

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.

HOUSE ENROLLED ACT No. 1318

AN ACT to amend the Indiana Code concerning insurance.

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

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

- (1) A United States Postal Service intelligent mail bar code tracking record, as proof of the type of mailing to which the record applies.
- (2) A United States Postal Service certificate of mailing at the last known address of the recipient, as proof of the type of mailing to which the certificate applies.
- (3) Another similar method of first class mail tracking that identifies the recipient, the recipient's last known address, and the date of mailing, as proof of mailing by first class mail.

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.

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- (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 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.

SECTION 3. IC 27-1-15.7-4, AS AMENDED BY P.L.57-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. (a) The commissioner shall approve and disapprove continuing education courses after considering recommendations made by the insurance producer education and continuing education advisory council created under section 6 of this chapter.

(b) The commissioner may not approve a course under this section if the course:

- (1) is designed to prepare an individual to receive an initial license under this chapter;
- (2) concerns only routine, basic office skills, including filing, keyboarding, and basic computer skills;
- ~~(3) concerns sales promotion and sales techniques;~~
- ~~(4) concerns motivation, psychology, or time management; or~~
- ~~(5)~~ (3) may be completed by a licensee without supervision by an instructor, unless the course involves an examination process that is:

(A) completed and passed by the licensee as determined by the provider of the course; and

(B) approved by the commissioner.

(c) The commissioner shall approve a course under this section that is submitted for approval by an insurance trade association or professional insurance association if:

- (1) the objective of the course is to educate a manager or an owner of a business entity that is required to obtain an insurance producer license under IC 27-1-15.6-6(d);
- (2) the course teaches insurance producer management and is designed to result in improved efficiency in insurance producer operations, systems use, or key functions;
- (3) the course is designed to benefit consumers; and
- (4) the course is not described in subsection (b).

(d) Approval of a continuing education course under this section shall be for a period of not more than two (2) years.

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

- (1) a fee of forty dollars (\$40) for each course submitted for approval of the commissioner under this section; or
- (2) an annual fee of five hundred dollars (\$500) not later than



January 1 of a calendar year, which entitles the prospective provider to submit an unlimited number of courses for approval of the commissioner under this section during the calendar year. The commissioner may waive all or a portion of the fee for a course submitted under a reciprocity agreement with another state for the approval or disapproval of continuing education courses. Fees collected under this subsection shall be deposited in the department of insurance fund established under IC 27-1-3-28.

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

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

SECTION 4. 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.

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

- (1) is not licensed under this chapter; but
- (2) is otherwise qualified to adjust claims;

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

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

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

- (1) The name of the individual.
- ~~(2) The Social Security number of the individual.~~
- ~~(3)~~ (2) The name of the insurer.
- ~~(4)~~ (3) The effective date of the contract between the insurer and the individual.
- ~~(5)~~ (4) The catastrophe or loss number.
- ~~(6)~~ (5) The catastrophe event name.
- ~~(7)~~ (6) Other information the commissioner considers necessary.

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

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

(f) The rules adopted by the commissioner under section 2 of this chapter may establish a fee for an application submitted under this section.

SECTION 6. IC 27-1-28-13, AS ADDED BY P.L.11-2011,

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SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 13. (a) A business entity may apply for a resident independent adjuster license by submitting:

- (1) a uniform business entity application to the commissioner with a declaration, under penalty of suspension, revocation, or refusal of licensure, that the statements made in the application are true and complete to the best knowledge of the individual submitting the application on behalf of the business entity;
- (2) an application fee of forty dollars (\$40); and
- (3) the name, address, ~~Social Security number~~, and criminal and administrative history of each of the following:
 - (A) An owner that has at least ten percent (10%) interest or voting interest in the business entity.
 - (B) A partner of the business entity.
 - (C) An executive officer of the business entity.
 - (D) A director of the business entity.

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

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

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

SECTION 7. 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~~

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(3) the insured approves the transfer.

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.

SECTION 9. IC 27-7-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. **Except on a surplus lines basis under IC 27-1-15.8**, no persons, partnerships or corporations shall engage in the business of such insurance as is herein specified as "Lloyds" unless twenty-five (25) or more persons, partnerships or corporations, a majority of whom shall be bona fide residents of the state of Indiana shall have a certificate of authority from the ~~auditor of state (commissioner of insurance)~~ **insurance commissioner** so to do. The application for such certificate of authority shall be signed by the attorney or attorneys in fact of those persons desiring such certificate, and must be accompanied by a declaration which must set forth the following provisions:

1. The name under which the business is to be conducted, which name shall contain the word "Lloyds," and shall not be similar to that of any existing Lloyds association or corporation in this state, as, in the opinion of the ~~auditor of state~~, **insurance commissioner**, is calculated to deceive or mislead.

