

IC 27-7-2

Chapter 2. Worker's Compensation

IC 27-7-2-1

Repealed

(Repealed by P.L.249-1989, SEC.19.)

IC 27-7-2-1.1

Purposes of chapter

Sec. 1.1. The purposes of this chapter are as follows:

- (1) To prohibit price fixing agreements and other anticompetitive behavior by companies.
- (2) To protect policyholders and the public against the adverse effects of excessive, inadequate, or unfairly discriminatory rates.
- (3) To promote price competition among companies so as to provide rates that are responsive to competitive market conditions.
- (4) To provide regulatory procedures for the maintenance of appropriate data reporting systems.
- (5) To improve availability, fairness, and reliability of insurance.
- (6) To authorize essential cooperative action among companies in the ratemaking process and to regulate such activity to prevent practices that tend to substantially lessen competition or create a monopoly.
- (7) To encourage the most efficient and economic marketing practices.

As added by P.L.249-1989, SEC.1.

IC 27-7-2-1.2

Insurers and underwriters subject to chapter

Sec. 1.2. This chapter applies to all persons, firms, partnerships, corporations, associations, and systems and to associations operating as Lloyds, interinsurers, or individual underwriters authorized on or after July 1, 1935, to transact the business of making worker's compensation insurance in Indiana. All domestic, foreign, and alien companies authorized to issue worker's compensation insurance policies in Indiana are subject to this chapter.

As added by P.L.249-1989, SEC.2.

IC 27-7-2-2

Definitions

Sec. 2. As used in this chapter and unless a different meaning appears from the context:

- (a) "Department" means the department of insurance of this state.
- (b) "Worker's compensation board" means the worker's compensation board of Indiana.

(c) "Company" means an insurance company and includes all persons, partnerships, corporations, or associations engaged in making worker's compensation insurance under the laws of this state.

(d) "Domestic company" means a company organized under the laws of this state.

(e) "Foreign company" means a company organized under the laws of any state of the United States, other than this state or under the laws of any territory or insular possession of the United States or the District of Columbia.

(f) "Alien company" means a company organized under the laws of any country other than the United States or a territory or insular possession thereof or of the District of Columbia.

(g) "Person" includes individuals, corporations, firms, companies, associations, and partnerships. The personal pronoun includes all genders. The singular includes the plural, and the plural includes the singular.

(h) "Commissioner" means the insurance commissioner of this state.

(i) "Bureau" means the worker's compensation rating bureau of Indiana.

(j) "Interested person" means any person who has filed with the department a request to be notified under sections 4(b) and 20.2(c) of this chapter of each filing of rates by the bureau or a company.

(k) "Assigned risk plan" means the plan by which members of the worker's compensation rating bureau provide for the insurance of rejected risks.

(l) "Classification system" or "classification" means the plan, system, or arrangement for recognizing differences in exposure to hazards among industries, occupations, or operations of insurance policyholders.

(m) "Experience rating" means a rating procedure utilizing past insurance experience of the individual policyholder to forecast future losses by measuring the policyholder's loss experience against the loss experience of policyholders in the same classification to produce a prospective premium credit, debit, or unity modification.

(n) "Rate" means the cost of insurance per exposure base unit, prior to any application of individual risk variations based on loss or expense considerations, and does not include minimum premiums.

(o) "Schedule rating plan" means an independent rating plan that measures hazard differences that have an immediate bearing on the probability or severity of loss and applies debits and credits to modify the premium for a risk.

(p) "Statistical plan" means the plan, system, or arrangement used in collecting data.

(q) "Supplementary rate information" means any manual or plan of rates, classification system, rating schedule, minimum premium, rating rule, rating plan, and any other similar information needed to determine the applicable premium for an insured.

(r) "Supporting information" means the experience and judgment of the filer and the experience or data of other companies or organizations relied on by the filer, the interpretation of any statistical data relied on by the filer, descriptions of methods used in making the rates, and any other similar information required to be filed by the commissioner.

