



Reprinted
February 27, 2014

ENGROSSED SENATE BILL No. 220

DIGEST OF SB 220 (Updated February 26, 2014 3:49 pm - DI 97)

Citations Affected: IC 27-2; IC 27-4.

Synopsis: Unclaimed life insurance benefits. Requires an insurer to perform periodic comparison of certain in-force life insurance policies, annuities, and retained asset accounts against a death master file. Requires an insurer to confirm the possible death of an insured, annuitant, or account owner and determine the benefits due. Provides that if the person to whom the benefits are due is not found, the benefits escheat to the state under the unclaimed property law. Makes an insurer's noncompliance an unfair or deceptive act or practice in the business of insurance.

Effective: July 1, 2014.

Holdman, Walker, Mrvan, Randolph
(HOUSE SPONSORS — LEHMAN, CARBAUGH)

January 9, 2014, read first time and referred to Committee on Insurance.
January 16, 2014, amended, reported favorably — Do Pass.
January 23, 2014, read second time, amended, ordered engrossed.
January 24, 2014, engrossed. Read third time, passed. Yeas 45, nays 0.

HOUSE ACTION

February 10, 2014, read first time and referred to Committee on Insurance.
February 20, 2014, amended, reported — Do Pass.
February 26, 2014, read second time, amended, ordered engrossed.

ES 220—LS 6360/DI 97



Reprinted
February 27, 2014

Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

ENGROSSED SENATE BILL No. 220

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

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

1 SECTION 1. IC 27-2-23 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2014]:

4 **Chapter 23. Unclaimed Life Insurance Benefits**

5 **Sec. 1. This chapter applies after June 30, 2015.**

6 **Sec. 2. Except as provided in this chapter, the definitions in**
7 **IC 27-2-22 apply throughout this chapter.**

8 **Sec. 3. As used in this chapter, "account owner" means an**
9 **Indiana resident who is the owner of a retained asset account.**

10 **Sec. 4. (a) As used in this chapter, "annuity" refers to an**
11 **annuity contract issued in Indiana.**

12 **(b) The term does not include an annuity contract used to fund**
13 **an employment based retirement plan, the sponsor or**
14 **administrator of which directs the insurer that issues the annuity**
15 **contract.**

16 **Sec. 5. As used in this chapter, "death master file" refers to:**

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1 (1) the federal Social Security Administration's Death Master
2 File; or

3 (2) another data source that, for the purpose of determining
4 that a person is reported to have died, is at least as
5 comprehensive as the federal Social Security Administration's
6 Death Master File.

7 Sec. 6. As used in this chapter, "death master file match" means
8 the result of a search of a death master file that indicates a match
9 of a person's name with the person's:

10 (1) Social Security number; or

11 (2) date of birth.

12 Sec. 7. As used in this chapter, "knowledge of death" means one
13 (1) of the following:

14 (1) Receipt of a certified original or copy of a death certificate
15 of a person.

16 (2) A death master file match that an insurer has validated
17 with a secondary source.

18 Sec. 8. As used in this chapter, "person" refers to an insured,
19 annuity owner, annuitant, or a retained asset account owner.

20 Sec. 9. (a) As used in this chapter, "policy" means a policy or
21 certificate issued in Indiana that provides the kind of insurance
22 described in Class 1 of IC 27-1-5-1.

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

24 (1) A policy or certificate that provides a death benefit under:

25 (A) an employee benefit plan that is subject to the federal
26 Employee Retirement Income Security Act of 1974 (29
27 U.S.C. 1001 et seq.); or

28 (B) a federal employee benefit program.

29 (2) A policy or certificate that is used to fund a preneed
30 funeral contract or prearrangement.

31 (3) A policy or certificate of credit life or accidental death
32 insurance.

33 (4) A policy issued to a group policy owner for which the
34 insurer does not provide record keeping services.

35 Sec. 10. As used in this chapter, "record keeping services"
36 means an insurer's responsibility, under an agreement with a
37 group policy owner, to obtain, maintain, and administer in the
38 insurer's system information concerning each individual insured
39 under a group policy (or a line of coverage under a group policy),
40 including at least the following:

41 (1) The individual's Social Security number and date of birth
42 or name and date of birth.



