soliciting, negotiating, or procuring liability
 17 insurance in Indiana from a risk retention group unless the individual,
 18 firm, association, or corporation is licensed as an insurance agent under
 19 ~~IC 27-1-15.5~~ **IC 27-1-15.6**.

20 SECTION 12. IC 27-7-10-31 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 31. (a) No
 22 individual, firm, association, or corporation may act or aid in any
 23 manner in soliciting, negotiating, or procuring liability insurance in
 24 Indiana for a purchasing group from an authorized insurer or a risk
 25 retention group chartered in a state unless the individual, firm,
 26 association, or corporation is licensed as an insurance agent under
 27 ~~IC 27-1-15.5~~ **IC 27-1-15.6**.

28 (b) No individual, firm, association, or corporation may act or aid
 29 in any manner in soliciting, negotiating, or procuring liability insurance
 30 coverage in Indiana for any member of a purchasing group under a
 31 purchasing group's policy unless the individual, firm, association, or
 32 corporation is licensed as an insurance agent under ~~IC 27-1-15.5~~
 33 **IC 27-1-15.6**.

34 (c) No individual, firm, association, or corporation may act or aid in
 35 any manner in soliciting, negotiating, or procuring liability insurance
 36 from an insurer not authorized to do business in Indiana on behalf of a
 37 purchasing group located in Indiana unless the individual, firm,
 38 association, or corporation is licensed as a surplus lines agent under
 39 ~~IC 27-1-15.5~~ **IC 27-1-15.8**.

40 SECTION 13. IC 27-7-10-32 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 32. (a) For
 42 purposes of acting as an agent for a risk retention group or purchasing

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1 group under section 30 or 31 of this chapter, the requirement of
2 residence in Indiana does not apply.

3 (b) Every individual, firm, association, or corporation licensed
4 under ~~IC 27-1-15.5~~, **IC 27-1-15.6**, in regard to business placed with
5 risk retention groups or written through a purchasing group, shall
6 inform each prospective insured of the provisions of the notice required
7 by section 18 of this chapter in the case of a risk retention group and
8 section 27(c) of this chapter in the case of a purchasing group.

9 SECTION 14. IC 27-8-19.8-8.5 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 8.5. The
11 following must be licensed as a life insurance agent under
12 ~~IC 27-1-15.5~~: **IC 27-1-15.6**:

13 (1) A viatical settlement broker.

14 (2) A person who solicits, offers, or attempts to negotiate a
15 viatical settlement contract with a viator.

16 SECTION 15. IC 27-13-1-3 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 3. "Agent" means
18 a person who is a licensed insurance agent under ~~IC 27-1-15.5~~
19 **IC 27-1-15.6** and who:

20 (1) solicits, negotiates, effects, procures, delivers, renews, or
21 continues a policy or contract for membership in a health
22 maintenance organization or a prepaid limited health service
23 organization;

24 (2) takes or transmits a membership fee or premium for the policy
25 or contract other than for the agent; or

26 (3) causes the agent to be held out to the public, through
27 advertising or otherwise, as a producer for a health maintenance
28 organization or a prepaid limited health service organization.

29 SECTION 16. IC 27-13-7-2 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 2. A contract or
31 an evidence of coverage referred to in section 1 or section 5 of this
32 chapter may not contain provisions or statements that are unjust, unfair,
33 inequitable, misleading, or deceptive or that encourage
34 misrepresentation prohibited by ~~IC 27-1-15.5-8~~ **IC 27-1-15.6-12** or
35 IC 27-4-1-4.

