

SENATE BILL No. 54

DIGEST OF INTRODUCED BILL

Citations Affected: IC 27-2-22; IC 27-4-1-4.

Synopsis: Insurance practices and victims of abuse. Imposes certain prohibitions on automobile insurers and homeowners insurers related to insuring an individual who is a victim or a potential victim of abuse. Makes the violation of a prohibition an unfair and deceptive act or practice in the business of insurance.

Effective: July 1, 2007.

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January 8, 2007, read first time and referred to Committee on Insurance and Financial Institutions.

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First Regular Session 115th General Assembly (2007)

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 2006 Regular Session of the General Assembly.

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SENATE BILL No. 54



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 27-2-22 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2007]:

4 **Chapter 22. Automobile and Homeowners Insurance Coverage**
5 **for Victims of Abuse**

6 **Sec. 1. As used in this chapter, "abuse" means the occurrence of**
7 **one (1) or more of the following acts:**

8 (1) **Attempting to cause or intentionally, knowingly, or**
9 **recklessly causing:**

10 (A) **bodily injury (as defined in IC 35-41-1-4) to;**

11 (B) **physical harm to;**

12 (C) **sexual assault on;**

13 (D) **involuntary sexual intercourse with; or**

14 (E) **rape (as described in IC 35-42-4-1) of;**

15 **a victim.**

16 (2) **Knowingly engaging in a course of conduct or repeatedly**
17 **committing acts, including stalking (as defined in**



1 **IC 35-45-10-1) or impermissible contact (as defined in**
 2 **IC 35-45-10-3), under circumstances that place the victim in**
 3 **reasonable fear of bodily injury or physical harm.**
 4 **(3) Subjecting a victim to false imprisonment.**
 5 **(4) Attempting to cause or intentionally, knowingly, or**
 6 **recklessly causing damage to property in order to intimidate**
 7 **or attempt to control the behavior of a victim.**
 8 **Sec. 2. As used in this chapter, "automobile insurance policy"**
 9 **has the meaning set forth in IC 27-7-6-2.**
 10 **Sec. 3. As used in this chapter, "homeowners insurance policy"**
 11 **means an insurance policy that provides one (1) or more of the**
 12 **types of coverage described in Class 2(c), Class 2(h), and Class 3(a)**
 13 **of IC 27-1-5-1, with respect to the dwelling of the policyholder.**
 14 **Sec. 4. As used in this chapter, "individual" means a human**
 15 **being, whether an adult or a minor.**
 16 **Sec. 5. As used in this chapter, "insurance policy" means:**
 17 **(1) an automobile insurance policy; or**
 18 **(2) a homeowners insurance policy.**
 19 **Sec. 6. As used in this chapter, "insurer" has the meaning set**
 20 **forth in IC 27-1-2-3(x).**
 21 **Sec. 7. (a) For purposes of this chapter, an individual is a**
 22 **"significant other" of another person if the individual:**
 23 **(1) is a current or former spouse of the other person;**
 24 **(2) is dating or has dated the other person;**
 25 **(3) is or was engaged in a sexual relationship with the other**
 26 **person;**
 27 **(4) is related by blood or adoption to the other person;**
 28 **(5) is or was related by marriage to the other person;**
 29 **(6) cohabits or formerly cohabited with the other person; or**
 30 **(7) has or previously had an established legal relationship:**
 31 **(A) as a guardian of the other person;**
 32 **(B) as a ward of the other person;**
 33 **(C) as a custodian of the other person;**
 34 **(D) as a foster parent of the other person; or**
 35 **(E) in a capacity with respect to the other person similar to**
 36 **those listed in clauses (A) through (D).**
 37 **(b) For purposes of this chapter, an individual is a "significant**
 38 **other" of both persons to whom subsection (a) applies if the**
 39 **individual is a minor child of one (1) of the persons.**
 40 **Sec. 8. As used in this chapter, "victim" means:**
 41 **(1) an individual who has been subjected to an act of abuse**
 42 **committed by a significant other of the individual; or**

