

HOUSE BILL No. 1372

DIGEST OF INTRODUCED BILL

Citations Affected: IC 27-1; IC 27-2-27; IC 27-6; IC 27-7-5-2; IC 27-13-4-1.

Synopsis: Various insurance matters. Makes changes in the law concerning the permissible investments of life insurance companies and casualty, fire, and marine insurance companies. Repeals the current law on credit for reinsurance and replaces it with the National Association of Insurance Commissioners 2019 credit for reinsurance model law. Amends the law concerning uninsured and underinsured motorist coverage to provide that a rejection of uninsured motorist coverage or underinsured motorist coverage in an underlying personal policy of insurance is also a rejection of uninsured motorist coverage or underinsured motorist coverage in a personal umbrella or excess liability policy. Adopts the insurance data security model law, which requires a licensee (a person who holds or is required to hold a license, authority, or registration) to: (1) develop, maintain, and update an information security program for the purpose of protecting consumers' nonpublic information; (2) conduct a risk assessment of its information systems to aid in the development of an information security program; (3) notify the insurance commissioner if a cybersecurity event affecting the nonpublic information occurs; and (4) develop an incident response plan to respond to cybersecurity events.

Effective: July 1, 2020.

Carbaugh

January 13, 2020, read first time and referred to Committee on Insurance.



Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

HOUSE BILL No. 1372

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 27-1-12-2, AS AMENDED BY P.L.124-2018,
2 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 2. (a) The following definitions apply to this
4 section:
5 (1) "Acceptable collateral" means, as to securities lending
6 transactions:
7 (A) cash;
8 (B) cash equivalents;
9 (C) letters of credit; and
10 (D) direct obligations of, or securities that are fully guaranteed
11 as to principal and interest by, the government of the United
12 States or any agency of the United States, including the
13 Federal National Mortgage Association and the Federal Home
14 Loan Mortgage Corporation.
15 (2) "Acceptable collateral" means, as to lending foreign securities,
16 sovereign debt that is rated:
17 (A) A- or higher by Standard & Poor's Corporation;



- 1 (B) A3 or higher by Moody's Investors Service, Inc.;
- 2 (C) A- or higher by Duff and Phelps, Inc.; or
- 3 (D) 1 by the Securities Valuation Office.
- 4 (3) "Acceptable collateral" means, as to repurchase transactions:
- 5 (A) cash;
- 6 (B) cash equivalents; and
- 7 (C) direct obligations of, or securities that are fully guaranteed
- 8 as to principal and interest by, the government of the United
- 9 States or any agency of the United States, including the
- 10 Federal National Mortgage Association and the Federal Home
- 11 Loan Mortgage Corporation.
- 12 (4) "Acceptable collateral" means, as to reverse repurchase
- 13 transactions:
- 14 (A) cash; and
- 15 (B) cash equivalents.
- 16 (5) "Admitted assets" means assets permitted to be reported as
- 17 admitted assets on the statutory financial statement of the life
- 18 insurance company most recently required to be filed with the
- 19 commissioner.
- 20 (6) "Business entity" means:
- 21 (A) a sole proprietorship;
- 22 (B) a corporation;
- 23 (C) a limited liability company;
- 24 (D) an association;
- 25 (E) a partnership;
- 26 (F) a joint stock company;
- 27 (G) a joint venture;
- 28 (H) a mutual fund;
- 29 (I) a trust;
- 30 (J) a joint tenancy; or
- 31 (K) other, similar form of business organization;
- 32 whether organized for-profit or not-for-profit.
- 33 (7) "Cash" means any of the following:
- 34 (A) United States denominated paper currency and coins.
- 35 (B) Negotiable money orders and checks.
- 36 (C) Funds held in any time or demand deposit in any
- 37 depository institution, the deposits of which are insured by the
- 38 Federal Deposit Insurance Corporation.
- 39 (8) "Cash equivalent" means any of the following:
- 40 (A) A certificate of deposit issued by a depository institution,
- 41 the deposits of which are insured by the Federal Deposit
- 42 Insurance Corporation.



- 1 (B) A banker's acceptance issued by a depository institution,
 2 the deposits of which are insured by the Federal Deposit
 3 Insurance Corporation.
 4 (C) A government money market mutual fund.
 5 (D) A class one money market mutual fund.
 6 (9) "Class one money market mutual fund" means a money
 7 market mutual fund that at all times qualifies for investment
 8 pursuant to the Purposes and Procedures Manual of the NAIC
 9 Investment Analysis Office either using the bond class one
 10 reserve factor or because it is exempt from asset valuation reserve
 11 requirements.
 12 (10) "Dollar roll transaction" means two (2) simultaneous
 13 transactions that have settlement dates not more than ninety-six
 14 (96) days apart and that meet the following description:
 15 (A) In one (1) transaction, a life insurance company sells to a
 16 business entity one (1) or both of the following:
 17 (i) Asset-backed securities that are issued, assumed, or
 18 guaranteed by the Government National Mortgage
 19 Association, the Federal National Mortgage Association, or
 20 the Federal Home Loan Mortgage Corporation.
 21 (ii) Other asset-backed securities referred to in Section 106
 22 of Title I of the Secondary Mortgage Market Enhancement
 23 Act of 1984 (15 U.S.C. 77r-1).
 24 (B) In the other transaction, the life insurance company is
 25 obligated to purchase from the same business entity securities
 26 that are substantially similar to the securities sold under clause
 27 (A).
 28 (11) "Domestic jurisdiction" means:
 29 (A) the United States;
 30 (B) any state, territory, or possession of the United States;
 31 (C) the District of Columbia;
 32 (D) Canada; or
 33 (E) any province of Canada.
 34 (12) "Earnings available for fixed charges" means income, after
 35 deducting:
 36 (A) operating and maintenance expenses other than expenses
 37 that are fixed charges;
 38 (B) taxes other than federal and state income taxes;
 39 (C) depreciation; and
 40 (D) depletion;
 41 but excluding extraordinary nonrecurring items of income or
 42 expense appearing in the regular financial statements of a



- 1 business entity.
- 2 (13) "Fixed charges" includes:
- 3 (A) interest on funded and unfunded debt;
- 4 (B) amortization of debt discount; and
- 5 (C) rentals for leased property.
- 6 (14) "Foreign currency" means a currency of a foreign
- 7 jurisdiction.
- 8 (15) "Foreign jurisdiction" means a jurisdiction other than a
- 9 domestic jurisdiction.
- 10 (16) "Government money market mutual fund" means a money
- 11 market mutual fund that at all times:
- 12 (A) invests only in:
- 13 (i) obligations that are issued, guaranteed, or insured by the
- 14 United States; or
- 15 (ii) collateralized repurchase agreements composed of
- 16 obligations that are issued, guaranteed, or insured by the
- 17 United States; and
- 18 (B) qualifies for investment without a reserve pursuant to the
- 19 Purposes and Procedures Manual of the NAIC Investment
- 20 Analysis Office.
- 21 (17) "Guaranteed or insured," when used in reference to an
- 22 obligation acquired under this section, means that the guarantor
- 23 or insurer has agreed to:
- 24 (A) perform or insure the obligation of the obligor or purchase
- 25 the obligation; or
- 26 (B) be unconditionally obligated, until the obligation is repaid,
- 27 to maintain in the obligor a minimum net worth, fixed charge
- 28 coverage, stockholders' equity, or sufficient liquidity to enable
- 29 the obligor to pay the obligation in full.
- 30 (18) "Investment company" means:
- 31 (A) an investment company as defined in Section 3(a) of the
- 32 Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.); or
- 33 (B) a person described in Section 3(c) of the Investment
- 34 Company Act of 1940 (15 U.S.C. 80a-1 et seq.).
- 35 (19) "Investment company series" means an investment portfolio
- 36 of an investment company that is organized as a series company
- 37 to which assets of the investment company have been specifically
- 38 allocated.
- 39 (20) "Letter of credit" means a clean, irrevocable, and
- 40 unconditional letter of credit that is:
- 41 (A) issued or confirmed by; and
- 42 (B) payable and presentable at;



1 a financial institution on the list of financial institutions meeting
 2 the standards for issuing letters of credit under the Purposes and
 3 Procedures Manual of the NAIC Investment Analysis Office. To
 4 constitute acceptable collateral for the purposes of paragraph 29
 5 of subsection (b), a letter of credit must have an expiration date
 6 beyond the term of the subject transaction.

7 (21) "Market value" means the following:

8 (A) As to cash, the amount of the cash.

9 (B) As to cash equivalents, the amount of the cash equivalents.

10 (C) As to letters of credit, the amount of the letters of credit.

11 (D) As to a security as of any date:

12 (i) the price for the security on that date obtained from a
 13 generally recognized source, or the most recent quotation
 14 from such a source; or

15 (ii) if no generally recognized source exists, the price for the
 16 security as determined in good faith by the parties to a
 17 transaction;

18 plus accrued but unpaid income on the security to the extent
 19 not included in the price as of that date.

20 (22) "Money market mutual fund" means a mutual fund that
 21 meets the conditions of 17 CFR 270.2a-7, under the Investment
 22 Company Act of 1940 (15 U.S.C. 80a-1 et seq.).

23 (23) "Multilateral development bank" means an international
 24 development organization of which the United States is a
 25 member.

26 (24) "Mutual fund" means:

27 (A) an investment company; or

28 (B) in the case of an investment company that is organized as
 29 a series company, an investment company series;

30 that is registered with the United States Securities and Exchange
 31 Commission under the Investment Company Act of 1940 (15
 32 U.S.C. 80a-1 et seq.).

33 (25) "Obligation" means any of the following:

34 (A) A bond.

35 (B) A note.

36 (C) A debenture.

37 (D) Any other form of evidence of debt.

38 (26) "Person" means:

39 (A) an individual;

40 (B) a business entity;

41 (C) a multilateral development bank; or

42 (D) a government or quasi-governmental body, such as a



- 1 political subdivision or a government sponsored enterprise.
 2 (27) "Repurchase transaction" means a transaction in which a life
 3 insurance company purchases securities from a business entity
 4 that is obligated to repurchase the purchased securities or
 5 equivalent securities from the life insurance company at a
 6 specified price, either within a specified period of time or upon
 7 demand.
 8 (28) "Reverse repurchase transaction" means a transaction in
 9 which a life insurance company sells securities to a business
 10 entity and is obligated to repurchase the sold securities or
 11 equivalent securities from the business entity at a specified price,
 12 either within a specified period of time or upon demand.
 13 (29) "Securities lending transaction" means a transaction in which
 14 securities are loaned by a life insurance company to a business
 15 entity that is obligated to return the loaned securities or equivalent
 16 securities to the life insurance company, either within a specified
 17 period of time or upon demand.
 18 (30) "Securities Valuation Office" refers to the Securities
 19 Valuation Office of the NAIC.
 20 (31) "Series company" means an investment company that is
 21 organized as a series company (as defined in Rule 18f-2(a)
 22 adopted under the Investment Company Act of 1940 (15 U.S.C.
 23 80a-1 et seq.)).
 24 (32) "Supported", when used in reference to an obligation, by
 25 whomever issued or made, means that:
 26 (A) repayment of the obligation by:
 27 (i) a domestic jurisdiction or by an administration, agency,
 28 authority, or instrumentality of a domestic jurisdiction; or
 29 (ii) a business entity;
 30 as the case may be, is secured by real or personal property of
 31 value at least equal to the principal amount of the obligation
 32 by means of mortgage, assignment of vendor's interest in one
 33 (1) or more conditional sales contracts, other title retention
 34 device, or by means of other security interest in such property
 35 for the benefit of the holder of the obligation; and
 36 (B) the:
 37 (i) domestic jurisdiction or administration, agency, authority,
 38 or instrumentality of the domestic jurisdiction; or
 39 (ii) business entity;
 40 as the case may be, has entered into a firm agreement to rent
 41 or use the property pursuant to which it is obligated to pay
 42 money as rental or for the use of such property in amounts and



1 at times which shall be sufficient, after provision for taxes
2 upon and other expenses of use of the property, to repay in full
3 the obligation with interest and when such agreement and the
4 money obligated to be paid thereunder are assigned, pledged,
5 or secured for the benefit of the holder of the obligation.
6 However, where the security for the repayment of the
7 obligation consists of a first mortgage lien or deed of trust on
8 a fee interest in real property, the obligation may provide for
9 the amortization, during the initial, fixed period of the lease or
10 contract, of less than one hundred percent (100%) of the
11 obligation if there is pledged or assigned, as additional
12 security for the obligation, sufficient rentals payable under the
13 lease, or of contract payments, to secure the amortized
14 obligation payments required during the initial, fixed period of
15 the lease or contract, including but not limited to payments of
16 principal, interest, and taxes other than the income taxes of the
17 borrower, and if there is to be left unamortized at the end of
18 such period an amount not greater than the original appraised
19 value of the land only, exclusive of all improvements, as
20 prescribed by law.

21 (b) Investments of domestic life insurance companies at the time
22 they are made shall conform to the following categories, conditions,
23 limitations, and standards:

24 1. Obligations of a domestic jurisdiction or of any administration,
25 agency, authority, or instrumentality of a domestic jurisdiction.

26 2. Obligations guaranteed, supported, or insured as to principal and
27 interest by a domestic jurisdiction or by an administration, agency,
28 authority, or instrumentality of a domestic jurisdiction.

29 3. Obligations issued under or pursuant to the Farm Credit Act of
30 1971 (12 U.S.C. 2001 through 2279aa-14) as in effect on December 31,
31 1990, or the Federal Home Loan Bank Act (12 U.S.C. 1421 through
32 1449) as in effect on December 31, 1990, interest bearing obligations
33 of the FSLIC Resolution Fund or shares of any institution whose
34 deposits are insured by the Federal Deposit Insurance Corporation to
35 the extent that such shares are insured, obligations issued or guaranteed
36 by a multilateral development bank, and obligations issued or
37 guaranteed by the African Development Bank.

38 4. Obligations issued, guaranteed, or insured as to principal and
39 interest by a city, county, drainage district, road district, school district,
40 tax district, town, township, village, or other civil administration,
41 agency, authority, instrumentality, or subdivision of a domestic
42 jurisdiction, providing such obligations are authorized by law and are:



1 (a) direct and general obligations of the issuing, guaranteeing or
 2 insuring governmental unit, administration, agency, authority,
 3 district, subdivision, or instrumentality;

4 (b) payable from designated revenues pledged to the payment of
 5 the principal and interest thereof; or

6 (c) improvement bonds or other obligations constituting a first
 7 lien, except for tax liens, against all of the real estate within the
 8 improvement district or on that part of such real estate not
 9 discharged from such lien through payment of the assessment.

