

IC 27-4

ARTICLE 4. UNFAIR COMPETITION; UNAUTHORIZED INSURERS; FOREIGN INSURERS

IC 27-4-1

Chapter 1. Unfair Competition; Unfair or Deceptive Acts and Practices

IC 27-4-1-1

Purpose

Sec. 1. The purpose of this chapter is to regulate the trade practices in the business of insurance, in accordance with the intent of Congress as expressed in 15 U.S.C. 1011 et seq., by defining, or providing for the determination of, all such practices which constitute in this state unfair methods of competition and unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.

(Formerly: Acts 1947, c.112, s.1.) As amended by P.L.252-1985, SEC.144.

IC 27-4-1-2

Definitions

Sec. 2. When and as used in this chapter:

(a) The term "person" shall mean any individual, corporation, company including any farm mutual insurance company, association, partnership, firm, reciprocal exchange, inter-insurer, Lloyds insurers, society, fraternal benefit society, lodge, order, council, corps, and any other association or legal entity, engaged in the business of insurance, including but not in limitation of the foregoing, insurance producers, brokers, solicitors, advisors, auditors, and adjusters.

(b) "Department" shall mean the department of insurance of this state created and defined as a department in the state government of the state of Indiana by IC 27-1.

(c) "Commissioner" shall mean the insurance commissioner of this state appointed pursuant to, and on and in whom the powers, duties, management, and control of the department are conferred and vested by, the provisions of IC 27-1.

(Formerly: Acts 1947, c.112, s.2.) As amended by P.L.252-1985, SEC.145; P.L.129-2003, SEC.7; P.L.178-2003, SEC.34.

IC 27-4-1-3

Prohibited use of unfair methods of competition and deceptive acts or practices

Sec. 3. No person shall engage in this state in any trade practice which is defined in this chapter or determined pursuant to this chapter as an unfair method of competition or as an unfair or deceptive act or practice in the business of insurance as defined in IC 27-1-2-3.

(Formerly: Acts 1947, c.112, s.3.) As amended by P.L.252-1985, SEC.146.

IC 27-4-1-4

Enumeration of unfair methods of competition and deceptive acts and practices

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.

(Formerly: Acts 1947, c.112, s.4; Acts 1955, c.10, s.1; Acts 1971, P.L.389, SEC.1; Acts 1974, P.L.124, SEC.1.) As amended by Acts 1981, P.L.247, SEC.1; P.L.259-1983, SEC.1; P.L.271-1987, SEC.5; P.L.5-1988, SEC.144; P.L.160-1988, SEC.1; P.L.2-1992, SEC.783; P.L.122-1992, SEC.2; P.L.8-1993, SEC.417; P.L.8-1993, SEC.418; P.L.225-1993, SEC.1; P.L.223-1993, SEC.6; P.L.1-1994, SEC.134; P.L.133-1994, SEC.1; P.L.116-1994, SEC.49; P.L.2-1995, SEC.104; P.L.188-1996, SEC.1; P.L.185-1996, SEC.10; P.L.150-1997, SEC.2; P.L.132-2001, SEC.8; P.L.130-2002, SEC.3; P.L.178-2003, SEC.35; P.L.201-2003, SEC.2; P.L.211-2003, SEC.1; P.L.97-2004, SEC.97; P.L.39-2005, SEC.2; P.L.138-2005, SEC.1; P.L.1-2006, SEC.487; P.L.131-2007, SEC.1; P.L.3-2008, SEC.211; P.L.112-2008, SEC.2; P.L.1-2009, SEC.146; P.L.67-2011, SEC.2; P.L.278-2013, SEC.22; P.L.90-2014, SEC.2; P.L.227-2015, SEC.6.

IC 27-4-1-4.5

Enumeration of unfair claim settlement practices

Sec. 4.5. The following are unfair claim settlement practices:

- (1) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue.
- (2) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies.
- (3) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies.
- (4) Refusing to pay claims without conducting a reasonable investigation based upon all available information.
- (5) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed.
- (6) Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear.
- (7) Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought

by such insureds.

(8) Attempting to settle a claim for less than the amount to which a reasonable individual would have believed the individual was entitled by reference to written or printed advertising material accompanying or made part of an application.

(9) Attempting to settle claims on the basis of an application that was altered without notice to or knowledge or consent of the insured.

(10) Making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which the payments are being made.

(11) Making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration.

(12) Delaying the investigation or payment of claims by requiring an insured, a claimant, or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information.

