



Reprinted
April 15, 2015

ENGROSSED SENATE BILL No. 307

DIGEST OF SB 307 (Updated April 14, 2015 4:13 pm - DI 101)

Citations Affected: IC 24-5; IC 25-1; IC 27-1; IC 27-4.

Synopsis: Consumer protection. Amends the statute concerning security freezes for protected consumers to remove the provision allowing a consumer reporting agency to charge a fee for placing or removing a security freeze. Amends the statute concerning the investigation and prosecution of complaints concerning regulated occupations to add to the permissible reasons for disclosure of information concerning a complaint a disclosure that is made to a law enforcement agency that has or is reasonably believed to have jurisdiction over a person or matter involved in the complaint. Provides that an insurer that pays a claim covered by comprehensive coverage
(Continued next page)

Effective: July 1, 2015.

**Bray, Glick, Broden, Merritt, Tomes,
Delph, Houchin, Randolph**
(HOUSE SPONSORS — STEUERWALD, FORESTAL)

January 8, 2015, read first time and referred to Committee on Commerce & Technology.
January 20, 2015, amended, reported favorably — Do Pass.
January 22, 2015, read second time, ordered engrossed. Engrossed.
January 26, 2015, read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

March 2, 2015, read first time and referred to Committee on Judiciary.
April 9, 2015, amended, reported — Do Pass.
April 14, 2015, read second time, amended, ordered engrossed.

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or collision coverage under a transportation network company's motor vehicle insurance policy shall make the payment: (1) directly to the business that repairs the vehicle; or (2) jointly to: (A) the owner of; and (B) any primary lienholder on; the vehicle. Adds a new provision to the statute concerning life insurance companies and policies to provide that a life insurance policy or certificate: (1) that is issued after June 30, 2015; (2) the proceeds of which may be designated for use in the purchase of funeral services or merchandise upon the death of the insured; and (3) the ownership of which is not irrevocably assigned to a trustee and used to fund a prepaid funeral services contract under the statute governing such contracts; may not be delivered or issued for delivery in Indiana unless the life insurance policy or certificate either contains or includes in an attached disclaimer certain provisions. Provides that an issuer of such a life insurance policy or certificate may not represent to any person that the life insurance policy or certificate is: (1) a contract for prepaid funeral services under the statute governing such contracts; or (2) a funeral policy or a policy with any similar designation. Provides that a person that willfully violates these provisions commits an unfair and deceptive act or practice in the business of insurance.



Reprinted
April 15, 2015

First Regular Session 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

ENGROSSED SENATE BILL No. 307

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

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

1 SECTION 1. IC 24-5-24.5-11, AS ADDED BY P.L.65-2014,
2 SECTION 9, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2015]: Sec. 11. (a) A consumer reporting
4 agency shall place a security freeze on a protected consumer's
5 consumer report if:
6 (1) the consumer reporting agency receives a request from the
7 protected consumer's representative for the placement of the
8 security freeze under this section; and
9 (2) the protected consumer's representative:
10 (A) submits the request to the consumer reporting agency at
11 the address or other point of contact and in the manner
12 specified by the consumer reporting agency;
13 (B) provides to the consumer reporting agency sufficient
14 proof of identification of the protected consumer and the
15 representative; and
16 (C) provides to the consumer reporting agency sufficient

