

# HOUSE BILL No. 1301

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-10-8.1-8; IC 5-22-2-23; IC 5-23-3-2; IC 8-15.5-5-2; IC 8-15.7-5-1.5; IC 12-15-12-13; IC 27-1; IC 27-3-1-4; IC 27-8; IC 27-13-36.2-5; IC 27-15-6-2; IC 27-18.

**Synopsis:** Insurance matters. Updates names of health care provider billing forms. Requires that public-private agreements must contain performance bond and payment bond requirements. Provides for electronic filing of single copies of articles of incorporation, amendment, merger, consolidation, dissolution, and reorganization of insurers with and by the secretary of state, rather than multiple paper copies. Repeals the law providing for a multistate surplus lines insurance compact, which has not gone into effect due to an insufficient number of states enacting the legislation. Amends the law concerning taxation of surplus lines producers on business sold to insureds whose home state is Indiana. Requires health maintenance organizations to be member insurers in the life and health insurance guaranty association. Makes conforming amendments.

**Effective:** July 1, 2018.

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## Carbaugh, Austin

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January 11, 2018, read first time and referred to Committee on Insurance.

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Second Regular Session of the 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

## HOUSE BILL No. 1301

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 5-10-8.1-8 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 8. A provider shall  
3 submit only the following forms for payment by an administrator:  
4 (1) ~~HCFA-1500~~; **CMS-1500**.  
5 (2) ~~HCFA-1450 (UB-92)~~; **CMS-1450 (UB-04)**.  
6 (3) American Dental Association (ADA) claim form.  
7 SECTION 2. IC 5-22-2-23, AS AMENDED BY P.L.255-2017,  
8 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
9 JULY 1, 2018]: Sec. 23. (a) "Public funds" means money:  
10 (1) derived from the revenue sources of the governmental body;  
11 and  
12 (2) deposited into the general or a special fund of the  
13 governmental body.  
14 (b) The term does not include either of the following:  
15 (1) Money ~~received by~~ **paid to** a person under an authorized  
16 public-private agreement under IC 5-23.  
17 (2) Proceeds of bonds payable exclusively by a private entity.



1 SECTION 3. IC 5-23-3-2 IS AMENDED TO READ AS FOLLOWS  
 2 [EFFECTIVE JULY 1, 2018]: Sec. 2. BOT agreements may provide  
 3 the following:

4 (1) The design, construction, operation, management,  
 5 maintenance, or financing of the cost of a public facility shall be  
 6 partially or entirely the responsibility of the operator.

7 (2) The governmental body shall lease the public facility and real  
 8 property owned by the governmental body upon which the public  
 9 facility is to be located to the operator for a predetermined period.  
 10 The BOT agreement must provide for ownership of all  
 11 improvements by the governmental body, unless the  
 12 governmental body elects to provide for ownership of the public  
 13 facility by the operator during the term of the BOT agreement. In  
 14 this case, ownership reverts back to the governmental body upon  
 15 the termination of the BOT agreement.

16 (3) The BOT agreement must identify which costs are to be the  
 17 responsibility of the operator and which costs are to be the  
 18 responsibility of the governmental body.

19 (4) The operator may be authorized to retain a mutually agreed  
 20 upon percentage of the revenues received in the operation and  
 21 management of the public facility, or the operator may be paid an  
 22 amount established by the governmental body, which shall be  
 23 applied as follows:

24 (A) Capital outlay costs for the public facility and public  
 25 service plus interest and principal repayment for any debt  
 26 incurred.

27 (B) Costs associated with the operation, management, and  
 28 maintenance of the public facility.

29 (C) Payment to the governmental body for reimbursement of  
 30 the costs of maintenance, law enforcement, and other services  
 31 if the services are performed by the governmental body under  
 32 the BOT agreement.

33 (D) An agreed upon return on investment to the operator.

34 (5) The operator may pay the governmental body either a lease  
 35 payment or a percentage of gross revenue per month for the  
 36 operator's operation and use of the public facility.

37 (6) The BOT agreement ~~may~~ **must**:

38 (A) require a performance bond **in an amount equal to the**  
 39 **cost to design and construct the public facility;** and

40 (B) provide for the payment of contractors and subcontractors  
 41 under IC 4-13.6-7, IC 5-16-5, or IC 36-1-12, whichever is  
 42 applicable.



1 SECTION 4. IC 8-15.5-5-2, AS AMENDED BY P.L.91-2014,  
 2 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 JULY 1, 2018]: Sec. 2. A public-private agreement entered into under  
 4 this article must provide for the following:

5 (1) The original term of the public-private agreement, which may  
 6 not exceed seventy-five (75) years.

7 (2) Provisions for a:

8 (A) lease, franchise, or license of the project and the real  
 9 property owned by the authority upon which the project is  
 10 located or is to be located; or

11 (B) management agreement or other contract to operate the  
 12 project and the real property owned by the authority upon  
 13 which the project is located or is to be located;

14 for a predetermined period. The public-private agreement must  
 15 provide for ownership of all improvements and real property by  
 16 the authority in the name of the state or by a governmental entity,  
 17 or both.

18 (3) Monitoring of the operator's maintenance practices by the  
 19 authority and the taking of actions by the authority that it  
 20 considers appropriate to ensure that the project is properly  
 21 maintained.

22 (4) The basis upon which user fees that may be collected by the  
 23 operator, as determined under this article, are established.

24 (5) Compliance with applicable state and federal laws and local  
 25 ordinances.

26 (6) Grounds for termination of the public-private agreement by  
 27 the authority or the operator.

28 (7) The date of termination of the operator's authority and duties  
 29 under this article.

30 (8) Procedures for amendment of the agreement.

31 (9) Provisions requiring the completion of all environmental  
 32 analyses of the project required by state and federal law in the  
 33 manner and at the times required by the appropriate state and  
 34 federal agencies.

35 (10) An expedited method for resolving disputes between or  
 36 among the authority, the parties to the public-private agreement,  
 37 and units of local government that contain any part of the project,  
 38 as required by IC 8-15.5-10-8.

39 **(11) For a public-private agreement entered into after June**  
 40 **30, 2018, bond requirements as follows:**

41 **(A) A performance bond in an amount equal to the cost to**  
 42 **design and construct the project.**



- 1                   **(B) A payment bond conditioned on payment for labor and**  
 2                   **material furnished for use in construction of the project.**  
 3           SECTION 5. IC 8-15.7-5-1.5, AS ADDED BY P.L.85-2010,  
 4           SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 5           JULY 1, 2018]: Sec. 1.5. In addition to the other requirements of this  
 6           article, a public-private agreement entered into under this article must  
 7           include the following:  
 8           (1) A requirement for the completion of all environmental  
 9           analyses of the project required by state and federal law in the  
 10           manner and at the times required by the appropriate state and  
 11           federal agencies.  
 12           (2) A requirement for ownership by the department in the name  
 13           of the state of Indiana of:  
 14           (A) all the real property on which the project is located; and  
 15           (B) all of the improvements on that real property.  
 16           (3) An expedited method for resolving disputes between or among  
 17           the department, the parties to the public-private agreement, and  
 18           affected jurisdictions, as required by IC 8-15.7-12-2.  
 19           **(4) For a public-private agreement entered into after June 30,**  
 20           **2018, bond requirements as follows:**  
 21           **(A) A performance bond in an amount equal to the cost to**  
 22           **design and construct the project.**  
 23           **(B) A payment bond conditioned on payment for labor and**  
 24           **material furnished for use in construction of the project.**  
 25           SECTION 6. IC 12-15-12-13 IS AMENDED TO READ AS  
 26           FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 13. (a) The office and  
 27           an entity with which the office contracts for the payment of claims shall  
 28           accept claims submitted on any of the following forms by an individual  
 29           or organization that is a contractor or subcontractor of the office:  
 30           (1) ~~HCFA-1500~~: **CMS-1500**.  
 31           (2) ~~HCFA-1450 (UB-92)~~: **CMS-1450 (UB-04)**.  
 32           (3) American Dental Association (ADA) claim form.  
 33           (4) Pharmacy and compound drug form.  
 34           (b) The office and an entity with which the office contracts for the  
 35           payment of claims:  
 36           (1) may designate as acceptable claim forms other than a form  
 37           listed in subsection (a); and  
 38           (2) may not mandate the use of a crossover claim form.  
 39           SECTION 7. IC 27-1-6-8, AS AMENDED BY P.L.146-2015,  
 40           SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 41           JULY 1, 2018]: Sec. 8. The department is hereby authorized, in its  
 42           discretion, to approve or disapprove the articles of incorporation of the



1 proposed company. If the department shall approve the articles of  
 2 incorporation of the proposed company, the department shall write or  
 3 stamp, in an appropriate place on ~~each of said triplicate copies of such~~  
 4 **the** articles of incorporation, the:

- 5 (1) words "Approved by the department of insurance of the state  
 6 of Indiana";
- 7 (2) date of the approval;
- 8 (3) impression of the seal of the department; and
- 9 (4) signature of the commissioner.

10 SECTION 8. IC 27-1-6-10 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 10. When the articles  
 12 of incorporation have been approved by the ~~attorney-general~~ **attorney**  
 13 **general** and returned to the department, then the ~~department shall~~  
 14 **present the same to proposed company shall file one (1) electronic**  
 15 **copy of the articles of incorporation with** the secretary of state for  
 16 the state of Indiana. ~~If the secretary of state finds that the articles of~~  
 17 ~~incorporation conform to law, he shall indorse his approval upon each~~  
 18 ~~of the triplicate copies of the articles, and~~ When all fees have been paid  
 19 as required by law, ~~he~~ **the secretary of state** shall file one (1) copy in  
 20 ~~his~~ **the secretary of state's** office and return ~~the other two (2) copies~~  
 21 **one (1) electronic copy** to the incorporators or their representatives.

22 SECTION 9. IC 27-1-6-11 IS AMENDED TO READ AS  
 23 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 11. (a) When the  
 24 articles of incorporation are returned to the incorporators or their  
 25 representatives ~~bearing the endorsement of the approval of the~~  
 26 ~~secretary of state,~~ as provided in section 10 of this chapter, the  
 27 incorporators or their representatives shall obtain a certified copy of the  
 28 articles of incorporation from the secretary of state and file such  
 29 certified copy with the department.

30 (b) The incorporators shall also file with the department a surety  
 31 bond payable to the state of Indiana in the sum of ten thousand dollars  
 32 (\$10,000), with surety to be approved by the commissioner or collateral  
 33 in the sum of ten thousand dollars (\$10,000), as approved by the  
 34 commissioner, and conditioned upon the faithful accounting to the  
 35 department on completion of organization and receipt of its certificate  
 36 of authority from the department, or to its shareholders, members,  
 37 applicants for policies and creditors, or the trustee, receiver, or assignee  
 38 of the proposed company duly appointed in any proceedings in any  
 39 court of competent jurisdiction in the state in accordance with their  
 40 respective rights in case the organization of the proposed company  
 41 should not be completed and a certificate of authority should not be  
 42 procured from the department.



1 (c) Whenever the incorporators have filed their certified copy of the  
 2 articles of incorporation and bond as provided in this section, then the  
 3 department may issue a permit for completion of organization. The  
 4 company shall have authority under such permit to solicit subscriptions  
 5 and payments for capital stock, if a stock company, and applications  
 6 and advance premiums for insurance, if a mutual company, and to  
 7 exercise such powers, subject to the limitations in this article  
 8 prescribed, as may be necessary and proper in completing its  
 9 organization and qualifying itself for a certificate of authority from the  
 10 department to make the kind or kinds of insurance proposed in its  
 11 articles of incorporation, provided that such company shall not issue  
 12 policies or enter into contracts of insurance until it shall have received  
 13 the certificate of the department authorizing it so to do.

14 SECTION 10. IC 27-1-6-13 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 13. Any company  
 16 organized under this article shall not transact any business or incur any  
 17 indebtedness until:

18 (a) ~~(1) one (1) of the triplicate copies~~ **a copy** of the articles of  
 19 incorporation, bearing the approval of the department and the  
 20 attorney general, and ~~the endorsement of the approval of the~~  
 21 secretary of state, as provided in section 10 of this chapter has  
 22 been filed for record with the county recorder of the county in  
 23 which the principal office is located; and

24 (b) ~~(2)~~ **(2)** a certified copy of the permit for completion of  
 25 organization, issued pursuant to section 11 of this chapter, shall  
 26 be filed for record with the county recorder of the county in which  
 27 the principal office is located, which certified copy shall be  
 28 evidence only that the company has been authorized to proceed in  
 29 the completion of its organization.

30 If a company transacts any business or incurs any indebtedness in  
 31 violation of this section, the officers who participated therein and the  
 32 directors, except those who dissented therefrom and caused their  
 33 dissent to be filed at the time in the principal office of the company or  
 34 who, being absent, filed their dissent upon learning of the action, shall  
 35 be severally liable for the debts or liabilities of the company so  
 36 incurred or arising therefrom.

37 SECTION 11. IC 27-1-8-5 IS AMENDED TO READ AS  
 38 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 5. The form of the  
 39 articles of amendment shall be prescribed and furnished by the  
 40 department. The articles of amendment shall be prepared and signed ~~in~~  
 41 ~~triplicate originals~~ by the president or a ~~vice-president~~ **vice president**  
 42 and by the secretary or an assistant secretary of the corporation, and



1 shall be acknowledged before a notary public by the officers signing  
 2 the articles and shall be presented ~~in triplicate originals~~ to the  
 3 department at ~~its~~ **the department's** office, for the approval or  
 4 disapproval of the department.

5 SECTION 12. IC 27-1-8-8 IS AMENDED TO READ AS  
 6 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 8. When the articles of  
 7 amendment have been approved by the ~~attorney-general~~ **attorney**  
 8 **general** and returned to the department, ~~then~~ the:

9 (1) department shall ~~present the same to return the articles of~~  
 10 **amendment to the corporation; and**

11 **(2) corporation shall file the articles of amendment with the**  
 12 secretary of state for the state of Indiana.

13 If the secretary of state finds that the articles conform to law, he shall  
 14 indorse his approval upon each of the triplicate copies of the articles;  
 15 and when all fees have been paid as required by law, he shall file one  
 16 ~~(1)~~ copy in his office and shall return the other two ~~(2)~~ copies of the  
 17 articles of amendment bearing the indorsement of his approval, to the  
 18 corporation, one ~~(1)~~ of which copies The corporation shall ~~then~~ file  
 19 **one (1) copy of the articles of amendment** with the department.

20 SECTION 13. IC 27-1-8-11 IS AMENDED TO READ AS  
 21 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 11. (a) A corporation  
 22 whose articles of incorporation have been amended in accordance with  
 23 the provisions of this chapter shall not exercise any power, right, or  
 24 authority conferred by, or take any action pursuant to, such amendment  
 25 until:

26 (1) the corporation shall have filed one (1) ~~of the triplicate copies~~  
 27 **copy** of the articles of amendment ~~bearing the endorsement of the~~  
 28 **approval of that was returned to the corporation by** the  
 29 secretary of state as provided in section 8 of this chapter for  
 30 record in the office of the county recorder of the county in which  
 31 the articles of incorporation of such corporation were or should  
 32 have been filed for record as provided in IC 27-1-6-13; and

33 (2) the company shall have filed a certified copy of such amended  
 34 certificate of authority for record with the county recorder of the  
 35 county wherein the principal office is located, which certified  
 36 copy shall be evidence only that the company is authorized and  
 37 licensed to transact the kind or kinds of insurance set out therein,  
 38 for the period stated therein.

39 (b) If a corporation exercises any such power, right, or authority, or  
 40 takes any such action, in violation of this section, the officers and  
 41 directors who participated therein shall be severally liable for any debts  
 42 or liabilities of the corporation incurred thereby or arising therefrom.





1 SECTION 14. IC 27-1-9-3 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3. (a) Any domestic  
 3 corporation may merge with any other corporation or corporations,  
 4 subject to the provisions of sections 1 and 2 of this chapter, in the  
 5 following manner. The board of directors of each corporation shall, by  
 6 a resolution adopted by a majority vote of the members of such board,  
 7 approve a joint agreement of merger setting forth:

8 (1) the names of the corporations proposed to merge, and the  
 9 name of the corporation into which they propose to merge, which  
 10 is designated in this section as the surviving corporation;

11 (2) the terms and conditions of the proposed merger and the mode  
 12 of carrying the same into effect;

13 (3) the manner and basis, if any, of converting the shares of each  
 14 stock corporation, other than the surviving corporation into shares  
 15 or other securities or obligations of the surviving corporation, or,  
 16 in whole or in part, into cash, property, shares, or other securities  
 17 or obligations of any corporation;

18 (4) a restatement of such provisions of the articles of  
 19 incorporation of the surviving corporation as may be deemed  
 20 necessary or advisable to give effect to the proposed merger; and

21 (5) such other provisions with respect to the proposed merger as  
 22 are deemed necessary or desirable.