10 The area to which such improvement bonds or other obligations
 11 relate shall be situated within the limits of a town or city and at
 12 least fifty percent (50%) of the properties within such area shall
 13 be improved with business buildings or residences.

14 5. Loans evidenced by obligations secured by first mortgage liens
 15 on otherwise unencumbered real estate or otherwise unencumbered
 16 leaseholds having at least fifty (50) years of unexpired term, such real
 17 estate, or leaseholds to be located in a domestic jurisdiction. Such loans
 18 shall not exceed eighty percent (80%) of the fair value of the security
 19 determined in a manner satisfactory to the department, except that the
 20 percentage stated may be exceeded if and to the extent such excess is
 21 guaranteed or insured by:

22 (a) a domestic jurisdiction or by an administration, agency,
 23 authority, or instrumentality of any domestic jurisdiction; or

24 (b) a private mortgage insurance corporation approved by the
 25 department.

26 If improvements constitute a part of the value of the real estate or
 27 leaseholds, such improvements shall be insured against fire for the
 28 benefit of the mortgagee in an amount not less than the difference
 29 between the value of the land and the unpaid balance of the loan.

30 For the purpose of this section, real estate or a leasehold shall not be
 31 deemed to be encumbered by reason of the existence in relation thereto
 32 of:

33 (1) liens inferior to the lien securing the loan made by the life
 34 insurance company;

35 (2) taxes or assessment liens not delinquent;

36 (3) instruments creating or reserving mineral, oil, water or timber
 37 rights, rights-of-way, common or joint driveways, sewers, walls,
 38 or utility connections;

39 (4) building restrictions or other restrictive covenants; or

40 (5) an unassigned lease reserving rents or profits to the owner.

41 A loan that is authorized by this paragraph remains qualified under this
 42 paragraph notwithstanding any refinancing, modification, or extension



1 of the loan. Investments authorized by this paragraph shall not in the
2 aggregate exceed forty-five percent (45%) of the life insurance
3 company's admitted assets.

4 6. Loans evidenced by obligations guaranteed or insured, but only
5 to the extent guaranteed or insured, by a domestic jurisdiction or by any
6 agency, administration, authority, or instrumentality of any domestic
7 jurisdiction, and secured by second or subsequent mortgages or deeds
8 of trust on real estate or leaseholds, provided the terms of the leasehold
9 mortgages or deeds of trust shall not exceed four-fifths (4/5) of the
10 unexpired lease term, including enforceable renewable options
11 remaining at the time of the loan.

12 7. Real estate contracts involving otherwise unencumbered real
13 estate situated in a domestic jurisdiction, to be secured by the title to
14 such real estate, which shall be transferred to the life insurance
15 company or to a trustee or nominee of its choosing. For statement and
16 deposit purposes, the value of a contract acquired pursuant to this
17 paragraph shall be whichever of the following amounts is the least:

- 18 (a) eighty percent (80%) of the contract price of the real estate;
19 (b) eighty percent (80%) of the fair value of the real estate at the
20 time the contract is purchased, such value to be determined in a
21 manner satisfactory to the department; or
22 (c) the amount due under the contract.

23 For the purpose of this paragraph, real estate shall not be deemed
24 encumbered by reason of the existence in relation thereto of: (1) taxes
25 or assessment liens not delinquent; (2) instruments creating or
26 reserving mineral, oil, water or timber rights, rights-of-way, common
27 or joint driveways, sewers, walls or utility connections; (3) building
28 restrictions or other restrictive covenants; or (4) an unassigned lease
29 reserving rents or profits to the owner. Fire insurance upon
30 improvements constituting a part of the real estate described in the
31 contract shall be maintained in an amount at least equal to the unpaid
32 balance due under the contract or the fair value of improvements,
33 whichever is the lesser.

34 8. Improved or unimproved real property, whether encumbered or
35 unencumbered, or any interest therein, held directly or evidenced by
36 joint venture interests, general or limited partnership interests, trust
37 certificates, or any other instruments, and acquired by the life insurance
38 company as an investment, which real property, if unimproved, is
39 developed within five (5) years. Real property acquired for investment
40 under this paragraph, whether leased or intended to be developed for
41 commercial or residential purposes or otherwise lawfully held, is
42 subject to the following conditions and limitations:



- 1 (a) The real estate shall be located in a domestic jurisdiction.
- 2 (b) The admitted assets of the life insurance company must
- 3 exceed twenty-five million dollars (\$25,000,000).
- 4 (c) The life insurance company shall have the right to expend
- 5 from time to time whatever amount or amounts may be necessary
- 6 to conform the real estate to the needs and purposes of the lessee
- 7 and the amount so expended shall be added to and become a part
- 8 of the investment in such real estate.
- 9 (d) The value for statement and deposit purposes of an investment
- 10 under this paragraph shall be reduced annually by amortization of
- 11 the costs of improvement and development, less land costs, over
- 12 the expected life of the property, which value and amortization
- 13 shall for statement and deposit purposes be determined in a
- 14 manner satisfactory to the commissioner. In determining such
- 15 value with respect to the calendar years in which an investment
- 16 begins or ends with respect to a point in time other than the
- 17 beginning or end of a calendar year, the amortization provided
- 18 above shall be made on a proportional basis.
- 19 (e) Fire insurance shall be maintained in an amount at least equal
- 20 to the insurable value of the improvements or the difference
- 21 between the value of the land and the value at which such real
- 22 estate is carried for statement and deposit purposes, whichever
- 23 amount is smaller.
- 24 (f) Real estate acquired in any of the manners described and
- 25 sanctioned under section 3 of this chapter, or otherwise lawfully
- 26 held, except paragraph 5 of that section which specifically relates
- 27 to the acquisition of real estate under this paragraph, shall not be
- 28 affected in any respect by this paragraph unless such real estate
- 29 at or subsequent to its acquisition fulfills the conditions and
- 30 limitations of this paragraph, and is declared by the life insurance
- 31 company in a writing filed with the department to be an
- 32 investment under this paragraph. The value of real estate acquired
- 33 under section 3 of this chapter, or otherwise lawfully held, and
- 34 invested under this paragraph shall be initially that at which it was
- 35 carried for statement and deposit purposes under that section.
- 36 (g) Neither the cost of each parcel of improved real property nor
- 37 the aggregate cost of all unimproved real property acquired under
- 38 the authority of this paragraph may exceed two percent (2%) of
- 39 the life insurance company's admitted assets. For purposes of this
- 40 paragraph, "unimproved real property" means land containing no
- 41 structures intended for commercial, industrial, or residential
- 42 occupancy, and "improved real property" consists of all land



1 containing any such structure. When applying the limitations of
 2 subparagraph (d) of this paragraph, unimproved real property
 3 becomes improved real property as soon as construction of any
 4 commercial, industrial, or residential structure is so completed as
 5 to be capable of producing income. In the event the real property
 6 is mortgaged with recourse to the life insurance company or the
 7 life insurance company commences a plan of construction upon
 8 real property at its own expense or guarantees payment of
 9 borrowed funds to be used for such construction, the total project
 10 cost of the real property will be used in applying the two percent
 11 (2%) test. Further, no more than ten percent (10%) of the life
 12 insurance company's admitted assets may be invested in all
 13 property, measured by the property value for statement and
 14 deposit purposes as defined in this paragraph, held under this
 15 paragraph at the same time.

16 9. Deposits of cash in a depository institution, the deposits of which
 17 are insured by the Federal Deposit Insurance Corporation, or
 18 certificates of deposit issued by a depository institution, the deposits of
 19 which are insured by the Federal Deposit Insurance Corporation.

20 10. Bank and bankers' acceptances and other bills of exchange of
 21 kinds and maturities eligible for purchase or rediscount by federal
 22 reserve banks.

23 11. Obligations that are issued, guaranteed, assumed, or supported
 24 by a business entity organized under the laws of a domestic jurisdiction
 25 and that are rated:

- 26 (a) BBB- or higher by Standard & Poor's Corporation (or A-2 or
 27 higher in the case of commercial paper);
- 28 (b) Baa 3 or higher by Moody's Investors Service, Inc. (or P-2 or
 29 higher in the case of commercial paper);
- 30 (c) BBB- or higher by Duff and Phelps, Inc. (or D-2 or higher in
 31 the case of commercial paper); or
- 32 (d) 1 or 2 by the Securities Valuation Office.

33 Investments may also be made under this paragraph in obligations
 34 that have not received a rating if the earnings available for fixed
 35 charges of the business entity for the period of its five (5) fiscal years
 36 next preceding the date of purchase shall have averaged per year not
 37 less than one and one-half (1 1/2) times its average annual fixed
 38 charges applicable to such period and if during either of the last two (2)
 39 years of such period such earnings available for fixed charges shall
 40 have been not less than one and one-half (1 1/2) times its fixed charges
 41 for such year. However, if the business entity is a finance company or
 42 other lending institution at least eighty percent (80%) of the assets of



1 which are cash and receivables representing loans or discounts made
 2 or purchased by it, the multiple shall be one and one-quarter (1 1/4)
 3 instead of one and one-half (1 1/2).

4 11.(A) Obligations issued, guaranteed, or assumed by a business
 5 entity organized under the laws of a domestic jurisdiction, which
 6 obligations have not received a rating or, if rated, have not received a
 7 rating that would qualify the obligations for investment under
 8 paragraph 11 of this section. Investments authorized by this paragraph
 9 may not exceed ~~ten percent (10%)~~ **twenty percent (20%)** of the life
 10 insurance company's admitted assets.

11 12. Preferred stock of, or common or preferred stock guaranteed as
 12 to dividends by, any corporation organized under the laws of a
 13 domestic jurisdiction, which over the period of the seven (7) fiscal
 14 years immediately preceding the date of purchase earned an average
 15 amount per annum at least equal to five percent (5%) of the par value
 16 of its common and preferred stock (or, in the case of stocks having no
 17 par value, of its issued or stated value) outstanding at date of purchase,
 18 or which over such period earned an average amount per annum at least
 19 equal to two (2) times the total of its annual interest charges, preferred
 20 dividends and dividends guaranteed by it, determined with reference
 21 to the date of purchase. No investment shall be made under this
 22 paragraph in a stock upon which any dividend is in arrears or has been
 23 in arrears for ninety (90) days within the immediately preceding five
 24 (5) year period.

25 13. Common stock of any solvent corporation organized under the
 26 laws of a domestic jurisdiction which over the seven (7) fiscal years
 27 immediately preceding purchase earned an average amount per annum
 28 at least equal to six percent (6%) of the par value of its capital stock
 29 (or, in the case of stock having no par value, of the issued or stated
 30 value of such stock) outstanding at date of purchase, but the conditions
 31 and limitations of this paragraph shall not apply to the special area of
 32 investment to which paragraph 23 of this section pertains.

33 13.(A) Stock or shares of any mutual fund that:

34 (a) has been in existence for a period of at least five (5) years
 35 immediately preceding the date of purchase, has assets of not less
 36 than twenty-five million dollars (\$25,000,000) at the date of
 37 purchase, and invests substantially all of its assets in investments
 38 permitted under this section; or

39 (b) is a class one money market mutual fund or a class one bond
 40 mutual fund.

41 Investments authorized by this paragraph 13(A) in mutual funds having
 42 the same or affiliated investment advisers shall not at any one (1) time



1 exceed in the aggregate ten percent (10%) of the life insurance
2 company's admitted assets. The limitations contained in paragraph 22
3 of this subsection apply to investments in the types of mutual funds
4 described in subparagraph (a). For the purposes of this paragraph,
5 "class one bond mutual fund" means a mutual fund that at all times
6 qualifies for investment using the bond class one reserve factor under
7 the Purposes and Procedures Manual of the NAIC Investment Analysis
8 Office.

9 The aggregate amount of investments under this paragraph may be
10 limited by the commissioner if the commissioner finds that investments
11 under this paragraph may render the operation of the life insurance
12 company hazardous to the company's policyholders or creditors or to
13 the general public.

14 14. Loans upon the pledge of any of the investments described in
15 this section other than real estate and those qualifying solely under
16 paragraph 20 of this subsection, but the amount of such a loan shall not
17 exceed seventy-five percent (75%) of the value of the investment
18 pledged.

19 15. Real estate acquired or otherwise lawfully held under the
20 provisions of IC 27-1, except under paragraph 7 or 8 of this subsection,
21 which real estate as an investment shall also include the value of
22 improvements or betterments made thereon subsequent to its
23 acquisition. The value of such real estate for deposit and statement
24 purposes is to be determined in a manner satisfactory to the
25 department.

26 15.(A) Tangible personal property, equipment trust obligations, or
27 other instruments evidencing an ownership interest or other interest in
28 tangible personal property when the life insurance company purchasing
29 such property has admitted assets in excess of twenty-five million
30 dollars (\$25,000,000), and where there is a right to receive determined
31 portions of rental, purchase, or other fixed obligatory payments for the
32 use of such personal property from a corporation whose obligations
33 would be eligible for investment under the provisions of paragraph 11
34 of this subsection, provided that the aggregate of such payments
35 together with the estimated salvage value of such property at the end
36 of its minimum useful life, to be determined in a manner acceptable to
37 the insurance commissioner, and the estimated tax benefits to the
38 insurer resulting from ownership of such property, is adequate to return
39 the cost of the investment in such property, and provided further, that
40 each net investment in tangible personal property for which any single
41 private corporation is obligated to pay rental, purchase, or other
42 obligatory payments thereon does not exceed one-half of one percent



1 (1/2%) of the life insurance company's admitted assets, and the
2 aggregate net investments made under the provisions of this paragraph
3 do not exceed five percent (5%) of the life insurance company's
4 admitted assets.

5 16. Loans to policyholders of the life insurance company in amounts
6 not exceeding in any case the reserve value of the policy at the time the
7 loan is made.

8 17. A life insurance company doing business in a foreign
9 jurisdiction may, if permitted or required by the laws of such
10 jurisdiction, invest funds equal to its obligations in such jurisdiction in
11 investments legal for life insurance companies domiciled in such
12 jurisdiction or doing business therein as alien companies.

13 17.(A) Investments in (i) obligations issued, guaranteed, assumed,
14 or supported by a foreign jurisdiction or by a business entity organized
15 under the laws of a foreign jurisdiction and (ii) preferred stock and
16 common stock issued by any such business entity, if the obligations of
17 such foreign jurisdiction or business entity, as appropriate, are rated:

18 (a) BBB- or higher by Standard & Poor's Corporation (or A-2 or
19 higher in the case of commercial paper);

20 (b) Baa 3 or higher by Moody's Investors Service, Inc. (or P-2 or
21 higher in the case of commercial paper);

22 (c) BBB- or higher by Duff and Phelps, Inc. (or D-2 or higher in
23 the case of commercial paper); or

24 (d) 1 or 2 by the Securities Valuation Office.

