

Reprinted

February 2, 2010

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**SENATE BILL No. 357**

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DIGEST OF SB 357 (Updated February 1, 2010 8:14 pm - DI 84)

**Citations Affected:** IC 5-22; IC 27-1; IC 27-8; IC 27-13; IC 27-14; IC 27-16.

**Synopsis:** Insurance matters. Makes various changes to the law concerning retention of an examiner by the department of insurance, insurance administrator licensing fees, small employer health insurance plans, and the office location of a domestic health maintenance organization. Establishes standards of practice for public adjusters. Adds a law providing for independent adjuster licensing. Amends a provision concerning the conversion of a mutual insurance holding company into a stock company to replace a reference to the former statute on the demutualization of mutual insurance companies with a reference to the current statute on the demutualization of mutual insurance companies. Defines "working capital" for purposes of the law regulating professional employer organizations (PEOs). Amends the current law applying to PEOs with respect to registration and financial requirements and unemployment compensation status. Repeals provisions concerning notice of insurance administrator claim recoding. Repeals a provision that requires the insurance commissioner to adopt standards of practice of public adjusting. Makes conforming amendments.

**Effective:** July 1, 2010; January 1, 2012.

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**Paul, Mrvan**

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January 12, 2010, read first time and referred to Committee on Insurance and Financial Institutions.  
January 28, 2010, amended, reported favorably \_ Do Pass.  
February 1, 2010, read second time, amended, ordered engrossed.

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Reprinted

February 2, 2010

## Second Regular Session 116th General Assembly (2010)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2009 Regular and Special Sessions of the General Assembly.

**SENATE BILL No. 357**

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

*Be it enacted by the General Assembly of the State of Indiana:*

SOURCE: IC 5-22-1-2; (10)SB0357.2.1. --> SECTION 1. IC 5-22-1-2, AS AMENDED BY P.L.217-2007, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 2.

Except as provided in this article, this article does not apply to the following:

- (1) The commission for higher education.
  - (2) A state educational institution. However, IC 5-22-5-9 and IC 5-22-15 apply to a state educational institution.
  - (3) Military officers and military and armory boards of the state.
  - (4) An entity established by the general assembly as a body corporate and politic. However, IC 5-22-15 applies to a body corporate and politic.
  - (5) A local hospital authority under IC 5-1-4.
  - (6) A municipally owned utility under IC 8-1-11.1 or IC 8-1.5.
  - (7) Hospitals established and operated under IC 16-22-1 through IC 16-22-5, IC 16-22-8, IC 16-23-1, or IC 16-24-1.
  - (8) A library board under IC 36-12-3-16(b).
  - (9) A local housing authority under IC 36-7-18.
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- (10) Tax exempt Indiana nonprofit corporations leasing and operating a city market owned by a political subdivision.
  - (11) A person paying for a purchase or lease with funds other than public funds.
  - (12) A person that has entered into an agreement with a governmental body under IC 5-23.
  - (13) A municipality for the operation of municipal facilities used for the collection, treatment, purification, and disposal in a sanitary manner of liquid and solid waste, sewage, night soil, and industrial waste.
  - (14) The department of financial institutions established by IC 28-11-1-1.

**(15) The insurance commissioner in retaining an examiner for purposes of IC 27-1-3.1-9.**

SOURCE: IC 27-1-25-1; (10)SB0357.2.2. --> SECTION 2. IC 27-1-25-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 1. As used in this chapter:

(a) "Administrator" ~~except as provided in section 7-5 of this chapter~~, means a person who directly or indirectly and on behalf of an insurer underwrites, collects charges or premiums from, or adjusts or settles claims on residents of Indiana in connection with life, annuity, or health coverage offered or provided by an insurer. The term "administrator" does not include the following persons:

(1) An employer or a wholly owned direct or indirect subsidiary of an employer acting on behalf of the employees of:

- (A) the employer;
- (B) the subsidiary; or
- (C) an affiliated corporation of the employer.

(2) A union acting for its members.

(3) An insurer.

(4) An insurance producer:

(A) that is licensed under IC 27-1-15.6;

(B) that has:

- (i) a life; or
- (ii) an accident and health or sickness;

qualification under IC 27-1-15.6-7; and

(C) whose activities are limited exclusively to the sale of insurance.

(5) A creditor acting for its debtors regarding insurance covering a debt between them.

(6) A trust established under 29 U.S.C. 186 and the trustees, agents, and employees acting pursuant to that trust.

(7) A trust that is exempt from taxation under Section 501(a) of the Internal Revenue Code and:

(A) the trustees and employees acting pursuant to that trust; or

(B) a custodian and the agents and employees of the custodian acting pursuant to a custodian account that meets the requirements of Section 401(f) of the Internal Revenue Code.

(8) A financial institution that is subject to supervision or examination by federal or state banking authorities to the extent that the financial institution collects and remits premiums to an insurance producer or an authorized insurer in connection with a loan payment.

(9) A credit card issuing company that:

(A) advances for; and

(B) collects from, when a credit card holder authorizes the collection;

credit card holders of the credit card issuing company, insurance premiums or charges.

(10) A person that adjusts or settles claims in the normal course of the person's practice or employment as an attorney at law and that does not collect charges or premiums in connection with life, annuity, or health coverage.

(11) A health maintenance organization that has a certificate of authority issued under IC 27-13.

(12) A limited service health maintenance organization that has a certificate of authority issued under IC 27-13.

(13) A mortgage lender to the extent that the mortgage lender collects and remits premiums to an insurance producer or an authorized insurer in connection with a loan payment.

(14) A person that:

(A) is licensed as a managing general agent as required under IC 27-1-33; and

(B) acts exclusively within the scope of activities provided for under the license referred to in clause (A).

(15) A person that:

(A) directly or indirectly underwrites, collects charges or premiums from, or adjusts or settles claims on residents of Indiana in connection with life, annuity, or health coverage provided by an

insurer;

(B) is affiliated with the insurer; and

(C) performs the duties specified in clause (A) only according to a contract between the person and the insurer for the direct and assumed life, annuity, or health coverage provided by the

insurer.

(b) "Affiliate" means an entity or a person that:

(1) directly or indirectly through an intermediary controls or is controlled by; or

(2) is under common control with;

a specified entity or person.

(c) "Church plan" has the meaning set forth in IC 27-8-10-1.

(d) "Commissioner" refers to the insurance commissioner appointed under IC 27-1-1-2.

(e) "Control" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person, whether:

(1) through ownership of voting securities;

(2) by contract other than a commercial contract for goods or nonmanagement services; or

(3) otherwise;

unless the power is the result of an official position with the person or a corporate office held by the person. Control is presumed to exist if a person directly or indirectly owns, controls, holds with the power to vote, or holds proxies representing not less than ten percent (10%) of the voting securities of another person.

