

**CONFERENCE COMMITTEE REPORT
DIGEST FOR EHB 1379**

Citations Affected: IC 27-1-12-44; IC 27-4-1-4; IC 27-8-19.8.

Synopsis: Stranger originated life insurance. Defines "stranger originated life insurance". Prohibits: (1) an insurer from alleging stranger originated life insurance as a basis for denial of payment of life insurance policy proceeds; and (2) the promotion of the purchase of a life insurance policy in connection with stranger originated life insurance. Specifies that an insurer may seek to void a life insurance policy at any time for lack of insurable interest at the time the policy was issued. **(This conference committee report: (a) specifies that an insurer may seek to void a life insurance policy at any time for lack of insurable interest at the time the policy was issued; and (b) makes a technical change to avoid a conflict with HEA 1137-2008.)**

Effective: July 1, 2008.

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. 1379 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 27-1-12-44 IS ADDED TO THE INDIANA CODE
- 3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 4 1, 2008]: **Sec. 44. (a) This section applies to a life insurance policy**
- 5 **that is issued after June 30, 2008.**
- 6 **(b) Notwithstanding any other law, an insurer shall not, after a**
- 7 **life insurance policy has been in force for two (2) years after the**
- 8 **life insurance policy's date of issue, allege that the life insurance**
- 9 **policy was issued in connection with stranger originated life**
- 10 **insurance (as defined in IC 27-8-19.8-7.8) as a basis to deny**
- 11 **payment of the proceeds of the life insurance policy. However, an**
- 12 **insurer may seek to void a life insurance policy at any time for lack**
- 13 **of insurable interest at the time the life insurance policy was issued.**
- 14 SECTION 2. IC 27-4-1-4, AS AMENDED BY HEA 1137-2008,
- 15 SECTION 211, IS AMENDED TO READ AS FOLLOWS
- 16 [EFFECTIVE JULY 1, 2008]: Sec. (a) The following are hereby
- 17 defined as unfair methods of competition and unfair and deceptive acts
- 18 and practices in the business of insurance:
- 19 (1) Making, issuing, circulating, or causing to be made, issued, or
- 20 circulated, any estimate, illustration, circular, or statement:
- 21 (A) misrepresenting the terms of any policy issued or to be
- 22 issued or the benefits or advantages promised thereby or the

- 1 dividends or share of the surplus to be received thereon;
2 (B) making any false or misleading statement as to the
3 dividends or share of surplus previously paid on similar
4 policies;
5 (C) making any misleading representation or any
6 misrepresentation as to the financial condition of any insurer,
7 or as to the legal reserve system upon which any life insurer
8 operates;
9 (D) using any name or title of any policy or class of policies
10 misrepresenting the true nature thereof; or
11 (E) making any misrepresentation to any policyholder insured
12 in any company for the purpose of inducing or tending to
13 induce such policyholder to lapse, forfeit, or surrender the
14 policyholder's insurance.
- 15 (2) Making, publishing, disseminating, circulating, or placing
16 before the public, or causing, directly or indirectly, to be made,
17 published, disseminated, circulated, or placed before the public,
18 in a newspaper, magazine, or other publication, or in the form of
19 a notice, circular, pamphlet, letter, or poster, or over any radio or
20 television station, or in any other way, an advertisement,
21 announcement, or statement containing any assertion,
22 representation, or statement with respect to any person in the
23 conduct of the person's insurance business, which is untrue,
24 deceptive, or misleading.
- 25 (3) Making, publishing, disseminating, or circulating, directly or
26 indirectly, or aiding, abetting, or encouraging the making,
27 publishing, disseminating, or circulating of any oral or written
28 statement or any pamphlet, circular, article, or literature which is
29 false, or maliciously critical of or derogatory to the financial
30 condition of an insurer, and which is calculated to injure any
31 person engaged in the business of insurance.
- 32 (4) Entering into any agreement to commit, or individually or by
33 a concerted action committing any act of boycott, coercion, or
34 intimidation resulting or tending to result in unreasonable
35 restraint of, or a monopoly in, the business of insurance.
- 36 (5) Filing with any supervisory or other public official, or making,
37 publishing, disseminating, circulating, or delivering to any person,
38 or placing before the public, or causing directly or indirectly, to
39 be made, published, disseminated, circulated, delivered to any
40 person, or placed before the public, any false statement of
41 financial condition of an insurer with intent to deceive. Making
42 any false entry in any book, report, or statement of any insurer
43 with intent to deceive any agent or examiner lawfully appointed
44 to examine into its condition or into any of its affairs, or any
45 public official to which such insurer is required by law to report,
46 or which has authority by law to examine into its condition or into
47 any of its affairs, or, with like intent, willfully omitting to make a
48 true entry of any material fact pertaining to the business of such
49 insurer in any book, report, or statement of such insurer.
- 50 (6) Issuing or delivering or permitting agents, officers, or
51 employees to issue or deliver, agency company stock or other