25 If the obligations issued by a business entity organized under the laws
26 of a foreign jurisdiction have not received a rating, investments may
27 nevertheless be made under this paragraph in such obligations and in
28 the preferred and common stock of the business entity if the earnings
29 available for fixed charges of the business entity for a period of five (5)
30 fiscal years preceding the date of purchase have averaged at least three
31 (3) times its average fixed charges applicable to such period, and if
32 during either of the last two (2) years of such period, the earnings
33 available for fixed charges were at least three (3) times its fixed
34 charges for such year. Investments authorized by this paragraph in a
35 single foreign jurisdiction shall not exceed ten percent (10%) of the life
36 insurance company's admitted assets. Subject to section 2.2(g) of this
37 chapter, investments authorized by this paragraph denominated in
38 foreign currencies shall not in the aggregate exceed ten percent (10%)
39 of a life insurance company's admitted assets, and investments in any
40 one (1) foreign currency shall not exceed five percent (5%) of the life
41 insurance company's admitted assets. Investments authorized by this
42 paragraph and paragraph 17(B) shall not in the aggregate exceed



1 twenty percent (20%) of the life insurance company's admitted assets.
 2 This paragraph in no way limits or restricts investments which are
 3 otherwise specifically eligible for deposit under this section.

4 17.(B) Investments in:

5 (a) obligations issued, guaranteed, or assumed by a foreign
 6 jurisdiction or by a business entity organized under the laws of a
 7 foreign jurisdiction; and

8 (b) preferred stock and common stock issued by a business entity
 9 organized under the laws of a foreign jurisdiction;

10 which investments are not eligible for investment under paragraph
 11 17.(A).

12 Investments authorized by this paragraph 17(B) shall not in the
 13 aggregate exceed five percent (5%) of the life insurance company's
 14 admitted assets. Subject to section 2.2(g) of this chapter, if investments
 15 authorized by this paragraph 17(B) are denominated in a foreign
 16 currency, the investments shall not, as to such currency, exceed two
 17 percent (2%) of the life insurance company's admitted assets.
 18 Investments authorized by this paragraph 17(B) in any one (1) foreign
 19 jurisdiction shall not exceed two percent (2%) of the life insurance
 20 company's admitted assets.

21 Investments authorized by paragraph 17(A) of this subsection and
 22 this paragraph 17(B) shall not in the aggregate exceed twenty percent
 23 (20%) of the life insurance company's admitted assets.

24 18. To protect itself against loss, a company may in good faith
 25 receive in payment of or as security for debts due or to become due,
 26 investments or property which do not conform to the categories,
 27 conditions, limitations, and standards set out above.

28 19. A life insurance company may purchase for its own benefit any
 29 of its outstanding annuity or insurance contracts or other obligations
 30 and the claims of holders thereof.

31 20. A life insurance company may make investments although not
 32 conforming to the categories, conditions, limitations, and standards
 33 contained in paragraphs 1 through 11, 12 through 19, and 29 through
 34 31 of this subsection, but limited in aggregate amount to ~~the lesser of:~~
 35 ~~(a) ten percent (10%) of the company's admitted assets; or (b) the~~
 36 ~~aggregate of the company's capital; **seventy-five percent (75%) of the**~~
 37 ~~**amount by which the insurer's surplus to policyholders exceeds its**~~
 38 ~~**minimum capital and surplus and contingency reserves** reported on~~
 39 ~~the statutory financial statement of the insurer most recently required~~
 40 ~~to be filed with the commissioner.~~

41 This paragraph 20 does not apply to investments authorized by
 42 paragraph 11.(A) of this subsection.



1 20.(A) Investments under paragraphs 1 through 20 and paragraphs
2 29 through 31 of this subsection are subject to the general conditions,
3 limitations, and standards contained in paragraphs 21 through 28 of
4 this subsection.

5 21. Investments in obligations (other than real estate mortgage
6 indebtedness) and capital stock of, and in real estate and tangible
7 personal property leased to, a single corporation, shall not exceed ~~two~~
8 **percent (2%) four and five-tenths percent (4.5%)** of the life
9 insurance company's admitted assets, taking into account the provisions
10 of section 2.2(h) of this chapter. The conditions and limitations of this
11 paragraph shall not apply to investments under paragraph 13(A) of this
12 subsection or the special area of investment to which paragraph 23 of
13 this subsection pertains.

14 22. Investments in:

- 15 (a) preferred stock; and
16 (b) common stock;

17 shall not, in the aggregate, exceed twenty percent (20%) of the life
18 insurance company's admitted assets, exclusive of assets held in
19 segregated accounts of the nature defined in class 1(c) of IC 27-1-5-1.
20 These limitations shall not apply to investments for the special
21 purposes described in paragraph 23 of this subsection nor to
22 investments in connection with segregated accounts provided for in
23 class 1(c) of IC 27-1-5-1.

24 23. Investments in subsidiary companies must be made in
25 accordance with IC 27-1-23-2.6.

26 24. No investment, other than commercial bank deposits and loans
27 on life insurance policies, shall be made unless authorized by the life
28 insurance company's board of directors or a committee designated by
29 the board of directors and charged with the duty of supervising loans
30 or investments.

31 25. No life insurance company shall subscribe to or participate in
32 any syndicate or similar underwriting of the purchase or sale of
33 securities or property or enter into any transaction for such purchase or
34 sale on account of said company, jointly with any other corporation,
35 firm, or person, or enter into any agreement to withhold from sale any
36 of its securities or property, but the disposition of its assets shall at all
37 times be within its control. Nothing contained in this paragraph shall
38 be construed to invalidate or prohibit an agreement by two (2) or more
39 companies to join and share in the purchase of investments for bona
40 fide investment purposes.

41 26. No life insurance company may invest in the stocks or
42 obligations, except investments under paragraphs 9 and 10 of this



1 subsection, of any corporation in which an officer of such life insurance
 2 company is either an officer or director. However, this limitation shall
 3 not apply with respect to such investments in:

- 4 (a) a corporation which is a subsidiary or affiliate of such life
 5 insurance company; or
 6 (b) a trade association, provided such investment meets the
 7 requirements of paragraph 5 of this subsection.

8 27. Except for the purpose of mutualization provided for in section
 9 23 of this chapter, or for the purpose of retirement of outstanding
 10 shares of capital stock pursuant to amendment of its articles of
 11 incorporation, or in connection with a plan approved by the
 12 commissioner for purchase of such shares by the life insurance
 13 company's officers, employees, or agents, no life insurance company
 14 shall invest in its own stock.

15 28. In applying the conditions, limitations, and standards prescribed
 16 in paragraphs 11, 12, and 13 of this subsection to the stocks or
 17 obligations of a corporation which in the seven (7) year period
 18 preceding purchase of such stocks or obligations acquired its property
 19 or a substantial part thereof through consolidation, merger, or purchase,
 20 the earnings of the several predecessors or constituent corporations
 21 shall be consolidated.

22 29. A. Before a life insurance company may engage in securities
 23 lending transactions, repurchase transactions, reverse repurchase
 24 transactions, or dollar roll transactions, the life insurance company's
 25 board of directors must adopt a written plan that includes guidelines
 26 and objectives to be followed, including the following:

- 27 (1) A description of how cash received will be invested or used
 28 for general corporate purposes of the company.
 29 (2) Operational procedures for managing interest rate risk,
 30 counterparty default risk, and the use of acceptable collateral in
 31 a manner that reflects the liquidity needs of the transaction.
 32 (3) A statement of the extent to which the company may engage
 33 in securities lending transactions, repurchase transactions, reverse
 34 repurchase transactions, and dollar roll transactions.

35 B. A life insurance company must enter into a written agreement for
 36 all transactions authorized by this paragraph, other than dollar roll
 37 transactions. The written agreement:

- 38 (1) must require the termination of each transaction not more than
 39 one (1) year after its inception or upon the earlier demand of the
 40 company; and
 41 (2) must be with the counterparty business entity, except that, for
 42 securities lending transactions, the agreement may be with an



1 agent acting on behalf of the life insurance company if:

2 (A) the agent is:

3 (i) a business entity, the obligations of which are rated BBB-
4 or higher by Standard & Poor's Corporation (or A-2 or
5 higher in the case of commercial paper), Baa3 or higher by
6 Moody's Investors Service, Inc. (or P-2 or higher in the case
7 of commercial paper), BBB- or higher by Duff and Phelps,
8 Inc. (or D-2 or higher in the case of commercial paper), or
9 1 or 2 by the Securities Valuation Office;

10 (ii) a business entity that is a primary dealer in United States
11 government securities, recognized by the Federal Reserve
12 Bank of New York; or

13 (iii) any other business entity approved by the
14 commissioner; and

15 (B) the agreement requires the agent to enter into with each
16 counterparty separate agreements that are consistent with the
17 requirements of this paragraph.

18 C. Cash received in a transaction under this paragraph shall be:

19 (1) invested:

20 (A) in accordance with this section 2; and

21 (B) in a manner that recognizes the liquidity needs of the
22 transaction; or

23 (2) used by the life insurance company for its general corporate
24 purposes.

25 D. For as long as a transaction under this paragraph remains
26 outstanding, the life insurance company or its agent or custodian shall
27 maintain, as to acceptable collateral received in the transaction, either
28 physically or through book entry systems of the Federal Reserve, the
29 Depository Trust Company, the Participants Trust Company, or another
30 securities depository approved by the commissioner:

31 (1) possession of the acceptable collateral;

32 (2) a perfected security interest in the acceptable collateral; or

33 (3) in the case of a jurisdiction outside the United States:

34 (A) title to; or

35 (B) rights of a secured creditor to;

36 the acceptable collateral.

37 E. The limitations set forth in paragraphs 17 and 21 of this
38 subsection do not apply to transactions under this paragraph 29. For
39 purposes of calculations made to determine compliance with this
40 paragraph, no effect may be given to the future obligation of the life
41 insurance company to:

42 (1) resell securities, in the case of a repurchase transaction; or



- 1 (2) repurchase securities, in the case of a reverse repurchase
2 transaction.
- 3 F. A life insurance company shall not enter into a transaction under
4 this paragraph if, as a result of the transaction, and after giving effect
5 to the transaction:
- 6 (1) the aggregate amount of securities then loaned, sold to, or
7 purchased from any one (1) business entity under this paragraph
8 would exceed five percent (5%) of the company's admitted assets
9 (but in calculating the amount sold to or purchased from a
10 business entity under repurchase or reverse repurchase
11 transactions, effect may be given to netting provisions under a
12 master written agreement); or
- 13 (2) the aggregate amount of all securities then loaned, sold to, or
14 purchased from all business entities under this paragraph would
15 exceed forty percent (40%) of the admitted assets of the company
16 (provided, however, that this limitation does not apply to a reverse
17 repurchase transaction if the borrowing is used to meet
18 operational liquidity requirements resulting from an officially
19 declared catastrophe and is subject to a plan approved by the
20 commissioner).
- 21 G. The following collateral requirements apply to all transactions
22 under this paragraph:
- 23 (1) In a securities lending transaction, the life insurance company
24 must receive acceptable collateral having a market value as of the
25 transaction date at least equal to one hundred two percent (102%)
26 of the market value of the securities loaned by the company in the
27 transaction as of that date. If at any time the market value of the
28 acceptable collateral received from a particular business entity is
29 less than the market value of all securities loaned by the company
30 to that business entity, the business entity shall be obligated to
31 deliver additional acceptable collateral to the company, the
32 market value of which, together with the market value of all
33 acceptable collateral then held in connection with all securities
34 lending transactions with that business entity, equals at least one
35 hundred two percent (102%) of the market value of the loaned
36 securities.
- 37 (2) In a reverse repurchase transaction, other than a dollar roll
38 transaction, the life insurance company must receive acceptable
39 collateral having a market value as of the transaction date equal
40 to at least ninety-five percent (95%) of the market value of the
41 securities transferred by the company in the transaction as of that
42 date. If at any time the market value of the acceptable collateral



1 received from a particular business entity is less than ninety-five
 2 percent (95%) of the market value of all securities transferred by
 3 the company to that business entity, the business entity shall be
 4 obligated to deliver additional acceptable collateral to the
 5 company, the market value of which, together with the market
 6 value of all acceptable collateral then held in connection with all
 7 reverse repurchase transactions with that business entity, equals
 8 at least ninety-five percent (95%) of the market value of the
 9 transferred securities.

10 (3) In a dollar roll transaction, the life insurance company must
 11 receive cash in an amount at least equal to the market value of the
 12 securities transferred by the company in the transaction as of the
 13 transaction date.

14 (4) In a repurchase transaction, the life insurance company must
 15 receive acceptable collateral having a market value equal to at
 16 least one hundred two percent (102%) of the purchase price paid
 17 by the company for the securities. If at any time the market value
 18 of the acceptable collateral received from a particular business
 19 entity is less than one hundred percent (100%) of the purchase
 20 price paid by the life insurance company in all repurchase
 21 transactions with that business entity, the business entity shall be
 22 obligated to provide additional acceptable collateral to the
 23 company, the market value of which, together with the market
 24 value of all acceptable collateral then held in connection with all
 25 repurchase transactions with that business entity, equals at least
 26 one hundred two percent (102%) of the purchase price. Securities
 27 acquired by a life insurance company in a repurchase transaction
 28 shall not be:

- 29 (A) sold in a reverse repurchase transaction;
- 30 (B) loaned in a securities lending transaction; or
- 31 (C) otherwise pledged.

32 30. A life insurance company may invest in obligations or interests
 33 in trusts or partnerships regardless of the issuer, which are secured by:
 34 (a) investments authorized by paragraphs 1, 2, 3, 4, or 11 of this
 35 subsection; or
 36 (b) collateral with the characteristics and limitations prescribed
 37 for loans under paragraph 5 of this subsection.

38 For the purposes of this paragraph 30, collateral may be substituted for
 39 other collateral if it is in the same amount with the same or greater
 40 interest rate and qualifies as collateral under subparagraph (a) or (b) of
 41 this paragraph.

42 31. A life insurance company may invest in obligations or interests



1 in trusts or partnerships, regardless of the issuer, secured by any form
 2 of collateral other than that described in subparagraphs (a) and (b) of
 3 paragraph 30 of this subsection, which obligations or interests in trusts
 4 or partnerships are rated:

5 (a) ~~A-~~ **BBB-** or higher by Standard & Poor's Corporation or Duff
 6 and Phelps, Inc.;

7 (b) ~~A-3~~ **Baa3** or higher by Moody's Investor Service, Inc.; or

8 (c) ~~+ 2~~ by the Securities Valuation Office.

9 Investments authorized by this paragraph may not exceed ~~ten percent~~
 10 ~~(10%)~~ **twenty-five percent (25%)** of the life insurance company's
 11 admitted assets.

