



January 22, 2016

HOUSE BILL No. 1024

DIGEST OF HB 1024 (Updated January 20, 2016 4:31 pm - DI 97)

Citations Affected: IC 8-5; IC 22-3; IC 27-1; IC 27-6; IC 27-7; IC 27-8; IC 34-13.

Synopsis: Political subdivision risk management. Requires the Indiana Public Employer's Plan, Inc. (IPEP), which was established as a domestic nonprofit corporation, to apply for a certificate of authority to transact business as a domestic mutual insurance company. Provides that, upon receiving the certificate of authority and beginning to transact business as a domestic mutual insurance company, the domestic mutual insurance company succeeds to all powers, duties, agreements, and liabilities of IPEP. Provides that, on January 1, 2017, (unless IPEP fails to begin operating as a domestic mutual insurance company under a certificate of authority issued by the insurance commissioner by that date) all powers, duties, agreements, and liabilities of the political subdivision risk management commission are transferred to the domestic mutual insurance company. Expires the laws establishing the political subdivision risk management commission, the political subdivision risk management fund, and the political subdivision catastrophic liability fund. Requires the auditor of state to transfer the balances of the political subdivision risk management fund and the political subdivision catastrophic liability fund to the domestic mutual insurance company. Makes conforming amendments.

Effective: July 1, 2016.

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January 5, 2016, read first time and referred to Committee on Insurance.
January 21, 2016, reported — Do Pass.

HB 1024—LS 6245/DI 97



January 22, 2016

Second Regular Session of the 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1024

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 8-5-15-24 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 24. (a) Before January
3 1 of each year, the district shall certify to the Indiana department of
4 transportation that the district has taken action to provide financial
5 responsibility against liability of the district under any agreement with
6 a commuter transportation system.
7 (b) Proof of financial responsibility under this section may be
8 established by proof that:
9 (1) a liability insurance policy is in force; or
10 (2) a self-insurance program is in effect.
11 (c) ~~The district shall participate, if feasible, in the programs~~
12 ~~established by the political subdivision risk management commission~~
13 ~~under IC 27-1-29.~~
14 SECTION 2. IC 22-3-6-2 IS AMENDED TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2016]: Sec. 2. (a) For the purpose of complying
16 with IC 22-3-5-1, groups of employers are hereby authorized to form
17 mutual insurance associations or reciprocal or interinsurance

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1 exchanges subject to such reasonable conditions and restrictions as
2 may be fixed by the department of insurance.

3 (b) Membership in such mutual insurance associations or reciprocal
4 or interinsurance exchanges so approved, together with evidence of the
5 payment of premiums due, shall be evidence of compliance with
6 IC 22-3-5-1.

7 (c) ~~Subsection (a) does not apply to mutual insurance associations
8 and reciprocal or interinsurance exchanges formed and operating on or
9 before January 1, 1991, which shall continue to operate subject to the
10 provisions of IC 22-3-2 through IC 22-3-6 and to such reasonable
11 conditions and restrictions as may be fixed by the worker's
12 compensation board.~~

13 SECTION 3. IC 22-3-7-34, AS AMENDED BY P.L.233-2015,
14 SECTION 320, IS AMENDED TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2016]: Sec. 34. (a) As used in this section,
16 "person" does not include:

17 (1) an owner who contracts for performance of work on the
18 owner's owner occupied residential property; or

19 (2) a nonprofit corporation that is recognized as tax exempt under
20 Section 501(c)(3) of the Internal Revenue Code (as defined in
21 IC 6-3-1-11(a)) to the extent the corporation enters into an
22 independent contractor agreement with a person for the
23 performance of youth coaching services on a part-time basis.

24 (b) Every employer bound by the compensation provisions of this
25 chapter, except the state, counties, townships, cities, towns, school
26 cities, school towns, other municipal corporations, state institutions,
27 state boards, and state commissions, shall insure the payment of
28 compensation to the employer's employees and their dependents in the
29 manner provided in this chapter, or procure from the worker's
30 compensation board a certificate authorizing the employer to carry such
31 risk without insurance. While that insurance or certificate remains in
32 force, the employer, or those conducting the employer's business, and
33 the employer's occupational disease insurance carrier shall be liable to
34 any employee and the employee's dependents for disablement or death
35 from occupational disease arising out of and in the course of
36 employment only to the extent and in the manner specified in this
37 chapter.

38 (c) Every employer who, by election, is bound by the compensation
39 provisions of this chapter, except those exempted from the provisions
40 by subsection (b), shall:

41 (1) insure and keep insured the employer's liability under this
42 chapter in some corporation, association, or organization



1 authorized to transact the business of worker's compensation
2 insurance in this state; or

3 (2) furnish to the worker's compensation board satisfactory proof
4 of the employer's financial ability to pay the compensation in the
5 amount and manner and when due as provided for in this chapter.