(Formerly: Acts 1935, c.323, s.2; Acts 1959, c.231, s.2.) As amended by P.L.252-1985, SEC.228; P.L.28-1988, SEC.87; P.L.249-1989, SEC.3.

IC 27-7-2-3

Worker's compensation rating bureau; membership

Sec. 3. After July 1, 1935, every insurance company authorized to effect worker's compensation insurance in this state shall be a member of the worker's compensation rating bureau of Indiana. The bureau shall be composed of all insurance companies lawfully engaged on July 1, 1935, wholly or in part in making worker's compensation insurance in Indiana or who shall after July 1, 1935, be issued a certificate of authority to make worker's compensation insurance in this state.

(Formerly: Acts 1935, c.323, s.3.) As amended by P.L.252-1985, SEC.229; P.L.28-1988, SEC.88.

IC 27-7-2-3.1

Duties of bureau

Sec. 3.1. The bureau, in addition to other activities not prohibited, is authorized to do the following:

- (1) Develop a statistical plan including class definitions.
- (2) Collect statistical data from members, subscribers or any other source.
- (3) Prepare and distribute rate data, adjusted for loss development and loss trending, in accordance with its statistical plan. Such data and adjustments shall be in sufficient detail so as to permit companies to modify such rates or minimum premiums based on their own rating methods or interpretations of underlying data.
- (4) Prepare and distribute manuals of rating rules and rating schedules.
- (5) Distribute information that is filed with the commissioner and open to public inspection.
- (6) Conduct research and collect statistics in order to discover, identify, and classify information relating to cause or prevention of losses.
- (7) Prepare and file policy forms and endorsements and consult with members, subscribers, and others relative to their use and application.
- (8) Collect, compile, and distribute past and current prices of individual companies if such information is made available to

the general public.

(9) Conduct research and collect information to determine the impact of benefit level changes on rates.

(10) Prepare and distribute rules and rating values for the experience rating plan. Calculate and disseminate individual risk premium modification.

(11) Assist an individual company to develop minimum premiums, rates, supplementary rate information, or supporting information when so authorized by the individual company.

As added by P.L.249-1989, SEC.4.

IC 27-7-2-4

Rate filings; notice

Sec. 4. (a) The bureau shall file not less than once each calendar year recommended minimum premiums and rates for worker's compensation insurance subject to the approval of the commissioner.

(b) There shall accompany each filing adequate proof that notice of the filing has been mailed, by first class United States mail, to each interested person at the person's address as shown on the records of the department.

(Formerly: Acts 1935, c.323, s.4; Acts 1959, c.231, s.3.) As amended by P.L.28-1988, SEC.89; P.L.249-1989, SEC.5.

IC 27-7-2-5

Management of bureau

Sec. 5. The management of said bureau shall be in the hands of duly elected officers or committees provided for in the bylaws of said bureau; each member of the bureau or member group with affiliate or subsidiary companies shall be entitled to only one (1) vote on any subject coming before the bureau for determination.

(Formerly: Acts 1935, c.323, s.5.) As amended by P.L.116-1994, SEC.55.

IC 27-7-2-6

By-laws of bureau

Sec. 6. The bureau shall make by-laws for its government and for the government of its members. Such by-laws and amendments thereto shall be filed with and approved by the insurance commissioner before they shall be effective.

(Formerly: Acts 1935, c.323, s.6.)

IC 27-7-2-7

Representation of stock and nonstock companies; resolution of tie votes

Sec. 7. Stock companies and nonstock companies shall be represented in the bureau management and on all committees. In case of a tie vote in any committee or governing body of said bureau, the insurance commissioner shall decide the matter.

(Formerly: Acts 1935, c.323, s.7.)

IC 27-7-2-8

Membership in bureau

Sec. 8. The bureau shall admit to membership every company lawfully engaged in whole or in part in writing worker's compensation insurance in Indiana.

(Formerly: Acts 1935, c.323, s.8.) As amended by P.L.28-1988, SEC.90.

