

IC 27-1-25

Chapter 25. Insurance Administrators

IC 27-1-25-1

Definitions

Sec. 1. As used in this chapter:

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

- (1) An employer or a wholly owned direct or indirect subsidiary of an employer acting on behalf of the employees of:
 - (A) the employer;
 - (B) the subsidiary; or
 - (C) an affiliated corporation of the employer.
- (2) A union acting for its members.
- (3) An insurer.
- (4) An insurance producer:
 - (A) that is licensed under IC 27-1-15.6;
 - (B) that has:
 - (i) a life; or
 - (ii) an accident and health or sickness; qualification under IC 27-1-15.6-7; and
 - (C) whose activities are limited exclusively to the sale of insurance.
- (5) A creditor acting for its debtors regarding insurance covering a debt between them.
- (6) A trust established under 29 U.S.C. 186 and the trustees, agents, and employees acting pursuant to that trust.
- (7) A trust that is exempt from taxation under Section 501(a) of the Internal Revenue Code and:
 - (A) the trustees and employees acting pursuant to that trust; or
 - (B) a custodian and the agents and employees of the custodian acting pursuant to a custodian account that meets the requirements of Section 401(f) of the Internal Revenue Code.
- (8) A financial institution that is subject to supervision or examination by federal or state banking authorities to the extent that the financial institution collects and remits premiums to an insurance producer or an authorized insurer in connection with a loan payment.
- (9) A credit card issuing company that:
 - (A) advances for; and
 - (B) collects from, when a credit card holder authorizes the collection;

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

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

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

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

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

(14) A person that:

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

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

(15) A person that:

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

(B) is affiliated with the insurer; and

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

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

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

(2) is under common control with;

a specified entity or person.

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

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

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

(1) through ownership of voting securities;

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

(3) otherwise;

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

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

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

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

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

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

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

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

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

(l) "Insurer" means:

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

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

(B) IC 27-13-3; or

(C) IC 27-13-34; or

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

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

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

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

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

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

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

(s) "Underwrite" refers to the:

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

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

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

As added by Acts 1980, P.L.168, SEC.2. Amended by Acts 1982, P.L.165, SEC.1; P.L.26-1991, SEC.18; P.L.26-1994, SEC.10; P.L.2-1995, SEC.101; P.L.185-1996, SEC.9; P.L.79-1998, SEC.31;

P.L.207-1999, SEC.1 and P.L.255-1999, SEC.1; P.L.132-2001, SEC.7; P.L.160-2003, SEC.4; P.L.178-2003, SEC.27; P.L.97-2004, SEC.96; P.L.11-2011, SEC.18.

IC 27-1-25-2

Written agreements

Sec. 2. (a) An administrator may act only if there is a written agreement between the administrator and an insurer. This agreement must conform to the requirements of this chapter, which apply to the functions performed by the administrator.

(b) An agreement between an administrator and an insurer must be retained by both parties as part of their official records for a period of not less than five (5) years after the termination of the agreement.

(c) When a policy is issued to a trustee, a copy of the trust agreement and all amendments to it must be:

- (1) furnished by the administrator to the insurer with which the administrator has a written agreement; and
- (2) retained as part of the official records of the administrator for a period of not less than five (5) years after the termination of the trust.

(d) The written agreement required under subsection (a) must:

- (1) include a statement of functions that the administrator will perform on behalf of the insurer;
- (2) specify the lines, classes, or types of coverage that the administrator is authorized to administer on behalf of the insurer; and
- (3) contain provisions concerning the standard of underwriting required by the insurer.

(e) The commissioner may require any written agreement executed by an administrator and an insurer to be filed with the department at the time the administrator applies for a license under this chapter. The commissioner may require any written agreement executed subsequent to the original issue of the license to the administrator to be filed with the department at the time the administrator is applying for renewal of the license.

(f) An administrator or insurer may, with written notice, terminate a written agreement for cause as provided in the written agreement. The insurer may suspend the underwriting authority of the administrator during the pendency of a dispute regarding the cause for termination of the written agreement. The insurer shall fulfill lawful obligations with respect to coverage affected by the written agreement, regardless of a dispute described in this subsection.