(f) "Covered individual" means an individual who is covered under a benefit program provided by an insurer.

(g) "Financial institution" means a bank, savings association, credit union, or any other institution regulated under IC 28 or federal law.

(h) "GAAP" refers to consistently applied United States generally accepted accounting principles.

(i) "Governmental plan" has the meaning set forth in IC 27-8-10-1.

(j) "Home state" means the District of Columbia or any state or territory of the United States in which an administrator is incorporated or maintains the administrator's principal place of business. If the place in which the administrator is incorporated or maintains the administrator's principal place of business is not governed by a law that is substantially similar to this chapter, the administrator's home state is another state:

(1) in which the administrator conducts the business of the administrator; and

(2) that the administrator declares is the administrator's home state.

(k) "Insurance producer" has the meaning set forth in IC 27-1-15.6-2.

(l) "Insurer" means:

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(1) a person who obtains a certificate of authority under:

(A) IC 27-1-3-20;

(B) IC 27-13-3; or

(C) IC 27-13-34; or

(2) an employer that provides life, health, or annuity coverage in Indiana under a governmental plan or a church plan.

(m) "NAIC" refers to the National Association of Insurance Commissioners.

(n) "Negotiate" has the meaning set forth in IC 27-1-15.6-2.

(o) "Nonresident administrator" means a person that applies for or holds a license under section 12.2 of this chapter.

(p) "Person" has the meaning set forth in IC 27-1-15.6-2.

(q) "Sell" has the meaning set forth in IC 27-1-15.6-2.

(r) "Solicit" has the meaning set forth in IC 27-1-15.6-2.

(s) "Underwrite" refers to the:

(1) acceptance of a group application or an individual application for coverage of an individual in accordance with the written rules of the insurer; or

(2) planning and coordination of a benefit program provided by an insurer.

(t) "Uniform application" means the current version of the NAIC uniform application for third party administrators.

SOURCE: IC 27-1-25-11.1; (10)SB0357.2.3. --> SECTION 3. IC 27-1-25-11.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 11.1. (a) If the home state of a person is Indiana, the person shall:

(1) apply to act as an administrator in Indiana upon the uniform application; ~~and~~

**(2) pay an application fee in an amount determined by the commissioner; and**

~~(2)~~ **(3) receive a license from the commissioner;**

before performing the function of an administrator in Indiana. **The commissioner shall deposit a fee paid under subdivision (2) into the department of insurance fund established by IC 27-1-3-28.**

(b) The uniform application must include or be accompanied by the following:

(1) Basic organizational documents of the applicant, including:

(A) articles of incorporation;

(B) articles of association;

(C) partnership agreement;

(D) trade name certificate;

(E) trust agreement;

(F) shareholder agreement;

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(G) other applicable documents; and

(H) amendments to the documents specified in clauses (A) through (G).

(2) Bylaws, rules, regulations, or other documents that regulate the internal affairs of the applicant.

(3) The NAIC biographical affidavits for individuals who are responsible for the conduct of affairs of the applicant, including:

(A) members of the applicant's:

(i) board of directors;

(ii) board of trustees;

(iii) executive committee; or

(iv) other governing board or committee;

(B) principal officers, if the applicant is a corporation;

(C) partners or members, if the applicant is:

(i) a partnership;

(ii) an association; or

(iii) a limited liability company;

(D) shareholders or members that hold, directly or indirectly, at least ten percent (10%) of the:

(i) voting stock;

(ii) voting securities; or

(iii) voting interest;

of the applicant; and

(E) any other person who exercises control or influence over the affairs of the applicant.

(4) Financial information reflecting a positive net worth, including:

(A) audited annual financial statements prepared by an independent certified public accountant for the two (2) most recent fiscal years; or

(B) if the applicant has been in business for less than two (2) fiscal years, financial statements or reports that are:

(i) prepared in accordance with GAAP; and

(ii) certified by an officer of the applicant;

for any completed fiscal years and for any month during the current fiscal year for which

financial statements or reports have been completed.

If an audited financial statement or report required under clause (A) or (B) is prepared on a consolidated basis, the statement or report must include a columnar consolidating or combining worksheet that includes the amounts shown on the consolidated audited financial statement or report, separately reported on the

worksheet for each entity included on the statement or report, and an explanation of consolidating and eliminating entries.

(5) Information determined by the commissioner to be necessary for a review of the current financial condition of the applicant.

(6) A description of the business plan of the applicant, including:

(A) information on staffing levels and activities proposed in Indiana and nationwide; and

(B) details concerning the applicant's ability to provide a sufficient number of experienced and qualified personnel for:

(i) claims processing;

(ii) record keeping; and

(iii) underwriting.

(7) Any other information required by the commissioner.

(c) An administrator that applies for licensure under this section shall make copies of written agreements with insurers available for inspection by the commissioner.

(d) An administrator that applies for licensure under this section shall:

(1) produce the administrator's accounts, records, and files for examination; and

(2) make the administrator's officers available to provide information concerning the affairs of the administrator;

whenever reasonably required by the commissioner.

(e) The commissioner may refuse to issue a license under this section if the commissioner determines that:

(1) the administrator or an individual who is responsible for the conduct of the affairs of the administrator:

(A) is not:

(i) competent;

(ii) trustworthy;

(iii) financially responsible; or

(iv) of good personal and business reputation; or

(B) has had an:

(i) insurance certificate of authority or insurance license; or

(ii) administrator certificate of authority or administrator license; denied or revoked for cause by any jurisdiction;

(2) the financial information provided under subsection (b)(4) does not reflect that the applicant has a positive net worth; or

(3) any of the grounds set forth in section 12.4 of this chapter exists with respect to the administrator.

(f) An administrator that applies for a license under this section

shall immediately notify the commissioner of a material change in:

(1) the ownership or control of the administrator; or

(2) another fact or circumstance that affects the administrator's qualification for a license.

The commissioner, upon receiving notice under this subsection, shall report the change to an electronic data base maintained by the NAIC or an affiliate or a subsidiary of the NAIC.

(g) An administrator that applies for a license under this section and will administer a governmental plan or a church plan shall obtain a bond as required under section 4(g) of this chapter.

(h) A license that is issued under this section:

(1) is valid for one (1) year after the date of issuance, unless subdivision (2) applies; or  
(2) until:

(+) (A) the license is:

(A) (i) surrendered; or

(B) (ii) suspended or revoked by the commissioner; or

(-) (B) the administrator:

(A) (i) ceases to do business in Indiana; or

(B) (ii) is not in compliance with this chapter.