23 Unless shareholder, member, or policyholder approval is not required  
 24 by subsection (i), the resolution of the board of directors of each  
 25 corporation approving the agreement shall direct that the agreement be  
 26 submitted to a vote of the shareholders, members, or policyholders of  
 27 such corporation entitled to vote in respect thereof at a designated  
 28 meeting thereof, which may be an annual meeting of shareholders,  
 29 members, or policyholders, or a special meeting of the shareholders,  
 30 members, or policyholders entitled to vote in respect thereof. If the  
 31 designated meeting of any corporation at which the agreement is to be  
 32 submitted is an annual meeting, notice of the submission of the  
 33 agreement shall be included in the notice of such annual meeting. If the  
 34 designated meeting of any corporation at which the agreement is to be  
 35 submitted is a special meeting of the shareholders, members, or  
 36 policyholders entitled to vote in respect thereof, such special meeting  
 37 shall be called by the resolution designating the meeting, and notice of  
 38 such meeting shall be given at the time and in the manner provided in  
 39 IC 27-1-7-7.

40 (b) Unless shareholder, member, or policyholder approval is not  
 41 required by subsection (i), the agreement of merger so approved shall  
 42 be submitted to a vote of the shareholders, members, or policyholders



1 of each corporation entitled to vote in respect thereof at the meeting  
 2 directed by the resolution of the board of directors of such corporation  
 3 approving the agreement, and the agreement shall be adopted by such  
 4 corporation upon receiving the affirmative vote of such proportion of  
 5 the shareholders, members, or policyholders as provided in section 8  
 6 of this chapter.

7 (c) Unless shareholder, member, or policyholder approval is not  
 8 required by subsection (i), within five (5) days after the agreement of  
 9 merger shall be adopted by any corporation, the secretary of such  
 10 corporation shall mail or deliver a written or printed notice of the  
 11 adoption of the agreement to each shareholder, member, or  
 12 policyholder of record of such corporation who was not present in  
 13 person or represented by proxy at the meeting at which the agreement  
 14 was adopted. ~~And~~ The corporation shall file an affidavit with the  
 15 department, signed by the president and secretary of such corporation,  
 16 that such notice was given.

17 (d) Unless shareholder, member, or policyholder approval is not  
 18 required by subsection (i), any shareholder, member, or policyholder  
 19 of any such corporation who did not vote in favor of the adoption of the  
 20 agreement of merger may object to such merger in the manner and with  
 21 the effect provided in sections 9 and 10 of this chapter.

22 (e) Unless shareholder, member, or policyholder approval is not  
 23 required by subsection (i), as soon as practicable after the expiration of  
 24 a period of thirty (30) days after the adoption of the agreement of  
 25 merger by the shareholders, members, or policyholders of that one (1)  
 26 of the merging corporations which is the last, in point of time, to adopt  
 27 the same, the agreement shall again be considered by the board of  
 28 directors of each corporation a party thereto, at a regular or special  
 29 meeting of such board, and if the board of directors of each such  
 30 corporation, by a majority vote of the members of such board, shall  
 31 again approve the agreement and shall authorize the execution thereof,  
 32 the agreement shall be signed on behalf of each such corporation by its  
 33 president or a vice president and its secretary or an assistant secretary  
 34 and shall have the corporate seal of each such corporation thereto  
 35 affixed.

36 (f) Upon the execution of the agreement of merger by all of the  
 37 corporations parties thereto, there shall be executed and filed, in the  
 38 manner provided in this section, articles of merger setting forth the  
 39 agreement of merger, the signatures of the several corporations parties  
 40 thereto, the manner of its adoption, and the vote, if any, by which  
 41 adopted by each of such corporations. The articles of merger shall be  
 42 signed on behalf of each such corporation by ~~its~~ **the corporation's**



1 president or a vice president and ~~its~~ **the corporation's** secretary or an  
 2 assistant secretary, and acknowledged before a notary public by the  
 3 officers signing the same, in ~~such multiple~~ **the number of** copies ~~as~~  
 4 ~~shall be required~~ **needed** to enable the corporations to comply with the  
 5 ~~provisions~~ **requirements** of this chapter ~~with respect to~~ **for** filing and  
 6 recording the articles of merger, and shall then be presented to the  
 7 department at ~~its~~ **the department's** office. The department is hereby  
 8 authorized to approve or disapprove the articles of merger. In the event  
 9 that the department shall approve the articles of merger, ~~it~~ **the**  
 10 **department** shall endorse ~~its~~ **the department's** approval thereon in the  
 11 manner provided in IC 27-1-6-8, and ~~it~~ **the surviving corporation**  
 12 shall ~~present the same to file~~ **one (1) electronic copy of the articles of**  
 13 **merger with** the secretary of state of the state of Indiana. ~~at his office.~~

14 (g) Upon ~~the presentation of~~ **receiving** the articles of merger ~~under~~  
 15 ~~subsection (f), the secretary of state, if he finds that they conform to~~  
 16 ~~law, shall endorse his approval on each of the multiple copies of the~~  
 17 ~~articles and, when all fees have been paid as required by law, the~~  
 18 ~~secretary of state shall file one (1) electronic copy of the articles of~~  
 19 ~~merger in his the secretary of state's office, and issue a certificate of~~  
 20 ~~merger, and shall return the remaining copies~~ **one (1) electronic copy**  
 21 ~~of the articles bearing the endorsement of his approval, of merger~~  
 22 ~~together with the certificate of merger to the surviving corporation or~~  
 23 ~~its the surviving corporation's~~ representatives.

24 (h) The surviving corporation ~~or the surviving corporation's~~  
 25 ~~representative shall obtain file with the department a certified copy~~  
 26 ~~of the certificate of merger from the secretary of state and file the same~~  
 27 ~~with the department, accompanied by a copy of the articles of merger~~  
 28 ~~bearing the endorsement and approval of the secretary of state, and a~~  
 29 ~~copy of the articles of merger returned under subsection (g).~~

30 (i) If a domestic corporation is the surviving corporation, action by  
 31 the shareholders, members, or policyholders is not required if the  
 32 articles of incorporation of the surviving corporation will not differ  
 33 (except for amendments enumerated in IC 27-1-8-3(b)) from its articles  
 34 before the merger and:

35 (1) if the corporation is a stock corporation:

36 (A) each shareholder of the surviving corporation whose  
 37 shares were outstanding immediately before the merger will  
 38 hold the same proportionate number of shares relative to the  
 39 number of shares held by all shareholders (except for shares of  
 40 the surviving corporation received solely as a result of the  
 41 shareholder's proportionate shareholdings in the other  
 42 corporations participating in the merger) with identical



1 designations, preferences, limitations, and relative rights,  
 2 immediately after the merger;  
 3 (B) the number of voting shares outstanding immediately after  
 4 the merger, including the number of voting shares issuable as  
 5 a result of the merger (either by the conversion of securities  
 6 issued under the merger or the exercise of rights and warrants  
 7 issued under the merger), will not exceed by more than twenty  
 8 percent (20%) the total number of voting shares (adjusted to  
 9 reflect any forward or reverse share split that occurs under the  
 10 plan of merger) of the surviving corporation outstanding  
 11 immediately before the merger; and  
 12 (C) the number of participating shares outstanding  
 13 immediately after the merger, including the number of  
 14 participating shares issuable as a result of the merger (either  
 15 by conversion of securities issued under the merger or the  
 16 exercise of rights and warrants issued under the merger), will  
 17 not exceed by more than twenty percent (20%) the total  
 18 number of participating shares (adjusted to reflect any forward  
 19 or reverse share split that occurs under a plan of merger)  
 20 outstanding immediately before the merger; or  
 21 (2) if the surviving corporation is an insurance company other  
 22 than a stock corporation:  
 23 (A) each member or policyholder of the surviving corporation  
 24 will retain the same contractual and other rights to which the  
 25 member or policyholder was entitled before the merger; and  
 26 (B) the number of votes of voting members immediately after  
 27 the merger, including the number of votes of voting members  
 28 added as a result of the merger, will not exceed by more than  
 29 twenty percent (20%) the total number of votes of voting  
 30 members of the surviving corporation immediately before the  
 31 merger.

32 SECTION 15. IC 27-1-9-4, AS AMENDED BY THE TECHNICAL  
 33 CORRECTIONS BILL OF THE 2018 GENERAL ASSEMBLY, IS  
 34 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]:

35 Sec. 4. Any domestic corporation may consolidate with any other  
 36 corporation or corporations, subject to the provisions of sections 1 and  
 37 2 of this chapter, in the following manner:

38 (a) ~~Agreement of Consolidation~~. The board of directors of each  
 39 corporation shall, by a resolution adopted by a majority vote of the  
 40 members of such board, approve a joint agreement of consolidation  
 41 setting forth:

42 (1) The names of the corporations proposing to consolidate, and the



1 name of the new corporation into which they proposed to consolidate,  
2 which is hereinafter designated as the new corporation;

3 (2) The terms and conditions of the proposed consolidation and the  
4 mode of carrying the same into effect;

5 (3) The manner and basis, if any, of converting the shares of each  
6 stock corporation into shares of other securities or obligations of the  
7 new corporation, or, in whole or in part, into cash, property, shares, or  
8 other securities or obligations of any other corporation;

9 (4) With respect to the new corporation, all of the statements  
10 required by ~~IC 1971~~, IC 27-1-6-4 to be set forth in original articles of  
11 incorporation for corporations formed under this article; and

12 (5) Such other provisions with respect to the proposed consolidation  
13 as are deemed necessary or desirable;

14 (b) ~~Adoption of Agreement~~: The agreement of consolidation shall  
15 then be submitted to a vote of the shareholders, members or  
16 policyholders entitled to vote in respect thereof of each corporation in  
17 the same manner as provided in section 3 of this chapter and this  
18 agreement shall be adopted by such corporation upon receiving the  
19 affirmative vote of such proportion of the shareholders, members or  
20 policyholders, as provided in section 8 of this chapter; and the adoption  
21 thereof by directors and by the shareholders, members or policyholders  
22 shall be followed by the same notice to shareholders, members or  
23 policyholders as ~~hereinabove~~ provided in ~~paragraphs (a), (b) and (c)~~ of  
24 section ~~3~~ **3(a), 3(b), and 3(c)** of this chapter in case of a merger.

25 (c) ~~Objections~~: Any shareholder, member or policyholder, of any  
26 such corporation who did not vote in favor of the adoption of the  
27 agreement of consolidation, may object to such consolidation in the  
28 manner and with the effect provided in sections 9 and 10 of this  
29 chapter.

30 (d) ~~Reapproval and Execution of Agreement~~: Upon the adoption of  
31 the agreement of consolidation it shall again be considered by the  
32 board of directors of each corporation a party to the agreement, and, if  
33 again approved and the execution of the agreement authorized by such  
34 board, the agreement shall be signed and filed, all in the same manner  
35 and within the same time as provided in ~~subsection (e)~~ of section ~~3~~ **3(e)**  
36 of this chapter.

37 (e) ~~Articles of Consolidation~~: Under the execution of the agreement  
38 of consolidation by all of the corporations parties thereto, articles of  
39 consolidation shall be executed and filed, accompanied by the fees  
40 prescribed by law in the same manner and form and in such multiple  
41 copies as provided in ~~subsection (f)~~ of section ~~3~~ **3(f)** of this chapter.

42 (f) ~~Certificate of Consolidation and Incorporation~~: Upon the



1 ~~presentation of receiving~~ the articles of consolidation ~~the secretary of~~  
 2 ~~state, if he the secretary of state finds that they conform to law, shall~~  
 3 ~~indorse his the secretary of state's approval on each of the multiple~~  
 4 ~~copies of the articles; and, when all fees have been paid as required by~~  
 5 ~~law, the secretary of state shall file one (1) electronic~~ copy of the  
 6 articles of consolidation in ~~his the secretary of state's office, and~~ issue  
 7 a certificate of consolidation, ~~and incorporation, and shall return the~~  
 8 ~~remaining copies one (1) electronic copy~~ of the articles bearing the  
 9 ~~indorsement of his the secretary of state's approval, of consolidation~~  
 10 together with the certificate of consolidation, ~~and incorporation, to the~~  
 11 new corporation, or ~~its the new corporation's~~ representatives.

12 (g) Filing Certificate: The ~~surviving new~~ corporation shall ~~obtain~~  
 13 ~~file a certified~~ copy of the certificate of consolidation and ~~incorporation~~  
 14 ~~from the secretary of state and file the same articles of consolidation~~  
 15 ~~returned under subsection (f)~~ with the department. ~~accompanied by~~  
 16 ~~a copy of the articles of consolidation bearing the indorsement of the~~  
 17 ~~approval of the secretary of state.~~

18 SECTION 16. IC 27-1-9-5 IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 5. Upon the issuance  
 20 of a certificate of merger or a certificate of consolidation, and  
 21 ~~incorporation the return of the articles of merger~~ by the secretary of  
 22 state **under section 3 of this chapter, or the return of the articles of**  
 23 **consolidation by the secretary of state under section 4 of this**  
 24 **chapter**, the merger or consolidation, as the case may be, shall be  
 25 effected, subject to the rights of dissenting shareholders, members, or  
 26 policyholders, as provided in sections 9 and 10 of this chapter.

27 SECTION 17. IC 27-1-9-6 IS AMENDED TO READ AS  
 28 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 6. The surviving or new  
 29 corporation, as the case may be, resulting from a merger or  
 30 consolidation, shall within ten (10) days after such merger or  
 31 consolidation has become effective as ~~hereinabove~~ provided **in this**  
 32 **chapter**, file for record with the county recorder of each county in  
 33 which the principal office of any of the corporations parties to the  
 34 agreement is located, and of each county in this state in which any of  
 35 ~~such the~~ corporations shall have real property at the time of ~~such the~~  
 36 merger or consolidation the title to which will be transferred by the  
 37 merger or consolidation, a ~~certified~~ copy of the certificate of merger or  
 38 certificate of consolidation, and ~~incorporation, as the case may be,~~  
 39 ~~accompanied by one (1) of the copies copy~~ of the articles of merger or  
 40 articles of consolidation, ~~bearing the indorsement of the approval of the~~  
 41 ~~secretary of state, as the case may be.~~

42 SECTION 18. IC 27-1-10-1 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. With the approval in  
 2 writing of the department, the incorporators named in the articles of  
 3 incorporation of any corporation organized under the provisions of this  
 4 article may surrender the certificate of incorporation **and the certified**  
 5 **copy of the articles of incorporation received under IC 27-1-6-11**  
 6 and all of the corporate rights and franchises of the corporation at any  
 7 time within one (1) year from the date of the ~~issuance~~ **corporation's**  
 8 **receipt** of the certificate **of incorporation and certified copy of the**  
 9 **articles of incorporation** and before the issuance of any of the shares  
 10 of capital stock of the corporation and before the beginning by ~~it~~ **the**  
 11 **corporation** of the business for which ~~it~~ **the corporation** was formed,  
 12 by presenting to the secretary of state at ~~his~~ **the secretary of state's**  
 13 office, accompanied by the fees prescribed by law, a **one (1) electronic**  
 14 ~~certificate, in triplicate, document,~~ signed and verified by the joint and  
 15 several oaths of a majority of the incorporators in the form prescribed  
 16 by the secretary of state, ~~showing~~ **certifying** that no shares of the  
 17 capital stock of the corporation have been issued and that the amount,  
 18 if any, actually paid in on the shares, less any part thereof disbursed for  
 19 necessary expenses, had been returned to those entitled thereto, that  
 20 such business has not been begun, that no debts remain unpaid, and  
 21 that they surrender all rights and franchises.

22 SECTION 19. IC 27-1-10-5 IS AMENDED TO READ AS  
 23 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 5. The corporation shall  
 24 then execute and file, in the manner provided in this chapter, articles  
 25 of dissolution, setting forth the following:

- 26 (a) The name of the corporation.
- 27 (b) The place where its principal office is located.
- 28 (c) The date of the meeting of the shareholders, members, or  
 29 policyholders at which the dissolution was authorized and a copy  
 30 of the notice of such meeting.
- 31 (d) A copy of the resolution of the shareholders, members, or  
 32 policyholders authorizing the dissolution.
- 33 (e) The manner of its adoption and the vote by which it was  
 34 adopted.
- 35 (f) A copy of the notice published and mailed as provided in this  
 36 chapter.
- 37 (g) The names and addresses of the then existing directors and  
 38 officers of the corporation.
- 39 (h) A complete itemized list of all the corporate debts and  
 40 liabilities of the corporation existing at the time of the adoption of  
 41 such resolution and thereafter incurred, and the date and manner  
 42 of payment of each such debt and liability.



1 (i) A complete itemized list of all the corporate assets and  
 2 property distributed to its shareholders, members, or  
 3 policyholders, the name of each such shareholder, member, or  
 4 policyholder, the amount distributed to each, and the date of  
 5 distribution.

