



Reprinted
March 31, 2017

ENGROSSED HOUSE BILL No. 1318

DIGEST OF HB 1318 (Updated March 30, 2017 2:36 pm - DI 97)

Citations Affected: IC 27-1; IC 27-2; IC 27-7; IC 27-9; IC 34-6;
IC 34-13; noncode.

Synopsis: Insurance matters. Provides that, for purposes of the insurance law, a United States Postal Service intelligent mail bar code tracking record, a certificate of mailing, or another similar first class mail method may be used as proof of mailing. Provides that an insurance producer education course may concern sales, motivation, psychology, and time management. Limits continuing education in those areas to four hours per renewal period. Allows a prospective continuing education provider to electronically submit supporting
(Continued next page)

Effective: Upon passage; July 1, 2017.

Carbaugh, Lehman, Austin, Hamm
(SENATE SPONSORS — HOLDMAN, MRVAN)

January 10, 2017, read first time and referred to Committee on Insurance.
February 2, 2017, amended, reported — Do Pass.
February 7, 2017, read second time, amended, ordered engrossed.
February 8, 2017, engrossed.
February 9, 2017, read third time, passed. Yeas 93, nays 0.

SENATE ACTION

February 20, 2017, read first time and referred to Committee on Insurance and Financial Institutions.
March 27, 2017, amended, reported favorably — Do Pass.
March 30, 2017, read second time, amended, ordered engrossed.

EH 1318—LS 6978/DI 97



Digest Continued

materials for a course. Amends the description of an extraordinary dividend or distribution for purposes of the insurance holding company system law. Removes requirements for independent insurance adjuster applicants to submit Social Security numbers to the department of insurance. Changes references in the Lloyds insurance law from the auditor of state to the insurance commissioner. Removes certain transfer and notice requirements that apply to an insurer that transfers an insured under a commercial property and casualty, an automobile insurance, or a residential property policy to an affiliate of the insurer. Limits certain actions by a property and casualty insurer with respect to primary residence property loss of an innocent coinsured. Allows a person to exercise certain rights connected to a netting agreement, qualified financial contract, or similar agreements without respect to any provision of IC 27. Defines "cyber liability" for purposes of the tort claims act and allows the state to purchase a policy of insurance to cover cyber liability risks. Repeals a current transfer notice requirement that applies to residential property policies. Urges the legislative council to assign for 2017 interim study the topic of statutory incorporation by reference of certain documents. Makes technical changes.

EH 1318—LS 6978/DI 97



Reprinted
March 31, 2017

First Regular Session of the 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1318

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

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

1 SECTION 1. IC 27-1-3-34 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2017]: **Sec. 34. For purposes of this title, a person may use the**
4 **following as proof of mailing:**

5 (1) **A United States Postal Service intelligent mail bar code**
6 **tracking record, as proof of the type of mailing to which the**
7 **record applies.**

8 (2) **A United States Postal Service certificate of mailing at the**
9 **last known address of the recipient, as proof of the type of**
10 **mailing to which the certificate applies.**

11 (3) **Another similar method of first class mail tracking that**
12 **identifies the recipient, the recipient's last known address, and**
13 **the date of mailing, as proof of mailing by first class mail.**

14 SECTION 2. IC 27-1-15.7-2, AS AMENDED BY P.L.278-2013,
15 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2017]: Sec. 2. (a) Except as provided in subsection (b), to
17 renew a license issued under IC 27-1-15.6, a resident insurance

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1 producer must complete at least twenty-four (24) hours of credit in
 2 continuing education courses, **not more than four (4) hours of which**
 3 **may be in courses concerning one (1) or a combination of the**
 4 **following:**

- 5 (1) Sales promotion.
- 6 (2) Sales technique.
- 7 (3) Motivation.
- 8 (4) Psychology.
- 9 (5) Time management.

10 If the insurance producer has a qualification described in
 11 IC 27-1-15.6-7(a)(1), IC 27-1-15.6-7(a)(2), or IC 27-1-15.6-7(a)(5), for
 12 a license renewal that occurs after June 30, 2014, at least three (3) of
 13 the hours of credit required by this subsection must be related to ethical
 14 practices in the marketing and sale of life, health, or annuity insurance
 15 products. An attorney in good standing who is admitted to the practice
 16 of law in Indiana and holds a license issued under IC 27-1-15.6 may
 17 complete all or any number of hours of continuing education required
 18 by this subsection by completing an equivalent number of hours in
 19 continuing legal education courses that are related to the business of
 20 insurance.

21 (b) Except as provided in subsection (c), to renew a license issued
 22 under IC 27-1-15.6, a limited lines producer with a title qualification
 23 under IC 27-1-15.6-7(a)(8) must complete at least seven (7) hours of
 24 credit in continuing education courses related to the business of title
 25 insurance with at least one (1) hour of instruction in a structured setting
 26 or comparable self-study in each of the following:

- 27 (1) Ethical practices in the marketing and selling of title
 28 insurance.
- 29 (2) Title insurance underwriting.
- 30 (3) Escrow issues.
- 31 (4) Principles of the federal Real Estate Settlement Procedures
 32 Act (12 U.S.C. 2608).

33 An attorney in good standing who is admitted to the practice of law in
 34 Indiana and holds a license issued under IC 27-1-15.6 with a title
 35 qualification under IC 27-1-15.6-7(a)(8) may complete all or any
 36 number of hours of continuing education required by this subsection by
 37 completing an equivalent number of hours in continuing legal
 38 education courses related to the business of title insurance or any
 39 aspect of real property law.

40 (c) The following insurance producers are not required to complete
 41 continuing education courses to renew a license under this chapter:

- 42 (1) A limited lines producer who is licensed without examination



- 1 under IC 27-1-15.6-18(1).
- 2 (2) A limited line credit insurance producer.
- 3 (3) A nonresident limited lines producer with a title qualification:
- 4 (A) whose home state requires continuing education for a title
- 5 qualification; and
- 6 (B) who has met the continuing education requirements
- 7 described in clause (A).
- 8 (d) To satisfy the requirements of subsection (a) or (b), a licensee
- 9 may use only those credit hours earned in continuing education courses
- 10 completed by the licensee:
- 11 (1) after the effective date of the licensee's last renewal of a
- 12 license under this chapter; or
- 13 (2) if the licensee is renewing a license for the first time, after the
- 14 date on which the licensee was issued the license under this
- 15 chapter.
- 16 (e) If an insurance producer receives qualification for a license in
- 17 more than one (1) line of authority under IC 27-1-15.6, the insurance
- 18 producer may not be required to complete a total of more than
- 19 twenty-four (24) hours of credit in continuing education courses to
- 20 renew the license.
- 21 (f) Except as provided in subsection (g), a licensee may receive
- 22 credit only for completing the following continuing education courses:
- 23 (1) Continuing education courses that have been approved by the
- 24 commissioner under section 4 of this chapter.
- 25 (2) Continuing education courses that are required for the licensee
- 26 under IC 27-19-4-14.
- 27 (g) A licensee who teaches a course approved by the commissioner
- 28 under section 4 of this chapter shall receive continuing education credit
- 29 for teaching the course.
- 30 (h) When a licensee renews a license issued under this chapter, the
- 31 licensee must submit:
- 32 (1) a continuing education statement that:
- 33 (A) is in a format authorized by the commissioner;
- 34 (B) is signed by the licensee under oath; and
- 35 (C) lists the continuing education courses completed by the
- 36 licensee to satisfy the continuing education requirements of
- 37 this section; and
- 38 (2) any other information required by the commissioner.
- 39 (i) A continuing education statement submitted under subsection (h)
- 40 may be reviewed and audited by the department.
- 41 (j) A licensee shall retain a copy of the original certificate of
- 42 completion received by the licensee for completion of a continuing



- 1 education course.
- 2 (k) A licensee who completes a continuing education course that:
- 3 (1) is approved by the commissioner under section 4 of this
- 4 chapter;
- 5 (2) is held in a classroom setting; and
- 6 (3) concerns ethics;
- 7 shall receive continuing education credit not to exceed four (4) hours
- 8 in a renewal period.
- 9 SECTION 3. IC 27-1-15.7-4, AS AMENDED BY P.L.57-2005,
- 10 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 11 JULY 1, 2017]: Sec. 4. (a) The commissioner shall approve and
- 12 disapprove continuing education courses after considering
- 13 recommendations made by the insurance producer education and
- 14 continuing education advisory council created under section 6 of this
- 15 chapter.
- 16 (b) The commissioner may not approve a course under this section
- 17 if the course:
- 18 (1) is designed to prepare an individual to receive an initial
- 19 license under this chapter;
- 20 (2) concerns only routine, basic office skills, including filing,
- 21 keyboarding, and basic computer skills;
- 22 ~~(3) concerns sales promotion and sales techniques;~~
- 23 ~~(4) concerns motivation, psychology, or time management; or~~
- 24 ~~(5) (3) may be completed by a licensee without supervision by an~~
- 25 ~~instructor, unless the course involves an examination process that~~
- 26 ~~is:~~
- 27 (A) completed and passed by the licensee as determined by the
- 28 provider of the course; and
- 29 (B) approved by the commissioner.
- 30 (c) The commissioner shall approve a course under this section that
- 31 is submitted for approval by an insurance trade association or
- 32 professional insurance association if:
- 33 (1) the objective of the course is to educate a manager or an
- 34 owner of a business entity that is required to obtain an insurance
- 35 producer license under IC 27-1-15.6-6(d);
- 36 (2) the course teaches insurance producer management and is
- 37 designed to result in improved efficiency in insurance producer
- 38 operations, systems use, or key functions;
- 39 (3) the course is designed to benefit consumers; and
- 40 (4) the course is not described in subsection (b).
- 41 (d) Approval of a continuing education course under this section
- 42 shall be for a period of not more than two (2) years.



