

CONFERENCE COMMITTEE REPORT DIGEST FOR EHB 1452

Citations Affected: IC 16-39-9-2; IC 16-39-9; IC 16-47-1-5; IC 20-12-22.3; IC 22-3-3-13; IC 27-1; IC 27-8; IC 27-13; IC 36-8-10-12.

Synopsis: Various insurance matters. Conference committee report to EHB 1452. Provides that the department of insurance sets the amount charged for copies of medical records. Allows certain state educational institutions to participate in a prescription drug purchasing program. Establishes the insurance education scholarship fund and makes an annual appropriation. Revises language concerning assessments for the second injury fund. Makes changes to insurance filing fees and deposits of certain fees into the department of insurance fund. Specifies requirements for assets in a segregated investment account for a funding agreement. Requires certain notice of coverage changes in residential property policies and prohibits certain provisions in the policies. Authorizes the commissioner to issue insurance producer certificates for framing. Amends insurance producer license renewal periods and continuing education requirements. Removes the requirement that resident surplus lines producers file a bond with the commissioner. Makes certain changes to filing and notice requirements that apply to commercial property and casualty insurance. Amends the definition of "multiple employer welfare arrangement" (MEWA) applying to the law regulating MEWAs. Provides for the entry of an unauthorized alien insurance company to transact business in the United States through a United States branch. Specifies policy form filing requirements for a policy of accident and sickness insurance. Amends mandated benefit statutes defining an "accident and sickness" policy to standardize the list of the types of policies that are not included in the use of the term. Makes changes to statutes concerning accident and sickness insurance policies, travel accident policies, short term health policies, and long term care insurance producer compensation, including changes to preexisting condition limitation periods, claim payment requirements, policy return periods, and independent review organization determinations. Establishes an interim study committee to create a definition of "health insurance" for purposes of the law concerning accident and sickness insurance and health maintenance organization contracts. Allows the office of Medicaid policy and planning to establish a health care management program demonstration project and a pilot project concerning certain small employers. Makes conforming changes. **(This conference committee report does the following: (1) Revises language concerning assessments for the workers compensation second injury fund. (2) Allows certain state educational institutions to participate in a prescription drug purchasing program. (3) Requires certain notice of coverage changes in residential property policies and prohibits**

certain provisions in the policies. (4) Amends the standardized definition of accident and sickness insurance to remove a limited benefit health insurance policy from the list of excluded policies. (5) Requires independent review organizations to provide certain information concerning grievance determinations. (6) Allows the office of Medicaid policy and planning to establish a health care management program demonstration project and a pilot project concerning certain small employers.)

Effective: Upon passage; July 1, 2007.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed Senate Amendments to Engrossed House Bill No. 1452 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the House recede from its dissent from all Senate amendments and that the House now concur in all Senate amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
2 SECTION 1. IC 16-39-9-2 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. A provider may not
4 charge a person for making and providing copies of medical records an
5 amount greater than ~~provided in this chapter.~~ **the amount set in rules**
6 **adopted by the department of insurance under section 4 of this**
7 **chapter.**
8 SECTION 2. IC 16-39-9-4 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) As used in this
10 section, "department" refers to the department of insurance created by
11 IC 27-1-1-1.
12 (b) ~~Notwithstanding sections 1 and 2 of this chapter,~~ The
13 department may adopt rules under IC 4-22-2 to ~~adjust set~~ the amounts
14 that may be charged for copying records under this chapter. In adopting
15 rules under this section, the department shall consider the following
16 factors relating to the costs of copying medical records:
17 (1) The following labor costs:
18 (A) Verification of requests.
19 (B) Logging requests.
20 (C) Retrieval.
21 (D) Copying.
22 (E) Refiling.

- 1 (2) Software costs for logging requests.
 2 (3) Expense costs for copying.
 3 (4) Capital costs for copying.
 4 (5) Billing and bad debt expenses.
 5 (6) Space costs.

6 SECTION 3. IC 16-47-1-5 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The
 8 following **department** shall participate in the program

- 9 ~~(1) The department,~~ for a health benefit plan:
 10 ~~(A) (1)~~ described in section 2(1), 2(2), or 2(3) of this chapter; and
 11 ~~(B) (2)~~ that provides coverage for prescription drugs.
 12 ~~(2) A state educational institution,~~ for a health benefit plan:
 13 ~~(A) described in section 2(4) of this chapter; and~~
 14 ~~(B) that provides coverage for prescription drugs;~~
 15 unless the budget agency determines that the state educational
 16 institution's participation in the program would not result in an
 17 overall financial benefit to the state educational institution.
 18 (b) The following may participate in the program:
 19 (1) A state agency other than the department that:
 20 (A) purchases prescription drugs; or
 21 (B) arranges for the payment of the cost of prescription drugs.
 22 (2) A local unit (as defined in IC 5-10-8-1).
 23 (3) The Indiana comprehensive health insurance association
 24 established under IC 27-8-10.
 25 **(4) A state educational institution for a health benefit plan:**
 26 **(A) described in section 2(4) of this chapter; and**
 27 **(B) that provides coverage for prescription drugs.**

28 (c) The state Medicaid program may not participate in the program
 29 under this chapter.

30 SECTION 4. IC 20-12-22.3 IS ADDED TO THE INDIANA CODE
 31 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2007]:

33 **Chapter 22.3. Insurance Education Scholarship Fund**

34 **Sec. 1. As used in this chapter, "commission" refers to the state**
 35 **student assistance commission established by IC 20-12-21-4.**

36 **Sec. 2. As used in this chapter, "fund" refers to the insurance**
 37 **education scholarship fund established by section 5 of this chapter.**

38 **Sec. 3. As used in this chapter, "insurance student" means a**
 39 **student who studies or intends to study:**

- 40 (1) insurance; or
 41 (2) business with an emphasis on insurance.

42 **Sec. 4. As used in this chapter, "state educational institution" has**
 43 **the meaning set forth in IC 20-12-0.5-1.**

44 **Sec. 5. (a) The insurance education scholarship fund is**
 45 **established to encourage and promote qualified individuals to**
 46 **pursue a career in insurance in Indiana.**

47 **(b) The fund consists of amounts deposited under**
 48 **IC 27-1-15.6-7.3.**

49 **Sec. 6. (a) The commission shall administer the fund.**

- 50 **(b) The expenses of administering the fund shall be paid from**
 51 **money in the fund.**

1 (c) The treasurer of state shall invest the money in the fund not
2 currently needed to meet the obligations of the fund in the same
3 manner as other public funds may be invested. Interest that
4 accrues from the investments shall be deposited in the fund.

5 (d) Money in the fund at the end of a state fiscal year does not
6 revert to the state general fund.

7 Sec. 7. (a) The money in the fund shall be used to provide annual
8 scholarships to insurance students who qualify under section 9 of
9 this chapter. The commission shall determine the amount of money
10 to be allocated from the fund for scholarships under this chapter.

11 (b) A scholarship awarded under this chapter may be used only
12 for the payment of tuition or fees that are:

13 (1) approved by the state educational institution that awards
14 the scholarship; and

15 (2) not otherwise payable under any other scholarship or form
16 of financial assistance specifically designated for tuition or
17 fees.

18 (c) Subject to section 8(c) of this chapter, each scholarship
19 awarded under this chapter is renewable under section 9 of this
20 chapter for a total number of terms that does not exceed eight (8)
21 full-time semesters (or the equivalent) or twelve (12) full-time
22 quarters (or the equivalent).

23 Sec. 8. (a) The commission for higher education shall provide
24 the commission with the most recent information concerning the
25 number of insurance students at each state educational institution.

26 (b) The commission shall allocate the available money from the
27 fund to each state educational institution that has:

28 (1) an insurance program; or

29 (2) a business program with an emphasis on insurance;
30 in proportion to the number of insurance students enrolled at each
31 state educational institution based upon the information received
32 by the commission under subsection (a).

33 (c) Each state educational institution shall determine which of
34 the state educational institution's insurance students who apply
35 qualify under section 9 of this chapter. In addition, the state
36 educational institution shall consider the need of the applicant
37 when awarding scholarships under this chapter.

38 (d) The state educational institution may not grant a scholarship
39 renewal to an insurance student for an academic year that ends
40 later than six (6) years after the date on which the insurance
41 student received the insurance student's initial scholarship under
42 this chapter.

43 (e) Any funds that:

44 (1) are allocated to a state educational institution under
45 section 8(b) of this chapter; and

46 (2) are not used for scholarships under this chapter;
47 shall be returned to the commission for reallocation by the
48 commission to any other eligible state educational institution in
49 need of additional funds.

50 Sec. 9. To qualify for a scholarship or a scholarship renewal
51 from the fund, an insurance student must:

- 1 **(1) be admitted to an approved state educational institution as**
 2 **a full-time or part-time insurance student; and**
 3 **(2) meet the qualifications established by the commission**
 4 **under section 11 of this chapter.**

5 **Sec. 10. (a) The commission shall maintain complete and**
 6 **accurate records in administering the fund, including records**
 7 **concerning the scholarships awarded under this chapter.**

8 **(b) Each state educational institution shall provide the**
 9 **commission with information concerning the following:**

- 10 **(1) The awarding of scholarships under this chapter.**
 11 **(2) The academic progress made by each recipient of a**
 12 **scholarship under this chapter.**
 13 **(3) Other pertinent information requested by the commission.**

14 **Sec. 11. (a) The commission shall adopt rules under subsection**
 15 **(b) to establish qualifications for recipients of scholarships and**
 16 **scholarship renewals under this chapter.**

17 **(b) The commission shall adopt rules under IC 4-22-2 necessary**
 18 **to carry out this chapter.**

19 SECTION 5. IC 22-3-3-13, AS AMENDED BY P.L.134-2006,
 20 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 UPON PASSAGE]: Sec. 13. (a) As used in this section, "board" refers
 22 to the worker's compensation board created under IC 22-3-1-1.

23 (b) If an employee who from any cause, had lost, or lost the use of,
 24 one (1) hand, one (1) arm, one (1) foot, one (1) leg, or one (1) eye, and
 25 in a subsequent industrial accident becomes permanently and totally
 26 disabled by reason of the loss, or loss of use of, another such member
 27 or eye, the employer shall be liable only for the compensation payable
 28 for such second injury. However, in addition to such compensation and
 29 after the completion of the payment therefor, the employee shall be
 30 paid the remainder of the compensation that would be due for such
 31 total permanent disability out of a special fund known as the second
 32 injury fund, and created in the manner described in subsection (c).

33 (c) Whenever the board determines under the procedures set forth
 34 in subsection (d) that an assessment is necessary to ensure that fund
 35 beneficiaries, including applicants under section 4(e) of this chapter,
 36 continue to receive compensation in a timely manner for a reasonable
 37 prospective period, the board shall send notice not later than November
 38 1 in any year to:

- 39 (1) all insurance carriers and other entities insuring or providing
 40 coverage to employers who are or may be liable under this article
 41 to pay compensation for personal injuries to or the death of their
 42 employees under this article; and
 43 (2) each employer carrying the employer's own risk;

44 stating that an assessment is necessary. Not later than January 31 of the
 45 following year, each entity identified in subdivisions (1) and (2) shall
 46 send to the board a statement of total paid losses and premiums (as
 47 defined in subsection (d)(4)) paid by employers during the previous
 48 calendar year. The board may conduct an assessment under this
 49 subsection not more than one (1) time annually. The total amount of the
 50 assessment may not exceed two and one-half percent (2.5%) of the total
 51 amount of all worker's compensation paid to injured employees or their

1 beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year
 2 next preceding the due date of such payment. The board shall assess a
 3 penalty in the amount of ten percent (10%) of the amount owed if
 4 payment is not made under this section within thirty (30) days from the
 5 date set by the board. If the amount to the credit of the second injury
 6 fund on or before November 1 of any year exceeds one hundred
 7 thirty-five percent (135%) of the previous year's disbursements, the
 8 assessment allowed under this subsection shall not be assessed or
 9 collected during the ensuing year. But when on or before November 1
 10 of any year the amount to the credit of the fund is less than one hundred
 11 thirty-five percent (135%) of the previous year's disbursements, the
 12 payments of not more than two and one-half percent (2.5%) of the total
 13 amount of all worker's compensation paid to injured employees or their
 14 beneficiaries under IC 22-3-2 through IC 22-3-6 for the calendar year
 15 next preceding that date shall be resumed and paid into the fund. The
 16 board may not use an assessment rate greater than twenty-five
 17 hundredths of one percent (0.25%) above the amount recommended by
 18 the study performed before the assessment.

19 (d) The board shall assess all employers for the liabilities, including
 20 administrative expenses, of the second injury fund. The assessment
 21 also must provide for the repayment of all loans made to the second
 22 injury fund for the purpose of paying valid claims. The following
 23 applies to assessments under this subsection:

24 (1) The portion of the total amount that must be collected from
 25 self-insured employers equals:

26 (A) the total amount of the assessment as determined by the
 27 board; multiplied by

28 (B) the quotient of:

29 (i) the total paid losses on behalf of all self-insured
 30 employers during the preceding calendar year; divided by

31 (ii) the total paid losses on behalf of all self-insured
 32 employers and insured employers during the preceding
 33 calendar year.

34 (2) The portion of the total amount that must be collected from
 35 insured employers equals:

36 (A) the total amount of the assessment as determined by the
 37 board; multiplied by

38 (B) the quotient of:

39 (i) the total paid losses on behalf of all insured employers
 40 during the preceding calendar year; divided by

41 (ii) the total paid losses on behalf of all self-insured
 42 employers and insured employers during the preceding
 43 calendar year.

44 (3) The total amount of **insured employer** assessments ~~allocated~~
 45 ~~to insured employers~~ under subdivision (2) must be collected
 46 by the insured employers' worker's compensation insurers. The
 47 amount of ~~the assessment for employer assessments~~ each ~~insured~~
 48 **employer insurer shall collect** equals:

49 (A) the total amount of assessments allocated to insured
 50 employers under subdivision ~~(3)~~; **(2)**; multiplied by

51 (B) the quotient of:

- 1 (i) the worker's compensation premiums paid by ~~the insured~~
 2 ~~employer employers to the carrier~~ during the preceding
 3 calendar year; divided by
 4 (ii) the worker's compensation premiums paid by **employers**
 5 **to all insured employers carriers** during the preceding
 6 calendar year.
- 7 (4) For purposes of the computation made under subdivision (3),
 8 "premium" means the ~~entire written premium resulting from~~
 9 ~~standard rating procedures and before the application of any of~~
 10 ~~the following:~~
- 11 ~~(A) Rate deviations.~~
 - 12 ~~(B) Premium discounts.~~
 - 13 ~~(C) Policyholder dividends.~~
 - 14 ~~(D) Premium adjustments under a retrospective rating plan.~~
 - 15 ~~(E) Premium credits provided under large deductible~~
 16 ~~programs.~~
 - 17 ~~(F) Any other premium debits or credits.~~ **direct written**
 18 **premium.**
- 19 (5) The amount of the assessment for each self-insured employer
 20 equals:
- 21 (A) the total amount of assessments allocated to self-insured
 22 employers under subdivision (1); multiplied by
 - 23 (B) the quotient of:
 - 24 (i) the paid losses attributable to the self-insured employer
 25 during the preceding calendar year; divided by
 - 26 (ii) paid losses attributable to all self-insured employers
 27 during the preceding calendar year.

28 An employer that has ceased to be a self-insurer continues to be liable
 29 for prorated assessments based on paid losses made by the employer in
 30 the preceding calendar year during the period that the employer was
 31 self-insured.

32 (e) The board may employ a qualified employee or enter into a
 33 contract with an actuary or another qualified firm that has experience
 34 in calculating worker's compensation liabilities. Not later than
 35 December 1 of each year, the actuary or other qualified firm shall
 36 calculate the recommended funding level of the fund and inform the
 37 board of the results of the calculation. If the amount to the credit of the
 38 fund is less than the amount required under subsection (c), the board
 39 may conduct an assessment under subsection (c). The board shall pay
 40 the costs of the contract under this subsection with money in the fund.

41 (f) An assessment collected under subsection (c) on an employer
 42 who is not self-insured must be assessed through a surcharge based on
 43 the employer's premium. An assessment collected under subsection (c)
 44 does not constitute an element of loss, but for the purpose of collection
 45 shall be treated as a separate cost imposed upon insured employers. A
 46 premium surcharge under this subsection must be collected at the same
 47 time and in the same manner in which the premium for coverage is
 48 collected, and must be shown as a separate amount on a premium
 49 statement. A premium surcharge under this subsection must be
 50 excluded from the definition of premium for all purposes, including the
 51 computation of insurance producer commissions or premium taxes.

1 However, an insurer may cancel a worker's compensation policy for
 2 nonpayment of the premium surcharge. A cancellation under this
 3 subsection must be carried out under the statutes applicable to the
 4 nonpayment of premiums.

5 (g) The sums shall be paid by the board to the treasurer of state, to
 6 be deposited in a special account known as the second injury fund. The
 7 funds are not a part of the general fund of the state. Any balance
 8 remaining in the account at the end of any fiscal year shall not revert
 9 to the general fund. The funds shall be used only for the payment of
 10 awards of compensation ordered by the board and chargeable against
 11 the fund pursuant to this section, and shall be paid for that purpose by
 12 the treasurer of state upon award or order of the board.

13 (h) If an employee who is entitled to compensation under IC 22-3-2
 14 through IC 22-3-6 either:

15 (1) exhausts the maximum benefits under section 22 of this
 16 chapter without having received the full amount of award granted
 17 to the employee under section 10 of this chapter; or

18 (2) exhausts the employee's benefits under section 10 of this
 19 chapter;

20 then such employee may apply to the board, who may award the
 21 employee compensation from the second injury fund established by this
 22 section, as follows under subsection (i).

