
HOUSE BILL No. 1674

DIGEST OF INTRODUCED BILL

Citations Affected: IC 12-17-2; IC 27-1; IC 27-4-1-4; IC 27-5; IC 27-7-10; IC 27-8-19.8-8.5; IC 27-13; IC 28-5-1-6.5; IC 28-14-3-11; IC 31-14-12-7; IC 31-16-12-10; IC 34-30-2; IC 34-46-2-24; IC 35-43-9-4.

Synopsis: Licensing of insurance producers. Repeals the current insurance agent licensure statute. Adds chapters concerning: (1) insurance producer licensure; (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.



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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



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

(8) Explains the procedures to:

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

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

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

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

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

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

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

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

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

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

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

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

(1) full name;

(2) date of birth;

(3) verified address; and

(4) Social Security number or driving license number;

of the obligor to the bureau of motor vehicles.

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

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

(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 on behalf of the insurer to be**
 41 **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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1 engaged in the administration or operation of a program of
 2 employee benefits for the employer's or association's
 3 employees, or for the employees of a subsidiary or affiliate of
 4 the employer or association, that involves the use of insurance
 5 issued by an insurer:

6 (A) An employer or association.

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

9 (C) The trustees of an employee trust plan.

10 (4) An:

11 (A) employee of an insurer; or

12 (B) organization employed by insurers;

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

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

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

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

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

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

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

42 (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 a 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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1 (A) the other state issues a certification that, at the time of
 2 cancellation, the applicant was in good standing in that
 3 state; or

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

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

18 (c) An individual who:

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

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

24 (A) 7(a)(1);

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

26 (C) 7(a)(5);

27 of this chapter;

28 is not required to complete prelicensing education, and is required
 29 to take only the portion of the examination required under section
 30 5(b) of this chapter that pertains to Indiana laws and rules.

31 (d) An individual who has:

32 (1) attained the designation of chartered property and
 33 casualty underwriter, certified insurance counselor, or
 34 accredited advisor in insurance; and

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

37 (A) 7(a)(3);

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

39 (C) 7(a)(6);

40 of this chapter;

41 is not required to complete prelicensing education, and is required
 42 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 producers 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 producer 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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arrearage and requested the activation of an income withholding order under IC 31-16-15-2.

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

Sec. 31. An insurance producer shall not:
(1) be named a beneficiary of;
(2) become an owner of; or
(3) receive a collateral assignment of;
an individual life insurance policy or individual annuity contract unless the insurance producer has an insurable interest in the life of the insured or annuitant. A beneficiary designation, ownership designation, or collateral assignment made in violation of this section is void.

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

(b) Insurance producer and limited lines producer license renewal fees are due every four (4) years.

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

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

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

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

may not exceed ten dollars (\$10).

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

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

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

Chapter 15.7. Insurance Producer License Renewal

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

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

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

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

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

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

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

- (1) after the effective date of the licensee's last renewal of a license under this chapter; or
- (2) if the licensee is renewing a license for the first time, after

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the date on which the licensee was issued the license under this chapter.

(d) If an insurance producer receives qualification for a license in more than one (1) line of authority under IC 27-1-15.6, the insurance producer may not be required to complete a total of more than forty (40) hours of credit in continuing education courses to renew the license.

(e) Except as provided in subsection (f), a licensee may receive credit only for completing continuing education courses that have been approved by the commissioner under section 4 of this chapter.

(f) A licensee who teaches a course approved by the commissioner under section 4 of this chapter may receive continuing education credit for teaching the course.

(g) When a licensee renews a license issued under this chapter, the licensee must submit:

- (1) a continuing education statement that:
 - (A) is in a format authorized by the commissioner;
 - (B) is signed by the licensee under oath; and
 - (C) lists the continuing education courses completed by the licensee to satisfy the continuing education requirements of this section; and
- (2) any other information required by the commissioner.

(h) A continuing education statement submitted under subsection (g) may be reviewed and audited by the department.

(i) A licensee shall retain a copy of the original certificate of completion received by the licensee for completion of a continuing education course.

Sec. 3. (a) The commissioner may grant an extension for complying with the continuing education requirement set forth in section 2 of this chapter.

(b) To receive an extension under this section, a licensee must file a request with the commissioner on a form provided by the commissioner.

(c) After a licensee files a request for an extension, the license of the licensee remains in effect until the commissioner makes a decision on the request.

(d) If the commissioner denies a licensee's request for an extension, the licensee must complete continuing education requirements set forth in section 2 of this chapter within ninety (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

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1 made by the insurance producer education and continuing
2 education advisory council created under section 6 of this chapter.

