



June 13, 2007

Circular 2007-05

To: All Members

House Enrolled Act 1452

Indiana House Enrolled Act 1452 (“HEA 1452”), an omnibus insurance bill, was signed by the Governor on May 4, 2007 and is effective July 1, 2007. Of interest to workers compensation insurance are Sections 16 and 5.

Deregulation

Section 16 amends IC 27-1-22-4 and deregulates commercial insurance. In consultation with the Indiana Department of Insurance, we have concluded the amendments *do not* affect the workers compensation insurance filing scheme in Chapter 2 of the Indiana Insurance Code (the “Workers Compensation Chapter”) because HEA 1452 does not alter IC 27-1-22-2(a)(5) which specifically exempts workers compensation insurance from the provisions of Chapter 22 of the Indiana Insurance Code (the “Casualty Rates Chapter”).

The legislative decision to remove the reference to “workers compensation insurance” in IC 27-1-22-4(b)(2) has no bearing on the applicability of the workers compensation insurance filing requirements found in the Workers Compensation Chapter.

This interpretation of the amendments to IC-27-1-22-4 is consistent with general principles of statutory interpretation. The filing procedures contained in the Workers Compensation Chapter are specific to workers compensation insurance, while the filing procedures in the Casualty Rates Chapter speak to property and casualty insurance generally. Where, as here, a general provision is arguably in conflict with a specific provision, courts have consistently determined that the more specific provision is controlling.

Second Injury Fund Assessment

Section 5 amends IC 22-3-3-13 to replace the term “entire written premium...” with “direct written premium” which is consistent with the Workers Compensation Board’s notice and certification letter issued 11/28/06. Note: This amendment corrected wording from last year’s HEA 1307 effective 7/1/06.

Sincerely,

Ronald W. Cooper, CWCP
President

Link to HEA 1452 on State website:
www.in.gov/legislative/bills/2007/HE/HE1452.1.html