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- 1 **(2) an individual who has been granted a:**
- 2 **(A) civil order for protection under IC 34-26-5; or**
- 3 **(B) workplace violence restraining order under IC 34-26-6;**
- 4 **and who has been subjected to an act of abuse committed by**
- 5 **the respondent against whom the protective order or**
- 6 **restraining order is directed.**
- 7 **Sec. 9. An insurer may not do any of the following:**
- 8 **(1) Refuse to issue or renew coverage on an individual under**
- 9 **an insurance policy because the individual:**
- 10 **(A) is, has been, or has the potential to be a victim of**
- 11 **abuse; or**
- 12 **(B) seeks, has sought, or should have sought:**
- 13 **(i) protection from abuse;**
- 14 **(ii) shelter from abuse; or**
- 15 **(iii) medical or psychological treatment for abuse.**
- 16 **(2) Restrict or terminate coverage on an individual under an**
- 17 **insurance policy because the individual:**
- 18 **(A) is, has been, or has the potential to be a victim of**
- 19 **abuse; or**
- 20 **(B) seeks, has sought, or should have sought:**
- 21 **(i) protection from abuse;**
- 22 **(ii) shelter from abuse; or**
- 23 **(iii) medical or psychological treatment for abuse.**
- 24 **(3) Add a surcharge or rating factor to a premium of an**
- 25 **individual's insurance policy because the individual:**
- 26 **(A) is;**
- 27 **(B) has been; or**
- 28 **(C) has the potential to be;**
- 29 **a victim of abuse.**
- 30 **(4) Exclude or limit coverage for losses incurred by a victim**
- 31 **or deny a claim filed by a victim who is covered under an**
- 32 **insurance policy, if the losses incurred or claim filed is the**
- 33 **result of abuse or the potential for abuse.**
- 34 **(5) Ask an individual who is covered under or applies for an**
- 35 **insurance policy if the individual:**
- 36 **(A) is, has been, or has the potential to be a victim of**
- 37 **abuse; or**
- 38 **(B) is seeking, has sought, or should have sought:**
- 39 **(i) protection from abuse;**
- 40 **(ii) shelter from abuse; or**
- 41 **(iii) medical or psychological treatment for abuse.**
- 42 **Sec. 10. A violation of this chapter is an unfair and deceptive act**

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or practice in the business of insurance under IC 27-4-1-4.

SECTION 2. IC 27-4-1-4, AS AMENDED BY P.L.1-2006, SECTION 487, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. The following are hereby defined as unfair methods of competition and unfair and deceptive acts and practices in the business of insurance:

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

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

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

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

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

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

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

(3) Making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance.

(4) Entering into any agreement to commit, or individually or by

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

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relevant factor.
(C) Excessive or inadequate charges for premiums, policy fees, assessments, or rates, or making or permitting any unfair discrimination between persons of the same class involving essentially the same hazards, in the amount of premiums, policy fees, assessments, or rates charged or made for:
(i) policies or contracts of reinsurance or joint reinsurance, or abstract and title insurance;
(ii) policies or contracts of insurance against loss or damage to aircraft, or against liability arising out of the ownership, maintenance, or use of any aircraft, or of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance; or
(iii) policies or contracts of any other kind or kinds of insurance whatsoever.

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

(8) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract or policy of insurance of any kind or kinds whatsoever, including but not in limitation, life annuities, or agreement as to such contract or policy other than as plainly expressed in such contract or policy issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends, savings, or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract or policy; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, limited liability company, or partnership, or any dividends, savings, or profits accrued thereon, or anything of value whatsoever not specified in the contract. Nothing in this subdivision and

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1 subdivision (7) shall be construed as including within the
 2 definition of discrimination or rebates any of the following
 3 practices:
 4 (A) Paying bonuses to policyholders or otherwise abating their
 5 premiums in whole or in part out of surplus accumulated from
 6 nonparticipating insurance, so long as any such bonuses or
 7 abatement of premiums are fair and equitable to policyholders
 8 and for the best interests of the company and its policyholders.
 9 (B) In the case of life insurance policies issued on the
 10 industrial debit plan, making allowance to policyholders who
 11 have continuously for a specified period made premium
 12 payments directly to an office of the insurer in an amount
 13 which fairly represents the saving in collection expense.
 14 (C) Readjustment of the rate of premium for a group insurance
 15 policy based on the loss or expense experience thereunder, at
 16 the end of the first year or of any subsequent year of insurance
 17 thereunder, which may be made retroactive only for such
 18 policy year.
 19 (D) Paying by an insurer or insurance producer thereof duly
 20 licensed as such under the laws of this state of money,
 21 commission, or brokerage, or giving or allowing by an insurer
 22 or such licensed insurance producer thereof anything of value,
 23 for or on account of the solicitation or negotiation of policies
 24 or other contracts of any kind or kinds, to a broker, an
 25 insurance producer, or a solicitor duly licensed under the laws
 26 of this state, but such broker, insurance producer, or solicitor
 27 receiving such consideration shall not pay, give, or allow
 28 credit for such consideration as received in whole or in part,
 29 directly or indirectly, to the insured by way of rebate.
 30 (9) Requiring, as a condition precedent to loaning money upon the
 31 security of a mortgage upon real property, that the owner of the
 32 property to whom the money is to be loaned negotiate any policy
 33 of insurance covering such real property through a particular
 34 insurance producer or broker or brokers. However, this
 35 subdivision shall not prevent the exercise by any lender of the
 36 lender's right to approve or disapprove of the insurance company
 37 selected by the borrower to underwrite the insurance.
 38 (10) Entering into any contract, combination in the form of a trust
 39 or otherwise, or conspiracy in restraint of commerce in the
 40 business of insurance.
 41 (11) Monopolizing or attempting to monopolize or combining or
 42 conspiring with any other person or persons to monopolize any