1 capital stock, or benefit certificates or shares in any common law
 2 corporation, or securities or any special or advisory board
 3 contracts or other contracts of any kind promising returns and
 4 profits as an inducement to insurance.

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

6 (A) Unfair discrimination between individuals of the same
 7 class and equal expectation of life in the rates or assessments
 8 charged for any contract of life insurance or of life annuity or
 9 in the dividends or other benefits payable thereon, or in any
 10 other of the terms and conditions of such contract; however, in
 11 determining the class, consideration may be given to the
 12 nature of the risk, plan of insurance, the actual or expected
 13 expense of conducting the business, or any other relevant
 14 factor.

15 (B) Unfair discrimination between individuals of the same
 16 class involving essentially the same hazards in the amount of
 17 premium, policy fees, assessments, or rates charged or made
 18 for any policy or contract of accident or health insurance or in
 19 the benefits payable thereunder, or in any of the terms or
 20 conditions of such contract, or in any other manner whatever;
 21 however, in determining the class, consideration may be given
 22 to the nature of the risk, the plan of insurance, the actual or
 23 expected expense of conducting the business, or any other
 24 relevant factor.

25 (C) Excessive or inadequate charges for premiums, policy
 26 fees, assessments, or rates, or making or permitting any unfair
 27 discrimination between persons of the same class involving
 28 essentially the same hazards, in the amount of premiums,
 29 policy fees, assessments, or rates charged or made for:

30 (i) policies or contracts of reinsurance or joint reinsurance,
 31 or abstract and title insurance;

32 (ii) policies or contracts of insurance against loss or damage
 33 to aircraft, or against liability arising out of the ownership,
 34 maintenance, or use of any aircraft, or of vessels or craft,
 35 their cargoes, marine builders' risks, marine protection and
 36 indemnity, or other risks commonly insured under marine,
 37 as distinguished from inland marine, insurance; or

38 (iii) policies or contracts of any other kind or kinds of
 39 insurance whatsoever.

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

48 (8) Except as otherwise expressly provided by law, knowingly
 49 permitting or offering to make or making any contract or policy
 50 of insurance of any kind or kinds whatsoever, including but not in
 51 limitation, life annuities, or agreement as to such contract or

1 policy other than as plainly expressed in such contract or policy
2 issued thereon, or paying or allowing, or giving or offering to pay,
3 allow, or give, directly or indirectly, as inducement to such
4 insurance, or annuity, any rebate of premiums payable on the
5 contract, or any special favor or advantage in the dividends,
6 savings, or other benefits thereon, or any valuable consideration
7 or inducement whatever not specified in the contract or policy; or
8 giving, or selling, or purchasing or offering to give, sell, or
9 purchase as inducement to such insurance or annuity or in
10 connection therewith, any stocks, bonds, or other securities of any
11 insurance company or other corporation, association, limited
12 liability company, or partnership, or any dividends, savings, or
13 profits accrued thereon, or anything of value whatsoever not
14 specified in the contract. Nothing in this subdivision and
15 subdivision (7) shall be construed as including within the
16 definition of discrimination or rebates any of the following
17 practices:

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

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

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

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

44 (9) Requiring, as a condition precedent to loaning money upon the
45 security of a mortgage upon real property, that the owner of the
46 property to whom the money is to be loaned negotiate any policy
47 of insurance covering such real property through a particular
48 insurance producer or broker or brokers. However, this
49 subdivision shall not prevent the exercise by any lender of the
50 lender's right to approve or disapprove of the insurance company
51 selected by the borrower to underwrite the insurance.