(13) Failing to promptly settle claims, where liability has become reasonably clear, under one (1) portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage.

(14) Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

(15) In negotiations concerning liability insurance claims, ascribing a percentage of fault to a person seeking to recover from an insured party, in spite of an obvious absence of fault on the part of that person.

(16) The unfair claims settlement practices defined in IC 27-4-1.5.

As added by P.L.259-1983, SEC.2. Amended by P.L.271-1987, SEC.6; P.L.194-1991, SEC.1; P.L.203-2001, SEC.7.

IC 27-4-1-5

Statement of charges; notice and hearing; intervention

Sec. 5. (a) Whenever the commissioner shall have reason to believe that any such person has been engaged or is engaging in this state in any unfair method of competition or any unfair or deceptive act or practice defined in section 4 of this chapter and that a proceeding by him in respect thereto would be to the interest of the public, he shall issue and cause to be served upon such person a statement of the charges in that respect and a notice in writing of a

hearing thereon to be held under IC 4-21.5-3.

(b) Whenever the hearing involves the claim, averment, or complaint of, or made by, a person who is not an investigator, deputy, examiner, or other employee of the department, a copy of the substance of such claim, averment, or complaint shall be included in or exhibited with such notice. The commissioner and department shall afford all interested persons or parties the right and opportunity for the settlement or adjustment of all claims, controversies, and issues when such persons or parties shall join in a request in writing for such opportunity.

(Formerly: Acts 1947, c.112, s.5.) As amended by P.L.252-1985, SEC.147; P.L.7-1987, SEC.145.

IC 27-4-1-5.5

(Repealed by P.L.1-1991, SEC.165.)

IC 27-4-1-5.6

Unfair claim settlement practice complaint; response; investigation; report; notice of remedies

Sec. 5.6. (a) A person who believes the person has been adversely affected by an unfair claim settlement practice under section 4.5 of this chapter may file a complaint with the commissioner. If the commissioner believes an unfair claim settlement practice has occurred, the commissioner shall, within ten (10) business days from the date of receipt of a written complaint, deliver a copy of the complaint to the insurer and shall respond in writing to the complaining party, at the address provided in the complaint, advising the party of the following:

- (1) The specific action taken by the department on the complaint.
- (2) Any further investigations or other actions that are intended by the department.

(b) An insurer who receives a written notice of complaint under subsection (a) shall promptly conduct an investigation of the matters alleged in the complaint. Within twenty (20) business days from the date of receipt of the complaint, the insurer shall provide to the commissioner and the complaining party a written report containing the following information:

- (1) The specific reasons for actions taken by the insurer with respect to the claim.
- (2) The specific reasons for any inaction by the insurer with respect to the claim.
- (3) If the claim has not been settled, a good faith estimate of the time required for settlement.

(c) An insurer who commits an unfair claims settlement practice or who fails to comply with this section is subject to action by the commissioner under section 6 of this chapter.

(d) Each insurer shall provide to each current policyholder a one

(1) time written notice of the remedies provided under this section. Future policyholders shall be notified by the insurer at the time the insurance policy is issued.

As added by P.L.1-1991, SEC.166.

IC 27-4-1-6

Cease and desist order; penalties

Sec. 6. (a) If after a hearing under IC 4-21.5-3, the commissioner determines that the method of competition or the act or practice in question is defined in section 4 of this chapter and that the person complained of has engaged in such method of competition, act, or practice in violation of this chapter, he shall reduce his findings to writing and shall issue and cause to be served on the person charged with the violation an order requiring such person to cease and desist from such method of competition, act, or practice, and the commissioner may at his discretion order one (1) or more of the following:

- (1) Payment of a civil penalty of not more than twenty-five thousand dollars (\$25,000) for each act or violation. If the person knew or reasonably should have known that he was in violation of this chapter, the penalty may be not more than fifty thousand dollars (\$50,000) for each act or violation.
- (2) Suspension or revocation of the person's license, or certificate of authority, if he knew or reasonably should have known he was in violation of this chapter.

(b) In determining the amount of a civil penalty under subsection (a)(1), the commissioner shall consider the remediation efforts undertaken by the person.

(c) All civil penalties imposed and collected under this section shall be deposited in the state general fund.

(Formerly: Acts 1947, c.112, s.6.) As amended by P.L.259-1983, SEC.3; P.L.7-1987, SEC.146; P.L.121-1990, SEC.4; P.L.149-1990, SEC.2; P.L.203-2001, SEC.8.