SOURCE: IC 27-1-25-12.2; (10)SB0357.2.4. --> SECTION 4. IC 27-1-25-12.2, AS AMENDED BY P.L.234-2007, SECTION 191, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12.2. (a) An administrator that:

(1) performs the duties of an administrator in Indiana; and

(2) does not hold a license issued under section 11.1 of this chapter;

shall obtain a nonresident administrator license under this section by filing a uniform application, **accompanied by an application fee in an amount determined by the commissioner**, with the commissioner. **The commissioner shall deposit a fee paid under this subsection into the department of insurance fund established by IC 27-1-3-28.**

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

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

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

(e) Unless a nonresident administrator is notified by the commissioner that the commissioner is able to verify the nonresident administrator's home state licensure through an electronic data base described in subsection (b), the nonresident administrator shall:

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

(2) pay **to the commissioner** a filing fee **as required in an amount determined** by the commissioner.

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

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

(1) produce the accounts of the nonresident administrator;

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

(3) make the officers of the nonresident administrator available to provide information with respect to the affairs of the nonresident administrator; when reasonably required by the commissioner.

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

(h) The commissioner may refuse to issue or may delay the issuance of a nonresident administrator

license if the commissioner determines that:

- (1) due to events occurring; or
- (2) based on information obtained;

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

- (i) If the commissioner makes a determination described in

subsection (h), the commissioner:

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

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

SOURCE: IC 27-1-25-12.3; (10)SB0357.2.5. --> SECTION 5. IC 27-1-25-12.3, AS AMENDED BY P.L.234-2007, SECTION 192, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12.3. (a) An administrator that is licensed under section 11.1 of this chapter shall, not later than July 1 of each year unless the commissioner grants an extension of time for good cause, file a report for the previous calendar year that complies with the following:

(1) The report must contain financial information reflecting a positive net worth prepared in accordance with section 11.1(b)(4) of this chapter.

(2) The report must be in the form and contain matters prescribed by the commissioner.

(3) The report must be verified by at least two (2) officers of the administrator.

(4) The report must include the complete names and addresses of insurers with which the administrator had a written agreement during the preceding fiscal year.

(5) The report must be accompanied by a filing fee **in an amount** determined by the commissioner. The commissioner shall collect a filing fee paid under subdivision (5) and deposit the fee into the department of insurance fund established by IC 27-1-3-28.

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

(1) issue a certification to the administrator:

(A) indicating that:

(i) the financial statement reflects a positive net worth; and

(ii) the administrator is currently licensed and in good standing; or

(B) noting deficiencies found in the report; or

(2) update an electronic data base that is maintained by the NAIC

or by an affiliate or a subsidiary of the NAIC:

(A) indicating that the administrator is solvent and in compliance with this chapter; or

(B) noting deficiencies found in the report.

SOURCE: IC 27-1-27-7; (10)SB0357.2.6. --> SECTION 6. IC 27-1-27-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 7. (a) As used in this section, "practitioner" means an individual or corporation who or which holds a certificate of authority under this chapter.

(b) A practitioner shall conduct the practice of public adjusting in accordance with the standards ~~established by the commissioner of insurance under set forth in~~ section ~~8 8.5~~ of this chapter and is subject to the exercise of the disciplinary sanctions under subsection (e), if after a hearing, the commissioner finds:

(1) the practitioner has employed or knowingly cooperated in fraud or material deception in order

to obtain a certificate to practice public adjusting, or has engaged in fraud or material deception in the course of professional services or activities, or has advertised services in a false or misleading manner;

(2) the practitioner has been convicted of a crime which has direct bearing on the practitioner's ability to continue to practice competently;

(3) a practitioner has knowingly violated any **rule adopted by the commissioner standard** under section **8 8.5** of this chapter;

(4) a practitioner has continued to practice although ~~he~~ **the practitioner** has become unfit to practice public adjusting due to:

(A) professional incompetence;

(B) failure to keep abreast of current professional theory or practice;

(C) physical or mental disability; or

(D) addiction or severe dependency upon alcohol or other drugs which endangers the public by impairing a practitioner's ability to practice safely;

(5) a practitioner has engaged in a course of lewd or immoral conduct in connection with the delivery of services to clients; or

(6) a practitioner has allowed ~~his~~ **the practitioner's** name or a certificate issued to ~~him~~ **the practitioner** under this chapter to be used in connection with any individual who renders public adjusting services beyond the scope of ~~his~~ **the practitioner's** training, experience, or competence.

(c) The commissioner of insurance may order a practitioner to submit to a reasonable physical or mental examination if ~~his~~ **the practitioner's** physical or mental capacity to practice safely is at issue

in a disciplinary proceeding.

(d) Failure to comply with an order under subsection (c) shall render a practitioner liable to the summary revocation procedures under subsection (f).

(e) The commissioner of insurance may impose any of the following sanctions, singly or in combination, when ~~he~~ **the commissioner** finds that a practitioner is guilty of any offense under subsection (b):

(1) Permanently revoke a practitioner's certificate.

(2) Suspend a practitioner's certificate.

(3) Censure a practitioner.

(4) Issue a letter of reprimand.

(5) Place a practitioner on probation status and require the practitioner to:

(A) report regularly to the commissioner upon the matters which are the basis of probation;

(B) limit practice to those areas prescribed by the commissioner; or

(C) continue or renew professional education under a practitioner approved by the commissioner until a satisfactory degree of skill has been attained in those areas which are the basis of the probation.

The commissioner may withdraw a probation order if ~~he~~ **the commissioner** finds that the deficiency which required disciplinary action has been remedied.

(f) The commissioner of insurance may summarily suspend a practitioner's certificate for a period of ninety (90) days in advance of a final adjudication or during the appeals process if the commissioner finds that a practitioner represents a clear and immediate danger to the public health and safety if ~~he~~ **the practitioner** is allowed to continue to practice. The summary suspension may be renewed upon a hearing before the commissioner, and each renewal may be for a period of ninety (90) days or less.

(g) The commissioner of insurance may reinstate a certificate which has been suspended under this chapter if, after a hearing, the commissioner is satisfied that the applicant is able to practice public adjusting with reasonable skill and safety to clients. As a condition of reinstatement, the commissioner may impose disciplinary or corrective measures authorized under this chapter.

(h) The commissioner of insurance shall seek to achieve consistency in the application of the sanctions authorized in this section, and significant departures from prior decisions involving similar conduct shall be explained in the commissioner's findings or orders.

(i) The commissioner of insurance may initiate proceedings under this section on ~~his~~ **the commissioner's** own motion or on the verified written complaint of any interested person. All such proceedings shall be conducted in accordance with IC 4-21.5.

SOURCE: IC 27-1-27-8.5; (10)SB0357.2.7. --> SECTION 7. IC 27-1-27-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

**Sec. 8.5. (a) A public adjuster may not do any of the following:**

(1) Solicit, or attempt to solicit, an insured earlier than six (6) days after a loss-producing occurrence, as defined in the insured's insurance contract.

(2) Permit an unlicensed employee or representative of the public adjuster to conduct business for which a license is required under this chapter.