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- 1 proof of authority to act on behalf of the protected
 2 consumer. ~~and~~
 3 ~~(3) the protected consumer's representative pays to the~~
 4 ~~consumer reporting agency a fee as provided in section 17 of~~
 5 ~~this chapter.~~
 6 (b) If a consumer reporting agency does not have a consumer
 7 report pertaining to a protected consumer when the consumer
 8 reporting agency receives a request under subsection (a), the
 9 consumer reporting agency shall create a record for the protected
 10 consumer.
- 11 SECTION 2. IC 24-5-24.5-15, AS AMENDED BY THE
 12 TECHNICAL CORRECTIONS BILL OF THE 2015 GENERAL
 13 ASSEMBLY, IS AMENDED TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 2015]: Sec. 15. If a protected consumer or a
 15 protected consumer's representative wishes to remove a security
 16 freeze for the protected consumer, the protected consumer or the
 17 protected consumer's representative shall:
- 18 (1) submit a request for the removal of the security freeze to the
 19 consumer reporting agency at the address or other point of
 20 contact and in the manner specified by the consumer reporting
 21 agency; ~~and~~
 22 (2) provide to the consumer reporting agency:
- 23 (A) in the case of a request by a protected consumer:
 24 (i) proof that the sufficient proof of authority for the
 25 protected consumer's representative to act on behalf of the
 26 ~~protective protected~~ consumer is no longer valid; and
 27 (ii) sufficient proof of identification of the protected
 28 consumer; or
 29 (B) in the case of a request by the representative of a
 30 protected consumer:
 31 (i) sufficient proof of identification of the protected
 32 consumer and the representative; and
 33 (ii) sufficient proof of authority to act on behalf of the
 34 protected consumer. ~~and~~
 35 ~~(3) pay to the consumer reporting agency a fee as provided in~~
 36 ~~section 17 of this chapter.~~
- 37 SECTION 3. IC 24-5-24.5-17, AS ADDED BY P.L.65-2014,
 38 SECTION 9, IS AMENDED TO READ AS FOLLOWS
 39 [EFFECTIVE JULY 1, 2015]: Sec. 17. (a) ~~Except as provided in~~
 40 ~~subsection (b)~~; A consumer reporting agency may not impose a fee
 41 for any service described in this chapter.
 42 (b) ~~A consumer reporting agency may charge a reasonable fee,~~



1 not exceeding five dollars (\$5), for each placement or removal of a
 2 security freeze under this chapter:

3 (c) A consumer reporting agency may not charge a fee under this
 4 chapter if:

5 (1) the protected consumer's representative:

6 (A) has obtained a police report or affidavit of alleged
 7 identity fraud against the protected consumer; and

8 (B) provides a copy of the report or affidavit to the
 9 consumer reporting agency; or

10 (2) a request for the placement or removal of a security freeze
 11 is for a protected consumer who is less than sixteen (16) years
 12 of age at the time of the request and the consumer reporting
 13 agency has a consumer report concerning the protected
 14 consumer:

15 SECTION 4. IC 25-1-7-1, AS AMENDED BY P.L.3-2014,
 16 SECTION 20, IS AMENDED TO READ AS FOLLOWS
 17 [EFFECTIVE JULY 1, 2015]: Sec. 1. The following terms are
 18 defined for this chapter:

19 (1) "Board" means the appropriate entity described in
 20 IC 25-0.5-8.

21 (2) "Director" refers to the director of the division of consumer
 22 protection.

23 (3) "Division" refers to the division of consumer protection,
 24 office of the attorney general.

25 **(4) "Law enforcement agency" has the meaning set forth in**
 26 **IC 35-47-15-2.**

27 ~~(4)~~ (5) "Licensee" means a person who is:

28 (A) licensed, certified, or registered by an entity described
 29 in IC 25-0.5-8; and

30 (B) the subject of a complaint filed with the division.

31 ~~(5)~~ (6) "Person" means an individual, a partnership, a limited
 32 liability company, or a corporation.

33 ~~(6)~~ (7) "Regulated occupation" means an occupation in which a
 34 person is licensed, certified, or registered by one (1) of the
 35 entities described in IC 25-0.5-8.

36 SECTION 5. IC 25-1-7-5, AS AMENDED BY P.L.3-2014,
 37 SECTION 22, IS AMENDED TO READ AS FOLLOWS
 38 [EFFECTIVE JULY 1, 2015]: Sec. 5. (a) Subsection (b)(1) does not
 39 apply to:

40 (1) a complaint filed by:

41 (A) a member of any of the entities described in
 42 IC 25-0.5-8; or

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- 1 (B) the Indiana professional licensing agency; or
 2 (2) a complaint filed under IC 25-1-5-4.
 3 (b) Except as provided in section 3(b) **or 3(c)** of this chapter, the
 4 director has the following duties and powers:
 5 (1) The director shall make an initial determination as to the
 6 merit of each complaint. A copy of a complaint having merit
 7 shall be submitted to the board having jurisdiction over the
 8 licensee's regulated occupation, that board thereby acquiring
 9 jurisdiction over the matter except as otherwise provided in this
 10 chapter.
 11 (2) The director shall through any reasonable means notify the
 12 licensee of the nature and ramifications of the complaint and of
 13 the duty of the board to attempt to resolve the complaint
 14 through negotiation.
 15 (3) The director shall report any pertinent information
 16 regarding the status of the complaint to the complainant.
 17 (4) The director may investigate any written complaint against
 18 a licensee. The investigation shall be limited to those areas in
 19 which there appears to be a violation of statutes governing the
 20 regulated occupation.
 21 (5) The director has the power to subpoena witnesses and to
 22 send for and compel the production of books, records, papers,
 23 and documents for the furtherance of any investigation under
 24 this chapter. The circuit or superior court located in the county
 25 where the subpoena is to be issued shall enforce any such
 26 subpoena by the director.
 27 SECTION 6. IC 25-1-7-10, AS AMENDED BY P.L.226-2011,
 28 SECTION 19, IS AMENDED TO READ AS FOLLOWS
 29 [EFFECTIVE JULY 1, 2015]: Sec. 10. (a) Except as provided in
 30 section 3(b) **or 3(c)** of this chapter, all complaints and information
 31 pertaining to the complaints shall be held in strict confidence until
 32 the attorney general files notice with the board of the attorney
 33 general's intent to prosecute the licensee.
 34 (b) A person in the employ of the office of attorney general or any
 35 of the boards, or any person not a party to the complaint, may not
 36 disclose or further a disclosure of information concerning the
 37 complaint unless the disclosure is: ~~required~~:
 38 (1) **required** under law; ~~or~~
 39 (2) **required** for the advancement of an investigation; ~~or~~
 40 (3) **made to a law enforcement agency that has jurisdiction**
 41 **or is reasonably believed to have jurisdiction over a person**
 42 **or matter involved in the complaint.**



1 SECTION 7. IC 27-1-12-46 IS ADDED TO THE INDIANA
 2 CODE AS A NEW SECTION TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 2015]: **Sec. 46. (a) This section applies to a**
 4 **life insurance policy or certificate:**

- 5 (1) that is issued after June 30, 2015;
 6 (2) the proceeds of which may be designated for use in the
 7 purchase of funeral services or merchandise upon the death
 8 of the insured; and
 9 (3) the ownership of which is not irrevocably assigned to a
 10 trustee and used to fund a contract under IC 30-2-13.

11 (b) An issuer of a life insurance policy or certificate described
 12 in subsection (a) may not represent to a policyholder or
 13 certificate holder, a prospective policyholder or certificate
 14 holder, an insured, a beneficiary, or any other person that the
 15 life insurance policy or certificate is:

- 16 (1) a contract for prepaid services or merchandise under
 17 IC 30-2-13; or
 18 (2) a funeral policy or a policy with any similar designation.

19 (c) A life insurance policy or certificate described in
 20 subsection (a) may not be delivered or issued for delivery in
 21 Indiana, or issued by a company organized under the laws of this
 22 state, unless the life insurance policy or certificate either
 23 contains or includes in an attached disclaimer the following
 24 provisions, or corresponding provisions that the department
 25 determines are at least as favorable to policyholders or
 26 certificate holders:

27 (1) A statement that the life insurance policy or certificate is
 28 not a contract for prepaid services or merchandise under
 29 IC 30-2-13.

30 (2) A statement that the life insurance policy or certificate
 31 does not entitle the policyholder, the certificate holder, or
 32 any other person to:

- 33 (A) prepaid funeral services or merchandise, or any
 34 services or merchandise described in IC 30-2-13-8; or
 35 (B) the right to file a complaint with the state board of
 36 funeral and cemetery service established by IC 25-15-9-1
 37 for restitution from the preneed consumer protection
 38 fund under IC 30-2-13-29;

39 unless ownership of the policy is irrevocably assigned to a
 40 trustee to fund a contract entered into with a seller (as
 41 defined under IC 30-2-13-10) under IC 30-2-13.

42 (3) A statement that:



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**(A) the life insurance policy or certificate:
(i) is not guaranteed to be exempt as a resource in
determining eligibility for Medicaid under
IC 12-15-2-17; and**

**(ii) does not guarantee Medicaid eligibility; and
(B) Medicaid eligibility determinations are made in
accordance with applicable Medicaid laws and policies.**

**(d) A person that willfully violates this section commits an
unfair and deceptive act or practice in the business of insurance
under IC 27-4-1-4 and is subject to the penalties and procedures
set forth in IC 27-4-1.**

SECTION 8. IC 27-1-13-18 IS ADDED TO THE INDIANA
CODE AS A NEW SECTION TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2015]: **Sec. 18. An insurer that makes
payment for a claim that is covered by comprehensive coverage
or collision coverage under a transportation network company's
motor vehicle insurance policy described in IC 8-2.1-19.1-7 shall
make the payment:**