1 (e) A prospective provider of a continuing education course shall
2 pay:

3 (1) a fee of forty dollars (\$40) for each course submitted for
4 approval of the commissioner under this section; or

5 (2) an annual fee of five hundred dollars (\$500) not later than
6 January 1 of a calendar year, which entitles the prospective
7 provider to submit an unlimited number of courses for approval
8 of the commissioner under this section during the calendar year.

9 The commissioner may waive all or a portion of the fee for a course
10 submitted under a reciprocity agreement with another state for the
11 approval or disapproval of continuing education courses. Fees collected
12 under this subsection shall be deposited in the department of insurance
13 fund established under IC 27-1-3-28.

14 **(f) A prospective provider of a continuing education course may**
15 **electronically deliver to the commissioner any supporting materials**
16 **for the course.**

17 ~~(f)~~ (g) The commissioner shall adopt rules under IC 4-22-2 to
18 establish procedures for approving continuing education courses.

19 SECTION 4. IC 27-1-23-4, AS AMENDED BY P.L.72-2016,
20 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 UPON PASSAGE]: Sec. 4. (a) Material transactions within an
22 insurance holding company system to which an insurer subject to
23 registration is a party shall be subject to the following standards:

24 (1) The terms shall be fair and reasonable.

25 (2) Agreements concerning cost sharing services and management
26 must include provisions required by the commissioner in rules
27 adopted under IC 4-22-2.

28 (3) The charges or fees for services performed shall be
29 reasonable.

30 (4) The expenses incurred and payment received shall be
31 allocated to the insurer in conformity with customary insurance
32 accounting practices consistently applied.

33 (5) The books, accounts, and records of each party as to all
34 transactions described in this subsection shall be so maintained as
35 to clearly and accurately disclose the nature and details of the
36 transactions, including accounting information necessary to
37 support the reasonableness of the charges or fees to the respective
38 parties.

39 (6) The insurer's surplus as regards policyholders following any
40 transactions with affiliates or shareholder dividend shall be
41 reasonable in relation to the insurer's outstanding liabilities and
42 adequate to its financial needs.



1 (b) The following transactions involving a domestic insurer and any
 2 person in its insurance holding company system (including
 3 amendments or modifications to affiliate agreements previously filed
 4 under this chapter) that are subject to any materiality standards
 5 described in subdivisions (1) through (7) may not be entered into
 6 unless the insurer has notified the commissioner in writing of its
 7 intention to enter into such transaction at least thirty (30) days prior
 8 thereto, or such shorter period as the commissioner may permit, and the
 9 commissioner has not disapproved it within that period:

10 (1) Sales, purchases, exchanges, loans or extensions of credit,
 11 guarantees, or investments, provided those transactions are equal
 12 to or exceed:

13 (A) with respect to nonlife insurers, the lesser of three percent
 14 (3%) of the insurer's admitted assets or twenty-five percent
 15 (25%) of surplus as regards policyholders; and

16 (B) with respect to life insurers, three percent (3%) of the
 17 insurer's admitted assets;

18 each as of December 31 next preceding.

19 (2) Loans or extensions of credit to any person who is not an
 20 affiliate, where the insurer makes those loans or extensions of
 21 credit with the agreement or understanding that the proceeds of
 22 such transactions, in whole or in substantial part, are to be used
 23 to make loans or extensions of credit to, to purchase assets of, or
 24 to make investments in, any affiliate of the insurer making such
 25 loans or extensions of credit, provided those transactions are
 26 equal to or exceed:

27 (A) with respect to nonlife insurers, the lesser of three percent
 28 (3%) of the insurer's admitted assets or twenty-five percent
 29 (25%) of surplus as regards policyholders; and

30 (B) with respect to life insurers, three percent (3%) of the
 31 insurer's admitted assets;

32 each as of December 31 next preceding.

33 (3) Reinsurance agreements or modifications thereto, including:

34 (A) reinsurance pooling agreements; and

35 (B) agreements under which:

36 (i) a reinsurance premium;

37 (ii) a change in the insurer's liabilities; or

38 (iii) the projected reinsurance premium;

39 in any of the immediately succeeding three (3) years equals or
 40 exceeds five percent (5%) of the insurer's surplus as regards
 41 policyholders, as of December 31 next preceding, including
 42 those agreements that may require as consideration the transfer



- 1 of assets from an insurer to a nonaffiliate, if an agreement or
 2 understanding exists between the insurer and nonaffiliate that
 3 any portion of the assets will be transferred to one (1) or more
 4 affiliates of the insurer.
- 5 (4) Management agreements, service contracts, cost-sharing
 6 arrangements, lease agreements, guarantees, and tax allocation
 7 agreements.
- 8 (5) Guarantees made by the insurer, only as follows:
 9 (A) A guarantee, the amount of which is not quantifiable.
 10 (B) A guarantee, the amount of which is quantifiable, if the
 11 amount of the guarantee exceeds the lesser of:
 12 (i) one-half of one percent (0.5%) of the insurer's admitted
 13 assets; or
 14 (ii) ten percent (10%) of surplus as regards policyholders;
 15 on December 31 of the immediately preceding calendar year.
- 16 (6) Direct or indirect acquisitions or investments, as follows:
 17 (A) In:
 18 (i) a person that controls the insurer; or
 19 (ii) an affiliate of the insurer in an amount that, together with
 20 the insurer's present holdings in the investments, exceeds
 21 two and one-half percent (2.5%) of the insurer's surplus to
 22 policyholders.
 23 (B) This subdivision does not apply to direct or indirect
 24 acquisitions or investments in:
 25 (i) subsidiaries acquired under section 2.6 of this chapter; or
 26 (ii) nonsubsidiary insurance affiliates that are subject to this
 27 chapter.
- 28 (7) Material transactions, specified by rule, that the commissioner
 29 determines may adversely affect the interests of the insurer's
 30 policyholders.
- 31 This subsection does not authorize or permit any transactions that, in
 32 the case of an insurer not a member of the same insurance holding
 33 company system, would be otherwise contrary to law. Notice
 34 concerning amendments or modifications of a transaction must include
 35 the reasons for the change and the financial impact on the domestic
 36 insurer. Not more than thirty (30) days after an agreement that was
 37 previously filed under this section is terminated, the domestic insurer
 38 shall send written notice of the termination to the commissioner. The
 39 commissioner shall determine whether a filing concerning the
 40 termination is required and shall notify the domestic insurer of the
 41 commissioner's determination.
- 42 (c) A domestic insurer may not enter into transactions that are part



1 of a plan or series of like transactions with persons within the insurance
2 holding company system if the purpose of those separate transactions
3 is to avoid the statutory threshold amount and thus avoid the review
4 that would occur otherwise.

5 (d) The commissioner, in reviewing transactions pursuant to
6 subsection (b), shall consider whether the transactions comply with the
7 standards set forth in subsection (a) and whether the transactions may
8 adversely affect the interests of policyholders.

9 (e) The commissioner shall be notified within thirty (30) days of any
10 investment of the domestic insurer in any one (1) corporation if the
11 total investment in that corporation by the insurance holding company
12 system exceeds ten percent (10%) of the corporation's voting securities.

13 (f) For purposes of this chapter, in determining whether an insurer's
14 surplus is reasonable in relation to the insurer's outstanding liabilities
15 and adequate to its financial needs, the following factors, among others,
16 shall be considered:

17 (1) The size of the insurer as measured by its assets, capital and
18 surplus, reserves, premium writings, insurance in force and other
19 appropriate criteria.

20 (2) The extent to which the insurer's business is diversified among
21 the several lines of insurance.

22 (3) The number and size of risks insured in each line of business.

23 (4) The extent of the geographical dispersion of the insurer's
24 insured risks.

25 (5) The nature and extent of the insurer's reinsurance program.

26 (6) The quality, diversification, and liquidity of the insurer's
27 investment portfolio.

28 (7) The recent past and projected future trend in the size of the
29 insurer's surplus as regards policyholders.