6 In the latter case the board may require the deposit of an acceptable
7 security, indemnity, or bond to secure the payment of compensation
8 liabilities as they are incurred.

9 (d) Every employer required to carry insurance under this section
10 shall file with the worker's compensation board in the form prescribed
11 by it, within ten (10) days after the termination of the employer's
12 insurance by expiration or cancellation, evidence of the employer's
13 compliance with subsection (c) and other provisions relating to the
14 insurance under this chapter. The venue of all criminal actions under
15 this section lies in the county in which the employee was last exposed
16 to the occupational disease causing disablement. The prosecuting
17 attorney of the county shall prosecute all violations upon written
18 request of the board. The violations shall be prosecuted in the name of
19 the state.

20 (e) Whenever an employer has complied with subsection (c) relating
21 to self-insurance, the worker's compensation board shall issue to the
22 employer a certificate which shall remain in force for a period fixed by
23 the board, but the board may, upon at least thirty (30) days notice, and
24 a hearing to the employer, revoke the certificate, upon presentation of
25 satisfactory evidence for the revocation. After the revocation, the board
26 may grant a new certificate to the employer upon the employer's
27 petition, and satisfactory proof of the employer's financial ability.

28 (f)(1) Subject to the approval of the worker's compensation board,
29 any employer may enter into or continue any agreement with the
30 employer's employees to provide a system of compensation, benefit, or
31 insurance in lieu of the compensation and insurance provided by this
32 chapter. A substitute system may not be approved unless it confers
33 benefits upon employees and their dependents at least equivalent to the
34 benefits provided by this chapter. It may not be approved if it requires
35 contributions from the employees unless it confers benefits in addition
36 to those provided under this chapter, which are at least commensurate
37 with such contributions.

38 (f)(2) The substitute system may be terminated by the worker's
39 compensation board on reasonable notice and hearing to the interested
40 parties, if it appears that the same is not fairly administered or if its
41 operation shall disclose latent defects threatening its solvency, or if for
42 any substantial reason it fails to accomplish the purpose of this chapter.



1 On termination, the board shall determine the proper distribution of all
2 remaining assets, if any, subject to the right of any party in interest to
3 take an appeal to the court of appeals.

4 (g)(1) No insurer shall enter into or issue any policy of insurance
5 under this chapter until its policy form has been submitted to and
6 approved by the worker's compensation board. The board shall not
7 approve the policy form of any insurance company until the company
8 shall file with it the certificate of the insurance commissioner showing
9 that the company is authorized to transact the business of worker's
10 compensation insurance in Indiana. The filing of a policy form by any
11 insurance company or reciprocal insurance association with the board
12 for approval constitutes on the part of the company or association a
13 conclusive and unqualified acceptance of each of the compensation
14 provisions of this chapter, and an agreement by it to be bound by the
15 compensation provisions of this chapter.

16 (g)(2) All policies of insurance companies and of reciprocal
17 insurance associations, insuring the payment of compensation under
18 this chapter, shall be conclusively presumed to cover all the employees
19 and the entire compensation liability of the insured under this chapter
20 in all cases in which the last day of the exposure rendering the
21 employer liable is within the effective period of such policy.

22 (g)(3) Any provision in any such policy attempting to limit or
23 modify the liability of the company or association insuring the same
24 shall be wholly void.

25 (g)(4) Every policy of any company or association shall be deemed
26 to include the following provisions:

27 "(A) The insurer assumes in full all the obligations to pay
28 physician's fees, nurse's charges, hospital supplies, burial
29 expenses, compensation or death benefits imposed upon or
30 accepted by the insured under this chapter.

31 (B) This policy is subject to the provisions of this chapter relative
32 to the liability of the insured to pay physician's fees, nurse's
33 charges, hospital services, hospital supplies, burial expenses,
34 compensation or death benefits to and for such employees, the
35 acceptance of such liability by the insured, the adjustment, trial
36 and adjudication of claims for such physician's fees, nurse's
37 charges, hospital services, hospital supplies, burial expenses,
38 compensation, or death benefits.

39 (C) Between this insurer and the employee, notice to or
40 knowledge of the occurrence of the disablement on the part of the
41 insured (the employer) shall be notice or knowledge thereof, on
42 the part of the insurer. The jurisdiction of the insured (the



1 employer) for the purpose of this chapter is the jurisdiction of this
2 insurer, and this insurer shall in all things be bound by and shall
3 be subject to the awards, judgments and decrees rendered against
4 the insured (the employer) under this chapter.