- 1 (10) Entering into any contract, combination in the form of a trust
2 or otherwise, or conspiracy in restraint of commerce in the
3 business of insurance.
- 4 (11) Monopolizing or attempting to monopolize or combining or
5 conspiring with any other person or persons to monopolize any
6 part of commerce in the business of insurance. However,
7 participation as a member, director, or officer in the activities of
8 any nonprofit organization of insurance producers or other
9 workers in the insurance business shall not be interpreted, in
10 itself, to constitute a combination in restraint of trade or as
11 combining to create a monopoly as provided in this subdivision
12 and subdivision (10). The enumeration in this chapter of specific
13 unfair methods of competition and unfair or deceptive acts and
14 practices in the business of insurance is not exclusive or
15 restrictive or intended to limit the powers of the commissioner or
16 department or of any court of review under section 8 of this
17 chapter.
- 18 (12) Requiring as a condition precedent to the sale of real or
19 personal property under any contract of sale, conditional sales
20 contract, or other similar instrument or upon the security of a
21 chattel mortgage, that the buyer of such property negotiate any
22 policy of insurance covering such property through a particular
23 insurance company, insurance producer, or broker or brokers.
24 However, this subdivision shall not prevent the exercise by any
25 seller of such property or the one making a loan thereon of the
26 right to approve or disapprove of the insurance company selected
27 by the buyer to underwrite the insurance.
- 28 (13) Issuing, offering, or participating in a plan to issue or offer,
29 any policy or certificate of insurance of any kind or character as
30 an inducement to the purchase of any property, real, personal, or
31 mixed, or services of any kind, where a charge to the insured is
32 not made for and on account of such policy or certificate of
33 insurance. However, this subdivision shall not apply to any of the
34 following:
- 35 (A) Insurance issued to credit unions or members of credit
36 unions in connection with the purchase of shares in such credit
37 unions.
- 38 (B) Insurance employed as a means of guaranteeing the
39 performance of goods and designed to benefit the purchasers
40 or users of such goods.
- 41 (C) Title insurance.
- 42 (D) Insurance written in connection with an indebtedness and
43 intended as a means of repaying such indebtedness in the
44 event of the death or disability of the insured.
- 45 (E) Insurance provided by or through motorists service clubs
46 or associations.
- 47 (F) Insurance that is provided to the purchaser or holder of an
48 air transportation ticket and that:
- 49 (i) insures against death or nonfatal injury that occurs during
50 the flight to which the ticket relates;
- 51 (ii) insures against personal injury or property damage that

