

IC 27-7

ARTICLE 7. SPECIAL TYPES OF INSURANCE

IC 27-7-1

Chapter 1. Lloyds Insurance

IC 27-7-1-1

Participating underwriters; certificate of authority; application

Sec. 1. No persons, partnerships or corporations shall engage in the business of such insurance as is herein specified as "Lloyds" unless twenty-five (25) or more persons, partnerships or corporations, a majority of whom shall be bona fide residents of the state of Indiana shall have a certificate of authority from the auditor of state (commissioner of insurance) so to do. The application for such certificate of authority shall be signed by the attorney or attorneys in fact of those persons desiring such certificate, and must be accompanied by a declaration which must set forth the following provisions:

1. The name under which the business is to be conducted, which name shall contain the word "Lloyds," and shall not be similar to that of any existing Lloyds association or corporation in this state, as, in the opinion of the auditor of state, is calculated to deceive or mislead.

2. The exact location of the principal office in which the business is to be conducted, which office must be in the state of Indiana.

3. The kind of insurance intended to be written, which shall be only as hereinafter stated.

4. An exact copy of the articles of association or copartnership agreement, made by and between such underwriters.

5. Name, address and amount subscribed by each of the underwriters so proposing to engage in said business.

6. The designation or appointment of one (1) or more attorneys in fact, who shall have residence in Indiana, with full name and address, upon any one of whom summons or consent legal process can be served.

7. That amounts subscribed by said underwriters have been paid as follows: Not less than twenty-five per cent (25%) of said subscriptions in cash, not more than fifty percent (50%) of said subscription secured by collateral note (payable on thirty (30) days' demand) duly approved by a committee selected by the subscribers to pass thereon, and not over twenty-five per cent (25%) of said subscription evidenced by subscriber's individual note.

8. That the total of said subscription shall not be less than two hundred and fifty thousand dollars (\$250,000), and that at least twenty-five per cent (25%) thereof has been paid in cash.

(Formerly: Acts 1919, c.177, s.1.)

IC 27-7-1-2

Policies; filing; contents; special provisions

Sec. 2. There shall be filed with the auditor of state a copy of each

form of policy by it issued. Said policies shall show the name and address, as well as the amount of the subscription of each subscriber, and shall be signed by the attorneys in fact, and they shall contain the following special provisions:

First: Whenever, under the terms of this policy, notice or consent is required to be given to or by the company, notice or consent given to or by the attorney or attorneys in fact shall be sufficient compliance therewith, and each underwriter hereon shall be bound thereby, the same as though notice or consent had been given to or by each of such underwriters individually.

Second: In no event, shall the liability of any underwriter exceed the sum underwritten by him or them hereon, and, in no event, shall any underwriter be liable for any part of the sum underwritten hereon by any other underwriter.

Third: The insured agrees by the acceptance of this policy that no underwriter hereon shall, in any event, be liable for claims exceeding, in the aggregate, on all policies, certificates or contracts issued on his or their behalf, in the name of this Lloyds for an amount in excess of the unpaid portion, if any, of his or their original subscription or contribution to said Lloyds, as indorsed hereon.

Fourth: In case of action brought to enforce the provisions of this policy, same shall be brought against the attorney or attorneys in fact for the underwriters, as representing all of the said underwriters, and each of the underwriters hereto hereby agrees to abide by the final results of any suit so brought as fixing the proportionate amount of his or their individual liability.

Fifth: This policy is made and accepted subject to all the stipulations and conditions contained therein, together with such other provisions, agreements or conditions as may be indorsed hereon, or added hereto, and as to such provisions and conditions, no officer, agent or representative shall have such power or be deemed or held to have waived such provisions or conditions unless such waiver, if any, shall be indorsed upon or attached hereto, nor shall any privilege or permission affecting the insurance under this policy exist or be claimed by the assured unless so indorsed or attached.

(Formerly: Acts 1919, c.177, s.2.)

IC 27-7-1-3

Additional underwriters

Sec. 3. After any Lloyds is authorized to do business in this state pursuant to this law, it may be joined by other and additional underwriters, but, in that event, such underwriters who may thereafter join such authorized Lloyds shall be held to be bound by the documents on file with the auditor of state concerning such Lloyds.

(Formerly: Acts 1919, c.177, s.3.)

IC 27-7-1-4

Examination; issuance of certificate of authority

Sec. 4. After such documents specified shall have been filed, the

auditor of state shall cause an examination of such Lloyds to be made, and after he has specified that all of the facts alleged in the declaration are true, and that the articles of association or copartnership agreement is of such character that the rights of the policyholders will be protected thereunder, he shall issue, or cause to be issued, a certificate of authority to such Lloyds to do such business as is specified in the declaration, which certificate shall be issued to such Lloyds under the name designated and approved, authorizing the underwriters thereof to do the business permitted through its attorney or attorneys in fact.

(Formerly: Acts 1919, c.177, s.4.)

IC 27-7-1-5

Investments

Sec. 5. Any such Lloyds as may be thus authorized to do business in this state shall not invest its funds except in accordance with the laws of this state relative to the investment of the funds of domestic stock insurance companies doing a similar business, except in such securities as may be held by said Lloyds as a guaranty for the payment of any subscription.

(Formerly: Acts 1919, c.177, s.5.)

IC 27-7-1-6

Unearned premium reserve

Sec. 6. Such Lloyds shall maintain the same unearned premium reserve as is required of all domestic stock companies writing a like business.

(Formerly: Acts 1919, c.177, s.6.)

IC 27-7-1-7

Insurance authorized under Lloyds plan; deposits; additional deposits; withdrawal of deposits

Sec. 7. The following insurance shall be authorized and permitted to be written by Lloyds under this chapter:

(1) For the purpose of making insurance on dwelling-houses, stores and all kinds of buildings and household furniture, and other property against loss or damage, including loss of use or occupancy, by fire, lightning, windstorm, tornado, cyclone, earthquake, hail, frost or snow, bombardment, invasion, insurrection, riots or civil war or commotion, military or usurped power, and by explosion, whether fire ensues or not, except explosions on risks specified in this section, and also against loss or damage by water to any goods or premises arising from the breakage or leakage of sprinklers, pumps, or other apparatuses erected for extinguishing fires, and of water pipes, and against accidental injury to such sprinklers, pumps, or other apparatuses, and upon vessels, boats, cargoes, goods, merchandise, freight, and other property against loss or damage by all or any of the risks of lake, river, canal, and inland navigation and transportation, as well as by any or all of the

risks of credit and upon automobiles, whether stationary or being operated under their power, which shall include all or any of the hazards of fire, explosions, transportation, collision, loss by legal liability for damage to property and to persons resulting from the maintenance and use of automobiles and loss by burglary or theft or both.

(2) For the purpose of making insurance upon vessels, freights, goods, wares, merchandise, specie, bullion, jewels, profits, commissions, bank notes, bills of exchange and other evidence of debt, bottomry and respondentia interests, and every insurance appertaining to or connected with marine risks and risks of transportation and navigation, including the risks of lake, river, canal, and inland transportation and navigation, and to effect reinsurance on any risk of the subscribers hereto, or any of said risks wholly or in part, or the transfer thereof, and to accept any authorized risk whether direct or by reinsurance.

(3) For the purpose of making insurance against loss or damage resulting from accident to or injury sustained by an employee or other person for which accident or injury the insured is liable.

Provided, that no such insurance shall be written by any Lloyds under this chapter until such Lloyds shall have deposited with the department of insurance of the state of Indiana the sum of twenty-five thousand dollars (\$25,000) in the direct or indirect obligations of the United States or of any state of the United States. In the event the total of all unsatisfied and unappealed from final awards made by the worker's compensation board under IC 22-3-2 through IC 22-3-6 against any Lloyds having made the above deposit shall exceed the amount of the above said deposit, then the department of insurance may require such Lloyds to make an additional deposit or deposits in cash in direct or indirect obligations of the United States or of any state of the United States in a sum equal to the difference between the amount of the unsatisfied final awards and the amount of the deposit with the department of insurance. The department of insurance is hereby authorized and directed to receive such deposit or deposits and to hold them exclusively for the protection of the holders of such insurance policies. Any deposit so made shall not be withdrawn except upon filing with the department of insurance evidence satisfactory to it that such Lloyds has no unsecured liability outstanding in this state upon any such insurance policy, and upon the approval of the department of insurance such Lloyds may withdraw such deposit, except that the above mentioned additional deposit may be withdrawn with the approval of the department of insurance upon filing satisfactory evidence that the total of all unsatisfied and unappealed from final awards made by the worker's compensation board do not exceed the amount of twenty-five thousand dollars (\$25,000).

(Formerly: Acts 1919, c.177, s.7; Acts 1937, c.143, s.1.) As amended by P.L.252-1985, SEC.224; P.L.28-1988, SEC.85.

IC 27-7-1-8**Supervision and control**

Sec. 8. The auditor of state shall have the same supervision and control over Lloyds as he has over stock insurance companies incorporated under the laws of Indiana.

(Formerly: Acts 1919, c.177, s.8.)

IC 27-7-1-9**Foreign Lloyds association; certificate of authority; application; unearned premium reserve**

Sec. 9. The insurance commissioner may, in his discretion, issue a certificate of authority to a Lloyds domiciled in another state to do business in this state, for permission to do which application is made as may be authorized by the articles of association or copartnership agreement under which said Lloyds is operated, provided, however, that in no event shall authority be given to any such Lloyds to do any kind of insurance business other than those specified in section 7 of this chapter. The application for such certificate shall specify the kind of business such Lloyds desires the authority to transact in this state. It must be signed by the attorney or attorneys in fact for such Lloyds, and must file with the auditor of state a certificate from the insurance department of its home state that it has and maintains at all times an unearned premium reserve as is required of stock companies of said state, and that the total subscription of its subscribers shall not be less than two hundred and fifty thousand dollars (\$250,000), and that at least twenty-five percent (25%) thereof is paid in cash.

(Formerly: Acts 1919, c.177, s.9.) As amended by P.L.252-1985, SEC.225.

IC 27-7-1-10**Foreign Lloyds association; documents required; appointment of attorney for service of process**

Sec. 10. A true copy of the articles of association or copartnership agreement, power of attorney, and a copy of each form of policy by it issued, verified by the attorney or attorneys in fact, shall be filed with the auditor of state, as well as a copy of the last report filed with the insurance department of its home state, and also a declaration and agreement, duly executed and acknowledged by the attorneys in fact of said Lloyds, appointing the auditor of state as a true and lawful attorney for such Lloyds and the underwriters thereof in and for this state, upon whom all legal process in any action or proceedings against said Lloyds or the underwriters thereof may be served, and that any service upon him shall be equivalent to the personal service within the state of such persons of each and every such underwriter.

(Formerly: Acts 1919, c.177, s.10.)

IC 27-7-1-11**Revocation of certificate of authority; grounds**

Sec. 11. The certificate of authority of any such Lloyds, whether domestic or foreign, shall be revoked by the insurance commissioner

if at any time it appears that any underwriters are issuing policies of insurance within the state under apparent authority of such certificate without filing such declaration and agreement as aforesaid, or if such Lloyds does not maintain at all times the funds specified in this chapter, or has violated its agreement or the law, or is found to be in such a condition that the further transaction of business by it will be hazardous to the policyholders, its creditors, or the public.

(Formerly: Acts 1919, c.177, s.11.) As amended by P.L.252-1985, SEC.226.

IC 27-7-1-12

Taxation

Sec. 12. In lieu of all other taxes, licenses and fees, state or local, such Lloyds shall pay annually, on account of the transaction of such business in this state, the same taxes, licenses and fees as are required to be paid by mutual companies with principal offices similarly located and transacting the same kind of business. In the application of the retaliatory law, the taxes and fees exacted by another state from a Lloyds insurance with principal offices in Indiana shall apply.

(Formerly: Acts 1919, c.177, s.12.)

IC 27-7-2

Chapter 2. Worker's Compensation

IC 27-7-2-1

Repealed

(Repealed by P.L.249-1989, SEC.19.)

IC 27-7-2-1.1

Purposes of chapter

Sec. 1.1. The purposes of this chapter are as follows:

- (1) To prohibit price fixing agreements and other anticompetitive behavior by companies.
- (2) To protect policyholders and the public against the adverse effects of excessive, inadequate, or unfairly discriminatory rates.
- (3) To promote price competition among companies so as to provide rates that are responsive to competitive market conditions.
- (4) To provide regulatory procedures for the maintenance of appropriate data reporting systems.
- (5) To improve availability, fairness, and reliability of insurance.
- (6) To authorize essential cooperative action among companies in the ratemaking process and to regulate such activity to prevent practices that tend to substantially lessen competition or create a monopoly.
- (7) To encourage the most efficient and economic marketing practices.

As added by P.L.249-1989, SEC.1.

IC 27-7-2-1.2

Insurers and underwriters subject to chapter

Sec. 1.2. This chapter applies to all persons, firms, partnerships, corporations, associations, and systems and to associations operating as Lloyds, interinsurers, or individual underwriters authorized on or after July 1, 1935, to transact the business of making worker's compensation insurance in Indiana. All domestic, foreign, and alien companies authorized to issue worker's compensation insurance policies in Indiana are subject to this chapter.

As added by P.L.249-1989, SEC.2.

IC 27-7-2-2

Definitions

Sec. 2. As used in this chapter and unless a different meaning appears from the context:

- (a) "Department" means the department of insurance of this state.
- (b) "Worker's compensation board" means the worker's compensation board of Indiana.
- (c) "Company" means an insurance company and includes all persons, partnerships, corporations, or associations engaged in

making worker's compensation insurance under the laws of this state.

(d) "Domestic company" means a company organized under the laws of this state.

(e) "Foreign company" means a company organized under the laws of any state of the United States, other than this state or under the laws of any territory or insular possession of the United States or the District of Columbia.

(f) "Alien company" means a company organized under the laws of any country other than the United States or a territory or insular possession thereof or of the District of Columbia.

(g) "Person" includes individuals, corporations, firms, companies, associations, and partnerships. The personal pronoun includes all genders. The singular includes the plural, and the plural includes the singular.

(h) "Commissioner" means the insurance commissioner of this state.

(i) "Bureau" means the worker's compensation rating bureau of Indiana.

(j) "Interested person" means any person who has filed with the department a request to be notified under sections 4(b) and 20.2(c) of this chapter of each filing of rates by the bureau or a company.

(k) "Assigned risk plan" means the plan by which members of the worker's compensation rating bureau provide for the insurance of rejected risks.

(l) "Classification system" or "classification" means the plan, system, or arrangement for recognizing differences in exposure to hazards among industries, occupations, or operations of insurance policyholders.

(m) "Experience rating" means a rating procedure utilizing past insurance experience of the individual policyholder to forecast future losses by measuring the policyholder's loss experience against the loss experience of policyholders in the same classification to produce a prospective premium credit, debit, or unity modification.

(n) "Rate" means the cost of insurance per exposure base unit, prior to any application of individual risk variations based on loss or expense considerations, and does not include minimum premiums.

(o) "Schedule rating plan" means an independent rating plan that measures hazard differences that have an immediate bearing on the probability or severity of loss and applies debits and credits to modify the premium for a risk.

(p) "Statistical plan" means the plan, system, or arrangement used in collecting data.

(q) "Supplementary rate information" means any manual or plan of rates, classification system, rating schedule, minimum premium, rating rule, rating plan, and any other similar information needed to determine the applicable premium for an insured.

(r) "Supporting information" means the experience and judgment of the filer and the experience or data of other companies or organizations relied on by the filer, the interpretation of any statistical data relied on by the filer, descriptions of methods used in

making the rates, and any other similar information required to be filed by the commissioner.

(Formerly: Acts 1935, c.323, s.2; Acts 1959, c.231, s.2.) As amended by P.L.252-1985, SEC.228; P.L.28-1988, SEC.87; P.L.249-1989, SEC.3.

IC 27-7-2-3

Worker's compensation rating bureau; membership

Sec. 3. After July 1, 1935, every insurance company authorized to effect worker's compensation insurance in this state shall be a member of the worker's compensation rating bureau of Indiana. The bureau shall be composed of all insurance companies lawfully engaged on July 1, 1935, wholly or in part in making worker's compensation insurance in Indiana or who shall after July 1, 1935, be issued a certificate of authority to make worker's compensation insurance in this state.

(Formerly: Acts 1935, c.323, s.3.) As amended by P.L.252-1985, SEC.229; P.L.28-1988, SEC.88.

IC 27-7-2-3.1

Duties of bureau

Sec. 3.1. The bureau, in addition to other activities not prohibited, is authorized to do the following:

- (1) Develop a statistical plan including class definitions.
- (2) Collect statistical data from members, subscribers or any other source.
- (3) Prepare and distribute rate data, adjusted for loss development and loss trending, in accordance with its statistical plan. Such data and adjustments shall be in sufficient detail so as to permit companies to modify such rates or minimum premiums based on their own rating methods or interpretations of underlying data.
- (4) Prepare and distribute manuals of rating rules and rating schedules.
- (5) Distribute information that is filed with the commissioner and open to public inspection.
- (6) Conduct research and collect statistics in order to discover, identify, and classify information relating to cause or prevention of losses.
- (7) Prepare and file policy forms and endorsements and consult with members, subscribers, and others relative to their use and application.
- (8) Collect, compile, and distribute past and current prices of individual companies if such information is made available to the general public.
- (9) Conduct research and collect information to determine the impact of benefit level changes on rates.
- (10) Prepare and distribute rules and rating values for the experience rating plan. Calculate and disseminate individual risk premium modification.

(11) Assist an individual company to develop minimum premiums, rates, supplementary rate information, or supporting information when so authorized by the individual company.
As added by P.L.249-1989, SEC.4.

IC 27-7-2-4

Rate filings; notice

Sec. 4. (a) The bureau shall file not less than once each calendar year recommended minimum premiums and rates for worker's compensation insurance subject to the approval of the commissioner.

(b) There shall accompany each filing adequate proof that notice of the filing has been mailed, by first class United States mail, to each interested person at the person's address as shown on the records of the department.

(Formerly: Acts 1935, c.323, s.4; Acts 1959, c.231, s.3.) As amended by P.L.28-1988, SEC.89; P.L.249-1989, SEC.5.

IC 27-7-2-5

Management of bureau

Sec. 5. The management of said bureau shall be in the hands of duly elected officers or committees provided for in the bylaws of said bureau; each member of the bureau or member group with affiliate or subsidiary companies shall be entitled to only one (1) vote on any subject coming before the bureau for determination.

(Formerly: Acts 1935, c.323, s.5.) As amended by P.L.116-1994, SEC.55.

IC 27-7-2-6

By-laws of bureau

Sec. 6. The bureau shall make by-laws for its government and for the government of its members. Such by-laws and amendments thereto shall be filed with and approved by the insurance commissioner before they shall be effective.

(Formerly: Acts 1935, c.323, s.6.)

IC 27-7-2-7

Representation of stock and nonstock companies; resolution of tie votes

Sec. 7. Stock companies and nonstock companies shall be represented in the bureau management and on all committees. In case of a tie vote in any committee or governing body of said bureau, the insurance commissioner shall decide the matter.

(Formerly: Acts 1935, c.323, s.7.)

IC 27-7-2-8

Membership in bureau

Sec. 8. The bureau shall admit to membership every company lawfully engaged in whole or in part in writing worker's compensation insurance in Indiana.

(Formerly: Acts 1935, c.323, s.8.) As amended by P.L.28-1988,

SEC.90.

IC 27-7-2-9

Charges and expenses of bureau; apportionment; review

Sec. 9. The charges and expenses incident to the establishment and operation of the bureau shall be borne equitably and without discrimination among the members of the bureau. If any member is aggrieved by an apportionment of the cost or costs made by the bureau or by failure of the bureau to make such equitable apportionment, it may in writing petition the commissioner for a review of such apportionment or failure to act. The commissioner shall upon not less than five (5) days' notice to each member hold a hearing upon such petition at which time all members shall be entitled to be heard. And said commissioner shall determine the matter or matters and mail a copy of his decision to each member of the bureau. The decision of the commissioner shall be final.