6 The articles of dissolution shall be executed ~~in triplicate originals~~, in  
 7 the form prescribed by the department and signed by the president or  
 8 a vice president and the secretary or an assistant secretary of the  
 9 corporation, and verified by the oaths of the officers signing the same,  
 10 and shall be ~~presented in triplicate originals to filed with~~ the  
 11 department at ~~its~~ **the department's** office accompanied by the proof of  
 12 publication of the notice required by section 4 of this chapter. The  
 13 department is hereby authorized, in ~~its~~ **the department's** discretion, to  
 14 approve or disapprove the articles of dissolution and proof of  
 15 publication. If the department shall approve the articles of dissolution  
 16 and proof of publication, ~~it~~ **the department** shall endorse ~~its~~ **the**  
 17 **department's** approval thereon as required in IC 27-1-6-8 and present  
 18 the same to the attorney general of the state of Indiana for examination.  
 19 In the event the attorney general approves the articles of dissolution  
 20 and proof of publication ~~he~~ **the attorney general** shall certify ~~his~~ **the**  
 21 approval thereon as required in IC 27-1-6-9 and return the same to the  
 22 department when the articles of dissolution and proof of publication  
 23 have been approved by the attorney general and returned to the  
 24 department. **The department shall return the executed articles of**  
 25 **dissolution to the corporation.**

26 SECTION 20. IC 27-1-10-6 IS AMENDED TO READ AS  
 27 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 6. ~~Then~~ The  
 28 ~~department~~ **corporation** shall ~~present the same to file with~~ the  
 29 secretary of state for the state of Indiana ~~If the secretary of state finds~~  
 30 ~~that one (1) electronic copy of the articles of dissolution and proof of~~  
 31 ~~publication. conform to law he shall indorse his approval upon each of~~  
 32 ~~the triplicate copies of the articles; and the proof of publication; and~~  
 33 When all fees have been paid as required by law, ~~he~~ **the secretary of**  
 34 **state** shall file one (1) **electronic** copy of the articles of dissolution and  
 35 the proof of publication in ~~his~~ **the secretary of state's** office, ~~and~~ issue  
 36 a certificate of dissolution, ~~to the corporation; and shall return the~~  
 37 certificate of dissolution ~~to the corporation together with the two (2)~~  
 38 ~~remaining copies and one (1) electronic copy of the articles of~~  
 39 dissolution ~~bearing the indorsement of his approval;~~ to the corporation  
 40 or ~~its~~ **the corporation's** representatives.

41 SECTION 21. IC 27-1-10-7 IS AMENDED TO READ AS  
 42 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 7. (a) The corporation





1 shall then file a certified copy of the articles of dissolution with the  
 2 department, and present to the department its certificate of authority  
 3 issued or renewed under IC 27-1-6-18 for cancellation. The department  
 4 shall file the certified copy of the articles of dissolution and shall  
 5 cancel the said certificate of authority and endorse the cancellation  
 6 thereon, and return the ~~cancelled~~ **canceled** certificate of authority to the  
 7 corporation or ~~its~~ **the corporation's** representatives.

8 (b) The corporation shall then file for record with the county  
 9 recorder of the county in which the articles of incorporation were or  
 10 should have been recorded, as provided in IC 27-1-6-13, one (1) ~~of the~~  
 11 ~~triplicate originals~~ **copy** of the articles of dissolution. ~~bearing the~~  
 12 ~~endorsement of the approval of the secretary of state as provided for in~~  
 13 ~~section 6 of this chapter.~~

14 SECTION 22. IC 27-1-10-8 IS AMENDED TO READ AS  
 15 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 8. (a) Upon the:  
 16 ~~issuance of the certificate~~

17 **(1) return of the electronic copy of the articles** of dissolution  
 18 **under section 6 of this chapter;** and ~~the~~

19 **(2) recording of the articles of dissolution,** as provided in section  
 20 7 of this chapter;

21 the corporation shall be dissolved and ~~its~~ **the corporation's** existence  
 22 shall cease.

23 (b) The dissolution of any corporation in accordance with the  
 24 provisions of this article shall not take away or impair any remedy  
 25 against such corporation, ~~its~~ **or the corporation's** directors, officers,  
 26 or shareholders, for any liability incurred by the corporation previous  
 27 to ~~its~~ **the corporation's** dissolution if suit is brought and service of  
 28 process is had, as provided by the laws of this state, within two (2)  
 29 years after the date of such dissolution.

30 SECTION 23. IC 27-1-11-4 IS AMENDED TO READ AS  
 31 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 4. (a) Upon the  
 32 approval and adoption thereof, the articles of reorganization shall be  
 33 filed ~~in triplicate originals,~~ **with the department at the department's**  
 34 **office:**

35 **(1) in the form prescribed by the department; and**

36 **(2) by the president or a vice president and the secretary or an**  
 37 **assistant secretary of the corporation; and**

38 **after having been** acknowledged and sworn to before a notary public  
 39 by the officer signing the ~~same articles of reorganization.~~ **and shall be**  
 40 **presented in triplicate to the department at its office.**

41 (b) The department is hereby authorized, in ~~its~~ **the department's**  
 42 discretion, to approve or disapprove the articles of reorganization, and



1 if the department shall approve the articles of reorganization ~~it the~~  
 2 **department** shall endorse ~~its the department's~~ approval thereon as  
 3 required in IC 27-1-6-8 and ~~present the same to the corporation shall~~  
 4 **file the articles of reorganization with** the secretary of state for the  
 5 state of Indiana. ~~for his approval:~~

6 SECTION 24. IC 27-1-11-5 IS AMENDED TO READ AS  
 7 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 5. Upon ~~the~~  
 8 ~~presentation of receiving~~ the articles of reorganization ~~the secretary of~~  
 9 ~~state, if he finds they conform to law, shall indorse his approval on~~  
 10 ~~each of the triplicate copies of the articles, and when all fees have been~~  
 11 ~~paid as required by law, the secretary of state shall file one (1)~~  
 12 **electronic** copy of the articles **of reorganization in his the secretary**  
 13 **of state's** office, issue a certificate of reorganization, and return ~~two (2)~~  
 14 **copies one (1) electronic copy** of the articles of reorganization ~~bearing~~  
 15 ~~the indorsement of his approval, together with and~~ the certificate of  
 16 reorganization to the corporation or ~~its the corporation's~~  
 17 representatives.

18 SECTION 25. IC 27-1-11-6 IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 6. (a) The corporation  
 20 shall then file a certified copy of the articles of reorganization with the  
 21 department and present to the department its certificate of authority  
 22 issued or renewed under IC 27-1-6-18 for cancellation. The department  
 23 shall file the certified copy of articles of reorganization and shall cancel  
 24 the said certificate of authority and endorse the cancellation thereon,  
 25 and issue a new certificate of authority to the corporation under the  
 26 provisions of IC 27-1-6-18.

27 (b) The corporation shall then file for record with the county  
 28 recorder of the county in which the principal office of the corporation  
 29 is located, one (1) ~~of the triplicate copies~~ **copy** of the articles of  
 30 reorganization. ~~bearing the endorsement of the approval of the~~  
 31 ~~secretary of state as provided for in section 5 of this chapter.~~

32 (c) A corporation which is reorganized in accordance with the  
 33 provisions of this chapter shall not exercise any new power, right, or  
 34 authority conferred by, or take any action pursuant to, such  
 35 reorganization until subsections (a) and (b) have been complied with.  
 36 If a corporation exercises any such new power, right, or authority or  
 37 takes any such action in violation of this section, the officers and  
 38 directors who participated therein shall be severally liable for any debts  
 39 or liabilities of the corporation incurred thereby or arising therefrom.

40 SECTION 26. IC 27-1-11-7 IS AMENDED TO READ AS  
 41 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 7. Upon the ~~issuance~~  
 42 ~~of the certificate return~~ **of an electronic copy of the articles of**



1 reorganization by the secretary of state **under section 5 of this**  
 2 **chapter**, the filing for record of the articles of **reorganization** with the  
 3 department and the county recorder as provided in section 6 of this  
 4 chapter, and the issuance of the new certificate of authority provided  
 5 for in section 6 of this chapter:

- 6 (1) the reorganization shall become effective;  
 7 (2) the corporation shall be entitled to all of the rights, privileges,  
 8 immunities, powers, and franchises and be subject to all of the  
 9 penalties, liabilities, and restrictions by the provisions of this  
 10 article granted to or imposed upon corporations organized under  
 11 this article; and  
 12 (3) the articles of incorporation or organization shall be deemed  
 13 to be amended to the extent, if any, that any provision or  
 14 provisions of such articles shall be restated in the articles of  
 15 reorganization as provided by section 2 of this chapter.

16 SECTION 27. IC 27-1-15.6-2, AS AMENDED BY P.L.146-2015,  
 17 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 18 JULY 1, 2018]: Sec. 2. **Except as otherwise provided in this section**,  
 19 the following definitions apply throughout this chapter, IC 27-1-15.7,  
 20 and IC 27-1-15.8:

- 21 (1) "Bureau" refers to the child support bureau established by  
 22 IC 31-25-3-1.  
 23 (2) "Business entity" means a corporation, an association, a  
 24 partnership, a limited liability company, a limited liability  
 25 partnership, or another legal entity.  
 26 (3) "Commissioner" means the insurance commissioner appointed  
 27 under IC 27-1-1-2.  
 28 (4) "Consultant" means a person who:  
 29 (A) holds himself or herself out to the public as being engaged  
 30 in the business of offering; or  
 31 (B) for a fee, offers;  
 32 any advice, counsel, opinion, or service with respect to the  
 33 benefits, advantages, or disadvantages promised under any policy  
 34 of insurance that could be issued in Indiana.  
 35 (5) "Delinquent" means the condition of being at least:  
 36 (A) two thousand dollars (\$2,000); or  
 37 (B) three (3) months;  
 38 past due in the payment of court ordered child support.  
 39 (6) "Designated home state license" means a license issued by the  
 40 commissioner to an insurance producer who:  
 41 (A) maintains the insurance producer's principal place of  
 42 residence or principal place of business in a state that does not



- 1 license insurance producers for the line of authority for which  
 2 the insurance producer seeks licensure in Indiana; and  
 3 (B) is permitted by the commissioner to designate Indiana as  
 4 the insurance producer's nonresident home state.
- 5 (7) "FINRA" refers to the independent Financial Industry  
 6 Regulatory Authority.
- 7 (8) "Home state" means the District of Columbia or any state or  
 8 territory of the United States in which an insurance producer:  
 9 (A) maintains the insurance producer's principal place of  
 10 residence or principal place of business; and  
 11 (B) is licensed to act as an insurance producer.
- 12 **This subdivision does not apply to IC 27-1-15.8.**
- 13 (9) "Insurance producer" means a person required to be licensed  
 14 under the laws of Indiana to sell, solicit, or negotiate insurance.
- 15 (10) "License" means a document issued by the commissioner  
 16 authorizing a person to act as an insurance producer for the lines  
 17 of authority specified in the document. The license itself does not  
 18 create any authority, actual, apparent, or inherent, in the holder to  
 19 represent or commit an insurance carrier.
- 20 (11) "Limited line credit insurance" includes the following:  
 21 (A) Credit life insurance.  
 22 (B) Credit disability insurance.  
 23 (C) Credit property insurance.  
 24 (D) Credit unemployment insurance.  
 25 (E) Involuntary unemployment insurance.  
 26 (F) Mortgage life insurance.  
 27 (G) Mortgage guaranty insurance.  
 28 (H) Mortgage disability insurance.  
 29 (I) Guaranteed automobile protection (gap) insurance.  
 30 (J) Any other form of insurance:  
 31 (i) that is offered in connection with an extension of credit  
 32 and is limited to partially or wholly extinguishing that credit  
 33 obligation; and  
 34 (ii) that the insurance commissioner determines should be  
 35 designated a form of limited line credit insurance.
- 36 (12) "Limited line credit insurance producer" means a person who  
 37 sells, solicits, or negotiates one (1) or more forms of limited line  
 38 credit insurance coverage to individuals through a master,  
 39 corporate, group, or individual policy.
- 40 (13) "Limited lines insurance" means any of the following:  
 41 (A) The lines of insurance defined in section 18 of this  
 42 chapter.



- 1 (B) Any line of insurance the recognition of which is  
 2 considered necessary by the commissioner for the purpose of  
 3 complying with section 8(e) of this chapter.
- 4 (C) For purposes of section 8(e) of this chapter, any form of  
 5 insurance with respect to which authority is granted by a home  
 6 state that restricts the authority granted by a limited lines  
 7 producer's license to less than total authority in the associated  
 8 major lines described in section 7(a)(1) through 7(a)(6) of this  
 9 chapter.
- 10 (14) "Limited lines producer" means a person authorized by the  
 11 commissioner to sell, solicit, or negotiate limited lines insurance.
- 12 (15) "Limited lines travel insurance producer" means a person  
 13 designated by an insurer to sell, solicit, or negotiate a travel  
 14 insurance policy. The term includes the following:
- 15 (A) A managing general underwriter.  
 16 (B) A managing general agent.  
 17 (C) A limited lines producer.
- 18 (16) "Negotiate" means the act of conferring directly with or  
 19 offering advice directly to a purchaser or prospective purchaser of  
 20 a particular contract of insurance concerning any of the  
 21 substantive benefits, terms, or conditions of the contract, provided  
 22 that the person engaged in that act either sells insurance or  
 23 obtains insurance from insurers for purchasers.
- 24 (17) "Person" means an individual or a business entity.
- 25 (18) "Sell" means to exchange a contract of insurance by any  
 26 means, for money or its equivalent, on behalf of a company.
- 27 (19) "Solicit" means attempting to sell insurance or asking or  
 28 urging a person to apply for a particular kind of insurance from a  
 29 particular company.
- 30 (20) "Surplus lines producer" means a person who sells, solicits,  
 31 negotiates, or procures from an insurance company not licensed  
 32 to transact business in Indiana an insurance policy that cannot be  
 33 procured from insurers licensed to do business in Indiana.
- 34 (21) "Terminate" means:
- 35 (A) the cancellation of the relationship between an insurance  
 36 producer and the insurer; or  
 37 (B) the termination of a producer's authority to transact  
 38 insurance.
- 39 (22) "Travel insurance" means insurance coverage for personal  
 40 risks incident to planned travel, including the following:
- 41 (A) Interruption or cancellation of a trip or an event.  
 42 (B) Loss of baggage or personal effects.



1 (C) Damage to accommodations or rental vehicles.

2 (D) Sickness, accident, disability, or death that occurs during  
3 travel.

4 The term does not include a major medical plan that provides  
5 comprehensive medical insurance for a traveler on a trip that lasts  
6 at least six (6) months, including a traveler who is an individual  
7 who works overseas as an ~~expatriot~~ **expatriate** or is deployed as  
8 a member of the military.

9 (23) "Travel retailer" means a business entity that offers and  
10 delivers travel insurance on behalf of and under the direction of  
11 a limited lines travel insurance producer.

12 (24) "Uniform business entity application" means the current  
13 version of the national association of insurance commissioners  
14 uniform business entity application for resident and nonresident  
15 business entities.

16 (25) "Uniform application" means the current version of the  
17 national association of insurance commissioners uniform  
18 application for resident and nonresident producer licensing.

19 SECTION 28. IC 27-1-15.8-1 IS AMENDED TO READ AS  
20 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. **(a) Except as**  
21 **provided in this section**, the definitions in IC 27-1-15.6-2 apply  
22 throughout this chapter.

23 **(b) As used in this chapter, "affiliate" means, with respect to an**  
24 **insured, an entity that controls, is controlled by, or is under**  
25 **common control with the insured.**

26 **(c) As used in this chapter, "affiliated group" means a group of**  
27 **affiliates.**

28 **(d) As used in this chapter, "control" means:**

29 **(1) ownership or power to vote at least twenty-five percent**  
30 **(25%) of any class of voting securities; or**

31 **(2) power to determine the election of a majority of the**  
32 **directors or trustees;**

33 **of an entity.**

34 **(e) As used in this chapter, "home state" means the following:**

35 **(1) With respect to an insured:**

36 **(A) the state in which the insured maintains:**

37 **(i) the insured's principal place of business; or**

38 **(ii) if the insured is an individual, the insured's principal**  
39 **residence; or**

40 **(B) if one hundred percent (100%) of the insured risk is**  
41 **located outside the state described in clause (A), the state**  
42 **to which the greatest percentage of the insured's taxable**



- 1 premium for the insurance contract is allocated.
- 2 (2) With respect to an affiliated group, if more than one (1)
- 3 insured from the affiliated group is a named insured on a
- 4 single nonadmitted insurance policy or contract, the home
- 5 state determined under subdivision (1) of the member of the
- 6 affiliated group that has the largest percentage of premium
- 7 attributed to the member under the nonadmitted insurance
- 8 policy or contract.
- 9 (f) As used in this chapter, "nonadmitted insurance policy or
- 10 contract" means an insurance policy or contract that is issued by
- 11 an insurer that is not authorized to transact the business of
- 12 insurance under the law of the home state.
- 13 (g) As used in this chapter, "principal place of business" means,
- 14 with respect to determining the home state of an insured, the state
- 15 where the:
- 16 (1) insured maintains the insured's headquarters; and
- 17 (2) insured's officers direct, control, and coordinate the
- 18 business activities of the insured.
- 19 SECTION 29. IC 27-1-15.8-4, AS AMENDED BY P.L.173-2007,
- 20 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 21 JULY 1, 2018]: Sec. 4. (a) In addition to all other charges, fees, and
- 22 taxes that may be imposed by law, a surplus lines producer licensed
- 23 under this chapter shall, on or before February 1 ~~and August 1~~ of each
- 24 year, collect from the insured and remit to the department for the use
- 25 and benefit of the state of Indiana an amount equal to two and one-half
- 26 percent (2 1/2%) of all gross premiums upon all policies and contracts
- 27 procured:
- 28 (1) by the surplus lines producer;
- 29 (2) under the provisions of this section;
- 30 (3) for insureds whose home state is Indiana; and
- 31 (4) during the preceding ~~six (6)~~ twelve (12) month period ending
- 32 December 31. ~~and June 30, respectively.~~
- 33 The declarations page of a policy referred to in this subsection must
- 34 itemize the amounts of all charges for taxes, fees, and premiums.
- 35 (b) A licensed surplus lines producer shall execute and file with the
- 36 department of insurance on or before the twentieth day of each month
- 37 an affidavit that specifies all transactions, policies, and contracts
- 38 procured during the preceding calendar month, including:
- 39 (1) the description and location of the insured property or risk and
- 40 the name of the insured;
- 41 (2) the gross premiums charged in the policy or contract;
- 42 (3) the name and home office address of the insurer whose policy



1 or contract is issued, and the kind of insurance effected; and

2 (4) a statement that:

3 (A) the licensee, after diligent effort, was unable to procure  
4 from any insurer authorized to transact the particular class of  
5 insurance business in Indiana the full amount of insurance  
6 required to protect the insured; and

7 (B) the insurance placed under this chapter is not placed for  
8 the purpose of procuring it at a premium rate lower than would  
9 be accepted by an insurer authorized and licensed to transact  
10 insurance business in Indiana.