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

5 (1) is designed to prepare an individual to receive an initial
6 license under this chapter;

7 (2) concerns only office skills;

8 (3) concerns sales promotion and sales techniques;

9 (4) concerns motivation, psychology, or time management; or
10 (5) may be completed by a licensee without supervision by an
11 instructor, unless the course involves an examination process
12 that is:

13 (A) completed and passed by the licensee as determined by
14 the provider of the course; and

15 (B) approved by the commissioner.

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

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

20 (1) a fee of forty dollars (\$40) for each course submitted for
21 approval of the commissioner under this section; or

22 (2) an annual fee of five hundred dollars (\$500) not later than
23 January 1 of a calendar year, which entitles the prospective
24 provider to submit an unlimited number of courses for
25 approval of the commissioner under this section during the
26 calendar year.

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

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

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

37 (1) Be conducted or developed by an:

38 (A) insurance trade association;

39 (B) accredited college or university;

40 (C) educational organization certified by the insurance
41 producer education and continuing education advisory
42 council; or

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

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1 (ii) requirements of the insurance laws and
2 administrative rules of Indiana; and

3 (iii) principles of property and liability insurance
4 applicable to coverages sold to individuals and families
5 for primarily noncommercial purposes.

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

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

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

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

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

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

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

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

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

39 (1) Two (2) members recommended by the Professional
40 Insurance Agents of Indiana.

41 (2) Two (2) members recommended by the Independent
42 Insurance Agents of Indiana.

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

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1 implement this chapter.

2 **Sec. 8. All hearings held under this chapter are governed by**
 3 **IC 4-21.5-3. The commissioner may appoint members of the**
 4 **commissioner's staff to act as hearing officers for purposes of**
 5 **hearings held under this chapter.**

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

9 **Chapter 15.8. Surplus Lines Producers**

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

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

14 (1) IC 27-1-15.6-5.

15 (2) IC 27-1-15.6-6.

16 (3) IC 27-1-15.6-8 through IC 27-1-15.6-13.

17 (4) IC 27-1-15.6-15 through IC 27-1-15.6-17.

18 (5) IC 27-1-15.6-21.

19 (6) IC 27-1-15.6-32 through IC 27-1-15.6-34.

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

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

32 **Sec. 4. (a) During the period that a surplus lines producer's**
 33 **license is in effect, the licensee shall keep in force a bond in the**
 34 **penal sum of not less than twenty thousand dollars (\$20,000) with**
 35 **an authorized corporate surety approved by the commissioner. The**
 36 **aggregate liability of the surety for any and all claims on a bond**
 37 **does not exceed the penal sum of the bond. A bond may not be**
 38 **terminated unless written notice of termination is provided by the**
 39 **surety to the licensee and the commissioner not less than thirty (30)**
 40 **days before termination. Upon termination of a license for which**
 41 **a bond was in effect, the commissioner shall notify the surety of the**
 42 **termination within ten (10) business days. All surety protection**



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1 under this section inures to the benefit of the state of Indiana to
2 assure the payment of all premium taxes.

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

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

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

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

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

37 (B) the insurance placed under this chapter is not placed
38 for the purpose of procuring it at a premium rate lower
39 than would be accepted by an insurer authorized and
40 licensed to transact insurance business in Indiana.

41 (e) A licensed surplus lines producer shall file with the
42 department, not later than March 31 of each year, the financial

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1 statement, dated as of December 31 of the preceding year, of each
 2 unauthorized insurer from whom the surplus lines producer has
 3 procured a policy or contract. The insurance commissioner may,
 4 in the commissioner's discretion, after reviewing the financial
 5 statement of the unauthorized insurer, order the surplus lines
 6 producer to cancel an unauthorized insurer's policies and contracts
 7 if the commissioner is of the opinion that the financial statement or
 8 condition of the unauthorized insurer does not warrant
 9 continuance of the risk.

10 (f) A licensed surplus lines producer shall keep a separate
 11 account of all business transacted under this section. The account
 12 may be inspected at any time by the commissioner or the
 13 commissioner's deputy or examiner.

14 (g) An insurer that issues a policy or contract to insure a risk
 15 under this section is considered to have appointed the
 16 commissioner as the insurer's attorney upon whom process may be
 17 served in Indiana in any suit, action, or proceeding based upon or
 18 arising out of the policy or contract.