1 (2) The individual's beneficiary designation information.

2 (3) The individual's eligibility for coverage.

3 (4) The individual's benefit amount.

4 (5) The individual's premium payment status.

5 Sec. 11. (a) An insurer shall, at least every six (6) months,
6 perform a comparison of in-force policies, annuities, and retained
7 asset accounts issued by the insurer in Indiana against a death
8 master file to identify potential death master file matches.

9 (b) An insurer that performs a comparison under subsection (a)
10 using:

11 (1) a complete death master file one (1) time per year; and

12 (2) only the update files of the death master file used under
13 subdivision (1) for additional comparisons during the twelve

14 (12) months after the comparison under subdivision (1);

15 is considered to be compliant with subsection (a).

16 (c) This section does not prevent an insurer from requesting a
17 certified original or copy of a death certificate as a part of a claim
18 validation process.

19 Sec. 12. An insurer shall, not later than ninety (90) days after
20 learning of the possible death of a person through a comparison
21 performed under section 11 of this chapter, do the following:

22 (1) Complete and document a good faith effort to confirm the
23 death of the person against other available records and
24 information.

25 (2) Review the insurer's records to determine whether the
26 person had purchased any other products from the insurer.

27 (3) Determine whether benefits may be due under a policy,
28 annuity, or retained asset account.

29 (4) If the beneficiary or authorized representative under a
30 policy, annuity, or retained asset account has not
31 communicated with the insurer before the expiration of the
32 ninety (90) day period, complete and document a good faith
33 effort to locate and contact the beneficiary or authorized
34 representative, including sending to the beneficiary or
35 authorized representative information concerning the:

36 (A) insurer's claim process; and

37 (B) need to provide a certified original or copy of the death
38 certificate, if applicable under the policy, annuity, or
39 retained asset account.

40 Sec. 13. An insurer shall implement procedures to account for
41 the following in complying with the requirements of this chapter:

42 (1) Common nicknames, initials used instead of a first or



1 middle name, use of a middle name, compound first and
2 middle names, and interchanged first and middle names.

3 (2) Compound last names, maiden or married names, and
4 hyphens, blank spaces, or apostrophes in last names.

5 (3) Transposition of the month and date parts of the date of
6 birth.

7 (4) Incomplete Social Security number.

8 Sec. 14. An insurer may, to the extent permitted by law, disclose
9 the minimum necessary personal information about a person or a
10 beneficiary to an individual or entity reasonably believed by the
11 insurer to possess the ability to assist the insurer in locating the
12 beneficiary or another individual or entity that is entitled to
13 payment of the claim proceeds.

14 Sec. 15. An insurer, and an entity providing services to an
15 insurer, shall not charge a beneficiary or authorized representative
16 a fee or cost associated with:

17 (1) a death master file search; or

18 (2) verification of a death master file match;

19 conducted under this chapter.

20 Sec. 16. (a) The benefit of a policy, annuity, or retained asset
21 account, plus accrued interest applicable under the policy, annuity,
22 or retained asset account, is first payable to designated
23 beneficiaries or policy owners, annuity owners, or account owners.

24 (b) If beneficiaries or policy owners, annuity owners, or account
25 owners cannot be found, the benefit of the policy, annuity, or
26 retained asset account (not including applicable accrued interest)
27 escheats to the state as unclaimed property under IC 32-34-1.

28 Sec. 17. The commissioner may do the following:

29 (1) Either:

30 (A) limit an insurer's death master file comparisons
31 required by section 11 of this chapter to the insurer's
32 electronic searchable files; or

33 (B) approve a plan and time period for conversion of an
34 insurer's files to electronic searchable files.

35 (2) Either:

36 (A) exempt an insurer from the death master file
37 comparisons required by section 11 of this chapter; or

38 (B) upon demonstration of hardship by the insurer, permit
39 an insurer to perform the death master file comparisons
40 less frequently than required by section 11 of this chapter.