36 SECTION 17. IC 27-13-7-6 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 6. The evidence
38 of coverage required by section 5 of this chapter may not contain
39 provisions or statements:

40 (1) that are unfair, unjust, inequitable, misleading, or deceptive;

41 or

42 (2) that encourage misrepresentation prohibited by ~~IC 27-1-15.5-8~~

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IC 27-1-15.6-12 or IC 27-4-1-4.
SECTION 18. IC 27-13-21-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 1. To qualify to represent a health maintenance organization or a limited service health maintenance organization, an agent shall be licensed and regulated as an accident and health insurance agent under ~~IC 27-1-15.5~~. **IC 27-1-15.6.**

SECTION 19. IC 27-13-34-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 18. (a) Except as provided in subsection (c), a limited service health maintenance organization shall maintain in force a fidelity bond in its own name on its officers and employees:

- (1) in an amount not less than fifty thousand dollars (\$50,000); or
- (2) in any other amount prescribed by the commissioner.

(b) The fidelity bond required by this section must be issued by an insurance company not affiliated in any way with the limited service health maintenance organization, that is licensed to do business in Indiana. However, if a fidelity bond is not available from an insurance company that holds a certificate of authority in Indiana, a limited service health maintenance organization may satisfy the requirement of this section by maintaining a fidelity bond procured by a surplus lines insurance agent not affiliated in any way with the limited service health maintenance organization who holds a license issued under ~~IC 27-1-15.5~~. **IC 27-1-15.8.**

(c) Instead of maintaining a fidelity bond under subsection (a), a limited service health maintenance organization may deposit with the commissioner:

- (1) cash;
- (2) certificates of deposit;
- (3) United States government obligations acceptable to the commissioner;
- (4) any other securities acceptable to the commissioner of the types referred to in IC 27-13-11-1; or
- (5) a combination of the items described in subdivisions (1) through (4).

A deposit made under this subsection is in addition to any other required deposit, and must also be maintained in joint custody with the commissioner in the amount and subject to the same conditions required for a fidelity bond under this section.

SECTION 20. IC 28-5-1-6.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 6.5. (a) Notwithstanding any other provision of this title, an industrial loan and

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1 investment company may act as an agent for the sale of any annuity
 2 contract issued by a life insurance company (as defined in IC 27-1-2-3)
 3 authorized to do business in Indiana under IC 27-1.

4 (b) An industrial loan and investment company that acts as an agent
 5 for the sale of an annuity contract:

6 (1) is subject to all requirements of IC 27 relating to the sale and
 7 solicitation of insurance, including licensing as an agent under
 8 ~~IC 27-1-15.5~~; **IC 27-1-15.6**; and

9 (2) must comply with the disclosure requirements under
 10 IC 28-1-11-2.6.

11 (c) This section does not give power to, or otherwise affect the
 12 power of, an industrial loan and investment company to act as an agent
 13 for the sale of life insurance other than an annuity contract.

14 SECTION 21. IC 28-14-3-11, AS AMENDED BY P.L.215-1999,
 15 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JANUARY 1, 2002]: Sec. 11. (a) Notwithstanding any other provision
 17 of this title, a corporate fiduciary may act as an agent for the sale of any
 18 annuity contract or any life insurance policy issued by a life insurance
 19 company (as defined in IC 27-1-2-3) authorized to do business in
 20 Indiana under IC 27-1.

21 (b) A corporate fiduciary that acts as an agent for the sale of an
 22 annuity contract or a life insurance policy:

23 (1) is subject to all requirements of IC 27 relating to the sale and
 24 solicitation of insurance, including licensing as an agent under
 25 ~~IC 27-1-15.5~~; **IC 27-1-15.6**; and

26 (2) must comply with the disclosure requirements under
 27 IC 28-1-11-2.6.

28 SECTION 22. IC 31-14-12-7 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 7. If a court finds
 30 that a person who holds a license or who is an applicant for a license
 31 issued under ~~IC 27-1-15.5~~ **IC 27-1-15.6**, **IC 27-1-15.8**, or IC 27-10-3
 32 is delinquent (as defined in IC 12-17-2-1.5) as a result of an intentional
 33 violation of an order for child support, the court shall issue an order to
 34 the commissioner of the department of insurance:

35 (1) requiring that the person's license be suspended until further
 36 order of the court;

37 (2) ordering the commissioner not to issue a license to the person
 38 who is the subject of the order if the person does not currently
 39 hold a license; or

40 (3) ordering the commissioner not to renew the license of the
 41 person who is the subject of the order.