12 32. A. A life insurance company may invest in short-term pooling
 13 arrangements as provided in this paragraph.

14 B. The following definitions apply throughout this paragraph:

15 (1) "Affiliate" means, as to any person, another person that,
 16 directly or indirectly through one (1) or more intermediaries,
 17 controls, is controlled by, or is under common control with the
 18 person.

19 (2) "Control" means the possession, directly or indirectly, of the
 20 power to direct or cause the direction of the management and
 21 policies of a person, whether through the ownership of voting
 22 securities, by contract (other than a commercial contract for goods
 23 or non-management services), or otherwise, unless the power is
 24 the result of an official position with or corporate office held by
 25 the person. Control shall be presumed to exist if a person, directly
 26 or indirectly, owns, controls, holds with the power to vote or holds
 27 proxies representing ten percent (10%) or more of the voting
 28 securities of another person. This presumption may be rebutted by
 29 a showing that control does not exist in fact. The commissioner
 30 may determine, after furnishing all interested persons notice and
 31 an opportunity to be heard and making specific findings of fact to
 32 support the determination, that control exists in fact,
 33 notwithstanding the absence of a presumption to that effect.

34 (3) "Qualified bank" means a national bank, state bank, or trust
 35 company that at all times is not less than adequately capitalized
 36 as determined by standards adopted by United States banking
 37 regulators and that is either regulated by state banking laws or is
 38 a member of the Federal Reserve System.

39 C. A life insurer may participate in investment pools qualified under
 40 this paragraph that invest only in:

41 (1) obligations that are rated BBB- or higher by Standard & Poor's
 42 Corporation (or A-2 or higher in the case of commercial paper),



1 Baa 3 or higher by Moody's Investors Service, Inc. (or P-2 or
 2 higher in the case of commercial paper), BBB- or higher by Duff
 3 and Phelps, Inc. (or D-2 or higher in the case of commercial
 4 paper), or 1 or 2 by the Securities Valuation Office, and have:

5 (A) a remaining maturity of three hundred ninety-seven (397)
 6 days or less or a put that entitles the holder to receive the
 7 principal amount of the obligation which put may be exercised
 8 through maturity at specified intervals not exceeding three
 9 hundred ninety-seven (397) days; or

10 (B) a remaining maturity of three (3) years or less and a
 11 floating interest rate that resets not less frequently than
 12 quarterly on the basis of a current short-term index (for
 13 example, federal funds, prime rate, treasury bills, London
 14 InterBank Offered Rate (LIBOR) or commercial paper) and is
 15 not subject to a maximum limit, if the obligations do not have
 16 an interest rate that varies inversely to market interest rate
 17 changes;

18 (2) government money market mutual funds or class one money
 19 market mutual funds; or

20 (3) securities lending, repurchase, and reverse repurchase and
 21 dollar roll transactions that meet the requirements of paragraph 29
 22 of this subsection and any applicable regulations of the
 23 department;

24 provided that the investment pool shall not acquire investments in any
 25 one (1) business entity that exceed ten percent (10%) of the total assets
 26 of the investment pool.

27 D. For an investment pool to be qualified under this paragraph, the
 28 investment pool shall not:

29 (1) acquire securities issued, assumed, guaranteed, or insured by
 30 the life insurance company or an affiliate of the company; or

31 (2) borrow or incur any indebtedness for borrowed money, except
 32 for securities lending, reverse repurchase, and dollar roll
 33 transactions that meet the requirements of paragraph 29 of this
 34 subsection.

35 E. A life insurance company shall not participate in an investment
 36 pool qualified under this paragraph if, as a result of and after giving
 37 effect to the participation, the aggregate amount of participation then
 38 held by the company in all investment pools under this paragraph and
 39 section 2.4 of this chapter would exceed thirty-five percent (35%) of its
 40 admitted assets.

41 F. For an investment pool to be qualified under this paragraph:

42 (1) the manager of the investment pool must:



- 1 (A) be organized under the laws of the United States, a state or
 2 territory of the United States, or the District of Columbia, and
 3 designated as the pool manager in a pooling agreement; and
 4 (B) be the life insurance company, an affiliated company, a
 5 business entity affiliated with the company, or a qualified bank
 6 or a business entity registered under the Investment Advisors
 7 Act of 1940 (15 U.S.C. 80a-1 et seq.);
- 8 (2) the pool manager or an entity designated by the pool manager
 9 of the type set forth in subdivision (1) of this subparagraph F shall
 10 compile and maintain detailed accounting records setting forth:
- 11 (A) the cash receipts and disbursements reflecting each
 12 participant's proportionate participation in the investment pool;
 13 (B) a complete description of all underlying assets of the
 14 investment pool (including amount, interest rate, maturity date
 15 (if any) and other appropriate designations); and
 16 (C) other records which, on a daily basis, allow third parties to
 17 verify each participant's interest in the investment pool; and
- 18 (3) the assets of the investment pool shall be held in one (1) or
 19 more accounts, in the name of or on behalf of the investment pool,
 20 under a custody agreement or trust agreement with a qualified
 21 bank, which must:
- 22 (A) state and recognize the claims and rights of each
 23 participant;
 24 (B) acknowledge that the underlying assets of the investment
 25 pool are held solely for the benefit of each participant in
 26 proportion to the aggregate amount of its participation in the
 27 investment pool; and
 28 (C) contain an agreement that the underlying assets of the
 29 investment pool shall not be commingled with the general
 30 assets of the qualified bank or any other person.
- 31 G. The pooling agreement for an investment pool qualified under
 32 this paragraph must be in writing and must include the following
 33 provisions:
- 34 (1) Insurers, subsidiaries, or affiliates of insurers holding interests
 35 in the pool, or any pension or profit sharing plan of such insurers
 36 or their subsidiaries or affiliates, shall, at all times, hold one
 37 hundred percent (100%) of the interests in the investment pool.
 38 (2) The underlying assets of the investment pool shall not be
 39 commingled with the general assets of the pool manager or any
 40 other person.
 41 (3) In proportion to the aggregate amount of each pool
 42 participant's interest in the investment pool:



- 1 (A) each participant owns an undivided interest in the
- 2 underlying assets of the investment pool; and
- 3 (B) the underlying assets of the investment pool are held solely
- 4 for the benefit of each participant.
- 5 (4) A participant or (in the event of the participant's insolvency,
- 6 bankruptcy, or receivership) its trustee, receiver, or other
- 7 successor-in-interest may withdraw all or any portion of its
- 8 participation from the investment pool under the terms of the
- 9 pooling agreement.
- 10 (5) Withdrawals may be made on demand without penalty or
- 11 other assessment on any business day, but settlement of funds
- 12 shall occur within a reasonable and customary period thereafter.
- 13 Payments upon withdrawals under this paragraph shall be
- 14 calculated in each case net of all then applicable fees and
- 15 expenses of the investment pool. The pooling agreement shall
- 16 provide for such payments to be made to the participants in one
- 17 (1) of the following forms, at the discretion of the pool manager:
- 18 (A) in cash, the then fair market value of the participant's pro
- 19 rata share of each underlying asset of the investment pool;
- 20 (B) in kind, a pro rata share of each underlying asset; or
- 21 (C) in a combination of cash and in kind distributions, a pro
- 22 rata share in each underlying asset.
- 23 (6) The records of the investment pool shall be made available for
- 24 inspection by the commissioner.

25 SECTION 2. IC 27-1-12.1-9, AS ADDED BY P.L.115-2011,
 26 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2020]: Sec. 9. A limited purpose subsidiary that is granted a
 28 certificate of authority by the commissioner under this chapter:

- 29 (1) is authorized to engage in the business of reinsurance for
- 30 purposes of ~~IC 27-6-10~~ **IC 27-6-10.1** only for the lines of
- 31 insurance for which the:
- 32 (A) organizing domestic life insurance company; and
- 33 (B) affiliates of the organizing domestic life insurance
- 34 company;
- 35 are authorized;
- 36 (2) may reinsure only risks of:
- 37 (A) the organizing domestic life insurance company; and
- 38 (B) affiliates of the organizing domestic life insurance
- 39 company; and
- 40 (3) may access alternative forms of financing.

41 SECTION 3. IC 27-1-13-3, AS AMENDED BY P.L.124-2018,
 42 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2020]; Sec. 3. (a) The following definitions apply throughout
2 this section:

3 (1) "Acceptable collateral" means the following:

4 (A) As to securities lending transactions and for the purpose
5 of calculating counterparty exposure:

6 (i) cash;

7 (ii) cash equivalents;

8 (iii) letters of credit; and

9 (iv) direct obligations of, or securities that are fully
10 guaranteed as to principal and interest by, the government of
11 the United States or any agency of the United States,
12 including the Federal National Mortgage Association and
13 the Federal Home Loan Mortgage Corporation.

14 (B) As to lending foreign securities, sovereign debt rated 1 by
15 the Securities Valuation Office.

16 (C) As to repurchase transactions:

17 (i) cash;

18 (ii) cash equivalents; and

19 (iii) direct obligations of, or securities that are fully
20 guaranteed as to principal and interest by, the government of
21 the United States or any agency of the United States,
22 including the Federal National Mortgage Association and
23 the Federal Home Loan Mortgage Corporation.

24 (D) As to reverse repurchase transactions:

25 (i) cash; and

26 (ii) cash equivalents.

27 (2) "Admitted assets" means assets permitted to be reported as
28 admitted assets on the statutory financial statement of the insurer
29 most recently required to be filed with the commissioner.

30 (3) "Business entity" means any of the following:

31 (A) A sole proprietorship.

32 (B) A corporation.

33 (C) A limited liability company.

34 (D) An association.

35 (E) A general partnership.

36 (F) A limited partnership.

37 (G) A limited liability partnership.

38 (H) A joint stock company.

39 (I) A joint venture.

40 (J) A trust.

41 (K) A joint tenancy.

42 (L) Any other similar form of business organization, whether



- 1 for profit or nonprofit.
- 2 (4) "Cash" means any of the following:
- 3 (A) United States denominated paper currency and coins.
- 4 (B) Negotiable money orders and checks.
- 5 (C) Funds held in any time or demand deposit in any
- 6 depository institution, the deposits of which are insured by the
- 7 Federal Deposit Insurance Corporation.
- 8 (5) "Cash equivalent" means any of the following:
- 9 (A) A certificate of deposit issued by a depository institution,
- 10 the deposits of which are insured by the Federal Deposit
- 11 Insurance Corporation.
- 12 (B) A banker's acceptance issued by a depository institution,
- 13 the deposits of which are insured by the Federal Deposit
- 14 Insurance Corporation.
- 15 (C) A government money market mutual fund.
- 16 (D) A class one (1) money market mutual fund.
- 17 (6) "Class one (1) money market mutual fund" means a money
- 18 market mutual fund that at all times qualifies for investment using
- 19 the bond class one (1) reserve factor pursuant to the Purposes and
- 20 Procedures Manual of the NAIC Investment Analysis Office.
- 21 (7) "Derivative transaction" has the meaning set forth in
- 22 IC 27-1-12-2.2(a)(14).
- 23 (8) "Government money market mutual fund" means a money
- 24 market mutual fund that at all times:
- 25 (A) invests only in obligations issued, guaranteed, or insured
- 26 by the United States or collateralized repurchase agreements
- 27 composed of these obligations; and
- 28 (B) qualifies for investment without a reserve pursuant to the
- 29 Purposes and Procedures Manual of the NAIC Investment
- 30 Analysis Office.
- 31 (9) "Money market mutual fund" means a mutual fund that meets
- 32 the conditions of 17 CFR 270.2a-7, under the Investment
- 33 Company Act of 1940 (15 U.S.C. 80a-1 et seq.).
- 34 (10) "Mutual fund" means:
- 35 (A) an investment company; or
- 36 (B) in the case of an investment company that is organized as
- 37 a series company, an investment company series;
- 38 that is registered with the United States Securities and Exchange
- 39 Commission under the Investment Company Act of 1940 (15
- 40 U.S.C. 80a-1 et seq.).
- 41 (11) "Obligation" means any of the following:
- 42 (A) A bond.



- 1 (B) A note.
 2 (C) A debenture.
 3 (D) Any other form of evidence of debt.
 4 (12) "Qualified business entity" means a business entity that is:
 5 (A) an issuer of obligations or preferred stock that is rated one
 6 (1) or two (2) or is rated the equivalent of one (1) or two (2) by
 7 the Securities Valuation Office or by a nationally recognized
 8 statistical rating organization recognized by the Securities
 9 Valuation Office; or
 10 (B) a primary dealer in United States government securities,
 11 recognized by the Federal Reserve Bank of New York.
 12 (13) "Securities Valuation Office" refers to the Securities
 13 Valuation Office of the NAIC.
 14 (b) Any company, other than one organized as a life insurance
 15 company, organized under the provisions of IC 27-1 or any other law
 16 of this state and authorized to make any or all kinds of insurance
 17 described in class 2 or class 3 of IC 27-1-5-1 shall invest its capital or
 18 guaranty fund as follows and not otherwise:
 19 (1) In cash.
 20 (2) In:
 21 (A) direct obligations of the United States; or
 22 (B) obligations secured or guaranteed as to principal and
 23 interest by the United States.
 24 (3) In:
 25 (A) direct obligations; or
 26 (B) obligations secured by the full faith and credit;
 27 of any state of the United States or the District of Columbia.
 28 (4) In obligations of any county, township, city, town, village,
 29 school district, or other municipal district within the United States
 30 which are a direct obligation of the county, township, city, town,
 31 village, or district issuing the same.
 32 (5) In obligations secured by mortgages or deeds of trust or
 33 unencumbered real estate or perpetual leases thereon in the
 34 United States not exceeding eighty percent (80%) of the fair value
 35 of the security determined in a manner satisfactory to the
 36 department, except that the percentage stated may be exceeded if
 37 and to the extent such excess is guaranteed or insured by the
 38 United States, any state, territory, or possession of the United
 39 States, the District of Columbia, Canada, any province of Canada,
 40 or by an administration, agency, authority, or instrumentality of
 41 any such governmental units. Where improvements on the land
 42 constitute a part of the value on which the loan is made, the



1 improvements shall be insured against fire and tornado for the
 2 benefit of the mortgagee. For the purposes of this section, real
 3 estate may not be deemed to be encumbered by reason of the
 4 existence of taxes or assessments that are not delinquent,
 5 instruments creating or reserving mineral, oil, or timber rights,
 6 rights-of-way, joint driveways, sewer rights, rights-in-walls, nor
 7 by reason of building restrictions, or other restrictive covenants,
 8 nor when such real estate is subject to lease in whole or in part
 9 whereby rents or profits are reserved to the owner. The
 10 restrictions contained in this subdivision do not apply to loans or
 11 investments made under section 5 of this chapter.