11 (c) A licensed surplus lines producer shall file with the department,  
12 not later than March 31 of each year, the financial statement, dated as  
13 of December 31 of the preceding year, of each unauthorized insurer  
14 from whom the surplus lines producer has procured a policy or  
15 contract. The insurance commissioner may, in the commissioner's  
16 discretion, after reviewing the financial statement of the unauthorized  
17 insurer, order the surplus lines producer to cancel an unauthorized  
18 insurer's policies and contracts if the commissioner is of the opinion  
19 that the financial statement or condition of the unauthorized insurer  
20 does not warrant continuance of the risk.

21 (d) A licensed surplus lines producer shall keep a separate account  
22 of all business transacted under this section. The account may be  
23 inspected at any time by the commissioner or the commissioner's  
24 deputy or examiner.

25 (e) An insurer that issues a policy or contract to insure a risk under  
26 this section is considered to have appointed the commissioner as the  
27 insurer's attorney upon whom process may be served in Indiana in any  
28 suit, action, or proceeding based upon or arising out of the policy or  
29 contract.

30 (f) The commissioner may revoke or refuse to renew a surplus lines  
31 producer's license for failure to comply with this section.

32 (g) A surplus lines producer licensed under this chapter may accept  
33 and place policies or contracts authorized under this section for an  
34 insurance producer duly licensed in Indiana, and may compensate the  
35 insurance producer even though the insurance producer is not licensed  
36 under this chapter.

37 (h) If a surplus lines producer does not remit an amount due to the  
38 department within the time prescribed in subsection (a), the  
39 commissioner shall assess the surplus lines producer a penalty of ten  
40 percent (10%) of the amount due. The commissioner shall assess a  
41 further penalty of an additional one percent (1%) of the amount due for  
42 each month or portion of a month that any amount due remains unpaid





1 after the first month. Penalties assessed under this subsection are  
 2 payable by the surplus lines producer and are not collectible from an  
 3 insured.

4 SECTION 30. IC 27-1-19-2 IS AMENDED TO READ AS  
 5 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 2. (a) The board of  
 6 directors of any such company desiring to reorganize under this article  
 7 shall, after full compliance with the laws of state, territory, or insular  
 8 possession of the United States, or the District of Columbia, under  
 9 which the company was incorporated or organized, by a resolution  
 10 adopted by a majority vote of the members of such board, approve and  
 11 adopt articles of reorganization setting forth:

- 12 (1) the name of the company;
- 13 (2) the location of its principal office and the location of its  
 14 proposed principal office in this state;
- 15 (3) the date of its incorporation or organization;
- 16 (4) a designation of the statute under which it was organized;
- 17 (5) a declaration that it accepts all of the terms and provisions of  
 18 this article; and
- 19 (6) a restatement of such provisions of its articles of incorporation  
 20 or association as may be deemed advisable so long as the  
 21 provisions restated would have been authorized by this article as  
 22 provisions of original articles of incorporation for a company  
 23 organized under this article.

24 (b) Upon the approval and adoption thereof by the board of  
 25 directors, the articles of reorganization shall be executed and signed in  
 26 ~~triplicate originals~~ by the president and the secretary of the company,  
 27 and acknowledged and sworn to before an officer authorized to take the  
 28 acknowledgments of deeds by the officers signing the same.

29 SECTION 31. IC 27-1-19-3 IS AMENDED TO READ AS  
 30 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 3. The articles of  
 31 reorganization shall be presented to the department, accompanied by  
 32 a certified copy of the resolution of the board of directors adopting and  
 33 approving the same, signed by the president and secretary of the  
 34 company. The department may approve or disapprove the articles of  
 35 reorganization, in the same manner as provided in IC 27-1-6-8. In the  
 36 event the department approves the articles of reorganization as  
 37 provided, ~~it the department~~ shall then submit ~~them the articles of~~  
 38 **reorganization** to the attorney general for the state of Indiana, who  
 39 shall examine ~~such the~~ **articles of reorganization** and endorse ~~his the~~  
 40 **attorney general's** approval thereon and return ~~them the articles of~~  
 41 **reorganization** to the department in the same manner as provided in  
 42 IC 27-1-6-9. When the articles of reorganization have been approved



1 by the attorney general and returned to the department, the department  
 2 shall ~~present them~~ **return the articles of reorganization** to the  
 3 **company. The company shall present the articles of reorganization**  
 4 **to the** secretary of state for the state of Indiana, who shall ~~endorse his~~  
 5 ~~approval thereon in the same manner as provided in IC 27-1-6-10 and~~  
 6 file one (1) **electronic** copy in ~~his~~ **the secretary of state's** office and  
 7 return ~~the other two (2) copies~~ **one (1) electronic copy** to the company  
 8 or ~~its~~ **the company's** representatives.

9 SECTION 32. IC 27-3-1-4 IS AMENDED TO READ AS  
 10 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 4. Not earlier than  
 11 thirty-one (31) days after the date of the meeting of shareholders of the  
 12 domestic company at which the plan of exchange was approved by  
 13 such shareholders, a certificate setting forth the plan of exchange, the  
 14 manner of the approval thereof by the directors of the acquiring  
 15 corporation and the domestic company and the manner of its adoption  
 16 and the vote by which adopted by the shareholders of the domestic  
 17 company or setting forth that the plan of exchange has been abandoned  
 18 shall be signed on behalf of each such corporation by its president or  
 19 a ~~vice-president~~ **vice president** and shall then be presented in ~~triplicate~~  
 20 to the department at ~~its~~ **the department's** office for filing. The  
 21 department shall file one (1) copy of such certificate in ~~its~~ **the**  
 22 **department's** offices and shall deliver ~~copies~~ **one (1) electronic copy**  
 23 bearing the date and time of filing endorsed thereon to the domestic  
 24 company and **to** the acquiring corporation. Upon the filing of such  
 25 certificate, the plan of exchange and the issuance and exchange  
 26 provided for therein shall become effective, unless a later date and time  
 27 is specified in the plan of exchange, in which event the plan of  
 28 exchange and the issuance and exchange provided for therein shall  
 29 become effective upon such later date and time.

30 SECTION 33. IC 27-8-5.7-7 IS AMENDED TO READ AS  
 31 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 7. A provider shall  
 32 submit only the following forms for payment by an insurer:

- 33 (1) ~~HCFA-1500~~: **CMS-1500**.
- 34 (2) ~~HCFA-1450 (UB-92)~~: **CMS-1450 (UB-04)**.
- 35 (3) American Dental Association (ADA) claim form.

36 SECTION 34. IC 27-8-8-2, AS AMENDED BY P.L.276-2013,  
 37 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 38 JULY 1, 2018]: Sec. 2. (a) The definitions in this section apply  
 39 throughout this chapter.

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

42 (c) "Annuity contract", except as provided in section 2.3(e) of this



- 1 chapter, includes:
- 2 (1) a guaranteed investment contract;
- 3 (2) a deposit administration contract;
- 4 (3) a structured settlement annuity;
- 5 (4) an annuity issued to or in connection with a government
- 6 lottery; and
- 7 (5) an immediate or a deferred annuity contract.
- 8 (d) "Assessment base year" means, for an impaired insurer or
- 9 insolvent insurer, the most recent calendar year for which required
- 10 premium information is available preceding the calendar year during
- 11 which the impaired insurer's or insolvent insurer's coverage date
- 12 occurs.
- 13 (e) "Association", except when the context otherwise requires,
- 14 means the Indiana life and health insurance guaranty association
- 15 created by section 3 of this chapter.
- 16 (f) "Benefit plan" means a specific plan, fund, or program that is
- 17 established or maintained by an employer or an employee organization,
- 18 or both, that:
- 19 (1) provides retirement income to employees; or
- 20 (2) results in a deferral of income by employees for a period
- 21 extending to or beyond the termination of employment.
- 22 (g) "Board" refers to the board of directors of the association
- 23 selected under IC 27-8-8-4.
- 24 (h) "Called", when used in the context of assessments, means that
- 25 notice has been issued by the association to member insurers requiring
- 26 the member insurers to pay, within a time frame set forth in the notice,
- 27 an assessment that has been authorized by the board.
- 28 (i) "Commissioner" refers to the insurance commissioner appointed
- 29 under IC 27-1-1-2.
- 30 (j) "Contractual obligation" means an enforceable obligation under
- 31 a covered policy for which and to the extent that coverage is provided
- 32 under section 2.3 of this chapter.
- 33 (k) "Coverage date" means, with respect to a member insurer, the
- 34 date on which the earlier of the following occurs:
- 35 (1) The member insurer becomes an insolvent insurer.
- 36 (2) The association determines that the association will provide
- 37 coverage under section 5(a) of this chapter with respect to the
- 38 member insurer.
- 39 (l) "Covered policy" means a:
- 40 (1) nongroup policy or contract;
- 41 (2) certificate under a group policy or contract; or
- 42 (3) part of a policy, contract, or certificate described in



- 1 subdivisions (1) and (2);  
 2 for which coverage is provided under section 2.3 of this chapter.  
 3 (m) "Extracontractual claims" includes claims that relate to bad faith  
 4 in the payment of claims, punitive or exemplary damages, or attorney's  
 5 fees and costs.  
 6 (n) "Funding agreement" has the meaning set forth in  
 7 IC 27-1-12.7-1.  
 8 **(o) "Health benefit plan insurance" means coverage under a**  
 9 **hospital or medical expense policy or certificate or a health**  
 10 **maintenance organization subscriber contract. The term does not**  
 11 **include the following:**  
 12 **(1) Accident only, credit, dental only, vision only, Medicare**  
 13 **supplement, or disability income insurance.**  
 14 **(2) Coverage for:**  
 15 **(A) long term care;**  
 16 **(B) home health care;**  
 17 **(C) community based care; or**  
 18 **(D) a combination of coverage specified in clauses (A)**  
 19 **through (C).**  
 20 **(3) Coverage for onsite medical clinics.**  
 21 **(4) Specified disease, hospital confinement indemnity, or**  
 22 **limited benefit health insurance if the types of coverage do not**  
 23 **provide coordination of benefits and are provided under**  
 24 **separate policies, contracts, or certificates.**  
 25 **(p) "Health care provider" means a health care provider that**  
 26 **renders health care services covered under health benefit plan**  
 27 **insurance.**  
 28 ~~(o)~~ **(q) "Impaired insurer" means a member insurer that is:**  
 29 **(1) not an insolvent insurer; and**  
 30 **(2) placed under an order of rehabilitation or conservation by a**  
 31 **court with jurisdiction.**  
 32 ~~(p)~~ **(r) "Insolvent insurer" means a member insurer that is placed**  
 33 **under an order of liquidation with a finding of insolvency by a court**  
 34 **with jurisdiction.**  
 35 **(s) "Insurance" includes health benefit plan insurance.**  
 36 **(t) "Insured" includes an enrollee under a health maintenance**  
 37 **organization contract.**  
 38 **(u) "Insurer" includes a health maintenance organization.**  
 39 ~~(q)~~ **(v) "Member insurer" means any person that holds a certificate**  
 40 **of authority to transact in Indiana any kind of insurance for which**  
 41 **coverage is provided under section 2.3 of this chapter. The term**  
 42 **includes an insurer whose certificate of authority to transact such**



1 insurance in Indiana may have been suspended, revoked, not renewed,  
2 or voluntarily withdrawn but does not include the following:

3 (1) A for-profit or nonprofit hospital or medical service  
4 organization.

5 ~~(2) A health maintenance organization under IC 27-13.~~

6 ~~(3) (2) A fraternal benefit society under IC 27-11.~~

7 ~~(4) (3) The Indiana Comprehensive Health Insurance Association~~  
8 ~~or any other mandatory state pooling plan or arrangement.~~

9 ~~(5) (4) An assessment company or another person that operates on~~  
10 ~~an assessment plan (as defined in IC 27-1-2-3(y)).~~

11 ~~(6) (5) An interinsurance or reciprocal exchange authorized by~~  
12 ~~IC 27-6-6.~~

13 ~~(7) (6) A prepaid limited service health maintenance organization~~  
14 ~~or a limited service health maintenance organization under~~  
15 ~~IC 27-13-34.~~

16 ~~(8) (7) A farm mutual insurance company under IC 27-5.1.~~

17 ~~(9) (8) A person operating as a Lloyds under IC 27-7-1.~~

18 ~~(10) (9) The political subdivision risk management fund~~  
19 ~~established by IC 27-1-29-10 and the political subdivision~~  
20 ~~catastrophic liability fund established by IC 27-1-29.1-7.~~

21 ~~(11) (10) The small employer health reinsurance board~~  
22 ~~established by IC 27-8-15.5-5.~~

23 ~~(12) (11) A person similar to any person described in subdivisions~~  
24 ~~(1) through (11): (10).~~

25 ~~(13) (w) "Moody's Corporate Bond Yield Average" means:~~

26 (1) the monthly average of the composite yield on seasoned  
27 corporate bonds as published by Moody's Investors Service, Inc.;

28 or

29 (2) if the monthly average described in subdivision (1) is no  
30 longer published, an alternative publication of interest rates or  
31 yields determined appropriate by the association.

32 ~~(14) (x) "Multiple employer welfare arrangement" has the meaning~~  
33 ~~set forth in IC 27-1-34-1.~~

34 ~~(15) (y) "Owner" means the person:~~

35 (1) identified as the legal owner of a policy or contract according  
36 to the terms of the policy or contract; or

37 (2) otherwise vested with legal title to a policy or contract through  
38 a valid assignment completed in accordance with the terms of the  
39 policy or contract and properly recorded as the owner on the  
40 books of the insurer.

41 The term does not include a person with a mere beneficial interest in  
42 a policy or contract.



1           (†) (z) "Person" means an individual, a corporation, a limited  
2 liability company, a partnership, an association, a governmental entity,  
3 a voluntary organization, a trust, a trustee, or another business entity or  
4 organization.

5           (†) (aa) "Plan sponsor" refers to only one (1) of the following with  
6 respect to a benefit plan:

7           (1) The employer, in the case of a benefit plan established or  
8 maintained by a single employer.

9           (2) The holding company or controlling affiliate, in the case of a  
10 benefit plan established or maintained by affiliated companies  
11 comprising a consolidated corporation.

12           (3) The employee organization, in the case of a benefit plan  
13 established or maintained by an employee organization.

14           (4) In a case of a benefit plan established or maintained:

15           (A) by two (2) or more employers;

16           (B) by two (2) or more employee organizations; or

17           (C) jointly by one (1) or more employers and one (1) or more  
18 employee organizations;

19           and that is not of a type described in subdivision (2), the  
20 association, committee, joint board of trustees, or other similar  
21 group of representatives of the parties that establish or maintain  
22 the benefit plan.

23           **(bb) "Policy" means a:**

24           **(1) nongroup policy or contract;**

25           **(2) certificate under a group policy or contract; or**

26           **(3) part of a policy, contract, or certificate described in**  
27 **subdivisions (1) and (2).**

28           (†) (cc) "Premiums" means amounts, deposits, and considerations  
29 received on covered policies, less returned premiums, returned  
30 deposits, returned considerations, dividends, and experience credits.  
31 The term does not include the following:

32           (1) Amounts, deposits, and considerations received for policies or  
33 contracts or parts of policies or contracts for which coverage is  
34 not provided under section 2.3(d) of this chapter, as qualified by  
35 section 2.3(e) of this chapter, except that an assessable premium  
36 must not be reduced on account of the limitations set forth in  
37 section 2.3(e)(3), 2.3(e)(15), or 2.3(f)(2) of this chapter.

38           (2) Premiums in excess of five million dollars (\$5,000,000) on an  
39 unallocated annuity contract not issued or not connected with a  
40 governmental benefit plan established under Section 401, 403(b),  
41 or 457 of the United States Internal Revenue Code.