IC 27-7-2-9

Charges and expenses of bureau; apportionment; review

Sec. 9. The charges and expenses incident to the establishment and operation of the bureau shall be borne equitably and without discrimination among the members of the bureau. If any member is aggrieved by an apportionment of the cost or costs made by the bureau or by failure of the bureau to make such equitable apportionment, it may in writing petition the commissioner for a review of such apportionment or failure to act. The commissioner shall upon not less than five (5) days' notice to each member hold a hearing upon such petition at which time all members shall be entitled to be heard. And said commissioner shall determine the matter or matters and mail a copy of his decision to each member of the bureau. The decision of the commissioner shall be final.

(Formerly: Acts 1935, c.323, s.9.)

IC 27-7-2-10

Repealed

(Repealed by P.L.249-1989, SEC.19.)

IC 27-7-2-11

Approval of classifications, premiums, or rates; consultations with worker's compensation board; duty of board to furnish information

Sec. 11. (a) In approving classifications, premiums, or rates, the department may in all cases consult with the worker's compensation board or member thereof. The department may also consult with the worker's compensation board or members thereof on any other matter arising under this chapter.

(b) The worker's compensation board shall furnish the department all available information at its disposal and permit the department to have access to all records of the worker's compensation board which the department may wish to consult in the performance of its duties under this chapter.

(Formerly: Acts 1935, c.323, s.11.) As amended by P.L.252-1985, SEC.231; P.L.28-1988, SEC.92; P.L.249-1989, SEC.6.

IC 27-7-2-12

Representative of department; appointment; powers and duties

Sec. 12. The department may authorize any person to attend meetings of the rating bureau, hold hearings, make investigations, and make examinations with reference to any subject over which it has jurisdiction under this chapter. The person so appointed shall have all the powers of the department in relation to said hearings, investigations, or examinations, and shall report in writing to the department the results of such hearings, examinations, or investigations, and any testimony taken by him.

(Formerly: Acts 1935, c.323, s.12.) As amended by P.L.252-1985, SEC.232.

IC 27-7-2-13

Repealed

(Repealed by P.L.249-1989, SEC.19.)

IC 27-7-2-14

Repealed

(Repealed by P.L.249-1989, SEC.19.)

IC 27-7-2-15

Approval of system of schedule rating

Sec. 15. The department shall after consultation with members of the bureau and after investigation approve a system of schedule rating for use in this state. Only the system filed by the bureau and approved by the department may be used in Indiana.

(Formerly: Acts 1935, c.323, s.15.) As amended by P.L.249-1989, SEC.7.

IC 27-7-2-16

Repealed

(Repealed by P.L.249-1989, SEC.19.)

IC 27-7-2-17

Repealed

(Repealed by P.L.249-1989, SEC.19.)

IC 27-7-2-18

Exclusion of physical impairment of employees in rate making

Sec. 18. The physical impairment of employees shall not be taken into account in establishing rates or system of schedule or merit rating.

(Formerly: Acts 1935, c.323, s.18.)

IC 27-7-2-19

Repealed

(Repealed by P.L.249-1989, SEC.19.)

IC 27-7-2-20

Adherence to approved rules, forms, plans, and systems; annual reports

Sec. 20. (a) Every company shall adhere to manual rules, policy forms, a statistical plan, a classification system, and experience rating plan filed by the bureau and approved by the commissioner.

(b) The commissioner shall designate the bureau to assist in gathering, compiling, and reporting relevant statistical information. Every company shall record and report its worker's compensation experience to the bureau according to the statistical plan approved by the commissioner. The report shall include any deviation from the filed recommended minimum premiums and rates, in total and by classification. The bureau shall annually submit data concerning these deviations to the department. Upon receipt, the department shall evaluate the data and prepare a report concerning the effect of competitive rating in Indiana. The department shall make the report available not later than October 31 of each year.

(c) Every company shall adhere to the approved manual rules, policy forms, statistical plan, classification system, and experience rating plan in the recording and reporting of data to the bureau.