(Formerly: Acts 1935, c.323, s.9.)

IC 27-7-2-10

Repealed

(Repealed by P.L.249-1989, SEC.19.)

IC 27-7-2-11

Approval of classifications, premiums, or rates; consultations with worker's compensation board; duty of board to furnish information

Sec. 11. (a) In approving classifications, premiums, or rates, the department may in all cases consult with the worker's compensation board or member thereof. The department may also consult with the worker's compensation board or members thereof on any other matter arising under this chapter.

(b) The worker's compensation board shall furnish the department all available information at its disposal and permit the department to have access to all records of the worker's compensation board which the department may wish to consult in the performance of its duties under this chapter.

(Formerly: Acts 1935, c.323, s.11.) As amended by P.L.252-1985, SEC.231; P.L.28-1988, SEC.92; P.L.249-1989, SEC.6.

IC 27-7-2-12

Representative of department; appointment; powers and duties

Sec. 12. The department may authorize any person to attend meetings of the rating bureau, hold hearings, make investigations, and make examinations with reference to any subject over which it has jurisdiction under this chapter. The person so appointed shall have all the powers of the department in relation to said hearings, investigations, or examinations, and shall report in writing to the department the results of such hearings, examinations, or investigations, and any testimony taken by him.

(Formerly: Acts 1935, c.323, s.12.) As amended by P.L.252-1985,

SEC.232.

IC 27-7-2-13

Repealed

(Repealed by P.L.249-1989, SEC.19.)

IC 27-7-2-14

Repealed

(Repealed by P.L.249-1989, SEC.19.)

IC 27-7-2-15

Approval of system of schedule rating

Sec. 15. The department shall after consultation with members of the bureau and after investigation approve a system of schedule rating for use in this state. Only the system filed by the bureau and approved by the department may be used in Indiana.

(Formerly: Acts 1935, c.323, s.15.) As amended by P.L.249-1989, SEC.7.

IC 27-7-2-16

Repealed

(Repealed by P.L.249-1989, SEC.19.)

IC 27-7-2-17

Repealed

(Repealed by P.L.249-1989, SEC.19.)

IC 27-7-2-18

Exclusion of physical impairment of employees in rate making

Sec. 18. The physical impairment of employees shall not be taken into account in establishing rates or system of schedule or merit rating.

(Formerly: Acts 1935, c.323, s.18.)

IC 27-7-2-19

Repealed

(Repealed by P.L.249-1989, SEC.19.)

IC 27-7-2-20

Adherence to approved rules, forms, plans, and systems; annual reports

Sec. 20. (a) Every company shall adhere to manual rules, policy forms, a statistical plan, a classification system, and experience rating plan filed by the bureau and approved by the commissioner.

(b) The commissioner shall designate the bureau to assist in gathering, compiling, and reporting relevant statistical information. Every company shall record and report its worker's compensation experience to the bureau according to the statistical plan approved by the commissioner. The report shall include any deviation from the filed recommended minimum premiums and rates, in total and by

classification. The bureau shall annually submit data concerning these deviations to the department. Upon receipt, the department shall evaluate the data and prepare a report concerning the effect of competitive rating in Indiana. The department shall make the report available not later than October 31 of each year.

(c) Every company shall adhere to the approved manual rules, policy forms, statistical plan, classification system, and experience rating plan in the recording and reporting of data to the bureau.

(d) Copies of all approved classifications, rules, and forms shall be provided to the worker's compensation board.

(Formerly: Acts 1935, c.323, s.20.) As amended by P.L.28-1988, SEC.95; P.L.249-1989, SEC.8; P.L.91-1998, SEC.8.

IC 27-7-2-20.1

Minimum premiums and rates

Sec. 20.1. Minimum premiums and rates may not be excessive, inadequate, or unfairly discriminatory.

As added by P.L.249-1989, SEC.9.

IC 27-7-2-20.2

Minimum premiums, rates, and supplementary rate information; filing; approval; proof of notice; public inspection

Sec. 20.2. (a) Every company and the bureau shall file with the commissioner all minimum premiums, rates, and supplementary rate information that are to be used in Indiana. Such minimum premiums, rates, and supplementary rate information must be submitted to the commissioner at least thirty (30) days before the effective date. The commissioner shall disapprove a filing that does not meet the requirements of section 20.1 of this chapter. A filing shall be deemed approved unless disapproved by the commissioner within thirty (30) days after the filing is made. A company may adopt by reference, with or without deviation, the minimum premiums, rates, and supplementary rate information filed by another company or by the bureau.

(b) Minimum premiums, rates, and supplementary information filed under this section shall be filed in the form and manner prescribed by the commissioner.

(c) There shall accompany each filing adequate proof that notice of the filing has been mailed, by first class United States mail, to each interested person at the person's address as shown on the records of the department.

(d) All information filed under this chapter shall, as soon as filed, be open to the public for inspection and copying under IC 5-14-3.

As added by P.L.249-1989, SEC.10.

IC 27-7-2-20.3

Minimum premiums or rates; disapproval

Sec. 20.3. (a) Minimum premiums or rates may be disapproved at the following times:

(1) At any time subsequent to the effective date.

(2) Before the effective date.

(b) Minimum premiums or rates may be disapproved for any of the following reasons:

(1) If the company fails to comply with the filing requirements under section 20.2 of this chapter.

(2) If the commissioner finds that the minimum premium or rate is excessive, inadequate, or unfairly discriminatory.

(c) The following procedure shall be used for disapproval of minimum premiums or rates:

(1) The commissioner may disapprove, without hearing, minimum premiums or rates filed under section 20.2 or 28.1 of this chapter that have not become effective. However, the bureau or a company whose minimum premiums or rates have been disapproved shall be given a hearing upon a written request made within thirty (30) days after the date of the disapproval order.

(2) Every company or the bureau shall provide within Indiana reasonable means whereby any person aggrieved by the application of its filings may be heard on written request to review the manner in which such rating system has been applied in connection with the insurance afforded or offered. If the company or the bureau fails to grant or reject such request within thirty (30) days, the aggrieved person may proceed in the same manner as if the request had been rejected. Any aggrieved person affected by the action of such company or the bureau on such request may, within thirty (30) days after written notice of such action, appeal to the commissioner who, after a hearing held upon not less than ten (10) days written notice to the aggrieved person and to such company or the bureau, may affirm, modify, or reverse such action.

(d) If the commissioner disapproves a minimum premium or rate, the commissioner shall issue an order specifying in what respects minimum premium or the rate fails to meet the requirements of this chapter and stating when within a reasonable period thereafter such minimum premium or rate shall be discontinued for any policy issued or renewed after a date specified in the order. The order shall be issued within thirty (30) days after the close of the hearing or within such reasonable time extension as the commissioner may fix. Such order may include a provision for premium adjustment for the period after the effective date of the order for policies in effect on such date.

(e) Whenever a company has no legally effective minimum premiums or rates as a result of the commissioner's disapproval of minimum premiums or rates or other act, the commissioner shall specify interim minimum premiums or rates for the company that are adequate to protect the interests of all parties and may order that a specified portion of the premiums be placed in an escrow account approved by the commissioner. When new minimum premiums or rates become legally effective, the commissioner shall order the escrowed funds or any overcharge in the interim minimum premiums or rates to be distributed appropriately, except that refunds of less

than ten dollars (\$10) per policyholder shall not be required.
As added by P.L.249-1989, SEC.11.

IC 27-7-2-20.4

Arrangements in restraint of trade; presumption; subsidiary companies

Sec. 20.4. (a) A company or the bureau may not make any arrangement with any other company or other person that has the purpose or effect of restraining trade unreasonably or of substantially lessening competition in the business of insurance.

(b) A company may not agree with any other company or the bureau to adhere to or use any rate, rating plan (other than the experience rating plan), or rating rule except as needed to comply with the requirements of section 20 of this chapter.

(c) The fact that two (2) or more companies use consistently or intermittently the same rules, rating plans, rating schedules, rating rules, policy forms, rate classifications, underwriting rules, surveys, or inspections or similar materials is not sufficient in itself to support a finding that an agreement prohibited by subsection (b) exists.

(d) Two (2) or more companies having a common ownership or operating in Indiana under common management or control may act in concert between or among themselves with respect to any matters pertaining to those authorized in this chapter as if they constituted a single company.

As added by P.L.249-1989, SEC.12.

IC 27-7-2-21

Repealed

(Repealed by P.L.249-1989, SEC.19.)

IC 27-7-2-22

Repealed

(Repealed by P.L.249-1989, SEC.19.)

IC 27-7-2-23

Repealed

(Repealed by P.L.249-1989, SEC.19.)

IC 27-7-2-24

Appointment of resident agent for service of process

Sec. 24. Every person lawfully engaged wholly or in part in writing worker's compensation insurance in this state shall, upon July 1, 1935, by written notice to the insurance commissioner, appoint an individual resident of Indiana, a corporate resident of Indiana, or an authorized Indiana insurer as the person's resident agent in Indiana upon whom service of process may be had for the enforcement of this chapter.

(Formerly: Acts 1935, c.323, s.24.) As amended by P.L.252-1985, SEC.235; P.L.28-1988, SEC.98; P.L.268-1999, SEC.17.

IC 27-7-2-25**Annual license of rating bureau**

Sec. 25. The bureau shall procure annually from the department a license to carry on its business for which license a fee of one hundred dollars (\$100) shall be paid to the state of Indiana through the insurance department of this state. The license year shall terminate on the thirtieth day of April of each year.

(Formerly: Acts 1935, c.323, s.25.)

IC 27-7-2-26**Effect of chapter on mutual insurance associations and reciprocal associations**

Sec. 26. Nothing in this chapter shall be construed to annul, restrict, or in any manner interfere with the licensing and supervision of mutual insurance associations and reciprocal associations formed and operating on or before January 1, 1991, solely for the writing of worker's compensation insurance as provided under IC 22-3-2 through IC 22-3-6.

(Formerly: Acts 1935, c.323, s.26.) As amended by P.L.252-1985, SEC.236; P.L.28-1988, SEC.99; P.L.170-1991, SEC.28.

IC 27-7-2-27**Jurisdiction of courts of Marion County; review**

Sec. 27. (a) The courts of Marion County, Indiana, shall have jurisdiction in all matters arising under this chapter except such rulings by the department as are made final by this chapter.

(b) Any order or decision of the commissioner made under this chapter is subject to review in the circuit or superior court of Marion County by any party in interest. An appeal must be taken within thirty (30) days after the date of the order or decision of the commissioner. The court shall determine whether the filing of the petition for review shall operate as a stay of the order or decision of the commissioner. The court may, in disposing of the issue before it, affirm or set aside the order or decision of the commissioner. If the order or decision of the commissioner is affirmed, the court shall make its own order and judgment commanding obedience to the order or decision of the commissioner. An appeal may be taken to the supreme court as in civil actions from any order or judgment of the circuit or superior court made under this section.

(Formerly: Acts 1935, c.323, s.27.) As amended by P.L.252-1985, SEC.237; P.L.249-1989, SEC.13.

IC 27-7-2-28**Duty to insure and accept certain rejected risks**

Sec. 28. From and after July 1, 1935, all insurance companies authorized to effect worker's compensation insurance in this state, and being members of the worker's compensation rating bureau of Indiana, shall insure and accept any worker's compensation risk tendered to and rejected in writing by any three (3) members of the bureau in the manner provided in this chapter.

(Formerly: Acts 1935, c.323, s.28.) As amended by P.L.252-1985, SEC.238; P.L.28-1988, SEC.100.

IC 27-7-2-28.1

Assigned risk plan; filing; approval

Sec. 28.1. (a) All companies authorized to write worker's compensation insurance shall participate in the assigned risk plan providing for the equitable apportionment among them of insurance that may be afforded to applicants who are in good faith entitled to but who are unable to procure such insurance through ordinary methods. The bureau shall file, at least thirty (30) days before their effective date, the plan of operation, rates, rating plans, rules, policy forms, and any future modifications thereof, with the commissioner for approval. Such rates shall reflect experience in the assigned risk plan to the extent it is actuarially appropriate. The rates must reflect the varied categories of rejected risks covered by the assigned risk plan and must include at least two (2) rating plans, one (1) of which may not exceed the recommended minimum premiums and rates filed by the bureau under section 4 of this chapter.

(b) The commissioner shall disapprove any filing that does not meet the requirements of section 20.1 of this chapter. A filing shall be deemed to meet such requirements unless disapproved by the commissioner within thirty (30) days after the filing is made. In disapproving a filing made under this section, the commissioner shall have the same authority and follow the same procedure as in disapproving a filing under section 20.3 of this chapter.

As added by P.L.249-1989, SEC.14.

IC 27-7-2-28.2

Examination of records; costs

Sec. 28.2. (a) The commissioner may examine any company, the bureau, or the assigned risk plan as the commissioner considers necessary to ascertain compliance with this chapter.

(b) Every company, the bureau, and the assigned risk plan shall maintain reasonable records of the type and kind reasonably adapted to its method of operation containing its experiences or the experience of its staff members including the data, statistics, or information collected or used by it in its activities. These records shall be available at all reasonable times to enable the commissioner to determine whether the activities of the bureau, company, and the assigned risk plan comply with this chapter. Such records shall be maintained in an office within Indiana or shall be made available to the commissioner for examination or inspection at any time upon reasonable notice.

(c) The reasonable cost of an examination made under this section shall be paid by the examined party upon presentation of a detailed account of such costs.

(d) Instead of an examination the commissioner may accept the report of an examination by the insurance supervisory official of another state, made under the laws of that state.

As added by P.L.249-1989, SEC.15.

IC 27-7-2-29

Rejected risks; designation of insurer; reinsurance

Sec. 29. (a) When any such rejected risk is called to the attention of the worker's compensation board and it appearing to the board that said risk is in good faith entitled to coverage, said bureau upon the order of the board shall fix the initial premium for the coverage.

(b) Upon payment, of the premium fixed under subsection (a), the bureau shall designate a member of said bureau whose duty it shall be to issue a policy containing the usual and customary provisions found in such policies therefor. However, for this undertaking all members of said bureau shall be reinsurers as among themselves in the amount which the compensation insurance written in this state during the preceding calendar year by such member bears to the total compensation insurance written in this state during the preceding year by all members of said bureau.

(Formerly: Acts 1935, c.323, s.29.) As amended by P.L.28-1988, SEC.101.

IC 27-7-2-30

Rules; adoption

Sec. 30. The bureau shall, by July 31, 1935, make and adopt such rules as may be necessary to carry out the provisions of this chapter, subject to the approval of the insurance commissioner.

(Formerly: Acts 1935, c.323, s.30.) As amended by P.L.252-1985, SEC.239.

IC 27-7-2-31

Loss of coverage for nonpayment of premiums; report of conditions precluding insurance; coverage pending decision

Sec. 31. No employer who does not pay the advance premiums or premium when due, shall be entitled to insurance, nor shall any coverage be extended until all obligations to pay worker's compensation insurance premiums contracted during the previous twelve (12) months have been paid. If, in the opinion of the designated carrying company or the bureau, physical or moral conditions exist in any risk which shall preclude the risk from obtaining insurance, that risk shall be reported to the worker's compensation board and to the department. The bureau shall, in those cases, furnish the board and the department with its recommendations for improving safety conditions, which, if complied with, would entitle the risk to insurance. Pending a decision by the board or the department, insurance shall be effective as otherwise provided in this chapter. However, the board, or the department, or both shall make that decision within sixty (60) days after such recommendations are furnished by the bureau.

(Formerly: Acts 1935, c.323, s.31.) As amended by P.L.252-1985, SEC.240; P.L.28-1988, SEC.102.

IC 27-7-2-32**Considerations in designating insurer to assume rejected risk; review of reasons**

Sec. 32. In designating the bureau member to insure a rejected risk, the bureau shall have due regard for the service facilities and compensation premium volume in Indiana of the member so designated as the carrying company. Any grievance on the part of such bureau member with the respect of such designation shall be brought to the attention of the bureau for review and such action as the circumstances may justify.

(Formerly: Acts 1935, c.323, s.32.)

IC 27-7-2-33**Designated insurer carrying rejected risk; additional inspection; renewal rates**

Sec. 33. At any time while a policy, written pursuant to designation by the bureau, is in force, the carrying company, upon its own initiative, may make a further careful inspection of the risk for the purpose of measuring its hazards, making recommendation for the promotion of the safety of employees and determining the rate or rates which should apply to insurance issued in renewal of such policy. Rates for the renewal of any policy issued pursuant to this chapter shall take into account the available experience of the risk for the previous five (5) years, and such rates shall be made in contemplation of the facts disclosed by the most recent inspection of the risk by the rating bureau as provided in this chapter, subject to the approval of the department.

(Formerly: Acts 1935, c.323, s.33.) As amended by P.L.252-1985, SEC.241.

IC 27-7-2-34**Information concerning rejected risks; automatic insurance**

Sec. 34. The management of the bureau shall furnish to all members of the bureau complete information concerning each rejected risk and any member of such bureau may write any rejected risk as regular business in which event the risk so written shall no longer be treated as provided for in section 29 of this chapter. If, at expiration, the risk is still uninsured on voluntary basis, it shall automatically be insured as provided in section 29 of this chapter.

(Formerly: Acts 1935, c.323, s.34.) As amended by P.L.252-1985, SEC.242; P.L.202-2001, SEC.12.

IC 27-7-2-35**Record of rejected risks referred by bureau to members; effect of writing rejected risk as regular business**

Sec. 35. The bureau shall keep a record of all risks referred to members as carrying company, coming within the provisions of section 29 of this chapter, and this record shall be open to any bureau member or its authorized representative. Any member may at any time write as regular business any risk which is carried by any other

member as a carrying company, under the provisions of section 29 and such carrying company shall cancel such policy on a pro rata premium basis or thereafter carry such risk in its entirety as regular business.

(Formerly: Acts 1935, c.323, s.35.) As amended by P.L.252-1985, SEC.243.

IC 27-7-2-36

Repealed

(Repealed by P.L.249-1989, SEC.19.)

IC 27-7-2-37

Cancellation of rejected risk coverage; grounds; effect

Sec. 37. (a) If, after the issuance of a policy, it develops that an employer is not or ceases to be in good faith entitled to compensation insurance, the carrying company which issued the policy shall have the right, upon authorization of the bureau and the worker's compensation board, to cancel the insurance in accordance with the conditions of the policy.

(b) If a policy is cancelled under the circumstances described in subsection (a), the risk shall not be assigned again by the bureau to any of its members as a carrying company until it is fully satisfied that the employer is entitled to insure as a proper rejected risk under this chapter.

(c) In the event of a cancellation under this section, the facts justifying such action shall be referred to the worker's compensation board and the department.

(Formerly: Acts 1935, c.323, s.37.) As amended by P.L.252-1985, SEC.245; P.L.28-1988, SEC.103.

IC 27-7-2-37.5

Refund of dividends, savings, or unabsorbed premium deposits

Sec. 37.5. (a) Nothing in this chapter prohibits or regulates the payment of dividends, savings, or unabsorbed premium deposits allowed or returned by companies to their policyholders, members, or subscribers, but in the payment of such dividends there shall be no unfair discrimination between policyholders.

(b) A plan for the payment of dividends, savings, or unabsorbed premium deposits allowed or returned by companies to their policyholders, members, or subscribers is not considered a rating plan or system.

(c) It is an unfair trade practice to make the payment of a dividend or any portion thereof conditioned upon renewal of the policy or contract.

As added by P.L.249-1989, SEC.16.

