

IC 27-6-6

Chapter 6. Interinsurance

IC 27-6-6-1

Subscribers; authority to exchange reciprocal or interinsurance contracts; title insurance exception

Sec. 1. Individuals, partnerships, limited liability companies, and corporations of this state, hereby designated "subscribers," are hereby authorized to exchange reciprocal or interinsurance contracts with each other or with individuals, partnerships, limited liability companies, and corporations of other states and countries, providing indemnity among themselves from any loss which may be insured against under the fire or casualty classifications as authorized by the insurance laws of this state, except title insurance.

(Formerly: Acts 1919, c.102, s.1; Acts 1967, c.232, s.1.) As amended by P.L.8-1993, SEC.421.

IC 27-6-6-2

Execution of contracts; attorneys; location of office of attorney

Sec. 2. Such contracts may be executed by an attorney, agent or other representative, herein designated "attorney," duly authorized and acting for such subscribers. The office or offices of such attorney may be maintained at such place or places as may be designated by the subscribers in the power of attorney.

(Formerly: Acts 1919, c.102, s.2.)

IC 27-6-6-3

Declaration of subscribers

Sec. 3. Such subscribers so contracting among themselves shall, through their attorney, file with the insurance department a declaration verified by the oath of such attorney, or where such attorney is a corporation, by the oath of a chief officer thereof, setting forth the following:

- (a) The name or title adopted by such subscribers proposing to exchange such indemnity contracts. Such name or title shall not be so similar to any other name or title previously adopted by a similar organization or by any insurance corporation or association as in the opinion of the insurance department is likely to result in confusion or deception.
- (b) The kind or kinds of insurance to be effected or exchanged.
- (c) A copy of the form of policy contract or agreement under or by which such insurance is to be effected or exchanged.
- (d) A copy of the form of power of attorney or other authority of such attorney under which such insurance is to be effected or exchanged; provided, that a copy of any amendment to or substitution of such form shall be filed with the insurance department prior to its use.
- (e) The location of the office or offices from which such contracts or agreements are to be issued.
- (f) That applications have been made for indemnity upon at least

one hundred (100) separate risks aggregating not less than one and one-half million dollars (\$1,500,000) as represented by executed contracts or bona fide applications to become concurrently effective in the case of fire insurance, and in the case of automobile insurance, executed contracts or bona fide applications for indemnity upon two hundred and fifty (250) separate risks aggregating not less than one and one-half million dollars (\$1,500,000) or any or all classes of automobile insurance effected by said subscriber through said attorney.

(g) That there is in the possession of such attorney and available for the payment of losses, assets conforming to the requirements of section 6 of this chapter.

(h) A financial statement under oath in form prescribed for the annual statement.

(i) The instrument authorizing service of process as provided for in this chapter.

(Formerly: Acts 1919, c.102, s.3; Acts 1963, c.315, s.1; Acts 1967, c.232, s.2.) As amended by P.L.252-1985, SEC.217.

IC 27-6-6-4

Instrument authorizing service of process on subscriber's agent; procedure for service

Sec. 4. (a) Concurrently with the filing of the declaration provided for by the terms of section 3 of this chapter, the attorney (as defined in section 2 of this chapter) shall file with the department of insurance, state of Indiana, an instrument in writing, executed by him for said subscribers, conditioned that, upon the issuance of a certificate of authority provided for in section 9 of this chapter, service of process may be had upon the individual resident of Indiana, corporate resident of Indiana, or authorized Indiana insurer, appointed by the subscribers as the subscribers' agent for service of process in all suits in this state arising out of such policies, contracts, or agreements, which service shall be valid and binding upon all subscribers exchanging at any time reciprocal or interinsurance contracts through such attorney.

(b) Service of process under subsection (a) shall be made by delivering to the subscribers' agent two (2) copies of process with a complaint attached.

(c) It shall be the duty of the subscribers' agent, upon service, to promptly send one (1) copy of such summons, by registered letter, to the attorney specified in subsection (a) and to file the other copy of summons in the office of the subscribers' agent.

(Formerly: Acts 1919, c.102, s.4; Acts 1967, c.232, s.3.) As amended by P.L.252-1985, SEC.218; P.L.130-1994, SEC.40; P.L.116-1994, SEC.52; P.L.268-1999, SEC.15.