- (1) directly to the business that repairs the motor vehicle;**
 - or**
 - (2) jointly to:**
 - (A) the owner of; and**
 - (B) any primary lien holder on;**
- the motor vehicle.**

SECTION 9. IC 27-4-1-4, AS AMENDED BY P.L.90-2014,
SECTION 2, IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2015]: **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**



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



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

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

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

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

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

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

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

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



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

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

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

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

41 (C) Readjustment of the rate of premium for a group
42 insurance policy based on the loss or expense experience



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



1 contract, or other similar instrument or upon the security of a
 2 chattel mortgage, that the buyer of such property negotiate any
 3 policy of insurance covering such property through a particular
 4 insurance company, insurance producer, or broker or brokers.
 5 However, this subdivision shall not prevent the exercise by any
 6 seller of such property or the one making a loan thereon of the
 7 right to approve or disapprove of the insurance company
 8 selected by the buyer to underwrite the insurance.

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

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

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

22 (C) Title insurance.

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

26 (E) Insurance provided by or through motorists service clubs
 27 or associations.

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

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

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

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

37 (iv) insures against a flight cancellation to which the
 38 ticket relates.

39 (14) Refusing, because of the for-profit status of a hospital or
 40 medical facility, to make payments otherwise required to be
 41 made under a contract or policy of insurance for charges
 42 incurred by an insured in such a for-profit hospital or other



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



- 1 Services Protection Act, P.L.109-290; or
 2 (B) defined in rules adopted under subsection (b).
 3 (30) Violating IC 27-8-19.8-20.1 concerning stranger
 4 originated life insurance.
 5 (31) Violating IC 27-2-22 concerning retained asset accounts.
 6 (32) Violating IC 27-8-5-29 concerning health plans offered
 7 through a health benefit exchange (as defined in IC 27-19-2-8).
 8 (33) Violating a requirement of the federal Patient Protection
 9 and Affordable Care Act (P.L. 111-148), as amended by the
 10 federal Health Care and Education Reconciliation Act of 2010
 11 (P.L. 111-152), that is enforceable by the state.
 12 (34) After June 30, 2015, violating IC 27-2-23 concerning
 13 unclaimed life insurance, annuity, or retained asset account
 14 benefits.
 15 **(35) Willfully violating IC 27-1-12-46 concerning a life**
 16 **insurance policy or certificate described in**
 17 **IC 27-1-12-46(a).**
 18 (b) Except with respect to federal insurance programs under
 19 Subchapter III of Chapter 19 of Title 38 of the United States Code,
 20 the commissioner may, consistent with the federal Military
 21 Personnel Financial Services Protection Act (P.L.109-290), adopt
 22 rules under IC 4-22-2 to:
 23 (1) define; and
 24 (2) while the members are on a United States military
 25 installation or elsewhere in Indiana, protect members of the
 26 United States Armed Forces from;
 27 dishonest or predatory insurance practices.



COMMITTEE REPORT

Madam President: The Senate Committee on Commerce and Technology, to which was referred Senate Bill No. 307, 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 9, after line 32, begin a new paragraph and insert:

"SECTION 15. IC 30-2-13-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. As used in this chapter, "contract" means **either of the following**:

- (1) A written agreement between a purchaser and a seller that:
 - (+) (A) obligates the seller to provide prepaid services or merchandise, or both, for a named individual; and
 - (-) (B) becomes irrevocable thirty (30) days after the written agreement is signed by the purchaser and seller.
- (2) **An agreement that:**
 - (A) **is entered into after June 30, 2015; and**
 - (B) **provides for the issuance of a life insurance policy under both of the following circumstances:**
 - (i) **The death benefit of the life insurance policy is or may be designated for use in the purchase of services or merchandise.**
 - (ii) **The life insurance policy is intended to be an exempt resource for Medicaid qualification purposes.**

SECTION 16. IC 30-2-13-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 10. (a) As used in this chapter, "seller" means a person doing business as a sole proprietor, a firm, a limited liability company, a corporation, an association, or a partnership contracting to provide services or merchandise, or both, to a named individual.

(b) The term includes the issuer of a contract described in section 4(2) of this chapter.