42 SECTION 23. IC 31-16-12-10 IS AMENDED TO READ AS



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1 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 10. If a court
 2 finds that a person who holds a license or who is an applicant for a
 3 license issued under ~~IC 27-1-15.5~~ **IC 27-1-15.6, IC 27-1-15.8,** or
 4 IC 27-10-3 is delinquent (as defined in IC 12-17-2-1.5) as a result of an
 5 intentional violation of an order for child support, the court shall issue
 6 an order to the commissioner of the department of insurance:

7 (1) requiring that the person's license be suspended until further
 8 order of the court;

9 (2) ordering the commissioner not to issue a license to the person
 10 who is the subject of the order if the person does not currently
 11 hold a license; or

12 (3) ordering the commissioner not to renew the license of a person
 13 who is the subject of the order.

14 SECTION 24. IC 34-30-2-106.1 IS ADDED TO THE INDIANA
 15 CODE AS A NEW SECTION TO READ AS FOLLOWS
 16 [EFFECTIVE JANUARY 1, 2002]: **Sec. 106.1. IC 27-1-15.6-15(d)**
 17 **(Concerning information provided by or to the commissioner of the**
 18 **department of insurance regarding termination for cause.)**

19 SECTION 25. IC 35-43-9-4 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 4. As used in this
 21 chapter, "title insurance agent" means a person who holds a limited
 22 insurance representative's license issued under ~~IC 27-1-15.5-3(a)(4)~~
 23 **IC 27-1-15.6-18(4)** and disburses funds from a title insurance escrow
 24 account to a party in connection with a residential real property
 25 transaction.

26 SECTION 26. THE FOLLOWING ARE REPEALED [EFFECTIVE
 27 JANUARY 1, 2002]: IC 27-1-15.5; IC 34-30-2-106; IC 34-46-2-24.

28 SECTION 27. [EFFECTIVE JANUARY 1, 2002] **(a) If:**

29 **(1) an insurance agent license;**

30 **(2) a surplus lines insurance agent license;**

31 **(3) a limited insurance representative license; or**

32 **(4) a consultant license;**

33 **was issued or renewed under IC 27-1-15.5 for a period that will end**
 34 **after January 1, 2002, the license is not affected by the repeal of**
 35 **IC 27-1-15.5 on January 1, 2002.**

36 **(b) A person who holds an insurance agent license that:**

37 **(1) was issued under IC 27-1-15.5; and**

38 **(2) will expire after January 1, 2002;**

39 **may obtain an insurance producer license under IC 27-1-15.6, as**
 40 **added by this act, by meeting the requirements set forth in**
 41 **IC 27-1-15.6 for the renewal of an insurance producer license.**
 42 **However, if the person does not satisfy the requirements set forth**

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1 in IC 27-1-15.6 for the renewal of an insurance producer license
 2 before the expiration of the person's insurance agent license, the
 3 person must satisfy the requirements set forth in IC 27-1-15.6 for
 4 the issuance of an insurance producer license in order to obtain an
 5 insurance producer license.

6 (c) A person who holds a surplus lines insurance agent license
 7 that:

8 (1) was issued under IC 27-1-15.5; and

9 (2) will expire after January 1, 2002;

10 may obtain a surplus lines producer license under IC 27-1-15.6 and
 11 IC 27-1-15.8, as added by this act, by meeting the requirements set
 12 forth in IC 27-1-15.6 and IC 27-1-15.8 for the renewal of a surplus
 13 lines producer license. However, if the person does not satisfy the
 14 requirements set forth in IC 27-1-15.6 and IC 27-1-15.8 for the
 15 renewal of an surplus lines producer license before the expiration
 16 of the person's surplus lines insurance agent license, the person
 17 must satisfy the requirements set forth in IC 27-1-15.6 and
 18 IC 27-1-15.8 for the issuance of an surplus lines producer license
 19 in order to obtain a surplus lines producer license.