42           (†) (dd) "Principal place of business" refers to the single state in



1 which individuals who establish policy for the direction, control, and  
 2 coordination of the operations of an entity as a whole primarily exercise  
 3 the direction, control, and coordination, as determined by the  
 4 association in the association's reasonable judgment by considering the  
 5 following factors:

6 (1) The state in which the primary executive and administrative  
 7 headquarters of the entity is located.

8 (2) The state in which the principal office of the chief executive  
 9 officer of the entity is located.

10 (3) The state in which the board of directors or similar governing  
 11 person of the entity conducts the majority of the board of  
 12 directors' or governing person's meetings.

13 (4) The state in which the executive or management committee of  
 14 the board of directors or similar governing person of the entity  
 15 conducts the majority of the committee's meetings.

16 (5) The state from which the management of the overall  
 17 operations of the entity is directed.

18 However, in the case of a plan sponsor, if more than fifty percent (50%)  
 19 of the participants in the plan sponsor's benefit plan are employed in a  
 20 single state, that state is considered to be the principal place of business  
 21 of the plan sponsor. The principal place of business of a plan sponsor  
 22 of a benefit plan described in subsection ~~(v)(4)~~, **(aa)(3)**, if more than  
 23 fifty percent (50%) of the participants in the plan sponsor's benefit plan  
 24 are not employed in a single state, is considered to be the principal  
 25 place of business of the association, committee, joint board of trustees,  
 26 or other similar group of representatives of the parties that establish or  
 27 maintain the benefit plan and, in the absence of a specific or clear  
 28 designation of a principal place of business, is considered to be the  
 29 principal place of business of the employer or employee organization  
 30 that has the largest investment in the benefit plan in question on the  
 31 coverage date.

32 ~~(y)~~ **(ee)** "Receivership court" refers to the court in an insolvent  
 33 insurer's or impaired insurer's state that has jurisdiction over the  
 34 conservation, rehabilitation, or liquidation of the insolvent insurer or  
 35 impaired insurer.

36 ~~(z)~~ **(ff)** "Resident" means the following:

37 (1) An individual who resides in Indiana on the applicable  
 38 coverage date.

39 (2) A person that is not an individual and has the person's  
 40 principal place of business in Indiana on the applicable coverage  
 41 date.

42 ~~(aa)~~ **(gg)** "State" includes a state, the District of Columbia, Puerto



1 Rico, and a United States possession, territory, or protectorate.

2 ~~(bb)~~ **(hh)** "Structured settlement annuity" means an annuity  
3 purchased to fund periodic payments for a plaintiff or other claimant  
4 in payment for or with respect to personal injury suffered by the  
5 plaintiff or other claimant.

6 ~~(cc)~~ **(ii)** "Supplemental contract" means a written agreement entered  
7 into for the distribution of proceeds under a life, health, or annuity  
8 policy or contract.

9 ~~(dd)~~ **(jj)** "Unallocated annuity contract" means an annuity contract  
10 or group annuity certificate:

11 (1) the owner of which is not a natural person; and

12 (2) that does not identify at least one (1) specific natural person  
13 as an annuitant;

14 except to the extent of any annuity benefits guaranteed to a natural  
15 person by an insurer under the contract or certificate. For purposes of  
16 this chapter, an unallocated annuity contract shall not be considered a  
17 group policy or group contract.

18 SECTION 35. IC 27-8-8-2.1, AS AMENDED BY P.L.276-2013,  
19 SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
20 JULY 1, 2018]: Sec. 2.1. (a) For purposes of this chapter:

21 (1) a policy or contract issued on a blanket basis is a group policy  
22 or group contract;

23 (2) each individual insured under a policy or contract issued on a  
24 blanket basis is a certificate holder under the policy or contract;  
25 and

26 (3) a policy or contract issued on a franchise plan to members of  
27 a qualified group is a nongroup policy or nongroup contract.

28 (b) For purposes of this chapter, a benefit plan may have only one  
29 (1) plan sponsor.

30 (c) For purposes of this chapter, an individual who, on the  
31 applicable coverage date:

32 (1) is a citizen of the United States; and

33 (2) resides in a:

34 (A) foreign country; or

35 (B) United States possession, territory, or protectorate;

36 that does not have an association similar to the association created  
37 by this chapter;

38 is considered to be a resident of the state of domicile of the insurer that  
39 issued the policies or contracts.

40 **(d) For purposes of this chapter, benefits provided under a long  
41 term care insurance rider to:**

42 **(1) a life insurance policy; or**





1           **(2) an annuity contract;**  
 2           **are considered to be the same kind of benefits as the benefits under**  
 3           **the life insurance policy or annuity contract to which the rider**  
 4           **benefits relate.**

5           SECTION 36. IC 27-8-8-2.3, AS AMENDED BY P.L.276-2013,  
 6           SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 7           JULY 1, 2018]: Sec. 2.3. (a) Except as otherwise excluded or limited  
 8           by this chapter, this chapter provides coverage for policies and  
 9           contracts specified in subsection (d) as follows:

10           (1) To a person, other than a certificate holder under a group  
 11           policy or a group contract, that, regardless of where the person  
 12           resides, is the **health care provider**, beneficiary, nonowner  
 13           assignee, or payee of a person covered under subdivision (2).

14           (2) To a person that is a certificate holder under a group policy or  
 15           group contract, and to a person that is the owner of a nongroup  
 16           policy or nongroup contract that is not an unallocated annuity  
 17           contract or a structured settlement annuity, and that:

18           (A) is a resident; or

19           (B) is not a resident if all the following conditions are  
 20           satisfied:

21           (i) The member insurer that issued the policy or contract is  
 22           domiciled in Indiana.

23           (ii) The state in which the person resides has an association  
 24           similar to the association.

25           (iii) The nonresident is not eligible for coverage by the other  
 26           association referred to in item (ii) solely because the  
 27           member insurer was not licensed in the state of residence at  
 28           the time specified in the guaranty association law of the state  
 29           of residence.

30           (3) For an unallocated annuity contract, subdivisions (1) and (2)  
 31           do not apply, and this chapter provides coverage to the following:

32           (A) A person that is the owner of the unallocated annuity  
 33           contract, if the contract was issued to or in connection with a  
 34           benefit plan whose plan sponsor is a resident or, if the plan  
 35           sponsor is not a resident, if all the following conditions are  
 36           satisfied:

37           (i) The member insurer that issued the unallocated annuity  
 38           contract is domiciled in Indiana.

39           (ii) The state in which the plan sponsor resides has an  
 40           association similar to the association.

41           (iii) The other association referred to in item (ii) does not  
 42           provide coverage of the unallocated annuity contract solely



- 1 because the member insurer was not licensed in the state of  
 2 residence at the time specified in the guaranty association  
 3 law of the state of residence.
- 4 (B) A person that is the owner of an unallocated annuity  
 5 contract issued to or in connection with a government lottery,  
 6 if the owner is a resident or, if the owner is not a resident, if all  
 7 the following conditions are satisfied:
- 8 (i) The member insurer that issued the unallocated annuity  
 9 contract is domiciled in Indiana.
- 10 (ii) The state in which the owner resides has an association  
 11 similar to the association.
- 12 (iii) The other association referred to in item (ii) does not  
 13 provide coverage of the unallocated annuity contract solely  
 14 because the member insurer was not licensed in the state of  
 15 residence at the time specified in the guaranty association  
 16 law of the state of residence.
- 17 (4) For a structured settlement annuity, subdivisions (1) and (2)  
 18 do not apply, and this chapter provides coverage to a person that  
 19 is a payee under the structured settlement annuity (or beneficiary  
 20 of a payee if the payee is deceased), if the payee:
- 21 (A) is a resident, regardless of where the contract owner  
 22 resides; or
- 23 (B) is not a resident if all the following conditions are  
 24 satisfied:
- 25 (i) The member insurer that issued the structured settlement  
 26 annuity is domiciled in Indiana.
- 27 (ii) The state in which the payee resides has an association  
 28 similar to the association.
- 29 (iii) Neither the payee nor the beneficiary of the payee (if the  
 30 payee is deceased) is eligible for coverage by the other  
 31 association referred to in item (ii) solely because the  
 32 member insurer was not licensed in the state of residence at  
 33 the time specified in the guaranty association law of the state  
 34 of residence.
- 35 (b) This chapter does not provide coverage to a person that is:
- 36 (1) a payee or beneficiary of a contract owner that is a resident, if  
 37 the payee or beneficiary is afforded any coverage by the  
 38 association of another state; or
- 39 (2) otherwise covered under subsection(a)(3), if any coverage is  
 40 provided to the person by the association of another state.
- 41 (c) To avoid duplicate coverage, if a person that would otherwise  
 42 receive coverage under this chapter is provided coverage under the



1 laws of another state, the person is not eligible for coverage under this  
 2 chapter. In determining the application of this subsection when a  
 3 person may be covered by the association of more than one (1) state as  
 4 an owner, a payee, a beneficiary, or an assignee, this chapter must be  
 5 construed in conjunction with the laws of the other state to result in  
 6 coverage by only one (1) association.

7 (d) Except as otherwise excluded or limited by this chapter, this  
 8 chapter provides coverage to the persons specified in subsection (a)  
 9 for:

10 (1) direct nongroup life **insurance and health insurance policies**  
 11 **or contracts; or**

12 **(2) direct nongroup annuity policies and contracts; and**

13 **(3) supplemental contracts to direct nongroup life, health, or**  
 14 **annuity policies and contracts described in subdivisions (1) and**  
 15 **(2);**

16 ~~(2)~~ **(4) certificates under direct group life insurance and health**  
 17 **and annuity insurance policies and contracts;**

18 **(5) certificates under direct group annuity contracts; and**

19 ~~(3)~~ **(6) unallocated annuity contracts;**

20 issued by member insurers.

21 (e) **Except for a part of a certificate, policy, or contract**  
 22 **(including a rider) that provides long term care or another health**  
 23 **insurance benefit,** this chapter does not provide coverage for or with  
 24 respect to the following:

25 (1) A part of a certificate, policy, or contract:

26 (A) not guaranteed by the **member** insurer; or

27 (B) under which the risk is borne by the payee, certificate  
 28 holder, or the policy or contract owner.

29 (2) A reinsurance policy or contract, unless and to the extent that  
 30 assumption certificates have been issued under the reinsurance  
 31 policy or contract.

32 (3) A part of a certificate, policy, or contract to the extent that the  
 33 certificate's, policy's, or contract's interest rate, crediting rate, or  
 34 similar factor employed in calculating returns or changes in  
 35 values, whether expressly stated in the certificate, policy, or  
 36 contract or determined by use of an index or other external  
 37 referent stated in the certificate, policy, or contract, either:

38 (A) when averaged over a period of four (4) years immediately  
 39 before the applicable coverage date, exceeds the rate of  
 40 interest determined by subtracting two (2) percentage points  
 41 from Moody's Corporate Bond Yield Average averaged for the  
 42 same four (4) year period or for a lesser period if the



- 1 certificate, policy, or contract was issued less than four (4)  
 2 years before the applicable coverage date; or  
 3 (B) in effect under the certificate, policy, or contract on and  
 4 after the applicable coverage date, exceeds the rate of interest  
 5 determined by subtracting three (3) percentage points from  
 6 Moody's Corporate Bond Yield Average as most recently  
 7 available on the applicable coverage date.
- 8 (4) The obligations of a plan or program of an employer, an  
 9 association, or another person to provide life, health, or annuity  
 10 benefits to the employer's, association's, or other person's  
 11 employees, members, or others, including obligations arising  
 12 under and benefits payable by the employer, association, or other  
 13 person under a multiple employer welfare arrangement.
- 14 (5) A minimum premium group insurance plan.
- 15 (6) A stop-loss or excess loss insurance policy or contract  
 16 providing for the indemnification of or payment to a policy owner,  
 17 a contract owner, a plan, or another person obligated to pay life,  
 18 health, or annuity benefits or to provide services in connection  
 19 with a benefit plan or another plan, fund, or program for the  
 20 provision of employee welfare or pension benefits.
- 21 (7) An administrative services only contract.
- 22 (8) A part of a certificate, policy, or contract to the extent that the  
 23 certificate, policy, or contract provides for:  
 24 (A) dividends or experience rating credits;  
 25 (B) voting rights; or  
 26 (C) payment of fees or allowances to a person, including the  
 27 certificate holder or policy or contract owner, in connection  
 28 with service with respect to or administration of the certificate,  
 29 policy, or contract.
- 30 (9) A certificate, policy, or contract issued in Indiana by a  
 31 member insurer when the member insurer did not have a  
 32 certificate of authority to issue the certificate, policy, or contract  
 33 in Indiana.
- 34 (10) An unallocated annuity contract issued to or in connection  
 35 with a benefit plan protected by the federal Pension Benefit  
 36 Guaranty Corporation, regardless of whether the federal Pension  
 37 Benefit Guaranty Corporation has yet been required to make  
 38 payments with respect to the benefit plan.
- 39 (11) An unallocated annuity contract or part of an unallocated  
 40 annuity contract that is not issued to or in connection with a  
 41 benefit plan or a government lottery.
- 42 (12) A certificate, policy, or contract or part of a certificate,



1 policy, or contract with respect to which the Class B assessments  
 2 contemplated by section 6 of this chapter may not be made or  
 3 collected under federal or state law.

4 (13) An obligation or claim that does not arise under the express  
 5 written terms of the policy or contract issued by the member  
 6 insurer to the contract owner or policy owner, including any of the  
 7 following obligations and claims:

8 (A) Obligations and claims based on marketing materials.

9 (B) Obligations and claims based on side letters, riders, or  
 10 other documents issued by the member insurer without  
 11 meeting applicable policy **or contract** form filing or approval  
 12 requirements.

13 (C) Obligations and claims based on actual or alleged  
 14 misrepresentations.

15 (D) Obligations and claims that are extracontractual claims.

16 (E) Obligations and claims for penalties or consequential,  
 17 incidental, punitive, or exemplary damages.

18 (14) An obligation to provide a book value accounting guaranty  
 19 for defined contribution benefit plan participants by reference to  
 20 a portfolio of assets that is owned by the:

21 (A) benefit plan; or

22 (B) benefit plan's trustee;

23 that is not an affiliate of the member insurer.

24 (15) A part of a certificate, policy, or contract to the extent the:

25 (A) certificate, policy, or contract provides for the certificate's,  
 26 policy's, or contract's interest rate, crediting rate, or similar  
 27 factor employed in calculating returns or changes in values, to  
 28 be determined by use of an index or other external referent  
 29 stated in the certificate, policy, or contract; and

30 (B) returns or changes in value have not been credited to the  
 31 certificate, policy, or contract, or as to which the certificate  
 32 holder's or policy or contract owner's rights are subject to  
 33 forfeiture, as of the applicable coverage date.