(d) Copies of all approved classifications, rules, and forms shall be provided to the worker's compensation board.

(Formerly: Acts 1935, c.323, s.20.) As amended by P.L.28-1988, SEC.95; P.L.249-1989, SEC.8; P.L.91-1998, SEC.8.

IC 27-7-2-20.1

Minimum premiums and rates

Sec. 20.1. Minimum premiums and rates may not be excessive, inadequate, or unfairly discriminatory.

As added by P.L.249-1989, SEC.9.

IC 27-7-2-20.2

Minimum premiums, rates, and supplementary rate information; filing; approval; proof of notice; public inspection

Sec. 20.2. (a) Every company and the bureau shall file with the commissioner all minimum premiums, rates, and supplementary rate information that are to be used in Indiana. Such minimum premiums, rates, and supplementary rate information must be submitted to the commissioner at least thirty (30) days before the effective date. The commissioner shall disapprove a filing that does not meet the requirements of section 20.1 of this chapter. A filing shall be deemed approved unless disapproved by the commissioner within thirty (30) days after the filing is made. A company may adopt by reference, with or without deviation, the minimum premiums, rates, and supplementary rate information filed by another company or by the bureau.

(b) Minimum premiums, rates, and supplementary information filed under this section shall be filed in the form and manner

prescribed by the commissioner.

(c) There shall accompany each filing adequate proof that notice of the filing has been mailed, by first class United States mail, to each interested person at the person's address as shown on the records of the department.

(d) All material filed by the bureau or any company as part of any official rate filing shall, as soon as filed, be open to the public for inspection and copying under IC 5-14-3. This requirement is not applicable to information and data transmitted to the department or the worker's compensation board, or to both, under section 20 or 40 of this chapter.

As added by P.L.249-1989, SEC.10. Amended by P.L.275-2013, SEC.19.

IC 27-7-2-20.3

Minimum premiums or rates; disapproval

Sec. 20.3. (a) Minimum premiums or rates may be disapproved at the following times:

- (1) At any time subsequent to the effective date.
- (2) Before the effective date.

(b) Minimum premiums or rates may be disapproved for any of the following reasons:

- (1) If the company fails to comply with the filing requirements under section 20.2 of this chapter.
- (2) If the commissioner finds that the minimum premium or rate is excessive, inadequate, or unfairly discriminatory.

(c) The following procedure shall be used for disapproval of minimum premiums or rates:

(1) The commissioner may disapprove, without hearing, minimum premiums or rates filed under section 20.2 or 28.1 of this chapter that have not become effective. However, the bureau or a company whose minimum premiums or rates have been disapproved shall be given a hearing upon a written request made within thirty (30) days after the date of the disapproval order.

(2) Every company or the bureau shall provide within Indiana reasonable means whereby any person aggrieved by the application of its filings may be heard on written request to review the manner in which such rating system has been applied in connection with the insurance afforded or offered. If the company or the bureau fails to grant or reject such request within thirty (30) days, the aggrieved person may proceed in the same manner as if the request had been rejected. Any aggrieved person affected by the action of such company or the bureau on such request may, within thirty (30) days after written notice of such action, appeal to the commissioner who, after a hearing held upon not less than ten (10) days written notice to the aggrieved person and to such company or the bureau, may

affirm, modify, or reverse such action.

(d) If the commissioner disapproves a minimum premium or rate, the commissioner shall issue an order specifying in what respects minimum premium or the rate fails to meet the requirements of this chapter and stating when within a reasonable period thereafter such minimum premium or rate shall be discontinued for any policy issued or renewed after a date specified in the order. The order shall be issued within thirty (30) days after the close of the hearing or within such reasonable time extension as the commissioner may fix. Such order may include a provision for premium adjustment for the period after the effective date of the order for policies in effect on such date.