41 (3) Allow an insurer to begin compliance with this chapter
42 according to a plan and time period approved by the



1 commissioner.

2 **Sec. 18. (a) With respect to a policy, an annuity, or a retained**
 3 **asset account for which an insurer has knowledge of death:**

4 **(1) if:**

5 **(A) within one (1) year after the insurer has obtained the**
 6 **knowledge of death, the insurer:**

7 **(i) conducts reasonable search efforts; and**

8 **(ii) is unable to locate in Indiana a beneficiary under the**
 9 **policy, annuity, or retained asset account; or**

10 **(B) no beneficiary was named and the person, for purposes**
 11 **of IC 32-34-1, had a last known address in Indiana; and**

12 **(2) the insurer has, without success, attempted to make the**
 13 **contacts required by and in accordance with IC 32-34-1;**

14 **the insurer may, without further notice to or consent by the state,**
 15 **report and remit the proceeds of the policy, annuity, or retained**
 16 **asset account to the state on an early reporting basis in accordance**
 17 **with IC 32-34-1.**

18 **(b) After a report and remittance of proceeds described in**
 19 **subsection (a), the insurer is relieved and indemnified from any**
 20 **additional liability in relation to the proceeds, in accordance with**
 21 **IC 32-34-1.**

22 **Sec. 19. An insurer's failure to comply with this chapter is an**
 23 **unfair or deceptive act or practice in the business of insurance**
 24 **under IC 27-4-1-4.**

25 **Sec. 20. The department may adopt rules under IC 4-22-2 to**
 26 **implement this chapter.**

27 SECTION 2. IC 27-4-1-4, AS AMENDED BY P.L.278-2013,
 28 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2014]: Sec. 4. (a) The following are hereby defined as unfair
 30 methods of competition and unfair and deceptive acts and practices in
 31 the business of insurance:

32 (1) Making, issuing, circulating, or causing to be made, issued, or
 33 circulated, any estimate, illustration, circular, or statement:

34 (A) misrepresenting the terms of any policy issued or to be
 35 issued or the benefits or advantages promised thereby or the
 36 dividends or share of the surplus to be received thereon;

37 (B) making any false or misleading statement as to the
 38 dividends or share of surplus previously paid on similar
 39 policies;

40 (C) making any misleading representation or any
 41 misrepresentation as to the financial condition of any insurer,
 42 or as to the legal reserve system upon which any life insurer



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



1 (6) Issuing or delivering or permitting agents, officers, or
2 employees to issue or deliver, agency company stock or other
3 capital stock, or benefit certificates or shares in any common law
4 corporation, or securities or any special or advisory board
5 contracts or other contracts of any kind promising returns and
6 profits as an inducement to insurance.

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

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

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

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

32 (i) policies or contracts of reinsurance or joint reinsurance,
33 or abstract and title insurance;

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

40 (iii) policies or contracts of any other kind or kinds of
41 insurance whatsoever.

42 However, nothing contained in clause (C) shall be construed to



1 apply to any of the kinds of insurance referred to in clauses (A)
2 and (B) nor to reinsurance in relation to such kinds of insurance.
3 Nothing in clause (A), (B), or (C) shall be construed as making or
4 permitting any excessive, inadequate, or unfairly discriminatory
5 charge or rate or any charge or rate determined by the department
6 or commissioner to meet the requirements of any other insurance
7 rate regulatory law of this state.