30 (8) The surplus as regards policyholders maintained by other
31 comparable insurers in respect of the factors described in
32 subdivisions (1) through (7).

33 (9) The adequacy of the insurer's reserves.

34 (10) The quality and liquidity of investments in subsidiaries,
35 except that the commissioner may discount or treat any such
36 investment in subsidiaries as a disallowed asset for purposes of
37 determining the adequacy of surplus whenever in the
38 commissioner's judgment such investment so warrants.

39 (11) The quality of the earnings of the insurer and the extent to
40 which the reported earnings of the insurer include extraordinary
41 items.

42 (g) No domestic insurer subject to registration under section 3 of



1 this chapter shall pay an extraordinary dividend or make any other
2 extraordinary distribution to its security holders until:

3 (1) thirty (30) days after the commissioner has received notice of
4 the declaration thereof and has not within such period
5 disapproved such payment; or

6 (2) the commissioner shall have approved such payment within
7 such thirty (30) day period.

8 (h) For purposes of subsection (g), ~~the following apply with respect~~
9 ~~to an extraordinary dividend or distribution:~~

10 ~~(1) an extraordinary dividend or distribution is any dividend or~~
11 ~~distribution of cash or other property whose fair market value,~~
12 ~~together with that of other dividends or distributions made within~~
13 ~~the twelve (12) consecutive months ending on the date on which~~
14 ~~the proposed dividend or distribution is scheduled to be made,~~
15 ~~exceeds the ~~lesser~~ **greater** of:~~

16 ~~(A) (1) ten percent (10%) of such insurer's surplus as regards~~
17 ~~policyholders as of the most recently preceding December 31;~~
18 ~~or~~

19 ~~(B) (2) the:~~

20 ~~(i) (A) net gain from operations of such insurer, if such~~
21 ~~insurer is a life insurer; or~~

22 ~~(ii) (B) net income, if such insurer is not a life insurer;~~

23 ~~not including realized capital gains; for the twelve (12) month~~
24 ~~period ending on the most recently preceding December 31.~~

25 ~~(2) An extraordinary dividend or distribution does not include pro~~
26 ~~rata distribution of any class of an insurer's own securities.~~

27 ~~(3) For purposes of determining whether a dividend or~~
28 ~~distribution is extraordinary, an insurer that is not a life insurer~~
29 ~~may carry forward net income that:~~

30 ~~(A) was received during the two (2) immediately preceding~~
31 ~~calendar years; and~~

32 ~~(B) has not been paid out as dividends;~~

33 ~~computed by subtracting the amount of dividends paid in the first~~
34 ~~and second immediately preceding calendar years from the~~
35 ~~amount of net income; not including realized capital gains;~~
36 ~~received in the second and third immediately preceding calendar~~
37 ~~years.~~

38 (i) Notwithstanding any other provision of law, a domestic insurer
39 may declare an extraordinary dividend or distribution which is
40 conditional upon the commissioner's approval thereof, but such a
41 declaration shall confer no rights upon shareholders until:

42 (1) the commissioner has approved the payment of such dividend



1 or distribution; or

2 (2) the commissioner has not disapproved the payment within the
3 thirty (30) day period referred to in subsection (g).

4 (j) The commissioner may impose a civil penalty of five thousand
5 dollars (\$5,000) on a person who fails to file a transaction as required
6 by this section. The commissioner shall deposit a civil penalty collected
7 under this subsection in the department of insurance fund established
8 by IC 27-1-3-28.

9 SECTION 5. IC 27-1-28-11, AS ADDED BY P.L.11-2011,
10 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 2017]: Sec. 11. (a) If a catastrophe is declared, an insurer may
12 contract with an individual who:

13 (1) is not licensed under this chapter; but

14 (2) is otherwise qualified to adjust claims;

15 to act as a temporary emergency independent adjuster on behalf of the
16 insurer if the insurer obtains for the individual a temporary emergency
17 independent adjuster license under this section.

18 (b) An insurer described in subsection (a) must, not more than five
19 (5) days after the individual begins to adjust claims arising from the
20 declared catastrophe, submit to the commissioner an application for
21 temporary emergency licensure of the individual under this section.

22 (c) An application submitted under subsection (b) must include the
23 following information in a format prescribed by the commissioner:

24 (1) The name of the individual.

25 ~~(2) The Social Security number of the individual.~~

26 ~~(3) (2) The name of the insurer.~~

27 ~~(4) (3) The effective date of the contract between the insurer and~~
28 ~~the individual.~~

29 ~~(5) (4) The catastrophe or loss number.~~

30 ~~(6) (5) The catastrophe event name.~~

31 ~~(7) (6) Other information the commissioner considers necessary.~~

32 (d) The commissioner shall establish standards and procedures for
33 temporary emergency independent adjuster licensure under this
34 section.

35 (e) A temporary emergency independent adjuster license issued
36 under this section is effective for not more than ninety (90) days, unless
37 extended by the commissioner. In the event of multiple catastrophes,
38 an individual who holds a temporary emergency independent adjuster
39 license issued under this section with respect to one (1) declared
40 catastrophe may adjust claims arising from any other catastrophe that
41 occurs within the ninety (90) day period during which the license is
42 effective under this subsection without the insurer applying for an



1 additional temporary emergency independent adjuster license.
2 (f) The rules adopted by the commissioner under section 2 of this
3 chapter may establish a fee for an application submitted under this
4 section.

5 SECTION 6. IC 27-1-28-13, AS ADDED BY P.L.11-2011,
6 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2017]: Sec. 13. (a) A business entity may apply for a resident
8 independent adjuster license by submitting:

- 9 (1) a uniform business entity application to the commissioner with
10 a declaration, under penalty of suspension, revocation, or refusal
11 of licensure, that the statements made in the application are true
12 and complete to the best knowledge of the individual submitting
13 the application on behalf of the business entity;
- 14 (2) an application fee of forty dollars (\$40); and
- 15 (3) the name, address, ~~Social Security number~~, and criminal and
16 administrative history of each of the following:

- 17 (A) An owner that has at least ten percent (10%) interest or
18 voting interest in the business entity.
- 19 (B) A partner of the business entity.
- 20 (C) An executive officer of the business entity.
- 21 (D) A director of the business entity.

22 (b) The commissioner shall approve an application submitted by a
23 business entity under subsection (a) upon finding all of the following:

- 24 (1) The business entity is eligible to designate Indiana as the
25 business entity's home state.
- 26 (2) The business entity has designated an individual independent
27 adjuster licensed under this chapter to be responsible for the
28 business entity's compliance with Indiana insurance law.
- 29 (3) The business entity has not committed any act that is grounds
30 for probation, suspension, revocation, or refusal of an independent
31 adjuster license under section 18 of this chapter.

32 (c) The commissioner may require a business entity applying under
33 this section to produce any documents reasonably necessary to verify
34 the information contained in the application.

35 SECTION 7. IC 27-1-31-3 IS AMENDED TO READ AS
36 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. (a) If an insurer
37 refuses to renew a policy of insurance written by the insurer, the insurer
38 shall provide written notice of nonrenewal to the insured:

- 39 (1) at least forty-five (45) days before the expiration date of the
40 policy, if the coverage provided is for one (1) year, or less; or
- 41 (2) at least forty-five (45) days before the anniversary date of the
42 policy, if the coverage provided is for more than one (1) year.



1 (b) A notice of nonrenewal is not required if:

- 2 (1) the insured is transferred from an insurer to an affiliate of the
 3 insurer for future coverage; ~~as a result of a merger, an acquisition,~~
 4 ~~or a company restructuring;~~ **and**
 5 (2) the transfer results in the same or broader coverage. ~~and~~
 6 (3) ~~the insured approves the transfer.~~

7 SECTION 8. IC 27-2-24 IS ADDED TO THE INDIANA CODE AS
 8 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 9 1, 2017]:

10 **Chapter 24. Coverage With Innocent Coinsured**

11 **Sec. 1. This chapter applies to a policy of property or casualty**
 12 **insurance that is entered into, amended, or renewed after June 30,**
 13 **2017.**

14 **Sec. 2. As used in this chapter, "authorized agency" means the**
 15 **following:**

- 16 (1) The state fire marshal or a fire department acting under
 17 IC 36-8-17.
 18 (2) The superintendent of the state police.
 19 (3) The prosecuting attorney responsible for prosecutions in
 20 the county where damage to property occurs.
 21 (4) The attorney general.
 22 (5) An officer of a unit of local government whose duties
 23 include the investigation of arson where damage to property
 24 occurs.