As added by Acts 1980, P.L.168, SEC.2. Amended by Acts 1982, P.L.165, SEC.2; P.L.160-2003, SEC.5.

IC 27-1-25-3

Presumptions as to payment of premiums and claims

- Sec. 3. (a) If an insurer utilizes the services of an administrator:
- (1) premiums or charges for coverage paid by or on behalf of the covered individual are considered to have been received by the insurer when paid to the administrator; and
 - (2) claims or return premiums paid by the insurer to the administrator are not considered to have been paid to the covered individual or claimant until the payment is received by the covered individual or claimant.

(b) This section does not limit the rights of an insurer against an administrator resulting from the failure of the administrator to make payments to the insurer, covered individuals, or claimants.

As added by Acts 1980, P.L.168, SEC.2. Amended by P.L.26-1991, SEC.19; P.L.160-2003, SEC.6.

IC 27-1-25-4

Books and records; maintenance; inspection; transfer; ownership; notice of material change; maintenance of bond

Sec. 4. (a) An administrator:

- (1) shall maintain at its principal administrative office books and records of all transactions between the administrator and insurers for at least five (5) years after the creation of the books and records; or
- (2) may transfer the books and records of transactions between the administrator and an insurer with which the administrator has entered into a written agreement under section 2 of this chapter to a new administrator if:
 - (A) the agreement between the administrator and the insurer is canceled; and
 - (B) a written agreement for a transfer of the books and records is made between the administrator and the insurer.

If the books and records are transferred to a new administrator under subdivision (2), the new administrator shall acknowledge in writing that the new administrator is responsible for retaining the books and records of the prior administrator as required under subdivision (1). The books and records must be maintained in accordance with generally accepted standards of insurance record keeping.

(b) The commissioner is entitled to inspect all books and records of the administrator for the purpose of examinations and audits. Trade secrets contained within those books and records, including the identity and addresses of policyholders and certificate holders, financial information concerning the administrator, and the business plan of the administrator, are to remain confidential. However, the commissioner may use that confidential information in proceedings instituted against the administrator.

(c) An insurer is the owner of records that:

- (1) are generated by an administrator with which the insurer has entered into a written agreement under section 2 of this chapter; and

(2) pertain to the insurer.

However, the administrator retains the right to continuing access to books and records necessary to fulfill the administrator's contractual obligations to covered individuals, claimants, and the insurer.

(d) An administrator that is licensed under section 11.1 of this chapter shall make available for inspection by the commissioner copies of written agreements with insurers.

(e) An administrator that is licensed under section 11.1 of this chapter shall:

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

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

whenever reasonably required by the commissioner.

(f) An administrator that is licensed under section 11.1 of this chapter shall immediately notify the commissioner of a material change in:

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

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

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

(g) An administrator that is licensed under section 11.1 of this chapter and that administers a governmental plan or a church plan shall maintain a bond:

(1) for the use and benefit of:

(A) the commissioner; and

(B) the insurance regulator of any state in which the administrator is authorized to conduct business; and

(2) that covers an individual and a person that has remitted premiums, insurance, charges, or other money to the administrator in the course of the administrator's business;

in an amount equal to the greater of one hundred thousand dollars (\$100,000) or ten percent (10%) of the total of funds administered in connection with governmental plans or church plans in Indiana and all other states in which the administrator is authorized to conduct business.

As added by Acts 1980, P.L.168, SEC.2. Amended by Acts 1982, P.L.165, SEC.3; P.L.2-1995, SEC.102; P.L.160-2003, SEC.7.

IC 27-1-25-5

Advertising

Sec. 5. An administrator may use advertising relating to the business underwritten by an insurer only to the extent that the advertising has been approved in writing by that insurer before the advertising is used.

As added by Acts 1980, P.L.168, SEC.2. Amended by P.L.160-2003,

SEC.8.

IC 27-1-25-5.5

Insurer responsibilities

Sec. 5.5. (a) If an insurer uses the services of an administrator, the insurer is responsible for:

- (1) determining the:
 - (A) benefits;
 - (B) premium rates;
 - (C) underwriting criteria; and
 - (D) claims payment procedures;that apply to the coverage; and
- (2) securing reinsurance.