IC 27-6-6-5

Statement of maximum amount of single fire insurance risk; limitation on amount assumed

Sec. 5. There shall be filed with the department of insurance, state

of Indiana, by such attorney, whenever the department of insurance shall so require, a statement under oath of such attorney, showing, in the case of fire or casualty classifications as authorized by the insurance laws of Indiana, except title insurance, the maximum amount of indemnity upon a single risk, and no reciprocal shall assume on any single fire or casualty classifications as authorized by the insurance laws of Indiana, except title insurance, risk in an amount greater than ten percent (10%) of the net worth of the reciprocal.

(Formerly: Acts 1919, c.102, s.5; Acts 1967, c.232, s.4.) As amended by P.L.116-1994, SEC.53; P.L.255-1995, SEC.6.

IC 27-6-6-6

Assets and reserves

Sec. 6. There shall at all times be maintained as assets a sum in cash or securities of the kind designated by the laws of the state where the principal office is located for the investment of funds of insurance companies, doing the same kinds of business, amounting to fifty per cent (50%) of the net annual deposits, collected, and credited to the accounts of subscribers on policies having one (1) year or less to run and pro rata on those for longer periods; in addition to which there shall be maintained in cash or such securities assets sufficient to discharge all liabilities on all outstanding losses arising under policies issued, same to be calculated on the basis of net premiums or deposits as in this section defined and in accordance with the laws of the state relating to similar reserves for companies insuring similar risks. For the purpose of computing said reserves and assets, net deposits shall be construed to mean the payments of subscribers collected or in the course of collection after deducting therefrom the amounts provided in the subscribers' agreement for expenses except payments or credits to the attorney-in-fact. If at any time the assets so held in cash or such securities shall be less than required above, or be less than three hundred thousand dollars (\$300,000), the subscribers or their attorney for them shall make up the deficiency within thirty (30) days after notice from the department of insurance so to do: Provided, however, That as to reciprocal or interinsurance exchanges now licensed and authorized to do business in Indiana, the alternative minimum of cash or securities required to be held shall be one hundred thousand dollars (\$100,000).

(Formerly: Acts 1919, c.102, s.6; Acts 1963, c.315, s.2; Acts 1967, c.232, s.5.)

IC 27-6-6-7

Annual financial report; examination; acceptance of examination of another state

Sec. 7. Such attorney shall, within the time limited for filing the annual statement by insurance companies transacting the same kind of business, make a report under oath to the insurance department for each calendar year showing the financial condition of affairs at the

office where such contracts are issued and shall furnish such additional information and reports as may be required. The business affairs, records, and assets of any such organization shall be subject to examination by the insurance department at any reasonable time, and such examination shall be at the expense of the organization examined. Where the principal office of the attorney is located in another state, the insurance department may in lieu of the examination provided for in this section, accept a certified copy of the report of examination made by the insurance department of the state where the principal office is located.

(Formerly: Acts 1919, c.102, s.7; Acts 1963, c.315, s.3; Acts 1967, c.232, s.6.)

IC 27-6-6-8

Right of domestic corporation to exchange contracts

Sec. 8. Any corporation now or hereafter organized under the laws of this state, shall, in addition to the rights, powers and franchises specified in its articles of incorporation, have full power and authority, as a subscriber, to exchange insurance contracts of the kind and character herein mentioned. The right to exchange such contracts is hereby declared to be incidental to the purposes for which such corporations are organized and as much granted as the rights and powers expressly conferred.

(Formerly: Acts 1919, c.102, s.8.)

IC 27-6-6-9

Certificate of authority

Sec. 9. Upon compliance with the requirements of this chapter, the insurance department shall issue a certificate of authority or a license to the attorney authorizing him to make such contracts of insurance and shall contain the name of the attorney, the location of the principal office, and the name or the designation under which such contracts of insurance are issued. Such license shall be renewed annually, upon a showing that the standard of solvency required in this section has been maintained and all fees and taxes required have been paid; provided, no certificate of authority shall be issued under this section unless and until the subscribers and the attorney shall have complied with the same character and fitness qualifications, plan of operation, and standards for officers and directors as is required of stock and mutual insurance companies under this title.

(Formerly: Acts 1919, c.102, s.9; Acts 1967, c.232, s.7.) As amended by P.L.252-1985, SEC.219.