8 (8) Except as otherwise expressly provided by law, knowingly
9 permitting or offering to make or making any contract or policy
10 of insurance of any kind or kinds whatsoever, including but not in
11 limitation, life annuities, or agreement as to such contract or
12 policy other than as plainly expressed in such contract or policy
13 issued thereon, or paying or allowing, or giving or offering to pay,
14 allow, or give, directly or indirectly, as inducement to such
15 insurance, or annuity, any rebate of premiums payable on the
16 contract, or any special favor or advantage in the dividends,
17 savings, or other benefits thereon, or any valuable consideration
18 or inducement whatever not specified in the contract or policy; or
19 giving, or selling, or purchasing or offering to give, sell, or
20 purchase as inducement to such insurance or annuity or in
21 connection therewith, any stocks, bonds, or other securities of any
22 insurance company or other corporation, association, limited
23 liability company, or partnership, or any dividends, savings, or
24 profits accrued thereon, or anything of value whatsoever not
25 specified in the contract. Nothing in this subdivision and
26 subdivision (7) shall be construed as including within the
27 definition of discrimination or rebates any of the following
28 practices:

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

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

39 (C) Readjustment of the rate of premium for a group insurance
40 policy based on the loss or expense experience thereunder, at
41 the end of the first year or of any subsequent year of insurance
42 thereunder, which may be made retroactive only for such



- 1 policy year.
- 2 (D) Paying by an insurer or insurance producer thereof duly
3 licensed as such under the laws of this state of money,
4 commission, or brokerage, or giving or allowing by an insurer
5 or such licensed insurance producer thereof anything of value,
6 for or on account of the solicitation or negotiation of policies
7 or other contracts of any kind or kinds, to a broker, an
8 insurance producer, or a solicitor duly licensed under the laws
9 of this state, but such broker, insurance producer, or solicitor
10 receiving such consideration shall not pay, give, or allow
11 credit for such consideration as received in whole or in part,
12 directly or indirectly, to the insured by way of rebate.
- 13 (9) Requiring, as a condition precedent to loaning money upon the
14 security of a mortgage upon real property, that the owner of the
15 property to whom the money is to be loaned negotiate any policy
16 of insurance covering such real property through a particular
17 insurance producer or broker or brokers. However, this
18 subdivision shall not prevent the exercise by any lender of the
19 lender's right to approve or disapprove of the insurance company
20 selected by the borrower to underwrite the insurance.
- 21 (10) Entering into any contract, combination in the form of a trust
22 or otherwise, or conspiracy in restraint of commerce in the
23 business of insurance.
- 24 (11) Monopolizing or attempting to monopolize or combining or
25 conspiring with any other person or persons to monopolize any
26 part of commerce in the business of insurance. However,
27 participation as a member, director, or officer in the activities of
28 any nonprofit organization of insurance producers or other
29 workers in the insurance business shall not be interpreted, in
30 itself, to constitute a combination in restraint of trade or as
31 combining to create a monopoly as provided in this subdivision
32 and subdivision (10). The enumeration in this chapter of specific
33 unfair methods of competition and unfair or deceptive acts and
34 practices in the business of insurance is not exclusive or
35 restrictive or intended to limit the powers of the commissioner or
36 department or of any court of review under section 8 of this
37 chapter.
- 38 (12) Requiring as a condition precedent to the sale of real or
39 personal property under any contract of sale, conditional sales
40 contract, or other similar instrument or upon the security of a
41 chattel mortgage, that the buyer of such property negotiate any
42 policy of insurance covering such property through a particular



1 insurance company, insurance producer, or broker or brokers.
 2 However, this subdivision shall not prevent the exercise by any
 3 seller of such property or the one making a loan thereon of the
 4 right to approve or disapprove of the insurance company selected
 5 by the buyer to underwrite the insurance.

6 (13) Issuing, offering, or participating in a plan to issue or offer,
 7 any policy or certificate of insurance of any kind or character as
 8 an inducement to the purchase of any property, real, personal, or
 9 mixed, or services of any kind, where a charge to the insured is
 10 not made for and on account of such policy or certificate of
 11 insurance. However, this subdivision shall not apply to any of the
 12 following:

13 (A) Insurance issued to credit unions or members of credit
 14 unions in connection with the purchase of shares in such credit
 15 unions.

16 (B) Insurance employed as a means of guaranteeing the
 17 performance of goods and designed to benefit the purchasers
 18 or users of such goods.

19 (C) Title insurance.

20 (D) Insurance written in connection with an indebtedness and
 21 intended as a means of repaying such indebtedness in the
 22 event of the death or disability of the insured.