(b) An insurer shall provide to an administrator, with the written agreement required under section 2 of this chapter:

- (1) the rules that the administrator must follow in administering the coverage, as determined under subsection (a); and
- (2) the responsibilities of the administrator as to administering the coverage.

(c) An insurer that uses the services of an administrator has sole responsibility for the competent administration of benefit programs provided by the insurer.

(d) If an administrator administers benefits for more than one hundred (100) covered individuals on behalf of an insurer, the insurer shall, not less than semiannually, review the operations of the administrator. At least one (1) of the semiannual reviews must be an onsite audit of the operations of the administrator.

As added by P.L.160-2003, SEC.9.

IC 27-1-25-6

Fiduciary status of administrator; fiduciary accounts

Sec. 6. (a) An administrator is a fiduciary in collecting or returning premiums or charges for the insurer with whom it has a written agreement for administrative services.

(b) Funds collected by the administrator shall be immediately remitted to the person entitled to the funds or deposited in a fiduciary account, which shall be established and maintained by the administrator in a federally insured or state insured financial institution.

(c) The administrator shall maintain records clearly showing the deposits and withdrawals from the fiduciary account for each insurer with whom it has a written agreement for administrative services. The administrator shall furnish to the insurer:

- (1) upon the insurer's request, copies of the required records; and
- (2) at intervals specified in the written agreement, a periodic accounting of transactions performed by the administrator pertaining to the business underwritten by the insurer.

(d) Subject to the written agreement required by section 2 of this chapter, withdrawals from the fiduciary account shall only be made for the following:

- (1) Remittance to an insurer entitled to the funds.
- (2) Deposit in an account maintained in the name of the insurer with whom the administrator has a written agreement.
- (3) Transfer to and deposit in a claims paying account, with claims to be paid as required under section 7 of this chapter.
- (4) Payment to a group policyholder for remittance to the insurer entitled to the funds.
- (5) Payment to the administrator for its commission, fees, or charges.
- (6) Remittance of return premiums to the person entitled to the funds.

(e) An administrator may not pay any claim with money withdrawn from a fiduciary account established under subsection (b) in which premiums or charges are deposited.

As added by Acts 1980, P.L.168, SEC.2. Amended by Acts 1982, P.L.165, SEC.4; P.L.26-1991, SEC.20; P.L.160-2003, SEC.10.

IC 27-1-25-7

Payment of claims

Sec. 7. All claims paid by an administrator from funds collected on behalf of an insurer shall only be paid on drafts or checks authorized by the insurer.

As added by Acts 1980, P.L.168, SEC.2. Amended by Acts 1982, P.L.165, SEC.5; P.L.160-2003, SEC.11.

IC 27-1-25-7.5

Repealed

(As added by P.L.207-1999, SEC.2 and P.L.255-1999, SEC.2. Repealed by P.L.11-2011, SEC.46.)

IC 27-1-25-8

Administrator compensation

Sec. 8. (a) An administrator may not enter into an agreement or understanding with an insurer if the effect of the agreement or understanding is to make the amount of a:

- (1) commission;
- (2) fee; or
- (3) charge;

that is payable to the administrator contingent on savings effected in the adjustment, settlement, and payment of losses covered by the insurer's obligations.

(b) This section does not prevent an administrator from receiving performance based compensation for providing hospital auditing services or other auditing services.

As added by Acts 1980, P.L.168, SEC.2. Amended by P.L.26-1991,

SEC.21; P.L.160-2003, SEC.12.

IC 27-1-25-9

Delivery of written communications

Sec. 9. Policies, certificates, booklets, termination notices, or other written communications delivered by an insurer to an administrator for delivery to its covered individuals shall be delivered by the administrator promptly after receipt of instructions from the insurer to do so.

As added by Acts 1980, P.L.168, SEC.2. Amended by P.L.160-2003, SEC.13.

IC 27-1-25-10

Notice of relationship; statement of premiums or charges

Sec. 10. (a) An administrator having a written agreement with an insurer shall provide written notice, which must first be approved by the insurer, to covered persons advising them of the relationship among the administrator, the covered person, and the insurer.