IC 27-4-1-7

Judicial review; civil enforcement orders

Sec. 7. (a) Any person required by an order of the commissioner under section 6 of this chapter to cease and desist from engaging in any unfair method of competition or any unfair or deceptive act or practice defined in section 4 of this chapter may obtain judicial review of such order under IC 4-21.5-5.

(b) The commissioner may file a petition for civil enforcement of an order under IC 4-21.5-6.

(Formerly: Acts 1947, c.112, s.7.) As amended by P.L.252-1985, SEC.148; P.L.7-1987, SEC.147.

IC 27-4-1-8

Determination of additional methods of unfair competition or

deceptive acts or practices; notice and hearing

Sec. 8. Whenever the commissioner shall have reason to believe that any person engaged in the business of insurance is engaging in this state in any method of competition or in any act or practice in the conduct of such business which is not defined in section 4 of this chapter, that such method of competition is unfair, or that such act or practice is unfair or deceptive, and that a proceeding by him in respect thereto would be to the interest of the public, he may issue and cause to be served upon such person a statement of the charges in that respect and a notice of a hearing thereon. Each such hearing shall be conducted under IC 4-21.5-3 in the same manner as the hearings provided for in section 5 of this chapter.

(Formerly: Acts 1947, c.112, s.8.) As amended by P.L.252-1985, SEC.149; P.L.7-1987, SEC.148.

IC 27-4-1-9

Judicial review

Sec. 9. Any party to a proceeding under this chapter, including any intervenor, may obtain judicial review under IC 4-21.5-5.

(Formerly: Acts 1947, c.112, s.9.) As amended by P.L.252-1985, SEC.150; P.L.7-1987, SEC.149.

IC 27-4-1-10

Application of other laws

Sec. 10. No order of the commissioner under this chapter or judgment of a court to enforce the same shall in any way relieve or absolve any person affected by such order from any liability under any other statute of this state.

(Formerly: Acts 1947, c.112, s.10.) As amended by P.L.252-1985, SEC.151.

IC 27-4-1-11

Foreign or alien insurer's unfair competition or unfair or deceptive practice by periodical or radio; notice to supervisory official of domiciliary state

Sec. 11. If any foreign or alien insurer engages in this state in an unfair method of competition or in an unfair or deceptive practice as defined in section 4(1) or 4(2) of this chapter by means of any advertisement, announcement, or statement, in any magazine or other periodical publication having a general circulation in more than five (5) states, or by means of any radio broadcast to more than five (5) states, including the state of domicile of such insurer, and if the laws of the state where such insurer is domiciled make provision for enjoining of such method of competition or practice, it shall be the duty of the commissioner to advise the insurance supervisory official of such domiciliary state of the violation in order that he may take appropriate action, but the commissioner shall have no authority to proceed, with respect to such violation, under either section 5 or 8 of

this chapter. For the purpose of this section the domiciliary state of an alien insurer shall be deemed to be its state of entry, or the state of the principal office in the United States.

(Formerly: Acts 1947, c.112, s.11.) As amended by P.L.252-1985, SEC.152.

IC 27-4-1-12

Violations; penalties

Sec. 12. Any person who violates a cease and desist order of the commissioner under section 6 of this chapter, or an order of the court under IC 4-21.5, after it has become final, and while such order is in effect, may, after notice and hearing under IC 4-21.5 and upon order of the commissioner, be subject at the discretion of the commissioner to one (1) or more of the following:

- (1) A civil penalty of not more than twenty-five thousand dollars (\$25,000) for each act or violation.
- (2) Suspension or revocation of the person's license or certificate of authority.

(Formerly: Acts 1947, c.112, s.12.) As amended by P.L.259-1983, SEC.4; P.L.7-1987, SEC.150; P.L.121-1990, SEC.5; P.L.149-1990, SEC.3.

IC 27-4-1-13

Cumulative powers and remedies

Sec. 13. The powers vested in the commissioner and the department by this chapter shall be additional to any other powers to enforce any penalties or forfeitures authorized by law with respect to the methods, acts, and practices declared hereby to be unfair or deceptive.

(Formerly: Acts 1947, c.112, s.13.) As amended by P.L.252-1985, SEC.153.

IC 27-4-1-14

Repealed

(Repealed by P.L.7-1987, SEC.151.)