5 (D) This insurer will promptly pay to the person entitled to the
6 same all benefits conferred by this chapter, including all
7 physician's fees, nurse's charges, hospital services, hospital
8 supplies, burial expenses, and all installments of compensation or
9 death benefits that may be awarded or agreed upon under this
10 chapter. The obligation of this insurer shall not be affected by any
11 default of the insured (the employer) after disablement or by any
12 default in giving of any notice required by this policy, or
13 otherwise. This policy is a direct promise by this insurer to the
14 person entitled to physician's fees, nurse's charges, fees for
15 hospital services, charges for hospital services, charges for
16 hospital supplies, charges for burial, compensation, or death
17 benefits, and shall be enforceable in the name of the person.

18 (E) Any termination of this policy by cancellation shall not be
19 effective as to employees of the insured covered hereby unless at
20 least thirty (30) days prior to the taking effect of such
21 cancellation, a written notice giving the date upon which such
22 termination is to become effective has been received by the
23 worker's compensation board of Indiana at its office in
24 Indianapolis, Indiana.

25 (F) This policy shall automatically expire one (1) year from the
26 effective date of the policy, unless the policy covers a period of
27 three (3) years, in which event, it shall automatically expire three
28 (3) years from the effective date of the policy. The termination
29 either of a one (1) year or a three (3) year policy, is effective as to
30 the employees of the insured covered by the policy."

31 (g)(5) All claims for compensation, nurse's charges, hospital
32 services, hospital supplies, physician's fees, or burial expenses may be
33 made directly against either the employer or the insurer or both, and the
34 award of the worker's compensation board may be made against either
35 the employer or the insurer or both.

36 (g)(6) If any insurer shall fail to pay any final award or judgment
37 (except during the pendency of an appeal) rendered against it, or its
38 insured, or, if it shall fail to comply with this chapter, the worker's
39 compensation board shall revoke the approval of its policy forms, and
40 shall not accept any further proofs of insurance from it until it shall
41 have paid the award or judgment or complied with this chapter, and
42 shall have resubmitted its policy form and received the approval of the



1 policy by the worker's compensation board.

2 (h) No policy of insurance covering the liability of an employer for
3 worker's compensation shall be construed to cover the liability of the
4 employer under this chapter for any occupational disease unless the
5 liability is expressly accepted by the insurance carrier issuing the
6 policy and is endorsed in that policy. The insurance or security in force
7 to cover compensation liability under this chapter shall be separate
8 from the insurance or security under IC 22-3-2 through IC 22-3-6. Any
9 insurance contract covering liability under either part of this article
10 need not cover any liability under the other.

11 (i) For the purpose of complying with subsection (c), groups of
12 employers are authorized to form mutual insurance associations or
13 reciprocal or interinsurance exchanges subject to any reasonable
14 conditions and restrictions fixed by the department of insurance. ~~This
15 subsection does not apply to mutual insurance associations and
16 reciprocal or interinsurance exchanges formed and operating on or
17 before January 1, 1991, which shall continue to operate subject to the
18 provisions of this chapter and to such reasonable conditions and
19 restrictions as may be fixed by the worker's compensation board.~~

20 (j) Membership in a mutual insurance association or a reciprocal or
21 interinsurance exchange so proved, together with evidence of the
22 payment of premiums due, is evidence of compliance with subsection
23 (c).

24 (k) Any person bound under the compensation provisions of this
25 chapter, contracting for the performance of any work exceeding one
26 thousand dollars (\$1,000) in value, in which the hazard of an
27 occupational disease exists, by a contractor subject to the compensation
28 provisions of this chapter without exacting from the contractor a
29 certificate from the worker's compensation board showing that the
30 contractor has complied with subsections (b), (c), and (d), shall be
31 liable to the same extent as the contractor for compensation, physician's
32 fees, hospital fees, nurse's charges, and burial expenses on account of
33 the injury or death of any employee of such contractor, due to
34 occupational disease arising out of and in the course of the
35 performance of the work covered by such contract.

36 (l) Any contractor who sublets any contract for the performance of
37 any work to a subcontractor subject to the compensation provisions of
38 this chapter, without obtaining a certificate from the worker's
39 compensation board showing that the subcontractor has complied with
40 subsections (b), (c), and (d), is liable to the same extent as the
41 subcontractor for the payment of compensation, physician's fees,
42 hospital fees, nurse's charges, and burial expense on account of the



1 injury or death of any employee of the subcontractor due to
 2 occupational disease arising out of and in the course of the
 3 performance of the work covered by the subcontract.