23 (E) Insurance provided by or through motorists service clubs
 24 or associations.

25 (F) Insurance that is provided to the purchaser or holder of an
 26 air transportation ticket and that:

27 (i) insures against death or nonfatal injury that occurs during
 28 the flight to which the ticket relates;

29 (ii) insures against personal injury or property damage that
 30 occurs during travel to or from the airport in a common
 31 carrier immediately before or after the flight;

32 (iii) insures against baggage loss during the flight to which
 33 the ticket relates; or

34 (iv) insures against a flight cancellation to which the ticket
 35 relates.

36 (14) Refusing, because of the for-profit status of a hospital or
 37 medical facility, to make payments otherwise required to be made
 38 under a contract or policy of insurance for charges incurred by an
 39 insured in such a for-profit hospital or other for-profit medical
 40 facility licensed by the state department of health.

41 (15) Refusing to insure an individual, refusing to continue to issue
 42 insurance to an individual, limiting the amount, extent, or kind of



- 1 coverage available to an individual, or charging an individual a
 2 different rate for the same coverage, solely because of that
 3 individual's blindness or partial blindness, except where the
 4 refusal, limitation, or rate differential is based on sound actuarial
 5 principles or is related to actual or reasonably anticipated
 6 experience.
- 7 (16) Committing or performing, with such frequency as to
 8 indicate a general practice, unfair claim settlement practices (as
 9 defined in section 4.5 of this chapter).
- 10 (17) Between policy renewal dates, unilaterally canceling an
 11 individual's coverage under an individual or group health
 12 insurance policy solely because of the individual's medical or
 13 physical condition.
- 14 (18) Using a policy form or rider that would permit a cancellation
 15 of coverage as described in subdivision (17).
- 16 (19) Violating IC 27-1-22-25, IC 27-1-22-26, or IC 27-1-22-26.1
 17 concerning motor vehicle insurance rates.
- 18 (20) Violating IC 27-8-21-2 concerning advertisements referring
 19 to interest rate guarantees.
- 20 (21) Violating IC 27-8-24.3 concerning insurance and health plan
 21 coverage for victims of abuse.
- 22 (22) Violating IC 27-8-26 concerning genetic screening or testing.
- 23 (23) Violating IC 27-1-15.6-3(b) concerning licensure of
 24 insurance producers.
- 25 (24) Violating IC 27-1-38 concerning depository institutions.
- 26 (25) Violating IC 27-8-28-17(c) or IC 27-13-10-8(c) concerning
 27 the resolution of an appealed grievance decision.
- 28 (26) Violating IC 27-8-5-2.5(e) through IC 27-8-5-2.5(j) (expired
 29 July 1, 2007, and removed) or IC 27-8-5-19.2 (expired July 1,
 30 2007, and repealed).
- 31 (27) Violating IC 27-2-21 concerning use of credit information.
- 32 (28) Violating IC 27-4-9-3 concerning recommendations to
 33 consumers.
- 34 (29) Engaging in dishonest or predatory insurance practices in
 35 marketing or sales of insurance to members of the United States
 36 Armed Forces as:
- 37 (A) described in the federal Military Personnel Financial
 38 Services Protection Act, P.L.109-290; or
- 39 (B) defined in rules adopted under subsection (b).
- 40 (30) Violating IC 27-8-19.8-20.1 concerning stranger originated
 41 life insurance.
- 42 (31) Violating IC 27-2-22 concerning retained asset accounts.



- 1 (32) Violating IC 27-8-5-29 concerning health plans offered
- 2 through a health benefit exchange (as defined in IC 27-19-2-8).
- 3 (33) Violating a requirement of the federal Patient Protection and
- 4 Affordable Care Act (P.L. 111-148), as amended by the federal
- 5 Health Care and Education Reconciliation Act of 2010 (P.L.
- 6 111-152), that is enforceable by the state.
- 7 **(34) After June 30, 2015, violating IC 27-2-23 concerning**
- 8 **unclaimed life insurance, annuity, or retained asset account**
- 9 **benefits.**
- 10 (b) Except with respect to federal insurance programs under
- 11 Subchapter III of Chapter 19 of Title 38 of the United States Code, the
- 12 commissioner may, consistent with the federal Military Personnel
- 13 Financial Services Protection Act (P.L.109-290), adopt rules under
- 14 IC 4-22-2 to:
- 15 (1) define; and
- 16 (2) while the members are on a United States military installation
- 17 or elsewhere in Indiana, protect members of the United States
- 18 Armed Forces from;
- 19 dishonest or predatory insurance practices.