SECTION 17. IC 30-2-13-12.5, AS AMENDED BY P.L.61-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 12.5. (a) This section applies to the following contracts entered into or established under this chapter after June 30, 1999:

- (1) Contracts for prepaid services.
- (2) Contracts for prepaid merchandise.
- (3) Trusts or escrows established to hold consideration paid for services or merchandise subject to a contract entered into under this chapter.

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(4) Contracts described in section 4(2) of this chapter.

(b) A contract between a purchaser and a seller must:

(1) specify that the consideration for the contract is:

(A) cash, payable either in a lump sum or in installments; or

(B) an insurance policy that is:

(i) newly issued in conjunction with and integral to the contract;

(ii) issued previously in a transaction separate and distinct from the contract; or

(iii) both.

If a contract is funded with an insurance policy, the ownership of the policy must be irrevocably assigned to a trustee, and the seller may not borrow against, pledge, withdraw, or impair the cash value of the policy;

(2) specify that only the purchaser, acting by written notice to the seller, may revoke the contract within thirty (30) days after the date the contract is signed by the purchaser and the seller and that the contract becomes irrevocable upon the expiration of the thirty (30) day period;

(3) specify that, if the contract is revoked, the seller shall refund and return to the purchaser, without interest, the cash or insurance policy used to fund the contract;

(4) specify that not more than thirty (30) days after the contract is signed by the purchaser and the seller, the whole of the cash or insurance policy serving as consideration for the contract must be deposited into a trust or escrow authorized by subsection (c) or (d). However, a seller may elect to serve as trustee of a previously existing life insurance contract;

(5) except as provided in subsection (f), unconditionally require that the seller shall deliver all services or merchandise, or both, specified in the contract and receive as consideration for the delivery of services or merchandise, or both, only the cash or insurance policy held in trust or escrow without regard to the solvency of the insurer or the adequacy or loss in value of any cash deposit or insurance policy used to fund a contract;

(6) except as provided in subsection (f), prohibit a seller from imposing additional charges to recover any shortage or difference between the retail prices for services or merchandise, or both, in effect on the date of delivery of the services or merchandise, or both, and the value of the trust or escrow applicable to the contract on the date of delivery;

(7) require that a seller accepting the transfer of a contract



permitted under section 13 of this chapter shall honor the requirements and obligations of the contract;

(8) permit the seller to assess a finance charge on a contract sold on an installment basis and require that the seller disclose to the purchaser the applicable requirements of federal and Indiana law;

(9) provide that the contract must comply with the following requirements:

(A) The contract must be made in a form that is:

- (i) written in clear and understandable language; and
- (ii) printed in a size and style of type that is easy to read.

(B) The contract must describe the services, merchandise, or cash advance items being purchased. If the merchandise or cash advance items include a vault (as defined in IC 23-14-33-33) that:

- (i) will be used to encase the remains of a deceased individual; and
- (ii) is not airtight and watertight;

the contract must include a written statement indicating that the vault is not airtight and watertight.

(C) The contract must identify the following by name, address, and telephone number:

- (i) The seller.
- (ii) The purchaser.
- (iii) The contract beneficiary if the beneficiary is an individual other than the purchaser.

(D) The contract must contain the seller's certificate of authority number and the date of the contract.

(E) The contract must provide that if an item of the particular services or merchandise specified in the contract is unavailable at the time of delivery, the seller shall deliver services or merchandise similar in style, quality, and of equal value to the unavailable item in the place of the item.

(F) The contract must disclose the precise manner in which the contract is to be funded by:

- (i) identifying the consideration for the contract;
- (ii) identifying the name, number, if known, and issuer of any insurance policy used to fund the contract; and
- (iii) including the identity and location of the trustee or escrow agent, acting as fiduciary, who is to hold the trust or escrow.

(G) The contract must disclose that the seller reserves the right to assess an extra charge for:



- (i) transportation costs;
 - (ii) services or merchandise incurred in the transport of human remains a distance greater than twenty-five (25) miles from the seller's place of business; and
 - (iii) service charges necessarily incident to the transport of human remains and in excess of those service charges specified in the contract.
- (H) The contract must disclose the following:
- (i) The amount, if any, the seller has elected to receive under subsection (c)(1) or subsection (d)(6).
 - (ii) That a commission or fee may be paid to the seller or the seller's agent on a contract funded under subsection (b)(1)(B)(i).
- (10) specify that a purchaser has the unrestricted right to designate one (1) or more successor sellers to whom the contract may be transferred under section 13 of this chapter, but that such a transfer is effective only with the consent of the newly designated seller and upon the fulfillment of the other requirements of section 13 of this chapter;
- (11) specify that if cash advance items are funded in the contract, the seller agrees to deliver the cash advance items under one (1) of the following alternatives:
- (A) Delivery is unconditionally guaranteed at the option of the seller.
 - (B) Delivery is conditionally guaranteed for a seller and will be equal in value to the total value of the trust or escrow account maintained for the purchaser multiplied by the percentage of the total original contract price represented by cash advance items;
- (12) specify that a release from trust or escrow shall occur only upon the seller's delivery of services or merchandise, or both;
- (13) permit, at the option of the seller, the incorporation of the trust or escrow language contained in subsection (c) or (d) directly into the contract;
- (14) prohibit the seller from charging any service, transaction, or other type of fee or charge unless the fee is:
- (A) authorized under subsections (c)(1) and (d)(6) and section 27 of this chapter; or
 - (B) included within the definitions contained in section 8 or 11.5 of this chapter.
- (c) A trust account authorized and established under this chapter must do all of the following:



- (1) Be irrevocable and require either of the following:
 - (A) The seller deposit the insurance policy used to fund the contract into the trust account. However, for contracts funded after June 30, 1995, with a previously issued insurance policy, the seller may serve instead of a trustee if the seller is qualified to do so under section 11(c) of this chapter.
 - (B) The seller deposit the cash used to fund the contract into the trust account. However, as consideration for the sale of the contract and any expense incurred by the seller in conjunction with the sale of the contract, the contract must permit the seller to notify, within a ten (10) day period following the date the contract becomes irrevocable, the trustee of its election to receive only up to ten percent (10%) of the seller's original contract price for services or merchandise, or both.
- (2) Designate the seller as the beneficiary of the trust.
- (3) Designate a trustee qualified under this chapter and authorize the trustee to assess the charges authorized under section 18 of this chapter.
- (4) Require that a separate account be maintained in the name of each purchaser.
- (5) Require that any interest, dividend, or accumulation in the account be reinvested and added to the principal.
- (6) Permit the assets of the several, separate accounts to be commingled for investment purposes.
- (7) Require that on receipt of the seller's proof of delivery of services or merchandise the trustee shall remit to the seller the full amount in trust applicable to the purchaser's contract and all of the accumulated interest.
- (8) Permit the seller to retain the remaining amount if the amount in the trust account is greater than the seller's total current retail price of all services and merchandise subject to the contract at the time of delivery of all services or merchandise subject to the contract. However, in the case of a contract funded under subsection (b)(1)(B)(ii), the seller may not retain the remaining amount but must pay the remaining amount to the entity or individual designated by the insured as the beneficiary of the death benefit proceeds not later than sixty (60) days after the receipt and deposit of the proceeds by the seller. The seller may not qualify as a beneficiary of the remaining amount or the insurance death benefit. In the case of all other contracts funded under this chapter, the seller may opt to return the remaining amount to the individual designated by the purchaser to receive



the remainder or to the purchaser's estate.

(d) An escrow account authorized and established under this chapter must do all of the following:

(1) Be irrevocable and require that the seller deposit all cash or the insurance policy used to fund the contract into the escrow account.

(2) Designate the seller as the recipient of the escrow funds.

(3) Designate an escrow agent, acting as fiduciary, qualified under this chapter to act as escrow agent acting as fiduciary and authorize the escrow agent acting as fiduciary to assess the charges authorized under section 18 of this chapter.

(4) Require that the escrow account be maintained in the name of the seller and serve as a depository for all cash or insurance policies used to fund contracts sold by the seller.

(5) Permit the investment of and commingling of cash for investment purposes.

(6) Permit the seller to receive an administrative or service fee at the option of the seller. The seller may opt to receive the fee after the day following the date the contract becomes irrevocable. The amount of the fee may not exceed ten percent (10%) of the seller's total contract price for services or merchandise or both.

(7) Require that on delivery of services or merchandise, the escrow agent shall remit to the seller an amount equal to:

(A) the seller's original retail price as set forth in the contract for the services or merchandise delivered; minus

(B) the amount, if any, received by the seller under subdivision (6).