4 (m) A person paying compensation, physician's fees, hospital fees,
 5 nurse's charges, or burial expenses, under subsection (k) or (l), may
 6 recover the amount paid or to be paid from any person who would
 7 otherwise have been liable for the payment thereof and may, in
 8 addition, recover the litigation expenses and attorney's fees incurred in
 9 the action before the worker's compensation board as well as the
 10 litigation expenses and attorney's fees incurred in an action to collect
 11 the compensation, medical expenses, and burial expenses.

12 (n) Every claim filed with the worker's compensation board under
 13 this section shall be instituted against all parties liable for payment.
 14 The worker's compensation board, in an award under subsection (k),
 15 shall fix the order in which such parties shall be exhausted, beginning
 16 with the immediate employer and, in an award under subsection (l),
 17 shall determine whether the subcontractor has the financial ability to
 18 pay the compensation and medical expenses when due and, if not, shall
 19 order the contractor to pay the compensation and medical expenses.

20 SECTION 4. IC 27-1-20-28 IS REPEALED [EFFECTIVE JULY 1,
 21 2016]. ~~Sec. 28: The provisions of this article shall not apply to any~~
 22 ~~interinsurance association or reciprocal or interinsurance exchange~~
 23 ~~organized under and by virtue of Acts 1915, c.106, as amended and~~
 24 ~~supplemented; and formed and operating on or before January 1, 1991;~~
 25 ~~for the sole purpose of writing worker's compensation insurance.~~

26 SECTION 5. IC 27-1-29-29 IS ADDED TO THE INDIANA CODE
 27 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 28 1, 2016]: **Sec. 29. This chapter expires on the later of the following**
 29 **dates:**

30 **(1) January 1, 2017.**

31 **(2) The date, as certified by the insurance commissioner under**
 32 **IC 27-1-45-6(c), on which:**

33 **(A) the Indiana Public Employer's Plan, Inc., begins**
 34 **operating as a domestic mutual insurance company under**
 35 **a certificate of authority issued under IC 27-1-45; and**

36 **(B) the powers, rights, duties, assets, and obligations of the**
 37 **political subdivision risk management commission**
 38 **established by IC 27-1-29 are transferred to the domestic**
 39 **mutual insurance company under IC 27-1-45.**

40 SECTION 6. IC 27-1-29.1-23 IS ADDED TO THE INDIANA
 41 CODE AS A NEW SECTION TO READ AS FOLLOWS
 42 [EFFECTIVE JULY 1, 2016]: **Sec. 23. This chapter expires on the**



1 later of the following dates:

2 (1) January 1, 2017.

3 (2) The date, as certified by the insurance commissioner under
4 IC 27-1-45-6(c), on which:

5 (A) the Indiana Public Employer's Plan, Inc., begins
6 operating as a domestic mutual insurance company under
7 a certificate of authority issued under IC 27-1-45; and

8 (B) the powers, rights, duties, assets, and obligations of the
9 political subdivision risk management commission
10 established by IC 27-1-29 are transferred to the domestic
11 mutual insurance company under IC 27-1-45.

12 SECTION 7. IC 27-1-45 IS ADDED TO THE INDIANA CODE AS
13 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
14 1, 2016]:

15 **Chapter 45. Political Subdivision Risk Management**

16 **Sec. 1.** As used in this chapter, "IPEP" refers to the Indiana
17 Public Employer's Plan, Inc., which was originally incorporated
18 under the name Indiana Employers' Compensation Plan, Inc. as a
19 domestic nonprofit corporation on December 11, 1989.

20 **Sec. 2.** As used in this chapter, "political subdivision" has the
21 meaning set forth in IC 34-6-2-110.

22 **Sec. 3.** As used in this chapter, "political subdivision risk
23 management commission" refers to the commission established by
24 IC 27-1-29 (before its expiration).

25 **Sec. 4. (a)** IPEP shall apply to the insurance commissioner for
26 a certificate of authority to transact the business of insurance in
27 Indiana as a domestic mutual insurance company.

28 **(b)** The insurance commissioner may not grant the application
29 for a certificate of authority submitted under subsection (a) unless
30 the following requirements have been met:

31 (1) IPEP must submit information ensuring that, as a
32 domestic mutual insurance company, IPEP will protect the
33 interests of the political subdivisions and other governmental
34 entities eligible to participate in:

35 (A) the political subdivision risk management fund
36 established by IC 27-1-29-10 (before its expiration); or

37 (B) the political subdivision catastrophic liability fund
38 established by IC 27-1-29.1-7 (before its expiration).

39 (2) IPEP must submit information ensuring that, as a
40 domestic mutual insurance company, IPEP will be able to
41 adequately provide indemnification for liabilities held by the
42 political subdivision risk management commission at the time



1 of IPEP's application, including liabilities incurred but not
2 reported.