COMMITTEE REPORT

Madam President: The Senate Committee on Insurance and Financial Institutions, to which was referred Senate Bill No. 220, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 5, after line 27, begin a new paragraph and insert:

"SECTION 2. IC 27-4-1-4, AS AMENDED BY P.L.278-2013, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. (a) The following are hereby defined as unfair methods of competition and unfair and deceptive acts and practices in the business of insurance:

(1) Making, issuing, circulating, or causing to be made, issued, or circulated, any estimate, illustration, circular, or statement:

(A) misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon;

(B) making any false or misleading statement as to the dividends or share of surplus previously paid on similar policies;

(C) making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates;

(D) using any name or title of any policy or class of policies misrepresenting the true nature thereof; or

(E) making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender the policyholder's insurance.

(2) Making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing any assertion, representation, or statement with respect to any person in the conduct of the person's insurance business, which is untrue, deceptive, or misleading.

(3) Making, publishing, disseminating, or circulating, directly or



indirectly, or aiding, abetting, or encouraging the making, publishing, disseminating, or circulating of any oral or written statement or any pamphlet, circular, article, or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance.

(4) Entering into any agreement to commit, or individually or by a concerted action committing any act of boycott, coercion, or intimidation resulting or tending to result in unreasonable restraint of, or a monopoly in, the business of insurance.

(5) Filing with any supervisory or other public official, or making, publishing, disseminating, circulating, or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive. Making any false entry in any book, report, or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to which such insurer is required by law to report, or which has authority by law to examine into its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report, or statement of such insurer.

(6) Issuing or delivering or permitting agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

(7) Making or permitting any of the following:

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

(B) Unfair discrimination between individuals of the same class involving essentially the same hazards in the amount of



premium, policy fees, assessments, or rates charged or made for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever. However, in determining the class, consideration may be given to the nature of the risk, the plan of insurance, the actual or expected expense of conducting the business, or any other relevant factor.

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

- (i) policies or contracts of reinsurance or joint reinsurance, or abstract and title insurance;
- (ii) policies or contracts of insurance against loss or damage to aircraft, or against liability arising out of the ownership, maintenance, or use of any aircraft, or of vessels or craft, their cargoes, marine builders' risks, marine protection and indemnity, or other risks commonly insured under marine, as distinguished from inland marine, insurance; or
- (iii) policies or contracts of any other kind or kinds of insurance whatsoever.

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

(8) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract or policy of insurance of any kind or kinds whatsoever, including but not in limitation, life annuities, or agreement as to such contract or policy other than as plainly expressed in such contract or policy issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends, savings, or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract or policy; or



giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, limited liability company, or partnership, or any dividends, savings, or profits accrued thereon, or anything of value whatsoever not specified in the contract. Nothing in this subdivision and subdivision (7) shall be construed as including within the definition of discrimination or rebates any of the following practices:

- (A) Paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, so long as any such bonuses or abatement of premiums are fair and equitable to policyholders and for the best interests of the company and its policyholders.
- (B) In the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expense.
- (C) Readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first year or of any subsequent year of insurance thereunder, which may be made retroactive only for such policy year.
- (D) Paying by an insurer or insurance producer thereof duly licensed as such under the laws of this state of money, commission, or brokerage, or giving or allowing by an insurer or such licensed insurance producer thereof anything of value, for or on account of the solicitation or negotiation of policies or other contracts of any kind or kinds, to a broker, an insurance producer, or a solicitor duly licensed under the laws of this state, but such broker, insurance producer, or solicitor receiving such consideration shall not pay, give, or allow credit for such consideration as received in whole or in part, directly or indirectly, to the insured by way of rebate.
- (9) Requiring, as a condition precedent to loaning money upon the security of a mortgage upon real property, that the owner of the property to whom the money is to be loaned negotiate any policy of insurance covering such real property through a particular insurance producer or broker or brokers. However, this subdivision shall not prevent the exercise by any lender of the



lender's right to approve or disapprove of the insurance company selected by the borrower to underwrite the insurance.