(8) Permit the seller to receive monthly payments of the interest earned and the appreciation in the value of the escrow assets to the extent that the total value of the escrow after a payment authorized under this subdivision is not less than:

(A) the original contract value of all services or merchandise under the contracts, or parts of the contracts that remain undelivered; minus

(B) the amounts, if any, received by the seller under subdivision (6).

(e) A trust account or an escrow account established under this section must contain a concise written description of all the provisions of this chapter that apply to the account.

(f) A seller's guarantee of delivery of all services or merchandise subject to a contract sold by the seller or transferred to a seller is unconditional except in the instance of one (1) of the following



circumstances:

- (1) An installment contract funded with cash or an insurance policy issued in conjunction with the contract is guaranteed to the extent of the cash paid or death benefits available at the time of death of the individual for whom services or merchandise are to be provided.
- (2) A contract funded with an insurance policy issued previously and not in conjunction with the contract is guaranteed to the extent of the death benefit proceeds available at the time of the individual for whom services or merchandise are to be provided.
- (3) A contract funded with an insurance policy issued in conjunction with the contract, but having a limited or qualified death benefit period, is guaranteed to the extent of the death benefit proceeds available at the time of the death of the individual for whom services or merchandise are to be provided.
- (4) A transportation expense incurred by the seller while transporting human remains a distance greater than twenty-five (25) miles from the seller's place of business, plus any charge for services or merchandise necessarily incident to the transport of the human remains.
- (5) The seller agrees to conditionally guarantee the delivery of cash advance items under subsection (b)(11)(B).

In the instance of unguaranteed delivery, the seller may reduce the value or number of the services or merchandise subject to the contract or cash advance items delivered or deliver the services or merchandise in full on the condition that the seller receives adequate consideration to compensate the seller for the unguaranteed part of the contract.

(g) The entire value of an escrow or trust established under this chapter may not be considered as a resource in determining a person's eligibility for Medicaid under IC 12-15-2-17.

(h) This chapter does not prohibit a purchaser from immediately making the trust or escrow required under this chapter irrevocable and assigning ownership of an insurance policy used to fund a contract to obtain favorable consideration for Medicaid, Supplemental Security Income, or another public assistance program under federal or state law.

(i) A seller may not accept or deposit into a trust or escrow account cash, an insurance policy, or any other property as consideration for



services or merchandise to be provided in the future except in conjunction with a contract authorized by this chapter."

and when so amended that said bill do pass.

(Reference is to SB 307 as introduced.)

BUCK, Chairperson

Committee Vote: Yeas 10, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 307, 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 1, delete lines 1 through 16.

Delete pages 2 through 7.

Page 8, delete lines 1 through 7.

Page 9, delete lines 33 through 42, begin a new paragraph and insert:

"SECTION 15. IC 27-1-12-46 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 46. (a) This section applies to a life insurance policy or certificate:**

(1) that is issued after June 30, 2015;

(2) the proceeds of which may be designated for use in the purchase of funeral services or merchandise upon the death of the insured; and

(3) the ownership of which is not irrevocably assigned to a trustee and used to fund a contract under IC 30-2-13.

(b) An issuer of a life insurance policy or certificate described in subsection (a) may not represent to a policyholder or certificate holder, a prospective policyholder or certificate holder, an insured, a beneficiary, or any other person that the life insurance policy or certificate is:

(1) a contract for prepaid services or merchandise under IC 30-2-13; or

(2) a funeral policy or a policy with any similar designation.

(c) A life insurance policy or certificate described in subsection (a) may not be delivered or issued for delivery in Indiana, or issued by a company organized under the laws of this state, unless the life



insurance policy or certificate either contains or includes in an attached disclaimer the following provisions, or corresponding provisions that the department determines are at least as favorable to policyholders or certificate holders:

(1) A statement that the life insurance policy or certificate is not a contract for prepaid services or merchandise under IC 30-2-13.

(2) A statement that the life insurance policy or certificate does not entitle the policyholder, the certificate holder, or any other person to:

(A) prepaid funeral services or merchandise, or any services or merchandise described in IC 30-2-13-8; or

(B) the right to file a complaint with the state board of funeral and cemetery service established by IC 25-15-9-1 for restitution from the preneed consumer protection fund under IC 30-2-13-29;

unless ownership of the policy is irrevocably assigned to a trustee to fund a contract entered into with a seller (as defined under IC 30-2-13-10) under IC 30-2-13.