20 (d) A person who holds a limited insurance representative
 21 license that:

22 (1) was issued under IC 27-1-15.5; and

23 (2) will expire after January 1, 2002;

24 may obtain a limited lines producer license under IC 27-1-15.6, as
 25 added by this act, by meeting the requirements set forth in
 26 IC 27-1-15.6 for the renewal of a limited lines producer license.
 27 However, if the person does not satisfy the requirements set forth
 28 in IC 27-1-15.6 for the renewal of a limited lines producer license
 29 before the expiration of the person's limited insurance
 30 representative license, the person must satisfy the requirements set
 31 forth in IC 27-1-15.6 for the issuance of a limited lines producer
 32 license in order to obtain a limited lines producer license.

33 (e) A person who holds a consultant license that:

34 (1) was issued under IC 27-1-15.5; and

35 (2) will expire after January 1, 2002;

36 may obtain a consultant license under IC 27-1-15.6, as added by
 37 this act, by meeting the requirements set forth in IC 27-1-15.6 for
 38 the renewal of a consultant license. However, if the person does not
 39 satisfy the requirements set forth in IC 27-1-15.6 for the renewal
 40 of a consultant license before the expiration of the consultant
 41 license that was issued to the person under IC 27-1-15.5, the person
 42 must satisfy the requirements set forth in IC 27-1-15.6 for the

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1 issuance of a consultant license in order to obtain a consultant
 2 license under IC 27-1-15.6.
 3 (f) This SECTION expires January 1, 2004.
 4 SECTION 28. [EFFECTIVE JANUARY 1, 2002] (a) After
 5 December 31, 2001:
 6 (1) any reference in the Indiana Code to an insurance agent
 7 shall be treated as a reference to an insurance producer (as
 8 defined in IC 27-1-15.6-2(7), as added by this act);
 9 (2) any reference in the Indiana Code to a surplus lines
 10 insurance agent shall be treated as a reference to a surplus
 11 lines producer (as defined in IC 27-1-15.6-2(16), as added by
 12 this act); and
 13 (3) any reference in the Indiana Code to a limited insurance
 14 representative shall be treated as a reference to a limited lines
 15 producer (as defined in IC 27-1-15.6-2(12), as added by this
 16 act).
 17 (b) This SECTION expires June 30, 2005.
 18 SECTION 29. [EFFECTIVE JANUARY 1, 2002] (a) The
 19 legislative services agency shall prepare legislation for introduction
 20 in the 2002 regular session of the general assembly to organize and
 21 correct statutes affected by this act.
 22 (b) This SECTION expires June 30, 2003.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, Corporations and Small Business, to which was referred House Bill 1674, 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 8, line 40, after "Indiana" insert "**by any means of communication**".

Page 12, line 22, delete "a" and insert "**an individual**".

Page 23, line 25, delete "producers" and insert "**agents**".

Page 24, line 12, delete "producer" and insert "**agent**".

Page 35, line 36, after "years." insert "**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)."

Page 37, line 12, delete "may" and insert "**shall**".

Page 42, line 30, delete "a resident" and insert "**an**".

Page 43, line 4, delete "a" and insert "**proof of the**".

Page 43, line 7, delete "The annual" and insert "**A subsequent**".

Page 59, after line 42, begin a new paragraph and insert:

"SECTION 28. [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(16), 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 29. [EFFECTIVE JANUARY 1, 2002] (a) The legislative services agency shall prepare legislation for introduction in the 2002 regular session of the general assembly to organize and correct statutes affected by this act.

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(b) This SECTION expires June 30, 2003."

and when so amended that said bill do pass.

(Reference is to HB 1674 as introduced.)

CROOKS, Chair

Committee Vote: yeas 12, nays 0.

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