23 (i) An employee who has exhausted the employee's maximum
 24 benefits under section 10 of this chapter may be awarded additional
 25 compensation equal to sixty-six and two-thirds percent (66 2/3%) of the
 26 employee's average weekly wage at the time of the employee's injury,
 27 not to exceed the maximum then applicable under section 22 of this
 28 chapter, for a period of not to exceed one hundred fifty (150) weeks
 29 upon competent evidence sufficient to establish:

30 (1) that the employee is totally and permanently disabled from
 31 causes and conditions of which there are or have been objective
 32 conditions and symptoms proven that are not within the physical
 33 or mental control of the employee; and

34 (2) that the employee is unable to support the employee in any
 35 gainful employment, not associated with rehabilitative or
 36 vocational therapy.

37 (j) The additional award may be renewed during the employee's total
 38 and permanent disability after appropriate hearings by the board for
 39 successive periods not to exceed one hundred fifty (150) weeks each.
 40 The provisions of this section apply only to injuries occurring
 41 subsequent to April 1, 1950, for which awards have been or are in the
 42 future made by the board under section 10 of this chapter. Section 16
 43 of this chapter does not apply to compensation awarded from the
 44 second injury fund under this section.

45 (k) All insurance carriers subject to an assessment under this section
 46 are required to provide to the board:

47 (1) not later than January 31 each calendar year; and

48 (2) not later than thirty (30) days after a change occurs;

49 the name, address, and electronic mail address of a representative
 50 authorized to receive the notice of an assessment.

51 SECTION 6. IC 27-1-3-15 IS AMENDED TO READ AS

1 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. (a) Except as
 2 provided in subsection ~~(g)~~ **(h)**, the commissioner shall collect the
 3 following filing fees:

Document	Fee
4 Articles of incorporation	\$ 350
5 Amendment of articles of 6 incorporation	\$ 10
7 Filing of annual statement 8 and consolidated statement	\$ 100
9 Annual renewal of company license 10 fee	\$ 50
11 Withdrawal of certificate 12 of authority	\$ 25
13 Certified statement of condition	\$ 5
14 Any other document required to be 15 filed by this article	\$ 25

16 **The commissioner shall deposit fees collected under this subsection**
 17 **into the department of insurance fund established by section 28 of**
 18 **this chapter.**

19 (b) The commissioner shall collect a fee of ten dollars (\$10) each
 20 time process is served on the commissioner under this title.

21 (c) The commissioner shall collect the following fees for copying
 22 and certifying the copy of any filed document relating to a domestic or
 23 foreign corporation:
 24

25 Per page for copying	As determined by 26 the commissioner 27 but not to exceed 28 actual cost
29 For the certificate	\$10

30 (d) Each domestic and foreign insurer **and each health**
 31 **maintenance organization** shall remit annually to the commissioner
 32 for deposit into the department of insurance fund established by
 33 ~~IC 27-1-3-28~~ **section 28 of this chapter one**
 34 **thousand dollars (\$350) (\$1,000)** as an internal audit fee. All
 35 assessment insurers, farm mutuals, **and fraternal benefit societies and**
 36 **health maintenance organizations** shall remit to the commissioner for
 37 deposit into the department of insurance fund ~~one~~ **two hundred fifty**
 38 **dollars (\$100) (\$250)** annually as an internal audit fee.

39 (e) Beginning July 1, 1994, each insurer shall remit to the
 40 commissioner for deposit into the department of insurance fund
 41 established by ~~IC 27-1-3-28~~ **section 28 of this chapter** a fee of
 42 thirty-five dollars (\$35) for each policy, rider, ~~and~~ **rule, rate, or**
 43 **endorsement filed with the state, including subsequent filings. Except**
 44 **as provided in subsection (f), each policy, rider, rule, rate, or**
 45 **endorsement that is filed as part of a particular product filing or**
 46 **in association with a particular product filing is an individual filing**
 47 **subject to the fee under this subsection.** However, ~~each policy, rider,~~
 48 ~~and endorsement filed as part of a particular product filing and~~
 49 ~~associated with that product filing shall be considered to be a single~~
 50 ~~filing and subject only to one (1) thirty-five dollar (\$35) fee.~~ **the total**
 51 **amount of fees paid under this subsection by each insurer for a**

1 particular product filing may not exceed one thousand dollars
2 (\$1,000).

3 (f) Beginning July 1, 2009, a policy, rider, rule, rate, or
4 endorsement that is filed as part of a particular product filing or
5 in association with a particular product filing for a commercial
6 product described in:

7 (1) Class 2(b), Class 2(c), Class 2(d), Class 2(e), Class 2(f),
8 Class 2(g), Class 2(h), Class 2(i), Class 2(j), Class 2(k), Class
9 2(l), or Class 2(m) of IC 27-1-5-1; or

10 (2) Class 3 of IC 27-1-5-1;

11 is considered to be part of a single filing for which the insurer is
12 subject only to one (1) thirty-five dollar (\$35) fee under subsection
13 (e).

14 (f)(g) The commissioner shall pay into the state general fund by the
15 end of each calendar month the amounts collected during that month
16 under subsections (a); (b) and (c).

17 (g)(h) The commissioner may not collect fees for quarterly
18 statements filed under IC 27-1-20-33.

19 (h)(i) The commissioner may adopt rules under IC 4-22-2 to
20 provide for the accrual and quarterly billing of fees under this section.

21 SECTION 7. IC 27-1-3-28 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 28. (a) The department
23 of insurance fund is established for the following purposes:

24 (1) To provide supplemental funding for the operations of the
25 department of insurance.

26 (2) To pay the costs of hiring and employing staff.

27 (3) To provide staff salary differentials as necessary to equalize
28 the average salaries and staffing levels of the department of
29 insurance with the average salaries and staffing levels reported in
30 the most recent Insurance Department Resources Report
31 published by the National Association of Insurance
32 Commissioners.

33 (4) To enable the department of insurance to maintain
34 accreditation by the National Association of Insurance
35 Commissioners.

36 (5) To carry out any other purpose determined necessary by
37 the department of insurance to carry out the department's
38 duties under this title.

39 (b) The fund shall be administered by the commissioner. The
40 following shall be deposited in the department of insurance fund:

41 (1) Audit fees remitted by insurers to the commissioner under
42 ~~IC 27-1-3-15(d)~~: **section 15(d) of this chapter.**

43 (2) Filing fees remitted by insurers to the commissioner under
44 ~~IC 27-1-3-15(e)~~: **section 15(a) or 15(e) of this chapter.**

45 (3) Any other amounts remitted to the commissioner or the
46 department that are required by rule or statute to be deposited into
47 the department of insurance fund.

48 (c) The expenses of administering the fund shall be paid from
49 money in the fund.

50 (d) The treasurer of state shall invest the money in the fund not
51 currently needed to meet the obligations of the fund in the same

1 manner as other public funds may be invested. Interest that accrues
2 from these investments shall be deposited in the fund.

3 (e) Money in the fund at the end of a particular fiscal year does not
4 revert to the state general fund.

5 (f) There is annually appropriated to the department of insurance,
6 for the purposes set forth in subsection (a), the entire amount of money
7 deposited in the fund in each year.

8 SECTION 8. IC 27-1-12.7-10, AS AMENDED BY P.L.193-2006,
9 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2007]: Sec. 10. Notwithstanding any other provision of law:

11 (1) the commissioner has the sole authority to regulate the
12 issuance and sale of funding agreements;

13 (2) a funding agreement is not considered a covered policy under
14 IC 27-8-8-1(a) or IC 27-8-8-2.3(d); ~~and~~

15 (3) a claim for payments under a funding agreement must be
16 treated as a loss claim described in Class 2 of IC 27-9-3-40; **and**

17 **(4) assets supporting a funding agreement in a segregated**
18 **asset account under section 8 of this chapter are subject to**
19 **IC 27-9-3-40.5 and Class 1(c) of IC 27-1-5-1.**

20 SECTION 9. IC 27-1-13-16 IS ADDED TO THE INDIANA CODE
21 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
22 1, 2007]: Sec. 16. (a) **This section applies to a policy of insurance**
23 **that:**

24 **(1) covers first party loss to property located in Indiana; and**

25 **(2) insures against loss or damage to:**

26 **(A) real property consisting of not more than four (4)**
27 **residential units, one (1) of which is the principal place of**
28 **residence of the named insured; or**

29 **(B) personal property in which the named insured has an**
30 **insurable interest and that is used within a residential**
31 **dwelling for personal, family, or household purposes.**

32 **(b) An insurer that reduces, restricts, or removes, through a**
33 **rider or an endorsement, coverage provided by a policy of**
34 **insurance must provide to the named insured written notice,**
35 **through the United States mail or by electronic means, of the**
36 **changes to the policy. The written notice required by this**
37 **subdivision must:**

38 **(1) be part of a document that is separate from the rider or**
39 **endorsement;**

40 **(2) be printed in at least 12 point type, 1 point leaded;**

41 **(3) consist of text that achieves a minimum score of forty (40)**
42 **on the Flesch reading ease test or an equivalent score on a**
43 **comparable test approved by the commissioner as provided**
44 **by IC 27-1-26-6;**

45 **(4) identify the forms, provisions, or endorsements that are**
46 **changed;**

47 **(5) indicate the name and contact information of:**

48 **(A) the servicing insurance producer for the policy, if any;**
49 **and**

50 **(B) the insurer;**

51 **whom the named insured may contact for assistance with any**

- 1 **questions concerning the policy changes;**
 2 **(6) indicate whether a premium adjustment will result from**
 3 **the policy changes; and**
 4 **(7) set forth any options available to the named insured to**
 5 **repurchase the coverage that has been reduced, restricted, or**
 6 **removed.**

7 **(c) If the notice required under subsection (b) is sent through**
 8 **the United States mail, the outside of the envelope used to mail the**
 9 **notice must contain the following statement in at least 14 point**
 10 **type: "Coverage has been reduced, restricted, or removed from**
 11 **your policy.".**

12 **(d) The insurer bears the burden to prove that notice was sent**
 13 **to the named insured in accordance with this section. If the notice**
 14 **is sent through the United States mail, proof of mailing as**
 15 **described in IC 27-7-6-7 is sufficient proof of the notice.**

16 **(e) The commissioner may adopt rules under IC 4-22-2 to**
 17 **implement this section.**

18 SECTION 10. IC 27-1-13-17 IS ADDED TO THE INDIANA
 19 CODE AS A NEW SECTION TO READ AS FOLLOWS
 20 [EFFECTIVE JULY 1, 2007]: **Sec. 17. (a) This section applies to a**
 21 **policy of insurance that:**

- 22 **(1) covers first party loss to property located in Indiana; and**
 23 **(2) insures against loss or damage to:**

24 **(A) real property consisting of not more than four (4)**
 25 **residential units, one (1) of which is the principal place of**
 26 **residence of the named insured; or**

27 **(B) personal property in which the named insured has an**
 28 **insurable interest and that is used within a residential**
 29 **dwelling for personal, family, or household purposes.**

30 **(b) A policy of insurance described in subsection (a) may not be**
 31 **issued, renewed, or delivered to any person in Indiana if the policy**
 32 **limits a policyholder's right to bring an action against an insurer**
 33 **to a period of less than two (2) years from the date of loss.**

34 SECTION 11. IC 27-1-15.6-7.3 IS ADDED TO THE INDIANA
 35 CODE AS A NEW SECTION TO READ AS FOLLOWS
 36 [EFFECTIVE JULY 1, 2007]: **Sec. 7.3. (a) The commissioner may**
 37 **design or have designed an insurance producer certificate suitable**
 38 **for framing and display.**

39 **(b) Upon request of an insurance producer, the commissioner**
 40 **may issue a certificate described in subsection (a).**

41 **(c) The commissioner may impose and collect a reasonable fee**
 42 **for a certificate issued under subsection (b). The commissioner**
 43 **shall deposit fees collected under this subsection into the insurance**
 44 **education scholarship fund established by IC 20-12-22.3-5.**

45 **(d) The commissioner shall establish guidelines to implement**
 46 **this section.**

47 SECTION 12. IC 27-1-15.6-24.1 IS ADDED TO THE INDIANA
 48 CODE AS A NEW SECTION TO READ AS FOLLOWS
 49 [EFFECTIVE JULY 1, 2007]: **Sec. 24.1. A licensed insurance**
 50 **producer may charge a reasonable fee for personal lines property**
 51 **and casualty insurance or services related to personal lines**

1 **property and casualty insurance subject to the following**
 2 **requirements:**

3 **(1) The amount of a fee and the basis for calculating a fee may**
 4 **not vary among personal lines insureds.**

5 **(2) The amount of a fee is subject to the approval of the**
 6 **commissioner.**

7 SECTION 13. IC 27-1-15.6-32 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 32. (a) The department
 9 shall adopt rules under IC 4-22-2 to set fees for licensure under this
 10 chapter, IC 27-1-15.7, and IC 27-1-15.8.

11 (b) Insurance producer and limited lines producer license renewal
 12 fees are due every ~~four (4)~~ **two (2)** years. The fee charged by the
 13 department every ~~four (4)~~ **two (2)** years for a:

14 (1) resident license is forty dollars (\$40); and

15 (2) nonresident license is ninety dollars (\$90).

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

17 (d) Surplus lines producer renewal fees are due ~~annually~~: **every two**
 18 **(2) years. The fee charged by the department every two (2) years**
 19 **for a:**

20 **(1) resident license is eighty dollars (\$80); and**

21 **(2) nonresident license is one hundred twenty dollars (\$120).**

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

25 (1) insurance producer license;

26 (2) surplus lines producer license;

27 (3) limited lines producer license; or

28 (4) consultant license;

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

30 **(f) A fee charged and collected under this section shall be**
 31 **deposited into the department of insurance fund established by**
 32 **IC 27-1-3-28.**

33 SECTION 14. IC 27-1-15.7-2, AS AMENDED BY P.L.73-2006,
 34 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2007]: Sec. 2. (a) Except as provided in subsection (b), to
 36 renew a license issued under IC 27-1-15.6:

37 (1) a resident insurance producer must complete at least ~~forty (40)~~
 38 **twenty (20)** hours of credit in continuing education courses; and

39 (2) a resident limited lines producer must complete at least ~~ten~~
 40 **(+0) five (5)** hours of credit in continuing education courses.

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

46 (b) To renew a license issued under IC 27-1-15.6, a limited lines
 47 producer with a title qualification under IC 27-1-15.6-7(a)(8) must
 48 complete at least ~~fourteen (14)~~ **seven (7)** hours of credit in continuing
 49 education courses related to the business of title insurance with at least
 50 one (1) hour of instruction in a structured setting or comparable
 51 self-study in each of the following:

- 1 (1) Ethical practices in the marketing and selling of title
 2 insurance.
 3 (2) Title insurance underwriting.
 4 (3) Escrow issues.
 5 (4) Principles of the federal Real Estate Settlement Procedures
 6 Act (12 U.S.C. 2608).

7 An attorney in good standing who is admitted to the practice of law in
 8 Indiana and holds a license issued under IC 27-1-15.6 with a title
 9 qualification under IC 27-1-15.6-7(a)(8) may complete all or any
 10 number of hours of continuing education required by this subsection by
 11 completing an equivalent number of hours in continuing legal
 12 education courses related to the business of title insurance or any
 13 aspect of real property law.

14 (c) The following insurance producers are not required to complete
 15 continuing education courses to renew a license under this chapter:

- 16 (1) A limited lines producer who is licensed without examination
 17 under IC 27-1-15.6-18(1) or IC 27-1-15.6-18(2).
 18 (2) A limited line credit insurance producer.
 19 (3) An insurance producer who is at least seventy (70) years of
 20 age and has been a licensed insurance producer continuously for
 21 at least twenty (20) years immediately preceding the license
 22 renewal date.

23 (d) To satisfy the requirements of subsection (a) or (b), a licensee
 24 may use only those credit hours earned in continuing education courses
 25 completed by the licensee:

- 26 (1) after the effective date of the licensee's last renewal of a
 27 license under this chapter; or
 28 (2) if the licensee is renewing a license for the first time, after the
 29 date on which the licensee was issued the license under this
 30 chapter.

31 (e) If an insurance producer receives qualification for a license in
 32 more than one (1) line of authority under IC 27-1-15.6, the insurance
 33 producer may not be required to complete a total of more than ~~forty~~
 34 **(20)** ~~(40)~~ **(20)** hours of credit in continuing education courses to
 35 renew the license.

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

39 (g) A licensee who teaches a course approved by the commissioner
 40 under section 4 of this chapter shall receive continuing education credit
 41 for teaching the course.

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

- 44 (1) a continuing education statement that:
 45 (A) is in a format authorized by the commissioner;
 46 (B) is signed by the licensee under oath; and
 47 (C) lists the continuing education courses completed by the
 48 licensee to satisfy the continuing education requirements of
 49 this section; and
 50 (2) any other information required by the commissioner.
 51 (i) A continuing education statement submitted under subsection (h)

1 may be reviewed and audited by the department.

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

5 (k) A licensee who completes a continuing education course that:

6 (1) is approved by the commissioner under section 4 of this
7 chapter;

8 (2) is held in a classroom setting; and

9 (3) concerns ethics;

10 shall receive continuing education credit for the number of hours for
11 which the course is approved plus additional hours, not to exceed two
12 (2) hours in a renewal period, equal to the number of hours for which
13 the course is approved.