IC 27-4-1-15

Enforcement; additional personnel

Sec. 15. (a) For the purpose of maintaining the affirmative, active, and definite administration of the provisions of this chapter, the commissioner, with the approval of the governor, may appoint such additional actuaries, agents, deputies, examiners, assistants, stenographers, reporters, and other employees in the department as may be found necessary to carry out the provisions of this chapter. Except as otherwise provided in this chapter, such additional deputies, examiners, assistants, reporters, and employees so appointed shall be chosen for their fitness, either professional or practical, as the nature of the position may require, irrespective of

their political beliefs or affiliations. The technical or professional qualifications of any applicant shall be determined by examination, professional rating, or otherwise, as the commissioner with the approval of the governor may determine. Subject to the approval of the governor and the state budget director, the salaries of such additional actuaries, agents, deputies, examiners, assistants, stenographers, reporters, and other employees shall be fixed by the commissioner. Any actuary agent, deputy, examiner, assistant, stenographer, or employee so employed may be removed at any time by the commissioner.

(b) In the absence of the commissioner, he may, by written order, designate a deputy to conduct any hearing, and, in such case, such deputy commissioner shall possess and may exercise all powers of the commissioner with respect to the matter in hearing.

(c) Neither the commissioner nor any actuary, deputy, examiner, assistant, or employee in the department shall be liable in their individual capacity, except to the state of Indiana, for any act done or omitted in connection with the performance of their respective duties under the provisions of this chapter.

(Formerly: Acts 1947, c.112, s.15.) As amended by P.L.252-1985, SEC.155.

IC 27-4-1-16

Inapplicable laws

Sec. 16. No provision of IC 4-22-2 shall be construed to apply to any hearings held or proceedings had pursuant to the provisions of this chapter.

(Formerly: Acts 1947, c.112, s.16.) As amended by P.L.252-1985, SEC.156.

IC 27-4-1-17

Construction and application

Sec. 17. (a) This chapter shall be, and shall be construed as being, in addition to IC 27-1, and in addition to IC 27-7-2, and in addition to any and all statutes supplemental to either, and in addition to any and all other laws of the state of Indiana concerning insurance or the business of insurance, whether enacted at any time in the 1947 regular session or at any preceding session of the general assembly of the state of Indiana.

(b) Whereas certain unlawful practices are set forth in other insurance statutes of the state of Indiana which unlawful practices are similar or identical to those enumerated in section 4 of this chapter and are characterized in other insurance statutes as criminal in nature, it is deemed desirable to retain the criminal penalties imposed by other insurance statutes; for that purpose, nothing contained in this chapter shall be construed to repeal, amend, or otherwise to affect in any way IC 27-1, IC 27-7-2, or any other law of the state of Indiana concerning insurance or the business of

insurance whether enacted at any time in the 1947 regular session or at any preceding session of the general assembly of the state of Indiana, it being the intent of this chapter to provide additional administrative remedies for the purpose of controlling unfair methods of competition and unfair and deceptive acts and practices in and affecting the business of insurance.

(c) Nothing in this chapter shall be construed as exempting or excepting from the provisions of this chapter any person engaged in the business of insurance in this state, except as in this chapter otherwise expressly provided.

(Formerly: Acts 1947, c.112, s.18.) As amended by P.L.252-1985, SEC.157.

IC 27-4-1-18

Causes of action created

Sec. 18. This article does not create a cause of action other than an action by:

- (1) the commissioner to enforce his order; or
- (2) a person, as defined in section 1 of this chapter, to appeal an order of the commissioner.

As added by P.L.259-1983, SEC.6.

IC 27-4-1-19

Annual report of consumer complaints

Sec. 19. (a) The commissioner shall, on an annual basis and in a manner determined by the commissioner, publish figures and produce a report containing the following information:

- (1) The ratio of valid consumer complaints lodged against each company weighted by the direct premiums earned in Indiana by each company.
- (2) A separate listing of any company determined by the commissioner to have committed a practice that is designated an unfair claim settlement practice under section 4.5 of this chapter if the practice is committed flagrantly and in conscious disregard of section 4.5 of this chapter or if the practice is committed with a frequency that indicates a general business practice.
- (3) Any enforcement action taken by the commissioner as a result of a practice described in subdivision (2).

(b) The commissioner shall provide a copy of the report required under subsection (a) to the house of representatives and senate committees of the general assembly that are assigned responsibility for insurance issues.

As added by P.L.121-1990, SEC.6 and P.L.149-1990, SEC.4. Amended by P.L.203-2001, SEC.9.