

Adopted Rejected

# COMMITTEE REPORT

YES: 9  
NO: 0

## MR. SPEAKER:

Your Committee on Insurance, to which was referred House Bill 1284, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 27-1-3.1-9 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) Upon
- 5 determining that an examination should be conducted, the
- 6 commissioner or the commissioner's designee shall issue an
- 7 examination warrant appointing one or more examiners to perform the
- 8 examination and instructing them as to the scope of the examination.
- 9 In conducting the examination, the examiner shall observe those
- 10 guidelines and procedures set forth in the NAIC examiner's handbook.
- 11 The commissioner may also employ such other guidelines or
- 12 procedures as the commissioner considers appropriate. **The**
- 13 **commissioner is not required to issue an examination warrant for**
- 14 **a data call.**
- 15 (b) Every company or person from whom information is sought, and

1 the officers, directors, and agents of the company or person, must  
2 provide to the examiners appointed under subsection (a) timely,  
3 convenient, and free access at all reasonable hours at its offices to all  
4 books, records, accounts, papers, documents, and any or all computer  
5 or other recordings relating to the property, assets, business, and affairs  
6 of the company being examined. The officers, directors, employees,  
7 and agents of the company or person must facilitate the examination  
8 and aid in the examination so far as it is in their power to do so. The  
9 refusal of any company, by its officers, directors, employees, or agents  
10 within the company's control, to submit to examination or to comply  
11 with any reasonable written request of the examiners, or the failure of  
12 any company to make a good faith effort to require compliance with  
13 such a request, is grounds for:

- 14 (1) suspension;
- 15 (2) refusal; or
- 16 (3) nonrenewal;

17 of any license or authority held by the company to engage in an  
18 insurance or other business subject to the commissioner's jurisdiction.  
19 The commissioner may proceed to suspend or revoke a license or  
20 authority upon the grounds set forth in this subsection under  
21 IC 27-1-3-10 or IC 27-1-3-19.

22 (c) The commissioner and the commissioner's examiners may issue  
23 subpoenas, administer oaths, and examine under oath any person as to  
24 any matter pertinent to an examination conducted under this chapter.  
25 Upon the failure or refusal of any person to obey a subpoena, the  
26 commissioner may petition a court of competent jurisdiction, and upon  
27 proper showing, the court may enter any order compelling the witness  
28 to appear and testify or produce documentary evidence. Failure to obey  
29 the court order is punishable as contempt of court.

30 (d) When making an examination under this chapter, the  
31 commissioner may retain attorneys, appraisers, independent actuaries,  
32 independent certified public accountants, or other professionals and  
33 specialists as examiners. The cost of retaining these examiners shall be  
34 borne by the company that is the subject of the examination.

35 (e) This chapter does not limit the commissioner's authority to  
36 terminate or suspend any examination in order to pursue other legal or  
37 regulatory action pursuant to this title. Findings of fact and conclusions  
38 made pursuant to any examination shall be prima facie evidence in any

1 legal or regulatory action."

2 Page 1, line 3, delete "subsection (b)," and insert "**subsections (b)**  
3 **and (c),**".

4 Page 1, after line 17, begin a new paragraph and insert:

5 "**(c) An insurer shall not issue the following on a group basis:**

6 **(1) A personal policy that insures loss of or damage to:**

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

10 **(B) personal property:**

11 **(i) in which the named insured has an insurable interest;**  
12 **and**

13 **(ii) that is used within a residential dwelling for personal,**  
14 **family, or household purposes.**

15 **(2) A personal policy that provides any type of insurance**  
16 **described in IC 27-1-5-1, Class 2(f).**

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

19 SECTION 3. IC 27-1-12-40 IS AMENDED TO READ AS  
20 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 40. Except for a policy  
21 that conforms to the description in section 37(2) of this chapter, a  
22 group life insurance policy may be extended to insure the employees  
23 or members, or any class or classes of employees or members, against  
24 loss due to the death of their spouses and dependent children, subject  
25 to the following:

26 (1) The premium for the insurance must be paid either from funds  
27 contributed by the employer, union, association, or other person  
28 to whom the policy has been issued, from funds contributed by  
29 the covered persons, or from both sources of funds. Except as  
30 provided in subdivision (2), a policy on which no part of the  
31 premium for the spouse's and dependent child's coverage is to be  
32 derived from funds contributed by the covered persons must  
33 insure all eligible employees or members, or any class or classes  
34 of eligible employees or members, with respect to their spouses  
35 and dependent children.