(3) Unless full written disclosure has been made to the insured, have a direct or indirect financial interest in any aspect of a claim, other than the fees, commission, or other consideration established in the written contract with the insured.

(4) Advance money to an insured before the settlement of a claim with the expectation that the public adjuster will be repaid any settlement funds received by the insured.

(5) Refer or direct the insured to purchase goods, repairs, or services from any person:

(A) in which the public adjuster has a financial interest; or

(B) from which the public adjuster may receive direct or indirect compensation.

(6) Undertake the adjustment of any claim if the public adjuster is not competent and knowledgeable as to the terms and conditions of the insurance coverage.

(7) Knowingly make any oral or written material misrepresentations of statement which are false or maliciously critical and intended to injure any person engaged in the business of insurance to any insured or potential insured.

(8) Act as a company adjuster or independent adjuster on a claim for which the public adjuster is providing services as a public adjuster.

(9) Enter into a contract or accept a power of attorney that vests in the public adjuster the effective authority to choose the person to perform the repair work.

(b) A public adjuster:

(1) shall communicate fully and promptly with the insured;

and

(2) may not take any action without the insured's knowledge and consent.

SOURCE: IC 27-1-28; (10)SB0357.2.8. --> SECTION 8. IC 27-1-28 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

### **Chapter 28. Independent Adjuster Licensing**

**Sec. 1.** This chapter governs the qualifications and procedure for the licensing of independent adjusters.

**Sec. 2.** The commissioner may adopt rules under IC 4-22-2 to implement this chapter.

**Sec. 3.** As used in this chapter, "automated claims adjudication system" means a preprogrammed computer system designed for the collection, data entry, calculation, and system generated final resolution of property insurance claims, which:

(1) is only used by a licensee or a person described in section 6(b)(2) of this chapter;

(2) complies with all claim payment requirements of the insurance laws of this state; and

(3) is certified as compliant by an independent adjuster who is licensed under this chapter and an officer of a business entity licensed under this chapter.

**Sec. 4.** As used in this chapter, "catastrophe" means an event that is the subject of a declaration by the commissioner and that:

(1) results in a large number of deaths or injuries;

(2) causes extensive damage or destruction of facilities used to provide and sustain human needs;

**(3) produces an overwhelming demand on state and local response resources and mechanisms;**

**(4) causes a severe long term effect on general economic activity; or**

**(5) severely affects state, local, and private sector capabilities to begin and sustain response activities.**

**Sec. 5. As used in this chapter, "home state" means:**

**(1) a state, district, or territory of the United States in which an independent adjuster:**

**(A) maintains the independent adjuster's principal place of residence or business; and**

**(B) is licensed to act as a resident independent adjuster; or**

**(2) if the principal place of residence described in subdivision (1) does not license independent adjusters for the line of authority in which the independent adjuster seeks licensing**

**under this chapter, the state, district, or territory of the United States:**

**(A) that is designated by the independent adjuster as the independent adjuster's home state; and**

**(B) in which the independent adjuster is licensed and in good standing.**

**Sec. 6. (a) As used in this chapter, "independent adjuster" means a person, or an independent contractor or employee of a person, that:**

**(1) contracts for compensation with insurers or self-insurers to investigate, negotiate, or settle property, casualty, or worker's compensation claims; and**

**(2) for tax purposes is treated by the insurers or self-insurers in a manner consistent with treatment of an independent contractor rather than an employee under Title 26, Subtitle C of the Internal Revenue Code.**

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

**(1) An attorney who:**

**(A) is admitted to practice in Indiana; and**

**(B) acts in a professional capacity as an attorney.**

**(2) A person employed solely to:**

**(A) obtain facts surrounding a claim;**

**(B) furnish technical assistance to a licensed independent adjuster; or**

**(C) collect claim information from, or furnish claim information to, insureds or claimants or input data entry into an automated claims adjudicated system if:**

**(i) the person is an individual employee of an independent adjuster licensed under this chapter or the independent adjuster's affiliate; and**

**(ii) the independent adjuster licensed under this chapter or a licensed insurance producer described in subdivision (10) supervises not more than twenty-five (25) persons described in item (i).**

**(3) An individual who is employed to investigate suspected fraudulent insurance claims, but who does not adjust losses or determine claim payments.**

**(4) A person that:**

**(A) performs only executive, administrative, managerial, or clerical duties; and**

**(B) does not investigate, negotiate, or settle claims with policyholders, claimants, or legal representatives of**

**policyholders or claimants.**

**(5) A person that settles only reinsurance or subrogation claims.**

**(6) An officer, director, manager, or employee of an authorized insurer, a managing general agent, a surplus lines insurer, a risk retention group, or an attorney in fact of a reciprocal insurer.**

**(7) A manager of the United States branch of an alien insurer.**

**(8) A person that investigates, negotiates, or settles life, accident and health, annuity, or disability insurance claims.**

(9) Under a self-insured arrangement, an individual who adjusts claims on behalf of the individual's employer.

(10) A licensed insurance producer, an attorney in fact of a reciprocal insurer, or a managing general agent of an insurer to whom claim authority has been granted by the insurer.

(11) A person that is authorized to adjust worker's compensation or disability claims under the authority of a third party administrator.

(12) A person that investigates, negotiates, or settles crop insurance claims.

Sec. 7. As used in this chapter, "NAIC" refers to the National Association of Insurance Commissioners.

Sec. 8. As used in this chapter, "uniform individual application" means the current version of the NAIC uniform individual application for resident and nonresident individuals.

Sec. 9. As used in this chapter, "uniform business entity application" means the current version of the NAIC uniform business entity application for resident and nonresident business entities.

Sec. 10. A person shall not:

(1) act as an independent adjuster in Indiana; or

(2) hold itself, himself, or herself out as an independent adjuster in Indiana;

unless the person is licensed or exempt from licensure under this chapter.

Sec. 11. (a) If a catastrophe is declared, an insurer may contract with an individual who is:

(1) not licensed under this chapter; and

(2) otherwise qualified to adjust claims;

to act as a temporary emergency independent adjuster on behalf of the insurer if the insurer obtains for the individual a temporary emergency independent adjuster license under this section.

(b) An insurer described in subsection (a) must, not more than five (5) days after the individual begins to adjust claims arising from the declared catastrophe, submit to the commissioner an application for temporary emergency licensure of the individual under this section.

(c) An application submitted under subsection (b) must include the following information in a format prescribed by the commissioner:

(1) The name of the individual.

(2) The Social Security number of the individual.

(3) The name of the insurer.

(4) The effective date of the contract between the insurer and the individual.

(5) The catastrophe or loss number.

(6) The catastrophe event name.

(7) Other information the commissioner considers necessary.

(d) The commissioner shall establish standards and procedures for temporary emergency independent adjuster licensure under this section.

