

HOUSE BILL No. 1296

DIGEST OF INTRODUCED BILL

Citations Affected: IC 27-1-34; IC 27-4-1-4; IC 36-1-7-7.1.

Synopsis: Multiple employer welfare arrangements. Amends the law concerning multiple employer welfare arrangements (MEWA) to require a MEWA to provide each participating employer access to claims data that is specific to that employer. Provides that when a governmental entity withdraws from a MEWA, the MEWA shall distribute to the withdrawing governmental entity a share of the MEWA's reserve that is proportional to the ratio between the withdrawing governmental entity's contribution to the reserve and the contributions of all participating employers. Requires that this distribution be made within a one year period but provides that the distribution shall not occur until all claims of the employees of the withdrawing governmental entity have been paid. Makes the violation of any requirement of the MEWA law an unfair method of competition or unfair or deceptive act or practice. Provides that if a MEWA is established by governmental entities through an interlocal cooperation agreement, the cancellation or termination of the interlocal cooperation agreement or the MEWA or the termination or nonrenewal of a governmental entity's participation in the MEWA pursuant to a notice given by a governmental entity must be effective not more than three months after the governmental entity gives the notice.

Effective: July 1, 2022.

Carbaugh

January 10, 2022, read first time and referred to Committee on Financial Institutions and Insurance.



Second Regular Session of the 122nd General Assembly (2022)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2021 Regular Session of the General Assembly.

HOUSE BILL No. 1296

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 27-1-34-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 2. (a) An arrangement
3 must annually obtain a certificate of registration from the department
4 under rules adopted by the commissioner.

5 (b) An arrangement that does not obtain a certificate of registration
6 described in subsection (a) or violates ~~the requirements~~ **a requirement**
7 of this chapter is subject to IC 27-4.

8 SECTION 2. IC 27-1-34-3.5 IS ADDED TO THE INDIANA CODE
9 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
10 1, 2022]: **Sec. 3.5. An arrangement providing benefits under this**
11 **chapter shall provide each employer access to claims data specific**
12 **to that employer.**

13 SECTION 3. IC 27-1-34-5 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 5. Except as provided
15 by this chapter, ~~and by IC 27-4, and IC 27-9~~, Indiana insurance law
16 does not apply to the operation of multiple employer welfare
17 arrangements.



1 SECTION 4. IC 27-1-34-6.5 IS ADDED TO THE INDIANA CODE
 2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 3 1, 2022]: **Sec. 6.5. (a) If a governmental entity participating as an
 4 employer in a multiple employer welfare arrangement under this
 5 chapter withdraws from the arrangement, the arrangement shall
 6 distribute to the withdrawing governmental entity a share of the
 7 reserve maintained by the arrangement.**

8 **(b) The share of an arrangement's reserve that is distributed to
 9 a withdrawing governmental entity under this section:**

10 **(1) must be proportional to the ratio between the withdrawing
 11 governmental entity's contribution to the reserve and the
 12 contributions to the reserve of all employers participating in
 13 the arrangement; and**

14 **(2) must be calculated according to the rules adopted under
 15 section 9(b) of this chapter.**

16 **(c) A distribution shall not be made to a withdrawing
 17 governmental entity under this section until all claims of the
 18 employees of the withdrawing governmental entity have been paid.**

19 **(d) An arrangement shall make the distribution required by this
 20 section not more than three hundred sixty-five (365) days after the
 21 latter of the following:**

22 **(1) The date on which the payment of all claims of employees
 23 of the withdrawing governmental entity is completed.**

24 **(2) The date on which the governmental entity's withdrawal
 25 from the arrangement is completed.**

26 SECTION 5. IC 27-1-34-9 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 9. (a) The department
 28 of insurance shall adopt rules under IC 4-22-2 necessary to implement
 29 this chapter, including but not limited to:**