36 (2) An insurer may exclude or limit the coverage on any spouse  
37 or dependent child as to whom evidence of individual insurability  
38 is not satisfactory to the insurer.

1           ~~(3) The amounts of insurance for any covered spouse or~~  
2           ~~dependent child under the policy may not exceed fifty percent~~  
3           ~~(50%) of the amount of insurance for which the employee or~~  
4           ~~member is insured.~~

5           SECTION 4. IC 27-8-5-1.5, AS ADDED BY P.L.173-2007,  
6           SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
7           JULY 1, 2008]: Sec. 1.5. (a) This section applies to a policy of accident  
8           and sickness insurance issued on an individual, a group, a franchise, or  
9           a blanket basis, including a policy issued by an assessment company or  
10          a fraternal benefit society.

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

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

15                 (1) that fails to provide key information, including state specific  
16                 information, regarding a product, policy, or rate; or

17                 (2) that demonstrates an insufficient understanding of applicable  
18                 legal requirements.

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

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

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

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

34          (h) The commissioner shall do the following:

35                 (1) Create a document containing a list of all product filing  
36                 requirements for each type of insurance, with appropriate  
37                 citations to the law, administrative rule, or bulletin that specifies  
38                 the requirement, including the citation for the type of insurance

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

1 the commissioner's written notice of deficiency or disapproval. If  
 2 a policy form is not resubmitted within thirty (30) days after  
 3 receipt of the written notice, the commissioner's determination  
 4 regarding the policy form is final.

5 (4) The commissioner shall review a policy form filing  
 6 resubmitted under subdivision (3) and, not more than thirty (30)  
 7 days after the commissioner receives the resubmission:

- 8 (A) approve the resubmitted policy form; or
- 9 (B) provide written notice that the commissioner disapproves  
 10 the resubmitted policy form.

11 A written notice of disapproval provided by the commissioner  
 12 under clause (B) must be based only on the requirements set forth  
 13 in the document described in subsection (h), must cite the specific  
 14 requirements not met by the filing, and must state the reasons for  
 15 the commissioner's determination in detail. The commissioner's  
 16 approval or disapproval of a resubmitted policy form under this  
 17 subdivision is final, except that the commissioner may allow the  
 18 filer to resubmit a further revised policy form if the filer, in the  
 19 filer's resubmission under subdivision (3), introduced new  
 20 provisions or materially modified a substantive provision of the  
 21 policy form. If the commissioner allows a filer to resubmit a  
 22 further revised policy form under this subdivision, the filer must  
 23 resubmit the further revised policy form not more than thirty (30)  
 24 days after the filer receives notice under clause (B), and the  
 25 commissioner shall issue a final determination on the further  
 26 revised policy form not more than thirty (30) days after the  
 27 commissioner receives the further revised policy form.

28 (5) If the commissioner disapproves a policy form filing under  
 29 this subsection, the commissioner shall notify the filer, in writing,  
 30 of the filer's right to a hearing as described in subsection (m). ~~The~~  
 31 **A disapproved policy form filing may not be disapproved used**  
 32 **for a policy of accident and sickness insurance** unless it  
 33 contains a material error or omission. ~~At any the disapproval is~~  
 34 **overturned in a hearing** conducted under this subsection. ~~the~~  
 35 **commissioner must prove that the policy form contains a material**  
 36 **error or omission.**

37 **(6) If the commissioner does not take any action on a policy**  
 38 **form that is filed or resubmitted under this subsection in**

1           **accordance with any applicable period specified in subdivision**  
 2           **(2), (3), or (4), the policy form filing is considered to be**  
 3           **approved.**