3 (3) IPEP must submit information ensuring that, as a
4 domestic mutual insurance company, IPEP will continue to
5 offer coverage to political subdivisions in the manner
6 contemplated by IC 27-1-29-11 (before its expiration).

7 (4) The bylaws or articles of incorporation prepared by IPEP
8 for purposes of IPEP's conversion to a domestic mutual
9 insurance company must require that:

10 (A) the board of the domestic mutual insurance company
11 be made up of at least seven (7) individuals; and

12 (B) a majority of the members of the board be
13 representatives of political subdivisions insured by the
14 domestic mutual insurance company.

15 (5) IPEP, in converting to a domestic mutual insurance
16 company, must meet the requirements and conditions for the
17 formation of a domestic mutual insurance company set forth
18 in IC 27-1-6, including an examination under IC 27-1-6-17.

19 Sec. 5. (a) After:

20 (1) receiving a certificate of authority from the insurance
21 commissioner to transact the business of insurance in Indiana
22 as a domestic mutual insurance company; and

23 (2) making any changes in structure and legal status necessary
24 or beneficial to the conversion of IPEP from a domestic
25 nonprofit corporation into a domestic mutual insurance
26 company;

27 IPEP shall begin transacting the business of insurance as a
28 domestic mutual insurance company.

29 (b) All of the following apply on the date on which IPEP begins
30 transacting the business of insurance as a domestic mutual
31 insurance company:

32 (1) All powers, duties, agreements, and liabilities that IPEP
33 had as a domestic nonprofit corporation immediately before
34 the date are transferred to the domestic mutual insurance
35 company as the successor entity.

36 (2) All records and property that IPEP had as a domestic
37 nonprofit corporation immediately before the date, including
38 all funds under the control or supervision of IPEP, are
39 transferred to the domestic mutual insurance company as the
40 successor entity.

41 (3) Any amounts owed to IPEP immediately before the date
42 are considered to be owed to the domestic mutual insurance



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company as the successor entity.
(4) A reference to IPEP in a statute, rule, or other document is considered a reference to the domestic insurance company as the successor entity.
(5) All powers, duties, agreements, and liabilities of IPEP immediately before the date with respect to bonds issued by IPEP in connection with any trust agreement or indenture securing the bonds are transferred to the domestic mutual insurance company as the successor entity. The rights of the trustee under any trust agreement or indenture and the rights of the bondholders of IPEP remain unchanged despite the transfer of the powers, duties, agreements, and liabilities of IPEP to the domestic mutual insurance company as the successor entity.

Sec. 6. (a) Subsection (b)(1) through (b)(5) applies on the later of the following dates:

- (1) January 1, 2017.
- (2) The date on which IPEP begins transacting the business of insurance as a domestic mutual insurance company under section 5(a) of this chapter.

(b) The following apply on the date specified in subsection (a):

- (1) All powers, duties, agreements, and liabilities of the political subdivision risk management commission are transferred to the domestic mutual insurance company as the successor entity.
- (2) All records and property of the political subdivision risk management commission, including appropriations and other funds under the control or supervision of the political subdivision risk management commission, are transferred to the domestic mutual insurance company as the successor entity.
- (3) Any amounts owed to the political subdivision risk management commission are considered to be owed to the domestic mutual insurance company as the successor entity.
- (4) A reference to the political subdivision risk management commission in a statute, rule, or other document is considered a reference to the domestic insurance company as the successor entity.
- (5) All powers, duties, agreements, and liabilities of the political subdivision risk management commission with respect to bonds issued by the political subdivision risk management commission in connection with any trust



1 agreement or indenture securing the bonds are transferred to
 2 the domestic mutual insurance company as the successor
 3 entity. The rights of the trustee under any trust agreement or
 4 indenture and the rights of the bondholders of the political
 5 subdivision risk management commission remain unchanged
 6 despite the transfer of the powers, duties, agreements, and
 7 liabilities of the political subdivision risk management
 8 commission to the domestic mutual insurance company as the
 9 successor entity.

10 (c) For the purposes of IC 27-1-29-29, IC 27-1-29.1-23, this
 11 section, section 7 of this chapter, and IC 34-13-3-8, the insurance
 12 commissioner shall certify the date on which:

- 13 (1) IPEP begins transacting the business of insurance as a
 14 domestic mutual insurance company under section 5(a) of this
 15 chapter; and
- 16 (2) the powers, rights, duties, assets, and obligations of the
 17 political subdivision risk management commission are
 18 transferred under this section to the domestic mutual
 19 insurance company to which IPEP has converted.