(3) A statement that:

(A) the life insurance policy or certificate:

(i) is not guaranteed to be exempt as a resource in determining eligibility for Medicaid under IC 12-15-2-17; and

(ii) does not guarantee Medicaid eligibility; and

(B) Medicaid eligibility determinations are made in accordance with applicable Medicaid laws and policies.

(d) A person that willfully violates this section commits an unfair and deceptive act or practice in the business of insurance under IC 27-4-1-4 and is subject to the penalties and procedures set forth in IC 27-4-1.

SECTION 16. IC 27-4-1-4, AS AMENDED BY P.L.90-2014, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: 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.

(35) Willfully violating IC 27-1-12-46 concerning a life insurance policy or certificate described in IC 27-1-12-46(a).

(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."

Delete pages 10 through 16.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 307 as printed January 21, 2015.)

STEUERWALD

Committee Vote: yeas 7, nays 3.



HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 307 be amended to read as follows:

Page 4, between lines 19 and 20, begin a new paragraph and insert:

"SECTION 3. IC 27-1-13-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 18. An insurer that makes payment for a claim that is covered by comprehensive coverage or collision coverage under a transportation network company's motor vehicle insurance policy described in IC 8-2.1-19.1-7 shall make the payment:**

- (1) directly to the business that repairs the motor vehicle; or**
 - (2) jointly to:**
 - (A) the owner of; and**
 - (B) any primary lien holder on;**
- the motor vehicle."**

Re-number all SECTIONS consecutively.

(Reference is to ESB 307 as printed April 10, 2015.)

LEHMAN

 HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 307 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 24-5-24.5-11, AS ADDED BY P.L.65-2014, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 11. (a) A consumer reporting agency shall place a security freeze on a protected consumer's consumer report if:**

- (1) the consumer reporting agency receives a request from the protected consumer's representative for the placement of the security freeze under this section; and**
- (2) the protected consumer's representative:**
 - (A) submits the request to the consumer reporting agency at the address or other point of contact and in the manner specified by the consumer reporting agency;**
 - (B) provides to the consumer reporting agency sufficient proof of identification of the protected consumer and the representative; and**

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(C) provides to the consumer reporting agency sufficient proof of authority to act on behalf of the protected consumer. ~~and~~
~~(3) the protected consumer's representative pays to the consumer reporting agency a fee as provided in section 17 of this chapter.~~

(b) If a consumer reporting agency does not have a consumer report pertaining to a protected consumer when the consumer reporting agency receives a request under subsection (a), the consumer reporting agency shall create a record for the protected consumer.

SECTION 2. IC 24-5-24.5-15, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2015 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 15. If a protected consumer or a protected consumer's representative wishes to remove a security freeze for the protected consumer, the protected consumer or the protected consumer's representative shall:

(1) submit a request for the removal of the security freeze to the consumer reporting agency at the address or other point of contact and in the manner specified by the consumer reporting agency; **and**

(2) provide to the consumer reporting agency:

(A) in the case of a request by a protected consumer:

- (i) proof that the sufficient proof of authority for the protected consumer's representative to act on behalf of the ~~protective~~ **protected** consumer is no longer valid; and
- (ii) sufficient proof of identification of the protected consumer; or

(B) in the case of a request by the representative of a protected consumer:

- (i) sufficient proof of identification of the protected consumer and the representative; and
- (ii) sufficient proof of authority to act on behalf of the protected consumer. ~~and~~

~~(3) pay to the consumer reporting agency a fee as provided in section 17 of this chapter.~~

SECTION 3. IC 24-5-24.5-17, AS ADDED BY P.L.65-2014, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 17. ~~(a) Except as provided in subsection (b);~~ A consumer reporting agency may not impose a fee for any service described in this chapter.

~~(b) A consumer reporting agency may charge a reasonable fee, not exceeding five dollars (\$5), for each placement or removal of a security freeze under this chapter.~~



(c) A consumer reporting agency may not charge a fee under this chapter if:

- (1) the protected consumer's representative:
 - (A) has obtained a police report or affidavit of alleged identity fraud against the protected consumer; and
 - (B) provides a copy of the report or affidavit to the consumer reporting agency; or
- (2) a request for the placement or removal of a security freeze is for a protected consumer who is less than sixteen (16) years of age at the time of the request and the consumer reporting agency has a consumer report concerning the protected consumer."

Renumber all SECTIONS consecutively.

(Reference is to ESB 307 as printed April 10, 2015.)

FORESTAL