4           (j) Except as provided in this subsection, the commissioner may not  
 5           disapprove a policy form resubmitted under subsection (i)(3) or (i)(4)  
 6           for a reason other than a reason specified in the original notice of  
 7           determination under subsection (i)(2)(B). The commissioner may  
 8           disapprove a resubmitted policy form for a reason other than a reason  
 9           specified in the original notice of determination under subsection (i)(2)  
 10          if:

- 11           (1) the filer has introduced a new provision in the resubmission;
- 12           (2) the filer has materially modified a substantive provision of the
- 13           policy form in the resubmission;
- 14           (3) there has been a change in requirements applying to the policy
- 15           form; or
- 16           (4) there has been reviewer error and the written disapproval fails
- 17           to state a specific requirement with which the policy form does
- 18           not comply.

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

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

- 22           (1) the benefits provided under the policy form are not reasonable
- 23           in relation to the premium charged; or
- 24           (2) the policy form contains provisions that are unjust, unfair,
- 25           inequitable, misleading, or deceptive, or that encourage
- 26           misrepresentation of the policy.

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

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

- 32           (1) retroactively disapprove the policy form; or
- 33           (2) examine the filer of the policy form during a routine or
- 34           targeted market conduct examination for compliance with a policy
- 35           form filing requirement that was not in existence at the time the
- 36           policy form was filed.

37          SECTION 5. IC 27-8-5-2, AS AMENDED BY P.L.218-2007,  
 38          SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

1 JULY 1, 2008]: Sec. 2. (a) No individual policy of accident and  
2 sickness insurance shall be delivered or issued for delivery to any  
3 person in this state unless it complies with each of the following:

4 (1) The entire money and other considerations for the policy are  
5 expressed in the policy.

6 (2) The time at which the insurance takes effect and terminates is  
7 expressed in the policy.

8 (3) The policy purports to insure only one (1) person, except that  
9 a policy must insure, originally or by subsequent amendment,  
10 upon the application of any member of a family who shall be  
11 deemed the policyholder and who is at least eighteen (18) years  
12 of age, any two (2) or more eligible members of that family,  
13 including husband, wife, dependent children, or any children who  
14 are less than twenty-four (24) years of age, and any other person  
15 dependent upon the policyholder.

16 (4) The style, arrangement, and overall appearance of the policy  
17 give no undue prominence to any portion of the text, and unless  
18 every printed portion of the text of the policy and of any  
19 endorsements or attached papers is plainly printed in lightface  
20 type of a style in general use, the size of which shall be uniform  
21 and not less than ten point with a lower-case unspaced alphabet  
22 length not less than one hundred and twenty point (the "text" shall  
23 include all printed matter except the name and address of the  
24 insurer, name or title of the policy, the brief description if any,  
25 and captions and subcaptions).

26 (5) The exceptions and reductions of indemnity are set forth in the  
27 policy and, except those which are set forth in section 3 of this  
28 chapter, are printed, at the insurer's option, either included with  
29 the benefit provision to which they apply, or under an appropriate  
30 caption such as "EXCEPTIONS", or "EXCEPTIONS AND  
31 REDUCTIONS", provided that if an exception or reduction  
32 specifically applies only to a particular benefit of the policy, a  
33 statement of such exception or reduction shall be included with  
34 the benefit provision to which it applies.

35 (6) Each such form of the policy, including riders and  
36 endorsements, shall be identified by a form number in the lower  
37 left-hand corner of the first page of the policy.

38 (7) The policy contains no provision purporting to make any

1 portion of the charter, rules, constitution, or bylaws of the insurer  
 2 a part of the policy unless such portion is set forth in full in the  
 3 policy, except in the case of the incorporation of or reference to  
 4 a statement of rates or classification of risks, or short-rate table  
 5 filed with the commissioner.

6 (8) If an individual accident and sickness insurance policy or  
 7 hospital service plan contract or medical service plan contract  
 8 provides that hospital or medical expense coverage of a  
 9 dependent child terminates upon attainment of the limiting age for  
 10 dependent children specified in such policy or contract, the policy  
 11 or contract must also provide that attainment of such limiting age  
 12 does not operate to terminate the hospital and medical coverage  
 13 of such child while the child is and continues to be both:

- 14 (A) incapable of self-sustaining employment by reason of
- 15 mental retardation or mental or physical disability; and
- 16 (B) chiefly dependent upon the policyholder for support and
- 17 maintenance.