34 If a certificate's, policy's, or contract's returns or changes in values  
 35 are credited to the certificate, policy, or contract less frequently  
 36 than annually, for purposes of determining the returns and values  
 37 that have been credited and are not subject to forfeiture under this  
 38 subdivision, the returns and changes in value determined by using  
 39 the procedures defined in the certificate, policy, or contract must  
 40 be considered credited as if the contractual date of crediting  
 41 returns or changes in values were the applicable coverage date,  
 42 and those credited returns or changes in value are not subject to



- 1 forfeiture under this subdivision, but will be subject to any other  
 2 applicable limitations under this chapter.  
 3 (16) A funding agreement.  
 4 (17) An annuity not subject to regulation as described in  
 5 IC 27-1-12.4.  
 6 (18) A certificate, policy, or contract that provides a hospital,  
 7 medical, prescription drug, or other health care benefit under:  
 8 (A) Part C of Title XVIII of the federal Social Security Act (42  
 9 U.S.C. 1395w-21 through 1395w-28);  
 10 (B) Part D of Title XVIII of the federal Social Security Act (42  
 11 U.S.C. 1395w-101 through 1395w-153);  
 12 **(C) Title XIX of the federal Social Security Act (42 U.S.C.**  
 13 **1396 et seq.); or**  
 14 ~~(D)~~ **(D)** regulations adopted under a law specified in clause  
 15 ~~(A), or (B), or (C).~~  
 16 **(19) A part of a long term care, long term disability, or other**  
 17 **health insurance policy or contract to the extent that, on and**  
 18 **after the date on which the member insurer becomes an**  
 19 **impaired insurer or insolvent insurer under this chapter,**  
 20 **benefits under the policy or contract increase or accrue at a**  
 21 **rate or other factor that exceeds the average Core Consumer**  
 22 **Price Index published by the federal Bureau of Labor**  
 23 **Statistics over the preceding three (3) calendar years.**  
 24 (f) The benefits that the association is obligated to cover do not  
 25 exceed the lesser of the following:  
 26 (1) The contractual obligations for which the member insurer is  
 27 liable or would have been liable if the member insurer were not  
 28 an impaired insurer or insolvent insurer.  
 29 (2) The applicable limitations as follows:  
 30 (A) With respect to certificates, policies, and contracts not  
 31 subject to clause (B), (C), (E), or (F), with respect to one (1)  
 32 life, regardless of the number of policies or contracts, the  
 33 following limitations:  
 34 (i) Three hundred thousand dollars (\$300,000) in life  
 35 insurance death benefits, but not more than one hundred  
 36 thousand dollars (\$100,000) in net cash surrender and net  
 37 cash withdrawal values.  
 38 (ii) One hundred thousand dollars (\$100,000) in health  
 39 insurance benefits (other than disability **income** insurance,  
 40 ~~basic hospital, medical, and surgical insurance, major~~  
 41 ~~medical insurance, health benefit plan insurance,~~ and long  
 42 term care insurance), including net cash surrender and net



- 1 cash withdrawal values.
- 2 (iii) Three hundred thousand dollars (\$300,000) in health  
3 insurance benefits that are disability **income** insurance.
- 4 (iv) Three hundred thousand dollars (\$300,000) in health  
5 insurance benefits under one (1) or more long term care  
6 insurance policies (as defined in IC 27-8-12-5).
- 7 (v) Five hundred thousand dollars (\$500,000) in health  
8 **benefit plan** insurance benefits. ~~that are basic hospital,~~  
9 ~~medical, and surgical insurance or major medical insurance.~~
- 10 (vi) Two hundred fifty thousand dollars (\$250,000) in the  
11 present value of annuity benefits, including net cash  
12 surrender and net cash withdrawal values.
- 13 (B) With respect to unallocated annuity contracts issued to or  
14 in connection with a governmental benefit plan established  
15 under Section 401, 403(b), or 457 of the United States Internal  
16 Revenue Code, two hundred fifty thousand dollars (\$250,000)  
17 in the present value of annuity benefits, including net cash  
18 surrender and net cash withdrawal values, per participant.
- 19 (C) With respect to structured settlement annuities, two  
20 hundred fifty thousand dollars (\$250,000) in the present value  
21 of annuity benefits, including net cash surrender and net cash  
22 withdrawal values, per payee.
- 23 (D) In addition to the foregoing limitations, the association is  
24 not obligated to cover more than:
- 25 (i) an aggregate of three hundred thousand dollars  
26 (\$300,000) in benefits with respect to any one (1) person  
27 under clauses (A), (B), and (C), except with respect to  
28 benefits for ~~basic hospital, medical, and surgical insurance~~  
29 ~~and major medical~~ **health benefit plan** insurance under  
30 clause (A)(v), an aggregate of five hundred thousand dollars  
31 (\$500,000) with respect to any one (1) person; or
- 32 (ii) with respect to one (1) owner of multiple nongroup  
33 policies of life insurance, whether the policy owner is an  
34 individual, a firm, a corporation, or another person, and  
35 whether the persons insured are officers, managers,  
36 employees, or other persons, five million dollars  
37 (\$5,000,000) in benefits, including net cash surrender and  
38 net cash withdrawal values, regardless of the number of  
39 policies and contracts held by the owner.
- 40 (E) With respect to unallocated annuity contracts issued to or  
41 in connection with a government lottery, five million dollars  
42 (\$5,000,000) in benefits per contract owner, regardless of the



1 number of contracts held by the contract owner.

2 (F) With respect to unallocated annuity contracts:

3 (i) issued to or in connection with a benefit plan; and

4 (ii) not subject to clause (B);

5 five million dollars (\$5,000,000) in benefits per plan sponsor,  
6 regardless of the number of unallocated annuity contracts  
7 entitled to coverage under this chapter.

8 (g) The limitations set forth in subsection (f) are limitations on the  
9 benefits for which the association is obligated before taking into  
10 account the:

11 (1) association's subrogation and assignment rights; or

12 (2) extent to which the benefits could be provided out of the  
13 assets of the impaired insurer or insolvent insurer attributable to  
14 covered policies.

15 The costs of discharging the association's obligations under this chapter  
16 may be met by the use of assets attributable to covered policies or  
17 reimbursed to the association under the association's subrogation and  
18 assignment rights.

19 (h) In discharging the association's obligations to provide coverage  
20 under this chapter, the association is not required to:

21 (1) guarantee, assume, **reissue**, reinsure, or perform;

22 (2) cause to be guaranteed, assumed, **reissued**, reinsured, or  
23 performed; or

24 (3) otherwise assure the discharge of;

25 the obligations of the insolvent insurer or impaired insurer under a  
26 covered policy that do not materially affect the economic values or  
27 economic benefits of the covered policy.

28 SECTION 37. IC 27-8-8-4, AS AMENDED BY P.L.193-2006,  
29 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
30 JULY 1, 2018]: Sec. 4. (a) The board of directors of the association  
31 shall consist of not less than ~~five (5)~~ **seven (7)** nor more than ~~nine (9)~~  
32 **eleven (11)** member insurers serving terms established in the plan of  
33 operation. The members of the board shall be selected by member  
34 insurers subject to the approval of the commissioner.

35 (b) Vacancies on the board shall be filled for the remaining period  
36 of the term by a majority vote of the remaining board members, subject  
37 to the approval of the commissioner.

38 (c) To select the initial board and initially organize the association,  
39 the commissioner shall give notice to all member insurers of the time  
40 and place of the organizational meeting. At the organizational meeting,  
41 each member insurer is entitled to one (1) vote in person or by proxy.  
42 If the board is not selected within sixty (60) days after notice of the





1 organizational meeting, the commissioner may appoint the initial  
2 members of the board.

3 (d) In approving selections to the board, the commissioner shall  
4 consider whether all member insurers are fairly represented.

5 (e) Members of the board may be reimbursed from the assets of the  
6 association for expenses incurred by the members as members of the  
7 board. The association shall not otherwise compensate members of the  
8 board for the members' services on the board.

9 SECTION 38. IC 27-8-8-5, AS AMENDED BY P.L.193-2006,  
10 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
11 JULY 1, 2018]: Sec. 5. (a) If a member insurer is an impaired insurer,  
12 the association may, in the association's sole discretion and subject to  
13 any conditions imposed by the association that do not impair the  
14 contractual obligations of the impaired insurer and that are approved  
15 by the commissioner:

16 (1) guarantee, assume, **reissue**, reinsure, or perform, or cause to  
17 be guaranteed, assumed, **reissued**, reinsured, or performed, the  
18 contractual obligations of any of the covered policies of the  
19 impaired insurer or otherwise assure the discharge of the  
20 contractual obligations of the covered policies of the impaired  
21 insurer; and

22 (2) provide money, pledges, loans, notes, guarantees, or use other  
23 means as determined by the association in the association's sole  
24 discretion to be necessary or appropriate to effectuate subdivision

25 (1).

26 (b) An obligation undertaken by the association under subsection (a)  
27 with respect to a covered policy of an impaired insurer ceases on the  
28 date the covered policy is replaced by the policy owner, insured, or  
29 association.

30 (c) If a member insurer is an insolvent insurer, the association shall,  
31 in the association's sole discretion, do one (1) of the following for each  
32 covered policy:

33 (1) Guarantee, assume, **reissue**, reinsure, or perform, or cause to  
34 be guaranteed, assumed, **reissued**, reinsured, or performed, the  
35 contractual obligations of the covered policy or otherwise assure  
36 the discharge of the contractual obligations of the covered policy.

37 (2) Terminate existing benefits and coverage and provide benefits  
38 and coverages in accordance with the following provisions:

39 (A) For premiums identical to the premiums that would have  
40 been payable under the covered policy, assure payment of  
41 benefits arising under the contractual obligations, except for  
42 terms of conversion and nonrenewability, for:



- 1 (i) with respect to a group covered policy, claims incurred  
 2 not later than the earlier of the next renewal date under the  
 3 covered policy or forty-five (45) days, but not less than thirty  
 4 (30) days, after the coverage date for the insolvent insurer;  
 5 and  
 6 (ii) with respect to a nongroup covered policy, claims  
 7 incurred not later than the earlier of the next renewal date  
 8 under the covered policy or one (1) year, but in no event less  
 9 than thirty (30) days, after the coverage date for the  
 10 insolvent insurer.
- 11 (B) Make diligent efforts to provide each:
- 12 (i) known insured or annuitant, for a nongroup covered  
 13 policy; and  
 14 (ii) owner, for a group covered policy;  
 15 at least thirty (30) days notice of the termination of the benefits  
 16 provided.
- 17 (C) Make available substitute coverage, on an individual basis,  
 18 to each:
- 19 (i) owner of a nongroup covered policy if the owner had a  
 20 right to continue the nongroup covered policy in force until  
 21 a specified age or for a specified period, during which time  
 22 the insurer had no unilateral right to make changes in the  
 23 nongroup covered policy's provisions or had only a  
 24 unilateral right to make changes in premiums only by class;  
 25 and  
 26 (ii) insured or annuitant under a group covered policy if the  
 27 insured or annuitant is not eligible for any replacement  
 28 group coverage and had a right, before termination of the  
 29 group covered policy, to convert to individual coverage.
- 30 (D) In making available any substitute coverage under clause  
 31 (C), the association may offer to reissue the terminated  
 32 coverage or to issue an alternative policy or contract. If made  
 33 available under clause (C), alternative or reissued policies and  
 34 contracts must be offered without requiring evidence of  
 35 insurability and must not impose any waiting period or  
 36 coverage exclusion, other than a waiting period or coverage  
 37 exclusion provided for in this chapter, that would not have  
 38 applied under the terminated covered policy. The association  
 39 may cause any alternative or reissued policy or contract to be  
 40 assumed or reinsured.
- 41 (E) Use of alternative policies and contracts by the association  
 42 is subject to the approval of the domiciliary insurance



~~regulatory authority and the receivership court.~~ **commissioner.**

The association may adopt alternative policies and contracts of various types for future issuance without regard to any particular impairment or insolvency. Alternative policies and contracts must contain at least the minimum statutory provisions required in Indiana and provide benefits that are reasonable in relation to the premium charged. The association shall set the premium in accordance with a table of rates adopted by the association. The premium must:

- (i) reflect the amount of insurance to be provided and the age and class of risk of each insured; and
- (ii) not reflect changes in the health of the insured after the terminated covered policy was last underwritten.

Subject to coverage exceptions, exclusions, and limitations provided for in this chapter, an alternative policy or contract issued by the association must provide coverage similar, in material respects, to the coverage under the terminated covered policy as determined by the association.

(F) If the association elects to reissue terminated coverage at a premium rate different from the premium rate charged under the terminated covered policy, the association shall set the premium in accordance with a table of rates adopted by the association. The premium:

- (i) must reflect the amount of insurance to be provided and the age and class of risk of each insured; and
- (ii) is subject to approval of the ~~domiciliary insurance regulatory authority and the receivership court.~~ **commissioner.**

(G) The association's obligations with respect to coverage under a covered policy of an insolvent insurer or under a reissued or alternative policy or contract ceases on the date the coverage or covered policy is replaced by another similar policy by the policy owner, insured, or association.

(H) Subject to subsection (u), when proceeding under this subdivision with respect to a covered policy carrying guaranteed minimum interest rates, the association shall assure the payment or crediting of a rate of interest consistent with section 2.3(e)(3) of this chapter.

(3) Take any combination of the actions set forth in subdivisions (1) and (2).

(d) The association may provide money, pledges, loans, notes, or guarantees, or use other means that the association, in the association's



1 sole discretion, determines are necessary or appropriate to discharge  
2 the association's duties under subsection (c).

3 (e) Failure to pay premiums within thirty-one (31) days after the  
4 date that payment is due under the terms of a guaranteed, assumed,  
5 alternative, or reissued policy or contract or substitute coverage  
6 terminates the association's obligations under this chapter with respect  
7 to the policy, contract, or coverage, except with respect to claims  
8 incurred or net cash surrender value due under this chapter.

9 (f) Premiums due for coverage after the coverage date for an  
10 impaired insurer or insolvent insurer belong to and are payable at the  
11 direction of the association, and the association is liable for unearned  
12 premiums payable to policy or contract owners with respect to  
13 premiums received by the association.

14 (g) The protection provided by this chapter does not apply where  
15 any guaranty protection is provided to residents of this state by the laws  
16 of the domiciliary state of the impaired insurer or insolvent insurer if  
17 the domiciliary state is a state other than Indiana.

18 (h) In carrying out its duties under subsection (c), the association  
19 may, subject to approval by a court in Indiana, impose:

20 (1) permanent policy or contract liens, if the association finds  
21 that:

22 (A) the amounts that can be assessed under this chapter are  
23 less than the amounts needed to assure full and prompt  
24 performance of the association's duties under this chapter; or

25 (B) economic or financial conditions, as they affect member  
26 insurers, are sufficiently adverse so as to render the imposition  
27 of the permanent policy or contract liens to be in the public  
28 interest; and

29 (2) temporary moratoriums or liens on payments of cash values  
30 and policy loans or any other right to withdraw funds held in  
31 conjunction with a covered policy, in addition to any contractual  
32 provisions for deferral of cash or policy loan value.

33 In addition, in the event of a temporary moratorium or moratorium  
34 charge imposed by the receivership court on payments of cash values  
35 or policy loans or any other right to withdraw funds held in conjunction  
36 with a covered policy out of the assets of the impaired insurer or  
37 insolvent insurer, the association may defer the payment of cash values,  
38 policy loans, or other rights by the association for the period of the  
39 moratorium or moratorium charge imposed by the receivership court,  
40 except for claims covered by the association to be paid in accordance  
41 with a hardship procedure established by the liquidator or rehabilitator  
42 and approved by the receivership court.



1 (i) A deposit in Indiana, held by law or required by the  
 2 commissioner for the benefit of creditors, including policy owners, that  
 3 is not turned over to the domiciliary receiver before or promptly after  
 4 the coverage date for an impaired insurer or insolvent insurer under  
 5 IC 27-9-4-3 must be promptly paid to the association. The association:

- 6 (1) may retain a part of an amount paid to the association under  
 7 this subsection equal to the percentage determined by dividing the  
 8 aggregate amount of policy owners' claims related to the  
 9 impairment or insolvency for which the association provides  
 10 statutory benefits by the aggregate amount of all policy owners'  
 11 claims in Indiana related to the impairment or insolvency; and  
 12 (2) shall remit to the domiciliary receiver the difference between  
 13 the amount paid to the association and the amount retained by the  
 14 association under this subsection.

15 An amount retained by the association under this subsection must be  
 16 treated as a distribution of estate assets under IC 27-9-3-32 or similar  
 17 provision of the state of domicile of the impaired insurer or insolvent  
 18 insurer.

19 (j) If the association fails to act within a reasonable period of time  
 20 as provided in subsection (c) with respect to an insolvent insurer, the  
 21 commissioner has the powers and duties of the association under this  
 22 chapter with respect to the insolvent insurer.

23 (k) The association may, upon the commissioner's request, assist  
 24 and advise the commissioner concerning rehabilitation, payment of  
 25 claims, continuance of coverage, or the performance of other  
 26 contractual obligations of an impaired insurer or insolvent insurer.

27 (l) The association has standing and the right to appear or intervene  
 28 before a court or an agency in Indiana or elsewhere with jurisdiction  
 29 over an impaired insurer or insolvent insurer for which the association  
 30 is or may become obligated under this chapter or with jurisdiction over  
 31 a person or property against which the association may have rights  
 32 through subrogation or otherwise. Standing extends to all matters  
 33 germane to the rights, powers, and duties of the association, including  
 34 proposals for reinsuring, modifying, or guaranteeing the policies or  
 35 contracts of the impaired insurer or insolvent insurer and the  
 36 determination of the policies or contracts and contractual obligations.

37 (m) A person receiving benefits under this chapter is considered to  
 38 have assigned:

- 39 (1) the person's rights under; and  
 40 (2) any cause of action against another person for losses arising  
 41 under, resulting from, or otherwise relating to;

42 the covered policy to the association to the extent of the benefits



1 received because of this chapter, whether the benefits are payments of  
2 or on account of contractual obligations or continuation of coverage or  
3 provision of substitute or alternative coverage. The association may  
4 require an assignment to it of those rights and causes of action by a  
5 payee, policy or contract owner, certificate holder, beneficiary, insured,  
6 or annuitant as a condition precedent to the receipt of any right or  
7 benefits conferred by this chapter on the person.

8 (n) The subrogation rights of the association under subsections (m)  
9 and (o) have the same priority against the assets of the impaired insurer  
10 or insolvent insurer as those possessed by the person entitled to receive  
11 benefits under this chapter.

12 (o) In addition to the rights conferred by subsections (m) and (n),  
13 the association has all common law rights of subrogation and any other  
14 equitable or legal remedy with respect to a covered policy that would  
15 have been available to the:

16 (1) impaired insurer or insolvent insurer;

17 (2) owner, beneficiary, **insured**, or payee of a policy or contract  
18 with respect to the policy or contract, including, in the case of a  
19 structured settlement annuity, rights of the owner, beneficiary, or  
20 payee of the annuity, to the extent of benefits received under this  
21 chapter, against a person:

22 (A) who is originally or by succession responsible for the  
23 losses arising from the personal injury relating to the annuity  
24 or payment for the annuity; and

25 (B) whose responsibility is not solely because of the person  
26 serving as an assignee in respect of a qualified assignment  
27 under Section 130 of the Internal Revenue Code; and

28 (3) certificate holder, or the beneficiary or payee of the certificate  
29 holder, with respect to a certificate.

30 (p) If subsection (m), (n), or (o) is invalid or ineffective with respect  
31 to a person or claim, the amount payable by the association with  
32 respect to the related covered policies must be reduced by the amount  
33 realized by another person with respect to the person or claim that is  
34 attributable to the covered policies.