IC 27-7-2-38

Violations; penalties; suspension or revocation of license

Sec. 38. (a) A person who fails to comply with this chapter or fails to comply with any lawful order or ruling made by the department in

the administration of this chapter commits a Class C infraction. If a person is fined for violating this section and fails to pay the fine within thirty (30) days after final judgment, the insurance commissioner shall suspend the license of the person to transact any form of insurance business in Indiana until the fine and costs incident to the final judgment are paid in full.

(b) The commissioner may, if the commissioner finds that any person or organization has violated this chapter, impose a penalty of not more than one thousand dollars (\$1,000) for each such violation but if the commissioner finds the violation is willful the commissioner may impose a penalty of not more than ten thousand dollars (\$10,000) for each such violation. These penalties are in addition to any other penalty provided by law.

(c) For purposes of this section, any company using a rate for which the company has failed to file the rate, supplementary rate information, or supporting information, as required by this chapter, shall have committed a separate violation for each day such failure continues.

(d) The commissioner may suspend or revoke the license of the bureau or any company that fails to comply with an order of the commissioner within the time limit specified by such order, or any extension of time that the commissioner may grant.

(e) The commissioner may determine when a suspension of license becomes effective and it shall remain in effect for the period fixed by the commissioner, unless the commissioner modifies or rescinds such suspension, or until the order upon which such suspension is based is modified, rescinded, or reversed.

(f) No penalty shall be imposed and no license shall be suspended or revoked except on a written order of the commissioner, stating the commissioner's findings, made after a hearing.

(Formerly: Acts 1935, c.323, s.38.) As amended by Acts 1978, P.L.2, SEC.2723; P.L.249-1989, SEC.17.

IC 27-7-2-39

Appointment and compensation of personnel; appropriation

Sec. 39. The commissioner shall appoint such deputies, examiners, actuaries, assistants, and other employees in the department of insurance as may be found necessary to carry out the provisions of this chapter and fix the compensation thereof, subject to the approval of the state budget agency. There is hereby appropriated out of funds not otherwise appropriated in the general fund such sums as may be necessary to carry out the provisions of this chapter.

(Formerly: Acts 1935, c.323, s.38a.) As amended by P.L.252-1985, SEC.246; P.L.100-2012, SEC.66.

IC 27-7-3

Chapter 3. Abstract and Title Insurance

IC 27-7-3-1

Citation

Sec. 1. This chapter shall be known and may be cited as The Indiana Abstract and Title Insurance Law.

(Formerly: Acts 1937, c.104, s.1.) As amended by P.L.252-1985, SEC.247.

IC 27-7-3-2

Definitions

Sec. 2. As used in this chapter and unless a different meaning appears from the context:

(a) The term "title insurance" means a contract of insurance against loss or damage on account of encumbrances upon or defects in the title to real estate.

(b) The term "company" shall mean and include any corporation, domestic or foreign, to which this chapter is applicable.

(c) The term "department" shall mean the department of insurance of the state of Indiana.

(d) The term "commissioner" shall mean the insurance commissioner.

(e) The term "public record" has the meaning set forth in IC 5-14-3-2.

(f) The term "title search" means a search and examination of the public records sufficient to determine:

- (1) ownership of;
- (2) encumbrances on;
- (3) liens on; and
- (4) defects in the title to;

the real estate that is the subject of the search.

(Formerly: Acts 1937, c.104, s.2.) As amended by P.L.252-1985, SEC.248; P.L.68-2002, SEC.1.

IC 27-7-3-3

Title insurance business; authorization of domestic and foreign corporations; application of business corporation law

Sec. 3. (a) Any domestic corporation having:

- (1) among its purposes the insuring against loss or damage on account of encumbrances upon or defects in the title to real estate; and
- (2) a physical office in Indiana;

is hereby authorized to organize under IC 23-1, and any foreign corporation, having among its purposes the insuring against loss or damage on account of encumbrances upon or defects in the title to real estate, is hereby authorized to and may be admitted to do business in this state under IC 23-1. Any domestic or foreign corporation, organized or admitted to do business before or after June 7, 1937, as provided in this section, may engage in business as

a title insurance company by complying with the provisions of this chapter.

(b) A domestic corporation admitted to do business as described in subsection (a) shall provide written notice to the department of insurance and all policyholders of a change in location of the domestic corporation's physical office in Indiana, including the address and telephone number of the new location.

(Formerly: Acts 1937, c.104, s.3.) As amended by P.L.252-1985, SEC.249; P.L.11-2011, SEC.28.

IC 27-7-3-3.5

Requirements applicable to issuers of title insurance

Sec. 3.5. (a) A domestic corporation admitted to do business as described in section 3 of this chapter is subject to the following:

- (1) IC 27-1-6-21.
- (2) IC 27-1-7-11.
- (3) IC 27-9.

(b) A foreign corporation admitted to do business as described in section 3 of this chapter is subject to IC 27-1-17-9.

As added by P.L.11-2011, SEC.29.

IC 27-7-3-4

Corporate rights; powers and privileges

Sec. 4. Every such company shall possess and may exercise all the rights, powers, and privileges conferred upon domestic corporations by IC 23-1 but only to the extent that the same may be necessary, convenient or expedient to accomplish the purposes for which it is organized, and in addition thereto, but subject to the restrictions and limitations contained in this chapter, every such company shall possess and may exercise the power of making insurance to insure against the loss or damage on account of encumbrances upon or defects in the title to real estate. In all things not specifically provided for in this chapter, the provisions of IC 23-1 shall apply.

(Formerly: Acts 1937, c.104, s.4.) As amended by P.L.252-1985, SEC.250.

IC 27-7-3-5

Capital stock

Sec. 5. The capital stock of any company engaged in business under the provisions of this chapter shall be not less than one hundred thousand dollars (\$100,000), which shall be fully paid in.

(Formerly: Acts 1937, c.104, s.5.) As amended by P.L.252-1985, SEC.251.

IC 27-7-3-6

Certificate of authority; requirements; issuance; necessity to do business

Sec. 6. (a) Whenever any such company shall have shown to the department by a sworn statement, verified by the oaths of the president or a vice president and the secretary or an assistant

secretary of the company and bearing the corporate seal of such company, that it has complied with all the requirements of this chapter necessary for beginning business and that it has deposited the amount as required in section 7 of this chapter, the commissioner shall issue a certificate of authority reciting that such company has complied with the provisions of this chapter and is authorized to insure against the loss or damage on account of encumbrances upon or defects in the title to real estate, which certificate shall expire as of midnight of April 30 of each calendar year. The certificate shall be issued under the seal of the department.

(b) No person, firm, partnership, corporation, association, or company shall transact any business of insuring against loss or damage on account of encumbrances upon or defects in the title to real estate until it or they shall have received a certificate of authority as provided for in this section.

(Formerly: Acts 1937, c.104, s.6.) As amended by P.L.252-1985, SEC.252.

IC 27-7-3-7

Deposits; title insurance fund

Sec. 7. Every company described in section 3 of this chapter, before engaging in business, shall deposit with the department the sum of fifty thousand dollars (\$50,000) either out of its capital or surplus. The deposit shall be known as the title insurance fund and must be deposited in securities of the kind and character designated by IC 27-1-13-3(b).

(Formerly: Acts 1937, c.104, s.7.) As amended by P.L.252-1985, SEC.253; P.L.159-1986, SEC.5; P.L.161-1986, SEC.2; P.L.184-1996, SEC.3.

IC 27-7-3-8

Additional deposit to meet requirements of another state; withdrawal

Sec. 8. In the event any such domestic company shall be required by the laws of any other state, country, or province, as a requirement prior to doing such business as defined in this chapter therein, to deposit, with the duly appointed officer of such other state, country, or province or with the department of this state, any securities or cash in excess of the deposit required of the company by this chapter, such company may deposit with the department securities of the character authorized by this chapter sufficient to meet such requirement. The department is hereby authorized and directed to receive such deposit and to hold it exclusively for the protection of all policyholders of the company. Any deposit so made to meet the requirement of any such other state, country, or province shall not be withdrawn by the company except upon filing with the department evidence satisfactory to it that the company has withdrawn from business, and has no unsecured liability outstanding in any such other state, country, or province by which such additional deposit was required, and upon the filing of such evidence, and the approval

of the department, the company may withdraw such additional deposit. Upon the approval of the department, any such domestic company may deposit and use the reserve fund, provided for in section 9 of this chapter, for the purpose of complying with the additional deposit requirement of any other state, country, or province.

(Formerly: Acts 1937, c.104, s.8.) As amended by P.L.252-1985, SEC.254.

IC 27-7-3-9

Title insurance reserve fund

Sec. 9. Every company described in section 3 of this chapter shall annually set apart, accumulate, and maintain, in a fund to be known as the title insurance reserve fund, securities of the kind and character designated by IC 27-1-13-3(b) of the face amount equal to ten percent (10%) of the actual premiums collected during the preceding year by the company on account of such title insurance, until the fund totals fifty thousand dollars (\$50,000). The fund shall be maintained in the treasury of the company as additional security to the holders of policies issued by the company. However, at its option, the company may deposit the title insurance reserve fund with the department in the amount of ten thousand dollars (\$10,000), or any multiple thereof up to fifty thousand dollars (\$50,000). This deposit shall be known as the title insurance reserve fund deposit.

(Formerly: Acts 1937, c.104, s.9.) As amended by P.L.252-1985, SEC.255; P.L.159-1986, SEC.6; P.L.161-1986, SEC.3; P.L.184-1996, SEC.4.

IC 27-7-3-10

Deficiency in title insurance reserve fund

Sec. 10. Whenever the amount of the title insurance reserve fund of any such company shall fall below the amount required in section 9 of this chapter, no further title insurance shall be made or issued by such company until the deficiency has been supplied.

(Formerly: Acts 1937, c.104, s.10.) As amended by P.L.252-1985, SEC.256.

IC 27-7-3-11

Interest on deposited securities

Sec. 11. The department shall permit such companies having on deposit with it stocks or bonds as security to collect the interest accruing on such deposits, delivering to their authorized agents, respectively, the coupons or other evidences of interest as the same become due.

(Formerly: Acts 1937, c.104, s.11.)

IC 27-7-3-12

Foreign corporations; capital and deposit requirements; certificate of authority; rights and privileges

Sec. 12. Every foreign corporation duly authorized to do a title

insurance business in the state in which it is incorporated or organized and admitted to do business in this state under IC 23-1 may be authorized by the department to transact a title insurance business in this state upon filing with the department proof which satisfies it that the corporation has complied with sections 5 and 9 of this chapter and has deposited with the proper official of the state in which it is incorporated or organized, or has deposited with the department, the amount as required by section 7 of this chapter, and that it has complied with the provisions of this chapter. Upon the receipt of such proof, the commissioner may issue to such foreign corporation a certificate of authority as provided for in section 6 of this chapter. A foreign corporation admitted to do business under this chapter shall have the same but no greater rights and privileges than a domestic corporation under this chapter.

(Formerly: Acts 1937, c.104, s.12.) As amended by P.L.252-1985, SEC.257.

IC 27-7-3-13

Examination of company; appointment of examiners; report of examination

Sec. 13. (a) The department may examine into the affairs of any such company doing business in this state under the provisions of this chapter. For such purpose it may appoint as examiners competent persons, and upon such examination the commissioner, his deputy, or any examiner authorized by him may examine under oath the officers and agents of such company and all persons deemed to have material information regarding the company's property or business. Every such company, its officers, and agents shall produce at the office of the company where the same are kept, its books and all papers in its or their possession relating to its business or affairs, and any other person may be required to produce any book or paper in his custody relevant to the examination for the inspection of the commissioner, his deputy, or examiners whenever required, and the officers and agents of such company shall facilitate such examination and aid the examiners in making the same so far as it is within their power to do so.

(b) Upon the conclusion of such examination a full, true, and detailed report of such company shall be made to the department, by the person or persons making the examination, in such form as the department may prescribe.

(Formerly: Acts 1937, c.104, s.13.) As amended by P.L.252-1985, SEC.258.

IC 27-7-3-14

Annual financial statement; effect of certification by certified public accountant

Sec. 14. (a) Every such company doing business in this state shall file with the department on or before March 15 in each year a financial statement for the year ending December 31 immediately preceding on forms furnished by the department. Such statement

shall include a showing that the sum of ten percent (10%) of all actual premiums received by such company, on account of such title insurance business, during the year ending on December 31 prior thereto, as required by section 9 of this chapter, has been duly set apart and is held by such company in said title insurance reserve fund or is held on deposit by the department as provided in section 9 of this chapter. Such statement shall be verified by the oaths of the president or a vice president and the secretary or an assistant secretary.

(b) If the annual statement, as required by this section, shall be certified to by a certified public accountant, then such statement shall be prima facie evidence of the facts stated therein, and the department may in its discretion accept such certified statements in lieu of an examination under this chapter.

(Formerly: Acts 1937, c.104, s.14.) As amended by P.L.252-1985, SEC.259.

IC 27-7-3-15

Collection of charges, fees, and taxes; disposition

Sec. 15. The department shall collect the charges, fees and taxes provided for in this section, and give proper acquittances therefor, and on or before the end of every calendar month shall pay into the state treasury the amounts collected by it during such month, as hereinafter provided:

Fees. Domestic Companies: Every such domestic company shall pay to the department the following stipulated fees: For filing annual statement, twenty dollars (\$20.00); for license to such company, and for each renewal thereof, five dollars (\$5.00); for affixing seal or certifying to any paper, one dollar (\$1.00). The department may require payment of fees on or before the first day of the month next after the same are chargeable.

Fees. Foreign Companies: Every such foreign company shall pay to the department the following stipulated fees: For filing annual statement, twenty dollars (\$20.00); for license to such company, and for each annual renewal thereof, five dollars (\$5.00); for filing withdrawal and cancellation of certificate, twenty dollars (\$20.00); for affixing seal or certifying to any paper, one dollar (\$1.00).

(Formerly: Acts 1937, c.104, s.15.)

IC 27-7-3-15.5 Version a

Mortgage transactions and real estate transactions; electronic storage of data on persons involved; closing agents to input data and submit form; duty to provide information; failure to comply; civil penalty; access to data; rules; administrative fee

Note: This version of section effective until 7-1-2014. See also following version of this section, effective 7-1-2014.

Sec. 15.5. (a) This section applies to the following transactions:

(1) A mortgage transaction (as defined in IC 24-9-3-7(a)) that:

(A) is:

(i) a first lien purchase money mortgage transaction; or

- (ii) a refinancing transaction; and
 - (B) is closed by a closing agent after December 31, 2009.
- (2) A real estate transaction (as defined in IC 24-9-3-7(b)) that:
 - (A) does not involve a mortgage transaction described in subdivision (1); and
 - (B) is closed by a closing agent (as defined in IC 6-1.1-12-43(a)(2)) after December 31, 2011.

(b) For purposes of this subsection, a person described in this subsection is involved in a transaction to which this section applies if the person participates in or assists with, or will participate in or assist with, a transaction to which this section applies. The department shall establish and maintain an electronic system for the collection and storage of the following information, to the extent applicable, concerning a transaction to which this section applies:

- (1) In the case of a transaction described in subsection (a)(1), the name and license number (under IC 23-2-5) of each loan brokerage business involved in the transaction.
- (2) In the case of a transaction described in subsection (a)(1), the name and license or registration number of any mortgage loan originator who is:
 - (A) either licensed or registered under state or federal law as a mortgage loan originator consistent with the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (H.R. 3221 Title V); and
 - (B) involved in the transaction.
- (3) The name and license number (under IC 25-34.1) of each:
 - (A) principal broker; and
 - (B) salesperson or broker-salesperson, if any;involved in the transaction.
- (4) The following information:
 - (A) The:
 - (i) name of; and
 - (ii) code assigned by the National Association of Insurance Commissioners (NAIC) to;each title insurance underwriter involved in the transaction.
 - (B) The type of title insurance policy issued in connection with the transaction.
- (5) The name and license number (under IC 27-1-15.6) of each title insurance agency and agent involved in the transaction as a closing agent (as defined in IC 6-1.1-12-43(a)(2)).
- (6) The following information:
 - (A) The name and:
 - (i) license or certificate number (under IC 25-34.1-3-8) of each licensed or certified real estate appraiser; or
 - (ii) license number (under IC 25-34.1) of each broker;who appraises the property that is the subject of the transaction.
 - (B) The name and registration number (under IC 25-34.1-11-10) of any appraisal management company that performs appraisal management services (as defined in

IC 25-34.1-11-3) in connection with the transaction.

(7) In the case of a transaction described in subsection (a)(1), the name of the creditor and, if the creditor is required to be licensed under IC 24-4.4, the license number of the creditor.

(8) In the case of a transaction described in subsection (a)(1)(A)(i) or (a)(2), the name of the seller of the property that is the subject of the transaction.

(9) In the case of a transaction described in subsection (a)(1)(A)(i), the following information:

(A) The name of the buyer of the property that is the subject of the transaction.

(B) The purchase price of the property that is the subject of the transaction.

(C) The loan amount of the mortgage transaction.

(10) In the case of a transaction described in subsection (a)(2), the following information:

(A) The name of the buyer of the property that is the subject of the transaction.

(B) The purchase price of the property that is the subject of the transaction.

(11) In the case of a transaction described in subsection (a)(1)(A)(ii), the following information:

(A) The name of the borrower in the mortgage transaction.

(B) The loan amount of the refinancing.

(12) The:

(A) name; and

(B) license number, certificate number, registration number, or other code, as appropriate;

of any other person that is involved in a transaction to which this section applies, as the department may prescribe.

(c) The system established by the department under this section must include a form that:

(1) is uniformly accessible in an electronic format to the closing agent (as defined in IC 6-1.1-12-43(a)(2)) in the transaction; and

(2) allows the closing agent to do the following:

(A) Input information identifying the property that is the subject of the transaction by lot or parcel number, street address, or some other means of identification that the department determines:

(i) is sufficient to identify the property; and

(ii) is determinable by the closing agent.

(B) Subject to subsection (d) and to the extent determinable, input the applicable information described in subsection (b).

(C) Respond to the following questions, if applicable:

(i) "On what date did you receive the closing instructions from the creditor in the transaction?"

(ii) "On what date did the transaction close?"

(D) Submit the form electronically to a data base maintained by the department.

(d) Not later than the time of the closing, each person described in subsection (b), other than a person described in subsection (b)(8), (b)(9), (b)(10), or (b)(11), shall provide to the closing agent in the transaction the person's:

- (1) legal name; and
- (2) license number, certificate number, registration number, or NAIC code, as appropriate;

to allow the closing agent to comply with subsection (c)(2)(B). In the case of a transaction described in subsection (a)(1), the person described in subsection (b)(7) shall, with the cooperation of any person involved in the transaction and described in subsection (b)(6)(A) or (b)(6)(B), provide the information described in subsection (b)(6). In the case of a transaction described in subsection (a)(1)(A)(ii), the person described in subsection (b)(7) shall also provide the information described in subsection (b)(11). A person described in subsection (b)(3)(B) who is involved in the transaction may provide the information required by this subsection for a person described in subsection (b)(3)(A) that serves as the principal broker for the person described in subsection (b)(3)(B). The closing agent shall determine the information described in subsection (b)(8), (b)(9), and (b)(10) from the HUD-1 settlement statement, or in the case of a transaction described in subsection (a)(2), from the contract or any other document executed by the parties in connection with the transaction.

(e) Except for a person described in subsection (b)(8), (b)(9), (b)(10), or (b)(11), a person described in subsection (b) who fails to comply with subsection (d) is subject to a civil penalty of one hundred dollars (\$100) for each closing with respect to which the person fails to comply with subsection (d). The penalty:

- (1) may be enforced by the state agency that has administrative jurisdiction over the person in the same manner that the agency enforces the payment of fees or other penalties payable to the agency; and
- (2) shall be paid into the home ownership education account established by IC 5-20-1-27.