25 **Sec. 3. As used in this chapter, "available insurance proceeds"**
 26 **means:**

- 27 (1) the proceeds payable under a policy of property or
 28 casualty insurance:
 29 (A) to an innocent coinsured; and
 30 (B) based on a claim for property loss to the innocent
 31 coinsured's primary residence; minus
 32 (2) proceeds already paid under the policy of property or
 33 casualty insurance to:
 34 (A) the innocent coinsured for:
 35 (i) emergency living expenses;
 36 (ii) emergency action necessary to secure the premises of
 37 the primary residence; and
 38 (iii) action necessary to prevent further damage to the
 39 premises of the primary residence; and
 40 (B) a lienholder or mortgagee who is not under
 41 investigation by an authorized agency;
 42 in connection with the property loss described in subdivision



- 1 (1).
 2 **Sec. 4. (a) As used in this chapter, "final settlement" means a**
 3 **determination:**
 4 (1) of the amount owed to an innocent coinsured by an
 5 insurer:
 6 (A) under the building coverage part of a policy of
 7 property or casualty insurance; and
 8 (B) for property loss to the innocent coinsured's primary
 9 residence; and
 10 (2) made by any of the following methods:
 11 (A) Acceptance of a proof of loss by the insurer.
 12 (B) Execution of a release by the innocent coinsured.
 13 (C) Acceptance of an arbitration award by the innocent
 14 coinsured and the insurer.
 15 (D) Judgment of a court of competent jurisdiction.
 16 (b) The term "final settlement" does not apply to damage or loss
 17 related to contents, personal property, or another loss that is not
 18 covered under the building coverage part of a policy of property or
 19 casualty insurance.
 20 **Sec. 5. As used in this chapter, "innocent coinsured" means an**
 21 **individual who:**
 22 (1) is insured under a policy of property or casualty
 23 insurance;
 24 (2) did not have knowledge of, cooperate in, or intentionally
 25 contribute to a property loss that was caused or arranged by
 26 another individual who:
 27 (A) is also insured under the policy of property or casualty
 28 insurance; and
 29 (B) either:
 30 (i) died; or
 31 (ii) has been charged with a crime based on a court
 32 finding that there is probable cause to believe that the
 33 individual committed the crime;
 34 in connection with the circumstances that caused the
 35 property loss;
 36 (3) signs a sworn affidavit attesting that the individual did not
 37 have knowledge of, cooperate in, or intentionally contribute
 38 to the property loss; and
 39 (4) cooperates in:
 40 (A) the investigation and resolution of the claim for the
 41 property loss;
 42 (B) any police investigation related to the property loss;



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and
(C) any criminal prosecution of the individual that caused or arranged the property loss.

Sec. 6. As used in this chapter, "insurer" means an insurance company that issues or delivers a policy of property or casualty insurance.

Sec. 7. As used in this chapter, "property or casualty insurance" means a type of insurance described in Class 2 and Class 3 of IC 27-1-5-1. However, the term does not mean insurance described in Class 2(a) of IC 27-1-5-1.

Sec. 8. (a) An insurer may not deny, exclude, or limit payment of a claim made:

- (1) by an innocent coinsured;**
- (2) for coverage of a property loss to the primary residence of the innocent coinsured; and**
- (3) under a policy of property or casualty insurance;**

unless the denial, exclusion, or limitation of payment is otherwise allowed by law and applied to the innocent coinsured in the same manner and to the same extent as the denial, exclusion, or limitation of payment is applied by the insurer to all other insureds, regardless of whether an insured is an innocent coinsured.

(b) An insurer shall pay the following on a claim described in subsection (a):

- (1) The actual cost of repair or replacement of the property that is the subject of the claim if the actual cost of repair or replacement is less than or equal to the maximum limit of coverage under the policy of property or casualty insurance.**
- (2) The maximum limit of coverage under the policy of property or casualty insurance if the actual cost of repair or replacement of the property that is the subject of the claim is greater than the maximum limit of coverage under the policy of property or casualty insurance.**

(c) This section does not require an insurer to make payment on a claim described in subsection (a) in an amount that is greater than the amount applicable to the part of the damaged property to which the innocent coinsured is entitled under a decree of dissolution of marriage between the innocent coinsured and the individual described in section 5(2) of this chapter.

(d) This section does not require an insurer to do the following:

- (1) Make payment to an innocent coinsured on a claim described in subsection (a) in an amount that exceeds:**



1 (A) the innocent coinsured's ownership interest in the
 2 property; minus
 3 (B) any payment by the insurer to a mortgagee or another
 4 lienholder with a secured interest in the property.
 5 (2) Make payment to another coinsured for the part of a loss
 6 for which the insurer has already made payment to the
 7 innocent coinsured.
 8 **Sec. 9. An insurer may not:**
 9 (1) refuse to renew;
 10 (2) refuse to issue; or
 11 (3) add a surcharge or rating factor to a premium for;
 12 a policy of property or casualty insurance solely on the basis that
 13 an insured or a prospective insured under the policy of property or
 14 casualty insurance has been an innocent coinsured.
 15 **Sec. 10. This chapter does not require an insurer that issued a**
 16 **policy of property or casualty insurance to pay a claim to an**
 17 **innocent coinsured if the final settlement for the property loss is**
 18 **less than sixty percent (60%) of available insurance proceeds**
 19 **under the policy.**
 20 **Sec. 11. This chapter does not prohibit an insurer from**
 21 **application of reasonable standards of proof to rebut an assertion**
 22 **that an individual meets the requirements to be considered an**
 23 **innocent coinsured under section 5 of this chapter.**
 24 **Sec. 12. This chapter does not affect an insurer's right of**
 25 **subrogation under a policy of property or casualty insurance to**
 26 **recover payments made from the person that is responsible for the**
 27 **property loss.**
 28 SECTION 9. IC 27-7-1-1 IS AMENDED TO READ AS FOLLOWS
 29 [EFFECTIVE JULY 1, 2017]: Sec. 1. **Except on a surplus lines basis**
 30 **under IC 27-1-15.8,** no persons, partnerships or corporations shall
 31 engage in the business of such insurance as is herein specified as
 32 "Lloyds" unless twenty-five (25) or more persons, partnerships or
 33 corporations, a majority of whom shall be bona fide residents of the
 34 state of Indiana shall have a certificate of authority from the ~~auditor of~~
 35 ~~state (commissioner of insurance)~~ **insurance commissioner** so to do.
 36 The application for such certificate of authority shall be signed by the
 37 attorney or attorneys in fact of those persons desiring such certificate,
 38 and must be accompanied by a declaration which must set forth the
 39 following provisions:
 40 1. The name under which the business is to be conducted, which
 41 name shall contain the word "Lloyds," and shall not be similar to that
 42 of any existing Lloyds association or corporation in this state, as, in the



1 opinion of the ~~auditor of state~~; **insurance commissioner**, is calculated
2 to deceive or mislead.

3 2. The exact location of the principal office in which the business is
4 to be conducted, which office must be in the state of Indiana.

5 3. The kind of insurance intended to be written, which shall be only
6 as hereinafter stated.

7 4. An exact copy of the articles of association or copartnership
8 agreement, made by and between such underwriters.

9 5. Name, address and amount subscribed by each of the
10 underwriters so proposing to engage in said business.

11 6. The designation or appointment of one (1) or more attorneys in
12 fact, who shall have residence in Indiana, with full name and address,
13 upon any one of whom summons or consent legal process can be
14 served.

15 7. That amounts subscribed by said underwriters have been paid as
16 follows:

17 (A) Not less than twenty-five ~~per cent~~ **percent** (25%) of said
18 subscriptions in cash.

19 (B) Not more than fifty percent (50%) of said subscription
20 secured by collateral note (payable on thirty (30) ~~days~~ **days**
21 demand) duly approved by a committee selected by the
22 subscribers to pass thereon. ~~and~~

23 (C) Not ~~over more than~~ twenty-five ~~per cent~~ **percent** (25%) of
24 said subscription evidenced by subscriber's individual note.

25 8. That the total of said subscription shall not be less than two
26 hundred and fifty thousand dollars (\$250,000), and that at least
27 twenty-five ~~per cent~~ **percent** (25%) thereof has been paid in cash.

28 SECTION 10. IC 27-7-1-2 IS AMENDED TO READ AS
29 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. There shall be filed
30 with the ~~auditor of state~~ **insurance commissioner** a copy of each form
31 of policy by it issued. Said policies shall show the name and address,
32 as well as the amount of the subscription of each subscriber, and shall
33 be signed by the attorneys in fact, and they shall contain the following
34 special provisions:

35 First: Whenever, under the terms of this policy, notice or consent is
36 required to be given to or by the company, notice or consent given to
37 or by the attorney or attorneys in fact shall be sufficient compliance
38 therewith, and each underwriter hereon shall be bound thereby, the
39 same as though notice or consent had been given to or by each of such
40 underwriters individually.

41 Second: In no event, shall the liability of any underwriter exceed the
42 sum underwritten by ~~him~~ **the underwriter** or ~~them~~ **underwriters**



1 hereon, and, in no event, shall any underwriter be liable for any part of
 2 the sum underwritten hereon by any other underwriter.

