



COMMITTEE REPORT

MR. PRESIDENT:

The Senate Committee on Insurance and Financial Institutions, to which was referred Senate Bill No. 189, 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:

- 1 Replace the effective date in SECTION 1 with "[EFFECTIVE
- 2 UPON PASSAGE]".
- 3 Page 1, line 12, after "fee" insert "**or penalty**".
- 4 Page 1, line 14, after "fee" insert "**or penalty**".
- 5 Page 1, line 15, delete "the commissioner shall impose on the health
- 6 carrier" and insert "**the health carrier commits an unfair and**
- 7 **deceptive act or practice in the business of insurance under**
- 8 **IC 27-4-1-4 and is subject to the penalties and procedures set forth**
- 9 **in IC 27-4-1.**
- 10 SECTION 2. IC 27-4-1-4, AS AMENDED BY P.L.158-2024,
- 11 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 12 UPON PASSAGE]: Sec. 4. (a) The following are hereby defined as
- 13 unfair methods of competition and unfair and deceptive acts and
- 14 practices in the business of insurance:
- 15 (1) Making, issuing, circulating, or causing to be made, issued, or
- 16 circulated, any estimate, illustration, circular, or statement:
- 17 (A) misrepresenting the terms of any policy issued or to be
- 18 issued or the benefits or advantages promised thereby or the
- 19 dividends or share of the surplus to be received thereon;

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

1 person, or placed before the public, any false statement of
2 financial condition of an insurer with intent to deceive. Making
3 any false entry in any book, report, or statement of any insurer
4 with intent to deceive any agent or examiner lawfully appointed
5 to examine into its condition or into any of its affairs, or any
6 public official to which such insurer is required by law to report,
7 or which has authority by law to examine into its condition or into
8 any of its affairs, or, with like intent, willfully omitting to make a
9 true entry of any material fact pertaining to the business of such
10 insurer in any book, report, or statement of such insurer.

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

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

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

27 (B) Unfair discrimination between individuals of the same
28 class involving essentially the same hazards in the amount of
29 premium, policy fees, assessments, or rates charged or made
30 for any policy or contract of accident or health insurance or in
31 the benefits payable thereunder, or in any of the terms or
32 conditions of such contract, or in any other manner whatever.
33 However, in determining the class, consideration may be given
34 to the nature of the risk, the plan of insurance, the actual or
35 expected expense of conducting the business, or any other
36 relevant factor.

37 (C) Excessive or inadequate charges for premiums, policy
38 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 IC 27-1-47 or another 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

1 value whatsoever not specified in the contract. Nothing in this
2 subdivision and subdivision (7) shall be construed as including
3 within the definition of discrimination or rebates any of the
4 following practices:

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

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

15 (C) Readjustment of the rate of premium for a group insurance
16 policy based on the loss or expense experience thereunder, at
17 the end of the first year or of any subsequent year of insurance
18 thereunder, which may be made retroactive only for such
19 policy year.

20 (D) Paying by an insurer or insurance producer thereof duly
21 licensed as such under the laws of this state of money,
22 commission, or brokerage, or giving or allowing by an insurer
23 or such licensed insurance producer thereof anything of value,
24 for or on account of the solicitation or negotiation of policies
25 or other contracts of any kind or kinds, to a broker, an
26 insurance producer, or a solicitor duly licensed under the laws
27 of this state, but such broker, insurance producer, or solicitor
28 receiving such consideration shall not pay, give, or allow
29 credit for such consideration as received in whole or in part,
30 directly or indirectly, to the insured by way of rebate.

31 (9) Requiring, as a condition precedent to loaning money upon the
32 security of a mortgage upon real property, that the owner of the
33 property to whom the money is to be loaned negotiate any policy
34 of insurance covering such real property through a particular
35 insurance producer or broker or brokers. However, this
36 subdivision shall not prevent the exercise by any lender of the
37 lender's right to approve or disapprove of the insurance company
38 selected by the borrower to underwrite the insurance.

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

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

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

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

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

38 (B) Insurance employed as a means of guaranteeing the

- 1 performance of goods and designed to benefit the purchasers
 2 or users of such goods.
- 3 (C) Title insurance.
- 4 (D) Insurance written in connection with an indebtedness and
 5 intended as a means of repaying such indebtedness in the
 6 event of the death or disability of the insured.
- 7 (E) Insurance provided by or through motorists service clubs
 8 or associations.
- 9 (F) Insurance that is provided to the purchaser or holder of an
 10 air transportation ticket and that:
- 11 (i) insures against death or nonfatal injury that occurs during
 12 the flight to which the ticket relates;
- 13 (ii) insures against personal injury or property damage that
 14 occurs during travel to or from the airport in a common
 15 carrier immediately before or after the flight;
- 16 (iii) insures against baggage loss during the flight to which
 17 the ticket relates; or
- 18 (iv) insures against a flight cancellation to which the ticket
 19 relates.
- 20 (14) Refusing, because of the for-profit status of a hospital or
 21 medical facility, to make payments otherwise required to be made
 22 under a contract or policy of insurance for charges incurred by an
 23 insured in such a for-profit hospital or other for-profit medical
 24 facility licensed by the Indiana department of health.
- 25 (15) Refusing to insure an individual, refusing to continue to issue
 26 insurance to an individual, limiting the amount, extent, or kind of
 27 coverage available to an individual, or charging an individual a
 28 different rate for the same coverage, solely because of that
 29 individual's blindness or partial blindness, except where the
 30 refusal, limitation, or rate differential is based on sound actuarial
 31 principles or is related to actual or reasonably anticipated
 32 experience.
- 33 (16) Committing or performing, with such frequency as to
 34 indicate a general practice, unfair claim settlement practices (as
 35 defined in section 4.5 of this chapter).
- 36 (17) Between policy renewal dates, unilaterally canceling a
 37 individual's coverage under an individual or group health
 38 insurance policy solely because of the individual's medical or