(e) Whenever a company has no legally effective minimum premiums or rates as a result of the commissioner's disapproval of minimum premiums or rates or other act, the commissioner shall specify interim minimum premiums or rates for the company that are adequate to protect the interests of all parties and may order that a specified portion of the premiums be placed in an escrow account approved by the commissioner. When new minimum premiums or rates become legally effective, the commissioner shall order the escrowed funds or any overcharge in the interim minimum premiums or rates to be distributed appropriately, except that refunds of less than ten dollars (\$10) per policyholder shall not be required.

As added by P.L.249-1989, SEC.11.

IC 27-7-2-20.4

Arrangements in restraint of trade; presumption; subsidiary companies

Sec. 20.4. (a) A company or the bureau may not make any arrangement with any other company or other person that has the purpose or effect of restraining trade unreasonably or of substantially lessening competition in the business of insurance.

(b) A company may not agree with any other company or the bureau to adhere to or use any rate, rating plan (other than the experience rating plan), or rating rule except as needed to comply with the requirements of section 20 of this chapter.

(c) The fact that two (2) or more companies use consistently or intermittently the same rules, rating plans, rating schedules, rating rules, policy forms, rate classifications, underwriting rules, surveys, or inspections or similar materials is not sufficient in itself to support a finding that an agreement prohibited by subsection (b) exists.

(d) Two (2) or more companies having a common ownership or operating in Indiana under common management or control may act in concert between or among themselves with respect to any matters pertaining to those authorized in this chapter as if they constituted a single company.

As added by P.L.249-1989, SEC.12.

IC 27-7-2-21

Repealed

(Repealed by P.L.249-1989, SEC.19.)

IC 27-7-2-22

Repealed

(Repealed by P.L.249-1989, SEC.19.)

IC 27-7-2-23

Repealed

(Repealed by P.L.249-1989, SEC.19.)

IC 27-7-2-24

Appointment of resident agent for service of process

Sec. 24. Every person lawfully engaged wholly or in part in writing worker's compensation insurance in this state shall, upon July 1, 1935, by written notice to the insurance commissioner, appoint an individual resident of Indiana, a corporate resident of Indiana, or an authorized Indiana insurer as the person's resident agent in Indiana upon whom service of process may be had for the enforcement of this chapter.

(Formerly: Acts 1935, c.323, s.24.) As amended by P.L.252-1985, SEC.235; P.L.28-1988, SEC.98; P.L.268-1999, SEC.17.

IC 27-7-2-25

Annual license of rating bureau

Sec. 25. The bureau shall procure annually from the department a license to carry on its business for which license a fee of one hundred dollars (\$100) shall be paid to the state of Indiana through the insurance department of this state. The license year shall terminate on the thirtieth day of April of each year.

(Formerly: Acts 1935, c.323, s.25.)

IC 27-7-2-26

Effect of chapter on mutual insurance associations and reciprocal associations

Sec. 26. Nothing in this chapter shall be construed to annul, restrict, or in any manner interfere with the licensing and supervision of mutual insurance associations and reciprocal associations formed and operating on or before January 1, 1991, solely for the writing of worker's compensation insurance as provided under IC 22-3-2 through IC 22-3-6.

(Formerly: Acts 1935, c.323, s.26.) As amended by P.L.252-1985, SEC.236; P.L.28-1988, SEC.99; P.L.170-1991, SEC.28.

IC 27-7-2-27

Jurisdiction of courts of Marion County; review

Sec. 27. (a) The courts of Marion County, Indiana, shall have jurisdiction in all matters arising under this chapter except such

rulings by the department as are made final by this chapter.

(b) Any order or decision of the commissioner made under this chapter is subject to review in the circuit or superior court of Marion County by any party in interest. An appeal must be taken within thirty (30) days after the date of the order or decision of the commissioner. The court shall determine whether the filing of the petition for review shall operate as a stay of the order or decision of the commissioner. The court may, in disposing of the issue before it, affirm or set aside the order or decision of the commissioner. If the order or decision of the commissioner is affirmed, the court shall make its own order and judgment commanding obedience to the order or decision of the commissioner. An appeal may be taken to the supreme court as in civil actions from any order or judgment of the circuit or superior court made under this section.