19 (h) The commissioner may revoke or refuse to renew a surplus
 20 lines producer's license for failure to comply with this section.

21 (i) A surplus lines producer licensed under this chapter may
 22 accept and place policies or contracts authorized under this section
 23 for an insurance producer duly licensed in Indiana, and may
 24 compensate the insurance producer even though the insurance
 25 producer is not licensed under this chapter.

26 (j) If a surplus lines producer does not remit an amount due to
 27 the department within the time prescribed in subsection (c), the
 28 commissioner shall assess the surplus lines producer a penalty of
 29 ten percent (10%) of the amount due. The commissioner shall
 30 assess a further penalty of an additional one percent (1%) of the
 31 amount due for each month or portion of a month that any amount
 32 due remains unpaid after the first month. Penalties assessed under
 33 this subsection are payable by the surplus lines producer and are
 34 not collectible from an insured.

35 SECTION 6. IC 27-1-22-2.5, AS ADDED BY P.L.268-1999,
 36 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JANUARY 1, 2002]: Sec. 2.5. (a) As used in this chapter, "exempt
 38 commercial policyholder" means an entity that:

- 39 (1) makes written certification to the entity's insurer on a form
 40 prescribed by the department that the entity is an exempt
 41 commercial policyholder;
 42 (2) has purchased the policy of insurance through an insurance



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1 agent licensed under ~~IC 27-1-15.5-3~~; **IC 27-1-15.6** or
 2 **IC 27-1-15.8**; and

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

4 (A) Has a net worth of more than twenty-five million dollars
 5 (\$25,000,000) at the time the policy of insurance is issued.

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

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

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

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

19 (F) Procures commercial insurance with the services of a risk
 20 manager.

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

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

29 (1) a full-time employee of an exempt commercial policyholder
 30 who is qualified through education and experience or training and
 31 experience; or

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

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

38 (a) "Administrator", except as provided in section 7.5 of this
 39 chapter, means a person who collects charges or premiums from, or
 40 who adjusts or settles claims on, residents of Indiana in connection
 41 with life or health coverage or annuities, whether provided for by an
 42 insurer or a self-funded plan. The term "administrator" does not include

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

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1 union, or any other institution regulated under IC 28 or federal law.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 (7) Making or permitting any of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (A) Insurance issued to credit unions or members of credit unions in connection with the purchase of shares in such credit unions.
- (B) Insurance employed as a means of guaranteeing the performance of goods and designed to benefit the purchasers or users of such goods.
- (C) Title insurance.
- (D) Insurance written in connection with an indebtedness and intended as a means of repaying such indebtedness in the event of the death or disability of the insured.

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- 1 (E) Insurance provided by or through motorists service clubs
- 2 or associations.
- 3 (F) Insurance that is provided to the purchaser or holder of an
- 4 air transportation ticket and that:
- 5 (i) insures against death or nonfatal injury that occurs during
- 6 the flight to which the ticket relates;
- 7 (ii) insures against personal injury or property damage that
- 8 occurs during travel to or from the airport in a common
- 9 carrier immediately before or after the flight;
- 10 (iii) insures against baggage loss during the flight to which
- 11 the ticket relates; or
- 12 (iv) insures against a flight cancellation to which the ticket
- 13 relates.
- 14 (14) Refusing, because of the for-profit status of a hospital or
- 15 medical facility, to make payments otherwise required to be made
- 16 under a contract or policy of insurance for charges incurred by an
- 17 insured in such a for-profit hospital or other for-profit medical
- 18 facility licensed by the state department of health.
- 19 (15) Refusing to insure an individual, refusing to continue to issue
- 20 insurance to an individual, limiting the amount, extent, or kind of
- 21 coverage available to an individual, or charging an individual a
- 22 different rate for the same coverage, solely because of that
- 23 individual's blindness or partial blindness, except where the
- 24 refusal, limitation, or rate differential is based on sound actuarial
- 25 principles or is related to actual or reasonably anticipated
- 26 experience.
- 27 (16) Committing or performing, with such frequency as to
- 28 indicate a general practice, unfair claim settlement practices (as
- 29 defined in section 4.5 of this chapter).
- 30 (17) Between policy renewal dates, unilaterally canceling an
- 31 individual's coverage under an individual or group health
- 32 insurance policy solely because of the individual's medical or
- 33 physical condition.
- 34 (18) Using a policy form or rider that would permit a cancellation
- 35 of coverage as described in subdivision (17).
- 36 (19) Violating IC 27-1-22-25 or IC 27-1-22-26 concerning motor
- 37 vehicle insurance rates.
- 38 (20) Violating IC 27-8-21-2 concerning advertisements referring
- 39 to interest rate guarantees.
- 40 (21) Violating IC 27-8-24.3 concerning insurance and health plan
- 41 coverage for victims of abuse.
- 42 ~~(22) Violating IC 27-1-15.5-3(h).~~

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1 ~~(23)~~ **(22)** Violating IC 27-8-26 concerning genetic screening or
2 testing.