20 Sec. 7. The auditor of state shall, not before January 1, 2017,
 21 and not later than thirty (30) days after the date certified by the
 22 insurance commissioner under section 6(c) of this chapter, transfer
 23 the balance of funds in:

- 24 (1) the political subdivision risk management fund established
 25 by IC 27-1-29-10 (before its expiration); and
- 26 (2) the political subdivision catastrophic liability fund
 27 established by IC 27-1-29.1-7 (before its expiration);

28 to the domestic mutual insurance company to which IPEP has
 29 converted under this chapter.

30 SECTION 8. IC 27-6-4-1 IS REPEALED [EFFECTIVE JULY 1,
 31 2016]. Sec. 1. Nothing in IC 27-6-6-3, IC 27-6-6-6, or IC 27-6-6-7 shall
 32 be construed to annul, restrict, or in any manner interfere with the
 33 licensing and supervision of mutual insurance associations and
 34 reciprocal associations formed and operating on or before January 1,
 35 1991, solely for the writing of worker's compensation insurance as
 36 provided under IC 22-3.

37 SECTION 9. IC 27-7-2-26 IS REPEALED [EFFECTIVE JULY 1,
 38 2016]. Sec. 26. Nothing in this chapter shall be construed to annul,
 39 restrict, or in any manner interfere with the licensing and supervision
 40 of mutual insurance associations and reciprocal associations formed
 41 and operating on or before January 1, 1991, solely for the writing of



1 worker's compensation insurance as provided under IC 22-3-2 through
2 IC 22-3-6.

3 SECTION 10. IC 27-8-8-2, AS AMENDED BY P.L.276-2013,
4 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
5 JULY 1, 2016]: Sec. 2. (a) The definitions in this section apply
6 throughout this chapter.

7 (b) "Account" means one (1) of the two (2) accounts created under
8 section 3 of this chapter.

9 (c) "Annuity contract", except as provided in section 2.3(e) of this
10 chapter, includes:

- 11 (1) a guaranteed investment contract;
- 12 (2) a deposit administration contract;
- 13 (3) a structured settlement annuity;
- 14 (4) an annuity issued to or in connection with a government
15 lottery; and
- 16 (5) an immediate or a deferred annuity contract.

17 (d) "Assessment base year" means, for an impaired insurer or
18 insolvent insurer, the most recent calendar year for which required
19 premium information is available preceding the calendar year during
20 which the impaired insurer's or insolvent insurer's coverage date
21 occurs.

22 (e) "Association", except when the context otherwise requires,
23 means the Indiana life and health insurance guaranty association
24 created by section 3 of this chapter.

25 (f) "Benefit plan" means a specific plan, fund, or program that is
26 established or maintained by an employer or an employee organization,
27 or both, that:

- 28 (1) provides retirement income to employees; or
- 29 (2) results in a deferral of income by employees for a period
30 extending to or beyond the termination of employment.

31 (g) "Board" refers to the board of directors of the association
32 selected under IC 27-8-8-4.

33 (h) "Called", when used in the context of assessments, means that
34 notice has been issued by the association to member insurers requiring
35 the member insurers to pay, within a time frame set forth in the notice,
36 an assessment that has been authorized by the board.

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

39 (j) "Contractual obligation" means an enforceable obligation under
40 a covered policy for which and to the extent that coverage is provided
41 under section 2.3 of this chapter.



1 (k) "Coverage date" means, with respect to a member insurer, the
2 date on which the earlier of the following occurs:

- 3 (1) The member insurer becomes an insolvent insurer.
4 (2) The association determines that the association will provide
5 coverage under section 5(a) of this chapter with respect to the
6 member insurer.

7 (l) "Covered policy" means a:

- 8 (1) nongroup policy or contract;
9 (2) certificate under a group policy or contract; or
10 (3) part of a policy, contract, or certificate described in
11 subdivisions (1) and (2);

12 for which coverage is provided under section 2.3 of this chapter.

13 (m) "Extracontractual claims" includes claims that relate to bad faith
14 in the payment of claims, punitive or exemplary damages, or attorney's
15 fees and costs.

16 (n) "Funding agreement" has the meaning set forth in
17 IC 27-1-12.7-1.

18 (o) "Impaired insurer" means a member insurer that is:

- 19 (1) not an insolvent insurer; and
20 (2) placed under an order of rehabilitation or conservation by a
21 court with jurisdiction.

22 (p) "Insolvent insurer" means a member insurer that is placed under
23 an order of liquidation with a finding of insolvency by a court with
24 jurisdiction.