(10) Entering into any contract, combination in the form of a trust or otherwise, or conspiracy in restraint of commerce in the business of insurance.

(11) Monopolizing or attempting to monopolize or combining or conspiring with any other person or persons to monopolize any part of commerce in the business of insurance. However, participation as a member, director, or officer in the activities of any nonprofit organization of insurance producers or other workers in the insurance business shall not be interpreted, in itself, to constitute a combination in restraint of trade or as combining to create a monopoly as provided in this subdivision and subdivision (10). The enumeration in this chapter of specific unfair methods of competition and unfair or deceptive acts and practices in the business of insurance is not exclusive or restrictive or intended to limit the powers of the commissioner or department or of any court of review under section 8 of this chapter.

(12) Requiring as a condition precedent to the sale of real or personal property under any contract of sale, conditional sales contract, or other similar instrument or upon the security of a chattel mortgage, that the buyer of such property negotiate any policy of insurance covering such property through a particular insurance company, insurance producer, or broker or brokers. However, this subdivision shall not prevent the exercise by any seller of such property or the one making a loan thereon of the right to approve or disapprove of the insurance company selected by the buyer to underwrite the insurance.

(13) Issuing, offering, or participating in a plan to issue or offer, any policy or certificate of insurance of any kind or character as an inducement to the purchase of any property, real, personal, or mixed, or services of any kind, where a charge to the insured is not made for and on account of such policy or certificate of insurance. However, this subdivision shall not apply to any of the following:

(A) Insurance issued to credit unions or members of credit unions in connection with the purchase of shares in such credit unions.

(B) Insurance employed as a means of guaranteeing the performance of goods and designed to benefit the purchasers or users of such goods.



- (C) Title insurance.
- (D) Insurance written in connection with an indebtedness and intended as a means of repaying such indebtedness in the event of the death or disability of the insured.
- (E) Insurance provided by or through motorists service clubs or associations.
- (F) Insurance that is provided to the purchaser or holder of an air transportation ticket and that:
 - (i) insures against death or nonfatal injury that occurs during the flight to which the ticket relates;
 - (ii) insures against personal injury or property damage that occurs during travel to or from the airport in a common carrier immediately before or after the flight;
 - (iii) insures against baggage loss during the flight to which the ticket relates; or
 - (iv) insures against a flight cancellation to which the ticket relates.
- (14) Refusing, because of the for-profit status of a hospital or medical facility, to make payments otherwise required to be made under a contract or policy of insurance for charges incurred by an insured in such a for-profit hospital or other for-profit medical facility licensed by the state department of health.
- (15) Refusing to insure an individual, refusing to continue to issue insurance to an individual, limiting the amount, extent, or kind of coverage available to an individual, or charging an individual a different rate for the same coverage, solely because of that individual's blindness or partial blindness, except where the refusal, limitation, or rate differential is based on sound actuarial principles or is related to actual or reasonably anticipated experience.
- (16) Committing or performing, with such frequency as to indicate a general practice, unfair claim settlement practices (as defined in section 4.5 of this chapter).
- (17) Between policy renewal dates, unilaterally canceling an individual's coverage under an individual or group health insurance policy solely because of the individual's medical or physical condition.
- (18) Using a policy form or rider that would permit a cancellation of coverage as described in subdivision (17).
- (19) Violating IC 27-1-22-25, IC 27-1-22-26, or IC 27-1-22-26.1 concerning motor vehicle insurance rates.
- (20) Violating IC 27-8-21-2 concerning advertisements referring



to interest rate guarantees.