(f) Subject to subsection (g), the department shall make the information stored in the data base described in subsection (c)(2)(D) accessible to:

- (1) each entity described in IC 4-6-12-4; and
- (2) the homeowner protection unit established under IC 4-6-12-2.

(g) The department, a closing agent who submits a form under subsection (c), each entity described in IC 4-6-12-4, and the homeowner protection unit established under IC 4-6-12-2 shall exercise all necessary caution to avoid disclosure of any information:

- (1) concerning a person described in subsection (b), including the person's license, registration, or certificate number; and
 - (2) contained in the data base described in subsection (c)(2)(D);
- except to the extent required or authorized by state or federal law.

(h) The department may adopt rules under IC 4-22-2, including

emergency rules under IC 4-22-2-37.1, to implement this section. Rules adopted by the department under this subsection may establish procedures for the department to:

- (1) establish;
- (2) collect; and
- (3) change as necessary;

an administrative fee to cover the department's expenses in establishing and maintaining the electronic system required by this section.

(i) If the department adopts a rule under IC 4-22-2 to establish an administrative fee to cover the department's expenses in establishing and maintaining the electronic system required by this section, as allowed under subsection (h), the department may:

- (1) require the fee to be paid:
 - (A) to the closing agent responsible for inputting the information and submitting the form described in subsection (c)(2); and
 - (B) by the borrower, the seller, or the buyer in the transaction;
- (2) allow the closing agent described in subdivision (1)(A) to retain a part of the fee collected to cover the closing agent's costs in inputting the information and submitting the form described in subsection (c)(2); and
- (3) require the closing agent to pay the remainder of the fee collected to the department for deposit in the title insurance enforcement fund established by IC 27-7-3.6-1, for the department's use in establishing and maintaining the electronic system required by this section.

As added by P.L.145-2008, SEC.31. Amended by P.L.105-2009, SEC.16; P.L.35-2010, SEC.96; P.L.226-2011, SEC.22.

IC 27-7-3-15.5 Version b

Mortgage transactions and real estate transactions; electronic storage of data on persons involved; closing agents to input data and submit form; duty to provide information; failure to comply; civil penalty; access to data; rules; administrative fee

Note: This version of section effective 7-1-2014. See also preceding version of this section, effective until 7-1-2014.

Sec. 15.5. (a) This section applies to the following transactions:

- (1) A mortgage transaction (as defined in IC 24-9-3-7(a)) that:
 - (A) is:
 - (i) a first lien purchase money mortgage transaction; or
 - (ii) a refinancing transaction; and
 - (B) is closed by a closing agent after December 31, 2009.
- (2) A real estate transaction (as defined in IC 24-9-3-7(b)) that:
 - (A) does not involve a mortgage transaction described in subdivision (1); and
 - (B) is closed by a closing agent (as defined in IC 6-1.1-12-43(a)(2)) after December 31, 2011.

(b) For purposes of this subsection, a person described in this

subsection is involved in a transaction to which this section applies if the person participates in or assists with, or will participate in or assist with, a transaction to which this section applies. The department shall establish and maintain an electronic system for the collection and storage of the following information, to the extent applicable, concerning a transaction to which this section applies:

(1) In the case of a transaction described in subsection (a)(1), the name and license number (under IC 23-2-5) of each loan brokerage business involved in the transaction.

(2) In the case of a transaction described in subsection (a)(1), the name and license or registration number of any mortgage loan originator who is:

(A) either licensed or registered under state or federal law as a mortgage loan originator consistent with the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (H.R. 3221 Title V); and

(B) involved in the transaction.

(3) The name and license number (under IC 25-34.1) of each:

(A) managing broker; and

(B) broker if any;

involved in the transaction.

(4) The following information:

(A) The:

(i) name of; and

(ii) code assigned by the National Association of Insurance Commissioners (NAIC) to;

each title insurance underwriter involved in the transaction.

(B) The type of title insurance policy issued in connection with the transaction.

(5) The name and license number (under IC 27-1-15.6) of each title insurance agency and agent involved in the transaction as a closing agent (as defined in IC 6-1.1-12-43(a)(2)).

(6) The following information:

(A) The name and:

(i) license or certificate number (under IC 25-34.1-3-8) of each licensed or certified real estate appraiser; or

(ii) license number (under IC 25-34.1) of each broker; who appraises the property that is the subject of the transaction.

(B) The name and registration number (under IC 25-34.1-11-10) of any appraisal management company that performs appraisal management services (as defined in IC 25-34.1-11-3) in connection with the transaction.

(7) In the case of a transaction described in subsection (a)(1), the name of the creditor and, if the creditor is required to be licensed under IC 24-4.4, the license number of the creditor.

(8) In the case of a transaction described in subsection (a)(1)(A)(i) or (a)(2), the name of the seller of the property that is the subject of the transaction.

(9) In the case of a transaction described in subsection

- (a)(1)(A)(i), the following information:
 - (A) The name of the buyer of the property that is the subject of the transaction.
 - (B) The purchase price of the property that is the subject of the transaction.
 - (C) The loan amount of the mortgage transaction.
- (10) In the case of a transaction described in subsection (a)(2), the following information:
 - (A) The name of the buyer of the property that is the subject of the transaction.
 - (B) The purchase price of the property that is the subject of the transaction.
- (11) In the case of a transaction described in subsection (a)(1)(A)(ii), the following information:
 - (A) The name of the borrower in the mortgage transaction.
 - (B) The loan amount of the refinancing.
- (12) The:
 - (A) name; and
 - (B) license number, certificate number, registration number, or other code, as appropriate;
 of any other person that is involved in a transaction to which this section applies, as the department may prescribe.
- (c) The system established by the department under this section must include a form that:
 - (1) is uniformly accessible in an electronic format to the closing agent (as defined in IC 6-1.1-12-43(a)(2)) in the transaction; and
 - (2) allows the closing agent to do the following:
 - (A) Input information identifying the property that is the subject of the transaction by lot or parcel number, street address, or some other means of identification that the department determines:
 - (i) is sufficient to identify the property; and
 - (ii) is determinable by the closing agent.
 - (B) Subject to subsection (d) and to the extent determinable, input the applicable information described in subsection (b).
 - (C) Respond to the following questions, if applicable:
 - (i) "On what date did you receive the closing instructions from the creditor in the transaction?".
 - (ii) "On what date did the transaction close?".
 - (D) Submit the form electronically to a data base maintained by the department.
 - (d) Not later than the time of the closing, each person described in subsection (b), other than a person described in subsection (b)(8), (b)(9), (b)(10), or (b)(11), shall provide to the closing agent in the transaction the person's:
 - (1) legal name; and
 - (2) license number, certificate number, registration number, or NAIC code, as appropriate;
 to allow the closing agent to comply with subsection (c)(2)(B). In the

case of a transaction described in subsection (a)(1), the person described in subsection (b)(7) shall, with the cooperation of any person involved in the transaction and described in subsection (b)(6)(A) or (b)(6)(B), provide the information described in subsection (b)(6). In the case of a transaction described in subsection (a)(1)(A)(ii), the person described in subsection (b)(7) shall also provide the information described in subsection (b)(11). A person described in subsection (b)(3)(B) who is involved in the transaction may provide the information required by this subsection for a person described in subsection (b)(3)(A) that serves as the managing broker for the person described in subsection (b)(3)(B). The closing agent shall determine the information described in subsection (b)(8), (b)(9), and (b)(10) from the HUD-1 settlement statement, or in the case of a transaction described in subsection (a)(2), from the contract or any other document executed by the parties in connection with the transaction.

(e) Except for a person described in subsection (b)(8), (b)(9), (b)(10), or (b)(11), a person described in subsection (b) who fails to comply with subsection (d) is subject to a civil penalty of one hundred dollars (\$100) for each closing with respect to which the person fails to comply with subsection (d). The penalty:

- (1) may be enforced by the state agency that has administrative jurisdiction over the person in the same manner that the agency enforces the payment of fees or other penalties payable to the agency; and
- (2) shall be paid into the home ownership education account established by IC 5-20-1-27.

(f) Subject to subsection (g), the department shall make the information stored in the data base described in subsection (c)(2)(D) accessible to:

- (1) each entity described in IC 4-6-12-4; and
- (2) the homeowner protection unit established under IC 4-6-12-2.

(g) The department, a closing agent who submits a form under subsection (c), each entity described in IC 4-6-12-4, and the homeowner protection unit established under IC 4-6-12-2 shall exercise all necessary caution to avoid disclosure of any information:

- (1) concerning a person described in subsection (b), including the person's license, registration, or certificate number; and
 - (2) contained in the data base described in subsection (c)(2)(D);
- except to the extent required or authorized by state or federal law.

(h) The department may adopt rules under IC 4-22-2, including emergency rules under IC 4-22-2-37.1, to implement this section. Rules adopted by the department under this subsection may establish procedures for the department to:

- (1) establish;
- (2) collect; and
- (3) change as necessary;

an administrative fee to cover the department's expenses in establishing and maintaining the electronic system required by this

section.

(i) If the department adopts a rule under IC 4-22-2 to establish an administrative fee to cover the department's expenses in establishing and maintaining the electronic system required by this section, as allowed under subsection (h), the department may:

(1) require the fee to be paid:

(A) to the closing agent responsible for inputting the information and submitting the form described in subsection (c)(2); and

(B) by the borrower, the seller, or the buyer in the transaction;

(2) allow the closing agent described in subdivision (1)(A) to retain a part of the fee collected to cover the closing agent's costs in inputting the information and submitting the form described in subsection (c)(2); and

(3) require the closing agent to pay the remainder of the fee collected to the department for deposit in the title insurance enforcement fund established by IC 27-7-3.6-1, for the department's use in establishing and maintaining the electronic system required by this section.

As added by P.L.145-2008, SEC.31. Amended by P.L.105-2009, SEC.16; P.L.35-2010, SEC.96; P.L.226-2011, SEC.22; P.L.127-2012, SEC.47.

IC 27-7-3-16

Retirement or withdrawal from business; reinsurance; cancellation of certificate of authority; return of deposit

Sec. 16. (a) Whenever any domestic company desires to retire from the business provided for in this chapter, it shall furnish to the department satisfactory evidence that it no longer has outstanding any liability upon any policy of insurance made by it in the conduct of its business as a title insurance company, or that it has reinsured its outstanding policies with a solvent company, authorized to do business under this chapter in this state, or with a company approved by the department. At the same time the company shall surrender to the department its certificate of authority. If the department is satisfied that there is no outstanding liability upon any policy issued by such company, or, that its outstanding policies have been properly reinsured, then the department shall cancel the surrendered certificate of authority and shall return to the company any and all deposits made by such company under the provisions of this chapter.

(b) Whenever any foreign company desires to withdraw from doing a title insurance business in this state, it shall furnish to the department satisfactory evidence that it no longer has outstanding any liability upon any policy of title insurance made by it in the conduct of its business in this state, or that it has reinsured its outstanding policies with a solvent company, authorized to do business in this state, or with a company approved by the department. At the same time such company shall surrender to the department its certificate of authority. If the department is satisfied that there is no

outstanding liability upon any policy issued by such company in the conduct of its business in this state, or that its outstanding policies have been properly reinsured, then the department shall cancel the surrendered certificate of authority and shall return to the company any and all deposits made with it by such company under the provisions of this chapter.

(Formerly: Acts 1937, c.104, s.16.) As amended by P.L.252-1985, SEC.260.

IC 27-7-3-17

Violations

Sec. 17. A person who recklessly violates this chapter or fails to fulfill any of the requirements of this chapter commits a Class B misdemeanor.

(Formerly: Acts 1937, c.104, s.17.) As amended by Acts 1978, P.L.2, SEC.2724.

IC 27-7-3-18

Exemptions from chapter

Sec. 18. The provisions of this chapter shall not apply to any insurance company organized or desiring to organize under and pursuant to IC 27-1 nor to any person, firm, partnership, corporation, limited liability company, association, or company whose business is the making of abstracts of title to real estate and attaching their certificate thereto and not engaging in the business of making title insurance, nor to any person, firm, partnership, corporation, limited liability company, or association acting as an authorized agent for a duly qualified title insurance company.

(Formerly: Acts 1937, c.104, s.18.) As amended by P.L.252-1985, SEC.261; P.L.8-1993, SEC.425.

IC 27-7-3-19

Construction of chapter

Sec. 19. This chapter shall be deemed to create an additional and separate method for engaging in the business of title insurance, as defined in this chapter, and providing for the incorporation of such companies and their licensing to do such business. This chapter shall not be deemed to alter, amend, or repeal any other statutes of the state of Indiana. No requirements or proceedings shall be necessary for the incorporation and licensing of a title insurance company under this chapter except such as are prescribed in this chapter, any provision of the laws of the state of Indiana or IC 27-1 to the contrary notwithstanding.

(Formerly: Acts 1937, c.104, s.20.) As amended by P.L.252-1985, SEC.262.

IC 27-7-3-20

Limitation on risks

Sec. 20. (a) As used in this section, "any one (1) risk" means a risk or hazard that arises in connection with any one (1) piece or

parcel of property, whether or not the policy insures other property.

(b) Any company organized to issue title insurance in Indiana may not expose itself to any one (1) risk in an amount exceeding fifty percent (50%) of the aggregate amount of its total capital and surplus and its reserves other than its loss of claim reserves.

(c) Any risk or portion of any risk that has been reinsured as authorized under IC 27-7, must be deducted in determining the limitation of risk prescribed in this section.

As added by Acts 1982, P.L.162, SEC.2.

IC 27-7-3-21

Requirement of title search

Sec. 21. A company described in section 3 of this chapter that issues a title insurance policy shall perform or cause to be performed a title search for the real estate in conjunction with a mortgage secured by the real estate unless the mortgage meets all of the following requirements:

(1) The principal amount of the mortgage is not more than fifty thousand dollars (\$50,000).

(2) The mortgage is subordinate to a prior mortgage where a title search was conducted and a title policy was issued.

(3) The mortgage is not a reverse mortgage.

As added by P.L.68-2002, SEC.2.

IC 27-7-3.6

Chapter 3.6. Title Insurance Enforcement Fund

IC 27-7-3.6-1

Title insurance enforcement fund established; uses of fund

Sec. 1. The title insurance enforcement fund is established for the following purposes:

(1) To provide supplemental funding for department operations that are related to title insurance, including any of the following:

(A) The investigation of any matter concerning title insurance transactions in Indiana, to the extent necessary to determine compliance with this title.

(B) Appropriate administrative and civil actions to redress instances of noncompliance with this title.

(C) Cooperative efforts with federal, state, and local law enforcement agencies in investigating the following:

(i) Deceptive acts in connection with title insurance transactions.

(ii) Criminal violations involving deceptive acts in connection with title insurance transactions.

(iii) Violations of the Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) and any other federal laws or regulations concerning title insurance transactions. To the extent authorized by federal law, the department may enforce compliance with the federal statutes or regulations described in this item or refer suspected violations of the statutes or regulations to the appropriate federal regulatory agencies.

(D) Actions to enjoin violations of 12 U.S.C. 2607, as permitted under 12 U.S.C. 2607(d) and 12 U.S.C. 2614.

(2) To pay the costs of hiring and employing staff in the area of enforcement of title insurance law.

(3) To provide funding for educational materials or services designed to provide information to consumers about residential title insurance transactions.

As added by P.L.171-2006, SEC.5. Amended by P.L.145-2008, SEC.32.

IC 27-7-3.6-2

Administration of title insurance enforcement fund

Sec. 2. The title insurance enforcement fund shall be administered by the commissioner. The expenses of administering the title insurance enforcement fund shall be paid from money in the fund.

As added by P.L.171-2006, SEC.5.

IC 27-7-3.6-3

Investments

Sec. 3. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same

manner as other public money may be invested.
As added by P.L.171-2006, SEC.5.

IC 27-7-3.6-4

Reversions to state general fund prohibited

Sec. 4. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

As added by P.L.171-2006, SEC.5.

IC 27-7-3.6-5

Augmentation authorized

Sec. 5. The budget agency may augment the appropriation for the department of insurance from balances in the fund.

As added by P.L.171-2006, SEC.5.

IC 27-7-3.6-6

Deposits

Sec. 6. The following shall be deposited in the title insurance enforcement fund:

- (1) Policy reporting fees remitted by title insurers to the commissioner under section 7 of this chapter.
- (2) Other amounts remitted to the commissioner or the department that are required by law to be deposited into the title insurance enforcement fund.

As added by P.L.171-2006, SEC.5. Amended by P.L.1-2007, SEC.185.

IC 27-7-3.6-7

Fees

Sec. 7. (a) A person that purchases a title insurance policy shall pay to the title insurer that issues the title insurance policy a fee of five dollars (\$5) as a fee for the title insurance enforcement fund at the time of payment for the title insurance policy.

(b) A title insurer shall:

- (1) retain two dollars (\$2) of the fee collected under subsection (a) as an administrative fee; and
- (2) pay to the department three dollars (\$3) of the fee collected under subsection (a) for deposit in the title insurance enforcement fund.

As added by P.L.171-2006, SEC.5.

IC 27-7-3.7

Chapter 3.7. Escrow Transactions in Real Estate Transactions

IC 27-7-3.7-1

"Closing agent"

Sec. 1. (a) As used in this chapter, "closing agent" means a person that:

- (1) closes an escrow transaction in connection with the purchase, sale, or financing of an interest in real estate; and
- (2) is required to be licensed as an insurance producer under IC 27-1-15.6.

(b) The term does not include a lender or an employee of a lender that conducts a settlement or closing of a real estate secured loan provided by the lender in the office of the lender.

As added by P.L.92-2009, SEC.1.

IC 27-7-3.7-2

"Escrow account"

Sec. 2. As used in this chapter, "escrow account" means a checking account established by a closing agent with a:

- (1) bank;
- (2) savings and loan association;
- (3) credit union; or
- (4) savings bank;

that is chartered under the laws of a state or the United States and used exclusively for the deposit and disbursement of funds for an escrow transaction.

As added by P.L.92-2009, SEC.1.

IC 27-7-3.7-3

"Escrow transaction"

Sec. 3. (a) As used in this chapter, "escrow transaction" means a transaction in which a person deposits with a closing agent funds that are to be held until:

- (1) a specified event occurs; or
- (2) the performance of a prescribed condition;

in connection with the purchase, sale, or financing of an interest in real estate.

(b) The term does not include a loan financing if:

- (1) the only parties to the loan transaction are the lender and the borrower; and
- (2) the lender is responsible for disbursing all of the funds to the borrower or to a third party in order to pay fees and charges associated with the loan transaction.

As added by P.L.92-2009, SEC.1.

IC 27-7-3.7-4

"Good funds"

Sec. 4. As used in this chapter, "good funds" means funds in any of the following forms:

- (1) United States currency.
- (2) Wired funds unconditionally held by and irrevocably credited to the escrow account of the closing agent.
- (3) Certified or cashier's checks that are drawn on an existing account at a:
 - (A) bank;
 - (B) savings and loan association;
 - (C) credit union; or
 - (D) savings bank;chartered under the laws of a state or the United States.
- (4) A check drawn on the trust account of a real estate broker licensed under IC 25-34.1, if the closing agent has reasonable and prudent grounds to believe that sufficient funds will be available for withdrawal from the account on which the check is drawn at the time of disbursement of funds from the closing agent's escrow account.
- (5) A personal check not to exceed five hundred dollars (\$500) per closing.
- (6) A check issued by the state, the United States, or a political subdivision of the state or the United States.
- (7) A check drawn on the escrow account of another closing agent, if the closing agent in the escrow transaction has reasonable and prudent grounds to believe that sufficient funds will be available for withdrawal from the account upon which the check is drawn at the time of disbursement of funds from the escrow account of the closing agent in the escrow transaction.
- (8) A check issued by a farm credit service authorized under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).

As added by P.L.92-2009, SEC.1.