(b) When the administrator collects premiums or charges, the administrator shall state separately the amount of any premium or charge for coverage specified by the insurer to the person paying the premium or charge. Additional charges may not be made for a service to the extent that the charge for the service has been paid by the insurer.

(c) The administrator shall disclose to the insurer:

- (1) charges;
- (2) fees; and
- (3) commissions;

received by the administrator in connection with the provision of administrative services for the insurer, including fees or commissions paid by insurers that provide reinsurance.

As added by Acts 1980, P.L.168, SEC.2. Amended by Acts 1982, P.L.165, SEC.6; P.L.160-2003, SEC.14.

IC 27-1-25-11

Repealed

(As added by Acts 1980, P.L.168, SEC.2. Amended by P.L.267-1987, SEC.4; P.L.192-1991, SEC.1; P.L.26-1991, SEC.22; P.L.1-1992, SEC.146. Repealed by P.L.160-2003, SEC.28.)

IC 27-1-25-11.1

Resident administrator license; commissioner refusal to issue; fees; notice of material change; maintenance of bond

Sec. 11.1. (a) If the home state of a person is Indiana, the person shall:

- (1) apply to act as an administrator in Indiana upon the uniform application;
- (2) pay an application fee in an amount determined by the

commissioner; and

(3) receive a license from the commissioner;

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

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

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

(A) articles of incorporation;

(B) articles of association;

(C) partnership agreement;

(D) trade name certificate;

(E) trust agreement;

(F) shareholder agreement;

(G) other applicable documents; and

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

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

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

(A) members of the applicant's:

(i) board of directors;

(ii) board of trustees;

(iii) executive committee; or

(iv) other governing board or committee;

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

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

(i) a partnership;

(ii) an association; or

(iii) a limited liability company;

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

(i) voting stock;

(ii) voting securities; or

(iii) voting interest;

of the applicant; and

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

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

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

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

(i) prepared in accordance with GAAP; and

(ii) certified by an officer of the applicant;
for any completed fiscal years and for any month during the current fiscal year for which financial statements or reports have been completed.

If an audited financial statement or report required under clause (A) or (B) is prepared on a consolidated basis, the statement or report must include a columnar consolidating or combining worksheet that includes the amounts shown on the consolidated audited financial statement or report, separately reported on the worksheet for each entity included on the statement or report, and an explanation of consolidating and eliminating entries.

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

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

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

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

- (i) claims processing;
- (ii) record keeping; and
- (iii) underwriting.

(7) Any other information required by the commissioner.

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

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

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

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

whenever reasonably required by the commissioner.

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

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

(A) is not:

- (i) competent;
- (ii) trustworthy;
- (iii) financially responsible; or
- (iv) of good personal and business reputation; or

(B) has had an:

- (i) insurance certificate of authority or insurance license;
or
- (ii) administrator certificate of authority or administrator

- license;
 - denied or revoked for cause by any jurisdiction;
 - (2) the financial information provided under subsection (b)(4) does not reflect that the applicant has a positive net worth; or
 - (3) any of the grounds set forth in section 12.4 of this chapter exists with respect to the administrator.
- (f) An administrator that applies for a license under this section shall immediately notify the commissioner of a material change in:
- (1) the ownership or control of the administrator; or
 - (2) another fact or circumstance that affects the administrator's qualification for a license.
- The commissioner, upon receiving notice under this subsection, shall report the change to an electronic data base maintained by the NAIC or an affiliate or a subsidiary of the NAIC.
- (g) An administrator that applies for a license under this section and will administer a governmental plan or a church plan shall obtain a bond as required under section 4(g) of this chapter.
- (h) A license that is issued under this section is valid:
- (1) for one (1) year after the date of issuance, unless subdivision
 - (2) applies; or
 - (2) until:
 - (A) the license is:
 - (i) surrendered; or
 - (ii) suspended or revoked by the commissioner; or
 - (B) the administrator:
 - (i) ceases to do business in Indiana; or
 - (ii) is not in compliance with this chapter.

As added by P.L.160-2003, SEC.15. Amended by P.L.11-2011, SEC.19.