12 (c) Any company organized under the provisions of this article or
 13 any other law of this state and authorized to make any or all of the
 14 kinds of insurance described in class 2 or class 3 of IC 27-1-5-1 shall
 15 invest its funds over and above its required capital stock or required
 16 guaranty fund as follows, and not otherwise:

17 (1) In cash or cash equivalents. However, not more than ten
 18 percent (10%) of admitted assets may be invested in any single
 19 government money market mutual fund or class one (1) money
 20 market mutual fund.

21 (2) In direct obligations of the United States or obligations
 22 secured or guaranteed as to principal and interest by the United
 23 States.

24 (3) In obligations issued, guaranteed, or insured as to principal
 25 and interest by a city, county, drainage district, road district,
 26 school district, tax district, town, township, village or other civil
 27 administration, agency, authority, instrumentality or subdivision
 28 of a state, territory, or possession of the United States, the District
 29 of Columbia, Canada, or any province of Canada, providing such
 30 obligations are authorized by law and are either:

31 (A) direct and general obligations of the issuing, guaranteeing,
 32 or insuring governmental unit, administration, agency,
 33 authority, district, subdivision, or instrumentality;

34 (B) payable from designated revenues pledged to the payment
 35 of the principal and interest of the obligations; or

36 (C) improvement bonds or other obligations constituting a first
 37 lien, except for tax liens, against all of the real estate within
 38 the improvement district or on that part of such real estate not
 39 discharged from such lien through payment of the assessment.

40 The area to which the improvement bonds or other obligations
 41 under clause (C) relate must be situated within the limits of a
 42 town or city and at least fifty percent (50%) of the properties



1 within that area must be improved with business buildings or
2 residences.

3 (4) In:

4 (A) direct obligations; or

5 (B) obligations secured by the full faith and credit;
6 of any state of the United States, the District of Columbia, or
7 Canada or any province thereof.

8 (5) In obligations guaranteed, supported, or insured as to principal
9 and interest by the United States, any state, territory, or
10 possession of the United States, the District of Columbia, Canada,
11 any province of Canada, or by an administration, agency,
12 authority, or instrumentality of any of the political units listed in
13 this subdivision. An obligation is "supported" for the purposes of
14 this subdivision when repayment of the obligation is secured by
15 real or personal property of value at least equal to the principal
16 amount of the indebtedness by means of mortgage, assignment of
17 vendor's interest in one (1) or more conditional sales contracts,
18 other title retention device, or by means of other security interest
19 in the property for the benefit of the holder of the obligation, and
20 one (1) of the political units listed in this subdivision, or an
21 administration, agency, authority, or instrumentality listed in this
22 subdivision, has entered into a firm agreement to rent or use the
23 property pursuant to which entity is obligated to pay money as
24 rental or for the use of the property in amounts and at times that
25 are sufficient, after provision for taxes upon and for other
26 expenses of the use of the property, to repay in full the
27 indebtedness, both principal and interest, and when the firm
28 agreement and the money obligated to be paid under the
29 agreement are assigned, pledged, or secured for the benefit of the
30 holder of the obligation. However, where the security consists of
31 a first mortgage lien or deed of trust on a fee interest in real
32 property, the obligation may provide for the amortization, during
33 the initial fixed period of the lease or contract of less than one
34 hundred percent (100%) of the indebtedness if there is pledged or
35 assigned, as additional security for the obligation, sufficient
36 rentals payable under the lease, or of contract payments, to secure
37 the amortized obligation payments required during the initial,
38 fixed period of the lease or contract, including but not limited to
39 payments of principal, interest, and taxes other than the income
40 taxes of the borrower, and if there is to be left unamortized at the
41 end of the period an amount not greater than the original
42 appraised value of the land only, exclusive of all improvements,



- 1 as prescribed by law.
- 2 (6) In obligations secured by mortgages or deeds of trust or
 3 unencumbered real estate or perpetual leases thereon, in any state
 4 in the United States, the District of Columbia, Canada, or any
 5 province of Canada, not exceeding eighty percent (80%) of the
 6 fair value of the security determined in a manner satisfactory to
 7 the department, except that the percentage stated may be
 8 exceeded if and to the extent that the excess is guaranteed or
 9 insured by the United States, any state, territory, or possession of
 10 the United States, the District of Columbia, Canada, any province
 11 of Canada, or by an administration, agency, authority, or
 12 instrumentality of any of such governmental units. The value of
 13 the real estate must be determined by a method and in a manner
 14 satisfactory to the department. The restrictions contained in this
 15 subdivision do not apply to loans or investments made under
 16 section 5 of this chapter.
- 17 (7) In obligations issued under or pursuant to the Farm Credit Act
 18 of 1971 (12 U.S.C. 2001 through 2279aa-14) as in effect on
 19 December 31, 1990, or the Federal Home Loan Bank Act (12
 20 U.S.C. 1421 through 1449) as in effect on December 31, 1990,
 21 interest bearing obligations of the FSLIC Resolution Fund and
 22 shares of any institution that is insured by the Federal Deposit
 23 Insurance Corporation to the extent that the shares are insured,
 24 obligations issued or guaranteed by the International Bank for
 25 Reconstruction and Development, obligations issued or
 26 guaranteed by the Inter-American Development Bank, and
 27 obligations issued or guaranteed by the African Development
 28 Bank.
- 29 (8) In any mutual fund that:
- 30 (A) has been registered with the Securities and Exchange
 31 Commission for a period of at least five (5) years immediately
 32 preceding the date of purchase;
- 33 (B) has net assets of at least twenty-five million dollars
 34 (\$25,000,000) on the date of purchase; and
- 35 (C) invests substantially all of its assets in investments
 36 permitted under this subsection.
- 37 The amount invested in any single mutual fund shall not exceed
 38 ten percent (10%) of admitted assets. The aggregate amount of
 39 investments under this subdivision may be limited by the
 40 commissioner if the commissioner finds that investments under
 41 this subdivision may render the operation of the company
 42 hazardous to the company's policyholders, to the company's



1 creditors, or to the general public. This subdivision in no way
 2 limits or restricts investments that are otherwise specifically
 3 permitted under this section.

4 (9) In obligations payable in United States dollars and issued,
 5 guaranteed, assumed, insured, or accepted by a foreign
 6 government or by a solvent business entity existing under the laws
 7 of a foreign government, if the obligations of the foreign
 8 government or business entity meet at least one (1) of the
 9 following criteria:

10 (A) The obligations carry a rating of at least A3 conferred by
 11 Moody's Investor Services, Inc.

12 (B) The obligations carry a rating of at least A- conferred by
 13 Standard & Poor's Corporation.

14 (C) The earnings available for fixed charges of the business
 15 entity for a period of five (5) fiscal years preceding the date of
 16 purchase have averaged at least three (3) times the average
 17 fixed charges of the business entity applicable to the period,
 18 and if during either of the last two (2) years of the period, the
 19 earnings available for fixed charges were at least three (3)
 20 times the fixed charges of the business entity for the year. As
 21 used in this subdivision, the terms "earnings available for fixed
 22 charges" and "fixed charges" have the meanings set forth in
 23 IC 27-1-12-2(a).

24 Foreign investments authorized by this subdivision shall not
 25 exceed twenty percent (20%) of the company's admitted assets.
 26 This subdivision in no way limits or restricts investments that are
 27 otherwise specifically permitted under this section. Canada is not
 28 a foreign government for purposes of this subdivision.

29 (10) In the obligations of any solvent business entity existing
 30 under the laws of the United States, any state of the United States,
 31 the District of Columbia, Canada, or any province of Canada,
 32 provided that interest on the obligations is not in default.

33 (11) In the preferred or guaranteed shares of any solvent business
 34 entity, so long as the business entity is not and has not been for
 35 the preceding five (5) years in default in the payment of interest
 36 due and payable on its outstanding debt or in arrears in the
 37 payment of dividends on any issue of its outstanding preferred or
 38 guaranteed stock.

39 (12) In the shares, other than those specified in subdivision (7), of
 40 any solvent business entity existing under the laws of any state of
 41 the United States, the District of Columbia, Canada, or any
 42 province of Canada, and in the shares of any institution wherever



1 located which has the insurance protection provided by the
2 Federal Deposit Insurance Corporation. Except for the purpose of
3 mutualization or for the purpose of retirement of outstanding
4 shares of capital stock pursuant to amendment of its articles of
5 incorporation, or in connection with a plan approved by the
6 commissioner for purchase of such shares by the insurance
7 company's officers, employees, or agents, or for the elimination
8 of fractional shares, no company subject to the provisions of this
9 section may invest in its own stock.

10 (13) In loans upon the pledge of any mortgage, stocks, bonds, or
11 other evidences of indebtedness, acceptable as investments under
12 the terms of this chapter, if the current value of the mortgage,
13 stock, bond, or other evidences of indebtedness is at least
14 twenty-five percent (25%) more than the amount loaned on it.

15 (14) In real estate, subject to subsections (d) and (e).

16 (15) In securities lending, repurchase, and reverse repurchase
17 transactions with business entities, subject to the following
18 requirements:

19 (A) The company's board of directors shall adopt a written
20 plan that specifies guidelines and objectives to be followed,
21 such as:

22 (i) a description of how cash received will be invested or
23 used for general corporate purposes of the company;

24 (ii) operational procedures to manage interest rate risk,
25 counterparty default risk, and the use of acceptable collateral
26 in a manner that reflects the liquidity needs of the
27 transaction; and

28 (iii) the extent to which the company may engage in these
29 transactions.

30 (B) The company shall enter into a written agreement for all
31 transactions authorized in this subdivision. The written
32 agreement shall require the termination of each transaction not
33 more than one (1) year from its inception or upon the earlier
34 demand of the company. The agreement shall be with the
35 counterparty business entity but, for securities lending
36 transactions, the agreement may be with an agent acting on
37 behalf of the company if the agent is a qualified business entity
38 and if the agreement:

39 (i) requires the agent to enter into separate agreements with
40 each counterparty that are consistent with the requirements
41 of this section; and

42 (ii) prohibits securities lending transactions under the



1 agreement with the agent or its affiliates.

2 (C) Cash received in a transaction under this section shall be
3 invested in accordance with this section and in a manner that
4 recognizes the liquidity needs of the transaction or used by the
5 company for its general corporate purposes. For as long as the
6 transaction remains outstanding, the company or its agent or
7 custodian shall maintain, as to acceptable collateral received
8 in a transaction under this section, either physically or through
9 book entry systems of the Federal Reserve, Depository Trust
10 Company, Participants Trust Company, or other securities
11 depositories approved by the commissioner:

12 (i) possession of the acceptable collateral;

13 (ii) a perfected security interest in the acceptable collateral;

14 or

15 (iii) in the case of a jurisdiction outside the United States,
16 title to, or rights of a secured creditor to, the acceptable
17 collateral.

18 (D) For purposes of calculations made to determine
19 compliance with this subdivision, no effect may be given to
20 the company's future obligation to resell securities in the case
21 of a repurchase transaction, or to repurchase securities in the
22 case of a reverse repurchase transaction. A company shall not
23 enter into a transaction under this subdivision if, as a result of
24 and after giving effect to the transaction:

25 (i) the aggregate amount of securities then loaned, sold to,
26 or purchased from any one (1) business entity pursuant to
27 this subdivision would exceed five percent (5%) of its
28 admitted assets (but, in calculating the amount sold to or
29 purchased from a business entity pursuant to repurchase or
30 reverse repurchase transactions, effect may be given to
31 netting provisions under a master written agreement); or

32 (ii) the aggregate amount of all securities then loaned, sold
33 to, or purchased from all business entities under this
34 subdivision would exceed forty percent (40%) of its
35 admitted assets.

36 (E) In a securities lending transaction, the company shall
37 receive acceptable collateral having a market value as of the
38 transaction date at least equal to one hundred two percent
39 (102%) of the market value of the securities loaned by the
40 company in the transaction as of that date. If at any time the
41 market value of the acceptable collateral is less than the
42 market value of the loaned securities, the business entity shall



- 1 be obligated to deliver additional acceptable collateral, the
 2 market value of which, together with the market value of all
 3 acceptable collateral then held in connection with the
 4 transaction, at least equals one hundred two percent (102%) of
 5 the market value of the loaned securities.
- 6 (F) In a reverse repurchase transaction, the company shall
 7 receive acceptable collateral having a market value as of the
 8 transaction date at least equal to ninety-five percent (95%) of
 9 the market value of the securities transferred by the company
 10 in the transaction as of that date. If at any time the market
 11 value of the acceptable collateral is less than ninety-five
 12 percent (95%) of the market value of the securities so
 13 transferred, the business entity shall be obligated to deliver
 14 additional acceptable collateral, the market value of which,
 15 together with the market value of all acceptable collateral then
 16 held in connection with the transaction, equals at least
 17 ninety-five percent (95%) of the market value of the
 18 transferred securities.
- 19 (G) In a repurchase transaction, the company shall receive as
 20 acceptable collateral transferred securities having a market
 21 value equal to at least one hundred two percent (102%) of the
 22 purchase price paid by the company for the securities. If at any
 23 time the market value of the acceptable collateral is less than
 24 one hundred percent (100%) of the purchase price paid by the
 25 company, the business entity shall be obligated to provide
 26 additional acceptable collateral, the market value of which,
 27 together with the market value of all acceptable collateral then
 28 held in connection with the transaction, equals at least one
 29 hundred two percent (102%) of the purchase price. Securities
 30 acquired by a company in a repurchase transaction shall not be
 31 sold in a reverse repurchase transaction, loaned in a securities
 32 lending transaction, or otherwise pledged.
- 33 (16) In mortgage backed securities, including collateralized
 34 mortgage obligations, mortgage pass through securities, mortgage
 35 backed bonds, and real estate mortgage investment conduits,
 36 adequately secured by a pool of mortgages, which mortgages are
 37 fully guaranteed or insured by the government of the United
 38 States or any agency of the United States, including the Federal
 39 National Mortgage Association or the Federal Home Loan
 40 Mortgage Corporation.
- 41 (17) In mortgage backed securities, including collateralized
 42 mortgage obligations, mortgage pass through securities, mortgage



1 backed bonds, and real estate mortgage investment conduits,
 2 adequately secured by a pool of mortgages, if the securities carry
 3 a rating of at least:

4 (A) ~~A3~~ **Baa3** conferred by Moody's Investor Services, Inc.; or

5 (B) ~~A-~~ **BBB-** conferred by Standard & Poor's Corporation.