IC 27-7-3.7-5

"Real estate transaction"

Sec. 5. (a) As used in this section, "real estate transaction" refers to any:

- (1) escrow transaction;
- (2) settlement; or
- (3) closing;

conducted in connection with the purchase, sale, or financing of an interest in real estate.

(b) The term does not include a real estate secured loan financing if:

- (1) the only parties to the loan transaction are the lender and the borrower; and
- (2) the lender is responsible for disbursing all of the funds to the borrower or to a third party in order to pay fees and charges associated with the loan transaction.

As added by P.L.92-2009, SEC.1.

IC 27-7-3.7-6

Funds received in escrow transaction to be deposited in escrow account; exception

Sec. 6. Funds received in connection with an escrow transaction must be deposited in an escrow account unless the parties to the escrow transaction agree in writing to another arrangement.

As added by P.L.92-2009, SEC.1.

IC 27-7-3.7-7

Disbursements; requirements for funds of at least \$10,000 received from single party

Sec. 7. A closing agent may not make disbursements from an escrow account in connection with a real estate transaction unless any funds that:

- (1) are received from any single party to the real estate transaction; and
- (2) in the aggregate are at least ten thousand dollars (\$10,000); are wired funds that are unconditionally held by and irrevocably credited to the escrow account of the closing agent.

As added by P.L.92-2009, SEC.1.

IC 27-7-3.7-8

Disbursements; requirements for funds less than \$10,000 received from single party

Sec. 8. A closing agent may not make disbursements from an escrow account in connection with a real estate transaction unless any funds that:

- (1) are received from any single party to the real estate transaction; and
- (2) in the aggregate are less than ten thousand dollars (\$10,000); are good funds.

As added by P.L.92-2009, SEC.1.

IC 27-7-3.7-9

Mortgage holder's right to receive proceeds from real estate transaction through funds electronically transferred to specified account

Sec. 9. If:

- (1) the closing agent in a real estate transaction receives wired funds unconditionally held and irrevocably credited to the escrow account of the closing agent; and
 - (2) a holder of a mortgage lien encumbering real estate so requests, as part of written closing instructions or a written payoff statement in advance of closing;
- the holder of the mortgage lien is entitled to receive its proceeds from the real estate transaction through funds electronically transferred to an account specified by the holder of the mortgage lien.

As added by P.L.92-2009, SEC.1.

IC 27-7-3.7-10

Advance of fees from escrow account to pay incidental fees

Sec. 10. A closing agent may advance an amount not to exceed five hundred dollars (\$500) from an escrow account on behalf of a party to an escrow transaction for the purpose of paying incidental fees, including conveyance and recording fees. Incidental fees may be paid in order to:

- (1) effect and close the sale of;
- (2) purchase;
- (3) exchange;
- (4) transfer;
- (5) encumber; or
- (6) lease;

real property that is the subject of the escrow transaction.

As added by P.L.92-2009, SEC.1.

IC 27-7-4

Repealed

(Repealed by Acts 1974, P.L.142, SEC.3.)

IC 27-7-5

Chapter 5. Uninsured Motorist Coverage and Underinsured Motorist Coverage

IC 27-7-5-0.1

Application of certain amendments to chapter

Sec. 0.1. The following amendments to this chapter apply as follows:

(1) The amendments made to section 2 of this chapter by P.L.391-1987(ss) apply only to policies first issued after December 31, 1987.

(2) Notwithstanding the effective date of P.L.124-2009, SECTION 1, the amendments made to section 2 of this chapter by P.L.124-2009 apply to a case in which:

(A) a claim under a policy's uninsured motorist coverage or underinsured motorist coverage arises after December 31, 2009;

(B) a rejection is made under section 2 of this chapter, as amended by P.L.124-2009 of the uninsured motorist coverage or underinsured motorist coverage under which the claim described in subdivision (1) is made; and

(C) the rejection described in clause (B) is made after December 31, 2009.

As added by P.L.220-2011, SEC.433.

IC 27-7-5-1

Repealed

(Repealed by Acts 1982, P.L.166, SEC.6.)

IC 27-7-5-1.5

Repealed

(Repealed by P.L.124-2009, SEC.4.)

IC 27-7-5-2

Uninsured and underinsured motorist coverage; required coverage; rejection; commercial policies

Sec. 2. (a) Except as provided in subsections (d) and (f), the insurer shall make available, in each automobile liability or motor vehicle liability policy of insurance which is delivered or issued for delivery in this state with respect to any motor vehicle registered or principally garaged in this state, insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any person and for injury to or destruction of property to others arising from the ownership, maintenance, or use of a motor vehicle, or in a supplement to such a policy, the following types of coverage:

(1) in limits for bodily injury or death and for injury to or destruction of property not less than those set forth in IC 9-25-4-5 under policy provisions approved by the commissioner of insurance, for the protection of persons insured under the policy who are legally entitled to recover

damages from owners or operators of uninsured or underinsured motor vehicles because of bodily injury, sickness or disease, including death, and for the protection of persons insured under the policy who are legally entitled to recover damages from owners or operators of uninsured motor vehicles for injury to or destruction of property resulting therefrom; or

(2) in limits for bodily injury or death not less than those set forth in IC 9-25-4-5 under policy provisions approved by the commissioner of insurance, for the protection of persons insured under the policy provisions who are legally entitled to recover damages from owners or operators of uninsured or underinsured motor vehicles because of bodily injury, sickness or disease, including death resulting therefrom.

The uninsured and underinsured motorist coverages must be provided by insurers for either a single premium or for separate premiums, in limits at least equal to the limits of liability specified in the bodily injury liability provisions of an insured's policy, unless such coverages have been rejected in writing by the insured. However, underinsured motorist coverage must be made available in limits of not less than fifty thousand dollars (\$50,000). At the insurer's option, the bodily injury liability provisions of the insured's policy may be required to be equal to the insured's underinsured motorist coverage. Insurers may not sell or provide underinsured motorist coverage in an amount less than fifty thousand dollars (\$50,000). Insurers must make underinsured motorist coverage available to all existing policyholders on the date of the first renewal of existing policies that occurs on or after January 1, 1995, and on any policies newly issued or delivered on or after January 1, 1995. Uninsured motorist coverage or underinsured motorist coverage may be offered by an insurer in an amount exceeding the limits of liability specified in the bodily injury and property damage liability provisions of the insured's policy.

(b) A named insured of an automobile or motor vehicle liability policy has the right, in writing, to:

- (1) reject both the uninsured motorist coverage and the underinsured motorist coverage provided for in this section; or
- (2) reject either the uninsured motorist coverage alone or the underinsured motorist coverage alone, if the insurer provides the coverage not rejected separately from the coverage rejected.

A rejection of coverage under this subsection by a named insured is a rejection on behalf of all other named insureds, all other insureds, and all other persons entitled to coverage under the policy. No insured may have uninsured motorist property damage liability insurance coverage under this section unless the insured also has uninsured motorist bodily injury liability insurance coverage under this section. Following rejection of either or both uninsured motorist coverage or underinsured motorist coverage, unless later requested in writing, the insurer need not offer uninsured motorist coverage or underinsured motorist coverage in or supplemental to a renewal or replacement policy issued to the same insured by the same insurer or

a subsidiary or an affiliate of the originally issuing insurer. Renewals of policies issued or delivered in this state which have undergone interim policy endorsement or amendment do not constitute newly issued or delivered policies for which the insurer is required to provide the coverages described in this section.

(c) A rejection under subsection (b) must specify:

(1) that the named insured is rejecting:

(A) the uninsured motorist coverage;

(B) the underinsured motorist coverage; or

(C) both the uninsured motorist coverage and the underinsured motorist coverage;

that would otherwise be provided under the policy; and

(2) the date on which the rejection is effective.

(d) An insurer is not required to make available the coverage described in subsection (a) in a commercial umbrella or excess liability policy, including a commercial umbrella or excess liability policy that is issued or delivered to a motor carrier (as defined in IC 8-2.1-17-10) that is in compliance with the minimum levels of financial responsibility set forth in 49 CFR Part 387.

(e) A rejection under subsection (b) of uninsured motorist coverage or underinsured motorist coverage in an underlying commercial policy of insurance is also a rejection of uninsured motorist coverage or underinsured motorist coverage in a commercial umbrella or excess liability policy.

(f) An insurer is not required to make available the coverage described in subsection (a) in connection with coverage that:

(1) is related to or included in a commercial policy of property and casualty insurance described in Class 2 or Class 3 of IC 27-1-5-1; and

(2) covers a loss related to a motor vehicle:

(A) of which the insured is not the owner; and

(B) that is used:

(i) by the insured or an agent of the insured; and

(ii) for purposes authorized by the insured.

(g) For purposes of subsection (f), "owner" means:

(1) a person who holds the legal title to a motor vehicle;

(2) a person who rents or leases a motor vehicle and has exclusive use of the motor vehicle for more than thirty (30) days;

(3) the conditional vendee or lessee under an agreement for the conditional sale or lease of a motor vehicle; or

(4) the mortgagor under an agreement for the conditional sale or lease of a motor vehicle under which the mortgagor has:

(A) the right to purchase; and

(B) an immediate right of possession of;

the motor vehicle upon the performance of the conditions stated in the agreement.

As added by Acts 1982, P.L.166, SEC.1. Amended by P.L.391-1987(ss), SEC.1; P.L.5-1988, SEC.145; P.L.2-1991, SEC.88; P.L.1-1992, SEC.151; P.L.1-1993, SEC.203; P.L.130-1994,

SEC.41; P.L.116-1994, SEC.56; P.L.233-1999, SEC.8; P.L.124-2009, SEC.1; P.L.116-2011, SEC.2; P.L.125-2012, SEC.403.

IC 27-7-5-3

Property damage coverage; authorization

Sec. 3. (a) Insurers shall additionally offer to provide uninsured motorist property damage coverage without any deductible amount and may offer uninsured motorist property damage coverage with a deductible of not more than the first three hundred dollars (\$300.00) of property damage caused by collision. However, any such deductible amount for property damage shall be waived for damage resulting from collision if the insured motor vehicle is legally parked and unoccupied when involved in a motor vehicle accident for which the insured is legally entitled to recover damages from an uninsured motorist.

(b) Property damage losses recoverable under the provisions of this chapter are limited to damages to the insured motor vehicle and the personal property owned by the insured which is contained in the insured motor vehicle and shall not include the loss of use of damaged or destroyed property.

(c) Any claim for property damage submitted under an uninsured motorist coverage must include the name and address of the at-fault operator and any other information to establish the at-fault operator is without motor vehicle liability insurance. There shall be no liability imposed upon an insurer where the owner or operator of the other vehicle cannot be identified.

As added by Acts 1982, P.L.166, SEC.2. Amended by P.L.259-1983, SEC.5.

IC 27-7-5-4

"Uninsured motor vehicle" and "underinsured motor vehicle" defined; insurer's insolvency protection

Sec. 4. (a) For the purpose of this chapter, the term uninsured motor vehicle, subject to the terms and conditions of such coverage, means a motor vehicle without liability insurance or a motor vehicle not otherwise in compliance with the financial responsibility requirements of IC 9-25 or any similar requirements applicable under the law of another state, and includes an insured motor vehicle where the liability insurer of the vehicle is unable to make payment with respect to the legal liability of its insured within the limits specified in IC 9-25-4-5 because of insolvency.

(b) For the purpose of this chapter, the term underinsured motor vehicle, subject to the terms and conditions of such coverage, includes an insured motor vehicle where the limits of coverage available for payment to the insured under all bodily injury liability policies covering persons liable to the insured are less than the limits for the insured's underinsured motorist coverage at the time of the accident, but does not include an uninsured motor vehicle as defined in subsection (a).

(c) An insurer's insolvency protection applies only to accidents occurring during a policy period in which its insured's uninsured motorist coverage is in effect and where the liability insurer of the tortfeasor becomes insolvent within two (2) years after such an accident. However, nothing contained in this section shall be construed to prevent any insurer from affording insolvency protection under terms and conditions more favorable to its insured than is provided under this section.

As added by Acts 1982, P.L.166, SEC.3. Amended by P.L.391-1987(ss), SEC.2; P.L.2-1991, SEC.89; P.L.1-1992, SEC.152; P.L.1-1993, SEC.204.

IC 27-7-5-5

Limitations on coverage

Sec. 5. (a) The policy or endorsement affording coverage specified in this chapter may provide that the total limit of all insurers' liability arising out of any one (1) accident shall not exceed the highest limits under any one (1) policy applicable to the loss, but in no event may coverage be less than the minimum set forth in IC 9-25-4-5.

(b) When the coverage specified in this chapter is written to apply to one (1) or more motor vehicles under a single automobile liability policy, such coverage applies only to the operation of those motor vehicles for which a specific uninsured or underinsured motorist premium charge has been made and does not apply to the operation of any motor vehicles insured under the policy or owned by the named insured for which a premium charge has not been made.

(c) The maximum amount payable for bodily injury under uninsured or underinsured motorist coverage is the lesser of:

(1) the difference between:

(A) the amount paid in damages to the insured by or for any person or organization who may be liable for the insured's bodily injury; and

(B) the per person limit of uninsured or underinsured motorist coverage provided in the insured's policy; or

(2) the difference between:

(A) the total amount of damages incurred by the insured; and

(B) the amount paid by or for any person or organization liable for the insured's bodily injury.

As added by Acts 1982, P.L.166, SEC.4. Amended by P.L.391-1987(ss), SEC.3; P.L.2-1991, SEC.90; P.L.1-1992, SEC.153; P.L.1-1993, SEC.205.

IC 27-7-5-6

Subrogation

Sec. 6. (a) The policy or endorsement affording the coverage specified in this chapter may also provide that payment to any person of sums as damages under such coverage shall operate to subrogate the insurer to any cause of action in tort which such person may have against any other person or organization legally responsible for the

bodily injury or death, or property damage, because of which such payment is made. The insurer shall be subrogated, to the extent of such payment, to the proceeds of any settlement or judgment that may later result from the exercise of any rights of recovery of such person against any person or organization legally responsible for said bodily injury or death, or property damage, for which payment is made by the insurer. Such insurer may enforce such rights in its own name or in the name of the person to whom payment has been made, as in their interest may appear, by proper action in any court of competent jurisdiction.

(b) An insurer providing underinsured motorist coverage does not have a right of subrogation against an underinsured motorist if:

- (1) the insurer has been provided with a written notice that:
 - (A) informs the insurer of the existence of a bona fide offer of agreement or settlement between its insured and the underinsured motorist; and
 - (B) includes a certification of the liability coverage limits of the underinsured motorist; and
- (2) the insurer fails to advance payment to the insured in an amount equal to the amount provided for in the offer of agreement or settlement within thirty (30) days after the insurer receives the notice described in subdivision (1).

However, an insurer that, under the circumstances described in subdivision (1), advances payment to the insured in an amount equal to the amount provided for in the offer of agreement or settlement, has full rights of subrogation as provided in its policy or endorsement affording the underinsured motorist coverage.

(c) When an insurer makes payment under uninsured motorist coverage or underinsured motorist coverage because of the insolvency of an insolvent insurer (as defined in IC 27-6-8), the paying insurer's rights of reimbursement and subrogation do not include any rights of recovery against:

- (1) the insured of the insolvent insurer; or
- (2) the Indiana Insurance Guaranty Association created by IC 27-6-8-5;

except that the paying insurer may recover from the insured of the insolvent insurer that part of its payment that exceeds the limits of liability of the policy of the insolvent insurer.

As added by Acts 1982, P.L.166, SEC.5. Amended by P.L.121-1990, SEC.7.

IC 27-7-6

Chapter 6. Cancellation of Automobile Insurance Policies

IC 27-7-6-1

Limitations on power of issuance, cancellation, and nonrenewal

Sec. 1. The issuance, cancellation, and nonrenewal of automobile insurance policies by insurers shall be subject to the limitations set out in this chapter.

(Formerly: Acts 1969, c.332, s.1.) As amended by P.L.252-1985, SEC.263; P.L.121-1990, SEC.8.

IC 27-7-6-2

"Automobile insurance policy", "automobile liability coverage", and "policy" defined

Sec. 2. "Automobile insurance policy" means a policy delivered or issued for delivery in this state or covering a motor vehicle required to be registered in this state providing coverage for bodily injury and property damage liability, medical payments, and uninsured motorists or any combination thereof, and insuring as the named insured a natural person or more than one (1) natural persons related to each other, resident of the same household, and under which the insured vehicles therein designated are as:

- (a) a motor vehicle of the private passenger or station wagon type that is not used as a public or livery conveyance for passengers, nor rented to others; or
- (b) any other four-wheel motor vehicle with a load capacity of one thousand five hundred (1,500) pounds or less which is not used in the occupation, profession, or business of the insured; provided, however, that this chapter shall not apply:

- (1) to any policy issued under an automobile assigned risk plan;
- (2) to any policy insuring more than four (4) automobiles; or
- (3) to pay policy covering garage, automobile sales agency, repair shop, service station, or public parking place operation hazards.

"Automobile liability coverage" includes only coverage of bodily injury and property damage liability, medical payments and uninsured motorists coverage.

"Policy" shall be deemed to mean a policy providing automobile liability coverage.

(Formerly: Acts 1969, c.332, s.2.) As amended by P.L.252-1985, SEC.264.

IC 27-7-6-3

"Renewal" or "to renew" defined

Sec. 3. "Renewal" or "to renew" means the issuance and delivery by an insurer of a policy replacing at the end of the policy period a policy previously issued and delivered by the same insurer insuring the same insured, or the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or

term; provided, however, that any policy with a policy period or term of six (6) months or less and any policy with no fixed expiration date shall for the purposes of this chapter be considered as if written for a policy period or term of six (6) months; and provided further, that any policy written for a term longer than one (1) year shall for the purposes of this chapter be considered as if written for successive policy periods or terms of one (1) year, and such policy may be terminated by the insurer at the expiration of any annual period upon giving twenty (20) days notice of cancellation prior to such anniversary date, and such cancellation shall not be subject to any other provisions of this chapter.

(Formerly: Acts 1969, c.332, s.3.) As amended by P.L.252-1985, SEC.265.

IC 27-7-6-4

Notice of cancellation; authorized reasons

Sec. 4. A notice of cancellation by an insurer of an automobile insurance policy as defined in this chapter shall be effective only if such cancellation is for one (1) or more of the following reasons:

(a) Nonpayment of premium which is defined to mean for the purposes of this chapter the failure of the named insured to discharge when due any of his obligations in connection with the payment of premiums on a policy, or any installment of such premium whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit.

(b) The driver's license or motor vehicle registration of the named insured or of any other operator who either resides in the same household or customarily operates an automobile insured under the policy has been denied or has been under suspension or revocation during the policy period or the existence of one (1) or more grounds for such denial, suspension, or revocation has become known.

(c) The named insured or any other operator who either resides in the same household or customarily operates an automobile insured under the policy:

(1) is under treatment for epilepsy or heart disease and does not produce a certificate from a physician testifying to the operator's unqualified ability to operate a motor vehicle safely; or

(2) uses drugs or alcoholic beverages to excess.

(d) Fraud, willful misrepresentation, or concealment on the part of any insured in respect to any material fact or circumstance relating to the issuance or continuance of the policy or relating to a loss.

(e) Violation of any terms or conditions of the policy.

(f) The place of residence of the insured or the state of registration or license of the insured automobile is changed to a state or country in which the insurer is not licensed.

Provided, however, that a change or substitution in policy form shall

not be deemed to be a cancellation within the intent of this chapter; provided, further, that nothing in this section shall apply to nonrenewals. This section shall not apply to any policy or coverage which has been in effect less than sixty (60) days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy.

(Formerly: Acts 1969, c.332, s.4.) As amended by P.L.252-1985, SEC.266.