30 **(1) certificate of registration requirements;**

31 **(2) reinsurance requirements;**

32 **(3) reserve levels;**

33 **(4) deposits;**

34 **(5) financial reporting;**

35 **(6) fidelity bonds; and**

36 **(7) the operations;**

37 **of multiple employer welfare arrangements.**

38 **(b) Before January 1, 2023, the department of insurance shall
 39 adopt rules under this section concerning the distribution under
 40 section 6.5 of this chapter of a share of the reserve of a multiple
 41 employer welfare arrangement to a governmental entity that
 42 withdraws from the arrangement. The rules shall provide for the**



1 **calculation under section 6.5(b) of this chapter of the share of the**
 2 **arrangement's reserve that is proportional to the ratio between the**
 3 **withdrawing governmental entity's contribution to the reserve and**
 4 **the contributions to the reserve of all employers participating in**
 5 **the arrangement.**

6 SECTION 6. IC 27-4-1-4, AS AMENDED BY P.L.196-2021,
 7 SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2022]: Sec. 4. (a) The following are hereby defined as unfair
 9 methods of competition and unfair and deceptive acts and practices in
 10 the business of insurance:

11 (1) Making, issuing, circulating, or causing to be made, issued, or
 12 circulated, any estimate, illustration, circular, or statement:

13 (A) misrepresenting the terms of any policy issued or to be
 14 issued or the benefits or advantages promised thereby or the
 15 dividends or share of the surplus to be received thereon;

16 (B) making any false or misleading statement as to the
 17 dividends or share of surplus previously paid on similar
 18 policies;

19 (C) making any misleading representation or any
 20 misrepresentation as to the financial condition of any insurer,
 21 or as to the legal reserve system upon which any life insurer
 22 operates;

23 (D) using any name or title of any policy or class of policies
 24 misrepresenting the true nature thereof; or

25 (E) making any misrepresentation to any policyholder insured
 26 in any company for the purpose of inducing or tending to
 27 induce such policyholder to lapse, forfeit, or surrender the
 28 policyholder's insurance.

29 (2) Making, publishing, disseminating, circulating, or placing
 30 before the public, or causing, directly or indirectly, to be made,
 31 published, disseminated, circulated, or placed before the public,
 32 in a newspaper, magazine, or other publication, or in the form of
 33 a notice, circular, pamphlet, letter, or poster, or over any radio or
 34 television station, or in any other way, an advertisement,
 35 announcement, or statement containing any assertion,
 36 representation, or statement with respect to any person in the
 37 conduct of the person's insurance business, which is untrue,
 38 deceptive, or misleading.

39 (3) Making, publishing, disseminating, or circulating, directly or
 40 indirectly, or aiding, abetting, or encouraging the making,
 41 publishing, disseminating, or circulating of any oral or written
 42 statement or any pamphlet, circular, article, or literature which is



- 1 false, or maliciously critical of or derogatory to the financial
2 condition of an insurer, and which is calculated to injure any
3 person engaged in the business of insurance.
- 4 (4) Entering into any agreement to commit, or individually or by
5 a concerted action committing any act of boycott, coercion, or
6 intimidation resulting or tending to result in unreasonable
7 restraint of, or a monopoly in, the business of insurance.
- 8 (5) Filing with any supervisory or other public official, or making,
9 publishing, disseminating, circulating, or delivering to any person,
10 or placing before the public, or causing directly or indirectly, to
11 be made, published, disseminated, circulated, delivered to any
12 person, or placed before the public, any false statement of
13 financial condition of an insurer with intent to deceive. Making
14 any false entry in any book, report, or statement of any insurer
15 with intent to deceive any agent or examiner lawfully appointed
16 to examine into its condition or into any of its affairs, or any
17 public official to which such insurer is required by law to report,
18 or which has authority by law to examine into its condition or into
19 any of its affairs, or, with like intent, willfully omitting to make a
20 true entry of any material fact pertaining to the business of such
21 insurer in any book, report, or statement of such insurer.
- 22 (6) Issuing or delivering or permitting agents, officers, or
23 employees to issue or deliver, agency company stock or other
24 capital stock, or benefit certificates or shares in any common law
25 corporation, or securities or any special or advisory board
26 contracts or other contracts of any kind promising returns and
27 profits as an inducement to insurance.
- 28 (7) Making or permitting any of the following:
- 29 (A) Unfair discrimination between individuals of the same
30 class and equal expectation of life in the rates or assessments
31 charged for any contract of life insurance or of life annuity or
32 in the dividends or other benefits payable thereon, or in any
33 other of the terms and conditions of such contract. However,
34 in determining the class, consideration may be given to the
35 nature of the risk, plan of insurance, the actual or expected
36 expense of conducting the business, or any other relevant
37 factor.
- 38 (B) Unfair discrimination between individuals of the same
39 class involving essentially the same hazards in the amount of
40 premium, policy fees, assessments, or rates charged or made
41 for any policy or contract of accident or health insurance or in
42 the benefits payable thereunder, or in any of the terms or