35 (q) If the association provides benefits with respect to a covered  
36 policy and a person recovers amounts to which the association has  
37 rights as described in subsection (m), (n), or (o), the person shall pay  
38 to the association the part of the recovery attributable to the covered  
39 policies.

40 (r) The association may do the following:

41 (1) Enter into contracts necessary or appropriate to carry out the  
42 provisions and purposes of this chapter.



- 1 (2) Sue or, subject to section 14 of this chapter, be sued, including  
 2 taking legal actions necessary or appropriate to recover unpaid  
 3 assessments under section 6 of this chapter and to resolve claims  
 4 or potential claims against or on behalf of the association.
- 5 (3) Borrow money to effect the purposes of this chapter and issue  
 6 notes or other evidences of indebtedness of the association with  
 7 respect to borrowings. Notes or other evidences of indebtedness  
 8 described in this subdivision that are not in default are legal  
 9 investments for domestic **member** insurers and may be carried as  
 10 admitted assets.
- 11 (4) Employ or retain persons necessary or appropriate to handle  
 12 the financial transactions of the association and to perform other  
 13 functions necessary or appropriate under this chapter.
- 14 (5) Take legal action necessary or appropriate to avoid or recover  
 15 payment of improper claims.
- 16 (6) Exercise, for the purposes of this chapter and to the extent  
 17 approved by the commissioner, the powers of a domestic life or  
 18 health insurer. However, in no case may the association issue  
 19 **insurance** policies or **annuity** contracts other than those issued to  
 20 perform the association's obligations under this chapter.
- 21 (7) Request information from a person seeking coverage from the  
 22 association to aid the association in determining and discharging  
 23 the association's obligations under this chapter with respect to the  
 24 person. The person shall promptly comply with the request.
- 25 (8) Settle claims and potential claims by or against the  
 26 association.
- 27 (9) Exercise all rights, privileges, and powers granted to the  
 28 association by any other laws of Indiana or another jurisdiction.
- 29 **(10) In accordance with the terms of the policy or contract,**  
 30 **file for an actuarially justified rate or premium increase for**  
 31 **a covered policy.**
- 32 ~~(10)~~ **(11)** Take other necessary or appropriate action to discharge  
 33 the association's duties and obligations under this chapter or to  
 34 exercise the association's rights and powers under this chapter.
- 35 (s) The association may belong to one (1) or more organizations of  
 36 one (1) or more other state associations of similar purpose to further the  
 37 purpose and administer the powers and duties of the association.
- 38 (t) The association has discretion and may exercise reasonable  
 39 business judgment to determine the means by which the association is  
 40 to discharge, in an economical and efficient manner, the association's  
 41 obligations under this chapter.
- 42 (u) In discharging the association's obligations and exercising the



1 association's rights and powers under subsections (a) and (c), the  
 2 association may, subject to approval of the receivership court, provide  
 3 substitute coverage for a covered policy that provides for the covered  
 4 policy's interest rate, crediting rate, or similar factor employed in  
 5 calculating returns or changes in value to be determined by use of an  
 6 index or other external referent stated in the covered policy by issuing  
 7 an alternative policy or contract in accordance with the following  
 8 provisions:

9 (1) Instead of the index or other external referent stated in the  
 10 covered policy, the alternative policy or contract may provide for:

11 (A) a fixed interest rate;

12 (B) payment of dividends with minimum guarantees; or

13 (C) a different method for calculating returns or changes in  
 14 value.

15 (2) A:

16 (A) requirement for evidence of insurability; or

17 (B) waiting period or an exclusion, other than a waiting period  
 18 or an exclusion provided for in this chapter;

19 that would not have applied under the covered policy may not be  
 20 imposed.

21 (3) The alternative policy or contract must provide coverage  
 22 similar, in material respects, to the coverage under the covered  
 23 policy, after taking into account the exceptions, exclusions, and  
 24 limitations provided for in this chapter, as determined by the  
 25 association.

26 SECTION 39. IC 27-8-8-5.2, AS ADDED BY P.L.193-2006,  
 27 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 28 JULY 1, 2018]: Sec. 5.2. (a) At any time within one (1) year after the  
 29 coverage date for an impaired insurer or insolvent insurer, the  
 30 association may elect, subject to subdivisions (1) through (4), to  
 31 succeed to the rights and obligations of the impaired insurer or  
 32 insolvent insurer that accrue on or after the coverage date and that  
 33 relate to covered policies under one (1) or more indemnity reinsurance  
 34 agreements entered into by the impaired insurer or insolvent insurer as  
 35 a ceding insurer. However, the association may not exercise an election  
 36 with respect to a reinsurance agreement if the receiver, rehabilitator, or  
 37 liquidator of the impaired insurer or insolvent insurer has previously  
 38 and expressly disaffirmed the reinsurance agreement. The election by  
 39 the association must be effected by a notice to the receiver,  
 40 rehabilitator, or liquidator and to the affected reinsurers specifying the  
 41 reinsurance agreement concerning which the association has made the  
 42 foregoing election. If the association makes an election, the following





- 1 apply with respect to the agreements selected by the association:  
 2 (1) The association is responsible for:  
 3 (A) all unpaid premiums due under the agreements for periods  
 4 before and after the coverage date; and  
 5 (B) the performance of all other obligations of the impaired  
 6 insurer or insolvent insurer to be performed after the coverage  
 7 date;  
 8 that relate to covered policies. The association may charge  
 9 covered policies that are only partially covered by the association,  
 10 through reasonable allocation methods, the costs for reinsurance  
 11 in excess of the obligations of the association.  
 12 (2) The association is entitled to any amount payable by the  
 13 reinsurer under the selected agreements:  
 14 (A) with respect to losses or events that occur during periods  
 15 after the coverage date; and  
 16 (B) that relate to covered policies.  
 17 Of the amount received from the reinsurer, the association is  
 18 obliged to pay to the beneficiary under the covered policy on  
 19 account of which the amount was paid a portion of the amount  
 20 equal to the excess of the amount received by the association over  
 21 benefits paid by the association on account of the covered policy  
 22 less the retention of the impaired insurer or insolvent insurer  
 23 applicable to the loss or event.  
 24 (3) Within thirty (30) days after the association's election, the  
 25 association and each indemnity reinsurer shall calculate the net  
 26 balance due to or from the association under each reinsurance  
 27 agreement as of the date of the association's election, giving full  
 28 credit to all items paid by the:  
 29 (A) impaired insurer or insolvent insurer, or the impaired  
 30 insurer's or insolvent insurer's receiver, rehabilitator, or  
 31 liquidator; or  
 32 (B) indemnity reinsurer;  
 33 during the period between the coverage date and the date of the  
 34 association's election. Either the association or indemnity  
 35 reinsurer shall pay the net balance due the other not more than  
 36 five (5) days after the completion of the calculation. If the  
 37 receiver, rehabilitator, or liquidator has received any amount due  
 38 the association under subdivision (2), the receiver, rehabilitator,  
 39 or liquidator shall remit the amount to the association as promptly  
 40 as practicable.  
 41 (4) If the association, within sixty (60) days of the election, pays  
 42 the premiums due for periods before and after the coverage date



1 that relate to covered policies, the reinsurer is not entitled to:

2 (A) terminate the reinsurance agreements insofar as the  
3 agreements relate to covered policies; or

4 (B) set off any unpaid premium due for periods before the  
5 coverage date against amounts due the association.

6 (b) If the association transfers any of the association's obligations to  
7 another insurer, and if the association and the other insurer agree, the  
8 other insurer succeeds to the rights and obligations of the association  
9 under subsection (a) with respect to the transferred obligations  
10 effective as of the date agreed upon by the association and the other  
11 insurer and regardless of whether the association has made the election  
12 referred to in subsection (a), except that the:

13 (1) indemnity reinsurance agreements automatically terminate for  
14 new reinsurance unless the indemnity reinsurer and the other  
15 insurer agree to the contrary; and

16 (2) obligations of the association described in subsection (a)(2) no  
17 longer apply on and after the date the indemnity reinsurance  
18 agreement is transferred to the third party insurer.

19 This subsection does not apply if the association has previously notified  
20 the receiver, rehabilitator, or liquidator and the affected reinsurer in  
21 writing that the association will not exercise the election referred to in  
22 subsection (a).

23 (c) Subsections (a) and (b) supersede any other law or affected  
24 reinsurance agreement that provides for or requires payment of  
25 reinsurance proceeds, on account of losses or events that occur after the  
26 coverage date, to the receiver, liquidator, or rehabilitator of the  
27 impaired insurer or insolvent insurer. The receiver, rehabilitator, or  
28 liquidator remains entitled to amounts payable by the reinsurer under  
29 the reinsurance agreement with respect to losses or events that occur  
30 before the coverage date, subject to applicable setoff provisions.

31 (d) Except as provided in subsections (a), (b), and (c), this chapter  
32 does not alter or modify the terms and conditions of indemnity  
33 reinsurance agreements of the insolvent insurer.

34 (e) This chapter does not:

35 (1) abrogate or limit the rights of a reinsurer to claim that the  
36 reinsurer is entitled to rescind a reinsurance agreement; or

37 (2) give a policy owner, **insured**, or beneficiary an independent  
38 cause of action against an indemnity reinsurer that is not  
39 otherwise set forth in the indemnity reinsurance agreement.

40 SECTION 40. IC 27-8-8-6, AS AMENDED BY P.L.193-2006,  
41 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
42 JULY 1, 2018]: Sec. 6. (a) For the purpose of providing funds



1 necessary to carry out the powers and duties of the association and  
 2 necessary to pay administrative costs and expenses incurred by the  
 3 commissioner in supervising the association and discharging the  
 4 commissioner's obligations under this chapter, the board shall assess  
 5 the member insurers, separately for each account, at a time and for  
 6 amounts as the board finds necessary. Assessments are due not less  
 7 than thirty (30) days after written notice to the member insurers  
 8 and accrue interest at six percent (6%) per annum on and after the due  
 9 date.

10 (b) There are two (2) classes of assessments as follows:

11 (1) Class A assessments are assessments that are authorized and  
 12 called by the board for the purpose of meeting administrative and  
 13 legal costs and other expenses. Class A assessments may be  
 14 authorized and called whether or not related to a particular  
 15 impaired insurer or insolvent insurer.

16 (2) Class B assessments are assessments that are authorized and  
 17 called by the board to the extent necessary to carry out the powers  
 18 and duties of the association under this chapter with regard to an  
 19 impaired insurer or insolvent insurer.

20 (c) The amount of a Class A assessment must be determined by the  
 21 board and may be authorized and called on a pro rata or non-pro rata  
 22 basis. If pro rata, the board may provide that the assessment be credited  
 23 against future Class B assessments. ~~The total of all non-pro rata~~  
 24 ~~assessments must not exceed one hundred fifty dollars (\$150) per~~  
 25 ~~member insurer in any one (1) calendar year.~~

26 (d) The amount of a Class B assessment, **except for assessments**  
 27 **related to long term care insurance**, must be allocated for assessment  
 28 purposes: among

29 **(1) between the accounts; and**

30 **(2) among the subaccounts of the life insurance and annuity**  
 31 **account;**

32 under an allocation formula that may be based on the premiums or  
 33 reserves of the impaired insurer or insolvent insurer or another standard  
 34 considered by the board in the board's sole discretion as fair and  
 35 reasonable under the circumstances.

36 **(e) The amount of a Class B assessment related to long term**  
 37 **care insurance must be allocated for assessment purposes**  
 38 **according to the following:**

39 **(1) The allocation to:**

40 **(A) health benefit plan insurance member insurers is fifty**  
 41 **percent (50%) of the assessment; and**

42 **(B) life insurance and annuity member insurers is fifty**



- 1                    **percent (50%) of the assessment.**
- 2                    **(2) A life insurance and annuity member insurer's share of the**
- 3                    **assessment must be determined as follows:**
- 4                    **STEP ONE: Determine the life insurance and annuity**
- 5                    **member insurer's share of the following:**
- 6                    **(A) The health insurance account.**
- 7                    **(B) The life insurance and annuity account.**
- 8                    **STEP TWO: Determine the remainder of:**
- 9                    **(A) the life insurance member insurer's share of the life**
- 10                   **insurance and annuity account; minus**
- 11                   **(B) the life insurance member insurer's share of the**
- 12                   **health insurance account.**
- 13                   **STEP THREE: Divide the remainder determined under**
- 14                   **STEP TWO by the share determined under STEP ONE**
- 15                   **(A).**
- 16                   **STEP FOUR: Multiply the quotient determined under**
- 17                   **STEP THREE by five/tenths (0.5).**
- 18                   **For purposes of this subsection, "life insurance and annuity**
- 19                   **member insurer" means a member insurer for which the sum of**
- 20                   **the member insurer's assessable life insurance premiums plus**
- 21                   **annuity premiums is equal to or greater than the member insurer's**
- 22                   **total assessable health benefit plan insurance premiums. For**
- 23                   **purposes of this subsection, "assessable" refers only to premiums**
- 24                   **on insurance or annuities sold in Indiana.**
- 25                   **(e) (f) Class B assessments against member insurers for each**
- 26                   **account and subaccount with respect to an impaired insurer or**
- 27                   **insolvent insurer must be allocated among the assessed member**
- 28                   **insurers in the proportion that the premiums received in Indiana by**
- 29                   **each assessed member insurer on policies and contracts covered by the**
- 30                   **account or subaccount during the assessment base year for the impaired**
- 31                   **insurer or insolvent insurer bears to premiums received in Indiana by**
- 32                   **all assessed members on policies and contracts covered by the same**
- 33                   **account or subaccount during the same assessment base year.**
- 34                   **(f) (g) Assessments for funds to meet the requirements of the**
- 35                   **association with respect to an impaired insurer or insolvent insurer**
- 36                   **must not be authorized or called until necessary to implement the**
- 37                   **purposes of this chapter. Classification of assessments under subsection**
- 38                   **(b) and computation of assessments under subsections (c), (d), and (e),**
- 39                   **and (f) must be made with a reasonable degree of accuracy,**
- 40                   **recognizing that exact determinations are not always possible. The**
- 41                   **association shall notify each member insurer of the member insurer's**
- 42                   **anticipated share of an assessment that has been authorized but not yet**



1 called not more than one hundred eighty (180) days after the  
2 assessment is authorized.

3 ~~(g)~~ **(h)** The association may abate or defer, in whole or in part, the  
4 assessment of a member insurer if, in the opinion of the board, payment  
5 of the assessment would endanger the ability of the member insurer to  
6 fulfill its policy and contract obligations. In the event an assessment  
7 against a member insurer is abated or deferred in whole or in part, the  
8 amount by which the assessment is abated or deferred may be assessed  
9 against the other member insurers in a manner consistent with the basis  
10 for assessments set forth in this section. Once the conditions that  
11 caused a deferral have been removed or rectified, the member insurer  
12 shall pay assessments that were deferred under a repayment plan  
13 approved by the association.

14 ~~(h)~~ **(i)** Subject to subsection ~~(i)~~; **(j)**, the total of all assessments  
15 authorized by the association in one (1) calendar year against a member  
16 insurer for a given subaccount of the life insurance and annuity account  
17 or for the health insurance account with respect to any single  
18 assessment base year must not exceed two percent (2%) of the member  
19 insurer's premiums received in Indiana on the policies and contracts  
20 covered by the subaccount or account during the applicable assessment  
21 base year.

22 ~~(i)~~ **(j)** If two (2) or more assessments are authorized in one (1)  
23 calendar year with respect to impaired insurers or insolvent insurers  
24 having different assessment base years, the annual premium used for  
25 purposes of determining the aggregate assessment percentage  
26 limitation referenced in subsection ~~(h)~~ **(i)** must be equal to the higher  
27 of the annual premiums for the applicable subaccount or account as  
28 calculated under this section.

29 ~~(j)~~ **(k)** If the maximum assessment, together with other assets of the  
30 association in an account, does not provide in one (1) year in the  
31 account an amount sufficient to carry out the responsibilities of the  
32 association, additional funds must be assessed as soon as permitted by  
33 this chapter.

34 ~~(k)~~ **(l)** The board may provide in the plan of operation a method of  
35 or procedure for allocating funds among claims relating to one (1) or  
36 more impaired insurers or insolvent insurers when the maximum  
37 assessment is insufficient to cover anticipated claims.

38 ~~(l)~~ **(m)** If the maximum assessment for a subaccount of the life  
39 insurance and annuity account in one (1) year does not provide an  
40 amount sufficient to carry out the responsibilities of the association, the  
41 board shall, under subsection ~~(e)~~; **(f)**, access the other subaccounts of  
42 the life insurance and annuity account for the necessary additional



1 amount, subject to the maximum stated in subsections ~~(h)~~ and (i) and  
2 (j).

3 ~~(m)~~ (n) The board may, by an equitable method or procedure as  
4 established in the plan of operation, refund to member insurers, in  
5 proportion to the contribution of each member insurer to the account,  
6 the amount by which the assets of the account exceed the amount the  
7 board determines is necessary to carry out the obligations of the  
8 association with regard to the account, including assets accruing from  
9 assignment, subrogation, net realized gains, and income from  
10 investments. A reasonable amount may be retained in an account to  
11 provide funds for the continuing expenses of the association and for the  
12 future discharge of the association's obligations.