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

3. The kind of insurance intended to be written, which shall be only



as hereinafter stated.

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

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

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

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

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

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

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

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

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

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

Second: In no event, shall the liability of any underwriter exceed the sum underwritten by ~~him~~ **the underwriter** or ~~them~~ **underwriters** hereon, and, in no event, shall any underwriter be liable for any part of the sum underwritten hereon by any other underwriter.

Third: The insured agrees by the acceptance of this policy that no underwriter hereon shall, in any event, be liable for claims exceeding, in the aggregate, on all policies, certificates or contracts issued on ~~his~~



~~or their~~ **behalf of the underwriter or underwriters**, in the name of this Lloyds for an amount in excess of the unpaid portion, if any, of ~~the his or their~~ original subscription or contribution **of the underwriter or underwriters** to said Lloyds, as ~~indorsed~~ **endorsed** hereon.

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

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

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

SECTION 12. IC 27-7-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 4. After such documents specified shall have been filed, the ~~auditor of state~~ **insurance commissioner** shall cause an examination of such Lloyds to be made, and after ~~he~~ **the insurance commissioner** has specified that all of the facts alleged in the declaration are true, and that the articles of association or copartnership agreement is of such character that the rights of the policyholders will be protected thereunder, ~~he~~ **the insurance commissioner** shall issue, or cause to be issued, a certificate of authority to such Lloyds to do such business as is specified in the declaration, which certificate shall be issued to such Lloyds under the name designated and approved, authorizing the underwriters thereof to do the business permitted through its attorney or attorneys in fact.

SECTION 13. IC 27-7-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 8. The ~~auditor of state~~ **insurance commissioner** shall have the same supervision and control



over Lloyds as ~~he~~ **the insurance commissioner** has over stock insurance companies incorporated under the laws of Indiana.

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

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

SECTION 16. 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 with respect to grounds for cancellation which existed before the effective date of such renewal.

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

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

(b) If the policy was procured by an independent insurance producer licensed in Indiana, the insurer shall deliver or mail notice of nonrenewal to the insurance producer not less than ten (10) days before the insurer delivers or mails the notice to the named insured, unless the obligation to notify the insurance producer is waived in writing by the insurance producer.

(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.

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

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

- ~~(1) be in writing;~~
- ~~(2) be delivered or mailed to the named insured at the last known address of the named insured;~~
- ~~(3) be provided to the named insured at least twenty (20) days before the transfer; and~~
- ~~(4) identify the insurer to which the policy will be transferred.~~

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

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

- (A) the insolvency, financial condition, or default of the insurer if the right is enforceable under applicable law other than ~~this chapter; title;~~ or
- (B) the commencement of a formal delinquency proceeding under IC 27-9-3.

(2) A right under:

- (A) a pledge, security, collateral, reimbursement, guarantee agreement, or similar security agreement; or
- (B) an arrangement or credit enhancement relating to at least one (1) netting agreement or qualified financial contract.

(3) A right to set off or net out a termination value, payment amount, or other transfer obligation arising in connection with at least one (1) qualified financial contract in which the counterparty or the counterparty's guarantor is organized under the laws of:

- (A) the United States; or
- (B) a state or foreign jurisdiction approved as eligible for netting by the Securities Valuation Office of the NAIC.

SECTION 20. IC 34-6-2-32.5 IS ADDED TO THE INDIANA



CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 32.5. "Cyber liability" means liability related to use of computer systems.**

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

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

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

- (1) The requiring of contractors to carry insurance.
- (2) The purchase of insurance to cover losses occurring on real property owned by:
 - (A) the Indiana public retirement system; or
 - (B) a public pension and retirement fund administered by the Indiana public retirement system.



(3) The purchase of insurance by a separate body corporate and politic to cover the liability of itself or its employees.

(4) The purchase of casualty and liability insurance for foster parents (as defined in IC 27-1-30-4) on a group basis.

(5) A purchase of cyber liability insurance under subsection (b).

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.

SECTION 23. An emergency is declared for this act.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

HEA 1318 — Concur