3 Third: The insured agrees by the acceptance of this policy that no
 4 underwriter hereon shall, in any event, be liable for claims exceeding,
 5 in the aggregate, on all policies, certificates or contracts issued on ~~his~~
 6 ~~or their~~ behalf **of the underwriter or underwriters**, in the name of
 7 this Lloyds for an amount in excess of the unpaid portion, if any, of ~~the~~
 8 ~~his or their~~ original subscription or contribution **of the underwriter or**
 9 **underwriters** to said Lloyds, as ~~indorsed~~ **endorsed** hereon.

10 Fourth: In case of action brought to enforce the provisions of this
 11 policy, same shall be brought against the attorney or attorneys in fact
 12 for the underwriters, as representing all of the said underwriters, and
 13 each of the underwriters hereto hereby agrees to abide by the final
 14 results of any suit so brought as fixing the proportionate amount of ~~his~~
 15 ~~or their~~ **the individual liability of the underwriter or underwriters**.

16 Fifth: This policy is made and accepted subject to all the stipulations
 17 and conditions contained therein, together with such other provisions,
 18 agreements or conditions as may be ~~indorsed~~ **endorsed** hereon, or
 19 added hereto, and as to such provisions and conditions, no officer,
 20 agent or representative shall have such power or be deemed or held to
 21 have waived such provisions or conditions unless such waiver, if any,
 22 shall be ~~indorsed~~ **endorsed** upon or attached hereto, nor shall any
 23 privilege or permission affecting the insurance under this policy exist
 24 or be claimed by the assured unless so ~~indorsed~~ **endorsed** or attached.

25 SECTION 11. IC 27-7-1-3 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. After any Lloyds is
 27 authorized to do business in this state pursuant to this law, it may be
 28 joined by other and additional underwriters, but, in that event, such
 29 underwriters who may thereafter join such authorized Lloyds shall be
 30 held to be bound by the documents on file with the ~~auditor of state~~
 31 **insurance commissioner** concerning such Lloyds.

32 SECTION 12. IC 27-7-1-4 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. After such
 34 documents specified shall have been filed, the ~~auditor of state~~
 35 **insurance commissioner** shall cause an examination of such Lloyds
 36 to be made, and after ~~he~~ **the insurance commissioner** has specified
 37 that all of the facts alleged in the declaration are true, and that the
 38 articles of association or copartnership agreement is of such character
 39 that the rights of the policyholders will be protected thereunder, ~~he~~ **the**
 40 **insurance commissioner** shall issue, or cause to be issued, a certificate
 41 of authority to such Lloyds to do such business as is specified in the
 42 declaration, which certificate shall be issued to such Lloyds under the



1 name designated and approved, authorizing the underwriters thereof to
2 do the business permitted through its attorney or attorneys in fact.

3 SECTION 13. IC 27-7-1-8 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 8. The ~~auditor of state~~
5 **insurance commissioner** shall have the same supervision and control
6 over Lloyds as ~~he~~ **the insurance commissioner** has over stock
7 insurance companies incorporated under the laws of Indiana.

8 SECTION 14. IC 27-7-1-9 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 9. The insurance
10 commissioner may, in ~~his~~ **the insurance commissioner's** discretion,
11 issue a certificate of authority to a Lloyds domiciled in another state to
12 do business in this state, for permission to do which application is
13 made as may be authorized by the articles of association or
14 copartnership agreement under which said Lloyds is operated.
15 ~~provided;~~ However, ~~that~~ in no event shall authority be given to any
16 such Lloyds to do any kind of insurance business other than those
17 specified in section 7 of this chapter. The application for such
18 certificate shall specify the kind of business such Lloyds desires the
19 authority to transact in this state. It must be signed by the attorney or
20 attorneys in fact for such Lloyds, and must file with the ~~auditor of state~~
21 **insurance commissioner** a certificate from the insurance department
22 of its home state that it has and maintains at all times an unearned
23 premium reserve as is required of stock companies of said state, and
24 that the total subscription of its subscribers shall not be less than two
25 hundred ~~and~~ fifty thousand dollars (\$250,000), and that at least
26 twenty-five percent (25%) thereof is paid in cash.

27 SECTION 15. IC 27-7-1-10 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 10. A true copy of the
29 articles of association or copartnership agreement, power of attorney,
30 and a copy of each form of policy by it issued, verified by the attorney
31 or attorneys in fact, shall be filed with the ~~auditor of state;~~ **insurance**
32 **commissioner**, as well as a copy of the last report filed with the
33 insurance department of its home state, and also a declaration and
34 agreement, duly executed and acknowledged by the attorneys in fact of
35 said Lloyds, appointing the ~~auditor of state~~ **insurance commissioner**
36 as a true and lawful attorney for such Lloyds and the underwriters
37 thereof in and for this state, upon whom all legal process in any action
38 or proceedings against said Lloyds or the underwriters thereof may be
39 served, and that any service upon ~~him~~ **the insurance commissioner**
40 shall be equivalent to the personal service within the state of such
41 persons of each and every such underwriter.

42 SECTION 16. IC 27-7-6-6 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. (a) No insurer shall
 2 fail to renew a policy unless it shall mail or deliver to the named
 3 insured, at the address shown in the policy, at least twenty (20) ~~days~~
 4 **days** advance notice of its intention not to renew. In the event such
 5 policy was procured by an insurance producer duly licensed by the
 6 state of Indiana notice of intent not to renew shall be mailed or
 7 delivered to the insurance producer at least ten (10) days prior to such
 8 mailing or delivery to the named insured unless such notice of intent is
 9 or has been waived in writing by the insurance producer.

10 (b) This section shall not apply:

- 11 (1) if the insurer has manifested its willingness to renew; or
 12 (2) in case of nonpayment of premium.

13 However, notwithstanding the failure of an insurer to comply with this
 14 section, the policy shall terminate on the effective date of any other
 15 insurance policy with respect to any automobile designated in both
 16 policies.

17 (c) A notice of intention not to renew is not required if:

- 18 (1) the insured is transferred from an insurer to an affiliate of the
 19 insurer for future coverage; ~~as a result of a merger, an acquisition,~~
 20 ~~or a company restructuring; and~~
 21 (2) the transfer results in the same or broader coverage. ~~and~~
 22 (3) ~~the insured approves the transfer.~~

23 (d) Renewal of a policy shall not constitute a waiver or estoppel
 24 with respect to grounds for cancellation which existed before the
 25 effective date of such renewal.

26 SECTION 17. IC 27-7-12-4 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. (a) Notice of
 28 nonrenewal by an insurer must:

- 29 (1) be in writing;
 30 (2) be delivered or mailed to the named insured at the last known
 31 address of the named insured;
 32 (3) state the insurer's intention not to renew the policy upon
 33 expiration of the current policy period;
 34 (4) upon request of the named insured, be accompanied by a
 35 written explanation of the specific reasons for the nonrenewal;
 36 and
 37 (5) be provided to the named insured at least twenty (20) days
 38 before the expiration of the current policy period.

39 (b) If the policy was procured by an independent insurance producer
 40 licensed in Indiana, the insurer shall deliver or mail notice of
 41 nonrenewal to the insurance producer not less than ten (10) days before
 42 the insurer delivers or mails the notice to the named insured, unless the



1 obligation to notify the insurance producer is waived in writing by the
2 insurance producer.

3 **(c) Notice of nonrenewal under this section is not required if:**

4 **(1) the named insured is transferred from an insurer to an**
5 **affiliate of the insurer for future coverage; and**

6 **(2) the transfer results in the same or broader coverage.**

7 ~~(c)~~ **(d)** If an insurer mails or delivers to an insured a renewal notice,
8 bill, certificate, or policy indicating the insurer's willingness to renew
9 a policy and the insured does not respond, the insurer is not required to
10 provide to the insured notice of intention not to renew.

11 SECTION 18. IC 27-7-12-8 IS REPEALED [EFFECTIVE JULY 1,
12 2017]. ~~Sec. 8: The named insured must be given notice of a transfer of~~
13 ~~a policy, including a transfer between insurers within the same~~
14 ~~insurance group. The notice must:~~

15 ~~(1) be in writing;~~

16 ~~(2) be delivered or mailed to the named insured at the last known~~
17 ~~address of the named insured;~~

18 ~~(3) be provided to the named insured at least twenty (20) days~~
19 ~~before the transfer; and~~

20 ~~(4) identify the insurer to which the policy will be transferred.~~

21 SECTION 19. IC 27-9-3.1-12, AS ADDED BY P.L.11-2011,
22 SECTION 36, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 2017]: Sec. 12. Notwithstanding ~~a~~ **any other** provision of
24 ~~IC 27-9-3~~ or this ~~chapter~~ **title** to the contrary, a person may exercise
25 any of the following:

26 (1) A contractual right to cause the termination, liquidation,
27 acceleration, or close-out of obligations in connection with a
28 netting agreement or qualified financial contract with an insurer
29 due to:

30 (A) the insolvency, financial condition, or default of the
31 insurer if the right is enforceable under applicable law other
32 than this ~~chapter~~ **title**; or

33 (B) the commencement of a formal delinquency proceeding
34 under IC 27-9-3.