25 (q) "Member insurer" means any person that holds a certificate of
26 authority to transact in Indiana any kind of insurance for which
27 coverage is provided under section 2.3 of this chapter. The term
28 includes an insurer whose certificate of authority to transact such
29 insurance in Indiana may have been suspended, revoked, not renewed,
30 or voluntarily withdrawn but does not include the following:

- 31 (1) A for-profit or nonprofit hospital or medical service
32 organization.
33 (2) A health maintenance organization under IC 27-13.
34 (3) A fraternal benefit society under IC 27-11.
35 (4) The Indiana Comprehensive Health Insurance Association or
36 any other mandatory state pooling plan or arrangement.
37 (5) An assessment company or another person that operates on an
38 assessment plan (as defined in IC 27-1-2-3(y)).
39 (6) An interinsurance or reciprocal exchange authorized by
40 IC 27-6-6.



- 1 (7) A prepaid limited service health maintenance organization or
- 2 a limited service health maintenance organization under IC 27-13-34.
- 3 (8) A farm mutual insurance company under IC 27-5.1.
- 4 (9) A person operating as a Lloyds under IC 27-7-1.
- 5 (10) The political subdivision risk management fund established
- 6 by IC 27-1-29-10 **(before its expiration)** and the political
- 7 subdivision catastrophic liability fund established by
- 8 IC 27-1-29.1-7 **(before its expiration)**.
- 9 (11) The small employer health reinsurance board established by
- 10 IC 27-8-15.5-5.
- 11 (12) A person similar to any person described in subdivisions (1)
- 12 through (11).
- 13 (r) "Moody's Corporate Bond Yield Average" means:
- 14 (1) the monthly average of the composite yield on seasoned
- 15 corporate bonds as published by Moody's Investors Service, Inc.;
- 16 or
- 17 (2) if the monthly average described in subdivision (1) is no
- 18 longer published, an alternative publication of interest rates or
- 19 yields determined appropriate by the association.
- 20 (s) "Multiple employer welfare arrangement" has the meaning set
- 21 forth in IC 27-1-34-1.
- 22 (t) "Owner" means the person:
- 23 (1) identified as the legal owner of a policy or contract according
- 24 to the terms of the policy or contract; or
- 25 (2) otherwise vested with legal title to a policy or contract through
- 26 a valid assignment completed in accordance with the terms of the
- 27 policy or contract and properly recorded as the owner on the
- 28 books of the insurer.
- 29 The term does not include a person with a mere beneficial interest in
- 30 a policy or contract.
- 31 (u) "Person" means an individual, a corporation, a limited liability
- 32 company, a partnership, an association, a governmental entity, a
- 33 voluntary organization, a trust, a trustee, or another business entity or
- 34 organization.
- 35 (v) "Plan sponsor" refers to only one (1) of the following with
- 36 respect to a benefit plan:
- 37 (1) The employer, in the case of a benefit plan established or
- 38 maintained by a single employer.
- 39 (2) The holding company or controlling affiliate, in the case of a
- 40 benefit plan established or maintained by affiliated companies
- 41 comprising a consolidated corporation.



- 1 (3) The employee organization, in the case of a benefit plan
 2 established or maintained by an employee organization.
- 3 (4) In a case of a benefit plan established or maintained:
 4 (A) by two (2) or more employers;
 5 (B) by two (2) or more employee organizations; or
 6 (C) jointly by one (1) or more employers and one (1) or more
 7 employee organizations;
 8 and that is not of a type described in subdivision (2), the
 9 association, committee, joint board of trustees, or other similar
 10 group of representatives of the parties that establish or maintain
 11 the benefit plan.
- 12 (w) "Premiums" means amounts, deposits, and considerations
 13 received on covered policies, less returned premiums, returned
 14 deposits, returned considerations, dividends, and experience credits.
 15 The term does not include the following:
 16 (1) Amounts, deposits, and considerations received for policies or
 17 contracts or parts of policies or contracts for which coverage is
 18 not provided under section 2.3(d) of this chapter, as qualified by
 19 section 2.3(e) of this chapter, except that an assessable premium
 20 must not be reduced on account of the limitations set forth in
 21 section 2.3(e)(3), 2.3(e)(15), or 2.3(f)(2) of this chapter.
 22 (2) Premiums in excess of five million dollars (\$5,000,000) on an
 23 unallocated annuity contract not issued or not connected with a
 24 governmental benefit plan established under Section 401, 403(b),
 25 or 457 of the United States Internal Revenue Code.
- 26 (x) "Principal place of business" refers to the single state in which
 27 individuals who establish policy for the direction, control, and
 28 coordination of the operations of an entity as a whole primarily exercise
 29 the direction, control, and coordination, as determined by the
 30 association in the association's reasonable judgment by considering the
 31 following factors:
 32 (1) The state in which the primary executive and administrative
 33 headquarters of the entity is located.
 34 (2) The state in which the principal office of the chief executive
 35 officer of the entity is located.
 36 (3) The state in which the board of directors or similar governing
 37 person of the entity conducts the majority of the board of
 38 directors' or governing person's meetings.
 39 (4) The state in which the executive or management committee of
 40 the board of directors or similar governing person of the entity
 41 conducts the majority of the committee's meetings.