6 The amount invested in any one (1) obligation or pool of
 7 obligations described in this subdivision shall not exceed five
 8 percent (5%) of admitted assets. The aggregate amount of all
 9 investments under this subdivision shall not exceed ten percent
 10 (10%) of admitted assets.

11 (18) Any other investment acquired in good faith as payment on
 12 account of existing indebtedness or in connection with the
 13 refinancing, restructuring, or workout of existing indebtedness, if
 14 taken to protect the interests of the company in that investment.

15 (19) In obligations or interests in trusts or partnerships in which
 16 a life insurance company may invest as described in paragraph 31
 17 of IC 27-1-12-2(b). Investments authorized by this paragraph may
 18 not exceed ~~ten percent (10%)~~ **twenty-five percent (25%)** of the
 19 company's admitted assets.

20 (20) In any other investment. The total of all investments under
 21 this subdivision, except for investments in subsidiary companies
 22 under IC 27-1-23-2.6, may not exceed ~~an aggregate amount of ten~~
 23 ~~percent (10%)~~ **seventy-five percent (75%)** of the amount by
 24 **which the insurer's admitted assets surplus to policyholders**
 25 **exceeds its minimum capital and surplus.** Investments are not
 26 permitted under this subdivision:

27 (A) if expressly prohibited by statute; or

28 (B) in an insolvent organization or an organization in default
 29 with respect to the payment of principal or interest on its
 30 obligations.

31 (d) Any company subject to the provisions of this section shall have
 32 power to acquire, hold, or convey real estate, or an interest therein, as
 33 described below, and no other:

34 (1) Leaseholds, provided the mortgage term shall not exceed
 35 four-fifths (4/5) of the unexpired lease term, including
 36 enforceable renewable options, remaining at the time of the loan,
 37 such real estate or leaseholds to be located in the United States,
 38 any territory or possession of the United States, or Canada, the
 39 value of such leasehold for statement purposes shall be
 40 determined in a manner and form satisfactory to the department.
 41 At the time the leasehold is acquired and approved by the
 42 department, a schedule of annual depreciation shall be set up by



- 1 the department in which the value of said leasehold is to be
 2 depreciated, and said depreciation is to be averaged out over not
 3 exceeding a period of fifty (50) years.
- 4 (2) The building in which it has its principal office and the land
 5 on which it stands.
- 6 (3) Such as shall be necessary for the convenient transaction of its
 7 business.
- 8 (4) Such as shall have been acquired for the accommodation of its
 9 business.
- 10 (5) Such as shall have been mortgaged to it in good faith by way
 11 of security for loans previously contracted or for money due.
- 12 (6) Such as shall have been conveyed to it in connection with its
 13 investments in real estate contracts or its investments in real
 14 estate under lease or for the purpose of leasing or such as shall
 15 have been acquired for the purpose of investment under any law,
 16 order, or regulation authorizing such investment, for statement
 17 purposes, the value of such real estate shall be determined in a
 18 manner satisfactory to the department.
- 19 (7) Such as shall have been conveyed to it in satisfaction of debts
 20 previously contracted in the course of its dealings, or in exchange
 21 for real estate so conveyed to it.
- 22 (8) Such as it shall have purchased at sales on judgments, decrees,
 23 or mortgages obtained or made for such debts.
- 24 (e) All real estate described in subsection (d)(4) through (d)(8)
 25 which is not necessary for the convenient transaction of its business
 26 shall be sold by said company and disposed of within ten (10) years
 27 after it acquired title to the same, or within five (5) years after the same
 28 has ceased to be necessary for the accommodation of its business,
 29 unless the company procures the certificate of the commissioner that
 30 its interests will suffer materially by a forced sale of the real estate, in
 31 which event the time for the sale may be extended to such time as the
 32 commissioner directs in the certificate.
- 33 (f) The board of directors of a company, other than a company
 34 organized as a life insurance company, shall do all the following:
- 35 (1) Before engaging in derivatives transactions, approve a written
 36 plan that specifies guidelines, systems, and objectives to be
 37 followed, such as:
- 38 (A) investment of or, if applicable, underwriting objectives
 39 and risk constraints, such as credit risk limits;
- 40 (B) permissible transactions and the relationship of those
 41 transactions to the insurer's operations;
- 42 (C) internal control procedures;



- 1 (D) a system for determining whether a derivative instrument
 2 used for hedging has been effective;
 3 (E) a credit risk management system for over-the-counter
 4 derivatives transactions that measures credit risk exposure
 5 using the counterparty exposure amount; and
 6 (F) a mechanism for reviewing and auditing compliance with
 7 the guidelines, systems, and objectives specified in the written
 8 plan.
- 9 (2) Before engaging in derivatives transactions, make a
 10 determination that the insurer's investment managers have
 11 adequate professional personnel, technical expertise, and systems
 12 to implement the insurer's intended investment practices
 13 involving derivative instruments.
- 14 (3) Review whether derivatives transactions have been made in
 15 accordance with the approved guidelines and are consistent with
 16 stated objectives.
- 17 (4) Take action to correct any deficiencies in internal controls
 18 relating to derivatives transactions.

19 SECTION 4. IC 27-2-27 IS ADDED TO THE INDIANA CODE AS
 20 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 21 1, 2020]:

22 **Chapter 27. Insurance Data Security**

23 **Sec. 1. This chapter applies after June 30, 2021.**

24 **Sec. 2. As used in this chapter, "authorized individual" means**
 25 **an individual:**

- 26 (1) known to and screened by a licensee; and
 27 (2) determined to be necessary and appropriate to have access
 28 to the nonpublic information held by the licensee and its
 29 information systems.

30 **Sec. 3. As used in this chapter, "commissioner" refers to the**
 31 **insurance commissioner appointed under IC 27-1-1-2.**

32 **Sec. 4. As used in this chapter, "consumer" means a resident of**
 33 **Indiana whose nonpublic information is in a licensee's possession,**
 34 **custody, or control.**

35 **Sec. 5. As used in this chapter, "cybersecurity event" means an**
 36 **event resulting in unauthorized access to or a disruption or misuse**
 37 **of an information system or nonpublic information stored on the**
 38 **information system. However, the term does not include the**
 39 **following:**

- 40 (1) The unauthorized acquisition of encrypted nonpublic
 41 information if the encryption, process, or key is not also
 42 acquired, released, or used without authorization.



- 1 (2) An event in which a licensee has determined that the
2 nonpublic information accessed by an unauthorized person
3 has not been used or released and has been returned or
4 destroyed.
- 5 Sec. 6. As used in this chapter, "department" means the
6 department of insurance created by IC 27-1-1-1.
- 7 Sec. 7. As used in this chapter, "encrypted" means the
8 transformation of data into a form that results in a low probability
9 of assigning meaning without the use of a protective process or key.
- 10 Sec. 8. As used in this chapter, "information security program"
11 means the administrative, technical, and physical safeguards that
12 a licensee uses to access, collect, distribute, process, protect, store,
13 use, transmit, dispose of, or otherwise handle nonpublic
14 information.
- 15 Sec. 9. As used in this chapter, "information system" means
16 either of the following:
- 17 (1) A discrete set of electronic information resources
18 organized for the collection, processing, maintenance, use,
19 sharing, dissemination, or disposition of nonpublic
20 information.
- 21 (2) Any specialized system, such as industrial or process
22 control systems, telephone switching systems, private
23 exchange systems, and environmental control systems.
- 24 Sec. 10. (a) As used in this chapter, "licensee" means a person
25 that is:
- 26 (1) licensed, authorized to operate, or registered; or
27 (2) required to be licensed, authorized to operate, or
28 registered;
- 29 under this title and the rules adopted under this title.
- 30 (b) The term does not include any of the following:
- 31 (1) A purchasing group or risk retention group that is
32 chartered and licensed in another state.
- 33 (2) A person that is:
- 34 (A) acting as an assuming insurer; and
35 (B) domiciled in a state or jurisdiction other than Indiana.
- 36 (3) An insurance agency that has less than twenty-five (25)
37 employees.
- 38 Sec. 11. As used in this chapter, "multi-factor authentication"
39 means authentication through verification of at least two (2) of the
40 following types of authentication factors:
- 41 (1) Knowledge factors, such as a password.
42 (2) Possession factors, such as a token or text message on a



1 mobile phone.

2 (3) Inherence factors, such as a biometric characteristic.

3 Sec. 12. As used in this chapter, "nonpublic information" means
4 electronic information that is not publicly available information
5 and is:

6 (1) any information concerning a consumer, which because of
7 name, number, personal mark, or other identifier can be used
8 to identify the consumer; or

9 (2) any information or data, except age or gender, in any form
10 or medium created by or derived from a health care provider
11 or a consumer that can be used to identify a consumer and
12 relates to:

13 (A) the past, present, or future physical, mental, or
14 behavioral health or condition of the consumer or a
15 member of the consumer's family;

16 (B) the provision of health care to the consumer; or

17 (C) payment for the provision of health care provided to
18 the consumer.

19 Sec. 13. As used in this chapter, "publicly available
20 information" means any information that a licensee has a
21 reasonable basis to believe is lawfully made available to the general
22 public from:

23 (1) federal, state, or local government records;

24 (2) widely distributed media; or

25 (3) disclosures to the general public that are required to be
26 made by federal, state, or local law.

27 Sec. 14. As used in this chapter, "risk assessment" means the
28 assessment a licensee is required to conduct under section 17 of this
29 chapter.

30 Sec. 15. As used in this chapter, "third party service provider"
31 means a person that contracts with a licensee to maintain, process,
32 store, or otherwise is permitted access to nonpublic information
33 through its provision of services to the licensee.

34 Sec. 16. (a) A licensee shall develop, implement, and maintain a
35 comprehensive, written information security program that:

36 (1) is based on the risk assessment required under section 17
37 of this chapter; and

38 (2) contains administrative, technical, and physical safeguards
39 for the protection of nonpublic information and the licensee's
40 information systems.

41 (b) An information security program must accomplish the
42 following:



- 1 **(1) Protect the security and confidentiality of nonpublic**
- 2 **information and information systems.**
- 3 **(2) Protect against any threats or hazards to the security or**
- 4 **integrity of nonpublic information and information systems.**
- 5 **(3) Protect against unauthorized access to or use of nonpublic**
- 6 **information and minimize the likelihood of harm to a**
- 7 **consumer.**
- 8 **(4) Define and periodically reevaluate a schedule for retention**
- 9 **of nonpublic information and a procedure for its destruction**
- 10 **when no longer needed.**

11 **Sec. 17. A licensee shall conduct a risk assessment of its**
 12 **information systems and treatment of nonpublic information by**
 13 **doing the following:**

- 14 **(1) Designating one (1) or more employees, an affiliate, or an**
- 15 **outside vendor designated to act on behalf of the licensee**
- 16 **information security program.**
- 17 **(2) Identifying reasonably foreseeable internal or external**
- 18 **threats that could result in a cybersecurity event, including**
- 19 **threats to information systems and nonpublic information**
- 20 **held or accessed by third party service providers.**
- 21 **(3) Assessing the likelihood and potential damage of the**
- 22 **threats identified in subdivision (2), taking into consideration**
- 23 **the sensitivity of the nonpublic information.**
- 24 **(4) Assessing the sufficiency of the policies, procedures,**
- 25 **information systems, and other safeguards currently in place**
- 26 **to manage the threats identified in subdivision (2), including**
- 27 **an assessment of threats in each relevant area of the licensee's**
- 28 **operations, including the following:**
- 29 **(A) Employee training and management.**
- 30 **(B) Information systems, including network and software**
- 31 **design, and information classification, governance,**
- 32 **processing, storage, transmission, and disposal.**
- 33 **(C) Procedures for detecting, preventing, and responding**
- 34 **to cybersecurity events or other systems failures.**
- 35 **(5) Implementing information safeguards to manage the**
- 36 **threats identified under subdivision (2), and assessing the**
- 37 **effectiveness of the safeguards' key controls, systems, and**
- 38 **procedures at least one (1) time each year.**

39 **Sec. 18. Based on the results of the risk assessment, a licensee**
 40 **shall do the following:**

- 41 **(1) Design its information security program to mitigate the**
- 42 **identified risks, commensurate with:**



- 1 (A) the licensee's size and complexity;
- 2 (B) the nature and scope of the licensee's activities; and
- 3 (C) the sensitivity of the nonpublic information in the
- 4 licensee's control.
- 5 (2) Determine and implement appropriate security measures,
- 6 which may include the following:
- 7 (A) Placing access controls on information systems,
- 8 including controls to authenticate and permit only
- 9 authorized individuals to have access to nonpublic
- 10 information.
- 11 (B) Identifying and managing the data, personnel, devices,
- 12 systems, and facilities that enable the licensee to achieve
- 13 business purposes in accordance with their relative
- 14 importance to business objectives and risk strategy.
- 15 (C) Restricting physical access to nonpublic information to
- 16 authorized individuals only.
- 17 (D) Protecting by encryption or other appropriate means
- 18 all nonpublic information while being transmitted over an
- 19 external network and all nonpublic information stored on
- 20 a laptop computer or other portable computing or storage
- 21 device or media.
- 22 (E) Adopting secure development practices for in-house
- 23 developed applications used by the licensee.
- 24 (F) Modifying information systems in accordance with the
- 25 licensee's information security program.
- 26 (G) Using effective controls, which may include
- 27 multi-factor authentication procedures for any person
- 28 accessing nonpublic information.
- 29 (H) Regularly testing and monitoring systems and
- 30 procedures to detect actual and attempted attacks on, or
- 31 intrusions into, information systems.
- 32 (I) Including audit trails within the information security
- 33 program designed to detect and respond to a cybersecurity
- 34 event and designed to reconstruct material financial
- 35 transactions sufficient to support normal operations and
- 36 obligations of the licensee.
- 37 (J) Implementing measures to protect against destruction,
- 38 loss, or damage of nonpublic information due to
- 39 environmental hazards, such as fire and water damage or
- 40 other catastrophes or technological failures.
- 41 (K) Developing, implementing, and maintaining
- 42 procedures for the secure disposal of nonpublic