1 conditions of such contract, or in any other manner whatever.
2 However, in determining the class, consideration may be given
3 to the nature of the risk, the plan of insurance, the actual or
4 expected expense of conducting the business, or any other
5 relevant factor.

6 (C) Excessive or inadequate charges for premiums, policy
7 fees, assessments, or rates, or making or permitting any unfair
8 discrimination between persons of the same class involving
9 essentially the same hazards, in the amount of premiums,
10 policy fees, assessments, or rates charged or made for:

11 (i) policies or contracts of reinsurance or joint reinsurance,
12 or abstract and title insurance;

13 (ii) policies or contracts of insurance against loss or damage
14 to aircraft, or against liability arising out of the ownership,
15 maintenance, or use of any aircraft, or of vessels or craft,
16 their cargoes, marine builders' risks, marine protection and
17 indemnity, or other risks commonly insured under marine,
18 as distinguished from inland marine, insurance; or

19 (iii) policies or contracts of any other kind or kinds of
20 insurance whatsoever.

21 However, nothing contained in clause (C) shall be construed to
22 apply to any of the kinds of insurance referred to in clauses (A)
23 and (B) nor to reinsurance in relation to such kinds of insurance.
24 Nothing in clause (A), (B), or (C) shall be construed as making or
25 permitting any excessive, inadequate, or unfairly discriminatory
26 charge or rate or any charge or rate determined by the department
27 or commissioner to meet the requirements of any other insurance
28 rate regulatory law of this state.

29 (8) Except as otherwise expressly provided by IC 27-1-47 or
30 another law, knowingly permitting or offering to make or making
31 any contract or policy of insurance of any kind or kinds
32 whatsoever, including but not in limitation, life annuities, or
33 agreement as to such contract or policy other than as plainly
34 expressed in such contract or policy issued thereon, or paying or
35 allowing, or giving or offering to pay, allow, or give, directly or
36 indirectly, as inducement to such insurance, or annuity, any rebate
37 of premiums payable on the contract, or any special favor or
38 advantage in the dividends, savings, or other benefits thereon, or
39 any valuable consideration or inducement whatever not specified
40 in the contract or policy; or giving, or selling, or purchasing or
41 offering to give, sell, or purchase as inducement to such insurance
42 or annuity or in connection therewith, any stocks, bonds, or other



1 securities of any insurance company or other corporation,
 2 association, limited liability company, or partnership, or any
 3 dividends, savings, or profits accrued thereon, or anything of
 4 value whatsoever not specified in the contract. Nothing in this
 5 subdivision and subdivision (7) shall be construed as including
 6 within the definition of discrimination or rebates any of the
 7 following practices:

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

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

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

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

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

42 (10) Entering into any contract, combination in the form of a trust



- 1 or otherwise, or conspiracy in restraint of commerce in the
2 business of insurance.
- 3 (11) Monopolizing or attempting to monopolize or combining or
4 conspiring with any other person or persons to monopolize any
5 part of commerce in the business of insurance. However,
6 participation as a member, director, or officer in the activities of
7 any nonprofit organization of insurance producers or other
8 workers in the insurance business shall not be interpreted, in
9 itself, to constitute a combination in restraint of trade or as
10 combining to create a monopoly as provided in this subdivision
11 and subdivision (10). The enumeration in this chapter of specific
12 unfair methods of competition and unfair or deceptive acts and
13 practices in the business of insurance is not exclusive or
14 restrictive or intended to limit the powers of the commissioner or
15 department or of any court of review under section 8 of this
16 chapter.
- 17 (12) Requiring as a condition precedent to the sale of real or
18 personal property under any contract of sale, conditional sales
19 contract, or other similar instrument or upon the security of a
20 chattel mortgage, that the buyer of such property negotiate any
21 policy of insurance covering such property through a particular
22 insurance company, insurance producer, or broker or brokers.
23 However, this subdivision shall not prevent the exercise by any
24 seller of such property or the one making a loan thereon of the
25 right to approve or disapprove of the insurance company selected
26 by the buyer to underwrite the insurance.
- 27 (13) Issuing, offering, or participating in a plan to issue or offer,
28 any policy or certificate of insurance of any kind or character as
29 an inducement to the purchase of any property, real, personal, or
30 mixed, or services of any kind, where a charge to the insured is
31 not made for and on account of such policy or certificate of
32 insurance. However, this subdivision shall not apply to any of the
33 following:
- 34 (A) Insurance issued to credit unions or members of credit
35 unions in connection with the purchase of shares in such credit
36 unions.
- 37 (B) Insurance employed as a means of guaranteeing the
38 performance of goods and designed to benefit the purchasers
39 or users of such goods.
- 40 (C) Title insurance.
- 41 (D) Insurance written in connection with an indebtedness and
42 intended as a means of repaying such indebtedness in the



- 1 event of the death or disability of the insured.
 2 (E) Insurance provided by or through motorists service clubs
 3 or associations.
 4 (F) Insurance that is provided to the purchaser or holder of an
 5 air transportation ticket and that:
 6 (i) insures against death or nonfatal injury that occurs during
 7 the flight to which the ticket relates;
 8 (ii) insures against personal injury or property damage that
 9 occurs during travel to or from the airport in a common
 10 carrier immediately before or after the flight;
 11 (iii) insures against baggage loss during the flight to which
 12 the ticket relates; or
 13 (iv) insures against a flight cancellation to which the ticket
 14 relates.
- 15 (14) Refusing, because of the for-profit status of a hospital or
 16 medical facility, to make payments otherwise required to be made
 17 under a contract or policy of insurance for charges incurred by an
 18 insured in such a for-profit hospital or other for-profit medical
 19 facility licensed by the state department of health.
- 20 (15) Refusing to insure an individual, refusing to continue to issue
 21 insurance to an individual, limiting the amount, extent, or kind of
 22 coverage available to an individual, or charging an individual a
 23 different rate for the same coverage, solely because of that
 24 individual's blindness or partial blindness, except where the
 25 refusal, limitation, or rate differential is based on sound actuarial
 26 principles or is related to actual or reasonably anticipated
 27 experience.
- 28 (16) Committing or performing, with such frequency as to
 29 indicate a general practice, unfair claim settlement practices (as
 30 defined in section 4.5 of this chapter).
- 31 (17) Between policy renewal dates, unilaterally canceling an
 32 individual's coverage under an individual or group health
 33 insurance policy solely because of the individual's medical or
 34 physical condition.
- 35 (18) Using a policy form or rider that would permit a cancellation
 36 of coverage as described in subdivision (17).
- 37 (19) Violating IC 27-1-22-25, IC 27-1-22-26, or IC 27-1-22-26.1
 38 concerning motor vehicle insurance rates.
- 39 (20) Violating IC 27-8-21-2 concerning advertisements referring
 40 to interest rate guarantees.
- 41 (21) Violating IC 27-8-24.3 concerning insurance and health plan
 42 coverage for victims of abuse.