IC 27-7-6-5

Notice of cancellation; time for mailing or delivery; notice to insurance producer

Sec. 5. No notice of cancellation of a policy to which section 4 of this chapter applies shall be effective unless mailed or delivered by the insurer to the named insured at least twenty (20) days prior to the effective date of cancellation; provided, however, that where cancellation is for nonpayment of premium at least ten (10) days notice of cancellation accompanied by the reason therefor shall be given. In the event such policy was procured by an insurance producer duly licensed by the state of Indiana, notice of intent to cancel shall be mailed or delivered to the insurance producer at least ten (10) days prior to such mailing or delivery to the named insured unless such notice of intent is or has been waived in writing by the insurance producer. Unless the reason accompanies or is included in the notice of cancellation, the notice of cancellation shall state or be accompanied by a statement that upon written request of the named insured, mailed or delivered to the insurer not less than fifteen (15) days prior to the effective date of cancellation, the insurer will specify the reason for such cancellation. This section shall not apply to nonrenewal.

(Formerly: Acts 1969, c.332, s.5.) As amended by P.L.252-1985, SEC.267; P.L.178-2003, SEC.45.

IC 27-7-6-6

Notice of intention not to renew; time for mailing or delivery; notice to insurance producer

Sec. 6. (a) No insurer shall fail to renew a policy unless it shall mail or deliver to the named insured, at the address shown in the policy, at least twenty (20) days' advance notice of its intention not to renew. In the event such policy was procured by an insurance producer duly licensed by the state of Indiana notice of intent not to renew shall be mailed or delivered to the insurance producer at least ten (10) days prior to such mailing or delivery to the named insured unless such notice of intent is or has been waived in writing by the insurance producer.

(b) This section shall not apply:

- (1) if the insurer has manifested its willingness to renew; or
- (2) in case of nonpayment of premium.

However, notwithstanding the failure of an insurer to comply with this section, the policy shall terminate on the effective date of any

other insurance policy with respect to any automobile designated in both policies.

(c) A notice of intention not to renew is not required if:

- (1) the insured is transferred from an insurer to an affiliate of the insurer for future coverage as a result of a merger, an acquisition, or a company restructuring;
- (2) the transfer results in the same or broader coverage; and
- (3) the insured approves the transfer.

(d) Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of such renewal.

(Formerly: Acts 1969, c.332, s.6.) As amended by P.L.160-2003, SEC.24; P.L.178-2003, SEC.46; P.L.97-2004, SEC.98.

IC 27-7-6-7

Proof of mailing notice

Sec. 7. Proof of mailing of notice of cancellation, or of intention not to renew or of reasons for cancellation, to the named insured at the address shown in the policy shall be sufficient proof of notice.

(Formerly: Acts 1969, c.332, s.7.)

IC 27-7-6-8

Notice of possible eligibility under assigned risk plan

Sec. 8. When a policy providing automobile liability coverage is cancelled, other than for nonpayment of premium, or in the event of failure to renew a policy providing automobile liability coverage to which section 6 of this chapter applies, the insurer shall notify the named insured of his possible eligibility for automobile liability insurance through other insurers or through the automobile liability assigned risk plan. Such notice shall accompany or be included in the notice of cancellation or the notice of intent not to renew.

(Formerly: Acts 1969, c.332, s.8.) As amended by P.L.252-1985, SEC.268.

IC 27-7-6-9

Compliance with request for reason for cancellation or nonrenewal; time limits

Sec. 9. Where the reason for cancellation does not accompany or is not included in the notice of cancellation, the insurer shall upon written request of the named insured, mailed or delivered to the insurer not less than fifteen (15) days prior to the effective date of cancellation, specify in writing the reason for such cancellation. Such reason shall be mailed or delivered to the named insured within five (5) days after receipt of such request.

(Formerly: Acts 1969, c.332, s.9.)

IC 27-7-6-10

Exemption from liability for statements made in giving reasons for cancellation or nonrenewal

Sec. 10. There shall be no liability on the part of and no cause of

action of any nature shall arise against the commissioner of insurance or against any insurer, its authorized representative, its insurance producers, its employees, or any firm, person, limited liability company, or corporation furnishing to the insurer information as to reasons for cancellation, for any statement made by any of them in any written notice of cancellation, or in any other communication, oral or written specifying the reasons for cancellation, or the providing of information pertaining thereto, or for statements made or evidence submitted at any hearings conducted in connection therewith.

(Formerly: Acts 1969, c.332, s.10.) As amended by P.L.8-1993, SEC.426; P.L.178-2003, SEC.47.

IC 27-7-6-11

Dispute as to truth of reason for cancellation; hearing; findings; effect; fee

Sec. 11. (a) In the event the truth of the reason or reasons for cancellation is disputed by the named insured, the insured may, not later than ten (10) days prior to the effective date of such cancellation, apply in writing to the commissioner of insurance for a hearing. Such application shall state wherein such reason or reasons are false and a copy of such application shall be mailed or delivered to the insurer on the same date it is submitted to the commissioner.

(b) If the commissioner finds that the application was made in good faith and does in fact present a dispute as to the truth or existence of valid grounds for cancellation, the commissioner shall, within a reasonable time after receipt of such application and upon ten (10) days notice to the named insured and the insurer, hold a hearing on the matter. The findings of the commissioner shall be final and shall be issued in writing to the parties within five (5) days after the hearing.

(c) In the event of a finding that no reason for cancellation in fact exists, the cancellation shall be of no effect and the notice shall be rescinded.

(d) In the event of a finding that one (1) or more reasons for cancellation do in fact exist, the cancellation shall be effective as of the date stated in the cancellation notice.

(e) No investigation, defense, or other action undertaken by the insurer during the period between the date of cancellation stated in the notice and the date the commissioner issued findings shall be deemed a waiver of any rights or defenses on the part of such insurer.

(f) Any application for a hearing shall be accompanied by a filing fee of twenty dollars (\$20) as a condition precedent to such hearing. Such fee shall be returned to the named insured if the finding is in the insured's favor, but otherwise shall be retained by the department of insurance.

(Formerly: Acts 1969, c.332, s.11.) As amended by P.L.3-1989, SEC.154.

IC 27-7-6-12

Person with a disability; automobile policy

Sec. 12. (a) As used in this section, "person with a disability" means a person who is under a disability as defined by the federal Social Security Administration guidelines (42 U.S.C. 416).

(b) After June 30, 1990, an insurer may not cancel, fail to renew, or refuse to issue an automobile insurance policy to a person with a disability who holds a valid driver's license solely because of the disability, nor may an insurer cancel, fail to renew, or refuse to issue an automobile insurance policy under conditions less favorable to persons with a disability than persons without a disability.

As added by P.L.121-1990, SEC.9. Amended by P.L.99-2007, SEC.191.

IC 27-7-7

Repealed

(Repealed by P.L.262-1985, SEC.2.)

IC 27-7-8

Chapter 8. Legal Insurance

IC 27-7-8-1

Definitions

Sec. 1. Definitions. As used in this chapter:

"Advertising" means any communication to the public the purpose of which is to convey information purporting to describe a legal insurance plan.

"Commissioner" refers to the commissioner of insurance.

"Department" refers to the department of insurance.

"Employee" means an individual employed or permitted to work or perform services for remuneration under a contract of hire, written or oral, by an employer.

"Employer" means a person who hires an employee.

"Group legal insurance" refers to legal insurance issued under a master policy covering the individuals set out in subdivisions (1) and (2) of section 3 of this chapter, applying a rate that is lower than the rate shown in the insurer's manual for individual policies of the same type and class.

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

"Legal insurance" means insurance against class 2(m) risk of loss as described in IC 27-1-5-1.

"Person" means an individual, partnership, corporation, limited liability company, business trust, or association.

"Solicitation" means any invitation or request to enroll in a legal insurance plan, or attempt to obtain consideration for the coverage of a legal insurance plan, or any other device the purpose of which is to induce an individual to enroll in, or pay consideration for, a legal insurance plan.

As added by Acts 1978, P.L.129, SEC.2. Amended by P.L.8-1993, SEC.427.

IC 27-7-8-2

Provisions governing legal insurance

Sec. 2. In addition to the other applicable provisions of IC 27, an insurer providing legal insurance must comply with the provisions of this chapter.

As added by Acts 1978, P.L.129, SEC.2.

IC 27-7-8-3

Authority to issue insurance to individuals and groups

Sec. 3. Legal insurance may be issued to an individual or, as a group policy to:

- (1) ten (10) or more employees; or
- (2) ten (10) or more members of a trade or professional association, labor union, or any other association of members in the same or related occupation, profession, or industry in existence for two (2) years, having a constitution, and formed

for a purpose other than obtaining insurance.
As added by Acts 1978, P.L.129, SEC.2.

IC 27-7-8-4

Payment of premiums; persons authorized

Sec. 4. The following may periodically pay to the insurer, as provided in the contract to insure, the premiums on a group legal insurance policy:

- (1) An employer for its employees.
- (2) An association for its members.
- (3) A labor union for its members.

As added by Acts 1978, P.L.129, SEC.2.

IC 27-7-8-5

Group policies; rights to obtain individual coverage

Sec. 5. (a) A group policy must contain a provision that allows an insured member who no longer qualifies for group coverage to obtain an individual policy with similar coverage.

(b) An individual desiring to obtain an individual policy as provided under subsection (a) must apply for the policy not later than thirty-one (31) days from the date on which the individual is no longer a qualified member of the group.

(c) The individual policy shall be issued on one (1) of the forms issued by the insurer for individual policies, and the premium on the policy must be at the insurer's customary rate for the class of risk to which the individual belongs.

As added by Acts 1978, P.L.129, SEC.2.

IC 27-7-8-6

Master group policy; individual certificates; filing; contents

Sec. 6. An insurer shall issue an individual or master policy that serves as evidence of a contractual obligation. A certificate of coverage must be issued to each individual under a group policy. All such documents must be filed with the commissioner as required under this title. In addition to those provisions, each policy or certificate concerning legal insurance must contain a complete and clear statement of:

- (1) the legal benefits to which the insured is entitled;
- (2) any limitation or exclusion on the services, kinds of services, benefits to be provided, including deductible or copayment features; and
- (3) where information is available as to how services may be obtained.

As added by Acts 1978, P.L.129, SEC.2.

IC 27-7-8-7

Regulations

Sec. 7. The commissioner may promulgate regulations under IC 4-22-2 that he considers necessary for the proper administration of this chapter.

As added by Acts 1978, P.L.129, SEC.2.

IC 27-7-9

Chapter 9. Mine Subsidence Insurance

IC 27-7-9-1

"Commissioner" defined

Sec. 1. As used in this chapter, "commissioner" refers to the insurance commissioner.

As added by P.L.164-1986, SEC.1.

IC 27-7-9-2

"Insurer" defined

Sec. 2. As used in this chapter, "insurer" has the meaning set forth in IC 27-1-2-3(x).

As added by P.L.164-1986, SEC.1.

IC 27-7-9-3

"Mine subsidence" defined

Sec. 3. As used in this chapter, "mine subsidence" means the collapse of inactive underground coal mines abandoned before August 3, 1977, resulting in damage to a structure. The term does not include loss caused by earthquake, landslide, volcanic eruption, or collapse of storm or sewer drains.

As added by P.L.164-1986, SEC.1. Amended by P.L.124-1992, SEC.1.

IC 27-7-9-3.5

"Peril" defined

Sec. 3.5. As used in this chapter, "peril" means the cause of a loss, such as a fire, an explosion, or a flood.

As added by P.L.124-1992, SEC.2.

IC 27-7-9-4

"Premium" defined

Sec. 4. As used in this chapter, "premium" has the meaning set forth in IC 27-1-2-3(w).

As added by P.L.164-1986, SEC.1.

IC 27-7-9-5

"Structure" defined

Sec. 5. As used in this chapter, "structure" means any dwelling, building, or fixture permanently fixed to real property. The term does not include land, trees, crops, or other plants, nor does the term include a dwelling, building, or fixture that is owned by a public or governmental entity.

As added by P.L.164-1986, SEC.1. Amended by P.L.124-1992, SEC.3.

IC 27-7-9-6

List of counties in which mine subsidence insurance available

Sec. 6. The department of natural resources shall identify and

maintain a list of counties that are:

- (1) at least partially within the Illinois Coal Basin; or
- (2) underlain by coal-bearing rock formations of the Pennsylvanian system.

The mine subsidence insurance provided under this chapter is available only to cover structures located in counties identified by the department of natural resources under this section.

As added by P.L.164-1986, SEC.1.

IC 27-7-9-7

Mine subsidence insurance fund; deposits; investment

Sec. 7. (a) The mine subsidence insurance fund is established for the purpose of making mine subsidence insurance available to owners of property located in counties identified under section 6 of this chapter. The fund shall be administered by the commissioner. Money shall be deposited in the fund from:

- (1) premiums for mine subsidence insurance remitted by insurers to the commissioner; and
- (2) funds obtained through federal grants or any other source.

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

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

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

As added by P.L.164-1986, SEC.1.

IC 27-7-9-8

Extent of coverage necessary; deductible

Sec. 8. (a) Coverage for damage due to mine subsidence must be available as an additional form of coverage under any insurance policy providing the type of insurance described in Class 3(a) of IC 27-1-5-1 to directly cover one (1) or more structures located in a county identified under section 6 of this chapter. The mine subsidence coverage must be available in an amount adequate to indemnify the insured to the extent of the loss in actual cash value of the covered structure due to mine subsidence, less a deductible equal to two percent (2%) of the insured value of the structure under the policy. However, the deductible must be no less than two hundred fifty dollars (\$250) and no more than five hundred dollars (\$500).

(b) An insurer proposing to issue a policy providing the type of insurance described in Class 3(a) of IC 27-1-5-1 to cover one (1) or more structures located in a county identified under section 6 of this chapter shall inform the prospective policyholder of the availability of mine subsidence coverage under this section. An insurer shall inform the prospective policyholder of the availability of mine subsidence coverage under this subsection when a policy described in this subsection is issued.

(c) When an insurer informs a prospective policyholder of the amount of the premium for the mine subsidence coverage that is available as an additional form of coverage under a policy as required by subsection (a), the premium for the mine subsidence coverage must be stated separately from the premium for the other coverage provided by the policy. The amount of the premium for mine subsidence coverage provided by an insurer under this section must be set according to the premium level set by the commissioner under section 10 of this chapter.

(d) Except as provided in subsection (f), an insurance policy providing the type of insurance described in Class 3(a) of IC 27-1-5-1 to directly cover one (1) or more structures located in a county identified under section 6 of this chapter must include the mine subsidence coverage provided for under subsection (a) if the prospective insured (before issuance of the policy) or the insured (before renewal of the policy) indicates that the coverage is to be included in the policy.

(e) An insurer is not required to provide mine subsidence coverage under subsection (a) under any insurance policy in an amount exceeding the amount that is reimbursable from the fund under section 9(a)(4) of this chapter.

(f) An insurer must decline to make the mine subsidence coverage provided for under subsection (a) available to cover a structure evidencing unrepaired mine subsidence damage, until necessary repairs are made. An insurer may also decline to make the mine subsidence coverage available under an insurance policy if the insurer has:

- (1) declined to issue the policy;
- (2) declined to renew the policy; or
- (3) canceled all coverage under the policy for underwriting reasons unrelated to mine subsidence.

As added by P.L.164-1986, SEC.1. Amended by P.L.29-1987, SEC.2; P.L.150-1990, SEC.1; P.L.124-1992, SEC.4; P.L.1-1993, SEC.206; P.L.116-1994, SEC.57; P.L.91-1998, SEC.9; P.L.132-2001, SEC.3; P.L.182-2001, SEC.3.

IC 27-7-9-8.4

Additional forms of coverage; application to structures

Sec. 8.4. If coverage for damage due to mine subsidence is added under this chapter as an additional form of coverage to a policy providing the coverage described in Class 3(a) of IC 27-1-5-1, the mine subsidence coverage of the policy must apply to structures in the same manner as coverage for other perils under the policy.

As added by P.L.124-1992, SEC.5.

IC 27-7-9-8.5

Limitation on amount payable; one mine subsidence occurrence; damage occurring before issuance of policy; duty to investigate; liability

Sec. 8.5. (a) The amount payable through mine subsidence

insurance provided under this chapter for all damage caused by one (1) mine subsidence occurrence is limited to the amount of insurance that:

(1) is in force with respect to the structure or structures damaged in the occurrence; and

(2) is reinsured under section 9 of this chapter;

at the time when the damage to the structure or structures occurs.

(b) For the purposes of this section, all damage that is caused by:

(1) a single mine subsidence event; or

(2) two (2) or more mine subsidence events that are continuous;

shall be considered as having been caused by one (1) mine subsidence occurrence.

(c) Neither an insurer, an agent of an insurer, nor an employee of an insurer is obligated to investigate for mine subsidence damage that may have occurred before the issuance or renewal of a policy including mine subsidence coverage under this chapter, unless specifically informed of such damage by the insured or prospective insured.

(d) Neither an insurer, an agent of an insurer, nor an employee of an insurer is liable for mine subsidence damage that occurs before the issuance of a policy including mine subsidence coverage under this chapter.

As added by P.L.150-1990, SEC.2. Amended by P.L.124-1992, SEC.6.

IC 27-7-9-9

Reinsurance; terms; ceding commission

Sec. 9. (a) An insurer making the type of insurance described in Class 3(a) of IC 27-1-5-1 shall enter into a reinsurance agreement with the commissioner. The reinsurance agreement must include the following terms:

(1) The insurer agrees to cede to the commissioner one hundred percent (100%) of any mine subsidence coverage issued under this chapter, subject to a maximum limit of two hundred thousand dollars (\$200,000) per structure insured.

(2) The insurer shall collect the premiums for mine subsidence insurance, may retain a ceding commission in an amount set by the commissioner, and shall remit the remainder of the premiums to the commissioner for deposit in the mine subsidence insurance fund.

(3) The insurer, in consideration of the ceding commission, shall:

(A) undertake the adjustment of losses under the mine subsidence coverage issued under this chapter by the insurer, with technical assistance provided under section 9.5 of this chapter; and

(B) pay the taxes and absorb all other expenses necessarily incurred by the insurer in the sale of policies and the administration of the mine subsidence insurance program under this chapter.

(4) The commissioner shall reimburse the insurer from the mine subsidence insurance fund for all amounts paid to policyholders for mine subsidence insurance claims.

(5) The insurer is not required to pay a claim for any mine subsidence loss insured under this chapter if the amount available in the mine subsidence insurance fund is insufficient to reimburse the insurer for the claim.

(b) The determination of the commissioner as to the amount of the ceding commission that an insurer may retain under subsection (a)(2) must be based on a consideration of the insurer's reasonable administrative costs (including insurance producers' commissions). *As added by P.L.164-1986, SEC.1. Amended by P.L.150-1990, SEC.3; P.L.124-1992, SEC.7; P.L.189-1996, SEC.1; P.L.182-2001, SEC.4; P.L.178-2003, SEC.48.*

IC 27-7-9-9.5

Assistance with adjusting of claims; responsibility of insurer; costs paid from fund

Sec. 9.5. (a) The commissioner shall provide insurers with assistance from one (1) or more individuals with technical expertise in mine subsidence for the purpose of assisting with the adjusting of claims under coverage issued under this chapter. To comply with this section, the commissioner may:

- (1) expand the staff of the department of insurance; or
- (2) enter into contracts providing for the services of persons with the necessary technical expertise to provide assistance to insurers in the determination of subsidence events.

(b) The adjustment of a claim against a policy that includes mine subsidence coverage under this chapter is the sole responsibility of the insurer until the insurer makes a preliminary determination that the loss may involve mine subsidence. Upon such a determination, those persons retained by the commissioner as set out in subsection (a) of this section shall assist the commissioner and insurer in determining the existence of a mine subsidence event and the costs therein shall be paid from the fund established by section 7 of this chapter.