- 1 (5) The state from which the management of the overall
2 operations of the entity is directed.
- 3 However, in the case of a plan sponsor, if more than fifty percent (50%)
4 of the participants in the plan sponsor's benefit plan are employed in a
5 single state, that state is considered to be the principal place of business
6 of the plan sponsor. The principal place of business of a plan sponsor
7 of a benefit plan described in subsection (v)(4), if more than fifty
8 percent (50%) of the participants in the plan sponsor's benefit plan are
9 not employed in a single state, is considered to be the principal place
10 of business of the association, committee, joint board of trustees, or
11 other similar group of representatives of the parties that establish or
12 maintain the benefit plan and, in the absence of a specific or clear
13 designation of a principal place of business, is considered to be the
14 principal place of business of the employer or employee organization
15 that has the largest investment in the benefit plan in question on the
16 coverage date.
- 17 (y) "Receivership court" refers to the court in an insolvent insurer's
18 or impaired insurer's state that has jurisdiction over the conservation,
19 rehabilitation, or liquidation of the insolvent insurer or impaired
20 insurer.
- 21 (z) "Resident" means the following:
- 22 (1) An individual who resides in Indiana on the applicable
23 coverage date.
- 24 (2) A person that is not an individual and has the person's
25 principal place of business in Indiana on the applicable coverage
26 date.
- 27 (aa) "State" includes a state, the District of Columbia, Puerto Rico,
28 and a United States possession, territory, or protectorate.
- 29 (bb) "Structured settlement annuity" means an annuity purchased to
30 fund periodic payments for a plaintiff or other claimant in payment for
31 or with respect to personal injury suffered by the plaintiff or other
32 claimant.
- 33 (cc) "Supplemental contract" means a written agreement entered
34 into for the distribution of proceeds under a life, health, or annuity
35 policy or contract.
- 36 (dd) "Unallocated annuity contract" means an annuity contract or
37 group annuity certificate:
- 38 (1) the owner of which is not a natural person; and
39 (2) that does not identify at least one (1) specific natural person
40 as an annuitant;
- 41 except to the extent of any annuity benefits guaranteed to a natural
42 person by an insurer under the contract or certificate. For purposes of



1 this chapter, an unallocated annuity contract shall not be considered a
 2 group policy or group contract.

3 SECTION 11. IC 34-13-3-8 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 8. (a) Except as
 5 provided in section 9 of this chapter **and subsection (b), for a loss**
 6 **arising from an act or omission occurring before the date certified**
 7 **by the insurance commissioner under IC 27-1-45-6(c)**, a claim
 8 against a political subdivision is barred unless notice is filed with:

9 (1) the governing body of that political subdivision; and

10 (2) the Indiana political subdivision risk management commission
 11 created under IC 27-1-29 **(before its expiration)**;
 12 within one hundred eighty (180) days after the loss occurs.

13 (b) **For a loss arising from an act or omission occurring before**
 14 **the date certified by the insurance commissioner under**
 15 **IC 27-1-45-6(c)**, a claim against a political subdivision is not barred
 16 for failure to file notice with the Indiana political subdivision risk
 17 management commission created under IC 27-1-29-5 **(before its**
 18 **expiration)** if the political subdivision was not a member of the
 19 political subdivision risk management fund established under
 20 IC 27-1-29-10 **(before its expiration)** at the time the act or omission
 21 took place.

22 (c) **Except as provided in section 9 of this chapter and subsection**
 23 **(d), for a loss arising from an act or omission occurring on or after**
 24 **the date certified by the insurance commissioner under**
 25 **IC 27-1-45-6(c)**, a claim against a political subdivision is barred
 26 unless notice is filed with:

27 (1) the governing body of that political subdivision; and

28 (2) the domestic mutual insurance company to which the
 29 powers, rights, duties, assets, and obligations of the political
 30 subdivision risk management commission are transferred
 31 under IC 27-1-45;

32 within one hundred eighty (180) days after the loss occurs.

33 (d) **For a loss arising from an act or omission occurring on or**
 34 **after the date certified by the insurance commissioner under**
 35 **IC 27-1-45-6(c)**, a claim against a political subdivision is not barred
 36 for failure to file notice with the domestic mutual insurance
 37 company referred to in subsection (c)(2) if the political subdivision
 38 was not insured by the domestic mutual insurance company when
 39 the act or omission took place.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred House Bill 1024, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1024 as introduced.)

CARBAUGH

Committee Vote: Yeas 9, Nays 0