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

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

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

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

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

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

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

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

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

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

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

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

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

37 SECTION 13. IC 27-7-10-32 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 32. (a) For
 39 purposes of acting as an agent for a risk retention group or purchasing
 40 group under section 30 or 31 of this chapter, the requirement of
 41 residence in Indiana does not apply.

42 (b) Every individual, firm, association, or corporation licensed

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

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

- 10 (1) A viatical settlement broker.
- 11 (2) A person who solicits, offers, or attempts to negotiate a
12 viatical settlement contract with a viator.

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

- 17 (1) solicits, negotiates, effects, procures, delivers, renews, or
18 continues a policy or contract for membership in a health
19 maintenance organization or a prepaid limited health service
20 organization;
- 21 (2) takes or transmits a membership fee or premium for the policy
22 or contract other than for the agent; or
- 23 (3) causes the agent to be held out to the public, through
24 advertising or otherwise, as a producer for a health maintenance
25 organization or a prepaid limited health service organization.

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

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

- 37 (1) that are unfair, unjust, inequitable, misleading, or deceptive;
38 or
- 39 (2) that encourage misrepresentation prohibited by ~~IC 27-1-15.5-8~~
40 **IC 27-1-15.6-12** or IC 27-4-1-4.

41 SECTION 18. IC 27-13-21-1 IS AMENDED TO READ AS
42 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 1. To qualify to

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1 represent a health maintenance organization or a limited service health
 2 maintenance organization, an agent shall be licensed and regulated as
 3 an accident and health insurance agent under ~~IC 27-1-15.5~~.
 4 **IC 27-1-15.6.**

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

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

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

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

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

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

37 SECTION 20. IC 28-5-1-6.5 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 6.5. (a)
 39 Notwithstanding any other provision of this title, an industrial loan and
 40 investment company may act as an agent for the sale of any annuity
 41 contract issued by a life insurance company (as defined in IC 27-1-2-3)
 42 authorized to do business in Indiana under IC 27-1.



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

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

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

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

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

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

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

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

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

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

34 (2) ordering the commissioner not to issue a license to the person
35 who is the subject of the order if the person does not currently
36 hold a license; or

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

39 SECTION 23. IC 31-16-12-10 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE JANUARY 1, 2002]: Sec. 10. If a court
41 finds that a person who holds a license or who is an applicant for a
42 license issued under ~~IC 27-1-15.5~~ **IC 27-1-15.6**, **IC 27-1-15.8**, or

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1 IC 27-10-3 is delinquent (as defined in IC 12-17-2-1.5) as a result of an
 2 intentional violation of an order for child support, the court shall issue
 3 an order to the commissioner of the department of insurance:

- 4 (1) requiring that the person's license be suspended until further
 5 order of the court;
 6 (2) ordering the commissioner not to issue a license to the person
 7 who is the subject of the order if the person does not currently
 8 hold a license; or
 9 (3) ordering the commissioner not to renew the license of a person
 10 who is the subject of the order.

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

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

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

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

- 26 (1) an insurance agent license;
 27 (2) a surplus lines insurance agent license;
 28 (3) a limited insurance representative license; or
 29 (4) a consultant license;

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

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

- 34 (1) was issued under IC 27-1-15.5; and
 35 (2) will expire after January 1, 2002;

36 may obtain an insurance producer license under IC 27-1-15.6, as
 37 added by this act, by meeting the requirements set forth in
 38 IC 27-1-15.6 for the renewal of an insurance producer license.
 39 However, if the person does not satisfy the requirements set forth
 40 in IC 27-1-15.6 for the renewal of an insurance producer license
 41 before the expiration of the person's insurance agent license, the
 42 person must satisfy the requirements set forth in IC 27-1-15.6 for

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1 the issuance of an insurance producer license in order to obtain an
2 insurance producer license.

3 (c) A person who holds a surplus lines insurance agent license
4 that:

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

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

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

17 (d) A person who holds a limited insurance representative
18 license that:

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

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

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

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

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

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

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

42 (f) This SECTION expires January 1, 2004.

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