14 SECTION 15. IC 27-1-15.8-4 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. ~~(a) During the period~~
16 ~~that a resident surplus lines producer's license is in effect, the licensee~~
17 ~~shall keep in force a bond in the penal sum of not less than twenty~~
18 ~~thousand dollars (\$20,000) with an authorized corporate surety~~
19 ~~approved by the commissioner. The aggregate liability of the surety for~~
20 ~~any and all claims on a bond does not exceed the penal sum of the~~
21 ~~bond. A bond may not be terminated unless written notice of~~
22 ~~termination is provided by the surety to the licensee and the~~
23 ~~commissioner not less than thirty (30) days before termination. Upon~~
24 ~~termination of a resident license for which a bond was in effect, the~~
25 ~~commissioner shall notify the surety of the termination within ten (10)~~
26 ~~business days. All surety protection under this section inures to the~~
27 ~~benefit of the state of Indiana to assure the payment of all premium~~
28 ~~taxes.~~

29 ~~(b) A resident surplus lines producer shall, at the time of an initial~~
30 ~~filing under subsection (c), file with the commissioner proof of the~~
31 ~~bond in the amount required under subsection (a). In each subsequent~~
32 ~~calendar year, the resident surplus lines producer shall file proof that~~
33 ~~the bond remains in effect. A subsequent filing under this subsection~~
34 ~~shall be made in conjunction with the annual filing required under~~
35 ~~subsection (e).~~

36 ~~(c) (a)~~ In addition to all other charges, fees, and taxes that may be
37 imposed by law, a surplus lines producer licensed under this chapter
38 shall, on or before February 1 and August 1 of each year, collect from
39 the insured and remit to the department for the use and benefit of the
40 state of Indiana an amount equal to two and one-half percent (2 1/2%)
41 of all gross premiums upon all policies and contracts procured by the
42 surplus lines producer under the provisions of this section during the
43 preceding six (6) month period ending December 31 and June 30,
44 respectively. The declarations page of a policy referred to in this
45 subsection must itemize the amounts of all charges for taxes, fees, and
46 premiums.

47 ~~(d) (b)~~ A licensed surplus lines producer shall execute and file with
48 the department of insurance on or before the twentieth day of each
49 month an affidavit that specifies all transactions, policies, and contracts
50 procured during the preceding calendar month, including:

51 (1) the description and location of the insured property or risk and

- 1 the name of the insured;
- 2 (2) the gross premiums charged in the policy or contract;
- 3 (3) the name and home office address of the insurer whose policy
- 4 or contract is issued, and the kind of insurance effected; and
- 5 (4) a statement that:
- 6 (A) the licensee, after diligent effort, was unable to procure
- 7 from any insurer authorized to transact the particular class of
- 8 insurance business in Indiana the full amount of insurance
- 9 required to protect the insured; and
- 10 (B) the insurance placed under this chapter is not placed for
- 11 the purpose of procuring it at a premium rate lower than would
- 12 be accepted by an insurer authorized and licensed to transact
- 13 insurance business in Indiana.
- 14 ~~(c)~~ (c) A licensed surplus lines producer shall file with the
- 15 department, not later than March 31 of each year, the financial
- 16 statement, dated as of December 31 of the preceding year, of each
- 17 unauthorized insurer from whom the surplus lines producer has
- 18 procured a policy or contract. The insurance commissioner may, in the
- 19 commissioner's discretion, after reviewing the financial statement of
- 20 the unauthorized insurer, order the surplus lines producer to cancel an
- 21 unauthorized insurer's policies and contracts if the commissioner is of
- 22 the opinion that the financial statement or condition of the
- 23 unauthorized insurer does not warrant continuance of the risk.
- 24 ~~(d)~~ (d) A licensed surplus lines producer shall keep a separate
- 25 account of all business transacted under this section. The account may
- 26 be inspected at any time by the commissioner or the commissioner's
- 27 deputy or examiner.
- 28 ~~(e)~~ (e) An insurer that issues a policy or contract to insure a risk
- 29 under this section is considered to have appointed the commissioner as
- 30 the insurer's attorney upon whom process may be served in Indiana in
- 31 any suit, action, or proceeding based upon or arising out of the policy
- 32 or contract.
- 33 ~~(f)~~ (f) The commissioner may revoke or refuse to renew a surplus
- 34 lines producer's license for failure to comply with this section.
- 35 ~~(g)~~ (g) A surplus lines producer licensed under this chapter may
- 36 accept and place policies or contracts authorized under this section for
- 37 an insurance producer duly licensed in Indiana, and may compensate
- 38 the insurance producer even though the insurance producer is not
- 39 licensed under this chapter.
- 40 ~~(h)~~ (h) If a surplus lines producer does not remit an amount due to
- 41 the department within the time prescribed in subsection ~~(c)~~; (a), the
- 42 commissioner shall assess the surplus lines producer a penalty of ten
- 43 percent (10%) of the amount due. The commissioner shall assess a
- 44 further penalty of an additional one percent (1%) of the amount due for
- 45 each month or portion of a month that any amount due remains unpaid
- 46 after the first month. Penalties assessed under this subsection are
- 47 payable by the surplus lines producer and are not collectible from an
- 48 insured.
- 49 SECTION 16. IC 27-1-22-4, AS AMENDED BY P.L.193-2006,
- 50 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 51 JULY 1, 2007]: Sec. 4. (a) Every insurer shall file with the

1 commissioner every manual of classifications, rules, and rates, every
 2 rating schedule, every rating plan, and every modification of any of the
 3 foregoing which it proposes to use.

4 (b) The following types of insurance are exempt from the
 5 requirements of subsections (a) and (j):

6 (1) Inland marine risks, which by general custom of the business
 7 are not written according to manual rates or rating plans.

8 (2) Insurance ~~other than workers compensation insurance~~; that is:

9 (A) written by an insurer that:

10 (i) complies with subsection (m) and

11 ~~(ii)~~ maintains at least a B rating by A.M. Best or an
 12 equivalent rating by another independent insurance rating
 13 organization; **or**

14 **(ii) is approved for an exemption by the commissioner;**

15 and

16 (B) issued to commercial policyholders.

17 (c) Every such filing shall indicate the character and extent of the
 18 coverage contemplated and shall be accompanied by the information
 19 upon which the filer supports such filing.

20 (d) The information furnished in support of a filing may include:

21 (1) the experience and judgment of the insurer or rating
 22 organization making the filing;

23 (2) its interpretation of any statistical data it relies upon;

24 (3) the experience of other insurers or rating organizations; or

25 (4) any other relevant factors.

26 The commissioner shall have the right to request any additional
 27 relevant information. A filing and any supporting information shall be
 28 open to public inspection as soon as stamped "filed" within a
 29 reasonable time after receipt by the commissioner, and copies may be
 30 obtained by any person on request and upon payment of a reasonable
 31 charge therefor.

32 (e) Filings shall become effective upon the date of filing by delivery
 33 or upon date of mailing by registered mail to the commissioner, or on
 34 a later date specified in the filing.

35 (f) Specific inland marine rates on risks specially rated, made by a
 36 rating organization, shall be filed with the commissioner.

37 (g) Any insurer may satisfy its obligation to make any such filings
 38 by becoming a member of, or a subscriber to, a licensed rating
 39 organization which makes such filings and by authorizing the
 40 commissioner to accept such filings on its behalf, provided that nothing
 41 contained in this chapter shall be construed as requiring any insurer to
 42 become a member of or a subscriber to any rating organization or as
 43 requiring any member or subscriber to authorize the commissioner to
 44 accept such filings on its behalf.

45 (h) Every insurer which is a member of or a subscriber to a rating
 46 organization shall be deemed to have authorized the commissioner to
 47 accept on its behalf all filings made by the rating organization which
 48 are within the scope of its membership or subscribership, provided:

49 (1) that any subscriber may withdraw or terminate such
 50 authorization, either generally or for individual filings, by written
 51 notice to the commissioner and to the rating organization and may

1 then make its own independent filings for any kinds of insurance,
2 or subdivisions, or classes of risks, or parts or combinations of
3 any of the foregoing, with respect to which it has withdrawn or
4 terminated such authorization, or may request the rating
5 organization, within its discretion, to make any such filing on an
6 agency basis solely on behalf of the requesting subscriber; and
7 (2) that any member may proceed in the same manner as a
8 subscriber unless the rating organization shall have adopted a
9 rule, with the approval of the commissioner:

10 (A) requiring a member, before making an independent filing,
11 first to request the rating organization to make such filing on
12 its behalf and requiring the rating organization, within thirty
13 (30) days after receipt of such request, either:

14 (i) to make such filing as a rating organization filing;

15 (ii) to make such filing on an agency basis solely on behalf
16 of the requesting member; or

17 (iii) to decline the request of such member; and

18 (B) excluding from membership any insurer which elects to
19 make any filing wholly independently of the rating
20 organization.

21 (i) Under such rules as the commissioner shall adopt, the
22 commissioner may, by written order, suspend or modify the
23 requirement of filing as to any kinds of insurance, or subdivision, or
24 classes of risk, or parts or combinations of any of the foregoing, the
25 rates for which can not practicably be filed before they are used. Such
26 orders and rules shall be made known to insurers and rating
27 organizations affected thereby. The commissioner may make such
28 examination as the commissioner may deem advisable to ascertain
29 whether any rates affected by such order are excessive, inadequate, or
30 unfairly discriminatory.

31 (j) Upon the written application of the insured, stating the insured's
32 reasons therefor, filed with the commissioner, a rate in excess of that
33 provided by a filing otherwise applicable may be used on any specific
34 risk.

35 (k) An insurer shall not make or issue a policy or contract except in
36 accordance with filings which are in effect for that insurer or in
37 accordance with the provisions of this chapter. Subject to the
38 provisions of section 6 of this chapter, any rates, rating plans, rules,
39 classifications, or systems in effect on May 31, 1967, shall be
40 continued in effect until withdrawn by the insurer or rating
41 organization which filed them.

42 (l) The commissioner shall have the right to make an investigation
43 and to examine the pertinent files and records of any insurer, insurance
44 producer, or insured in order to ascertain compliance with any filing for
45 rate or coverage which is in effect. The commissioner shall have the
46 right to set up procedures necessary to eliminate noncompliance,
47 whether on an individual policy, or because of a system of applying
48 charges or discounts which results in failure to comply with such filing.

49 (m) This subsection applies to an insurer that issues a commercial
50 property or commercial casualty insurance policy to a commercial
51 policyholder. Not more than thirty (30) days after the insurer begins

1 using a commercial property or commercial casualty insurance:

- 2 (1) rate;
 3 (2) rating plan;
 4 (3) manual of classifications; ~~or~~
 5 **(4) form; or**
 6 ~~(4) (5)~~ modification of an item specified in subdivision (1), (2), ~~or~~
 7 (3), **or (4)**;

8 the insurer shall file with the department, for informational purposes
 9 only, the item specified in subdivision (1), (2), (3), ~~or (4)~~, **or (5)**. Use
 10 of an item specified in subdivision (1), (2), (3), ~~or (4)~~, **or (5)** is not
 11 conditioned on review or approval by the department. This subsection
 12 does not require filing of an individual policy rate if the original
 13 manuals, rates, and rules for the insurance plan or program to which the
 14 individual policy conforms has been filed with the department.

15 (n) ~~Subsection (m) does not apply to~~ **An insurer that issues a**
 16 **commercial property or commercial casualty insurance policy**
 17 ~~forms: form, endorsement, or rider that is prepared to provide or~~
 18 ~~exclude coverage for an unusual or extraordinary risk of a~~
 19 ~~particular commercial policyholder must maintain the policy form,~~
 20 ~~endorsement, or rider in the insurer's Indiana office and provide~~
 21 ~~the policy form, endorsement, or rider to the commissioner at the~~
 22 ~~commissioner's request.~~

23 (o) **If coverage under a commercial property or commercial**
 24 **casualty insurance policy is changed, upon renewal of the policy,**
 25 **the insurer shall provide to the policyholder and insurance**
 26 **producer through which the policyholder obtains the coverage a**
 27 **written notice that the policy has been changed.**

28 SECTION 17. IC 27-1-25-12.2 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12.2. (a) An
 30 administrator that:

- 31 (1) performs the duties of an administrator in Indiana; and
 32 (2) does not hold a license issued under section 11.1 of this
 33 chapter;

34 shall obtain a nonresident administrator license under this section by
 35 filing a uniform application with the commissioner.

36 (b) Unless the commissioner verifies the nonresident administrator's
 37 home state license status through an electronic data base maintained by
 38 the NAIC or by an affiliate or a subsidiary of the NAIC, a uniform
 39 application filed under subsection (a) must be accompanied by a letter
 40 of certification from the nonresident administrator's home state,
 41 verifying that the nonresident administrator holds a resident
 42 administrator license in the home state.

43 (c) A nonresident administrator is not eligible for a nonresident
 44 administrator license under this section unless the nonresident
 45 administrator is licensed as a resident administrator in a home state that
 46 has a law or regulation that is substantially similar to this chapter.

47 (d) Except as provided in subsections (b) and (h), the commissioner
 48 shall issue a nonresident administrator license to a nonresident
 49 administrator that makes a filing under subsections (a) and (b) upon
 50 receipt of the filing.

51 (e) Unless a nonresident administrator is notified by the

1 commissioner that the commissioner is able to verify the nonresident
2 administrator's home state licensure through an electronic data base
3 described in subsection (b), the nonresident administrator shall:

4 (1) on September 15 of each year, file a statement with the
5 commissioner affirming that the nonresident administrator
6 maintains a current license in the nonresident administrator's
7 home state; and

8 (2) pay a filing fee as required by the commissioner.

9 **The commissioner shall collect a filing fee required under**
10 **subdivision (2) and deposit the fee into the department of insurance**
11 **fund established by IC 27-1-3-28.**

12 (f) A nonresident administrator that applies for licensure under this
13 section shall:

14 (1) produce the accounts of the nonresident administrator;

15 (2) produce the records and files of the nonresident administrator
16 for examination; and

17 (3) make the officers of the nonresident administrator available to
18 provide information with respect to the affairs of the nonresident
19 administrator;

20 when reasonably required by the commissioner.

21 (g) A nonresident administrator is not required to hold a nonresident
22 administrator license in Indiana if the nonresident administrator's
23 function in Indiana is limited to the administration of life, health, or
24 annuity coverage for a total of not more than one hundred (100) Indiana
25 residents.

26 (h) The commissioner may refuse to issue or may delay the issuance
27 of a nonresident administrator license if the commissioner determines
28 that:

29 (1) due to events occurring; or

30 (2) based on information obtained;

31 after the nonresident administrator's home state's licensure of the
32 nonresident administrator, the nonresident administrator is unable to
33 comply with this chapter or grounds exist for the home state's
34 revocation or suspension of the nonresident administrator's home state
35 license.

36 (i) If the commissioner makes a determination described in
37 subsection (h), the commissioner:

38 (1) shall provide written notice of the determination to the
39 insurance regulator of the nonresident administrator's home state;
40 and

41 (2) may delay the issuance of a nonresident administrator license
42 to the nonresident administrator until the commissioner
43 determines that the nonresident administrator is able to comply
44 with this chapter and that grounds do not exist for the home state's
45 revocation or suspension of the nonresident administrator's home
46 state license.

47 SECTION 18. IC 27-1-25-12.3 IS AMENDED TO READ AS
48 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12.3. (a) An
49 administrator that is licensed under section 11.1 of this chapter shall,
50 not later than July 1 of each year unless the commissioner grants an
51 extension of time for good cause, file a report for the previous calendar

1 year that complies with the following:

- 2 (1) The report must contain financial information reflecting a
3 positive net worth prepared in accordance with section 11.1(b)(4)
4 of this chapter.
5 (2) The report must be in the form and contain matters prescribed
6 by the commissioner.
7 (3) The report must be verified by at least two (2) officers of the
8 administrator.
9 (4) The report must include the complete names and addresses of
10 insurers with which the administrator had a written agreement
11 during the preceding fiscal year.
12 (5) The report must be accompanied by a filing fee determined by
13 the commissioner.

14 **The commissioner shall collect a filing fee paid under subdivision**
15 **(5) and deposit the fee into the department of insurance fund**
16 **established by IC 27-1-3-28.**

17 (b) The commissioner shall review a report filed under subsection
18 (a) not later than September 1 of the year in which the report is filed.
19 Upon completion of the review, the commissioner shall:

- 20 (1) issue a certification to the administrator:
21 (A) indicating that:
22 (i) the financial statement reflects a positive net worth; and
23 (ii) the administrator is currently licensed and in good
24 standing; or
25 (B) noting deficiencies found in the report; or
26 (2) update an electronic data base that is maintained by the NAIC
27 or by an affiliate or a subsidiary of the NAIC:
28 (A) indicating that the administrator is solvent and in
29 compliance with this chapter; or
30 (B) noting deficiencies found in the report.

31 SECTION 19. IC 27-1-34-1 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) As used in
33 this chapter, "arrangement" refers to a multiple employer welfare
34 arrangement.

35 (b) As used in this chapter, "multiple employer welfare
36 arrangement" means an entity other than a duly admitted insurer that
37 establishes an employee benefit plan for the purpose of offering or
38 providing accident and sickness or death benefits to the employees of
39 at least two (2) employers, including self-employed individuals and
40 their dependents. **For purposes of this subsection, two (2) employers,**
41 **one (1) of which holds an ownership interest of at least fifty-one**
42 **percent (51%) in the other, are considered to be one (1) employer.**

43 SECTION 20. IC 27-1-40 IS ADDED TO THE INDIANA CODE
44 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
45 JULY 1, 2007]:

46 **Chapter 40. Entry of Unauthorized Alien Companies**

47 **Sec. 1. As used in this chapter, "trusteed surplus" means the**
48 **aggregate value of a United States branch's:**

- 49 (1) surplus and reserve funds required under IC 27-1-6; and
50 (2) trust assets described in section 5 of this chapter;
51 plus investment income accrued on the items described in

1 subdivisions (1) and (2) if the investment income is collected by the
 2 state for the trustees, less the aggregate net amount of all of the
 3 United States branch's reserves and other liabilities in the United
 4 States, as determined under section 6 of this chapter.

5 **Sec. 2. As used in this chapter, "United States branch" means:**

- 6 (1) an entity that is considered, for purposes of this chapter,
 7 to be a domestic company through which insurance business
 8 is transacted in the United States by an alien company; and
 9 (2) the alien company's assets and liabilities that are
 10 attributable to the insurance business transacted in the United
 11 States.

12 **Sec. 3. Indiana may serve as a state of entry to enable an alien**
 13 **company to transact insurance business in the United States**
 14 **through a United States branch if the United States branch:**

- 15 (1) qualifies under this title for a certificate of authority as if
 16 the United States branch were a domestic company organized
 17 under this title; and
 18 (2) establishes a trust account that meets the following
 19 conditions:

20 (A) The trust account is established under a trust
 21 agreement approved by the commissioner with a United
 22 States bank.