(e) A temporary emergency independent adjuster license issued under this section is effective for not more than ninety (90) days, unless extended by the commissioner. In the event of multiple catastrophes, an individual who holds a temporary emergency independent adjuster license under this section may adjust claims arising from any other catastrophe that occurs within the ninety (90) day period under this subsection for which the license is effective without the insurer applying for an additional temporary emergency independent adjuster license.

(f) The rules adopted by the commissioner under section 2 of this chapter may establish a fee for an application submitted under this section.

Sec. 12. (a) An individual may apply for a resident independent adjuster license by submitting:

(1) a uniform individual application to the commissioner with a declaration, under penalty of suspension, revocation, or refusal of licensure, that the statements made in the application are true and complete to the best of the individual's knowledge; and

(2) an application fee of forty dollars (\$40).

(b) The commissioner shall approve an application submitted under subsection (a) upon finding

**all of the following:**

**(1) The individual is at least eighteen (18) years of age.**

**(2) The individual is eligible to designate Indiana as the individual's home state.**

**(3) The individual is determined by the commissioner to be trustworthy, reliable, and of good reputation.**

**(4) The individual has not committed an act that is grounds for probation, suspension, revocation, or refusal of licensure under section 18 of this chapter.**

**(5) The individual has completed a preclicensing course of study for the line of authority in which the individual has applied for licensing under this section.**

**(6) The individual has successfully passed the written examination administered under section 15 of this chapter for the line of authority in which the individual has applied for licensing under this section.**

**(c) The commissioner may require any documents reasonably necessary to verify the information contained in the application.**

**Sec. 13. (a) A business entity may apply for a resident independent adjuster license by submitting:**

**(1) a uniform business entity application to the commissioner with a declaration, under penalty of suspension, revocation, or refusal of licensure, that the statements made in the application are true and complete to the best knowledge of the individual submitting the application on behalf of the business entity;**

**(2) an application fee of forty dollars (\$40); and**

**(3) the name, address, Social Security number, and criminal and administrative history of each of the following:**

**(A) Owner that has at least ten percent (10%) interest or voting interest in the business entity.**

**(B) Partner of the business entity.**

**(C) Executive officer of the business entity.**

**(D) Director of the business entity.**

**(b) The commissioner shall approve an application submitted by a business entity under subsection (a) upon finding all of the following:**

**(1) The business entity is eligible to designate Indiana as the business entity's home state.**

**(2) The business entity has designated an individual independent adjuster licensed under this chapter to be responsible for the business entity's compliance with Indiana insurance law.**

**(3) The business entity has not committed any act that is**

**grounds for probation, suspension, revocation, or refusal of an independent adjuster license under section 18 of this chapter.**

**(c) The commissioner may require a business entity applying under this section to produce any documents reasonably necessary to verify the information contained in the application.**

**Sec. 14. (a) An independent adjuster may qualify for an independent adjuster license in one (1) or more of the following lines of authority:**

**(1) Property and casualty insurance.**

**(2) Worker's compensation insurance.**

**(b) An independent adjuster licensed under this chapter is not required to hold another independent adjuster, insurance producer, or insurance administrator license in Indiana.**

**(c) An independent adjuster license:**

**(1) is effective for two (2) years after the date of issuance unless probated, suspended, revoked, or refused; and**

**(2) may be renewed if all requirements for renewal, including submission to the commissioner of a renewal fee of forty dollars (\$40) are met by the date due.**

(d) If an independent adjuster license expires, the independent adjuster may, within twelve (12) months after the date of expiration, be reissued an independent adjuster license upon receipt by the commissioner of:

- (1) a request for reissuance, as prescribed by the commissioner; and
- (2) a reissuance fee of eighty dollars (\$80).

(e) An independent adjuster who is unable to comply with the license renewal requirements of this section due to:

- (1) military service;
- (2) long term medical disability; or
- (3) another extenuating circumstance determined by the commissioner;

may request a waiver of the renewal requirements or applicable sanction.

(f) A license issued under this chapter must contain the following:

- (1) The licensee's name, address, and personal identification number.
- (2) The date of issuance.
- (3) The date of expiration.
- (4) Other information considered necessary by the

commissioner.

(g) An independent adjuster is subject to IC 27-4-1-4.5.

(h) An independent adjuster shall, not more than thirty (30) days after the occurrence of a change of the independent adjuster's:

- (1) legal name; or
- (2) home state address;

provide written notice to the commissioner of the change.

(i) The commissioner may contract with a nongovernmental entity to perform ministerial functions required by this section, including the collection of data and fees related to licensing.

Sec. 15. (a) Except as provided in section 16 of this chapter, an individual who applies for an independent adjuster license under this chapter must pass a written examination that is:

(1) developed and conducted according to rules adopted by the commissioner under IC 4-22-2; and

(2) intended to test the knowledge of the individual concerning:

(A) the lines of authority in which the application has applied for licensing under this chapter;

(B) the duties and responsibilities of an independent adjuster; and

(C) Indiana insurance law.

(b) The commissioner may contract with a nongovernmental entity to administer the written examination required by this section.

(c) An individual described in subsection (a) shall remit, with the application to take the written examination required by this section, a nonrefundable examination fee in an amount set by the commissioner or the organization administering the examination.

(d) If an individual:

- (1) fails to appear for or to pass an examination; and
- (2) desires to reschedule the examination;

the individual shall reapply for the written examination and remit all fees and forms before scheduling an examination date.

Sec. 16. (a) An individual who applies for an independent adjuster license under this chapter and who:

(1) possesses an independent adjuster license for the same line of authority in which the individual has applied for licensing under this chapter in a state in which a preclicensing independent adjuster licensure examination is required;

(2) possessed an independent adjuster license that:

(A) was for the same line of authority in which the individual has applied for licensing under this chapter in a state in which a precicensing independent adjuster licensure examination is required; and

(B) expired less than ninety (90) days before the date the commissioner receives the application; or

(3) provides proof from contracting insurers that the individual has participated in claims adjudication in the same line of authority during the five (5) years immediately preceding the date of application;

is not required to complete a precicensing course under section 12(b)(5) of this chapter or pass a precicensing examination under section 15 of this chapter before being licensed under this chapter.

(b) An applicant who meets the criteria set forth in subsection (a)(1) or (a)(2) must provide certification from the other state that the applicant's independent adjuster license:

(1) is currently in good standing; or

(2) was in good standing at the time of expiration.

(c) A person that:

(1) is licensed as an independent adjuster in another state where a precicensing independent adjuster licensure examination is required;

(2) establishes legal residency in Indiana; and

(3) applies for a resident independent adjuster license under this chapter less than ninety (90) days after the person establishes legal residency in Indiana;

is not required to complete a precicensing course under section 12(b)(5) of this chapter or pass a precicensing examination under section 15 of this chapter before being licensed under this chapter.