18 Proof of such incapacity and dependency must be furnished to the  
 19 insurer by the policyholder within thirty-one (31) days of the  
 20 child's attainment of the limiting age. The insurer may require at  
 21 reasonable intervals during the two (2) years following the child's  
 22 attainment of the limiting age subsequent proof of the child's  
 23 disability and dependency. After such two (2) year period, the  
 24 insurer may require subsequent proof not more than once each  
 25 year. The foregoing provision shall not require an insurer to  
 26 insure a dependent who is a child who has mental retardation or  
 27 a mental or physical disability where such dependent does not  
 28 satisfy the conditions of the policy provisions as may be stated in  
 29 the policy or contract required for coverage thereunder to take  
 30 effect. In any such case the terms of the policy or contract shall  
 31 apply with regard to the coverage or exclusion from coverage of  
 32 such dependent. This subsection applies only to policies or  
 33 contracts delivered or issued for delivery in this state more than  
 34 one hundred twenty (120) days after August 18, 1969.

35 (b) If any policy is issued by an insurer domiciled in this state for  
 36 delivery to a person residing in another state, and if the official having  
 37 responsibility for the administration of the insurance laws of such other  
 38 state shall have advised the commissioner that any such policy is not

1 subject to approval or disapproval by such official, the commissioner  
2 may by ruling require that such policy meet the standards set forth in  
3 subsection (a) and in section 3 of this chapter.

4 (c) An insurer may issue a policy described in this section in  
5 electronic or paper form. However, the insurer shall:

6 (1) inform the insured that the insured may request the policy in  
7 paper form; and

8 (2) issue the policy in paper form upon the request of the insured.

9 **(d) An insurer shall, for purposes of coverage of a child who is**  
10 **less than twenty-four (24) years of age and not dependent on the**  
11 **policyholder as described in subsection (a)(3), do all of the**  
12 **following:**

13 **(1) Provide to each policyholder at the time of application,**  
14 **amendment, or renewal of a policy of accident and sickness**  
15 **insurance written notice that:**

16 **(A) is provided in a document that is separate from any**  
17 **other document provided to the policyholder; and**

18 **(B) clearly explains:**

19 **(i) that a child who is less than twenty-four (24) years of**  
20 **age and not dependent on the policyholder will be**  
21 **covered upon the request of the policyholder; and**

22 **(ii) the manner and form in which the policyholder must**  
23 **request the coverage.**

24 **(2) Allow at least thirty (30) days after a policyholder receives**  
25 **the notice required by subdivision (1) for the policyholder to**  
26 **make a request for the coverage.**

27 **(3) Immediately provide the coverage to the individual for**  
28 **whom a request for coverage is made, without any limitation**  
29 **or exclusion of coverage related to a preexisting condition.**

30 SECTION 6. IC 27-8-5-28, AS ADDED BY P.L.218-2007,  
31 SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
32 JULY 1, 2008]: Sec. 28. **(a)** A policy of accident and sickness  
33 insurance may not be issued, delivered, amended, or renewed unless  
34 the policy provides for coverage of a child of the policyholder or  
35 certificate holder, upon request of the policyholder or certificate holder,  
36 until the date that the child becomes twenty-four (24) years of age.

37 **(b) An insurer shall, for purposes of coverage of a child under**  
38 **subsection (a), do all of the following:**

- 1           **(1) Provide to each policyholder or certificate holder at the**
- 2           **time of application, amendment, or renewal of a policy of**
- 3           **accident and sickness insurance written notice that:**
- 4               **(A) is provided in a document that is separate from any**
- 5               **other document provided to the policyholder or certificate**
- 6               **holder; and**
- 7               **(B) clearly explains:**
- 8                   **(i) that a child who is less than twenty-four (24) years of**
- 9                   **age will be covered upon the request of the policyholder**
- 10                  **or certificate holder; and**
- 11                  **(ii) the manner and form in which the policyholder or**
- 12                  **certificate holder must request the coverage.**
- 13           **(2) Allow at least thirty (30) days after a policyholder or**
- 14           **certificate holder receives the notice required by subdivision**
- 15           **(1) for the policyholder or certificate holder to make a request**
- 16           **for the coverage.**
- 17           **(3) Immediately provide the coverage to the child for whom**
- 18           **a request for coverage is made, without any:**
- 19               **(A) limitation or exclusion of coverage related to a**
- 20               **preexisting condition; or**
- 21               **(B) requirement that the child:**
- 22                   **(i) wait for an open enrollment period; or**
- 23                   **(ii) be otherwise treated as a late enrollee (as defined in**
- 24                   **26 U.S.C. 9801(b)(3)).**