23 (B) The amount in the trust account is at least equal to:

- 24 (i) the minimum capital and surplus requirements; or
 25 (ii) the authorized control level risk based capital
 26 requirements;

27 whichever is greater, that apply to a domestic company
 28 that possesses a certificate of authority to transact the
 29 same kind of insurance business in Indiana as the United
 30 States branch will transact.

31 **Sec. 4. (a) A trust account established under section 3(2) of this**
 32 **chapter must contain, at all times, an amount equal to the United**
 33 **States branch's reserves and other liabilities, plus the:**

34 (1) minimum capital and surplus requirement; or

35 (2) authorized control level risk based capital requirement;

36 whichever is greater, that applies to a domestic company granted
 37 a certificate of authority under this title to transact the same kind
 38 of insurance business as the United States branch transacts.

39 (b) One (1) or more trustees must be appointed to administer
 40 the trust.

41 (c) A trust agreement for a trust account established under
 42 section 3(2) of this chapter, and amendments to the trust
 43 agreement:

44 (1) must be authenticated in a manner prescribed by the
 45 commissioner; and

46 (2) are effective only when approved by the commissioner
 47 after the commissioner finds all of the following:

48 (A) The trust agreement and amendments are sufficient in
 49 form and in conformity with law.

50 (B) All trustees appointed under subsection (b) are eligible
 51 to serve as trustees.

- 1 **(C) The trust agreement is adequate to protect the interests**
 2 **of the beneficiaries of the trust.**
- 3 **(d) The commissioner may withdraw an approval granted under**
 4 **subsection (c)(2) if, after notice and hearing, the commissioner**
 5 **determines that one (1) or more of the conditions required under**
 6 **subsection (c)(2) for approval no longer exist.**
- 7 **(e) The commissioner may approve modifications of, or**
 8 **variations in, a trust agreement under subsection (c) if the**
 9 **modifications or variations are not prejudicial to the interests of**
 10 **Indiana residents, United States policyholders, and creditors of the**
 11 **United States branch.**
- 12 **(f) A trust agreement for a trust account established under**
 13 **section 3(2) of this chapter must contain provisions that:**
- 14 **(1) vest legal title to trust assets in the trustees and lawfully**
 15 **appointed successors of the trustees;**
- 16 **(2) require that all assets deposited in the trust account be**
 17 **continuously kept in the United States;**
- 18 **(3) provide for appointment of a new trustee in case of a**
 19 **vacancy, subject to the approval of the commissioner;**
- 20 **(4) require that the trustees continuously maintain a record**
 21 **sufficient to identify the assets of the trust account;**
- 22 **(5) require that the trust assets consist of:**
- 23 **(A) cash;**
- 24 **(B) investments of the same kind as the investments in**
 25 **which funds of a domestic company may be invested; and**
- 26 **(C) interest accrued on the cash and investments specified**
 27 **in clauses (A) and (B), if collectible by the trustees;**
- 28 **(6) establish that the trust:**
- 29 **(A) is for the exclusive benefit, security, and protection of:**
- 30 **(i) United States policyholders of the United States**
 31 **branch; and**
- 32 **(ii) United States creditors of the United States branch**
 33 **after all obligations to policyholders are paid; and**
- 34 **(B) shall be maintained as long as any liability of the**
 35 **United States branch arising out of the United States**
 36 **branch's insurance transactions in the United States is**
 37 **outstanding; and**
- 38 **(7) establish that trust assets, other than income as specified**
 39 **in subsection (g), may not be withdrawn or permitted by the**
 40 **trustees to be withdrawn without the approval of the**
 41 **commissioner, except for any of the following purposes:**
- 42 **(A) To make deposits required by the law of any state for**
 43 **the security or benefit of all policyholders of the United**
 44 **States branch in the United States.**
- 45 **(B) To substitute other assets permitted by law and at least**
 46 **equal in value and quality to the assets withdrawn, upon**
 47 **the specific written direction of the United States manager**
 48 **of the United States branch when the United States**
 49 **manager is empowered and acting under general or**
 50 **specific written authority previously granted or delegated**
 51 **by the alien company's board of directors.**

- 1 **(C) To transfer the assets to an official liquidator or**
 2 **rehabilitator under a court order.**
- 3 **(g) A trust agreement for a trust account established under**
 4 **section 3(2) of this chapter may provide that income, earnings,**
 5 **dividends, or interest accumulations of the trust assets may be paid**
 6 **over to the United States manager of the United States branch**
 7 **upon request of the United States manager if the total amount of**
 8 **trust assets following the payment to the United States manager is**
 9 **not less than the amount required under subsection (a).**
- 10 **(h) A trust agreement for a trust account established under**
 11 **section 3(2) of this chapter may provide that written approval of**
 12 **the insurance supervising official of another state in which:**
- 13 **(1) trust assets are deposited; and**
 14 **(2) the United States branch is authorized to transact**
 15 **insurance business;**
- 16 **is sufficient, and approval of the commissioner is not required, for**
 17 **withdrawal of the trust assets in the other state if the amount of**
 18 **total trust assets after the withdrawal will not be less than the**
 19 **amount required under subsection (a). However, the United States**
 20 **branch shall provide written notice to the commissioner of the**
 21 **nature and extent of the withdrawal.**
- 22 **(i) The commissioner may at any time:**
- 23 **(1) make examinations of the trust assets of a United States**
 24 **branch that holds a certificate of authority under this chapter,**
 25 **at the expense of the United States branch; and**
 26 **(2) require the trustees to file a statement, on a form**
 27 **prescribed by the commissioner, certifying the assets of the**
 28 **trust account and the amounts of the assets.**
- 29 **(j) Refusal or neglect of a trustee to comply with this section is**
 30 **grounds for:**
- 31 **(1) the revocation of the United States branch's certificate of**
 32 **authority; or**
 33 **(2) the liquidation of the United States branch.**
- 34 **Sec. 5. (a) The commissioner shall require a United States**
 35 **branch to do the following before granting the United States**
 36 **branch a certificate of authority to transact insurance business as**
 37 **described in section 3(1) of this chapter:**
- 38 **(1) Comply with this chapter and any other requirement of**
 39 **this title.**
- 40 **(2) Submit the following:**
- 41 **(A) A copy of the current charter and bylaws of the alien**
 42 **company that intends to transact business through the**
 43 **United States branch and any other documents determined**
 44 **by the commissioner to be necessary to provide evidence of**
 45 **the kinds of insurance business that the alien company is**
 46 **authorized to transact. Documents submitted under this**
 47 **clause must be attested to as accurate by the insurance**
 48 **supervisory official in the alien company's domiciliary**
 49 **jurisdiction.**
- 50 **(B) A full statement, subscribed and affirmed as true under**
 51 **penalty of perjury by two (2) officers or equivalent**

1 responsible representatives of the alien company in a
 2 manner prescribed by the commissioner, of the alien
 3 company's financial condition as of the close of the alien
 4 company's latest fiscal year, showing the alien company's:

- 5 (i) assets;
- 6 (ii) liabilities;
- 7 (iii) income disbursements;
- 8 (iv) business transacted; and
- 9 (v) other facts required to be shown in the alien
 10 company's annual statement reported to the insurance
 11 supervisory official in the alien company's domiciliary
 12 jurisdiction.

13 (C) An English translation, if necessary, of any document
 14 submitted under this subdivision.

15 (3) Submit to an examination of the affairs of the alien
 16 company that intends to transact business through the United
 17 States branch at the alien company's principal office in the
 18 United States. However, the commissioner may accept a
 19 report of the insurance supervisory official in the alien
 20 company's domiciliary jurisdiction in lieu of the examination
 21 required under this subdivision.

22 (b) The commissioner may at any time hire, at a United States
 23 branch's expense, any independent experts that the commissioner
 24 considers necessary to implement this chapter with respect to the
 25 United States branch.

26 Sec. 6. (a) A United States branch shall file with the
 27 commissioner, not later than March 1, May 15, August 15, and
 28 November 15 of each year, all of the following:

29 (1) Statements of the insurance business transacted in the
 30 United States, the assets held by or for the United States
 31 branch in the United States for the protection of policyholders
 32 and creditors in the United States, and the liabilities incurred
 33 against the assets. All of the following apply to the statements
 34 filed under this subdivision:

35 (A) The statements must contain information concerning
 36 only the United States branch's assets and insurance
 37 business in the United States.

38 (B) The statements must be in the same form as statements
 39 required of a domestic company that possesses a certificate
 40 of authority to transact the same kinds of insurance
 41 business as the United States branch transacts.

42 (C) The statements must be filed as follows:

43 (i) Quarterly statements filed not later than May 15,
 44 August 15, and November 15 of each year for the first
 45 three (3) quarters of the calendar year.

46 (ii) An annual statement, filed not later than March 1 of
 47 each year.

48 (2) A trusted surplus statement, in a form prescribed by the
 49 commissioner, at the end of the period covered by each
 50 statement described in subdivision (1)(C). In determining the
 51 net amount of the United States branch's liabilities in the

1 United States to be reported in the statement of trusteed
2 surplus, the United States branch shall make adjustments to
3 total liabilities reported on the accompanying annual or
4 quarterly statement as follows:

5 (A) Add back liabilities used to offset admitted assets
6 reported in the accompanying quarterly or annual
7 statement.

8 (B) Deduct:

9 (i) unearned premiums on insurance producer balances
10 or uncollected premiums that are not more than ninety
11 (90) days past due;

12 (ii) losses reinsured by reinsurers authorized to do
13 business in Indiana, less unpaid reinsurance premiums
14 to be paid to the authorized reinsurers;

15 (iii) reinsurance recoverables on paid losses from
16 reinsurers not authorized to do business in Indiana that
17 are included as an asset in the annual statement, but only
18 to the extent that a liability for the unauthorized
19 recoverables is included in the liabilities report in the
20 trusteed surplus statement;

21 (iv) special state deposits held for the exclusive benefit of
22 policyholders of a particular state that do not exceed net
23 liabilities reports for the particular state;

24 (v) secured accrued retrospective premiums;

25 (vi) if the alien company transacting business through
26 the United States branch is a life insurer, the amount of
27 the alien company's policy loans to policyholders in the
28 United States, not exceeding the amount of legal reserve
29 required on each policy, and the net amount of
30 uncollected and deferred premiums; and

31 (vii) any other nontrust asset that the commissioner
32 determines secures liabilities in a manner substantially
33 similar to the manner in which liabilities are secured by
34 the unearned premiums, losses reinsured, reinsurance
35 recoverables, special state deposits, secured accrued
36 retrospective premiums, and policy loans referred to in
37 items (i) through (vi).

38 (3) Any additional information that relates to the business or
39 assets of the alien company and is required by the
40 commissioner.

41 (b) The annual statement and trusteed surplus statement
42 described in subsection (a) must be signed and verified by the
43 United States manager, the attorney in fact, or an empowered
44 assistant United States manager, of the United States branch. Items
45 of securities and other property held under a trust agreement must
46 be certified in the trusteed surplus statement by the United States
47 trustees.

48 (c) Each report concerning an examination of a United States
49 branch conducted under section 4(i) of this chapter must include
50 a trusteed surplus statement as of the date of examination and a
51 general statement of the financial condition of the United States

1 branch.

2 Sec. 7. (a) Before issuing a new or renewal certificate of
3 authority to a United States branch, the commissioner may require
4 satisfactory proof:

5 (1) in the charter of the alien company transacting business
6 through the United States branch;

7 (2) by an agreement evidenced by a certified resolution of the
8 alien company's board of directors; or

9 (3) otherwise as required by the commissioner;
10 that the United States branch will not engage in any insurance
11 business not authorized by this chapter and by the alien company's
12 charter.

13 (b) The commissioner shall issue a renewal certificate of
14 authority to a United States branch if the commissioner is satisfied
15 that the United States branch is not delinquent in any requirement
16 of this title and that the United States branch's continued insurance
17 business in Indiana is not contrary to the best interest of the
18 citizens of Indiana.

19 (c) A United States branch may not be:

20 (1) granted a certificate of authority to transact any kind of
21 insurance business in Indiana that is not permitted to be
22 transacted in Indiana by a domestic company granted a
23 certificate of authority under this title; or

24 (2) authorized to transact an insurance business in Indiana if
25 the United States branch transacts, anywhere in the United
26 States, any kind of business other than an insurance business
27 (and business incidental to the kind of insurance business)
28 that the United States branch is authorized to transact in
29 Indiana.

30 (d) A United States branch entering the United States through
31 Indiana or another state may not be authorized to transact an
32 insurance business in Indiana if the United States branch fails to
33 substantially comply with any requirement of this title that:

34 (1) applies to a similar domestic company that is organized
35 after July 1, 2007; and

36 (2) the commissioner determines is necessary to protect the
37 interest of the policyholders.

38 (e) Unless the commissioner determines that the kind of
39 insurance is not contrary to the best interest of the citizens of
40 Indiana, a United States branch may not transact any kind of
41 insurance business that is not permitted to be transacted in Indiana
42 by a similar domestic company that is organized after July 1, 2007.

43 (f) A United States branch may not be authorized to transact an
44 insurance business in Indiana unless the United States branch
45 maintains correct and complete records of the United States
46 branch's transactions that are:

47 (1) open to inspection by any person who has the right to
48 inspect the records; and

49 (2) maintained at the United States branch's principal office
50 in Indiana.

51 Sec. 8. If the commissioner determines from a quarterly or

1 **annual statement, a trustee surplus statement, or another report**
 2 **that a United States branch's trustee surplus is less than:**

- 3 (1) **the minimum capital and surplus requirements; or**
 4 (2) **the authorized control level risk based capital**
 5 **requirements;**

6 **whichever is greater, that apply to a domestic insurer granted a**
 7 **certificate of authority to transact the same kind of insurance**
 8 **business in Indiana, the commissioner may proceed under IC 27-9**
 9 **against the United States branch as if the United States branch**
 10 **were an insurer in such condition that further transaction by the**
 11 **insurer of insurance business in the United States would be**
 12 **hazardous to the insurer's policyholders, creditors, or residents of**
 13 **the United States.**

14 SECTION 21. IC 27-8-5-1 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) The term "policy
 16 of accident and sickness insurance", as used in this chapter, includes
 17 any policy or contract covering one (1) or more of the kinds of
 18 insurance described in Class 1(b) or 2(a) of IC 27-1-5-1. Such policies
 19 may be on the individual basis under this section and sections 2
 20 through 9 of this chapter, on the group basis under this section and
 21 sections 16 through 19 of this chapter, on the franchise basis under this
 22 section and section 11 of this chapter, or on a blanket basis under
 23 section 15 of this chapter and (except as otherwise expressly provided
 24 in this chapter) shall be exclusively governed by this chapter.

25 (b) No policy of accident and sickness insurance may be issued or
 26 delivered to any person in this state, nor may any application, rider, or
 27 endorsement be used in connection with an accident and sickness
 28 insurance policy, until a copy of the form of the policy and of the
 29 classification of risks and the premium rates, or, in the case of
 30 assessment companies, the estimated cost pertaining thereto, have been
 31 filed with **and reviewed by** the commissioner **under section 1.5 of**
 32 **this chapter.** This section is applicable also to assessment companies
 33 and fraternal benefit associations or societies.

34 ~~(c) No policy of accident and sickness insurance may be issued, nor~~
 35 ~~may any application, rider, or endorsement be used in connection with~~
 36 ~~a policy of accident and sickness insurance, until the expiration of~~
 37 ~~thirty (30) days after it has been filed under subsection (b); unless the~~
 38 ~~commissioner gives his written approval to it before the expiration of~~
 39 ~~the thirty (30) day period.~~

40 ~~(d) The commissioner may, within thirty (30) days after the filing of~~
 41 ~~any form under subsection (b); disapprove the form:~~

42 ~~(1) if, in the case of an individual accident and sickness form, the~~
 43 ~~benefits provided therein are unreasonable in relation to the~~
 44 ~~premium charged; or~~

45 ~~(2) if, in the case of an individual, blanket, or group accident and~~
 46 ~~sickness form, it contains a provision or provisions that are unjust,~~
 47 ~~unfair, inequitable, misleading, or deceptive or that encourage~~
 48 ~~misrepresentation of the policy.~~

49 ~~(e) If the commissioner notifies the insurer that filed a form that the~~
 50 ~~form does not comply with this section; it is unlawful thereafter for the~~
 51 ~~insurer to issue the form or use it in connection with any policy. In the~~

1 notice given under this subsection, the commissioner shall specify the
2 reasons for his disapproval and state that a hearing will be granted
3 within twenty (20) days after request in writing by the insurer.

4 (f) The commissioner may at any time, after a hearing of which not
5 less than twenty (20) days written notice has been given to the insurer,
6 withdraw his approval of any form filed under subsection (b) on any of
7 the grounds stated in this section. It is unlawful for the insurer to issue
8 the form or use it in connection with any policy after the effective date
9 of the withdrawal of approval. The notice of any hearing called under
10 this subsection must specify the matters to be considered at the hearing,
11 and any decision affirming disapproval or directing withdrawal of
12 approval under this section must be in writing and must specify the
13 reasons for the decision.

14 (g) Any order or decision of the commissioner under this section is
15 subject to review under IC 4-21-5.

16 SECTION 22. IC 27-8-5-1.5 IS ADDED TO THE INDIANA CODE
17 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
18 1, 2007]: **Sec. 1.5. (a) This section applies to a policy of accident and
19 sickness insurance issued on an individual, a group, a franchise, or
20 a blanket basis, including a policy issued by an assessment
21 company or a fraternal benefit society.**

22 (b) As used in this section, "commissioner" refers to the
23 insurance commissioner appointed under IC 27-1-1-2.