(Formerly: Acts 1935, c.323, s.27.) As amended by P.L.252-1985, SEC.237; P.L.249-1989, SEC.13.

IC 27-7-2-28

Duty to insure and accept certain rejected risks

Sec. 28. From and after July 1, 1935, all insurance companies authorized to effect worker's compensation insurance in this state, and being members of the worker's compensation rating bureau of Indiana, shall insure and accept any worker's compensation risk tendered to and rejected in writing by any three (3) members of the bureau in the manner provided in this chapter.

(Formerly: Acts 1935, c.323, s.28.) As amended by P.L.252-1985, SEC.238; P.L.28-1988, SEC.100.

IC 27-7-2-28.1

Assigned risk plan; filing; approval

Sec. 28.1. (a) All companies authorized to write worker's compensation insurance shall participate in the assigned risk plan providing for the equitable apportionment among them of insurance that may be afforded to applicants who are in good faith entitled to but who are unable to procure such insurance through ordinary methods. The bureau shall file, at least thirty (30) days before their effective date, the plan of operation, rates, rating plans, rules, policy forms, and any future modifications thereof, with the commissioner for approval. Such rates shall reflect experience in the assigned risk plan to the extent it is actuarially appropriate. The rates must reflect the varied categories of rejected risks covered by the assigned risk plan and must include at least two (2) rating plans, one (1) of which may not exceed the recommended minimum premiums and rates filed by the bureau under section 4 of this chapter.

(b) The commissioner shall disapprove any filing that does not meet the requirements of section 20.1 of this chapter. A filing shall be deemed to meet such requirements unless disapproved by the commissioner within thirty (30) days after the filing is made. In

disapproving a filing made under this section, the commissioner shall have the same authority and follow the same procedure as in disapproving a filing under section 20.3 of this chapter.

As added by P.L.249-1989, SEC.14.

IC 27-7-2-28.2

Examination of records; costs

Sec. 28.2. (a) The commissioner may examine any company, the bureau, or the assigned risk plan as the commissioner considers necessary to ascertain compliance with this chapter.

(b) Every company, the bureau, and the assigned risk plan shall maintain reasonable records of the type and kind reasonably adapted to its method of operation containing its experiences or the experience of its staff members including the data, statistics, or information collected or used by it in its activities. These records shall be available at all reasonable times to enable the commissioner to determine whether the activities of the bureau, company, and the assigned risk plan comply with this chapter. Such records shall be maintained in an office within Indiana or shall be made available to the commissioner for examination or inspection at any time upon reasonable notice.

(c) The reasonable cost of an examination made under this section shall be paid by the examined party upon presentation of a detailed account of such costs.

(d) Instead of an examination the commissioner may accept the report of an examination by the insurance supervisory official of another state, made under the laws of that state.

As added by P.L.249-1989, SEC.15.

IC 27-7-2-29

Rejected risks; designation of insurer; reinsurance

Sec. 29. (a) When any such rejected risk is called to the attention of the worker's compensation board and it appearing to the board that said risk is in good faith entitled to coverage, said bureau upon the order of the board shall fix the initial premium for the coverage.

(b) Upon payment, of the premium fixed under subsection (a), the bureau shall designate a member of said bureau whose duty it shall be to issue a policy containing the usual and customary provisions found in such policies therefor. However, for this undertaking all members of said bureau shall be reinsurers as among themselves in the amount which the compensation insurance written in this state during the preceding calendar year by such member bears to the total compensation insurance written in this state during the preceding year by all members of said bureau.

(Formerly: Acts 1935, c.323, s.29.) As amended by P.L.28-1988, SEC.101.

IC 27-7-2-30

Rules; adoption

Sec. 30. The bureau shall, by July 31, 1935, make and adopt such rules as may be necessary to carry out the provisions of this chapter, subject to the approval of the insurance commissioner.

(Formerly: Acts 1935, c.323, s.30.) As amended by P.L.252-1985, SEC.239.