Sec. 17. (a) Except as provided in section 18 of this chapter, the commissioner shall issue a nonresident independent adjuster license to a person if:

(1) the person is currently licensed in good standing as an independent adjuster in the person's home state;

(2) the person has submitted:

(A) the proper application for licensure;

(B) a nonresident application fee of ninety dollars (\$90); and

(C) in the case of a business entity, the information required in section 13(a)(3) of this chapter; and

(3) the person's designated home state awards nonresident independent adjuster licenses to residents of Indiana on the

same basis as nonresident independent adjuster licenses are awarded under this chapter to residents of other states.

(b) Except as provided in section 18 of this chapter, if a person that:

(1) is not a resident of Indiana; and

(2) is not licensed as an independent adjuster in another state;

desires to obtain an independent adjuster license under this chapter, the person must comply with the requirements of section 12 or 13 of this chapter, and sections 14 and 15 of this chapter, and must remit the nonresident application fee of ninety dollars (\$90).

(c) The commissioner may:

(1) verify an independent adjuster's licensure status in another state through an appropriate data base, including the insurance producer data base maintained by the NAIC or an affiliate or a subsidiary of the NAIC; or

(2) request certification of good standing as described in section 16(b) of this chapter.

(d) To maintain a valid nonresident independent adjuster license issued under this chapter:

(1) the independent adjuster must maintain a valid resident independent adjuster license in the independent adjuster's home state; and

(2) the independent adjuster's home state must award nonresident independent adjuster licenses to residents of Indiana on the same basis as nonresident independent adjuster licenses are awarded under this chapter to residents of other states.

(e) For a nonresident independent adjuster license issued under this chapter to be renewed:

(1) the independent adjuster must:

(A) maintain a valid resident independent adjuster license in the independent adjuster's home state; and

(B) remit to the commissioner a nonresident independent adjuster license renewal fee of ninety dollars (\$90); and

(2) the independent adjuster's home state must award nonresident independent adjuster licenses to residents of Indiana on the same basis as nonresident independent adjuster licenses are awarded under this chapter to residents of other states.

(f) If a nonresident independent adjuster's home state license terminates for any reason other than issuance of a new resident independent adjuster license in a new home state:

(1) the person's nonresident independent adjuster license issued under this chapter also terminates immediately; and

(2) the person shall immediately surrender the nonresident independent adjuster license to the commissioner.

(g) If a nonresident independent adjuster's home state license terminates due to the issuance of a new resident independent adjuster license in a new home state, the independent adjuster shall, not more than thirty (30) days after the nonresident independent adjuster's home state license termination date, provide notice of the termination to the commissioner and the insurance commissioner of any state that has issued a nonresident independent adjuster license to the independent adjuster. The notice must specify the independent adjuster's previous home state address and new home state address.

(h) If a resident independent adjuster's license issued under this chapter terminates for any reason, the resident independent adjuster shall, not more than thirty (30) days after the resident adjuster license termination date, provide notice of the termination to the insurance commissioner of any state that has issued a nonresident independent adjuster license to the resident independent adjuster. If the termination results from a change of the resident independent adjuster's home state, the notice must specify the independent adjuster's previous home state address and new home state address.

Sec. 18. (a) The commissioner may suspend, revoke, or refuse to issue or renew an independent adjuster license, or place an independent adjuster on probation, for a cause set forth in subsection (b).

(b) An independent adjuster is subject to the penalties set forth in subsection (a) for any of the following:

(1) Providing incorrect, misleading, incomplete, or materially untrue information in a license application.

(2) Violating an insurance law, a subpoena, or an order of the commissioner or another state's insurance commissioner.

(3) Obtaining or attempting to obtain a license through misrepresentation or fraud.

(4) Improperly withholding, misappropriating, or converting money or property received in the course of doing insurance business.

(5) Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.

(6) Having been convicted of a felony.

(7) Having admitted or been found to have committed any unfair trade practice or fraud in the business of insurance.

(8) Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility, in the conduct of insurance business.

(9) Having an insurance license, or its equivalent, probated, suspended, revoked, or refused in another state, province, district, or territory.

(10) Forging another person's name to a document related to an insurance transaction.

(11) Cheating, including improperly using notes or any other reference material, to complete an examination for an insurance license.

(12) Failing to comply with an administrative or court order imposing a child support obligation.

(13) Failing to pay state income tax or failing to comply with an administrative or court order directing payment of state income tax.

(c) If the commissioner refuses an application for licensure or for the renewal of an existing license under this chapter, the commissioner shall notify the applicant or licensee in writing, advising of the reason for the refusal. The applicant or licensee may, not more than thirty (30) days after receiving the commissioner's notice of refusal, make written demand upon the commissioner for a hearing to determine the reasonableness of the refusal. The hearing must be held under IC 4-21.5 not more than twenty (20) days after the commissioner receives the applicant's or licensee's written demand.

(d) The commissioner may suspend, revoke, or refuse a business entity's independent adjuster license under this chapter or place a business entity licensed under this chapter on probation if, after a hearing under IC 4-21.5, the commissioner finds that:

(1) the individual licensed independent adjuster designated by the business entity under section 13(b)(2) of this chapter as being responsible for the business entity's compliance with Indiana insurance law committed a violation described in subsection (b) while acting on behalf of or representing the business entity;

(2) the violation was known or should have been known by at least one (1) of the business entity's partners, officers, or managers;

(3) the violation was not reported to the commissioner; and

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(4) the business entity did not take corrective action.

(e) In addition to or instead of a penalty imposed under subsection (a), the commissioner may, after a hearing under IC 4-21.5, impose a civil penalty of at least fifty dollars (\$50) and not more than ten thousand dollars (\$10,000), regardless of whether the person on whom the penalty is imposed holds an independent adjuster license issued under this chapter that is in effect. A penalty imposed under this subsection may be enforced in the same manner as a civil judgment.

Sec. 19. (a) Except as provided in subsection (b), an individual who holds a license under this chapter shall, every two (2) years, satisfactorily complete a minimum of twenty-four (24) hours of continuing education courses three (3) hours of which must concern ethics, and report the completion of the courses to the commissioner.

(b) This section does not apply to the following:

(1) An individual who is licensed for less than twelve (12) months before the end of the applicable continuing education biennium.

(2) A licensed nonresident independent adjuster who has met the continuing education requirements of the designated home state.

Sec. 20. An independent adjuster shall:

(1) maintain a copy of each contract between the independent adjuster and an insurer or a self-insurer; and

(2) comply with the record retention policy agreed to in the contract described in subdivision (1).

Sec. 21. An independent adjuster shall do all of the following:

(1) Be honest and fair in all communications with an insured, an insurer, a self-insurer, and

the public.