24 (c) As used in this section, "grossly inadequate filing" means a
25 policy form filing:

- 26 (1) that fails to provide key information, including state
27 specific information, regarding a product, policy, or rate; or
- 28 (2) that demonstrates an insufficient understanding of
29 applicable legal requirements.

30 (d) As used in this section, "policy form" means a policy, a
31 contract, a certificate, a rider, an endorsement, an evidence of
32 coverage, or any amendment that is required by law to be filed
33 with the commissioner for approval before use in Indiana.

34 (e) As used in this section, "type of insurance" refers to a type
35 of coverage listed on the National Association of Insurance
36 Commissioners Uniform Life, Accident and Health, Annuity and
37 Credit Product Coding Matrix, or a successor document, under the
38 heading "Continuing Care Retirement Communities", "Health",
39 "Long Term Care", or "Medicare Supplement".

40 (f) Each person having a role in the filing process described in
41 subsection (i) shall act in good faith and with due diligence in the
42 performance of the person's duties.

43 (g) A policy form may not be issued or delivered in Indiana
44 unless the policy form has been filed with and approved by the
45 commissioner.

46 (h) The commissioner shall do the following:

- 47 (1) Create a document containing a list of all product filing
48 requirements for each type of insurance, with appropriate
49 citations to the law, administrative rule, or bulletin that
50 specifies the requirement, including the citation for the type
51 of insurance to which the requirement applies.

- 1 **(2) Make the document described in subdivision (1) available**
 2 **on the department of insurance Internet site.**
- 3 **(3) Update the document described in subdivision (1) at least**
 4 **annually and not more than thirty (30) days following any**
 5 **change in a filing requirement.**
- 6 **(i) The filing process is as follows:**
- 7 **(1) A filer shall submit a policy form filing that:**
- 8 **(A) includes a copy of the document described in**
 9 **subsection (h);**
- 10 **(B) indicates the location within the policy form or**
 11 **supplement that relates to each requirement contained in**
 12 **the document described in subsection (h); and**
- 13 **(C) certifies that the policy form meets all requirements of**
 14 **state law.**
- 15 **(2) The commissioner shall review a policy form filing and,**
 16 **not more than thirty (30) days after the commissioner receives**
 17 **the filing under subdivision (1):**
- 18 **(A) approve the filing; or**
- 19 **(B) provide written notice of a determination:**
- 20 **(i) that deficiencies exist in the filing; or**
- 21 **(ii) that the commissioner disapproves the filing.**
- 22 **A written notice provided by the commissioner under clause**
 23 **(B) must be based only on the requirements set forth in the**
 24 **document described in subsection (h) and must cite the**
 25 **specific requirements not met by the filing. A written notice**
 26 **provided by the commissioner under clause (B)(i) must state**
 27 **the reasons for the commissioner's determination in sufficient**
 28 **detail to enable the filer to bring the policy form into**
 29 **compliance with the requirements not met by the filing.**
- 30 **(3) A filer may resubmit a policy form that:**
- 31 **(A) was determined deficient under subdivision (2) and has**
 32 **been amended to correct the deficiencies; or**
- 33 **(B) was disapproved under subdivision (2) and has been**
 34 **revised.**
- 35 **A policy form resubmitted under this subdivision must meet**
 36 **the requirements set forth as described in subdivision (1) and**
 37 **must be resubmitted not more than thirty (30) days after the**
 38 **filer receives the commissioner's written notice of deficiency**
 39 **or disapproval. If a policy form is not resubmitted within**
 40 **thirty (30) days after receipt of the written notice, the**
 41 **commissioner's determination regarding the policy form is**
 42 **final.**
- 43 **(4) The commissioner shall review a policy form filing**
 44 **resubmitted under subdivision (3) and, not more than thirty**
 45 **(30) days after the commissioner receives the resubmission:**
- 46 **(A) approve the resubmitted policy form; or**
- 47 **(B) provide written notice that the commissioner**
 48 **disapproves the resubmitted policy form.**
- 49 **A written notice of disapproval provided by the commissioner**
 50 **under clause (B) must be based only on the requirements set**
 51 **forth in the document described in subsection (h), must cite**

1 the specific requirements not met by the filing, and must state
2 the reasons for the commissioner's determination in detail.
3 The commissioner's approval or disapproval of a resubmitted
4 policy form under this subdivision is final, except that the
5 commissioner may allow the filer to resubmit a further
6 revised policy form if the filer, in the filer's resubmission
7 under subdivision (3), introduced new provisions or
8 materially modified a substantive provision of the policy
9 form. If the commissioner allows a filer to resubmit a further
10 revised policy form under this subdivision, the filer must
11 resubmit the further revised policy form not more than thirty
12 (30) days after the filer receives notice under clause (B), and
13 the commissioner shall issue a final determination on the
14 further revised policy form not more than thirty (30) days
15 after the commissioner receives the further revised policy
16 form.

17 (5) If the commissioner disapproves a policy form filing under
18 this subsection, the commissioner shall notify the filer, in
19 writing, of the filer's right to a hearing as described in
20 subsection (m). The policy form may not be disapproved
21 unless it contains a material error or omission. At any hearing
22 conducted under this subsection, the commissioner must
23 prove that the policy form contains a material error or
24 omission.

25 (j) Except as provided in this subsection, the commissioner may
26 not disapprove a policy form resubmitted under subsection (i)(3)
27 or (i)(4) for a reason other than a reason specified in the original
28 notice of determination under subsection (i)(2)(B). The
29 commissioner may disapprove a resubmitted policy form for a
30 reason other than a reason specified in the original notice of
31 determination under subsection (i)(2) if:

- 32 (1) the filer has introduced a new provision in the
33 resubmission;
- 34 (2) the filer has materially modified a substantive provision of
35 the policy form in the resubmission;
- 36 (3) there has been a change in requirements applying to the
37 policy form; or
- 38 (4) there has been reviewer error and the written disapproval
39 fails to state a specific requirement with which the policy form
40 does not comply.

41 (k) The commissioner may return a grossly inadequate filing to
42 the filer without triggering a deadline set forth in this section.

43 (l) The commissioner may disapprove a policy form if:

- 44 (1) the benefits provided under the policy form are not
45 reasonable in relation to the premium charged; or
- 46 (2) the policy form contains provisions that are unjust, unfair,
47 inequitable, misleading, or deceptive, or that encourage
48 misrepresentation of the policy.

49 (m) Upon disapproval of a filing under this section, the
50 commissioner shall provide written notice to the filer or insurer of
51 the right to a hearing within twenty (20) days of a request for a

1 hearing.

2 (n) Unless a policy form approved under this chapter contains
3 a material error or omission, the commissioner may not:

- 4 (1) retroactively disapprove the policy form; or
5 (2) examine the filer of the policy form during a routine or
6 targeted market conduct examination for compliance with a
7 policy form filing requirement that was not in existence at the
8 time the policy form was filed.

9 SECTION 23. IC 27-8-5-2.5, AS AMENDED BY P.L.127-2006,
10 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2007]: Sec. 2.5. (a) As used in this section, the term "policy
12 of accident and sickness insurance" does not include the following:

13 (1) Accident only, credit, dental, vision, Medicare supplement,
14 long term care, or disability income insurance.

15 (2) Coverage issued as a supplement to liability insurance.

16 (3) Automobile medical payment insurance.

17 (4) A specified disease policy. ~~issued as an individual policy.~~

18 (5) ~~A limited benefit health insurance policy issued as an~~
19 ~~individual policy.~~

20 (6) (5) A short term insurance plan that:

21 (A) may not be renewed; and

22 (B) has a duration of not more than six (6) months.

23 (7) (6) A policy that provides a stipulated daily, weekly, or
24 monthly payment to an insured during hospital confinement;
25 without regard to the actual expense of the confinement;
26 indemnity benefits not based on any expense incurred
27 requirement, including a plan that provides coverage for:

28 (A) hospital confinement, critical illness, or intensive care;
29 or

30 (B) gaps for deductibles or copayments.

31 (8) (7) Worker's compensation or similar insurance.

32 (9) (8) A student health insurance policy. ~~plan.~~

33 (9) A supplemental plan that always pays in addition to other
34 coverage.

35 (10) An employer sponsored health benefit plan that is:

36 (A) provided to individuals who are eligible for Medicare;
37 and

38 (B) not marketed as, or held out to be, a Medicare
39 supplement policy.

40 (b) The benefits provided by:

41 (1) an individual policy of accident and sickness insurance; or

42 (2) a certificate of coverage that is issued under a nonemployer
43 based association group policy of accident and sickness insurance
44 to an individual who is a resident of Indiana;

45 may not be excluded, limited, or denied for more than twelve (12)
46 months after the effective date of the coverage because of a preexisting
47 condition of the individual.

48 (c) An individual policy of accident and sickness insurance or a
49 certificate of coverage described in subsection (b) may not define a
50 preexisting condition, a rider, or an endorsement more restrictively
51 than as:

- 1 (1) a condition that would have caused an ordinarily prudent
 2 person to seek medical advice, diagnosis, care, or treatment
 3 during the twelve (12) months immediately preceding the
 4 effective date of **enrollment** in the plan;
- 5 (2) a condition for which medical advice, diagnosis, care, or
 6 treatment was recommended or received during the twelve (12)
 7 months immediately preceding the effective date of **enrollment** in
 8 the plan; or
- 9 (3) a pregnancy existing on the effective date of **enrollment** in the
 10 plan.
- 11 (d) An insurer shall reduce the period allowed for a preexisting
 12 condition exclusion described in subsection (b) by the amount of time
 13 the individual has continuously served under a preexisting condition
 14 clause for a policy of accident and sickness insurance issued under
 15 IC 27-8-15 if the individual applies for a policy under this chapter not
 16 more than thirty (30) days after coverage under a policy of accident and
 17 sickness insurance issued under IC 27-8-15 expires.
- 18 (e) This subsection applies to a policy that is issued after June 30,
 19 2003, and before July 1, 2005. Notwithstanding subsections (b) and (c),
 20 an individual policy of accident and sickness insurance may contain a
 21 waiver of coverage for a specified condition and complications directly
 22 related to the specified condition if:
- 23 (1) the period for which the exemption would be in effect does not
 24 exceed two (2) years; and
- 25 (2) all of the following conditions are met:
- 26 (A) The insurer provides to the applicant before issuance of
 27 the policy a written notice explaining the waiver of coverage
 28 for the specified condition and complications directly related
 29 to the specified condition, including a specific description of
 30 each condition, complication, service, and treatment for which
 31 coverage is being waived.
- 32 (B) The:
- 33 (i) offer of coverage; and
 34 (ii) policy;
 35 include the waiver in a separate section stating in bold print
 36 that the applicant is receiving coverage with an exception for
 37 the waived condition and specifying each related condition,
 38 complication, service, and treatment for which coverage is
 39 waived.
- 40 (C) The:
- 41 (i) offer of coverage; and
 42 (ii) policy;
 43 do not include more than two (2) waivers per individual.
- 44 (D) The waiver period is concurrent with and not in addition
 45 to any applicable preexisting condition limitation or
 46 exclusionary period.
- 47 (E) The insurer agrees to:
- 48 (i) review the underwriting basis for the waiver upon request
 49 one (1) time per year; and
 50 (ii) remove the waiver if the insurer determines that
 51 evidence of insurability is satisfactory.

1 (F) The insurer discloses to the applicant that the applicant
 2 may decline the offer of coverage and apply for a policy issued
 3 by the Indiana comprehensive health insurance association
 4 under IC 27-8-10.

5 (G) The waiver of coverage does not apply to coverage
 6 required under state law.

7 (H) An insurance benefit card issued by the insurer to the
 8 applicant includes a telephone number for verification of
 9 coverage waived.

10 The insurer shall require an applicant to initial the written notice
 11 provided under subdivision (2)(A) and the waiver included in the offer
 12 of coverage and in the policy under subdivision (2)(B) to acknowledge
 13 acceptance of the waiver of coverage. An offer of coverage under a
 14 policy that includes a waiver under this subsection does not preclude
 15 eligibility for an Indiana comprehensive health insurance association
 16 policy under IC 27-8-10-5.1. This subsection expires July 1, 2007.

17 (f) This subsection applies to a policy that is issued after June 30,
 18 2003, and before July 1, 2005. An insurer shall not, on the basis of a
 19 waiver contained in a policy as provided in subsection (e), deny
 20 coverage for any condition, complication, service, or treatment that is
 21 not specified as required in the:

- 22 (1) written notice under subsection (e)(2)(A); and
- 23 (2) offer of coverage and policy under subsection (e)(2)(B).

24 This subsection expires July 1, 2007.

25 (g) This subsection applies to a policy that is issued after June 30,
 26 2003, and before July 1, 2005. An individual who is covered under a
 27 policy that includes a waiver under subsection (e) may directly appeal
 28 a denial of coverage based on the waiver by filing a request for an
 29 external grievance review under IC 27-8-29 without pursuing a
 30 grievance under IC 27-8-28. This subsection expires July 1, 2007.

31 (h) This subsection applies to a policy that is issued after June 30,
 32 2003, and before July 1, 2005. Notwithstanding subsection (e), an
 33 individual policy of accident and sickness insurance may not contain
 34 a waiver of coverage for:

- 35 (1) a mental health condition; or
- 36 (2) a developmental disability.

37 This subsection expires July 1, 2007.

38 (i) This subsection applies to a policy that is issued after June 30,
 39 2003, and before July 1, 2005. A waiver under this section may be
 40 applied to a policy of accident and sickness insurance only at the time
 41 the policy is issued. This subsection expires July 1, 2007.

42 (j) This subsection applies to a policy that is issued after June 30,
 43 2003, and before July 1, 2005. An insurer or insurance producer shall
 44 not use this section to circumvent the guaranteed access and
 45 availability provisions of this chapter, IC 27-8-15, or the federal Health
 46 Insurance Portability and Accountability Act of 1996 (P.L. 104-191).
 47 This subsection expires July 1, 2007.

48 (k) This subsection applies to a policy that is issued after June 30,
 49 2003, and before July 1, 2005. A pattern or practice of violations of
 50 subsections (e) through (j) is an unfair method of competition or an
 51 unfair and deceptive act and practice in the business of insurance under

1 IC 27-4-1-4. This subsection expires July 1, 2007.

2 SECTION 24. IC 27-8-5-15.6 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15.6. (a) As used in this
4 section, "coverage of services for a mental illness" includes the services
5 defined under the policy of accident and sickness insurance. However,
6 the term does not include services for the treatment of substance abuse
7 or chemical dependency.

8 (b) This section applies to a policy of accident and sickness
9 insurance that:

- 10 (1) is issued on an individual basis or a group basis;
11 (2) is issued, entered into, or renewed after December 31, 1999;
12 and
13 (3) is issued to an employer that employs more than fifty (50)
14 full-time employees.

15 (c) This section does not apply to the following:

- 16 ~~(1) An insurance policy listed under IC 27-8-15-9(b).~~
17 ~~(2) (1) A legal business entity that has obtained an exemption~~
18 ~~under section 15.7 of this chapter.~~
19 **(2) Accident only, credit, dental, vision, Medicare supplement,**
20 **long term care, or disability income insurance.**
21 **(3) Coverage issued as a supplement to liability insurance.**
22 **(4) Worker's compensation or similar insurance.**
23 **(5) Automobile medical payment insurance.**
24 **(6) A specified disease policy.**
25 **(7) A short term insurance plan that:**
26 **(A) may not be renewed; and**
27 **(B) has a duration of not more than six (6) months.**
28 **(8) A policy that provides indemnity benefits not based on any**
29 **expense incurred requirement, including a plan that provides**
30 **coverage for:**
31 **(A) hospital confinement, critical illness, or intensive care;**
32 **or**
33 **(B) gaps for deductibles or copayments.**
34 **(9) A supplemental plan that always pays in addition to other**
35 **coverage.**
36 **(10) A student health plan.**
37 **(11) An employer sponsored health benefit plan that is:**
38 **(A) provided to individuals who are eligible for Medicare;**
39 **and**
40 **(B) not marketed as, or held out to be, a Medicare**
41 **supplement policy.**

42 (d) A group or individual insurance policy or agreement may not
43 permit treatment limitations or financial requirements on the coverage
44 of services for a mental illness if similar limitations or requirements are
45 not imposed on the coverage of services for other medical or surgical
46 conditions.

47 (e) An insurer that issues a policy of accident and sickness
48 insurance that provides coverage of services for the treatment of
49 substance abuse and chemical dependency when the services are
50 required in the treatment of a mental illness shall offer to provide the
51 coverage without treatment limitations or financial requirements if

1 similar limitations or requirements are not imposed on the coverage of
2 services for other medical or surgical conditions.

3 (f) This section does not require a group or individual insurance
4 policy or agreement to offer mental health benefits.

5 (g) The benefits delivered under this section may be delivered under
6 a managed care system.

7 SECTION 25. IC 27-8-5-19, AS AMENDED BY P.L.127-2006,
8 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2007]: Sec. 19. (a) As used in this chapter, "late enrollee" has
10 the meaning set forth in 26 U.S.C. 9801(b)(3).

11 (b) A policy of group accident and sickness insurance may not be
12 issued to a group that has a legal situs in Indiana unless it contains in
13 substance:

14 (1) the provisions described in subsection (c); or

15 (2) provisions that, in the opinion of the commissioner, are:

16 (A) more favorable to the persons insured; or

17 (B) at least as favorable to the persons insured and more
18 favorable to the policyholder;

19 than the provisions set forth in subsection (c).

20 (c) The provisions referred to in subsection (b)(1) are as follows:

21 (1) A provision that the policyholder is entitled to a grace period
22 of thirty-one (31) days for the payment of any premium due
23 except the first, during which grace period the policy will
24 continue in force, unless the policyholder has given the insurer
25 written notice of discontinuance in advance of the date of
26 discontinuance and in accordance with the terms of the policy.
27 The policy may provide that the policyholder is liable to the
28 insurer for the payment of a pro rata premium for the time the
29 policy was in force during the grace period. A provision under
30 this subdivision may provide that the insurer is not obligated to
31 pay claims incurred during the grace period until the premium
32 due is received.