IC 27-1-25-12

Repealed

(As added by Acts 1980, P.L.168, SEC.2. Amended by P.L.26-1991, SEC.23. Repealed by P.L.160-2003, SEC.28.)

IC 27-1-25-12.2

Nonresident administrator license; commissioner refusal to issue license or delay of issuance; fees

- Sec. 12.2. (a) An administrator that:
- (1) performs the duties of an administrator in Indiana; and
 - (2) does not hold a license issued under section 11.1 of this chapter;
- shall obtain a nonresident administrator license under this section by filing a uniform application, accompanied by an application fee in an amount determined by the commissioner, with the commissioner. The commissioner shall deposit a fee paid under this subsection into the department of insurance fund established by IC 27-1-3-28.
- (b) Unless the commissioner verifies the nonresident

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

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

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

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

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

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

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

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

(1) produce the accounts of the nonresident administrator;

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

(3) make the officers of the nonresident administrator available to provide information with respect to the affairs of the nonresident administrator;

when reasonably required by the commissioner.

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

(h) The commissioner may refuse to issue or may delay the issuance of a nonresident administrator license if the commissioner determines that:

(1) due to events occurring; or

(2) based on information obtained;

after the nonresident administrator's home state's licensure of the

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

(i) If the commissioner makes a determination described in subsection (h), the commissioner:

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

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

As added by P.L.160-2003, SEC.16. Amended by P.L.173-2007, SEC.17; P.L.234-2007, SEC.191; P.L.11-2011, SEC.20.

IC 27-1-25-12.3

Resident administrator annual filings

Sec. 12.3. (a) An administrator that is licensed under section 11.1 of this chapter shall, not later than July 1 of each year unless the commissioner grants an extension of time for good cause, file a report for the previous calendar year that complies with the following:

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

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

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

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

(5) The report must be accompanied by a filing fee in an amount determined by the commissioner.

The commissioner shall collect a filing fee paid under subdivision (5) and deposit the fee into the department of insurance fund established by IC 27-1-3-28.

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

(1) issue a certification to the administrator:

(A) indicating that:

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

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

- (B) noting deficiencies found in the report; or
- (2) update an electronic data base that is maintained by the NAIC or by an affiliate or a subsidiary of the NAIC:

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

- (B) noting deficiencies found in the report.

As added by P.L.160-2003, SEC.17. Amended by P.L.173-2007, SEC.18; P.L.234-2007, SEC.192; P.L.11-2011, SEC.21.

IC 27-1-25-12.4

Denial, suspension, or revocation of administrator license

Sec. 12.4. (a) The commissioner shall deny, suspend, or revoke a license issued under this chapter if the commissioner determines that the administrator:

- (1) is in unsound financial condition;
- (2) engages in methods or practices in the conduct of the administrator's business so as to render the administrator's continued transaction of business in Indiana hazardous or injurious to covered persons or the public; or
- (3) fails to pay a judgment rendered against the administrator in Indiana not more than sixty (60) days after the judgment is final and all appeals have been exhausted.

(b) The commissioner may deny, suspend, or revoke a license issued under this chapter if the commissioner determines that:

- (1) the administrator has violated a lawful rule or order of the commissioner or a provision of the insurance laws of Indiana;
- (2) the administrator refuses to be examined or to produce the administrator's accounts, records, and files for examination;
- (3) an individual who is responsible for the conduct of the affairs of the administrator, including:

- (A) a member of the administrator's:

- (i) board of directors;
 - (ii) board of trustees;
 - (iii) executive committee; or
 - (iv) other governing board or committee;

- (B) a principal officer, if the administrator is a corporation;

- (C) a partner or member, if the administrator is:

- (i) a partnership;
 - (ii) an association; or
 - (iii) a limited liability company;

- (D) a shareholder or member that holds, directly or indirectly, ten percent (10%) or more of the:

- (i) voting stock;
 - (ii) voting securities; or
 - (iii) voting interest;

- of the administrator; or

- (E) any other person who exercises control or influence over the affairs of the administrator;

refuses to provide information with respect to the administrator's business or to perform another legal obligation with respect to an examination when required by the commissioner;

(4) the administrator, without just cause:

(A) refuses to pay proper claims or to perform services arising under a written agreement;