IC 27-7-2-31**Loss of coverage for nonpayment of premiums; report of conditions precluding insurance; coverage pending decision**

Sec. 31. No employer who does not pay the advance premiums or premium when due, shall be entitled to insurance, nor shall any coverage be extended until all obligations to pay worker's compensation insurance premiums contracted during the previous twelve (12) months have been paid. If, in the opinion of the designated carrying company or the bureau, physical or moral conditions exist in any risk which shall preclude the risk from obtaining insurance, that risk shall be reported to the worker's compensation board and to the department. The bureau shall, in those cases, furnish the board and the department with its recommendations for improving safety conditions, which, if complied with, would entitle the risk to insurance. Pending a decision by the board or the department, insurance shall be effective as otherwise provided in this chapter. However, the board, or the department, or both shall make that decision within sixty (60) days after such recommendations are furnished by the bureau.

(Formerly: Acts 1935, c.323, s.31.) As amended by P.L.252-1985, SEC.240; P.L.28-1988, SEC.102.

IC 27-7-2-32**Considerations in designating insurer to assume rejected risk; review of reasons**

Sec. 32. In designating the bureau member to insure a rejected risk, the bureau shall have due regard for the service facilities and compensation premium volume in Indiana of the member so designated as the carrying company. Any grievance on the part of such bureau member with the respect of such designation shall be brought to the attention of the bureau for review and such action as the circumstances may justify.

(Formerly: Acts 1935, c.323, s.32.)

IC 27-7-2-33**Designated insurer carrying rejected risk; additional inspection; renewal rates**

Sec. 33. At any time while a policy, written pursuant to designation by the bureau, is in force, the carrying company, upon its own initiative, may make a further careful inspection of the risk for the purpose of measuring its hazards, making recommendation for

the promotion of the safety of employees and determining the rate or rates which should apply to insurance issued in renewal of such policy. Rates for the renewal of any policy issued pursuant to this chapter shall take into account the available experience of the risk for the previous five (5) years, and such rates shall be made in contemplation of the facts disclosed by the most recent inspection of the risk by the rating bureau as provided in this chapter, subject to the approval of the department.

(Formerly: Acts 1935, c.323, s.33.) As amended by P.L.252-1985, SEC.241.

IC 27-7-2-34

Information concerning rejected risks; automatic insurance

Sec. 34. The management of the bureau shall furnish to all members of the bureau complete information concerning each rejected risk and any member of such bureau may write any rejected risk as regular business in which event the risk so written shall no longer be treated as provided for in section 29 of this chapter. If, at expiration, the risk is still uninsured on voluntary basis, it shall automatically be insured as provided in section 29 of this chapter.

(Formerly: Acts 1935, c.323, s.34.) As amended by P.L.252-1985, SEC.242; P.L.202-2001, SEC.12.

IC 27-7-2-35

Record of rejected risks referred by bureau to members; effect of writing rejected risk as regular business

Sec. 35. The bureau shall keep a record of all risks referred to members as carrying company, coming within the provisions of section 29 of this chapter, and this record shall be open to any bureau member or its authorized representative. Any member may at any time write as regular business any risk which is carried by any other member as a carrying company, under the provisions of section 29 and such carrying company shall cancel such policy on a pro rata premium basis or thereafter carry such risk in its entirety as regular business.

(Formerly: Acts 1935, c.323, s.35.) As amended by P.L.252-1985, SEC.243.

IC 27-7-2-36

Repealed

(Repealed by P.L.249-1989, SEC.19.)

IC 27-7-2-37

Cancellation of rejected risk coverage; grounds; effect

Sec. 37. (a) If, after the issuance of a policy, it develops that an employer is not or ceases to be in good faith entitled to compensation insurance, the carrying company which issued the policy shall have the right, upon authorization of the bureau and the worker's

compensation board, to cancel the insurance in accordance with the conditions of the policy.

(b) If a policy is cancelled under the circumstances described in subsection (a), the risk shall not be assigned again by the bureau to any of its members as a carrying company until it is fully satisfied that the employer is entitled to insure as a proper rejected risk under this chapter.