35 (2) A right under:

36 (A) a pledge, security, collateral, reimbursement, guarantee
37 agreement, or similar security agreement; or

38 (B) an arrangement or credit enhancement relating to at least
39 one (1) netting agreement or qualified financial contract.

40 (3) A right to set off or net out a termination value, payment
41 amount, or other transfer obligation arising in connection with at
42 least one (1) qualified financial contract in which the counterparty



1 or the counterparty's guarantor is organized under the laws of:

2 (A) the United States; or

3 (B) a state or foreign jurisdiction approved as eligible for
4 netting by the Securities Valuation Office of the NAIC.

5 SECTION 20. IC 34-6-2-32.5 IS ADDED TO THE INDIANA
6 CODE AS A NEW SECTION TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2017]: **Sec. 32.5. "Cyber liability" means**
8 **liability related to use of computer systems.**

9 SECTION 21. IC 34-13-3-20, AS AMENDED BY P.L.35-2012,
10 SECTION 106, IS AMENDED TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2017]: Sec. 20. (a) A political subdivision may
12 purchase insurance to cover the liability of itself or its employees,
13 including a member of a board, a committee, a commission, an
14 authority, or another instrumentality of a governmental entity. Any
15 liability insurance so purchased shall be purchased by invitation to and
16 negotiation with providers of insurance and may be purchased with
17 other types of insurance. If such a policy is purchased, the terms of the
18 policy govern the rights and obligations of the political subdivision and
19 the insurer with respect to the investigation, settlement, and defense of
20 claims or suits brought against the political subdivision or its
21 employees covered by the policy. However, the insurer may not enter
22 into a settlement for an amount that exceeds the insurance coverage
23 without the approval of the mayor, if the claim or suit is against a city,
24 or the governing body of any other political subdivision, if the claim or
25 suit is against such political subdivision.

26 **(b) The state may purchase insurance to cover the cyber liability**
27 **of itself or its employees, including a member of a board, a**
28 **committee, a commission, an authority, or another instrumentality**
29 **of the state. Any liability insurance so purchased shall be**
30 **purchased by invitation to and negotiation with providers of**
31 **insurance and may be purchased with other types of insurance. If**
32 **such a policy is purchased, the terms of the policy govern the rights**
33 **and obligations of the state and the insurer with respect to the**
34 **investigation, settlement, and defense of claims or suits brought**
35 **against the state or state employees covered by the policy.**
36 **However, the insurer may not enter into a settlement for an**
37 **amount that exceeds the insurance coverage without the approval**
38 **of the governor.**

39 ~~(b)~~ (c) The state may not purchase insurance to cover the liability of
40 the state or its employees. This subsection does not prohibit any of the
41 following:

42 (1) The requiring of contractors to carry insurance.



- 1 (2) The purchase of insurance to cover losses occurring on real
 2 property owned by:
 3 (A) the Indiana public retirement system; or
 4 (B) a public pension and retirement fund administered by the
 5 Indiana public retirement system.
 6 (3) The purchase of insurance by a separate body corporate and
 7 politic to cover the liability of itself or its employees.
 8 (4) The purchase of casualty and liability insurance for foster
 9 parents (as defined in IC 27-1-30-4) on a group basis.
 10 **(5) A purchase of cyber liability insurance under subsection**
 11 **(b).**
 12 SECTION 22. [EFFECTIVE JULY 1, 2017] **(a) The legislative**
 13 **council is urged to assign to an appropriate interim study**
 14 **committee, for study during the 2017 interim of the general**
 15 **assembly, the topic of statutory incorporation by reference in IC 27**
 16 **of documents of the National Association of Insurance**
 17 **Commissioners.**
 18 **(b) If the legislative council assigns the topic described in**
 19 **subsection (a), the interim study committee to which it is assigned**
 20 **shall make recommendations to the legislative council not later**
 21 **than November 1, 2017, concerning the following:**
 22 **(1) Whether the general assembly should take action on**
 23 **current statutes that incorporate by reference documents**
 24 **described in subsection (a) and, if so, what action should be**
 25 **taken.**
 26 **(2) Any other recommendations considered necessary by the**
 27 **legislative council or the interim study committee.**
 28 **(c) This SECTION expires January 1, 2018.**
 29 SECTION 23. An emergency is declared for this act.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred House Bill 1318, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, between lines 6 and 7, begin a new paragraph and insert:

"SECTION 3. IC 27-1-23-4, AS AMENDED BY P.L.72-2016, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Material transactions within an insurance holding company system to which an insurer subject to registration is a party shall be subject to the following standards:

- (1) The terms shall be fair and reasonable.
- (2) Agreements concerning cost sharing services and management must include provisions required by the commissioner in rules adopted under IC 4-22-2.
- (3) The charges or fees for services performed shall be reasonable.
- (4) The expenses incurred and payment received shall be allocated to the insurer in conformity with customary insurance accounting practices consistently applied.
- (5) The books, accounts, and records of each party as to all transactions described in this subsection shall be so maintained as to clearly and accurately disclose the nature and details of the transactions, including accounting information necessary to support the reasonableness of the charges or fees to the respective parties.
- (6) The insurer's surplus as regards policyholders following any transactions with affiliates or shareholder dividend shall be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs.

(b) The following transactions involving a domestic insurer and any person in its insurance holding company system (including amendments or modifications to affiliate agreements previously filed under this chapter) that are subject to any materiality standards described in subdivisions (1) through (7) may not be entered into unless the insurer has notified the commissioner in writing of its intention to enter into such transaction at least thirty (30) days prior thereto, or such shorter period as the commissioner may permit, and the commissioner has not disapproved it within that period:

- (1) Sales, purchases, exchanges, loans or extensions of credit, guarantees, or investments, provided those transactions are equal



to or exceed:

(A) with respect to nonlife insurers, the lesser of three percent (3%) of the insurer's admitted assets or twenty-five percent (25%) of surplus as regards policyholders; and

(B) with respect to life insurers, three percent (3%) of the insurer's admitted assets;

each as of December 31 next preceding.

(2) Loans or extensions of credit to any person who is not an affiliate, where the insurer makes those loans or extensions of credit with the agreement or understanding that the proceeds of such transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in, any affiliate of the insurer making such loans or extensions of credit, provided those transactions are equal to or exceed:

(A) with respect to nonlife insurers, the lesser of three percent (3%) of the insurer's admitted assets or twenty-five percent (25%) of surplus as regards policyholders; and

(B) with respect to life insurers, three percent (3%) of the insurer's admitted assets;

each as of December 31 next preceding.

(3) Reinsurance agreements or modifications thereto, including:

(A) reinsurance pooling agreements; and

(B) agreements under which:

(i) a reinsurance premium;

(ii) a change in the insurer's liabilities; or

(iii) the projected reinsurance premium;

in any of the immediately succeeding three (3) years equals or exceeds five percent (5%) of the insurer's surplus as regards policyholders, as of December 31 next preceding, including those agreements that may require as consideration the transfer of assets from an insurer to a nonaffiliate, if an agreement or understanding exists between the insurer and nonaffiliate that any portion of the assets will be transferred to one (1) or more affiliates of the insurer.

(4) Management agreements, service contracts, cost-sharing arrangements, lease agreements, guarantees, and tax allocation agreements.

(5) Guarantees made by the insurer, only as follows:

(A) A guarantee, the amount of which is not quantifiable.

(B) A guarantee, the amount of which is quantifiable, if the amount of the guarantee exceeds the lesser of:



- (i) one-half of one percent (0.5%) of the insurer's admitted assets; or
 - (ii) ten percent (10%) of surplus as regards policyholders; on December 31 of the immediately preceding calendar year.
- (6) Direct or indirect acquisitions or investments, as follows:
- (A) In:
 - (i) a person that controls the insurer; or
 - (ii) an affiliate of the insurer in an amount that, together with the insurer's present holdings in the investments, exceeds two and one-half percent (2.5%) of the insurer's surplus to policyholders.
 - (B) This subdivision does not apply to direct or indirect acquisitions or investments in:
 - (i) subsidiaries acquired under section 2.6 of this chapter; or
 - (ii) nonsubsidiary insurance affiliates that are subject to this chapter.
- (7) Material transactions, specified by rule, that the commissioner determines may adversely affect the interests of the insurer's policyholders.

This subsection does not authorize or permit any transactions that, in the case of an insurer not a member of the same insurance holding company system, would be otherwise contrary to law. Notice concerning amendments or modifications of a transaction must include the reasons for the change and the financial impact on the domestic insurer. Not more than thirty (30) days after an agreement that was previously filed under this section is terminated, the domestic insurer shall send written notice of the termination to the commissioner. The commissioner shall determine whether a filing concerning the termination is required and shall notify the domestic insurer of the commissioner's determination.