13 ~~(n)~~ (o) It is proper for a member insurer, in determining its premium  
14 rates and policyowner dividends as to any type of insurance within the  
15 scope of this chapter, to consider the amount reasonably necessary to  
16 meet its assessment obligations under this chapter.

17 ~~(o)~~ (p) The association shall issue to each member insurer paying an  
18 assessment under this chapter, other than a Class A assessment, a  
19 certificate of contribution, in a form prescribed by the commissioner,  
20 for the amount of the assessment paid. All outstanding certificates are  
21 of equal dignity and priority without reference to amounts or dates of  
22 issue. A certificate of contribution may be shown by the member  
23 insurer in its financial statement as an asset in the form and for the  
24 amount and period of time as the commissioner may approve.

25 SECTION 41. IC 27-8-8-8, AS AMENDED BY P.L.193-2006,  
26 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
27 JULY 1, 2018]: Sec. 8. (a) The commissioner shall do the following:

28 (1) Upon request of the board, provide the association with a  
29 statement of the premiums in Indiana and other appropriate states  
30 for each member insurer.

31 (2) When an impairment is declared and the amount of the  
32 impairment is determined, serve a demand on the impaired  
33 insurer to make good the impairment within a reasonable time.  
34 Notice to the impaired insurer shall constitute notice to its  
35 shareholders. The failure of the **impaired** insurer to promptly  
36 comply with the demand shall not excuse the association from the  
37 performance of its powers and duties under this chapter.

38 (3) In any liquidation or rehabilitation proceeding involving a  
39 domestic insurer, be appointed as the liquidator or rehabilitator.

40 (b) The commissioner may suspend or revoke, after notice and  
41 hearing, the certificate of authority to transact insurance in Indiana of  
42 a member insurer that fails to pay an assessment when due or fails to



1 comply with the plan of operation. As an alternative, the commissioner  
 2 may levy a forfeiture on a member insurer that fails to pay an  
 3 assessment when due. A forfeiture shall not exceed five percent (5%)  
 4 of the unpaid assessment per month, but no forfeiture shall be less than  
 5 one hundred dollars (\$100) per month.

6 (c) A final action of the association or the board may be appealed to  
 7 the commissioner by a member insurer if the appeal is taken within  
 8 sixty (60) days of the member insurer's receipt of notice of the final  
 9 action being appealed. A final action or order of the commissioner is  
 10 subject to judicial review in a court with jurisdiction in accordance  
 11 with the Indiana law that applies to the actions or orders of the  
 12 commissioner.

13 (d) The liquidator, rehabilitator, or conservator of an impaired  
 14 insurer or insolvent insurer may notify all interested persons of the  
 15 effect of this chapter.

16 SECTION 42. IC 27-8-8-9, AS AMENDED BY P.L.193-2006,  
 17 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 18 JULY 1, 2018]: Sec. 9. (a) To aid in the detection and prevention of  
 19 **member** insurer insolvencies or impairments, the commissioner shall  
 20 do the following:

21 (1) Notify the insurance regulatory authorities of all the other  
 22 states not more than thirty (30) days after the date an action taken  
 23 by the commissioner occurs when the commissioner takes any of  
 24 the following actions against a member insurer:

25 (A) Revokes the member insurer's certificate of authority.

26 (B) Suspends the member insurer's certificate of authority.

27 (C) Issues a formal order that the member insurer restrict its  
 28 premium writing, obtain additional contributions to surplus,  
 29 withdraw from Indiana, reinsure all or any part of its business,  
 30 or increase capital, surplus, or any other account for the  
 31 security of policy owners or creditors.

32 (2) Report to the association when the commissioner takes any of  
 33 the actions set forth in subdivision (1) or when the commissioner  
 34 has received a report from any other insurance regulatory  
 35 authority indicating that an action has been taken in another state.  
 36 The report to the association must contain all significant details  
 37 of the action taken or of the report received from another  
 38 insurance regulatory authority.

39 (3) Report to the association when the commissioner has  
 40 reasonable cause to believe from an examination, whether  
 41 completed or in process, of a member insurer that the member  
 42 insurer may be impaired or insolvent.



1 (4) Furnish to the association the NAIC Insurance Regulatory  
 2 Information System (IRIS) ratios and listings of companies not  
 3 included in the ratios developed by the National Association of  
 4 Insurance Commissioners. The association may use the  
 5 information contained in the ratios and listings in carrying out its  
 6 duties and responsibilities under this chapter. The report and the  
 7 information contained in the report must be kept confidential by  
 8 the association until made public by the commissioner or other  
 9 lawful authority.

10 (b) The commissioner may seek the advice and recommendations  
 11 of the association concerning a matter affecting the commissioner's  
 12 duties and responsibilities in regard to the financial condition of  
 13 member insurers and ~~companies~~ **insurers** seeking admission to transact  
 14 insurance business in Indiana.

15 (c) The association may, upon majority vote by the board, make  
 16 reports and recommendations to the commissioner on any matter  
 17 germane to the solvency, liquidation, rehabilitation, or conservation of  
 18 a member insurer or germane to the solvency of any ~~company~~ **insurer**  
 19 seeking to do an insurance business in Indiana. The reports and  
 20 recommendations are not public documents.

21 (d) The association may, upon majority vote by the board, notify the  
 22 commissioner of any information indicating that a member insurer may  
 23 be impaired or insolvent.

24 (e) The association may, upon majority vote by the board, make  
 25 recommendations to the commissioner for the detection and prevention  
 26 of **member** insurer insolvencies.

27 SECTION 43. IC 27-8-8-10, AS AMENDED BY P.L.193-2006,  
 28 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 29 JULY 1, 2018]: Sec. 10. (a) Records must be kept of all meetings of the  
 30 board to discuss the activities of the association in carrying out its  
 31 powers and duties under sections 5, 5.2, and 5.4 of this chapter.  
 32 Records of the association with respect to an impaired insurer or  
 33 insolvent insurer must not be disclosed except:

34 (1) after the termination of the liquidation, rehabilitation, or  
 35 conservation proceeding involving the impaired insurer or  
 36 insolvent insurer; or

37 (2) upon the order of a court with jurisdiction if the order is made  
 38 before the time described in subdivision (1).

39 This subsection does not limit the duty of the association to submit a  
 40 report of its activities under section 12 of this chapter.

41 (b) For the purpose of carrying out its obligations under this chapter,  
 42 the association is a creditor of the impaired insurer or insolvent insurer





1 to the extent of assets attributable to covered policies reduced by any  
 2 amounts that the association has received, from a person other than the  
 3 impaired insurer or insolvent insurer, as subrogee under section 5(m),  
 4 5(o), and 5(q) of this chapter. Assets of the impaired insurer or  
 5 insolvent insurer attributable to covered policies shall be used to  
 6 continue all covered policies and pay all contractual obligations of the  
 7 impaired insurer or insolvent insurer as required by this chapter.  
 8 "Assets attributable to covered policies", as used in this subsection, is  
 9 that proportion of the assets that the reserves that should have been  
 10 established for such policies bear to the reserves that should have been  
 11 established for all policies of insurance written by the impaired insurer  
 12 or insolvent insurer.

13 (c) As a creditor of an impaired insurer or insolvent insurer under  
 14 subsection (b) and consistent with IC 27-9-3-32, the association and  
 15 other similar associations are entitled to receive disbursements of  
 16 assets out of the marshaled assets, as the assets become available to  
 17 reimburse the association or another similar association, as a credit  
 18 against contractual obligations under this chapter. If the liquidator has  
 19 not, within one hundred twenty (120) days after a member insurer  
 20 becomes an insolvent insurer, made an application to the court for the  
 21 approval of a proposal to disburse assets out of marshaled assets to  
 22 guaranty associations having obligations because of the insolvency, the  
 23 association is entitled to make application to the receivership court for  
 24 approval of the association's own proposal to disburse the assets.

25 (d) Before the termination of a liquidation, rehabilitation, or  
 26 conservation proceeding, the court may take into consideration the  
 27 contributions of the respective parties, including the association, the  
 28 shareholders, **and the policy owners, and the insureds** of the impaired  
 29 insurer or insolvent insurer, and any other party with a bona fide  
 30 interest, in making an equitable distribution of the ownership rights of  
 31 the impaired insurer or insolvent insurer. In making the determination,  
 32 the court shall consider the welfare of the policy owners **and insureds**  
 33 of the continuing or successor **member** insurer.

34 (e) A distribution to stockholders of an impaired insurer or insolvent  
 35 insurer must not be made until the total amount of valid claims of the  
 36 association, with interest, for funds expended in carrying out the  
 37 association's powers and duties under sections 5, 5.2, 5.4, and 5.5 of  
 38 this chapter with respect to the impaired insurer or insolvent insurer,  
 39 have been fully recovered by the association.

40 SECTION 44. IC 27-8-8-11, AS AMENDED BY P.L.193-2006,  
 41 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 42 JULY 1, 2018]: Sec. 11. (a) Subject to subsections (b) through (d), if



1 an order for liquidation or rehabilitation of ~~an~~ a **member** insurer  
 2 domiciled in Indiana has been entered, the receiver appointed under the  
 3 order shall have a right to recover on behalf of the **member** insurer,  
 4 from any affiliate that controlled it, the amount of distributions, other  
 5 than stock dividends paid by the **member** insurer on its capital stock,  
 6 made at any time during the five (5) years preceding the filing of the  
 7 petition for liquidation or rehabilitation.

8 (b) A distribution described in subsection (a) is not recoverable if  
 9 the **member** insurer shows that when the distribution was paid the  
 10 distribution was lawful and reasonable, and that the **member** insurer  
 11 did not know and could not reasonably have known that the distribution  
 12 might adversely affect the ability of the **member** insurer to fulfill the  
 13 **member** insurer's policy and contract obligations.

14 (c) A person who was an affiliate that controlled the **member**  
 15 insurer at the time a distribution described in subsection (a) was paid  
 16 is liable up to the amount of distributions the person received. A person  
 17 who was an affiliate that controlled the **member** insurer at the time the  
 18 distributions were declared shall be liable up to the amount of  
 19 distributions that would have been received if the distributions had  
 20 been paid immediately. If two (2) or more persons are liable with  
 21 respect to the same distributions, they are jointly and severally liable.

22 (d) The maximum amount recoverable under this section shall be  
 23 the amount needed in excess of all other available assets of the  
 24 insolvent insurer to pay the policy and contract obligations of the  
 25 insolvent insurer.

26 (e) If a person liable under subsection (c) is insolvent, the affiliates  
 27 that controlled the person at the time the distribution was paid shall be  
 28 jointly and severally liable for any resulting deficiency in the amount  
 29 recovered from the insolvent affiliate.

30 SECTION 45. IC 27-8-8-16.2 IS ADDED TO THE INDIANA  
 31 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 32 [EFFECTIVE JULY 1, 2018]: **Sec. 16.2. (a) A member insurer that**  
 33 **is not eligible to take a credit under section 16 of this chapter may,**  
 34 **after approval by the commissioner, place a surcharge on the**  
 35 **member insurer's premiums in a sum reasonably calculated to**  
 36 **recoup the member insurer's assessments over a reasonable period,**  
 37 **as approved by the commissioner.**

38 (b) **Any amount recouped under subsection (a) is not considered**  
 39 **to be a premium for any other purpose, including computation of**  
 40 **gross premium tax, medical loss ratio, or insurance producer**  
 41 **commission.**

42 SECTION 46. IC 27-8-8-18, AS AMENDED BY P.L.193-2006,



1 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 2 JULY 1, 2018]: Sec. 18. (a) A person, including ~~an~~ **a member** insurer,  
 3 insurance producer, employee, agent, or affiliate of ~~an~~ **a member**  
 4 insurer, shall not make, publish, disseminate, circulate, or place before  
 5 the public or cause, directly or indirectly, to be made, published,  
 6 disseminated, circulated, or placed before the public, in any newspaper,  
 7 magazine, or other publication, or in the form of a notice, circular,  
 8 pamphlet, letter, or poster, or over any radio station or television  
 9 station, or in any other way, an advertisement, an announcement, or a  
 10 statement, written or oral, that uses the existence of the association for  
 11 the purpose of the sale of, solicitation of, or inducement to purchase  
 12 any form of insurance covered by this chapter. This section does not  
 13 apply to the association or any other entity that does not sell or solicit  
 14 insurance.

15 (b) Not later than January 1, 2007, the association shall:

16 (1) prepare a summary document:

17 (A) describing the general purposes and current limitations of  
 18 this chapter; and

19 (B) complying with subsection (c); and

20 (2) submit the summary document to the commissioner for  
 21 approval.

22 Sixty (60) days after the date on which the commissioner approves the  
 23 summary document, a member insurer may not deliver a policy or  
 24 contract to a policy or contract owner unless the summary document is  
 25 delivered to the policy or contract owner at the time of delivery of the  
 26 policy or contract. The summary document must also be available upon  
 27 request by a policy owner. The distribution, delivery, or contents or  
 28 interpretation of the summary document does not guarantee that the  
 29 policy or contract or the owner of the policy or contract is covered in  
 30 the event of the impairment or insolvency of a member insurer. The  
 31 summary document must be revised by the association as amendment  
 32 to this chapter requires. Failure to receive the summary document does  
 33 not give a policy owner, a contract owner, a certificate holder, or an  
 34 insured greater rights than the rights specified in this chapter.

35 (c) The summary document prepared under subsection (b) must  
 36 contain a clear and conspicuous disclaimer on the face of the summary  
 37 document. The commissioner shall approve the form and content of the  
 38 disclaimer. The disclaimer must, at a minimum, convey all the  
 39 following:

40 (1) State the name and address of the association and the  
 41 department of insurance.

42 (2) Prominently warn that:



- 1 (A) the association might not cover the policy or contract; and  
 2 (B) even if coverage were currently provided, coverage is:  
 3 (i) subject to substantial limitations and exclusions;  
 4 (ii) generally conditioned on continued residence in Indiana;  
 5 and  
 6 (iii) subject to possible change as a result of future  
 7 amendments to this chapter and court decisions.  
 8 (3) State the types of policies for which the association currently  
 9 provides coverage.  
 10 (4) State that the member insurer and the member insurer's agents  
 11 are prohibited by law from using the existence of the association  
 12 for the purpose of selling, soliciting, or inducing purchase of any  
 13 form of insurance.  
 14 (5) State that the policy owner or contract owner should not rely  
 15 on coverage under this chapter when selecting an insurer.  
 16 (6) Explain:  
 17 (A) rights available following; and  
 18 (B) procedures for filing a complaint to allege;  
 19 a violation of any provision of this chapter.  
 20 (7) Provide other information as directed by the commissioner,  
 21 including sources for information that:  
 22 (A) is not proprietary; and  
 23 (B) is subject to disclosure under IC 5-14-3;  
 24 concerning the financial condition of an insurer.  
 25 (d) A member insurer shall retain evidence of compliance with  
 26 subsection (b) until the policy or contract for which the notice is given  
 27 is no longer in effect.  
 28 SECTION 47. IC 27-13-36.2-5 IS AMENDED TO READ AS  
 29 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 5. A provider shall  
 30 submit only the following forms for payment by a health maintenance  
 31 organization:  
 32 (1) ~~HCFA-1500~~. **CMS-1500**.  
 33 (2) ~~HCFA-1450 (UB-92)~~. **CMS-1450 (UB-04)**.  
 34 (3) American Dental Association (ADA) claim form.  
 35 SECTION 48. IC 27-15-6-2 IS AMENDED TO READ AS  
 36 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 2. The plan of  
 37 conversion and the amendment to the articles of incorporation of the  
 38 converting mutual become effective upon the date and time of ~~approval~~  
 39 **return** of the articles of amendment by the secretary of state as  
 40 provided in IC 27-1-8-8, unless a later date and time are specified in  
 41 the articles of amendment, in which event the plan of conversion and  
 42 amendment become effective and take place at the later date and time.



1 SECTION 49. IC 27-18 IS REPEALED [EFFECTIVE JULY 1,  
2 2018]. (Surplus Lines Insurance Compact).  
3 SECTION 50. IC 34-30-2-119.8 IS REPEALED [EFFECTIVE  
4 JULY 1, 2018]. ~~Sec. 119.8. IC 27-18-6-1(a) (Concerning:~~  
5 ~~(1) the members, officers, executive director, employees, and~~  
6 ~~representatives; and~~  
7 ~~(2) the members of the executive committee and of any other~~  
8 ~~committee;~~  
9 ~~of the surplus lines insurance multistate compliance compact~~  
10 ~~commission);~~  
11 SECTION 51. [EFFECTIVE JULY 1, 2018] (a) As used in this  
12 SECTION, "member insurer" has the meaning set forth in  
13 IC 27-8-8-2, as amended by this act.  
14 (b) The amendments made in IC 27-8-8 by this act:  
15 (1) do not apply to a member insurer that has been placed  
16 under an order of rehabilitation or liquidation before July 1,  
17 2018; and  
18 (2) apply to a member insurer that is placed under an order  
19 of rehabilitation or liquidation after June 30, 2018.  
20 (c) This SECTION expires July 1, 2021.