25           SECTION 7. IC 27-13-7-3, AS AMENDED BY P.L.218-2007,  
 26           SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 27           JULY 1, 2008]: Sec. 3. (a) A contract referred to in section 1 of this  
 28           chapter must clearly state the following:

- 29               (1) The name and address of the health maintenance organization.
- 30               (2) Eligibility requirements.
- 31               (3) Benefits and services within the service area.
- 32               (4) Emergency care benefits and services.
- 33               (5) Any out-of-area benefits and services.
- 34               (6) Copayments, deductibles, and other out-of-pocket costs.
- 35               (7) Limitations and exclusions.
- 36               (8) Enrollee termination provisions.
- 37               (9) Any enrollee reinstatement provisions.
- 38               (10) Claims procedures.

- 1 (11) Enrollee grievance procedures.
- 2 (12) Continuation of coverage provisions.
- 3 (13) Conversion provisions.
- 4 (14) Extension of benefit provisions.
- 5 (15) Coordination of benefit provisions.
- 6 (16) Any subrogation provisions.
- 7 (17) A description of the service area.
- 8 (18) The entire contract provisions.
- 9 (19) The term of the coverage provided by the contract.
- 10 (20) Any right of cancellation of the group or individual contract
- 11 holder.
- 12 (21) Right of renewal provisions.
- 13 (22) Provisions regarding reinstatement of a group or an
- 14 individual contract holder.
- 15 (23) Grace period provisions.
- 16 (24) A provision on conformity with state law.
- 17 (25) A provision or provisions that comply with the:
- 18 (A) guaranteed renewability; and
- 19 (B) group portability;
- 20 requirements of the federal Health Insurance Portability and
- 21 Accountability Act of 1996 (26 U.S.C. 9801(c)(1)).
- 22 (26) That the contract provides, upon request of the subscriber,
- 23 coverage for a child of the subscriber until the date the child
- 24 becomes twenty-four (24) years of age.
- 25 (b) For purposes of subsection (a), an evidence of coverage which
- 26 is filed with a contract may be considered part of the contract.
- 27 **(c) A health maintenance organization shall, for purposes of**
- 28 **coverage of a child as described in subsection (a)(26), do all of the**
- 29 **following:**
- 30 **(1) Provide to each subscriber at the time of application,**
- 31 **amendment, or renewal of an individual contract or a group**
- 32 **contract written notice that:**
- 33 **(A) is provided in a document that is separate from any**
- 34 **other document provided to the subscriber; and**
- 35 **(B) clearly explains:**
- 36 **(i) that a child who is less than twenty-four (24) years of**
- 37 **age will be covered upon the request of the subscriber;**
- 38 **and**

1                   (ii) the manner and form in which the subscriber must  
2                   request the coverage.

3                   (2) Allow at least thirty (30) days after a subscriber receives  
4                   the notice required by subdivision (1) for the subscriber to  
5                   make a request for the coverage.

6                   (3) Immediately provide the coverage to the child for whom  
7                   a request for coverage is made, without any:

8                   (A) limitation or exclusion of coverage related to a  
9                   preexisting condition; or

10                  (B) requirement that the child:

11                   (i) wait for an open enrollment period; or

12                   (ii) be otherwise treated as a late enrollee (as defined in  
13                   26 U.S.C. 9801(b)(3))."

14                  Renumber all SECTIONS consecutively.

(Reference is to HB 1284 as introduced.)

**and when so amended that said bill do pass.**

\_\_\_\_\_  
Representative Fry