As added by P.L.124-1992, SEC.8.

IC 27-7-9-10

Premiums

Sec. 10. (a) Premiums for mine subsidence insurance under this chapter shall be established by the commissioner, who shall review at least annually the premium level and the experience data concerning operation of the fund and make changes in the premiums as required.

(b) Premiums shall be established at a rate or within a schedule of rates sufficient to:

- (1) satisfy all foreseeable claims on the mine subsidence insurance fund during the period of coverage, giving due consideration to relevant loss or claims experience or trends;

(2) cover normal costs of operation of the mine subsidence insurance fund; and

(3) provide a reasonable reserve fund for unexpected contingencies.

(c) Deviations from the premium level or premiums set by the commissioner may not be allowed.

As added by P.L.164-1986, SEC.1.

IC 27-7-9-11

Report to commissioner

Sec. 11. An insurer that enters into a reinsurance agreement with the commissioner under section 9 of this chapter shall:

(1) report the amounts of premiums collected, at times designated by the commissioner; and

(2) present an itemized list of losses paid, including the policy number and the location of the structures, semiannually on dates selected by the commissioner.

As added by P.L.164-1986, SEC.1.

IC 27-7-9-12

Payment to insurer upon receipt of loss report

Sec. 12. The commissioner shall pay an insurer all amounts due under section 9(a)(4) of this chapter within ninety (90) days after receiving a loss report. The commissioner shall require that each loss report include:

(1) an itemized statement of the damage, repairs made, and the cost of each repair; and

(2) any other documentation the commissioner believes will substantiate the reported loss.

As added by P.L.164-1986, SEC.1.

IC 27-7-9-13

Nature of claims

Sec. 13. Mine subsidence insurance claims made under this chapter do not constitute a debt, liability, or obligation of the state or a pledge of faith and credit of the state, except to the extent that the mine subsidence insurance fund has accumulated reserves from premiums, state or federal grants, investment income, or state appropriations.

As added by P.L.164-1986, SEC.1.

IC 27-7-9-14

Subrogation rights; reports

Sec. 14. (a) The commissioner and each insurer issuing mine subsidence insurance under this chapter have the right of subrogation. In enforcing this subrogation right, the commissioner or the insurer shall be considered the real party in interest and shall pursue any action under the insurer's or commissioner's own name.

(b) The insurer shall include in its semiannual report under section 11(2) of this chapter an itemized list of all losses in

subrogation. An insurer shall remit to the commissioner all money, less expenses, recovered as a result of subrogation actions.

As added by P.L.164-1986, SEC.1.

IC 27-7-9-15

Recourse against insurer or policyholder; fraud or policy violations

Sec. 15. (a) Except in case of fraud by an insurer, the commissioner has no right of recourse against an insurer. An insurer may settle losses under this chapter in the customary manner.

(b) The commissioner may require an insurer to attempt to recover from a policyholder for amounts paid to the policyholder if, in the judgment of the commissioner, the policyholder was not entitled to the amounts paid because of fraud or violation of the policy conditions. The cost of a recovery attempt under this subsection shall be borne equally by the insurer and the commissioner.

As added by P.L.164-1986, SEC.1.

IC 27-7-9-16

Delegation of powers

Sec. 16. The commissioner may delegate the task of executing the powers conferred upon the commissioner under this chapter to officers of the department of insurance or other persons. However, the commissioner remains fully responsible for the proper execution of those powers.

As added by P.L.164-1986, SEC.1.

IC 27-7-9-17

Authority to adopt rules

Sec. 17. In order to establish guidelines and procedures necessary to implement this chapter, the commissioner shall have authority to adopt rules pursuant to IC 4-22-2.

As added by P.L.124-1992, SEC.9.

IC 27-7-9-18

Reports; claims

Sec. 18. The department of insurance shall, every three (3) years beginning not later than November 1, 2001, publish a report regarding mine subsidence insurance provided under this chapter, including the:

- (1) number of claims filed;
- (2) amount paid for each claim; and
- (3) amount remaining in the mine subsidence insurance fund established under section 7 of this chapter;

since the date of the previous publication of the report under this section.

As added by P.L.182-2001, SEC.5.

IC 27-7-10

Chapter 10. Risk Retention Groups

IC 27-7-10-1

"Commissioner" defined

Sec. 1. As used in this chapter, "commissioner" means:

- (1) the insurance commissioner of Indiana appointed under IC 27-1-1-2; or
- (2) the commissioner, director, or superintendent of insurance of any other state.

As added by P.L.162-1988, SEC.2.

IC 27-7-10-2

"Completed operations liability" defined

Sec. 2. As used in this chapter, "completed operations liability" means liability arising out of the installation, maintenance, or repair of any product at a site that is not owned or controlled by:

- (1) any person who performs that work; or
- (2) any person who hires an independent contractor to perform that work.

However, the term includes liability for activities that are completed or abandoned before the date of the occurrence giving rise to the liability.

As added by P.L.162-1988, SEC.2.

IC 27-7-10-3

"Domicile" defined

Sec. 3. As used in this chapter to determine the state in which a purchasing group is domiciled, "domicile" means the following:

- (1) For a corporation, the state in which the purchasing group is incorporated.
- (2) For an unincorporated entity, the state of its principal place of business.

As added by P.L.162-1988, SEC.2.

IC 27-7-10-4

"Hazardous financial condition" defined

Sec. 4. As used in this chapter, "hazardous financial condition" means that, based on its present or reasonably anticipated financial condition, a risk retention group, although not yet financially impaired or insolvent, is unlikely to be able to:

- (1) meet obligations to policyholders with respect to known claims and reasonably anticipated claims; or
- (2) pay other obligations in the normal course of business.

As added by P.L.162-1988, SEC.2.

IC 27-7-10-5

"Insurance" defined

Sec. 5. As used in this chapter, "insurance" means primary insurance, excess insurance, reinsurance, surplus lines insurance, and

any other arrangement for shifting and distributing risk that is determined to be insurance under the laws of Indiana.

As added by P.L.162-1988, SEC.2.

IC 27-7-10-6

"Liability" defined

Sec. 6. (a) As used in this chapter, "liability" means legal liability for damages (including costs of defense, legal costs and fees, and other claims expenses) because of injuries to other persons, damage to their property, or other damage or loss to other persons, resulting from or arising out of:

- (1) any business (whether profit or nonprofit), trade, product, services (including professional services), premises, or operations; or
- (2) any activity of any state or local government, or any agency or political subdivision of state or local government.

(b) The term "liability" does not include:

- (1) personal risk liability; or
- (2) an employer's liability with respect to its employees other than legal liability under the Federal Employers' Liability Act (45 U.S.C. 51 et seq.).

As added by P.L.162-1988, SEC.2.

IC 27-7-10-7

"Personal risk liability" defined

Sec. 7. As used in this chapter, "personal risk liability" means liability for damages because of injury to any person, damage to property, or other loss or damage resulting from any personal, familial, or household responsibilities or activities, rather than from responsibilities or activities referred to in section 6(a) of this chapter.

As added by P.L.162-1988, SEC.2.

IC 27-7-10-8

"Plan of operation or feasibility study" defined

Sec. 8. As used in this chapter, "plan of operation or feasibility study" means an analysis that presents the expected activities and results of a risk retention group including, at a minimum, the following:

- (1) Information sufficient to verify that the members of the risk retention group are engaged in businesses or activities similar or related with respect to the liability to which those members are exposed by virtue of any related, similar, or common business, trade, product, services, premises, or operations.
- (2) For each state in which the risk retention group intends to operate, the coverages, deductibles, coverage limits, rates, and rating classification systems for each line of insurance the group intends to offer.
- (3) Historical and expected loss experience of the proposed members of the risk retention group and national experience of similar exposures to the extent that this experience is

reasonably available.

(4) Pro forma financial statements and projections.

(5) Appropriate opinions by a qualified, independent casualty actuary, including a determination of minimum premium or participation levels required to commence operations and to prevent a hazardous financial condition.

(6) Identification of management, underwriting, and claims procedures, marketing methods, managerial oversight methods, investment policies, and reinsurance agreements.

(7) Identification of each state in which the risk retention group has obtained, or sought to obtain, a charter and license, and a description of its status in each state.

(8) Such other matters as may be prescribed by the commissioner of the state in which the risk retention group is chartered for liability insurance companies authorized by the insurance laws of that state.

As added by P.L.162-1988, SEC.2.

IC 27-7-10-9

"Product liability" defined

Sec. 9. (a) As used in this chapter, "product liability" means liability for damages because of any personal injury, death, emotional harm, consequential economic damage, or property damage (including damages resulting from the loss of use of property) arising out of the manufacture, design, importation, distribution, packaging, labeling, lease, or sale of a product.

(b) The term "product liability" does not include the liability of a person for damages described in subsection (a) if the product involved was in the possession of that person when the incident giving rise to the liability occurred.

As added by P.L.162-1988, SEC.2.

IC 27-7-10-10

"Purchasing group" defined

Sec. 10. As used in this chapter, "purchasing group" means any group that:

(1) has as one of its purposes the purchase of liability insurance on a group basis;

(2) purchases liability insurance:

(A) only for its group members; and

(B) only to cover the liability with respect to which the businesses or activities of the group members are similar or related;

(3) is composed of members whose businesses or activities are similar or related with respect to the liability to which the members are exposed by virtue of any related, similar, or common business, trade, product, services, premises, or operations; and

(4) is domiciled in any state.

As added by P.L.162-1988, SEC.2.

IC 27-7-10-11

"Risk retention group" defined

Sec. 11. (a) As used in this chapter, "risk retention group" means any corporation or other limited liability association:

- (1) whose primary activity consists of assuming and spreading all or any portion of the liability exposure of its group members;
- (2) that is organized for the primary purpose of conducting the activity described in subdivision (1);

(3) that:

(A) is chartered and licensed as a liability insurance company and authorized to engage in the business of insurance under the laws of any state; or

(B) before January 1, 1985, was chartered or licensed and authorized to engage in the business of insurance under the laws of Bermuda or the Cayman Islands and, before January 1, 1985, had certified to the insurance commissioner of at least one (1) state that it satisfied the capitalization requirements of that state;

(4) that does not exclude any person from membership in the group solely to provide the members of the group a competitive advantage over that person;

(5) that:

(A) has as its owners only persons who comprise the membership of the risk retention group and who are provided insurance by that group; or

(B) has as its sole owner an organization which:

(i) has as its members only persons who comprise the membership of the risk retention group; and

(ii) is owned entirely by persons who comprise the membership of the risk retention group and who are provided insurance by that group;

(6) whose members are engaged in businesses or activities similar or related with respect to the liability to which the members are exposed by virtue of any related, similar, or common business, trade, product, services, premises, or operations;

(7) whose activities do not include the provision of insurance other than:

(A) liability insurance for assuming and spreading all or any portion of the liability of its group members; and

(B) reinsurance with respect to the liability of:

(i) any other risk retention group; or

(ii) any member of any other risk retention group;

that is engaged in business or activities that would make the group or group member eligible for membership, under subdivision (6), in the risk retention group that provides the reinsurance;

(8) whose name includes the phrase "Risk Retention Group".

(b) The term "risk retention group" includes a corporation or limited liability association described in subsection (a)(3)(B):

(1) only if that corporation or association has been engaged in business continuously since January 1, 1985; and

(2) only for the purpose of continuing to provide insurance to cover product liability or completed operations liability.

As used in this subsection, the terms "product liability" and "completed operations liability" have the meanings set forth in 15 U.S.C. 3901 before October 27, 1986.

As added by P.L.162-1988, SEC.2.

IC 27-7-10-12

"State" defined

Sec. 12. As used in this chapter, "state" means any state of the United States or the District of Columbia.

As added by P.L.162-1988, SEC.2.

IC 27-7-10-13

Establishment of risk retention groups; certificate of authority; submission of plan of operation or feasibility study; revision of plan; required information

Sec. 13. (a) This section governs the establishment of a risk retention group in Indiana.

(b) A risk retention group may be organized and may obtain a certificate of authority under IC 27-1-6 to write only liability insurance pursuant to this chapter. Except as otherwise provided in this chapter, a risk retention group established under this section shall comply with:

(1) all laws and rules that apply to insurers that are chartered and licensed in Indiana; and

(2) sections 14 through 22 of this chapter;

to the extent that the requirements referred to in subdivisions (1) and (2) are not a limitation on the laws, rules, or requirements of this state.

(c) Before a risk retention group to be established under this section may offer insurance in any state, the organizers of the risk retention group shall submit for approval to the commissioner of this state a plan of operation or feasibility study. The risk retention group shall submit an appropriate revision in the event of any subsequent material change in an item of the plan of operation or feasibility study, within ten (10) days of the change. A risk retention group established under this section may not offer any additional kinds of liability insurance, in Indiana or any other state, until a revision of the plan of operation or feasibility study is approved by the commissioner.

(d) At the time that an application is submitted for a certificate of authority for a risk retention group, the organizers of the risk retention group shall provide to the commissioner of this state, in summary form, the following information:

(1) The identity of the initial members of the group.

(2) The identity of those individuals who organized the group or who will provide administrative services or otherwise

influence or control the activities of the group.

(3) The amount and nature of initial capitalization of the group.

(4) The types of insurance coverage to be afforded by the group.

(5) The states in which the group intends to operate.

(e) Upon receiving the information required by subsection (d), the commissioner of this state shall forward the information to the National Association of Insurance Commissioners. The requirement to provide information to the National Association of Insurance Commissioners under this section is in addition to all other requirements of this chapter, and providing this information does not satisfy the requirements of sections 14 through 22 or any other sections of this chapter.

As added by P.L.162-1988, SEC.2.

IC 27-7-10-14

Foreign risk retention groups seeking to do or doing business in Indiana; required information

Sec. 14. (a) A risk retention group that is chartered and licensed in a state other than Indiana and that seeks to do business in Indiana shall comply with this section and with sections 15 through 22 of this chapter.

(b) Before offering insurance in Indiana, a risk retention group shall submit to the commissioner the following:

(1) A statement that sets forth the following:

(A) The state or states in which the risk retention group is chartered and licensed as a liability insurance company.

(B) The date on which the charter of the group was issued.

(C) The group's principal place of business.

(D) Any other information (including information on the membership of the group) that the commissioner may require to verify that the group meets the definition of risk retention group in section 11 of this chapter.

(2) A copy of the plan of operations or feasibility study, and of any revisions of that plan or study, submitted by the risk retention group to the state in which the group is chartered and licensed.

(3) A copy of the group's charter or license from its chartering state.

(4) A statement of registration (for which a filing fee shall be determined by the commissioner) that designates the commissioner as its agent for the purpose of receiving service of legal documents or process.

(c) A risk retention group that is chartered and licensed in a state other than Indiana and that is doing or seeks to do business in Indiana shall submit a copy of any revision of its plan of operation or feasibility study to the commissioner of this state at the same time that the revision is submitted to the commissioner of the group's chartering state.

(d) A risk retention group that is chartered and licensed in a state other than Indiana and that is doing business in Indiana shall submit

to the commissioner of this state the following:

- (1) A copy of the group's financial statement submitted to the state in which the risk retention group is chartered and licensed, which must be certified by an independent public accountant and must contain a statement of opinion on loss and loss adjustment expense reserves made by a member of the American Academy of Actuaries or by a qualified loss reserve specialist (under criteria established by the National Association of Insurance Commissioners).
- (2) A copy of each examination of the risk retention group as certified by the commissioner or public official conducting the examination.
- (3) Upon request by the commissioner, a copy of any information or document pertaining to any outside audit performed with respect to the risk retention group.
- (4) Such information as may be required to verify that the group continues to meet the definition of risk retention group in section 11 of this chapter.

As added by P.L.162-1988, SEC.2.

IC 27-7-10-15

Premium taxes and taxes on premiums; liability; report of premiums; policy records

Sec. 15. (a) A risk retention group is liable for the payment of premium taxes and taxes on premiums of direct business for risks resident or located within Indiana, and shall report to the commissioner of this state the net premiums written for risks resident or located within Indiana. A risk retention group that is chartered and licensed in a state other than Indiana is subject to taxation, and any applicable fines and penalties related thereto, on the same basis as a foreign admitted insurer.

(b) A licensed insurance producer who is utilized under section 30 of this chapter in soliciting, negotiating, or procuring liability insurance from a risk retention group that is chartered and licensed in a state other than Indiana shall report to the commissioner the premiums for direct business for risks resident or located within Indiana that the insurance producer has placed with or on behalf of a risk retention group that is not chartered in Indiana.

(c) A licensed insurance producer who is utilized under section 30 of this chapter in soliciting, negotiating, or procuring liability insurance from a risk retention group that is chartered and licensed in a state other than Indiana shall keep a complete and separate record of all policies procured from each such risk retention group. The record kept under this subsection must be open to examination by the commissioner and must, for each policy and each kind of insurance provided, include the following information:

- (1) The limit of liability.
- (2) The time period covered.
- (3) The effective date.
- (4) The name of the risk retention group that issued the policy.

(5) The gross premium charged.

(6) The amount of return premiums, if any.

As added by P.L.162-1988, SEC.2. Amended by P.L.178-2003, SEC.49.

IC 27-7-10-16

Foreign risk retention groups; compliance with business practice provisions

Sec. 16. (a) All risk retention groups that are chartered and licensed in other states and that are doing business in Indiana and all agents and representatives of those risk retention groups shall comply with:

(1) IC 27-4-1-4.5 concerning unfair claims settlement practices; and

(2) IC 27-4 concerning deceptive, false, or fraudulent acts or practices.

(b) However, any injunction sought by the commissioner of this state regarding conduct described in subsection (a)(2) must be obtained from a court.

As added by P.L.162-1988, SEC.2.

IC 27-7-10-17

Examination of foreign risk retention groups

Sec. 17. A risk retention group that is licensed and chartered in a state other than Indiana shall submit to an examination by the commissioner of this state to determine its financial condition if the commissioner of the jurisdiction in which the group is chartered and licensed has not initiated an examination or does not initiate an examination within sixty (60) days after a request by the commissioner of this state. Any examination conducted by the commissioner of this state under this section shall be coordinated to avoid unjustified repetition and conducted in an expeditious manner and in accordance with the NAIC's Examiner Handbook.

As added by P.L.162-1988, SEC.2.

IC 27-7-10-18

Notice; applications and policies

Sec. 18. Every application form for insurance from a risk retention group, and every policy (on its front and declaration pages) issued by a risk retention group, must contain in ten (10) point type the following notice:

NOTICE

This policy is issued by your risk retention group. Your risk retention group may not be subject to all of the insurance laws and regulations of your state. State insurance insolvency guaranty funds are not available for your risk retention group.

As added by P.L.162-1988, SEC.2.

IC 27-7-10-19

Prohibited acts

Sec. 19. The following acts by a risk retention group are prohibited:

- (1) The solicitation or sale of insurance by a risk retention group to any person who is not eligible for membership in the group.
- (2) The solicitation or sale of insurance by, or operation of, a risk retention group that is in hazardous financial condition or financially impaired.

As added by P.L.162-1988, SEC.2.

IC 27-7-10-20

Insurance company membership in risk retention group

Sec. 20. A risk retention group may not do business in Indiana if an insurance company is directly or indirectly a member or owner of that risk retention group, other than in the case of a risk retention group all of whose members are insurance companies.

As added by P.L.162-1988, SEC.2.

IC 27-7-10-21

Prohibited coverage

Sec. 21. The terms of any insurance policy issued by any risk retention group may not provide, or be construed to provide, coverage prohibited generally by Indiana law or declared unlawful by the Indiana supreme court.

As added by P.L.162-1988, SEC.2.