33 (2) A provision that the validity of the policy may not be
34 contested, except for nonpayment of premiums, after the policy
35 has been in force for two (2) years after its date of issue, and that
36 no statement made by a person covered under the policy relating
37 to the person's insurability may be used in contesting the validity
38 of the insurance with respect to which the statement was made,
39 unless:

40 (A) the insurance has not been in force for a period of two (2)
41 years or longer during the person's lifetime; or

42 (B) the statement is contained in a written instrument signed
43 by the insured person.

44 However, a provision under this subdivision may not preclude the
45 assertion at any time of defenses based upon a person's
46 ineligibility for coverage under the policy or based upon other
47 provisions in the policy.

48 (3) A provision that a copy of the application, if there is one, of
49 the policyholder must be attached to the policy when issued, that
50 all statements made by the policyholder or by the persons insured
51 are to be deemed representations and not warranties, and that no

1 statement made by any person insured may be used in any contest
 2 unless a copy of the instrument containing the statement is or has
 3 been furnished to the insured person or, in the event of death or
 4 incapacity of the insured person, to the insured person's
 5 beneficiary or personal representative.

6 (4) A provision setting forth the conditions, if any, under which
 7 the insurer reserves the right to require a person eligible for
 8 insurance to furnish evidence of individual insurability
 9 satisfactory to the insurer as a condition to part or all of the
 10 person's coverage.

11 (5) A provision specifying any additional exclusions or limitations
 12 applicable under the policy with respect to a disease or physical
 13 condition of a person that existed before the effective date of the
 14 person's coverage under the policy and that is not otherwise
 15 excluded from the person's coverage by name or specific
 16 description effective on the date of the person's loss. An exclusion
 17 or limitation that must be specified in a provision under this
 18 subdivision:

19 (A) may apply only to a disease or physical condition for
 20 which medical advice, diagnosis, care, or treatment was
 21 received by the person or recommended to the person during
 22 the six (6) months before the **enrollment effective** date of the
 23 person's coverage; and

24 (B) may not apply to a loss incurred or disability beginning
 25 after the earlier of:

26 (i) the end of a continuous period of twelve (12) months
 27 beginning on or after the **enrollment effective** date of the
 28 person's coverage; or

29 (ii) the end of a continuous period of eighteen (18) months
 30 beginning on the **enrollment effective** date of the person's
 31 coverage if the person is a late enrollee.

32 This subdivision applies only to group policies of accident and
 33 sickness insurance other than those described in section 2.5(a)(1)
 34 through 2.5(a)(8) and 2.5(b)(2) of this chapter.

35 (6) A provision specifying any additional exclusions or limitations
 36 applicable under the policy with respect to a disease or physical
 37 condition of a person that existed before the effective date of the
 38 person's coverage under the policy. An exclusion or limitation that
 39 must be specified in a provision under this subdivision:

40 (A) may apply only to a disease or physical condition for
 41 which medical advice or treatment was received by the person
 42 during a period of three hundred sixty-five (365) days before
 43 the effective date of the person's coverage; and

44 (B) may not apply to a loss incurred or disability beginning
 45 after the earlier of the following:

46 (i) The end of a continuous period of three hundred
 47 sixty-five (365) days, beginning on or after the effective date
 48 of the person's coverage, during which the person did not
 49 receive medical advice or treatment in connection with the
 50 disease or physical condition.

51 (ii) The end of the two (2) year period beginning on the

- 1 effective date of the person's coverage.
- 2 This subdivision applies only to group policies of accident and
- 3 sickness insurance described in section 2.5(a)(1) through
- 4 2.5(a)(8) of this chapter.
- 5 (7) If premiums or benefits under the policy vary according to a
- 6 person's age, a provision specifying an equitable adjustment of:
- 7 (A) premiums;
- 8 (B) benefits; or
- 9 (C) both premiums and benefits;
- 10 to be made if the age of a covered person has been misstated. A
- 11 provision under this subdivision must contain a clear statement of
- 12 the method of adjustment to be used.
- 13 (8) A provision that the insurer will issue to the policyholder, for
- 14 delivery to each person insured, a certificate, in electronic or
- 15 paper form, setting forth a statement that:
- 16 (A) explains the insurance protection to which the person
- 17 insured is entitled;
- 18 (B) indicates to whom the insurance benefits are payable; and
- 19 (C) explains any family member's or dependent's coverage
- 20 under the policy.
- 21 The provision must specify that the certificate will be provided in
- 22 paper form upon the request of the insured.
- 23 (9) A provision stating that written notice of a claim must be
- 24 given to the insurer within twenty (20) days after the occurrence
- 25 or commencement of any loss covered by the policy, but that a
- 26 failure to give notice within the twenty (20) day period does not
- 27 invalidate or reduce any claim if it can be shown that it was not
- 28 reasonably possible to give notice within that period and that
- 29 notice was given as soon as was reasonably possible.
- 30 (10) A provision stating that:
- 31 (A) the insurer will furnish to the person making a claim, or to
- 32 the policyholder for delivery to the person making a claim,
- 33 forms usually furnished by the insurer for filing proof of loss;
- 34 and
- 35 (B) if the forms are not furnished within fifteen (15) days after
- 36 the insurer received notice of a claim, the person making the
- 37 claim will be deemed to have complied with the requirements
- 38 of the policy as to proof of loss upon submitting, within the
- 39 time fixed in the policy for filing proof of loss, written proof
- 40 covering the occurrence, character, and extent of the loss for
- 41 which the claim is made.
- 42 (11) A provision stating that:
- 43 (A) in the case of a claim for loss of time for disability, written
- 44 proof of the loss must be furnished to the insurer within ninety
- 45 (90) days after the commencement of the period for which the
- 46 insurer is liable, and that subsequent written proofs of the
- 47 continuance of the disability must be furnished to the insurer
- 48 at reasonable intervals as may be required by the insurer;
- 49 (B) in the case of a claim for any other loss, written proof of
- 50 the loss must be furnished to the insurer within ninety (90)
- 51 days after the date of the loss; and

- 1 (C) the failure to furnish proof within the time required under
 2 clause (A) or (B) does not invalidate or reduce any claim if it
 3 was not reasonably possible to furnish proof within that time,
 4 and if proof is furnished as soon as reasonably possible but
 5 (except in case of the absence of legal capacity of the
 6 claimant) no later than one (1) year from the time proof is
 7 otherwise required under the policy.
- 8 (12) A provision that:
- 9 (A) all benefits payable under the policy (other than benefits
 10 for loss of time) will be paid:
- 11 (i) **not more than forty-five (45) days after the insurer's**
 12 **(as defined in IC 27-8-5.7-3) receipt of written proof of**
 13 **loss if the claim is filed by the policyholder; or**
 14 **(ii) in accordance with IC 27-8-5.7 if the claim is filed by**
 15 **the provider (as defined in IC 27-8-5.7-4); and**
- 16 (B) subject to due proof of loss, all accrued benefits under the
 17 policy for loss of time will be paid not less frequently than
 18 monthly during the continuance of the period for which the
 19 insurer is liable, and any balance remaining unpaid at the
 20 termination of the period for which the insurer is liable will be
 21 paid as soon as possible after receipt of the proof of loss.
- 22 (13) A provision that benefits for loss of life of the person insured
 23 are payable to the beneficiary designated by the person insured.
 24 However, if the policy contains conditions pertaining to family
 25 status, the beneficiary may be the family member specified by the
 26 policy terms. In either case, payment of benefits for loss of life is
 27 subject to the provisions of the policy if no designated or
 28 specified beneficiary is living at the death of the person insured.
 29 All other benefits of the policy are payable to the person insured.
 30 The policy may also provide that if any benefit is payable to the
 31 estate of a person or to a person who is a minor or otherwise not
 32 competent to give a valid release, the insurer may pay the benefit,
 33 up to an amount of five thousand dollars (\$5,000), to any relative
 34 by blood or connection by marriage of the person who is deemed
 35 by the insurer to be equitably entitled to the benefit.
- 36 (14) A provision that the insurer, **at the insurer's expense**, has
 37 the right and must be allowed the opportunity to:
- 38 (A) examine the person of the individual for whom a claim is
 39 made under the policy when and as often as the insurer
 40 reasonably requires during the pendency of the claim; and
- 41 (B) conduct an autopsy in case of death if it is not prohibited
 42 by law.
- 43 (15) A provision that no action at law or in equity may be brought
 44 to recover on the policy less than sixty (60) days after proof of
 45 loss is filed in accordance with the requirements of the policy and
 46 that no action may be brought at all more than three (3) years after
 47 the expiration of the time within which proof of loss is required
 48 by the policy.
- 49 (16) In the case of a policy insuring debtors, a provision that the
 50 insurer will furnish to the policyholder, for delivery to each debtor
 51 insured under the policy, a certificate of insurance describing the

1 coverage and specifying that the benefits payable will first be
2 applied to reduce or extinguish the indebtedness.

3 (17) If the policy provides that hospital or medical expense
4 coverage of a dependent child of a group member terminates upon
5 the child's attainment of the limiting age for dependent children
6 set forth in the policy, a provision that the child's attainment of the
7 limiting age does not terminate the hospital and medical coverage
8 of the child while the child is:

9 (A) incapable of self-sustaining employment because of
10 mental retardation or mental or physical disability; and

11 (B) chiefly dependent upon the group member for support and
12 maintenance.

13 A provision under this subdivision may require that proof of the
14 child's incapacity and dependency be furnished to the insurer by
15 the group member within one hundred twenty (120) days of the
16 child's attainment of the limiting age and, subsequently, at
17 reasonable intervals during the two (2) years following the child's
18 attainment of the limiting age. The policy may not require proof
19 more than once per year in the time more than two (2) years after
20 the child's attainment of the limiting age. This subdivision does
21 not require an insurer to provide coverage to a mentally retarded
22 or mentally or physically disabled child who does not satisfy the
23 requirements of the group policy as to evidence of insurability or
24 other requirements for coverage under the policy to take effect. In
25 any case, the terms of the policy apply with regard to the coverage
26 or exclusion from coverage of the child.

27 (18) A provision that complies with the group portability and
28 guaranteed renewability provisions of the federal Health
29 Insurance Portability and Accountability Act of 1996
30 (P.L.104-191).

31 (d) Subsection (c)(5), (c)(8), and (c)(13) do not apply to policies
32 insuring the lives of debtors. The standard provisions required under
33 section 3(a) of this chapter for individual accident and sickness
34 insurance policies do not apply to group accident and sickness
35 insurance policies.

36 (e) If any policy provision required under subsection (c) is in whole
37 or in part inapplicable to or inconsistent with the coverage provided by
38 an insurer under a particular form of policy, the insurer, with the
39 approval of the commissioner, shall delete the provision from the
40 policy or modify the provision in such a manner as to make it
41 consistent with the coverage provided by the policy.

42 (f) An insurer that issues a policy described in this section shall
43 include in the insurer's enrollment materials information concerning the
44 manner in which an individual insured under the policy may:

45 (1) obtain a certificate described in subsection (c)(8); and

46 (2) request the certificate in paper form.

47 SECTION 26. IC 27-8-5-20 IS AMENDED TO READ AS
48 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 20. (a) All individual
49 accident and health insurance policies, other than those issued pursuant
50 to direct response solicitation, must have a notice prominently printed
51 on the first page of the policy stating in substance that the policyholder

1 has the right to return the policy:

2 **(1) except as provided in subdivision (2), within ten (10) days**
3 **of its delivery; or**

4 **(2) if the policy is a travel accident insurance policy, until the**
5 **earlier of:**

6 **(A) thirty (30) days after the policy is delivered; or**

7 **(B) the date of departure;**

8 and to have the premium refunded if, after examination of the policy,
9 the insured person is not satisfied for any reason.

10 (b) All accident and health insurance policies issued pursuant to a
11 direct response solicitation must have a notice prominently printed on
12 the first page stating in substance that the policyholder has the right to
13 return the policy:

14 **(1) except as provided in subdivision (2), within thirty (30) days**
15 **of its delivery; or**

16 **(2) if the policy is a travel accident insurance policy, until the**
17 **earlier of:**

18 **(A) thirty (30) days after the policy is delivered; or**

19 **(B) the date of departure;**

20 and to have the premium refunded if, after examination of the policy,
21 the insured person is not satisfied for any reason.

22 **(c) Notwithstanding subsection (b), a short term health**
23 **insurance policy that is written for a period of less than sixty-one**
24 **(61) days and issued under a direct response solicitation must have**
25 **a notice prominently printed on the first page stating in substance**
26 **that the policyholder has the right to return the policy within ten**
27 **(10) days after the policy's delivery and to have the premium**
28 **refunded if, after examination of the policy, the insured person is**
29 **not satisfied for any reason.**

30 SECTION 27. IC 27-8-5-27 IS AMENDED TO READ AS
31 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 27. (a) As used in this
32 section, "accident and sickness insurance policy" means an insurance
33 policy that provides at least one (1) of the types of insurance described
34 in IC 27-1-5-1, Classes 1(b) and 2(a), and is issued on a group basis.
35 The term does not include the following:

36 (1) Accident only, credit, dental, vision, ~~Medicare~~, Medicare
37 supplement, long term care, or disability income insurance.

38 (2) Coverage issued as a supplement to liability insurance.

39 (3) Automobile medical payment insurance.

40 (4) A specified disease policy.

41 ~~(5) A limited benefit health insurance policy.~~

42 ~~(6)~~ **(5)** A short term insurance plan that:

43 (A) may not be renewed; and

44 (B) has a duration of not more than six (6) months.

45 ~~(7)~~ **(6)** A policy that provides a stipulated daily, weekly, or
46 monthly payment to an insured during hospital confinement;
47 without regard to the actual expense of the confinement;
48 **indemnity benefits not based on any expense incurred**
49 **requirement, including a plan that provides coverage for:**

50 **(A) hospital confinement, critical illness, or intensive care;**

51 **or**

- 1 **(B) gaps for deductibles or copayments.**
 2 ~~(8)~~ (7) Worker's compensation or similar insurance.
 3 ~~(9)~~ ~~(8)~~ A student health insurance policy. **plan.**
 4 **(9) A supplemental plan that always pays in addition to other**
 5 **coverage.**
 6 **(10) An employer sponsored health benefit plan that is:**
 7 **(A) provided to individuals who are eligible for Medicare;**
 8 **and**
 9 **(B) not marketed as, or held out to be, a Medicare**
 10 **supplement policy.**
 11 (b) As used in this section, "insured" means a child or an individual
 12 with a disability who is entitled to coverage under an accident and
 13 sickness insurance policy.
 14 (c) As used in this section, "child" means an individual who is less
 15 than nineteen (19) years of age.
 16 (d) As used in this section, "individual with a disability" means an
 17 individual:
 18 (1) with a physical or mental impairment that substantially limits
 19 one (1) or more of the major life activities of the individual; and
 20 (2) who:
 21 (A) has a record of; or
 22 (B) is regarded as;
 23 having an impairment described in subdivision (1).
 24 (e) A policy of accident and sickness insurance must include
 25 coverage for anesthesia and hospital charges for dental care for an
 26 insured if the mental or physical condition of the insured requires
 27 dental treatment to be rendered in a hospital or an ambulatory
 28 outpatient surgical center. The Indications for General Anesthesia, as
 29 published in the reference manual of the American Academy of
 30 Pediatric Dentistry, are the utilization standards for determining
 31 whether performing dental procedures necessary to treat the insured's
 32 condition under general anesthesia constitutes appropriate treatment.
 33 (f) An insurer that issues a policy of accident and sickness insurance
 34 may:
 35 (1) require prior authorization for hospitalization or treatment in
 36 an ambulatory outpatient surgical center for dental care
 37 procedures in the same manner that prior authorization is required
 38 for hospitalization or treatment of other covered medical
 39 conditions; and
 40 (2) restrict coverage to include only procedures performed by a
 41 licensed dentist who has privileges at the hospital or ambulatory
 42 outpatient surgical center.
 43 (g) This section does not apply to treatment rendered for temporal
 44 mandibular joint disorders (TMJ).
 45 SECTION 28. IC 27-8-5.6-1 IS AMENDED TO READ AS
 46 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. **(a)** As used in this
 47 chapter, the term "accident and sickness insurance" means any policy
 48 or contract covering one (1) or more of the kinds of insurance
 49 described in classes 1(b) or 2(a) of IC 1971, 27-1-5-1, as governed by
 50 IC 1971, 27-8-5.
 51 **(b) The term does not include the following:**

- 1 **(1) Accident only, credit, dental, vision, Medicare supplement,**
 2 **long term care, or disability income insurance.**
 3 **(2) Coverage issued as a supplement to liability insurance.**
 4 **(3) Worker's compensation or similar insurance.**
 5 **(4) Automobile medical payment insurance.**
 6 **(5) A specified disease policy.**
 7 **(6) A short term insurance plan that:**
 8 **(A) may not be renewed; and**
 9 **(B) has a duration of not more than six (6) months.**
 10 **(7) A policy that provides indemnity benefits not based on any**
 11 **expense incurred requirement, including a plan that provides**
 12 **coverage for:**
 13 **(A) hospital confinement, critical illness, or intensive care;**
 14 **or**
 15 **(B) gaps for deductibles or copayments.**
 16 **(8) A supplemental plan that always pays in addition to other**
 17 **coverage.**
 18 **(9) A student health plan.**
 19 **(10) An employer sponsored health benefit plan that is:**
 20 **(A) provided to individuals who are eligible for Medicare;**
 21 **and**
 22 **(B) not marketed as, or held out to be, a Medicare**
 23 **supplement policy.**

24 SECTION 29. IC 27-8-12-18 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. ~~(a)~~ As used in this
 26 section, "compensation" includes pecuniary and nonpecuniary
 27 remuneration of any kind relating to the sale or renewal of the policy
 28 or certificate including, but not limited to, the following:

- 29 ~~(1) Bonuses.~~
 30 ~~(2) Gifts.~~
 31 ~~(3) Prizes.~~
 32 ~~(4) Awards.~~
 33 ~~(5) Finders fees.~~
 34 ~~(b)~~ **(a)** An insurer or other entity that provides a commission ~~or~~
 35 ~~other compensation~~ to an insurance producer or other representative for
 36 the sale of a long term care insurance policy may not violate the
 37 following conditions:
 38 (1) The amount of the first year commission ~~or first year~~
 39 ~~compensation~~ for selling or servicing the policy may not exceed
 40 two hundred percent (200%) of the amount of the commission ~~or~~
 41 ~~other compensation~~ paid in the second year.
 42 (2) The amount of commission ~~or other compensation~~ provided
 43 in years after the second year must be equal to the amount
 44 provided in the second year.
 45 (3) A commission ~~or other compensation~~ must be provided each
 46 year for at least five (5) years after the first year.
 47 ~~(c)~~ **(b)** If an existing long term care policy or certificate is replaced,
 48 the insurer or other entity that issues the replacement policy may not
 49 provide, and its insurance producer may not accept, ~~compensation a~~
 50 **commission** in an amount greater than the renewal ~~compensation~~
 51 **commission** payable by the replacing insurer on renewal policies,

1 unless the benefits of the replacement policy or certificate are clearly
 2 and substantially greater than the benefits under the replaced policy or
 3 certificate.