(c) In the event of a cancellation under this section, the facts justifying such action shall be referred to the worker's compensation board and the department.

(Formerly: Acts 1935, c.323, s.37.) As amended by P.L.252-1985, SEC.245; P.L.28-1988, SEC.103.

IC 27-7-2-37.5

Refund of dividends, savings, or unabsorbed premium deposits

Sec. 37.5. (a) Nothing in this chapter prohibits or regulates the payment of dividends, savings, or unabsorbed premium deposits allowed or returned by companies to their policyholders, members, or subscribers, but in the payment of such dividends there shall be no unfair discrimination between policyholders.

(b) A plan for the payment of dividends, savings, or unabsorbed premium deposits allowed or returned by companies to their policyholders, members, or subscribers is not considered a rating plan or system.

(c) It is an unfair trade practice to make the payment of a dividend or any portion thereof conditioned upon renewal of the policy or contract.

As added by P.L.249-1989, SEC.16.

IC 27-7-2-38

Violations; penalties; suspension or revocation of license

Sec. 38. (a) A person who fails to comply with this chapter or fails to comply with any lawful order or ruling made by the department in the administration of this chapter commits a Class C infraction. If a person is fined for violating this section and fails to pay the fine within thirty (30) days after final judgment, the insurance commissioner shall suspend the license of the person to transact any form of insurance business in Indiana until the fine and costs incident to the final judgment are paid in full.

(b) The commissioner may, if the commissioner finds that any person or organization has violated this chapter, impose a penalty of not more than one thousand dollars (\$1,000) for each such violation but if the commissioner finds the violation is willful the commissioner may impose a penalty of not more than ten thousand dollars (\$10,000) for each such violation. These penalties are in addition to any other penalty provided by law.

(c) For purposes of this section, any company using a rate for which the company has failed to file the rate, supplementary rate

information, or supporting information, as required by this chapter, shall have committed a separate violation for each day such failure continues.

(d) The commissioner may suspend or revoke the license of the bureau or any company that fails to comply with an order of the commissioner within the time limit specified by such order, or any extension of time that the commissioner may grant.

(e) The commissioner may determine when a suspension of license becomes effective and it shall remain in effect for the period fixed by the commissioner, unless the commissioner modifies or rescinds such suspension, or until the order upon which such suspension is based is modified, rescinded, or reversed.

(f) No penalty shall be imposed and no license shall be suspended or revoked except on a written order of the commissioner, stating the commissioner's findings, made after a hearing.

(Formerly: Acts 1935, c.323, s.38.) As amended by Acts 1978, P.L.2, SEC.2723; P.L.249-1989, SEC.17.

IC 27-7-2-39

Appointment and compensation of personnel; appropriation

Sec. 39. The commissioner shall appoint such deputies, examiners, actuaries, assistants, and other employees in the department of insurance as may be found necessary to carry out the provisions of this chapter and fix the compensation thereof, subject to the approval of the state budget agency. There is hereby appropriated out of funds not otherwise appropriated in the general fund such sums as may be necessary to carry out the provisions of this chapter.

(Formerly: Acts 1935, c.323, s.38a.) As amended by P.L.252-1985, SEC.246; P.L.100-2012, SEC.66.

IC 27-7-2-40

Confidential data; data sharing with department or worker's compensation board

Sec. 40. The bureau may collect data from its members under this chapter, including:

- (1) claims data;
- (2) policy data such as policy number, policy term, and employer and employee identification information; and
- (3) proof of coverage data such as employer identification information, classification information, carrier information, agency identification information, premium information, and payroll data.

Unless this chapter specifically states otherwise, all data collected by the bureau from its members is confidential and shall not be disclosed or disseminated to third parties unless consented to by the bureau. To the extent this chapter authorizes the bureau to share the data with the department or the worker's compensation board, the

data must remain confidential. The department and the worker's compensation board shall not publish the data or distribute the data to third parties.

As added by P.L.275-2013, SEC.20.