(2) Give policyholders and claimants prompt and knowledgeable service and courteous, fair, and objective treatment.

(3) Refrain from:

(A) giving legal advice; or

(B) dealing directly with a policyholder or claimant who is represented by legal counsel unless the legal counsel consents to the direct contact.

(4) Comply with all local, state, and federal privacy and information security laws.

(5) Identify:

(A) itself, herself, or himself as an independent adjuster;

and

(B) if applicable, identify the independent adjuster's employer; when dealing with a policyholder or claimant.

(6) Refrain from:

(A) having any financial interest in an adjustment; or

(B) acquiring, for the independent adjuster or any person, an interest or a title in salvage without first receiving written authority from the principal.

**Sec. 22. (a) An independent adjuster shall report to the commissioner any administrative action taken against the independent adjuster:**

(1) in another jurisdiction; or

(2) by another governmental agency in Indiana;

not more than thirty (30) days after the final disposition of the matter. The report must include a copy of the order or consent order, and any other relevant documentation.

**(b) An independent adjuster shall report to the commissioner any criminal action taken against the independent adjuster:**

(1) in another jurisdiction; or

(2) by another governmental agency in Indiana;

not more than thirty (30) days after the final disposition of the criminal matter. The report must include a copy of the initial complaint filed, the final order issued by the court, and any other relevant documentation.

**Sec. 23. If an independent adjuster uses an automated claims adjudicated system, the independent adjuster shall maintain proof of the certification described in section 3(3) of this chapter and provide the proof of certification to the commissioner upon request.**

**Sec. 24. The commissioner shall deposit a fee received under this chapter into the department of insurance fund established by IC 27-1-3-28.**

SOURCE: IC 27-8-15-9; (10)SB0357.2.9. --> SECTION 9. IC 27-8-15-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. (a) Except as provided in section 28 of this chapter, as used in this chapter, "health insurance plan" or "plan" means any:

(1) hospital or medical expense incurred policy or certificate;

(2) hospital or medical service plan contract; or

(3) health maintenance organization subscriber contract;

provided to the employees of a small employer.

(b) The term does not include the following:

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

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

(3) Worker's compensation or similar insurance.

(4) Automobile medical payment insurance.

- (5) A specified disease policy. ~~issued as an individual policy.~~
- ~~(6) A limited benefit health insurance policy issued as an individual policy.~~
- ~~(7) (6) A short term insurance plan that:~~
  - (A) may not be renewed; and
  - (B) has a duration of not more than six (6) months.

~~(8) (7) A policy that provides a stipulated daily, weekly, or monthly payment to an insured during hospital confinement, without regard to the actual expense of the confinement. indemnity benefits not based on any expense incurred requirement, including a plan that provides coverage for:~~

- ~~(A) hospital confinement, critical illness, or intensive care; or~~
- ~~(B) gaps for deductibles or copayments.~~
- ~~(8) A supplemental plan that always pays in addition to other coverage.~~
- ~~(9) A student health plan.~~

- ~~(10) An employer sponsored health benefit plan that is:~~
  - ~~(A) provided to individuals who are eligible for Medicare; and~~
  - ~~(B) not marketed as, or held out to be, a Medicare supplement policy.~~

SOURCE: IC 27-8-15-31; (10)SB0357.2.10. --> SECTION 10. IC 27-8-15-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 31. (a) If an eligible employee who has been continuously covered under a health insurance plan for at least ninety (90) days:

- (1) loses coverage under the plan as the result of:
  - (A) termination of employment;
  - (B) reduction of hours;
  - (C) marriage dissolution; or
  - (D) attainment of any age specified in the plan; ~~and~~

**(2) is not eligible for continuation coverage under the federal Consolidated Omnibus Budget Reconciliation Act of 1985; and**

~~(2) (3) requests a conversion policy from the small employer insurer that insured the health insurance plan;~~  
 the individual is entitled to receive a conversion policy from the small

employer insurer.

(b) A request under subsection ~~(a)(2)~~ **(a)** must be made within thirty (30) days after the individual loses coverage under the health insurance plan.

(c) The premium for a conversion policy issued under this section shall not exceed one hundred fifty percent (150%) of the rate that would have been charged under the small employer health insurance plan with respect to the individual if the individual had been covered as an eligible employee under the plan during the same period. If the health insurance plan under which the individual was covered is canceled or is not renewed, the rates shall be based on the rate that would have been charged with respect to the individual if the plan had continued in force, as determined by the small employer insurer in accordance with standard actuarial principles.

(d) A conversion policy issued under this section must be approved by the insurance commissioner as described in IC 27-8-5-1. The commissioner may not approve a conversion policy unless the policy and its benefits are:

- (1) comparable to those required under IC 27-13-1-4(a)(2) through IC 27-13-1-4(a)(5);
- (2) reasonable in relation to the premium charged; and
- (3) in compliance with IC 27-8-6-1.

If the benefit limits of the conversion policy are not more than the benefit limits of the small employer's health insurance plan, the small employer insurer shall credit the individual with any waiting period, deductible, or coinsurance credited to the individual under the small employer's health insurance plan.

(e) This section expires on the effective date of a mechanism enacted by the general assembly to offset the potential fiscal impact on small employers and small employer insurers that results from the establishment of a continuation policy under section 31.1 of this chapter.

SOURCE: IC 27-13-2-10; (10)SB0357.2.11. --> SECTION 11. IC 27-13-2-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:  
**Sec. 10. (a) A domestic health maintenance organization that is admitted to transact business in Indiana shall do the following:**

**(1) If the health maintenance organization is a domestic health maintenance organization admitted to transact business in Indiana after June 30, 2010, comply with IC 27-1-6-21.**

**(2) If the health maintenance organization changes the physical location of its home office, provide written notice to**

**the department and all subscribers at least thirty (30) days before the location is changed, including the address and telephone number of the new location.**

**(b) A domestic health maintenance organization operating under this article is subject to IC 27-1-7-11.**

SOURCE: IC 27-13-34-12; (10)SB0357.2.12. --> SECTION 12. IC 27-13-34-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 12. A limited service health maintenance organization operated under this chapter is subject to the following:

(1) IC 27-1-36 concerning risk based capital, unless exempted by the commissioner under IC 27-1-36-1.