- 1 information in any format.
- 2 (3) Include cybersecurity risks in the licensee's enterprise risk
- 3 management process.
- 4 (4) Stay informed regarding emerging threats or
- 5 vulnerabilities.
- 6 (5) Use reasonable security measures when sharing
- 7 information, relative to the character of the sharing and the
- 8 type of information shared.
- 9 (6) Provide personnel with cybersecurity awareness training
- 10 that is updated as necessary to reflect risks identified in the
- 11 risk assessment.
- 12 **Sec. 19. (a) If the licensee has a board of directors, the board of**
- 13 **directors shall require the licensee's executive management or its**
- 14 **delegates to develop, implement, and maintain the licensee's**
- 15 **information security program.**
- 16 **(b) If the licensee's executive management delegates any of its**
- 17 **responsibilities under this section, it shall:**
- 18 **(1) oversee the development, implementation, and**
- 19 **maintenance of the licensee's information security program**
- 20 **prepared by the delegate; and**
- 21 **(2) receive a report from the delegate concerning:**
- 22 **(A) the overall status of the information security program;**
- 23 **(B) the licensee's compliance with this chapter; and**
- 24 **(C) material matters related to the information security**
- 25 **program addressing such issues as:**
- 26 **(i) risk assessment;**
- 27 **(ii) risk management and control decisions;**
- 28 **(iii) third party service provider arrangements;**
- 29 **(iv) results of testing;**
- 30 **(v) cybersecurity events and management's responses to**
- 31 **cybersecurity events; and**
- 32 **(vi) recommendations for changes in the information**
- 33 **security program.**
- 34 **Sec. 20. (a) As part of its information security program, a**
- 35 **licensee shall establish a written incident response plan designed to**
- 36 **promptly respond to, and recover from, any cybersecurity event.**
- 37 **(b) An incident response plan must include the following:**
- 38 **(1) The internal process for responding to a cybersecurity**
- 39 **event.**
- 40 **(2) The goals of the incident response plan.**
- 41 **(3) The definition of clear roles, responsibilities, and levels of**
- 42 **decision making authority.**



- 1 **(4) External and internal communications and information**
 2 **sharing.**
 3 **(5) Identification of requirements for the remediation of any**
 4 **identified weaknesses in information systems and associated**
 5 **controls.**
 6 **(6) Documentation and reporting regarding cybersecurity**
 7 **events and related incident response activities.**
 8 **(7) The evaluation and revision, as necessary, of the incident**
 9 **response plan.**
- 10 **(c) Annually, not later than February 15, each insurer domiciled**
 11 **in Indiana shall submit to the commissioner a written statement**
 12 **certifying that the insurer is in compliance with the requirements**
 13 **set forth in sections 16 through 19 of this chapter and this section.**
 14 **Each insurer shall maintain for examination by the department all**
 15 **records, schedules, and data supporting this certificate for a period**
 16 **of five (5) years. To the extent an insurer has identified areas,**
 17 **systems, or processes that require material improvement,**
 18 **updating, or redesign, the insurer shall document the identification**
 19 **of the areas, systems, or processes and the remedial efforts planned**
 20 **and underway to address the areas, systems, or processes. The**
 21 **documentation must be available for inspection by the**
 22 **commissioner.**
- 23 **Sec. 21. (a) If a licensee learns that a cybersecurity event has or**
 24 **may have occurred, the licensee, or an outside vendor or service**
 25 **provider designated to act on the licensee's behalf, shall conduct a**
 26 **prompt investigation. During the investigation, the licensee or**
 27 **outside vendor or service provider designated to act on the**
 28 **licensee's behalf shall:**
- 29 **(1) determine:**
 30 **(A) whether a cybersecurity event has occurred;**
 31 **(B) if so, the nature and scope of the cybersecurity event;**
 32 **and**
 33 **(C) whether any nonpublic information may have been**
 34 **involved in the cybersecurity event; and**
- 35 **(2) perform or oversee reasonable measures to restore the**
 36 **security of the information systems compromised in the**
 37 **cybersecurity event in order to prevent further unauthorized**
 38 **acquisition, release, or use of nonpublic information in the**
 39 **licensee's possession, custody, or control.**
- 40 **(b) A licensee shall maintain records concerning all**
 41 **cybersecurity events for at least five (5) years after the date of the**
 42 **cybersecurity event. A licensee shall produce these records upon**



1 demand of the commissioner.

2 (c) A licensee shall notify the commissioner as promptly as
3 possible but not later than three (3) business days after a
4 determination that a cybersecurity event involving nonpublic
5 information that is in the possession of the licensee has occurred if
6 either of the following applies:

7 (1) Indiana is the licensee's state of domicile, if the licensee is
8 an insurer, or the licensee's home state, if the licensee is a
9 producer, and the cybersecurity event has a reasonable
10 likelihood of materially harming a consumer residing in
11 Indiana or materially harming any material part of the
12 normal operations of the licensee.

13 (2) The licensee reasonably believes that the nonpublic
14 information of at least two hundred fifty (250) consumers
15 residing in Indiana was affected by the cybersecurity event
16 and that the cybersecurity event is either of the following:

17 (A) A cybersecurity event impacting the licensee of which
18 notice is required to be provided by any other state,
19 federal, or local law.

20 (B) A cybersecurity event that has a reasonable likelihood
21 of materially harming:

22 (i) a consumer residing in Indiana; or

23 (ii) any material part of the normal operations of the
24 licensee.

25 (d) After learning that a cybersecurity event has or may have
26 occurred, a licensee shall provide as much of the following
27 information as possible in electronic form, as directed by the
28 commissioner:

29 (1) The date of the cybersecurity event.

30 (2) A description of how the information was exposed, lost,
31 stolen, or breached, including the specific roles and
32 responsibilities of any third party service providers.

33 (3) How the cybersecurity event was discovered.

34 (4) Whether any lost, stolen, or breached information has
35 been recovered and, if so, how this was done.

36 (5) The identity of the source of the cybersecurity event.

37 (6) Whether the licensee has filed a police report or has
38 notified any regulatory, government, or law enforcement
39 agencies and, if so, when the notification was provided.

40 (7) A description of the specific types of information acquired
41 without authorization. Specific types of information means
42 particular data elements including, for example, types of



1 **medical information, types of financial information, or types**
 2 **of information allowing identification of the consumer.**

3 **(8) The period during which the information system was**
 4 **compromised by the cybersecurity event.**

5 **(9) The total number of consumers in Indiana affected by the**
 6 **cybersecurity event. The licensee shall provide the best**
 7 **estimate in the initial report to the commissioner and update**
 8 **this estimate with each subsequent report to the commissioner**
 9 **under this section.**

10 **(10) The results of any internal review:**

11 **(A) identifying a lapse in either automated controls or**
 12 **internal procedures; or**

13 **(B) confirming that all automated controls or internal**
 14 **procedures were followed.**

15 **(11) A description of efforts being undertaken to remediate**
 16 **the situation that permitted the cybersecurity event to occur.**

17 **(12) A copy of the licensee's privacy policy and a statement**
 18 **outlining the steps the licensee will take to investigate and**
 19 **notify consumers affected by the cybersecurity event.**

20 **(13) The name of a contact person who is both familiar with**
 21 **the cybersecurity event and authorized to act for the licensee.**

22 **(e) The licensee has a continuing obligation to update and**
 23 **supplement initial and subsequent notifications to the**
 24 **commissioner regarding material changes to previously provided**
 25 **information relating to the cybersecurity event.**

26 **(f) A licensee shall comply with IC 24-4.9, as applicable, and**
 27 **provide a copy of the notice sent to consumers under IC 24-4.9 to**
 28 **the commissioner if the licensee is required to notify the**
 29 **commissioner under subsection (c).**

30 **(g) Nothing in this chapter abrogates or prevents an agreement**
 31 **between a licensee and:**

32 **(1) another licensee;**

33 **(2) a third party service provider; or**

34 **(3) any other party;**

35 **to fulfill any investigation requirements imposed under subsection**
 36 **(a) or notice requirements imposed under subsections (c) through**
 37 **(f).**

38 **Sec. 22. (a) In the case of a cybersecurity event involving**
 39 **nonpublic information that:**

40 **(1) is used by a licensee acting as an assuming insurer; or**

41 **(2) is in the possession, custody, or control of a licensee that:**

42 **(A) is acting as an assuming insurer; and**

43 **(B) does not have a direct contractual relationship with the**
 44 **affected consumers;**

45 **the assuming insurer shall notify its affected ceding insurers and**



1 the commissioner of its state of domicile within three (3) business
 2 days after making the determination that a cybersecurity event has
 3 occurred and the ceding insurers that have a direct contractual
 4 relationship with affected consumers shall fulfill the consumer
 5 notification requirements imposed under IC 24-4.9 and any other
 6 notification requirements relating to a cybersecurity event imposed
 7 under section 21(c) through 21(f) of this chapter.

8 (b) In the case of a cybersecurity event involving nonpublic
 9 information that is in the possession, custody, or control of a third
 10 party service provider of a licensee that is an assuming insurer:

11 (1) the assuming insurer shall notify its affected ceding
 12 insurers and the commissioner of its state of domicile within
 13 three (3) business days after receiving notice from its third
 14 party service provider that a cybersecurity event has
 15 occurred; and

16 (2) the ceding insurers that have a direct contractual
 17 relationship with affected consumers shall fulfill the consumer
 18 notification requirements imposed under IC 24-4.9 and any
 19 other notification requirements relating to a cybersecurity
 20 event imposed under section 21(c) through 21(f) of this
 21 chapter.

22 (c) Except for the obligations set forth in this section, a licensee
 23 acting as assuming insurer has no notice obligations relating to a
 24 cybersecurity event or other data breach under section 21 of this
 25 chapter or any other law of Indiana.

26 Sec. 23. (a) In the case of a cybersecurity event:

27 (1) that involves nonpublic information:

28 (A) that is in the possession, custody, or control of a
 29 licensee that is an insurer or its third party service
 30 provider; and

31 (B) for which a consumer accessed the insurer's services
 32 through an independent insurance producer; and

33 (2) for which consumer notice is required by IC 24-4.9;

34 the insurer shall notify the producers of record of all affected
 35 consumers of the cybersecurity event not later than the time at
 36 which notice is provided to the affected consumers.

37 (b) The insurer is excused from the obligation set forth in
 38 subsection (a):

39 (1) for any producers who are not authorized by law or
 40 contract to sell, solicit, or negotiate on behalf of the insurer;
 41 and

42 (2) in those instances in which the insurer does not have the
 43 current producer of record information for an individual
 44 consumer.

45 Sec. 24. (a) The commissioner may examine and investigate into



1 the affairs of any licensee to determine whether the licensee has
 2 been or is engaged in any conduct in violation of this chapter. This
 3 power is in addition to the other powers the commissioner has
 4 under this title. Any investigation or examination of a licensee
 5 under this section shall be conducted pursuant to IC 27-1.

6 (b) Whenever the commissioner has reason to believe that a
 7 licensee has been or is engaged in conduct in Indiana that violates
 8 this chapter, the commissioner may take action that is necessary or
 9 appropriate to enforce this chapter.

10 Sec. 25. (a) Any documents, materials, or other information in
 11 the control or possession of the department that are:

12 (1) furnished by a licensee or an employee or agent acting on
 13 behalf of a licensee under section 20(c), 21(d)(2) through
 14 21(d)(5), 21(d)(8), or 21(d)(10) through 21(d)(11) of this
 15 chapter; or

16 (2) obtained by the commissioner in an investigation or
 17 examination under section 24 of this chapter;

18 are confidential by law and privileged, are not subject to IC 5-14-3,
 19 are not subject to subpoena, and are not subject to discovery or
 20 admissible in evidence in any private civil action. However, the
 21 commissioner is authorized to use the documents, materials, or
 22 other information in the furtherance of any regulatory or legal
 23 action brought as a part of the commissioner's duties. The
 24 commissioner shall not otherwise make the documents, materials,
 25 or other information public without the prior written consent of
 26 the licensee.

27 (b) Neither the commissioner nor any person who received
 28 documents, materials, or other information while acting under the
 29 authority of the commissioner shall be permitted or required to
 30 testify in any private civil action concerning any confidential
 31 documents, materials, or information subject to subsection (a).

32 (c) In order to assist in the performance of the commissioner's
 33 duties under this chapter, the commissioner:

34 (1) may share documents, materials, or other information,
 35 including the confidential and privileged documents,
 36 materials, or information subject to subsection (a), with other
 37 state, federal, and international regulatory agencies, with the
 38 NAIC and its affiliates or subsidiaries, and with state, federal,
 39 and international law enforcement authorities, provided that
 40 the recipient agrees in writing to maintain the confidentiality
 41 and privileged status of the document, material, or other
 42 information;

43 (2) may receive documents, materials, or information,
 44 including otherwise confidential and privileged documents,
 45 materials, or information, from the NAIC and its affiliates or



1 subsidiaries and from regulatory and law enforcement
 2 officials of other foreign or domestic jurisdictions, and shall
 3 maintain as confidential or privileged any document,
 4 material, or information received with notice or the
 5 understanding that it is confidential or privileged under the
 6 laws of the jurisdiction that is the source of the document,
 7 material, or information;

8 (3) may share documents, materials, or other information
 9 subject to subsection (a), with a third party consultant or
 10 vendor provided the consultant or vendor agrees in writing to
 11 maintain the confidentiality and privileged status of the
 12 document, material, or other information; and

13 (4) may enter into agreements governing sharing and use of
 14 information consistent with this subsection.

15 (d) No waiver of any applicable privilege or claim of
 16 confidentiality in the documents, materials, or information shall
 17 occur as a result of disclosure to the commissioner under this
 18 section or as a result of sharing as authorized in subsection (c).

19 (e) Nothing in this chapter prohibits the commissioner from
 20 releasing final, adjudicated actions that are open to public
 21 inspection under IC 5-14-3 to a data base or other clearinghouse
 22 service maintained by the NAIC, its affiliates, or subsidiaries.

23 (f) Documents, materials, or other information in the possession
 24 or control of the NAIC or a third party consultant or vendor under
 25 this chapter shall be confidential by law and privileged, shall not
 26 be subject to IC 5-14-3, shall not be subject to subpoena, and shall
 27 not be subject to discovery or admissible in evidence in any private
 28 civil action.

29 **Sec. 26. (a) A licensee is exempt from sections 16 through 20 of**
 30 **this chapter if the licensee has:**

31 (1) fewer than ten (10) employees, including any independent
 32 contractors;

33 (2) less than five million dollars (\$5,000,000) in gross annual
 34 revenue, or

35 (3) less than ten million dollars (\$10,000,000) in year-end total
 36 assets.

37 (b) A licensee that:

38 (1) is subject to the federal Health Insurance Portability and
 39 Accountability Act (Pub.L. 104-191, 110 Stat. 1936, enacted
 40 August 21, 1996); and

41 (2) has established and maintains an information security
 42 program pursuant to that federal act and the regulations,
 43 procedures, or guidelines established under that act;

44 will be considered as meeting the requirements of sections 16
 45 through 20 of this chapter if the licensee is compliant with, and



1 submits a written statement certifying its compliance with, that act.

2 (c) An individual who:

3 (1) is an employee, agent, representative, or designee of a
4 licensee; and

5 (2) is also a licensee;

6 is exempt from sections 16 through 20 of this chapter and need not
7 develop the individual's own information security program to the
8 extent that the individual is covered by the information security
9 program of the licensee of which the individual is an employee,
10 agent, representative, or designee.