IC 27-7-10-22

Financial impairment of foreign risk retention group; violations of chapter; compliance requirements

Sec. 22. (a) A risk retention group that is not chartered in Indiana and that is doing business in Indiana shall comply with a lawful order issued in a voluntary dissolution proceeding or in a delinquency proceeding commenced by a state commissioner if there has been a finding of financial impairment after an examination under section 17 of this chapter.

(b) A risk retention group that violates any provision of this chapter is subject to fines and penalties, including revocation of its right to do business in Indiana, that are applicable to licensed insurers generally.

(c) In addition to complying with the other requirements of sections 14 through 22 of this chapter, a risk retention group operating in Indiana before April 1, 1988, shall, before May 1, 1988, comply with section 14(a) of this chapter.

As added by P.L.162-1988, SEC.2.

IC 27-7-10-23

Insurance insolvency guaranty fund

Sec. 23. (a) A risk retention group may not be required or permitted to join or contribute financially to any insurance insolvency guaranty fund, or similar mechanism, in Indiana. Neither

a risk retention group, nor its insureds, nor claimants against its insureds may receive any benefit from any such fund for claims arising under the insurance policies issued by the risk retention group.

(b) When a purchasing group obtains insurance covering its members' risks from an insurer that is not authorized in Indiana or from a risk retention group, no risks, wherever resident or located, are covered by an insurance guaranty fund or similar mechanism in Indiana.

(c) When a purchasing group obtains insurance covering its members' risks from an authorized insurer, only risks resident or located in Indiana are covered by the state guaranty fund under IC 27-6-8.

As added by P.L.162-1988, SEC.2.

IC 27-7-10-24

Countersignature on policies

Sec. 24. A policy of insurance issued to a risk retention group or to any member of that group is not required to be countersigned.

As added by P.L.162-1988, SEC.2.

IC 27-7-10-25

Purchasing groups and their insurers; application of Indiana law; exemptions

Sec. 25. A purchasing group and its insurer or insurers are subject to all applicable Indiana laws, except that a purchasing group and its insurer or insurers are exempt, in regard to liability insurance for the purchasing group, from any law that would:

- (1) prohibit the establishment of a purchasing group;
- (2) make it unlawful for an insurer to provide or offer to provide insurance on a basis providing, to a purchasing group or its members, advantages based on their loss and expense experience not afforded to other persons with respect to rates, policy forms, coverages, or other matters;
- (3) prohibit a purchasing group or its members from purchasing insurance on a group basis as described in subdivision (2);
- (4) prohibit a purchasing group from obtaining insurance on a group basis because the group has not been in existence for a minimum period of time or because any member has not belonged to the group for a minimum period of time;
- (5) require that a purchasing group have a minimum number of members, common ownership or affiliation, or certain legal form;
- (6) require that a certain percentage of a purchasing group must obtain insurance on a group basis; or
- (7) otherwise discriminate against a purchasing group or any of its members.

As added by P.L.162-1988, SEC.2.

IC 27-7-10-26

Purchasing groups; notice of intent to do business; required information; agent for service of process; exemptions

Sec. 26. (a) A purchasing group, before doing business in Indiana, shall furnish notice to the commissioner. The notice must:

- (1) identify the state in which the group is domiciled;
- (2) identify all other states in which the group intends to do business;
- (3) specify the lines and classifications of liability insurance that the purchasing group intends to purchase;
- (4) identify the insurance company or companies from which the group intends to purchase its insurance and the domicile of the company or companies;
- (5) specify the method by which, and the person or persons, if any, through whom insurance will be offered to its members whose risks are resident or located in Indiana;
- (6) identify the principal place of business of the group; and
- (7) provide such other information as may be required by the commissioner to verify that the purchasing group meets the definition of a purchasing group under section 10 of this chapter.

(b) A purchasing group shall, within ten (10) days, notify the commissioner of any changes in any of the facts set forth in the notice provided to the commissioner under this section.

(c) A purchasing group, before doing business in Indiana, shall register with and designate the commissioner as its agent solely for the purpose of receiving service of legal documents or process in Indiana (for which a filing fee shall be determined by the commissioner). However, this requirement does not apply in the case of a purchasing group that only purchases insurance that was authorized under the federal Product Liability Risk Retention Act of 1981, P.L.97-45, and:

- (1) that in any state of the United States:
 - (A) was domiciled before April 1, 1986; and
 - (B) is domiciled on and after October 27, 1986;
- (2) that:
 - (A) before October 27, 1986, purchased insurance from an insurance carrier licensed in any state; and
 - (B) since October 27, 1986, purchased its insurance from an insurance carrier licensed in any state; or
- (3) that was a purchasing group under the requirements of the Product Liability Risk Retention Act of 1981 before October 27, 1986.

(d) Each purchasing group that is required to give notice under subsection (a) shall also furnish information required by the commissioner to:

- (1) verify that the entity qualifies as a purchasing group;
- (2) determine where the purchasing group is located; and
- (3) determine appropriate tax treatment.

(e) Any purchasing group that was doing business in Indiana before April 1, 1988, shall, before May 1, 1988, furnish notice to the

commissioner under subsection (a) and furnish information required under subsections (c) through (d).

As added by P.L.162-1988, SEC.2.

IC 27-7-10-27

Purchasing groups; purchase of insurance from risk retention groups; limitations; notice to members; deductibles; aggregate limits

Sec. 27. (a) A purchasing group may not purchase insurance from a risk retention group that is not chartered in a state or from an insurer not admitted in the state in which the purchasing group is located, unless the purchase is effected through a licensed insurance producer or broker acting under the surplus lines laws and regulations of that state.

(b) A purchasing group that obtains liability insurance from an insurer that is not admitted in Indiana or from a risk retention group shall inform each of the members of the group who have a risk resident or located in Indiana that the risk is not protected by an insurance insolvency guaranty fund in Indiana and that the risk retention group or insurer may not be subject to all insurance laws and rules of Indiana.

(c) No purchasing group may purchase insurance providing for a deductible or self-insured retention applicable to the group as a whole. However, coverage may provide for a deductible or self-insured retention applicable to individual members of the purchasing group.

(d) Purchases of insurance by purchasing groups are subject to the same standards regarding aggregate limits that are applicable to all purchases of group insurance.

As added by P.L.162-1988, SEC.2. Amended by P.L.178-2003, SEC.50.

IC 27-7-10-28

Premium taxes; taxes on premiums; calculations

Sec. 28. Premium taxes and taxes on premiums paid for coverage of risks resident or located in Indiana by a purchasing group or any member of a purchasing group shall be:

(1) imposed at the same rate and subject to the same interest, fines, and penalties that apply to premium taxes and taxes on premiums paid for similar coverage from a similar insurance source by other insureds; and

(2) paid first by the insurance source, and if not by the insurance source, then by the insurance producer or broker for the purchasing group, and if not by the insurance producer or broker, then by the purchasing group, and if not by the purchasing group, then by each of its members.

As added by P.L.162-1988, SEC.2. Amended by P.L.178-2003, SEC.51.

IC 27-7-10-29

Enforcement; scope of authority

Sec. 29. The commissioner may make use of any of the powers established under this title to enforce the laws of Indiana not specifically preempted by the Risk Retention Act of 1986, 15 U.S.C. 3901 et seq., including the commissioner's administrative authority to investigate, issue subpoenas, conduct depositions and hearings, issue orders, impose penalties, and seek injunctive relief. With regard to any investigation, administrative proceedings, or litigation, the commissioner shall rely on Indiana procedural laws. The injunctive authority of the commissioner, in regard to risk retention groups, is restricted by the requirement under section 16 of this chapter that any injunction be issued by a court.

As added by P.L.162-1988, SEC.2.

IC 27-7-10-30**Solicitation, negotiation, or procurement of liability insurance; license requirements**

Sec. 30. No individual, firm, association, limited liability company, or corporation may act or aid in any manner in soliciting, negotiating, or procuring liability insurance in Indiana from a risk retention group unless the individual, firm, association, or corporation is licensed as an insurance producer under IC 27-1-15.6.

As added by P.L.162-1988, SEC.2. Amended by P.L.8-1993, SEC.428; P.L.132-2001, SEC.11; P.L.178-2003, SEC.52.

IC 27-7-10-31**Purchasing groups; solicitation, negotiation, or procurement of liability insurance; license requirements**

Sec. 31. (a) No individual, firm, association, or corporation may act or aid in any manner in soliciting, negotiating, or procuring liability insurance in Indiana for a purchasing group from an authorized insurer or a risk retention group chartered in a state unless the individual, firm, association, or corporation is licensed as an insurance producer under IC 27-1-15.6.

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

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

As added by P.L.162-1988, SEC.2. Amended by P.L.132-2001, SEC.12; P.L.178-2003, SEC.53.

IC 27-7-10-32

Insurance producers for risk retention groups; residence; notice

Sec. 32. (a) For purposes of acting as an insurance producer for a risk retention group or purchasing group under section 30 or 31 of this chapter, the requirement of residence in Indiana does not apply.

(b) Every individual, firm, association, or corporation licensed under IC 27-1-15.6, in regard to business placed with risk retention groups or written through a purchasing group, shall inform each prospective insured of the provisions of the notice required by section 18 of this chapter in the case of a risk retention group and section 27(c) of this chapter in the case of a purchasing group.

As added by P.L.162-1988, SEC.2. Amended by P.L.132-2001, SEC.13; P.L.178-2003, SEC.54.

IC 27-7-10-33

Injunctions

Sec. 33. An order issued by any district court of the United States enjoining a risk retention group from soliciting or selling insurance, or operating in any state (or in all states, or in any territory or possession of the United States), upon a finding that the risk retention group is in hazardous financial or financially impaired condition is enforceable in the courts of this state.

As added by P.L.162-1988, SEC.2.

IC 27-7-10-34

Rules to implement chapter

Sec. 34. The commissioner, under IC 4-22-2, may adopt rules necessary to implement this chapter.

As added by P.L.162-1988, SEC.2.

IC 27-7-11

Chapter 11. Drought Insurance

IC 27-7-11-1

"Drought insurance" defined

Sec. 1. As used in this chapter, "drought insurance" means insurance that covers the loss of or damage to crops caused by an insufficient amount of rainfall.

As added by P.L.250-1989, SEC.1.

IC 27-7-11-2

Policy effective date; cancellation

Sec. 2. A drought insurance policy becomes effective and is not subject to cancellation:

- (1) at the time stated in the application for the insurance; or
- (2) fourteen (14) days after the applicant submits the premium payment;

whichever occurs first, unless the application is refused in writing and the premium payment is returned within fourteen (14) days after the premium payment is submitted.

As added by P.L.250-1989, SEC.1.

IC 27-7-12

Chapter 12. Termination of Residential Policies

IC 27-7-12-1

Applicability of chapter; exceptions

Sec. 1. (a) This chapter applies to policies of insurance covering risks to property located in Indiana that take effect or are renewed after June 30, 2001, and that insure loss of or damage to:

- (1) real property consisting of not more than four (4) residential units, one (1) of which is the principal place of residence of the named insured; or
- (2) personal property:
 - (A) in which the named insured has an insurable interest; and
 - (B) that is used within a residential dwelling for personal, family, or household purposes.

(b) This chapter does not apply to the following:

- (1) A policy of inland marine insurance.
- (2) The cancellation or nonrenewal of an automobile insurance policy under IC 27-7-6.
- (3) The cancellation or nonrenewal of a commercial property and casualty insurance policy under IC 27-1-31-2.5.

As added by P.L.203-2001, SEC.10.

IC 27-7-12-2

Definitions

Sec. 2. (a) As used in this chapter, "cancellation" refers to a termination of property insurance coverage that occurs during the policy term.

(b) As used in this chapter, "nonpayment of premium" means the failure of the named insured to discharge any obligation in connection with the payment of premiums on policies of insurance subject to this chapter, regardless of whether the payments are directly payable to the insurer or its agent or indirectly payable under a premium finance plan or extension of credit. The term includes the failure to pay dues or fees where payment of the dues or fees is a prerequisite to obtaining or continuing property insurance coverage.

(c) As used in this chapter, "nonrenewal" or "nonrenewed" refers to a termination of property insurance coverage that occurs at the end of the policy term.

(d) As used in this chapter, "renewal" or "to renew" refers to:

- (1) the issuance and delivery by an insurer at the end of a policy period of a policy superseding a policy previously issued and delivered by the same insurer; or
- (2) the issuance and delivery of a certificate or notice extending the term of an existing policy beyond its policy period or term.

(e) As used in this chapter, "termination" means a cancellation or nonrenewal. The term does not include:

- (1) the requirement of a reasonable deductible;
- (2) reasonable changes in the amount of insurance; or

(3) reasonable reductions in policy limits or coverage; if the requirements or changes are directly related to the hazard involved and are made on the renewal date for the policy. The term does not include a transfer of a policy to another insurer.

As added by P.L.203-2001, SEC.10.

IC 27-7-12-3

Notice of cancellation

Sec. 3. (a) Notice of cancellation of property insurance coverage by an insurer must:

- (1) be in writing;
- (2) be delivered or mailed to the named insured at the last known address of the named insured;
- (3) state the effective date of the cancellation; and
- (4) upon request of the named insured, be accompanied by a written explanation of the specific reasons for the cancellation.

(b) An insurer shall provide written notice of cancellation to the named insured at least:

- (1) ten (10) days before canceling a policy, if the cancellation is for nonpayment of a premium;
- (2) twenty (20) days before canceling a policy, if:
 - (A) the cancellation occurs more than sixty (60) days after the date of issuance of the policy; or
 - (B) the insurer has received a copy of a complaint under IC 32-30-10.5-8(d)(2) concerning the property; and
- (3) ten (10) days before canceling a policy, if the cancellation occurs not more than sixty (60) days after the date of issuance of the policy.

(c) If the policy was procured by an independent insurance producer licensed in Indiana, the insurer shall deliver or mail notice of cancellation to the insurance producer not less than ten (10) days before the insurer delivers or mails the notice to the named insured, unless the obligation to notify the insurance producer is waived in writing by the insurance producer.

As added by P.L.203-2001, SEC.10. Amended by P.L.178-2003, SEC.55; P.L.116-2011, SEC.3.

IC 27-7-12-4

Notice of nonrenewal

Sec. 4. (a) Notice of nonrenewal by an insurer must:

- (1) be in writing;
- (2) be delivered or mailed to the named insured at the last known address of the named insured;
- (3) state the insurer's intention not to renew the policy upon expiration of the current policy period;
- (4) upon request of the named insured, be accompanied by a written explanation of the specific reasons for the nonrenewal; and
- (5) be provided to the named insured at least twenty (20) days before the expiration of the current policy period.

(b) If the policy was procured by an independent insurance producer licensed in Indiana, the insurer shall deliver or mail notice of nonrenewal to the insurance producer not less than ten (10) days before the insurer delivers or mails the notice to the named insured, unless the obligation to notify the insurance producer is waived in writing by the insurance producer.

(c) If an insurer mails or delivers to an insured a renewal notice, bill, certificate, or policy indicating the insurer's willingness to renew a policy and the insured does not respond, the insurer is not required to provide to the insured notice of intention not to renew.

As added by P.L.203-2001, SEC.10. Amended by P.L.178-2003, SEC.56.

IC 27-7-12-5

Sufficiency of explanations; coverage considered renewed where notice not given

Sec. 5. (a) A written explanation provided under section 3 or 4 of this chapter must be of sufficient clarity and specificity to enable a reasonable lay person to identify the basis for the insurer's decision without further inquiry.

(b) If notice is not provided under section 4 of this chapter, coverage is considered to be renewed only for the ensuing policy period upon payment of the appropriate premiums under the same terms and conditions, and subject to section 6 of this chapter, unless the named insured has accepted replacement coverage with another insurer or unless the named insured has agreed to the nonrenewal.

As added by P.L.203-2001, SEC.10.

IC 27-7-12-6

Grounds for cancellation of policies in effect for more than 60 days

Sec. 6. After coverage has been in effect for more than sixty (60) days or after the effective date of a renewal policy, a notice of cancellation shall not be issued unless cancellation is based on at least one (1) of the following:

- (1) Nonpayment of a premium.
- (2) Discovery of fraud or material misrepresentation made by or with the knowledge of the named insured in obtaining the policy, continuing the policy, or in presenting a claim under the policy.
- (3) Discovery of willful or reckless acts or omissions on the part of the named insured that increase a hazard insured against.
- (4) The occurrence of a change in the risk that substantially increases a hazard insured against after insurance coverage has been issued or renewed.
- (5) A violation of any local fire, health, safety, building, or construction regulation or ordinance with respect to an insured property or the occupancy of the property that substantially increases any hazard insured against.
- (6) A determination by the insurance commissioner that the continuation of the policy would place the insurer in violation

of the insurance laws of Indiana.

(7) Real property taxes owing on the insured property have been delinquent for two (2) or more years and continue to be delinquent at the time notice of cancellation is issued.

As added by P.L.203-2001, SEC.10.

IC 27-7-12-7

Prohibited grounds for termination

Sec. 7. Termination of property insurance coverage by an insurer is prohibited if the termination is based on any of the following:

- (1) Upon the race, religion, nationality, ethnic group, age, sex, or marital status of the applicant or named insured.
- (2) Solely upon the lawful occupation or profession of the applicant or named insured. However, this subdivision does not apply to an insurer that limits its market to one (1) lawful occupation or profession or to several related lawful occupations or professions.
- (3) Upon the age or location of the residence of the applicant or named insured, unless that decision is for a business purpose that is not a mere pretext for a decision based on factors prohibited in this chapter or any other provision of this title.
- (4) Upon the fact that another insurer previously declined to insure the applicant or terminated an existing policy in which the applicant was the named insured.
- (5) Upon the fact that the applicant or named insured previously obtained insurance coverage through a residual market insurance mechanism.

As added by P.L.203-2001, SEC.10.

IC 27-7-12-8

Notice of transfer of policies

Sec. 8. The named insured must be given notice of a transfer of a policy, including a transfer between insurers within the same insurance group. The notice must:

- (1) be in writing;
- (2) be delivered or mailed to the named insured at the last known address of the named insured;
- (3) be provided to the named insured at least twenty (20) days before the transfer; and
- (4) identify the insurer to which the policy will be transferred.

As added by P.L.203-2001, SEC.10.

IC 27-7-12-9

Immunity from civil liability

Sec. 9. (a) The following persons are immune from civil liability for any communication giving notice of or specifying the reasons for a termination or for any statement made in connection with an attempt to discover or verify the existence of conditions that would be a reason for a termination under this chapter:

- (1) Employees of the department of insurance.

(2) An insurer or its authorized representative, agent, or employee.

(3) A licensed insurance producer.

(4) A person furnishing information to an insurer as to reasons for a termination.

(b) This section does not apply to statements made in bad faith with malice in fact.

As added by P.L.203-2001, SEC.10. Amended by P.L.178-2003, SEC.57.

IC 27-7-13

Chapter 13. Required Notice of Flood Coverage in a Residential Policy

IC 27-7-13-1

Applicability of chapter; exceptions

Sec. 1. (a) This chapter applies to policies of insurance covering risks to property located in Indiana that are issued or renewed after December 31, 2001, and that insure against loss of or damage to:

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

(2) personal property:

(A) in which the named insured has an insurable interest; and

(B) that is used within a residential dwelling for personal, family, or household purposes.

(b) This chapter does not apply to the following:

(1) A policy of inland marine insurance.

(2) An automobile insurance policy under IC 27-7-6.

(3) A commercial property and casualty insurance policy under IC 27-1-31.

As added by P.L.203-2001, SEC.11.

IC 27-7-13-2

Required notices for policies not covering flood damage

Sec. 2. If a policy of insurance described in section 1 of this chapter does not provide coverage for flood damage:

(1) the policy jacket must contain a prominently printed notice stating; or

(2) the policyholder must be given written notice when the policy is issued, or upon the first renewal after December 31, 2001;

that coverage for flood damage may be available through the National Flood Insurance Program.

As added by P.L.203-2001, SEC.11.