(c) A domestic insurer may not enter into transactions that are part of a plan or series of like transactions with persons within the insurance holding company system if the purpose of those separate transactions is to avoid the statutory threshold amount and thus avoid the review that would occur otherwise.

(d) The commissioner, in reviewing transactions pursuant to subsection (b), shall consider whether the transactions comply with the standards set forth in subsection (a) and whether the transactions may adversely affect the interests of policyholders.

(e) The commissioner shall be notified within thirty (30) days of any investment of the domestic insurer in any one (1) corporation if the total investment in that corporation by the insurance holding company



system exceeds ten percent (10%) of the corporation's voting securities.

(f) For purposes of this chapter, in determining whether an insurer's surplus is reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, the following factors, among others, shall be considered:

- (1) The size of the insurer as measured by its assets, capital and surplus, reserves, premium writings, insurance in force and other appropriate criteria.
- (2) The extent to which the insurer's business is diversified among the several lines of insurance.
- (3) The number and size of risks insured in each line of business.
- (4) The extent of the geographical dispersion of the insurer's insured risks.
- (5) The nature and extent of the insurer's reinsurance program.
- (6) The quality, diversification, and liquidity of the insurer's investment portfolio.
- (7) The recent past and projected future trend in the size of the insurer's surplus as regards policyholders.
- (8) The surplus as regards policyholders maintained by other comparable insurers in respect of the factors described in subdivisions (1) through (7).
- (9) The adequacy of the insurer's reserves.
- (10) The quality and liquidity of investments in subsidiaries, except that the commissioner may discount or treat any such investment in subsidiaries as a disallowed asset for purposes of determining the adequacy of surplus whenever in the commissioner's judgment such investment so warrants.
- (11) The quality of the earnings of the insurer and the extent to which the reported earnings of the insurer include extraordinary items.

(g) No domestic insurer subject to registration under section 3 of this chapter shall pay an extraordinary dividend or make any other extraordinary distribution to its security holders until:

- (1) thirty (30) days after the commissioner has received notice of the declaration thereof and has not within such period disapproved such payment; or
- (2) the commissioner shall have approved such payment within such thirty (30) day period.

(h) For purposes of subsection (g), ~~the following apply with respect to an extraordinary dividend or distribution:~~

- (+) an extraordinary dividend or distribution is any dividend or distribution of cash or other property whose fair market value,



together with that of other dividends or distributions made within the twelve (12) consecutive months ending on the date on which the proposed dividend or distribution is scheduled to be made, exceeds the ~~lesser~~ **greater** of:

~~(A)~~ **(1)** ten percent (10%) of such insurer's surplus as regards policyholders as of the most recently preceding December 31; or

~~(B)~~ **(2)** the:

~~(i)~~ **(A)** net gain from operations of such insurer, if such insurer is a life insurer; or

~~(ii)~~ **(B)** net income, if such insurer is not a life insurer; ~~not including realized capital gains;~~ for the twelve (12) month period ending on the most recently preceding December 31.

~~(2) An extraordinary dividend or distribution does not include pro rata distribution of any class of an insurer's own securities.~~

~~(3) For purposes of determining whether a dividend or distribution is extraordinary, an insurer that is not a life insurer may carry forward net income that:~~

~~(A) was received during the two (2) immediately preceding calendar years; and~~

~~(B) has not been paid out as dividends;~~

~~computed by subtracting the amount of dividends paid in the first and second immediately preceding calendar years from the amount of net income; not including realized capital gains; received in the second and third immediately preceding calendar years.~~

(i) Notwithstanding any other provision of law, a domestic insurer may declare an extraordinary dividend or distribution which is conditional upon the commissioner's approval thereof, but such a declaration shall confer no rights upon shareholders until:

(1) the commissioner has approved the payment of such dividend or distribution; or

(2) the commissioner has not disapproved the payment within the thirty (30) day period referred to in subsection (g).

(j) The commissioner may impose a civil penalty of five thousand dollars (\$5,000) on a person who fails to file a transaction as required by this section. The commissioner shall deposit a civil penalty collected under this subsection in the department of insurance fund established by IC 27-1-3-28."

Page 8, delete lines 19 through 41.

Page 11, line 7, delete ", including liability for" and insert ".".

Page 11, delete lines 8 through 28.



Page 12, after line 31, begin a new paragraph and insert:
"SECTION 22. **An emergency is declared for this act.**".
Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1318 as introduced.)

CARBAUGH

Committee Vote: yeas 12, nays 0.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1318 be amended to read as follows:

Page 9, delete lines 23 through 36, begin a new paragraph and insert:

"SECTION 6. IC 27-1-31-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. (a) If an insurer refuses to renew a policy of insurance written by the insurer, the insurer shall provide written notice of nonrenewal to the insured:

- (1) at least forty-five (45) days before the expiration date of the policy, if the coverage provided is for one (1) year, or less; or
- (2) at least forty-five (45) days before the anniversary date of the policy, if the coverage provided is for more than one (1) year.

(b) A notice of nonrenewal is not required if:

- (1) the insured is transferred from an insurer to an affiliate of the insurer for future coverage; ~~as a result of a merger, an acquisition, or a company restructuring;~~ and (2) the transfer results in the same or broader coverage. and

~~(3) the insured approves the transfer."~~

Re-number all SECTIONS consecutively.

(Reference is to HB 1318 as printed February 3, 2017.)

TORR



COMMITTEE REPORT

Madam President: The Senate Committee on Insurance and Financial Institutions, to which was referred House Bill No. 1318, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 2. IC 27-1-15.7-2, AS AMENDED BY P.L.278-2013, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. (a) Except as provided in subsection (b), to renew a license issued under IC 27-1-15.6, a resident insurance producer must complete at least twenty-four (24) hours of credit in continuing education courses, **not more than four (4) hours of which may be in courses concerning one (1) or a combination of the following:**

- (1) Sales promotion.
- (2) Sales technique.
- (3) Motivation.
- (4) Psychology.
- (5) Time management.

If the insurance producer has a qualification described in IC 27-1-15.6-7(a)(1), IC 27-1-15.6-7(a)(2), or IC 27-1-15.6-7(a)(5), for a license renewal that occurs after June 30, 2014, at least three (3) of the hours of credit required by this subsection must be related to ethical practices in the marketing and sale of life, health, or annuity insurance products. An attorney in good standing who is admitted to the practice of law in Indiana and holds a license issued under IC 27-1-15.6 may complete all or any number of hours of continuing education required by this subsection by completing an equivalent number of hours in continuing legal education courses that are related to the business of insurance.

(b) Except as provided in subsection (c), to renew a license issued under IC 27-1-15.6, a limited lines producer with a title qualification under IC 27-1-15.6-7(a)(8) must complete at least seven (7) hours of credit in continuing education courses related to the business of title insurance with at least one (1) hour of instruction in a structured setting or comparable self-study in each of the following:

- (1) Ethical practices in the marketing and selling of title insurance.
- (2) Title insurance underwriting.
- (3) Escrow issues.
- (4) Principles of the federal Real Estate Settlement Procedures

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Act (12 U.S.C. 2608).

An attorney in good standing who is admitted to the practice of law in Indiana and holds a license issued under IC 27-1-15.6 with a title qualification under IC 27-1-15.6-7(a)(8) may complete all or any number of hours of continuing education required by this subsection by completing an equivalent number of hours in continuing legal education courses related to the business of title insurance or any aspect of real property law.

(c) The following insurance producers are not required to complete continuing education courses to renew a license under this chapter:

- (1) A limited lines producer who is licensed without examination under IC 27-1-15.6-18(1).
- (2) A limited line credit insurance producer.
- (3) A nonresident limited lines producer with a title qualification:
 - (A) whose home state requires continuing education for a title qualification; and
 - (B) who has met the continuing education requirements described in clause (A).

(d) To satisfy the requirements of subsection (a) or (b), a licensee may use only those credit hours earned in continuing education courses completed by the licensee:

- (1) after the effective date of the licensee's last renewal of a license under this chapter; or
- (2) if the licensee is renewing a license for the first time, after the date on which the licensee was issued the license under this chapter.

(e) If an insurance producer receives qualification for a license in more than one (1) line of authority under IC 27-1-15.6, the insurance producer may not be required to complete a total of more than twenty-four (24) hours of credit in continuing education courses to renew the license.

(f) Except as provided in subsection (g), a licensee may receive credit only for completing the following continuing education courses:

- (1) Continuing education courses that have been approved by the commissioner under section 4 of this chapter.
- (2) Continuing education courses that are required for the licensee under IC 27-19-4-14.

(g) A licensee who teaches a course approved by the commissioner under section 4 of this chapter shall receive continuing education credit for teaching the course.