4 ~~(d)~~ (c) This section does not apply to the following:

- 5 (1) Life insurance policies and certificates.
- 6 (2) A policy or certificate that is sponsored by an employer for the
 7 benefit of:
 - 8 (A) the employer's employees; or
 - 9 (B) the employer's employees and their dependents.

10 SECTION 30. IC 27-8-14-1 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) As used in this
 12 chapter, "accident and sickness insurance policy" means an insurance
 13 policy that:

- 14 (1) provides one (1) or more of the types of insurance described
 15 in IC 27-1-5-1, classes 1(b) and 2(a); and
- 16 (2) is issued on a group basis.

17 **(b) The term does not include the following:**

- 18 **(1) Accident only, credit, dental, vision, Medicare supplement,**
 19 **long term care, or disability income insurance.**
- 20 **(2) Coverage issued as a supplement to liability insurance.**
- 21 **(3) Worker's compensation or similar insurance.**
- 22 **(4) Automobile medical payment insurance.**
- 23 **(5) A specified disease policy.**
- 24 **(6) A short term insurance plan that:**
 - 25 **(A) may not be renewed; and**
 - 26 **(B) has a duration of not more than six (6) months.**
- 27 **(7) A policy that provides indemnity benefits not based on any**
 28 **expense incurred requirement, including a plan that provides**
 29 **coverage for:**
 - 30 **(A) hospital confinement, critical illness, or intensive care;**
 31 **or**
 - 32 **(B) gaps for deductibles or copayments.**
- 33 **(8) A supplemental plan that always pays in addition to other**
 34 **coverage.**
- 35 **(9) A student health plan.**
- 36 **(10) An employer sponsored health benefit plan that is:**
 - 37 **(A) provided to individuals who are eligible for Medicare;**
 38 **and**
 - 39 **(B) not marketed as, or held out to be, a Medicare**
 40 **supplement policy.**

41 SECTION 31. IC 27-8-14.1-1 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) As used in this
 43 chapter, "accident and sickness insurance policy" means an insurance
 44 policy that:

- 45 (1) provides one (1) or more of the types of insurance described
 46 in IC 27-1-5-1, classes 1(b) and 2(a); and
- 47 (2) is issued on a group basis.

48 (b) As used in this chapter, "accident and sickness insurance policy"
 49 does not include **the following:**

- 50 ~~(1)~~ **accident only;**
- 51 ~~(2)~~ **credit;**

- 1 ~~(3) dental;~~
 2 ~~(4) vision;~~
 3 ~~(5) Medicare supplement;~~
 4 ~~(6) long term care; or~~
 5 ~~(7) disability income;~~
 6 ~~insurance.~~
 7 **(1) Accident only, credit, dental, vision, Medicare supplement,**
 8 **long term care, or disability income insurance.**
 9 **(2) Coverage issued as a supplement to liability insurance.**
 10 **(3) Worker's compensation or similar insurance.**
 11 **(4) Automobile medical payment insurance.**
 12 **(5) A specified disease policy.**
 13 **(6) A short term insurance plan that:**
 14 **(A) may not be renewed; and**
 15 **(B) has a duration of not more than six (6) months.**
 16 **(7) A policy that provides indemnity benefits not based on any**
 17 **expense incurred requirement, including a plan that provides**
 18 **coverage for:**
 19 **(A) hospital confinement, critical illness, or intensive care;**
 20 **or**
 21 **(B) gaps for deductibles or copayments.**
 22 **(8) A supplemental plan that always pays in addition to other**
 23 **coverage.**
 24 **(9) A student health plan.**
 25 **(10) An employer sponsored health benefit plan that is:**
 26 **(A) provided to individuals who are eligible for Medicare;**
 27 **and**
 28 **(B) not marketed as, or held out to be, a Medicare**
 29 **supplement policy.**
- 30 SECTION 32. IC 27-8-14.2-1 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) As used in this
 32 chapter, "accident and sickness insurance policy" means an insurance
 33 policy that provides one (1) or more of the types of insurance described
 34 in IC 27-1-5-1, classes 1(b) and 2(a).
 35 (b) The term does not include the following:
 36 (1) Accident only, credit, dental, vision, Medicare supplement,
 37 long term care, or disability income insurance.
 38 (2) Coverage issued as a supplement to liability insurance.
 39 (3) Worker's compensation or similar insurance.
 40 (4) Automobile medical payment insurance.
 41 ~~(5) A specified disease policy. issued as an individual policy.~~
 42 ~~(6) A limited benefit health insurance policy issued as an~~
 43 ~~individual policy.~~
 44 ~~(7)~~ **(6) A short term insurance plan that:**
 45 **(A) may not be renewed; and**
 46 **(B) has a duration of not more than six (6) months.**
 47 ~~(8)~~ **(7) A policy that provides a stipulated daily, weekly, or**
 48 **monthly payment to an insured during hospital confinement,**
 49 **without regard to the actual expense of the confinement.**
 50 **indemnity benefits not based on any expense incurred**
 51 **requirement, including a plan that provides coverage for:**

- 1 **(A) hospital confinement, critical illness, or intensive care;**
 2 **or**
 3 **(B) gaps for deductibles or copayments.**
 4 **(8) A supplemental plan that always pays in addition to other**
 5 **coverage.**
 6 **(9) A student health plan.**
 7 **(10) An employer sponsored health benefit plan that is:**
 8 **(A) provided to individuals who are eligible for Medicare;**
 9 **and**
 10 **(B) not marketed as, or held out to be, a Medicare**
 11 **supplement policy.**

12 SECTION 33. IC 27-8-14.5-1 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) As used in this
 14 chapter, "health insurance plan" means any:

- 15 (1) hospital or medical expense incurred policy or certificate;
 16 (2) hospital or medical service plan contract; or
 17 (3) health maintenance organization subscriber contract;
 18 provided to an insured.
 19 (b) The term does not include the following:
 20 (1) Accident only, credit, dental, vision, Medicare supplement,
 21 long term care, or disability income insurance.
 22 (2) Coverage issued as a supplement to liability insurance.
 23 (3) Worker's compensation or similar insurance.
 24 (4) Automobile medical payment insurance.
 25 (5) A specified disease policy. ~~issued as an individual policy.~~
 26 ~~(6) A limited benefit health insurance policy issued as an~~
 27 ~~individual policy.~~
 28 ~~(7) (6) A short term insurance plan that:~~
 29 ~~(A) may not be renewed; and~~
 30 ~~(B) has a duration of not more than six (6) months.~~
 31 ~~(8) (7) A policy that provides a stipulated daily, weekly, or~~
 32 ~~monthly payment to an insured during hospital confinement;~~
 33 ~~without regard to the actual expense of the confinement.~~
 34 **indemnity benefits not based on any expense incurred**
 35 **requirement, including a plan that provides coverage for:**
 36 **(A) hospital confinement, critical illness, or intensive care;**
 37 **or**
 38 **(B) gaps for deductibles or copayments.**
 39 **(8) A supplemental plan that always pays in addition to other**
 40 **coverage.**
 41 **(9) A student health plan.**
 42 **(10) An employer sponsored health benefit plan that is:**
 43 **(A) provided to individuals who are eligible for Medicare;**
 44 **and**
 45 **(B) not marketed as, or held out to be, a Medicare**
 46 **supplement policy.**

47 SECTION 34. IC 27-8-14.7-1 IS AMENDED TO READ AS
 48 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) As used in this
 49 chapter, "accident and sickness insurance policy" means an insurance
 50 policy that:

- 51 (1) provides at least one (1) of the types of insurance described in

- 1 IC 27-1-5-1, Classes 1(b) and 2(a); and
 2 (2) is issued on a group basis.
 3 (b) "Accident and sickness insurance policy" does not include
 4 accident only; credit; dental; vision; Medicare supplement; long-term
 5 care; or disability income insurance: **the following:**
 6 **(1) Accident only, credit, dental, vision, Medicare supplement,**
 7 **long term care, or disability income insurance.**
 8 **(2) Coverage issued as a supplement to liability insurance.**
 9 **(3) Worker's compensation or similar insurance.**
 10 **(4) Automobile medical payment insurance.**
 11 **(5) A specified disease policy.**
 12 **(6) A short term insurance plan that:**
 13 **(A) may not be renewed; and**
 14 **(B) has a duration of not more than six (6) months.**
 15 **(7) A policy that provides indemnity benefits not based on any**
 16 **expense incurred requirement, including a plan that provides**
 17 **coverage for:**
 18 **(A) hospital confinement, critical illness, or intensive care;**
 19 **or**
 20 **(B) gaps for deductibles or copayments.**
 21 **(8) A supplemental plan that always pays in addition to other**
 22 **coverage.**
 23 **(9) A student health plan.**
 24 **(10) An employer sponsored health benefit plan that is:**
 25 **(A) provided to individuals who are eligible for Medicare;**
 26 **and**
 27 **(B) not marketed as, or held out to be, a Medicare**
 28 **supplement policy.**
- 29 SECTION 35. IC 27-8-14.8-1 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) As used in this
 31 chapter, "accident and sickness insurance policy" means an insurance
 32 policy that:
 33 (1) provides at least one (1) of the types of insurance described in
 34 IC 27-1-5-1, Classes 1(b) and 2(a); and
 35 (2) is issued on a group basis.
 36 (b) "Accident and sickness insurance policy" does not include a
 37 policy providing accident only; credit; dental; vision; Medicare
 38 supplement; long-term care; or disability income insurance: **the**
 39 **following:**
 40 **(1) Accident only, credit, dental, vision, Medicare supplement,**
 41 **long term care, or disability income insurance.**
 42 **(2) Coverage issued as a supplement to liability insurance.**
 43 **(3) Worker's compensation or similar insurance.**
 44 **(4) Automobile medical payment insurance.**
 45 **(5) A specified disease policy.**
 46 **(6) A short term insurance plan that:**
 47 **(A) may not be renewed; and**
 48 **(B) has a duration of not more than six (6) months.**
 49 **(7) A policy that provides indemnity benefits not based on any**
 50 **expense incurred requirement, including a plan that provides**
 51 **coverage for:**

- 1 **(A) hospital confinement, critical illness, or intensive care;**
 2 **or**
 3 **(B) gaps for deductibles or copayments.**
 4 **(8) A supplemental plan that always pays in addition to other**
 5 **coverage.**
 6 **(9) A student health plan.**
 7 **(10) An employer sponsored health benefit plan that is:**
 8 **(A) provided to individuals who are eligible for Medicare;**
 9 **and**
 10 **(B) not marketed as, or held out to be, a Medicare**
 11 **supplement policy.**

12 SECTION 36. IC 27-8-16-5 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) A claim review
 14 agent may not conduct medical claims review concerning health care
 15 services delivered to an enrollee in Indiana unless the claim review
 16 agent holds a certificate of registration issued by the department under
 17 this chapter.

18 (b) To obtain a certificate of registration under this chapter, a claim
 19 review agent must submit to the department an application containing
 20 the following:

- 21 (1) The name, address, telephone number, and normal business
 22 hours of the claim review agent.
 23 (2) The name and telephone number of a person that the
 24 department may contact concerning the information in the
 25 application.
 26 (3) Documentation necessary for the department to determine that
 27 the claim review agent is capable of satisfying the minimum
 28 requirements set forth in section 7 of this chapter.
 29 (c) An application submitted under this section must be:
 30 (1) signed and verified by the applicant; and
 31 (2) accompanied by an application fee in the amount established
 32 under subsection (d).

33 **The commissioner shall deposit an application fee collected under**
 34 **this subsection into the department of insurance fund established**
 35 **by IC 27-1-3-28.**

36 (d) The department shall set the amount of the application fee
 37 required by subsection (c) and section 6(a) of this chapter in the rules
 38 adopted under section 14 of this chapter. The amount may not be more
 39 than is reasonably necessary to generate revenue sufficient to offset the
 40 costs incurred by the department in carrying out the department's
 41 responsibilities under this chapter.

42 (e) The department shall issue a certificate of registration to a claim
 43 review agent that satisfies the requirements of this section.

44 SECTION 37. IC 27-8-16-5.2 IS AMENDED TO READ AS
 45 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5.2. (a) A person may
 46 not act as a claim review consultant concerning health care services
 47 delivered to an enrollee in Indiana unless the person holds a certificate
 48 of registration issued by the department under this chapter.

49 (b) To obtain a certificate of registration under this chapter, a person
 50 must submit to the department an application containing the following:

- 51 (1) The name, address, telephone number, and normal business

- 1 hours of the person.
- 2 (2) The name and telephone number of a person that the
- 3 department may contact concerning the information in the
- 4 application.
- 5 (3) Documentation necessary for the department to determine that
- 6 the person is capable of satisfying the minimum requirements set
- 7 forth in this chapter.
- 8 (c) An application submitted under this section must be:
- 9 (1) signed and verified by the applicant; and
- 10 (2) accompanied by an application fee in the amount established
- 11 under subsection (d).

12 **The commissioner shall deposit an application fee collected under**

13 **this subsection into the department of insurance fund established**

14 **by IC 27-1-3-28.**

15 (d) The department shall set the amount of the application fee

16 required by subsection (c) and section 6(a) of this chapter in the rules

17 adopted under section 14 of this chapter. The amount may not be more

18 than is reasonably necessary to generate revenue sufficient to offset the

19 costs incurred by the department in carrying out the department's

20 responsibilities under this chapter.

21 (e) The department shall issue a certificate of registration to a claim

22 review consultant that satisfies the requirements of this section.

23 SECTION 38. IC 27-8-16-6 IS AMENDED TO READ AS

24 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) To remain in

25 effect, a certificate of registration issued under this chapter must be

26 renewed on June 30 of each year. To obtain the renewal of a certificate

27 of registration, a claim review agent or a claim review consultant must

28 submit an application to the commissioner. The application must be

29 accompanied by a registration fee in the amount set under section 5(d)

30 of this chapter. **The commissioner shall deposit a registration fee**

31 **collected under this subsection into the department of insurance**

32 **fund established by IC 27-1-3-28.**

33 (b) A certificate of registration issued under this chapter may not be

34 transferred unless the department determines that the person to which

35 the certificate of registration is to be transferred has satisfied the

36 requirements of this chapter.

37 (c) If there is a material change in any of the information set forth

38 in an application submitted under this chapter, the claim review agent

39 or claim review consultant that submitted the application shall notify

40 the department of the change in writing not more than thirty (30) days

41 after the change.

42 SECTION 39. IC 27-8-17-9 IS AMENDED TO READ AS

43 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) A utilization

44 review agent may not conduct utilization review in Indiana unless the

45 utilization review agent holds a certificate of registration issued by the

46 department under this chapter.

47 (b) To obtain a certificate of registration under this chapter, a

48 utilization review agent must submit to the department an application

49 containing the following:

- 50 (1) The name, address, telephone number, and normal business
- 51 hours of the utilization review agent.

- 1 (2) The name and telephone number of a person that the
 2 department may contact concerning the information in the
 3 application.
 4 (3) Documentation necessary for the department to determine that
 5 the utilization review agent is capable of satisfying the minimum
 6 requirements set forth in section 11 of this chapter.
 7 (c) An application submitted under this section must be:
 8 (1) signed and verified by the applicant; and
 9 (2) accompanied by an application fee in the amount established
 10 under subsection (d).

11 **The commissioner shall deposit an application fee collected under**
 12 **this subsection into the department of insurance fund established**
 13 **by IC 27-1-3-28.**

14 (d) The department shall set the amount of the application fee
 15 required by subsection (c) and section 10(a) of this chapter in the rules
 16 adopted under section 20 of this chapter. The amount may not be more
 17 than is reasonably necessary to generate revenue sufficient to offset the
 18 costs incurred by the department in carrying out its responsibilities
 19 under this chapter.

20 (e) The department shall issue a certificate of registration to a
 21 utilization review agent that satisfies the requirements of this section.

22 SECTION 40. IC 27-8-17-10 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) To remain in
 24 effect, a certificate of registration issued under this chapter must be
 25 renewed on June 30 of each year. To obtain the renewal of a certificate
 26 of registration, a utilization review agent must submit an application to
 27 the commissioner. The application must be accompanied by a
 28 registration fee in the amount set under section 9(d) of this chapter.
 29 **The commissioner shall deposit a registration fee collected under**
 30 **this subsection into the department of insurance fund established**
 31 **by IC 27-1-3-28.**

32 (b) A certificate of registration issued under this chapter may not be
 33 transferred unless the department determines that the entity to whom
 34 the certificate is to be transferred has satisfied the requirements of this
 35 chapter.

36 (c) If there is a material change in any of the information set forth
 37 in an application submitted under this chapter, the utilization review
 38 agent that submitted the application shall notify the department of the
 39 change in writing within thirty (30) days after the change.