- 1 occurs during travel to or from the airport in a common
 2 carrier immediately before or after the flight;
 3 (iii) insures against baggage loss during the flight to which
 4 the ticket relates; or
 5 (iv) insures against a flight cancellation to which the ticket
 6 relates.
- 7 (14) Refusing, because of the for-profit status of a hospital or
 8 medical facility, to make payments otherwise required to be made
 9 under a contract or policy of insurance for charges incurred by an
 10 insured in such a for-profit hospital or other for-profit medical
 11 facility licensed by the state department of health.
- 12 (15) Refusing to insure an individual, refusing to continue to issue
 13 insurance to an individual, limiting the amount, extent, or kind of
 14 coverage available to an individual, or charging an individual a
 15 different rate for the same coverage, solely because of that
 16 individual's blindness or partial blindness, except where the
 17 refusal, limitation, or rate differential is based on sound actuarial
 18 principles or is related to actual or reasonably anticipated
 19 experience.
- 20 (16) Committing or performing, with such frequency as to
 21 indicate a general practice, unfair claim settlement practices (as
 22 defined in section 4.5 of this chapter).
- 23 (17) Between policy renewal dates, unilaterally canceling an
 24 individual's coverage under an individual or group health
 25 insurance policy solely because of the individual's medical or
 26 physical condition.
- 27 (18) Using a policy form or rider that would permit a cancellation
 28 of coverage as described in subdivision (17).
- 29 (19) Violating IC 27-1-22-25, IC 27-1-22-26, or IC 27-1-22-26.1
 30 concerning motor vehicle insurance rates.
- 31 (20) Violating IC 27-8-21-2 concerning advertisements referring
 32 to interest rate guarantees.
- 33 (21) Violating IC 27-8-24.3 concerning insurance and health plan
 34 coverage for victims of abuse.
- 35 (22) Violating IC 27-8-26 concerning genetic screening or testing.
- 36 (23) Violating IC 27-1-15.6-3(b) concerning licensure of
 37 insurance producers.
- 38 (24) Violating IC 27-1-38 concerning depository institutions.
- 39 (25) Violating IC 27-8-28-17(c) or IC 27-13-10-8(c) concerning
 40 the resolution of an appealed grievance decision.
- 41 (26) Violating IC 27-8-5-2.5(e) through IC 27-8-5-2.5(j) (expired
 42 July 1, 2007, and removed) or IC 27-8-5-19.2 (expired July 1,
 43 2007, and repealed).
- 44 (27) Violating IC 27-2-21 concerning use of credit information.
- 45 (28) Violating IC 27-4-9-3 concerning recommendations to
 46 consumers.
- 47 (29) Engaging in dishonest or predatory insurance practices in
 48 marketing or sales of insurance to members of the United States
 49 Armed Forces as:
- 50 (A) described in the federal Military Personnel Financial
 51 Services Protection Act, P.L.109-290; or

1 (B) defined in rules adopted under subsection (b).
 2 **(30) Violating IC 27-8-19.8-20.1 concerning stranger**
 3 **originated life insurance.**

4 (b) Except with respect to federal insurance programs under
 5 Subchapter III of Chapter 19 of Title 38 of the United States Code, the
 6 commissioner may, consistent with the federal Military Personnel
 7 Financial Services Protection Act (P.L.109-290), adopt rules under
 8 IC 4-22-2 to:

- 9 (1) define; and
 10 (2) while the members are on a United States military installation
 11 or elsewhere in Indiana, protect members of the United States
 12 Armed Forces from;
 13 dishonest or predatory insurance practices.

14 SECTION 3. IC 27-8-19.8-7.8 IS ADDED TO THE INDIANA
 15 CODE AS A NEW SECTION TO READ AS FOLLOWS
 16 [EFFECTIVE JULY 1, 2008]: **Sec. 7.8. (a) As used in this chapter,**
 17 **"stranger originated life insurance" means a practice or plan to**
 18 **initiate a life insurance policy for the benefit of a third party**
 19 **investor who, at the time the life insurance policy is originated, has**
 20 **no insurable interest in the insured.**

- 21 **(b) The term includes the following:**
 22 **(1) An arrangement under which, at the time of life insurance**
 23 **policy inception:**
 24 **(A) a life insurance policy is purchased with resources or**
 25 **guarantees from or through a person that is not legally**
 26 **permitted to initiate the life insurance policy; and**
 27 **(B) a written or verbal arrangement or agreement is made**
 28 **to transfer the ownership of the life insurance policy or**
 29 **policy benefits to a third party.**
 30 **(2) A trust that is:**
 31 **(A) created to give an appearance of the existence of an**
 32 **insurable interest; and**
 33 **(B) used to initiate a life insurance policy for an investor.**

34 SECTION 4. IC 27-8-19.8-20.1 IS ADDED TO THE INDIANA
 35 CODE AS A NEW SECTION TO READ AS FOLLOWS
 36 [EFFECTIVE JULY 1, 2008]: **Sec. 20.1. (a) A person shall not issue,**
 37 **solicit, market, or otherwise promote the purchase of a life**
 38 **insurance policy in connection with stranger originated life**
 39 **insurance.**

- 40 **(b) A violation of this section is an unfair and deceptive act or**
 41 **practice in the business of insurance under IC 27-4-1-4.**

(Reference is to EHB 1379 as reprinted February 22, 2008.)

Conference Committee Report
on
Engrossed House Bill 1379

Signed by:

Representative Fry
Chairperson

Senator Charbonneau

Representative Ripley

Senator Simpson

House Conferees

Senate Conferees