(h) When a licensee renews a license issued under this chapter, the licensee must submit:



- (1) a continuing education statement that:
 - (A) is in a format authorized by the commissioner;
 - (B) is signed by the licensee under oath; and
 - (C) lists the continuing education courses completed by the licensee to satisfy the continuing education requirements of this section; and
- (2) any other information required by the commissioner.
- (i) A continuing education statement submitted under subsection (h) may be reviewed and audited by the department.
- (j) A licensee shall retain a copy of the original certificate of completion received by the licensee for completion of a continuing education course.
- (k) A licensee who completes a continuing education course that:
 - (1) is approved by the commissioner under section 4 of this chapter;
 - (2) is held in a classroom setting; and
 - (3) concerns ethics;
 shall receive continuing education credit not to exceed four (4) hours in a renewal period."

Page 9, between lines 36 and 37, begin a new paragraph and insert:
 "SECTION 8. IC 27-2-24 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]:

Chapter 24. Coverage With Innocent Coinsured

Sec. 1. This chapter applies to a policy of property or casualty insurance that is entered into, amended, or renewed after June 30, 2017.

Sec. 2. As used in this chapter, "authorized agency" means the following:

- (1) The state fire marshal or a fire department acting under IC 36-8-17.**
- (2) The superintendent of the state police.**
- (3) The prosecuting attorney responsible for prosecutions in the county where damage to property occurs.**
- (4) The attorney general.**
- (5) An officer of a unit of local government whose duties include the investigation of arson where damage to property occurs.**

Sec. 3. As used in this chapter, "available insurance proceeds" means:

- (1) the proceeds payable under a policy of property or casualty insurance:**



- (A) to an innocent coinsured; and
 - (B) based on a claim for property loss to the innocent coinsured's primary residence; minus
 - (2) proceeds already paid under the policy of property or casualty insurance to:
 - (A) the innocent coinsured for:
 - (i) emergency living expenses;
 - (ii) emergency action necessary to secure the premises of the primary residence; and
 - (iii) action necessary to prevent further damage to the premises of the primary residence; and
 - (B) a lienholder or mortgagee who is not under investigation by an authorized agency;
- in connection with the property loss described in subdivision (1).

Sec. 4. (a) As used in this chapter, "final settlement" means a determination:

- (1) of the amount owed to an innocent coinsured by an insurer:
 - (A) under the building coverage part of a policy of property or casualty insurance; and
 - (B) for property loss to the innocent coinsured's primary residence; and
- (2) made by any of the following methods:
 - (A) Acceptance of a proof of loss by the insurer.
 - (B) Execution of a release by the innocent coinsured.
 - (C) Acceptance of an arbitration award by the innocent coinsured and the insurer.
 - (D) Judgment of a court of competent jurisdiction.

(b) The term "final settlement" does not apply to damage or loss related to contents, personal property, or another loss that is not covered under the building coverage part of a policy of property or casualty insurance.

Sec. 5. As used in this chapter, "innocent coinsured" means an individual who:

- (1) is insured under a policy of property or casualty insurance;
- (2) did not have knowledge of, cooperate in, or intentionally contribute to a property loss that was caused or arranged by another individual who:
 - (A) is also insured under the policy of property or casualty insurance; and



(B) either:

(i) died; or

(ii) has been charged with a crime based on a court finding that there is probable cause to believe that the individual committed the crime;

in connection with the circumstances that caused the property loss;

(3) signs a sworn affidavit attesting that the individual did not have knowledge of, cooperate in, or intentionally contribute to the property loss; and

(4) cooperates in:

(A) the investigation and resolution of the claim for the property loss;

(B) any police investigation related to the property loss; and

(C) any criminal prosecution of the individual that caused or arranged the property loss.

Sec. 6. As used in this chapter, "insurer" means an insurance company that issues or delivers a policy of property or casualty insurance.

Sec. 7. As used in this chapter, "property or casualty insurance" means a type of insurance described in Class 2 and Class 3 of IC 27-1-5-1. However, the term does not mean insurance described in Class 2(a) of IC 27-1-5-1.

Sec. 8. (a) An insurer may not deny, exclude, or limit payment of a claim made:

(1) by an innocent coinsured;

(2) for coverage of a property loss to the primary residence of the innocent coinsured; and

(3) under a policy of property or casualty insurance;

unless the denial, exclusion, or limitation of payment is otherwise allowed by law and applied to the innocent coinsured in the same manner and to the same extent as the denial, exclusion, or limitation of payment is applied by the insurer to all other insureds, regardless of whether an insured is an innocent coinsured.

(b) An insurer shall pay the following on a claim described in subsection (a):

(1) The actual cost of repair or replacement of the property that is the subject of the claim if the actual cost of repair or replacement is less than or equal to the maximum limit of coverage under the policy of property or casualty insurance.



(2) The maximum limit of coverage under the policy of property or casualty insurance if the actual cost of repair or replacement of the property that is the subject of the claim is greater than the maximum limit of coverage under the policy of property or casualty insurance.

(c) This section does not require an insurer to make payment on a claim described in subsection (a) in an amount that is greater than the amount applicable to the part of the damaged property to which the innocent coinsured is entitled under a decree of dissolution of marriage between the innocent coinsured and the individual described in section 5(2) of this chapter.

(d) This section does not require an insurer to do the following:

(1) Make payment to an innocent coinsured on a claim described in subsection (a) in an amount that exceeds:

(A) the innocent coinsured's ownership interest in the property; minus

(B) any payment by the insurer to a mortgagee or another lienholder with a secured interest in the property.

(2) Make payment to another coinsured for the part of a loss for which the insurer has already made payment to the innocent coinsured.

Sec. 9. An insurer may not:

(1) refuse to renew;

(2) refuse to issue; or

(3) add a surcharge or rating factor to a premium for;

a policy of property or casualty insurance solely on the basis that an insured or a prospective insured under the policy of property or casualty insurance has been an innocent coinsured.

Sec. 10. This chapter does not require an insurer that issued a policy of property or casualty insurance to pay a claim to an innocent coinsured if the final settlement for the property loss is less than sixty percent (60%) of available insurance proceeds under the policy.

Sec. 11. This chapter does not prohibit an insurer from application of reasonable standards of proof to rebut an assertion that an individual meets the requirements to be considered an innocent coinsured under section 5 of this chapter.

Sec. 12. This chapter does not affect an insurer's right of subrogation under a policy of property or casualty insurance to



recover payments made from the person that is responsible for the property loss."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1318 as reprinted February 8, 2017.)

HOLDMAN, Chairperson

Committee Vote: Yeas 6, Nays 0.

SENATE MOTION

Madam President: I move that Engrossed House Bill 1318 be amended to read as follows:

Page 18, delete line 42.

Page 19, delete lines 1 through 25, begin a new paragraph and insert:

"SECTION 14. IC 27-7-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. (a) No insurer shall fail to renew a policy unless it shall mail or deliver to the named insured, at the address shown in the policy, at least twenty (20) ~~days~~ **days** advance notice of its intention not to renew. In the event such policy was procured by an insurance producer duly licensed by the state of Indiana notice of intent not to renew shall be mailed or delivered to the insurance producer at least ten (10) days prior to such mailing or delivery to the named insured unless such notice of intent is or has been waived in writing by the insurance producer.

(b) This section shall not apply:

- (1) if the insurer has manifested its willingness to renew; or
- (2) in case of nonpayment of premium.

However, notwithstanding the failure of an insurer to comply with this section, the policy shall terminate on the effective date of any other insurance policy with respect to any automobile designated in both policies.

(c) A notice of intention not to renew is not required if:

- (1) the insured is transferred from an insurer to an affiliate of the insurer for future coverage; ~~as a result of a merger, an acquisition, or a company restructuring;~~ **and**
- (2) the transfer results in the same or broader coverage. ~~and~~
- ~~(3) the insured approves the transfer.~~

(d) Renewal of a policy shall not constitute a waiver or estoppel

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with respect to grounds for cancellation which existed before the effective date of such renewal."

Page 20, delete lines 3 through 5, begin a new paragraph and insert:

"(c) Notice of nonrenewal under this section is not required if:
(1) the named insured is transferred from an insurer to an
affiliate of the insurer for future coverage; and
(2) the transfer results in the same or broader coverage."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1318 as printed March 28, 2017.)

HOLDMAN

SENATE MOTION

Madam President: I move that Engrossed House Bill 1318 be amended to read as follows:

Page 22, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 22. [EFFECTIVE JULY 1, 2017] (a) The legislative council is urged to assign to an appropriate interim study committee, for study during the 2017 interim of the general assembly, the topic of statutory incorporation by reference in IC 27 of documents of the National Association of Insurance Commissioners.

(b) If the legislative council assigns the topic described in subsection (a), the interim study committee to which it is assigned shall make recommendations to the legislative council not later than November 1, 2017, concerning the following:

(1) Whether the general assembly should take action on current statutes that incorporate by reference documents described in subsection (a) and, if so, what action should be taken.

(2) Any other recommendations considered necessary by the legislative council or the interim study committee.

(c) This SECTION expires January 1, 2018."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1318 as printed March 28, 2017.)

HOLDMAN