40 SECTION 41. IC 27-8-24.1-1 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) As used in this
 42 chapter, "accident and sickness insurance policy" ~~has the meaning set~~
 43 ~~forth in IC 27-8-5-27(a).~~ **means an insurance policy that provides at**
 44 **least one (1) of the types of insurance described in IC 27-1-5-1,**
 45 **Classes 1(b) and 2(a), and is issued on a group basis.**

46 (b) **The term does not include the following:**
 47 (1) **Accident only, credit, dental, vision, Medicare supplement,**
 48 **long term care, or disability income insurance.**
 49 (2) **Coverage issued as a supplement to liability insurance.**
 50 (3) **Worker's compensation or similar insurance.**
 51 (4) **Automobile medical payment insurance.**

- 1 **(5) A specified disease policy.**
 2 **(6) A short term insurance plan that:**
 3 **(A) may not be renewed; and**
 4 **(B) has a duration of not more than six (6) months.**
 5 **(7) A policy that provides indemnity benefits not based on any**
 6 **expense incurred requirement, including a plan that provides**
 7 **coverage for:**
 8 **(A) hospital confinement, critical illness, or intensive care;**
 9 **or**
 10 **(B) gaps for deductibles or copayments.**
 11 **(8) A supplemental plan that always pays in addition to other**
 12 **coverage.**
 13 **(9) A student health plan.**
 14 **(10) An employer sponsored health benefit plan that is:**
 15 **(A) provided to individuals who are eligible for Medicare;**
 16 **and**
 17 **(B) not marketed as, or held out to be, a Medicare**
 18 **supplement policy.**

19 SECTION 42. IC 27-8-29-15.5 IS ADDED TO THE INDIANA
 20 CODE AS A NEW SECTION TO READ AS FOLLOWS
 21 [EFFECTIVE JULY 1, 2007]: **Sec. 15.5. Upon the request of a**
 22 **covered individual who is notified under section 15(d) of this**
 23 **chapter that the independent review organization has made a**
 24 **determination, the independent review organization shall provide**
 25 **to the covered individual all information reasonably necessary to**
 26 **enable the covered individual to understand the:**

- 27 **(1) effect of the determination on the covered individual; and**
 28 **(2) manner in which the insurer may be expected to respond**
 29 **to the determination.**

30 SECTION 43. IC 27-13-10.1-4.5 IS ADDED TO THE INDIANA
 31 CODE AS A NEW SECTION TO READ AS FOLLOWS
 32 [EFFECTIVE JULY 1, 2007]: **Sec. 4.5. Upon the request of an**
 33 **enrollee who is notified under section 4(c) of this chapter that the**
 34 **independent review organization has made a determination, the**
 35 **independent review organization shall provide to the enrollee all**
 36 **information reasonably necessary to enable the enrollee to**
 37 **understand the:**

- 38 **(1) effect of the determination on the enrollee; and**
 39 **(2) manner in which the health maintenance organization may**
 40 **be expected to respond to the determination.**

41 SECTION 44. IC 27-13-27-1 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 1. Each health**
 43 **maintenance organization subject to this article shall pay to the**
 44 **commissioner for deposit into the department of insurance fund**
 45 **established by IC 27-1-3-28 the following fees:**

- 46 **(1) Three hundred fifty dollars (\$350) for filing:**
 47 **(A) an application for a certificate of authority; or**
 48 **(B) an application for an amendment to a certificate of**
 49 **authority.**
 50 **(2) Fifty dollars (\$50) for filing each annual report.**

51 SECTION 45. IC 27-13-34-23 IS AMENDED TO READ AS

1 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 23. (a) A limited
 2 service health maintenance organization subject to this chapter shall
 3 pay to the commissioner **for deposit into the department of**
 4 **insurance fund established by IC 27-1-3-28** the following fees:

- 5 (1) For filing an application for a certificate of authority or an
 6 amendment to an application, three hundred fifty dollars (\$350).
 7 (2) For filing each annual report, fifty dollars (\$50).

8 (b) In addition to the fees required by subsection (a), a limited
 9 service health maintenance organization subject to this chapter must
 10 pay the fees required by IC 27-1-3-15.

11 SECTION 46. IC 36-8-10-12 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) The department
 13 and a trustee may establish and operate an actuarially sound pension
 14 trust as a retirement plan for the exclusive benefit of the employee
 15 beneficiaries. However, a department and a trustee may not establish
 16 or modify a retirement plan after June 30, 1989, without the approval
 17 of the county fiscal body which shall not reduce or diminish any
 18 benefits of the employee beneficiaries set forth in any retirement plan
 19 that was in effect on January 1, 1989.

20 (b) The normal retirement age may be earlier but not later than the
 21 age of seventy (70). However, the sheriff may retire an employee who
 22 is otherwise eligible for retirement if the board finds that the employee
 23 is not physically or mentally capable of performing the employee's
 24 duties.

25 (c) Joint contributions shall be made to the trust fund:

- 26 (1) either by:
 27 (A) the department through a general appropriation provided
 28 to the department;
 29 (B) a line item appropriation directly to the trust fund; or
 30 (C) both; and

31 (2) by an employee beneficiary through authorized monthly
 32 deductions from the employee beneficiary's salary or wages.
 33 However, the employer may pay all or a part of the contribution
 34 for the employee beneficiary.

35 Contributions through an appropriation are not required for plans
 36 established or modifications adopted after June 30, 1989, unless the
 37 establishment or modification is approved by the county fiscal body.

38 (d) For a county not having a consolidated city, the monthly
 39 deductions from an employee beneficiary's wages for the trust fund
 40 may not exceed six percent (6%) of the employee beneficiary's average
 41 monthly wages. For a county having a consolidated city, the monthly
 42 deductions from an employee beneficiary's wages for the trust fund
 43 may not exceed seven percent (7%) of the employee beneficiary's
 44 average monthly wages.

45 (e) The minimum annual contribution by the department must be
 46 sufficient, as determined by the pension engineers, to prevent
 47 deterioration in the actuarial status of the trust fund during that year. If
 48 the department fails to make minimum contributions for three (3)
 49 successive years, the pension trust terminates and the trust fund shall
 50 be liquidated.

51 (f) If during liquidation all expenses of the pension trust are paid,

1 adequate provision must be made for continuing pension payments to
2 retired persons. Each employee beneficiary is entitled to receive the net
3 amount paid into the trust fund from the employee beneficiary's wages,
4 and any remaining sum shall be equitably divided among employee
5 beneficiaries in proportion to the net amount paid from their wages into
6 the trust fund.

7 (g) If a person ceases to be an employee beneficiary because of
8 death, disability, unemployment, retirement, or other reason, the
9 person, the person's beneficiary, or the person's estate is entitled to
10 receive at least the net amount paid into the trust fund from the person's
11 wages, either in a lump sum or monthly installments not less than the
12 person's pension amount.

13 (h) If an employee beneficiary is retired for old age, the employee
14 beneficiary is entitled to receive a monthly income in the proper
15 amount of the employee beneficiary's pension during the employee
16 beneficiary's lifetime.

17 (i) To be entitled to the full amount of the employee beneficiary's
18 pension classification, an employee beneficiary must have contributed
19 at least twenty (20) years of service to the department before
20 retirement. Otherwise, the employee beneficiary is entitled to receive
21 a pension proportional to the length of the employee beneficiary's
22 service.

23 (j) This subsection does not apply to a county that adopts an
24 ordinance under section 12.1 of this chapter. For an employee
25 beneficiary who retires before January 1, 1985, a monthly pension may
26 not exceed by more than twenty dollars (\$20) one-half (1/2) the amount
27 of the average monthly wage received during the highest paid five (5)
28 years before retirement. However, in counties where the fiscal body
29 approves the increases, the maximum monthly pension for an employee
30 beneficiary who retires after December 31, 1984, may be increased by
31 no more or no less than two percent (2%) of that average monthly wage
32 for each year of service over twenty (20) years to a maximum of
33 seventy-four percent (74%) of that average monthly wage plus twenty
34 dollars (\$20). For the purposes of determining the amount of an
35 increase in the maximum monthly pension approved by the fiscal body
36 for an employee beneficiary who retires after December 31, 1984, the
37 fiscal body may determine that the employee beneficiary's years of
38 service include the years of service with the sheriff's department that
39 occurred before the effective date of the pension trust. For an employee
40 beneficiary who retires after June 30, 1996, the average monthly wage
41 used to determine the employee beneficiary's pension benefits may not
42 exceed the monthly minimum salary that a full-time prosecuting
43 attorney was entitled to be paid by the state at the time the employee
44 beneficiary retires.

45 (k) The trust fund may not be commingled with other funds, except
46 as provided in this chapter, and may be invested only in accordance
47 with statutes for investment of trust funds, including other investments
48 that are specifically designated in the trust agreement.

49 (l) The trustee receives and holds as trustee all money paid to it as
50 trustee by the department, the employee beneficiaries, or by other
51 persons for the uses stated in the trust agreement.

1 (m) The trustee shall engage pension engineers to supervise and
 2 assist in the technical operation of the pension trust in order that there
 3 is no deterioration in the actuarial status of the plan.

4 (n) Within ninety (90) days after the close of each fiscal year, the
 5 trustee, with the aid of the pension engineers, shall prepare and file an
 6 annual report with the department. ~~and the state insurance department.~~
 7 The report must include the following:

8 (1) Schedule 1. Receipts and disbursements.

9 (2) Schedule 2. Assets of the pension trust listing investments by
 10 book value and current market value as of the end of the fiscal
 11 year.

12 (3) Schedule 3. List of terminations, showing the cause and
 13 amount of refund.

14 (4) Schedule 4. The application of actuarially computed "reserve
 15 factors" to the payroll data properly classified for the purpose of
 16 computing the reserve liability of the trust fund as of the end of
 17 the fiscal year.

18 (5) Schedule 5. The application of actuarially computed "current
 19 liability factors" to the payroll data properly classified for the
 20 purpose of computing the liability of the trust fund as of the end
 21 of the fiscal year.

22 (o) No part of the corpus or income of the trust fund may be used or
 23 diverted to any purpose other than the exclusive benefit of the members
 24 and the beneficiaries of the members.

25 SECTION 47. IC 16-39-9-3 IS REPEALED [EFFECTIVE JULY 1,
 26 2007].

27 SECTION 48. [EFFECTIVE JULY 1, 2007] **(a) As used in this**
 28 **SECTION, "commissioner" refers to the insurance commissioner**
 29 **appointed under IC 27-1-1-2.**

30 **(b) As used in this SECTION, "committee" refers to the interim**
 31 **study committee to define "health insurance" established by**
 32 **subsection (c).**

33 **(c) There is established the interim study committee to define**
 34 **"health insurance". The committee shall only study and make**
 35 **recommendations to the general assembly concerning the manner**
 36 **in which accident and sickness insurance policies, self-insured**
 37 **plans, and health maintenance organization contracts that provide**
 38 **coverage for health care services are defined in the Indiana Code.**

39 **(d) The committee consists of the following members:**

40 **(1) Four (4) members of the house of representatives, to be**
 41 **appointed by the speaker of the house of representatives, not**
 42 **more than two (2) of whom may represent the same political**
 43 **party.**

44 **(2) Four (4) members of the senate, to be appointed by the**
 45 **president pro tempore of the senate, not more than two (2) of**
 46 **whom may represent the same political party.**

47 **(e) The committee shall operate under the policies governing**
 48 **study committees adopted by the legislative council.**

49 **(f) The affirmative votes of a majority of the members**
 50 **appointed to the committee are required for the committee to take**
 51 **action on any measure, including final reports.**

1 **(g) The committee shall submit a final report to the legislative**
2 **council not later than October 31, 2007.**

3 **(h) This SECTION expires December 31, 2007.**

4 **SECTION 49. [EFFECTIVE UPON PASSAGE] (a) As used in this**
5 **SECTION, "office" refers to the office of Medicaid policy and**
6 **planning established by IC 12-8-6-1.**

7 **(b) As used in this SECTION, "program" refers to the health**
8 **care management program established under subsection (d).**

9 **(c) As used in this SECTION, "recipient" means a Medicaid**
10 **recipient under IC 12-15.**

11 **(d) The office may work with one (1) or more health care**
12 **providers to establish and implement a demonstration project for**
13 **a health care management program under which the health care**
14 **providers provide health care services to recipients. If a**
15 **demonstration project is established and implemented, the**
16 **program must allow the office to do the following:**

17 **(1) Offer to recipients who currently receive health care**
18 **services from the health care providers the opportunity to**
19 **continue to receive Medicaid services provided solely by the**
20 **health care providers as part of the demonstration project.**
21 **The offer must be extended to a number of recipients that is**
22 **sufficiently large to result in a percentage of recipients**
23 **accepting the offer to provide meaningful data to guide the**
24 **establishment and implementation of the program under**
25 **subdivision (2). A recipient is not required to participate in**
26 **the demonstration project.**

27 **(2) Establish and implement a program of health care**
28 **management modeled on the United States Department of**
29 **Veterans Affairs Quality Enhancement Research Initiative,**
30 **including use of payment incentives for:**

31 **(A) individual health care providers; and**

32 **(B) administrators;**

33 **of the health care providers with which the office works under**
34 **this SECTION to reward the achievement of objectives**
35 **established for the program.**

36 **(e) The office and the health care providers described in**
37 **subsection (d) shall study the impact of implementing the program**
38 **under subsection (d)(2), including the impact the program has on**
39 **the:**

40 **(1) quality; and**

41 **(2) cost;**

42 **of health care provided to recipients.**

43 **(f) The office shall consult with the Regenstrief Institute for**
44 **Health Care or a comparable institution in developing,**
45 **implementing, and studying the program.**

46 **(g) The office shall apply to the United States Department of**
47 **Health and Human Services for any amendment to the state**
48 **Medicaid plan or demonstration waiver that is needed to**
49 **implement this SECTION. A health care provider described in**
50 **subsection (d) shall assist the office in requesting the amendment**
51 **or demonstration waiver and, if the amendment or waiver is**

1 approved, establishing and implementing the amendment or
2 waiver.

3 (h) The office may not implement the amendment or waiver
4 until the office files an affidavit with the governor attesting that the
5 amendment or waiver applied for under this SECTION is in effect.
6 The office shall file the affidavit under this subsection not more
7 than five (5) days after the office is notified that the amendment or
8 waiver is approved.

9 (i) If the office receives approval for the amendment or waiver
10 under this SECTION from the United States Department of Health
11 and Human Services and the governor receives the affidavit filed
12 under subsection (h), the office shall implement the amendment or
13 waiver not more than sixty (60) days after the governor receives
14 the affidavit.

15 (j) The office may adopt rules under IC 4-22-2 to implement this
16 SECTION.

17 (k) The office shall, before July 1 of each year, report to the
18 legislative council in an electronic format under IC 5-14-6
19 concerning a demonstration project established and implemented
20 under this SECTION.

21 (l) Notwithstanding subsections (d) through (k), if the office
22 determines that establishing and implementing a demonstration
23 project under this SECTION is not feasible, the office shall report
24 the determination of infeasibility to the legislative council in an
25 electronic format under IC 5-14-6 not later than June 30, 2008.

26 (m) This SECTION expires January 1, 2013.

27 SECTION 50. [EFFECTIVE UPON PASSAGE] (a) As used in this
28 SECTION, "insurer" includes the following:

29 (1) An insurer (as defined in IC 27-8-11-1).

30 (2) An administrator licensed under IC 27-1-25.

31 (3) A health maintenance organization (as defined in
32 IC 27-13-1-19).

33 (4) A person that pays or administers claims on behalf of an
34 insurer or a health maintenance organization.

35 (b) As used in this SECTION, "office" refers to the office of
36 Medicaid policy and planning established by IC 12-8-6-1.

37 (c) As used in this SECTION, "small employer" has the
38 meaning set forth in IC 27-8-15-14.

39 (d) Before June 1, 2008, the office may develop, with one (1) or
40 more organizations that provide health care services, a pilot
41 project through which small employers that are unable to afford
42 to offer health care coverage for employees of the small employers
43 may obtain access to affordable health care coverage for the
44 employees.

45 (e) The office may adopt rules under IC 4-22-2 to implement this
46 SECTION.

47 (f) If the pilot project results in the availability of health care
48 coverage to small employer groups through the pilot project at a
49 premium rate that is at least twenty percent (20%) less than a
50 comparable health benefit plan available to small employer groups
51 in Indiana, an insurer may not enter into or enforce an agreement

1 with the organization with which the pilot project is developed that
2 contains a provision that:

3 (1) prohibits, or grants the insurer an option to prohibit, the
4 organization from contracting with another insurer to accept
5 lower payment for health care services than the payment
6 specified in the agreement;

7 (2) requires, or grants the insurer an option to require, the
8 organization to accept a lower payment from the insurer if the
9 organization agrees with another insurer to accept lower
10 payment for health care services;

11 (3) requires, or grants the insurer an option to require,
12 termination, or renegotiation of the agreement if the
13 organization agrees with another insurer to accept lower
14 payment for health care services; or

15 (4) requires the organization to disclose the organization's
16 reimbursement rates under contracts with other insurers.

17 (g) The office shall report to the legislative council in an
18 electronic format under IC 5-14-6 concerning the development and
19 implementation of a pilot project under this SECTION before
20 December 1, 2008.

21 (h) Notwithstanding subsections (e) through (g), if the office
22 determines that developing a pilot project under this SECTION is
23 not feasible, the office shall report the determination of infeasibility
24 to the legislative council in an electronic format under IC 5-14-6
25 not later than December 1, 2008.

26 (i) This SECTION expires December 31, 2013.

27 SECTION 51. An emergency is declared for this act.

(Reference is to EHB 1452 as reprinted April 3, 2007.)

Conference Committee Report
on
Engrossed House Bill 1452

Signed by:

Representative Klinker
Chairperson

Senator Paul

Representative Ripley

Senator Simpson

House Conferees

Senate Conferees