**(2) IC 27-13-2-10, concerning a change of office location.**

~~(2)~~ **(3) IC 27-13-8, except for IC 27-13-8-2(a)(6) concerning reports.**

~~(3)~~ **(4) IC 27-13-9-3 concerning termination of providers.**

~~(4)~~ **(5) IC 27-13-10-1 through IC 27-13-10-3 concerning grievance procedures.**

~~(5)~~ **(6) IC 27-13-11 concerning investments.**

~~(6)~~ **(7) IC 27-13-15-1(a)(2) through IC 27-13-15-1(a)(3) concerning gag clauses in contracts.**

~~(7)~~ **(8) IC 27-13-21 concerning producers.**

~~(8)~~ **(9) IC 27-13-29 concerning statutory construction and relationship to other laws.**

~~(9)~~ **(10) IC 27-13-30 concerning public records.**

~~(10)~~ **(11) IC 27-13-31 concerning confidentiality of medical information and limitation of liability.**

~~(11)~~ **(12) IC 27-13-36-5 and IC 27-13-36-6 concerning referrals to out of network providers and continuation of care.**

~~(12)~~ **(13) IC 27-13-40 concerning comparison sheets of services provided by the limited service health maintenance organization.**

SOURCE: IC 27-14-7-9; (10)SB0357.2.13. --> SECTION 13. IC 27-14-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]: Sec. 9. An MIHC may convert to a stock company under ~~IC 27-1-8-13~~ **IC 27-15** as though the MIHC were an MIC.

SOURCE: IC 27-16-2-16; (10)SB0357.2.14. --> SECTION 14. IC 27-16-2-16 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:

**Sec. 16. "Working capital" means the difference between a person's:**

**(1) current assets; and**

**(2) current liabilities;**

**determined in accordance with generally accepted accounting principles.**

SOURCE: IC 27-16-4-2; (10)SB0357.2.15. --> SECTION 15. IC 27-16-4-2, AS ADDED BY P.L.245-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2012]: Sec. 2. **(a) This section does not apply to an applicant for limited registration under section 6 of this chapter.**

**(b) An applicant for registration under this article shall file with the department the following information:**

**(1) The name or names under which the applicant conducts business.**

**(2) The address of the principal place of business of the applicant and the address of each office the**

applicant maintains in Indiana.

(3) The applicant's taxpayer or employer identification number.

(4) A list by jurisdiction of each name under which the applicant has operated in the preceding five (5) years, including any alternative names, names of predecessors, and, if known, successor business entities.

(5) A statement of ownership that includes the name and evidence of the business experience of any person that, individually or acting in concert with one (1) or more other persons, owns or controls, directly or indirectly, twenty-five percent (25%) or more of the equity interests of the applicant.

(6) A statement of management that includes the name and evidence of the business experience of any individual who serves as president, chief executive officer, or otherwise has the authority to act as senior executive officer of the applicant.

(7) **Except as provided in subsections (c) and (d)**, a financial statement:

(A) setting forth the financial condition of the applicant as of a date not earlier than one hundred eighty (180) days before the date the financial statement is submitted to the department;

(B) prepared in accordance with generally accepted accounting principles; and

(C) ~~reviewed~~ **audited** by an:

(i) independent certified public accountant licensed to practice in the jurisdiction in which the accountant is located; or

**(ii) individual who is certified under IC 25-2.1-3 or IC 25-2.1-4;**

**with a resulting audit report that is issued without qualification as to the status of the applicant as a going concern.**

**(c) If a PEO has less than twelve (12) months of operating history on which to base an audited financial statement, the PEO**

**shall file a financial statement that has been reviewed by an:**

**(1) independent certified public accountant licensed to practice in the jurisdiction in which the accountant is located; or**

**(2) individual who is certified under IC 25-2.1-3 or IC 25-2.1-4.**

**(d) An applicant may apply to the department for an extension of time in which to file the audited financial statement and audit report required by subsection (b). An application under this subsection must be accompanied by a letter from the auditor described in subsection (b) specifying the reason for the requested extension and the anticipated date by which the audit will be completed.**

SOURCE: IC 27-16-4-6; (10)SB0357.2.16. --> SECTION 16. IC 27-16-4-6, AS ADDED BY P.L.245-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:  
Sec. 6. (a) A PEO that is not domiciled in Indiana is eligible for a limited registration under this article if the PEO:

(1) submits a properly executed request for limited registration on a form prescribed by the department;

(2) is licensed or registered as a professional employer organization in another state that has licensure or registration requirements that are:

(A) substantially the same as; or

(B) more restrictive than;

the requirements of this article;

(3) does not:

(A) maintain an office; or

(B) directly solicit clients located or domiciled;

in Indiana; and

(4) does not have more than fifty (50) covered employees who are employed or domiciled in Indiana on any day.

(b) A limited registration is valid for one (1) year and may be renewed.

(c) A PEO that seeks limited registration under this section shall provide to the department information and documentation necessary to show that the PEO ~~qualifies for a limited registration:~~ **meets the requirements of this section.**

(d) ~~IC 27-16-6-1(a)(1)~~ **IC 27-16-6** does not apply to a PEO that applies for limited registration under this section.

SOURCE: IC 27-16-4-8; (10)SB0357.2.17. --> SECTION 17. IC 27-16-4-8, AS ADDED BY P.L.245-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:  
Sec. 8. The department shall:

(1) maintain; and

(2) **publish on the department's Internet site;**

a list of PEOs that are registered under this article.

SOURCE: IC 27-16-6-1; (10)SB0357.2.18. --> SECTION 18. IC 27-16-6-1, AS ADDED BY P.L.245-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:  
Sec. 1. (a) A PEO or PEO group shall ~~maintain either:~~ **do one (1) of the following:**

~~(1) subject to section 2 of this chapter, a minimum net worth of fifty thousand dollars (\$50,000); or~~

**(1) Maintain positive working capital, as reflected in the financial statement submitted to the department by the PEO or PEO group under IC 27-16-4.**

~~(2) subject to subsection (b), a bond with a market value of at least fifty thousand dollars (\$50,000).~~

**(2) If the PEO or PEO group does not meet the requirement of subdivision (1), maintain any of the following with a minimum aggregate value in an amount that is at least sufficient to eliminate the PEO's or PEO group's negative working capital plus one hundred thousand dollars (\$100,000):**

(A) A surety bond.

(B) An irrevocable letter of credit.

(C) Securities.

(D) Cash.

**(E) A combination of items listed in clauses (A) through (D).**

(b) ~~A bond~~ **An instrument or cash** described in subsection (a)(2) must be held by a ~~depository an~~ **institution** designated by the department, securing payment by the PEO or PEO group of all taxes, wages, benefits, or other entitlement due to or with respect to covered employees in the event that the PEO or PEO group does not make the payments when due.

SOURCE: IC 27-16-6-2; (10)SB0357.2.19. --> SECTION 19. IC 27-16-6-2, AS ADDED BY P.L.245-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2010]:  
Sec. 2. ~~A bond~~ **An instrument or cash** described in section 1(a)(2) of this chapter must not be included in the calculation of the ~~minimum net worth~~ **positive working capital** described in section 1(a)(1) of this chapter.

SOURCE: IC 27-1-25-7.5; IC 27-1-27-8.

; (10)SB0357.2.20. --> SECTION 20. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2010]: IC 27-1-25-7.5; IC 27-1-27-8.