(B) causes a covered individual to accept less than the amount due to the covered individual; or

(C) causes a covered individual to employ an attorney or bring suit against the administrator to secure full payment or settlement of a proper claim;

(5) the administrator fails to meet a qualification for which issuance of the administrator's license could have been refused if the failure had existed and been known by the commissioner at the time of license issuance;

(6) an individual who is responsible for the conduct of the affairs of the administrator, including:

(A) a member of the administrator's:

(i) board of directors;

(ii) board of trustees;

(iii) executive committee; or

(iv) other governing board or committee;

(B) a principal officer, if the administrator is a corporation;

(C) a partner or member, if the administrator is:

(i) a partnership;

(ii) an association; or

(iii) a limited liability company;

(D) a shareholder or member that holds, directly or indirectly, ten percent (10%) or more of the:

(i) voting stock;

(ii) voting securities; or

(iii) voting interest;

of the administrator; or

(E) any other person who exercises control or influence over the affairs of the administrator;

is convicted of or enters a plea of guilty or nolo contendere to a felony, without regard to whether adjudication is withheld;

(7) the administrator's license has been suspended or revoked in another state; or

(8) the administrator fails to timely file the:

(A) report required under section 12.3 of this chapter; or

(B) statement and pay the filing fee required under section 12.2(e) of this chapter.

(c) The commissioner may, in the commissioner's discretion and without advance notice or hearing, immediately suspend the license of an administrator if the commissioner finds one (1) or more of the following:

- (1) The administrator is insolvent or financially impaired.
- (2) A proceeding for receivership, conservatorship, rehabilitation, or other delinquency proceeding regarding the administrator has been commenced in any state.
- (3) The financial condition or business practices of the administrator pose an imminent threat to the public health, safety, or welfare of residents of Indiana.

(d) If the commissioner determines that cause exists for the suspension or revocation of a license issued under this chapter, the commissioner may, instead of suspension or revocation, impose a civil penalty not to exceed twenty-five thousand dollars (\$25,000) per act or violation upon the administrator. A civil penalty imposed under this subsection may be enforced in the same manner as a civil judgment. Civil penalties collected under this subsection shall be deposited in the state general fund.

As added by P.L.160-2003, SEC.18.

IC 27-1-25-13

Public documents; confidentiality; financial information

Sec. 13. (a) Except as provided by section 4(b) of this chapter, and except that all provisions of the written agreement between the administrator and an insurer shall be treated by the commissioner as confidential and shall not be open to any member of the public for inspection or copying, all documents submitted to the commissioner under this chapter are public documents:

- (1) when filed by the commissioner; or
- (2) thirty (30) days after their receipt by the department.

(b) Any financial information concerning an administrator submitted by an administrator to the commissioner must remain confidential and is not open to any member of the public for inspection or copying. However, the commissioner may use the financial information in a proceeding under section 12.4 of this chapter.

As added by Acts 1980, P.L.168, SEC.2. Amended by Acts 1982, P.L.165, SEC.7; P.L.192-1991, SEC.2; P.L.160-2003, SEC.19.

IC 27-1-25-14

Regulations

Sec. 14. The commissioner may, under IC 4-22-2, adopt regulations necessary to implement this chapter.

As added by Acts 1980, P.L.168, SEC.2.

IC 27-1-25-15

Violations; offense; notice

Sec. 15. (a) An administrator acting without a license issued under this chapter commits a Class C infraction.

(b) The commissioner shall notify the prosecuting attorney or the attorney general of Indiana of violations under subsection (a).

As added by Acts 1980, P.L.168, SEC.2. Amended by P.L.160-2003, SEC.20.

IC 27-1-25-16

Presumption of control

Sec. 16. (a) A presumption of control arising under section 1(e) of this chapter may be rebutted by a showing made in the manner provided under IC 27-1-23-3(k) that control does not exist in fact.

(b) In the absence of a presumption that control exists in fact, the commissioner may determine that control exists in fact after:

- (1) providing notice and an opportunity to be heard under IC 4-21.5 to all interested parties; and
- (2) making specific findings of fact to support the determination.

As added by P.L.160-2003, SEC.21.