- 1 physical condition.
- 2 (18) Using a policy form or rider that would permit a cancellation
- 3 of coverage as described in subdivision (17).
- 4 (19) Violating IC 27-1-22-25, IC 27-1-22-26, or IC 27-1-22-26.1
- 5 concerning motor vehicle insurance rates.
- 6 (20) Violating IC 27-8-21-2 concerning advertisements referring
- 7 to interest rate guarantees.
- 8 (21) Violating IC 27-8-24.3 concerning insurance and health plan
- 9 coverage for victims of abuse.
- 10 (22) Violating IC 27-8-26 concerning genetic screening or testing.
- 11 (23) Violating IC 27-1-15.6-3(b) concerning licensure of
- 12 insurance producers.
- 13 (24) Violating IC 27-1-38 concerning depository institutions.
- 14 (25) Violating IC 27-8-28-17(c) or IC 27-13-10-8(c) concerning
- 15 the resolution of an appealed grievance decision.
- 16 (26) Violating IC 27-8-5-2.5(e) through IC 27-8-5-2.5(j) (expired
- 17 July 1, 2007, and removed) or IC 27-8-5-19.2 (expired July 1,
- 18 2007, and repealed).
- 19 (27) Violating IC 27-2-21 concerning use of credit information.
- 20 (28) Violating IC 27-4-9-3 concerning recommendations to
- 21 consumers.
- 22 (29) Engaging in dishonest or predatory insurance practices in
- 23 marketing or sales of insurance to members of the United States
- 24 Armed Forces as:
 - 25 (A) described in the federal Military Personnel Financial
 - 26 Services Protection Act, P.L.109-290; or
 - 27 (B) defined in rules adopted under subsection (b).
- 28 (30) Violating IC 27-8-19.8-20.1 concerning stranger originated
- 29 life insurance.
- 30 (31) Violating IC 27-2-22 concerning retained asset accounts.
- 31 (32) Violating IC 27-8-5-29 concerning health plans offered
- 32 through a health benefit exchange (as defined in IC 27-19-2-8).
- 33 (33) Violating a requirement of the federal Patient Protection and
- 34 Affordable Care Act (P.L. 111-148), as amended by the federal
- 35 Health Care and Education Reconciliation Act of 2010 (P.L.
- 36 111-152), that is enforceable by the state.
- 37 (34) After June 30, 2015, violating IC 27-2-23 concerning
- 38 unclaimed life insurance, annuity, or retained asset account

- 1 benefits.
- 2 (35) Willfully violating IC 27-1-12-46 concerning a life insurance
- 3 policy or certificate described in IC 27-1-12-46(a).
- 4 (36) Violating IC 27-1-37-7 concerning prohibiting the disclosure
- 5 of health care service claims data.
- 6 (37) Violating IC 27-4-10-10 concerning virtual claims payments.
- 7 (38) Violating IC 27-1-24.5 concerning pharmacy benefit
- 8 managers.
- 9 (39) Violating IC 27-7-17-16 or IC 27-7-17-17 concerning the
- 10 marketing of travel insurance policies.
- 11 (40) Violating IC 27-1-49 concerning individual prescription drug
- 12 rebates.
- 13 (41) Violating IC 27-1-50 concerning group prescription drug
- 14 rebates.
- 15 **(42) Violating IC 27-1-37-11 concerning an administrative fee**
- 16 **or penalty imposed on a health provider facility or a provider**
- 17 **by a health carrier related to the provision of care to an**
- 18 **individual that involves an out of network provider.**
- 19 (b) Except with respect to federal insurance programs under
- 20 Subchapter III of Chapter 19 of Title 38 of the United States Code, the
- 21 commissioner may, consistent with the federal Military Personnel
- 22 Financial Services Protection Act (10 U.S.C. 992 note), adopt rules
- 23 under IC 4-22-2 to:
- 24 (1) define; and
- 25 (2) while the members are on a United States military installation
- 26 or elsewhere in Indiana, protect members of the United States
- 27 Armed Forces from;
- 28 dishonest or predatory insurance practices.

- 1 **SECTION 3. An emergency is declared for this act."**
- 2 Page 1, delete lines 16 through 17.
- 3 Delete page 2.
(Reference is to SB 189 as introduced.)

and when so amended that said bill do pass.

Committee Vote: Yeas 6, Nays 1.

Baldwin

Chairperson