(21) Violating IC 27-8-24.3 concerning insurance and health plan coverage for victims of abuse.

(22) Violating IC 27-8-26 concerning genetic screening or testing.

(23) Violating IC 27-1-15.6-3(b) concerning licensure of insurance producers.

(24) Violating IC 27-1-38 concerning depository institutions.

(25) Violating IC 27-8-28-17(c) or IC 27-13-10-8(c) concerning the resolution of an appealed grievance decision.

(26) Violating IC 27-8-5-2.5(e) through IC 27-8-5-2.5(j) (expired July 1, 2007, and removed) or IC 27-8-5-19.2 (expired July 1, 2007, and repealed).

(27) Violating IC 27-2-21 concerning use of credit information.

(28) Violating IC 27-4-9-3 concerning recommendations to consumers.

(29) Engaging in dishonest or predatory insurance practices in marketing or sales of insurance to members of the United States Armed Forces as:

(A) described in the federal Military Personnel Financial Services Protection Act, P.L.109-290; or

(B) defined in rules adopted under subsection (b).

(30) Violating IC 27-8-19.8-20.1 concerning stranger originated life insurance.

(31) Violating IC 27-2-22 concerning retained asset accounts.

(32) Violating IC 27-8-5-29 concerning health plans offered through a health benefit exchange (as defined in IC 27-19-2-8).

(33) Violating a requirement of the federal Patient Protection and Affordable Care Act (P.L. 111-148), as amended by the federal Health Care and Education Reconciliation Act of 2010 (P.L. 111-152), that is enforceable by the state.

(34) After June 30, 2015, violating IC 27-2-23 concerning unclaimed life insurance, annuity, or retained asset account benefits.

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

(1) define; and

(2) while the members are on a United States military installation or elsewhere in Indiana, protect members of the United States Armed Forces from;



dishonest or predatory insurance practices."
and when so amended that said bill do pass.

(Reference is to SB 220 as introduced.)

PAUL, Chairperson

Committee Vote: Yeas 8, Nays 0.

SENATE MOTION

Madam President: I move that Senate Bill 220 be amended to read as follows:

Page 3, between lines 5 and 6, begin a new paragraph and insert:

"Sec. 11. (a) This section applies only to the following:

(1) A policy issued in Indiana after June 30, 2015.

(2) An annuity contract issued or entered into in Indiana after June 30, 2015.

(3) A retained asset account established after June 30, 2015, by an insurer conducting business in Indiana."

Page 3, line 6, delete "Sec. 11. (a)" and insert "**(b)**".

Page 3, line 10, delete "(b)" and insert "**(c)**".

Page 3, line 10, delete "(a)" and insert "**(b)**".

Page 3, line 16, delete "(a)." and insert "**(b)**".

Page 3, line 17, delete "(c)" and insert "**(d)**".

Page 3, line 21, delete "person," and insert "**person through a comparison performed under section 11 of this chapter,**".

(Reference is to SB 220 as printed January 17, 2014.)

HOLDMAN



COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred Senate Bill 220, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 18, delete "a policy" and insert "**an**".

Page 2, line 19, delete "owner,".

Page 2, line 19, after "or" insert "**a**".

Page 4, line 34, delete "escheat" and insert "**escheats**".

Page 5, line 3, delete "financial".

and when so amended that said bill do pass.

(Reference is to SB 220 as reprinted January 24, 2014.)

LEHMAN, Chair

Committee Vote: yeas 9, nays 2.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 220 be amended to read as follows:

Page 3, delete lines 5 through 10.

Page 3, line 11, delete "(b)" and insert "**Sec. 11. (a)**".

Page 3, line 15, delete "(c)" and insert "**(b)**".

Page 3, line 15, delete "(b)" and insert "**(a)**".

Page 3, line 21, delete "(b)." and insert "**(a)**".

Page 3, line 22, delete "(d)" and insert "**(c)**".

(Reference is to ESB 220 as printed February 21, 2014.)

LEHMAN