- 1 (22) Violating IC 27-8-26 concerning genetic screening or testing.
 2 (23) Violating IC 27-1-15.6-3(b) concerning licensure of
 3 insurance producers.
 4 (24) Violating IC 27-1-38 concerning depository institutions.
 5 (25) Violating IC 27-8-28-17(c) or IC 27-13-10-8(c) concerning
 6 the resolution of an appealed grievance decision.
 7 (26) Violating IC 27-8-5-2.5(e) through IC 27-8-5-2.5(j) (expired
 8 July 1, 2007, and removed) or IC 27-8-5-19.2 (expired July 1,
 9 2007, and repealed).
 10 (27) Violating IC 27-2-21 concerning use of credit information.
 11 (28) Violating IC 27-4-9-3 concerning recommendations to
 12 consumers.
 13 (29) Engaging in dishonest or predatory insurance practices in
 14 marketing or sales of insurance to members of the United States
 15 Armed Forces as:
 16 (A) described in the federal Military Personnel Financial
 17 Services Protection Act, P.L.109-290; or
 18 (B) defined in rules adopted under subsection (b).
 19 (30) Violating IC 27-8-19.8-20.1 concerning stranger originated
 20 life insurance.
 21 (31) Violating IC 27-2-22 concerning retained asset accounts.
 22 (32) Violating IC 27-8-5-29 concerning health plans offered
 23 through a health benefit exchange (as defined in IC 27-19-2-8).
 24 (33) Violating a requirement of the federal Patient Protection and
 25 Affordable Care Act (P.L. 111-148), as amended by the federal
 26 Health Care and Education Reconciliation Act of 2010 (P.L.
 27 111-152), that is enforceable by the state.
 28 (34) After June 30, 2015, violating IC 27-2-23 concerning
 29 unclaimed life insurance, annuity, or retained asset account
 30 benefits.
 31 (35) Willfully violating IC 27-1-12-46 concerning a life insurance
 32 policy or certificate described in IC 27-1-12-46(a).
 33 (36) Violating IC 27-1-37-7 concerning prohibiting the disclosure
 34 of health care service claims data.
 35 (37) Violating IC 27-4-10-10 concerning virtual claims payments.
 36 (38) Violating IC 27-1-24.5 concerning pharmacy benefit
 37 managers.
 38 **(39) Violating any requirement of IC 27-1-34 concerning a**
 39 **multiple employer welfare arrangement.**
 40 (b) Except with respect to federal insurance programs under
 41 Subchapter III of Chapter 19 of Title 38 of the United States Code, the
 42 commissioner may, consistent with the federal Military Personnel



1 Financial Services Protection Act (10 U.S.C. 992 note), adopt rules
2 under IC 4-22-2 to:

3 (1) define; and

4 (2) while the members are on a United States military installation
5 or elsewhere in Indiana, protect members of the United States
6 Armed Forces from;

7 dishonest or predatory insurance practices.

8 SECTION 7. IC 36-1-7-7.1 IS ADDED TO THE INDIANA CODE
9 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
10 1, 2022]: **Sec. 7.1. If an agreement entered into under section 3 of
11 this chapter concerns the establishment of a multiple employer
12 welfare arrangement under IC 27-1-34, the following apply:**

13 **(1) If the:**

14 **(A) cancellation or termination of:**

15 **(i) the interlocal cooperation agreement; or**

16 **(ii) the multiple employer welfare arrangement
17 established through the agreement; or**

18 **(B) termination or nonrenewal of a governmental entity's
19 participation in the multiple employer welfare
20 arrangement;**

21 **pursuant to a notice of cancellation, termination, or
22 nonrenewal given by a participating governmental entity will
23 not be effective immediately upon the governmental entity
24 giving the notice, the cancellation, termination, or nonrenewal
25 must take effect not more than three (3) months after the
26 governmental entity gives the notice of cancellation,
27 termination, or nonrenewal.**

28 **(2) Every governmental entity participating in the multiple
29 employer welfare arrangement shall be given access to claims
30 data attributable to that particular governmental entity.**