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1 part of commerce in the business of insurance. However,
 2 participation as a member, director, or officer in the activities of
 3 any nonprofit organization of insurance producers or other
 4 workers in the insurance business shall not be interpreted, in
 5 itself, to constitute a combination in restraint of trade or as
 6 combining to create a monopoly as provided in this subdivision
 7 and subdivision (10). The enumeration in this chapter of specific
 8 unfair methods of competition and unfair or deceptive acts and
 9 practices in the business of insurance is not exclusive or
 10 restrictive or intended to limit the powers of the commissioner or
 11 department or of any court of review under section 8 of this
 12 chapter.

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

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

- 30 (A) Insurance issued to credit unions or members of credit
- 31 unions in connection with the purchase of shares in such credit
- 32 unions.
- 33 (B) Insurance employed as a means of guaranteeing the
- 34 performance of goods and designed to benefit the purchasers
- 35 or users of such goods.
- 36 (C) Title insurance.
- 37 (D) Insurance written in connection with an indebtedness and
- 38 intended as a means of repaying such indebtedness in the
- 39 event of the death or disability of the insured.
- 40 (E) Insurance provided by or through motorists service clubs
- 41 or associations.
- 42 (F) Insurance that is provided to the purchaser or holder of an

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- 1 air transportation ticket and that:
- 2 (i) insures against death or nonfatal injury that occurs during
- 3 the flight to which the ticket relates;
- 4 (ii) insures against personal injury or property damage that
- 5 occurs during travel to or from the airport in a common
- 6 carrier immediately before or after the flight;
- 7 (iii) insures against baggage loss during the flight to which
- 8 the ticket relates; or
- 9 (iv) insures against a flight cancellation to which the ticket
- 10 relates.
- 11 (14) Refusing, because of the for-profit status of a hospital or
- 12 medical facility, to make payments otherwise required to be made
- 13 under a contract or policy of insurance for charges incurred by an
- 14 insured in such a for-profit hospital or other for-profit medical
- 15 facility licensed by the state department of health.
- 16 (15) Refusing to insure an individual, refusing to continue to issue
- 17 insurance to an individual, limiting the amount, extent, or kind of
- 18 coverage available to an individual, or charging an individual a
- 19 different rate for the same coverage, solely because of that
- 20 individual's blindness or partial blindness, except where the
- 21 refusal, limitation, or rate differential is based on sound actuarial
- 22 principles or is related to actual or reasonably anticipated
- 23 experience.
- 24 (16) Committing or performing, with such frequency as to
- 25 indicate a general practice, unfair claim settlement practices (as
- 26 defined in section 4.5 of this chapter).
- 27 (17) Between policy renewal dates, unilaterally canceling an
- 28 individual's coverage under an individual or group health
- 29 insurance policy solely because of the individual's medical or
- 30 physical condition.
- 31 (18) Using a policy form or rider that would permit a cancellation
- 32 of coverage as described in subdivision (17).
- 33 (19) Violating IC 27-1-22-25, IC 27-1-22-26, or IC 27-1-22-26.1
- 34 concerning motor vehicle insurance rates.
- 35 (20) Violating IC 27-8-21-2 concerning advertisements referring
- 36 to interest rate guarantees.
- 37 (21) Violating IC 27-8-24.3 concerning insurance and health plan
- 38 coverage for victims of abuse.
- 39 (22) Violating IC 27-8-26 concerning genetic screening or testing.
- 40 (23) Violating IC 27-1-15.6-3(b) concerning licensure of
- 41 insurance producers.
- 42 (24) Violating IC 27-1-38 concerning depository institutions.

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- 1 (25) Violating IC 27-8-28-17(c) or IC 27-13-10-8(c) concerning
- 2 the resolution of an appealed grievance decision.
- 3 (26) Violating IC 27-8-5-2.5(e) through IC 27-8-5-2.5(j) or
- 4 IC 27-8-5-19.2.
- 5 (27) Violating IC 27-2-21 concerning use of credit information.
- 6 (28) Violating IC 27-4-9-3 concerning recommendations to senior
- 7 consumers.
- 8 **(29) Violating IC 27-2-22 concerning insurance coverage for**
- 9 **a victim or a potential victim of abuse.**

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