IC 27-6-6-10

Violations

Sec. 10. An attorney who exchanges a contract of insurance of the kind and character specified in this chapter, or solicits or negotiates any application for such a contract, without complying with this chapter, commits a Class C infraction. For the purpose of organization and upon issuance of permit by the insurance

department, powers of attorney and applications for such contracts may be solicited without compliance with this chapter, but a person may not make or issue any such contracts until this chapter is complied with.

(Formerly: Acts 1919, c.102, s.10; Acts 1967, c.232, s.8.) As amended by Acts 1978, P.L.2, SEC.2722.

IC 27-6-6-11

Refusal, suspension, or revocation of certificate of authority

Sec. 11. In addition to the penalties in section 10 of this chapter and where not otherwise provided, the penalty for failure or refusal to comply with any or all of the terms and provisions of this chapter, upon the part of the attorney, shall be the refusal, suspension, or revocation of certificate of authority or license by the insurance department, after due notice and opportunity for hearing has been given such attorney, so that he may appear and show cause why such action should not be taken.

(Formerly: Acts 1919, c.102, s.11; Acts 1967, c.232, s.9.) As amended by P.L.252-1985, SEC.220.

IC 27-6-6-12

Taxation

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

(Formerly: Acts 1919, c.102, s.12.)

IC 27-6-6-13

Terms inserted in policy; conformity to state law

Sec. 13. The attorney may insert in any form of policy prescribed by the laws of this state any provisions or conditions required by the plan of reciprocal or interinsurance, Provided That same shall not be inconsistent with or in conflict with the law of this state. Such policy in lieu of conforming to the language and form prescribed by such law, shall be held to conform thereto in substance if such policy includes a provision or endorsement reciting that the policy shall be construed as if in the language and form prescribed by such law. Any such endorsement shall first be filed with the insurance department.

(Formerly: Acts 1919, c.102, s.13; Acts 1967, c.232, s.10.)

IC 27-6-6-14

Application of state insurance law

Sec. 14. Except as herein provided, no law of this state relating to insurance shall apply to the exchange of indemnity contracts described herein, unless they are specifically mentioned therein.

(Formerly: Acts 1919, c.102, s.14.)

IC 27-6-6-15

Loans or advances; purposes; repayment; approval; interest rate; restrictions

Sec. 15. The attorney for the subscribers at a reciprocal or interinsurance exchange organized under this law may on behalf of the subscribers borrow or assume a loan or advance for the repayment of a sum of money sufficient to defray the reasonable expenses in the establishment of such an exchange or to enable the attorney for the subscribers at the exchange to comply with any requirement of the law or as a guarantee fund upon agreement. The borrowing or assumption shall first be submitted to and approved by the department, and shall be repaid only out of the surplus, earnings or profits at the exchange with the approval of the department. The department shall withhold its approval of any repayment whenever in its judgment the financial condition of the attorney for the subscribers at such exchange shall warrant, but shall not withhold its approval if after the repayment the attorney-in-fact for subscribers at the exchange shall have and be in possession of a surplus equal to ten percent (10%) or more of the gross annual premium of the subscribers. Any such loan or advance shall not form a part of the legal liabilities of the attorney for the subscribers at the exchange but until repaid, all statements published by the attorney for the subscribers or filed with the department, shall show the amount thereof then remaining unpaid. However, this section shall not be construed as an extension of the liability of any subscriber beyond that expressly provided for in the subscribers' agreement or power of attorney. The per annum interest rate on any loan or advance shall not exceed three-quarters of one percent (.75%) above the prevailing prime bank rate charged by national banks and banks chartered by the state of Indiana with their principal offices in Indiana, or ten percent (10%), whichever is less. The department shall establish the prevailing prime bank rate for each calendar quarter equal to this rate for the first working day of the subsequent calendar quarter. The prime bank rate for any bank on a given day is the rate of interest it charges on unsecured loans made that day to its most credit-worthy customers. In establishing the prevailing prime bank rate the department may use the prime bank rate charged by the fifteen (15) largest banks with their principal offices in Indiana, or such other number as the department deems adequate. The total amount of interest shall be calculated on a three hundred sixty (360) day basis. *(Formerly: Acts 1919, c.102, s.14a; Acts 1967, c.232, s.11.) As amended by Acts 1977, P.L.287, SEC.1.*