11 (d) If a licensee ceases to qualify for an exception under
12 subsection (a), (b), or (c), the licensee must comply with sections 16
13 through 20 of this chapter not more than one hundred eighty (180)
14 days after the licensee ceases to qualify for the exception.

15 Sec. 27. If a licensee violates this chapter, the insurance
16 commissioner may, after notice and hearing under IC 4-21.5,
17 suspend or revoke the license, certificate of authority, or
18 registration of the licensee.

19 Sec. 28. The insurance commissioner may adopt rules under
20 IC 4-22-2 to carry out the provisions of this chapter.

21 Sec. 29. This chapter does not create a private right of action
22 against any person.

23 Sec. 30. Notwithstanding any other provision of law, this
24 chapter establishes the exclusive state standards applying to
25 licensees for:

26 (1) data security;

27 (2) the investigation of a cybersecurity event; and

28 (3) notification to the insurance commissioner concerning a
29 cybersecurity event.

30 SECTION 5. IC 27-6-10 IS REPEALED [EFFECTIVE JULY 1,
31 2020]. (Credit for Reinsurance).

32 SECTION 6. IC 27-6-10.1 IS ADDED TO THE INDIANA CODE
33 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2020]:

35 **Chapter 10.1. Credit for Reinsurance**

36 Sec. 1. (a) The purpose of this chapter is to protect the interest
37 of insureds, claimants, ceding insurers, assuming insurers, and the
38 public generally.

39 (b) The general assembly declares that its intent is to ensure
40 adequate regulation of insurers and reinsurers and adequate
41 protection for those to whom they owe obligations. In furtherance
42 of that state interest, the general assembly provides a mandate that
43 upon the insolvency of a non-U.S. insurer or reinsurer that
44 provides security to fund its U.S. obligations in accordance with
45 this chapter, the assets representing the security shall be



1 maintained in the United States and claims shall be filed with and
 2 valued by the state insurance commissioner with regulatory
 3 oversight, and the assets shall be distributed, in accordance with
 4 the insurance laws of the state in which the trust is domiciled that
 5 are applicable to the liquidation of domestic U.S. insurance
 6 companies.

7 (c) The general assembly declares that the matters contained in
 8 this chapter are fundamental to the business of insurance in
 9 accordance with 15 U.S.C. 1011 through 15 U.S.C. 1012.

10 **Sec. 2. Credit Allowed a Domestic Ceding Insurer.** Credit for
 11 reinsurance shall be allowed a domestic ceding insurer as either an
 12 asset or a reduction from liability on account of reinsurance ceded
 13 only when the reinsurer meets the requirements of Subsection A,
 14 B, C, D, E, F, or G; provided further, that the insurance
 15 commissioner may adopt by regulation pursuant to Section 5B of
 16 this chapter specific additional requirements relating to or setting
 17 forth: (1) the valuation of assets or reserve credits; (2) the amount
 18 and forms of security supporting reinsurance arrangements
 19 described in Section 5B of this chapter; and/or (3) the
 20 circumstances pursuant to which credit will be reduced or
 21 eliminated. Credit shall be allowed under Subsection A, B, or C
 22 only as respects cessions of those kinds or classes of business which
 23 the assuming insurer is licensed or otherwise permitted to write or
 24 assume in its state of domicile or, in the case of a U.S. branch of an
 25 alien assuming insurer, in the state through which it is entered and
 26 licensed to transact insurance or reinsurance. Credit shall be
 27 allowed under Subsection C or D only if the applicable
 28 requirements of Subsection H have been satisfied.

29 **A. Credit shall be allowed when the reinsurance is ceded to an**
 30 **assuming insurer that is licensed to transact insurance or**
 31 **reinsurance in Indiana.**

32 **B. Credit shall be allowed when the reinsurance is ceded to an**
 33 **assuming insurer that is accredited by the insurance**
 34 **commissioner as a reinsurer in Indiana. In order to be eligible**
 35 **for accreditation, a reinsurer must:**

36 (1) file with the insurance commissioner evidence of its
 37 submission to Indiana's jurisdiction;

38 (2) submit to Indiana's authority to examine its books and
 39 records;

40 (3) be licensed to transact insurance or reinsurance in at least
 41 one (1) state, or in the case of a U.S. branch of an alien
 42 assuming insurer, be entered through and licensed to transact
 43 insurance or reinsurance in at least one (1) state;

44 (4) file annually with the insurance commissioner a copy of its
 45 annual statement filed with the insurance department of its



1 state of domicile and a copy of its most recent audited
2 financial statement; and

3 (5) demonstrate to the satisfaction of the insurance
4 commissioner that it has adequate financial capacity to meet
5 its reinsurance obligations and is otherwise qualified to
6 assume reinsurance from domestic insurers. An assuming
7 insurer is deemed to meet this requirement as of the time of
8 its application if it maintains a surplus as regards
9 policyholders in an amount not less than twenty million
10 dollars (\$20,000,000) and its accreditation has not been denied
11 by the insurance commissioner within ninety (90) days after
12 submission of its application.

13 C. (1) Credit shall be allowed when the reinsurance is ceded
14 to an assuming insurer that is domiciled in, or in the case of a
15 U.S. branch of an alien assuming insurer is entered through,
16 a state that employs standards regarding credit for
17 reinsurance substantially similar to those applicable under
18 this statute and the assuming insurer or U.S. branch of an
19 alien assuming insurer:

20 (a) maintains a surplus as regards policyholders in an
21 amount not less than twenty million dollars (\$20,000,000);
22 and

23 (b) submits to the authority of Indiana to examine its books
24 and records.

25 (2) The requirement of Paragraph (1)(a) of this subsection
26 does not apply to reinsurance ceded and assumed pursuant to
27 pooling arrangements among insurers in the same holding
28 company system.

29 D. (1) Credit shall be allowed when the reinsurance is ceded
30 to an assuming insurer that maintains a trust fund in a
31 qualified U.S. financial institution, as defined in Section 4B of
32 this chapter, for the payment of the valid claims of its U.S.
33 ceding insurers, their assigns, and successors in interest. To
34 enable the insurance commissioner to determine the
35 sufficiency of the trust fund, the assuming insurer shall report
36 annually to the insurance commissioner information
37 substantially the same as that required to be reported on the
38 NAIC Annual Statement form by licensed insurers. The
39 assuming insurer shall submit to examination of its books and
40 records by the insurance commissioner and bear the expense
41 of examination.

42 (2) (a) Credit for reinsurance shall not be granted under this
43 subsection unless the form of the trust and any amendments
44 to the trust have been approved by:

45 (i) the insurance commissioner of the state where the



1 trust is domiciled; or

2 (ii) the insurance commissioner of another state who,
3 pursuant to the terms of the trust instrument, has
4 accepted principal regulatory oversight of the trust.

5 (b) The form of the trust and any trust amendments also
6 shall be filed with the insurance commissioner of every
7 state in which the ceding insurer beneficiaries of the trust
8 are domiciled. The trust instrument shall provide that
9 contested claims shall be valid and enforceable upon the
10 final order of any court of competent jurisdiction in the
11 United States. The trust shall vest legal title to its assets in
12 its trustees for the benefit of the assuming insurer's U.S.
13 ceding insurers, their assigns, and successors in interest.
14 The trust and the assuming insurer shall be subject to
15 examination as determined by the insurance commissioner.
16 (c) The trust shall remain in effect for as long as the
17 assuming insurer has outstanding obligations due under
18 the reinsurance agreements subject to the trust. No later
19 than February 28 of each year the trustee of the trust shall
20 report to the insurance commissioner in writing the
21 balance of the trust, provide a listing of the trust's
22 investments at the preceding year end, and certify the date
23 of termination of the trust, if so planned, or certify that the
24 trust will not expire prior to the following December 31.

25 (3) The following requirements apply to the following
26 categories of assuming insurer:

27 (a) The trust fund for a single assuming insurer shall
28 consist of funds in trust in an amount not less than the
29 assuming insurer's liabilities attributable to reinsurance
30 ceded by U.S. ceding insurers, and, in addition, the
31 assuming insurer shall maintain a trusteed surplus of not
32 less than twenty million dollars (\$20,000,000), except as
33 provided in Paragraph 3(b) of this subsection.

34 (b) At any time after the assuming insurer has
35 permanently discontinued underwriting new business
36 secured by the trust for at least three (3) full years, the
37 insurance commissioner with principal regulatory
38 oversight of the trust may authorize a reduction in the
39 required trusteed surplus, but only after a finding, based
40 on an assessment of the risk, that the new required surplus
41 level is adequate for the protection of U.S. ceding insurers,
42 policyholders, and claimants in light of reasonably
43 foreseeable adverse loss development. The risk assessment
44 may involve an actuarial review, including an independent
45 analysis of reserves and cash flows, and shall consider all



1 material risk factors, including when applicable the lines
 2 of business involved, the stability of the incurred loss
 3 estimates and the effect of the surplus requirements on the
 4 assuming insurer's liquidity or solvency. The minimum
 5 required trusteed surplus may not be reduced to an
 6 amount less than thirty percent (30%) of the assuming
 7 insurer's liabilities attributable to reinsurance ceded by
 8 U.S. ceding insurers covered by the trust.

9 (c) (i) In the case of a group including incorporated and
 10 individual unincorporated underwriters:

11 (I) for reinsurance ceded under reinsurance agreements
 12 with an inception, amendment, or renewal date on or
 13 after January 1, 1993, the trust shall consist of a trusteed
 14 account in an amount not less than the respective
 15 underwriters' several liabilities attributable to business
 16 ceded by U.S. domiciled ceding insurers to any
 17 underwriter of the group;

18 (II) for reinsurance ceded under reinsurance agreements
 19 with an inception date on or before December 31, 1992,
 20 and not amended or renewed after that date,
 21 notwithstanding the other provisions of this chapter, the
 22 trust shall consist of a trusteed account in an amount not
 23 less than the respective underwriters' several insurance
 24 and reinsurance liabilities attributable to business
 25 written in the United States; and

26 (III) in addition to these trusts, the group shall maintain
 27 in trust a trusteed surplus of which one hundred million
 28 dollars (\$100,000,000) shall be held jointly for the benefit
 29 of the U.S. domiciled ceding insurers of any member of
 30 the group for all years of account; and

31 (ii) the incorporated members of the group shall not be
 32 engaged in any business other than underwriting as a
 33 member of the group and shall be subject to the same
 34 level of regulation and solvency control by the group's
 35 domiciliary regulator as are the unincorporated
 36 members; and

37 (iii) within ninety (90) days after its financial statements
 38 are due to be filed with the group's domiciliary
 39 regulator, the group shall provide to the insurance
 40 commissioner an annual certification by the group's
 41 domiciliary regulator of the solvency of each
 42 underwriter member; or if a certification is unavailable,
 43 financial statements, prepared by independent public
 44 accountants, of each underwriter member of the group.

45 (d) In the case of a group of incorporated underwriters



1 under common administration, the group shall:

2 (i) have continuously transacted an insurance business
3 outside the United States for at least three (3) years
4 immediately prior to making application for
5 accreditation;

6 (ii) maintain aggregate policyholders' surplus of at least
7 ten billion dollars (\$10,000,000,000);

8 (iii) maintain a trust fund in an amount not less than the
9 group's several liabilities attributable to business ceded
10 by U.S. domiciled ceding insurers to any member of the
11 group pursuant to reinsurance contracts issued in the
12 name of the group;

13 (iv) in addition, maintain a joint trustee surplus of
14 which one hundred million dollars (\$100,000,000) shall
15 be held jointly for the benefit of U.S. domiciled ceding
16 insurers of any member of the group as additional
17 security for these liabilities; and

18 (v) within ninety (90) days after its financial statements
19 are due to be filed with the group's domiciliary
20 regulator, make available to the insurance commissioner
21 an annual certification of each underwriter member's
22 solvency by the member's domiciliary regulator and
23 financial statements of each underwriter member of the
24 group prepared by its independent public accountant.

25 E. Credit shall be allowed when the reinsurance is ceded to an
26 assuming insurer that has been certified by the insurance
27 commissioner as a reinsurer in Indiana and secures its
28 obligations in accordance with the requirements of this
29 subsection.

30 (1) In order to be eligible for certification, the assuming
31 insurer shall meet all of the following requirements:

32 (a) The assuming insurer must be domiciled and licensed
33 to transact insurance or reinsurance in a qualified
34 jurisdiction, as determined by the insurance commissioner
35 pursuant to Paragraph (3) of this subsection.

36 (b) The assuming insurer must maintain minimum capital
37 and surplus, or its equivalent, in an amount to be
38 determined by the insurance commissioner pursuant to
39 regulation.

40 (c) The assuming insurer must maintain financial strength
41 ratings from two (2) or more rating agencies deemed
42 acceptable by the insurance commissioner pursuant to
43 regulation.

44 (d) The assuming insurer must agree to submit to the
45 jurisdiction of Indiana, appoint the insurance



- 1 commissioner as its agent for service of process in Indiana,
 2 and agree to provide security for one hundred percent
 3 (100%) of the assuming insurer's liabilities attributable to
 4 reinsurance ceded by U.S. ceding insurers if it resists
 5 enforcement of a final U.S. judgment.
 6 (e) The assuming insurer must agree to meet applicable
 7 information filing requirements as determined by the
 8 insurance commissioner, both with respect to an initial
 9 application for certification and on an ongoing basis.
 10 (f) The assuming insurer must satisfy any other
 11 requirements for certification deemed relevant by the
 12 insurance commissioner.
- 13 (2) An association including incorporated and individual
 14 unincorporated underwriters may be a certified reinsurer. In
 15 order to be eligible for certification, in addition to satisfying
 16 requirements of Paragraph (1) of this subsection:
 17 (a) the association shall satisfy its minimum capital and
 18 surplus requirements through the capital and surplus
 19 equivalents (net of liabilities) of the association and its
 20 members, which shall include a joint central fund that may
 21 be applied to any unsatisfied obligation of the association
 22 or any of its members, in an amount determined by the
 23 insurance commissioner to provide adequate protection;
 24 (b) the incorporated members of the association shall not
 25 be engaged in any business other than underwriting as a
 26 member of the association and shall be subject to the same
 27 level of regulation and solvency control by the association's
 28 domiciliary regulator as are the unincorporated members;
 29 and
 30 (c) within ninety (90) days after its financial statements are
 31 due to be filed with the association's domiciliary regulator,
 32 the association shall provide to the insurance commissioner
 33 an annual certification by the association's domiciliary
 34 regulator of the solvency of each underwriter member; or
 35 if a certification is unavailable, financial statements,
 36 prepared by independent public accountants, of each
 37 underwriter member of the association.
- 38 (3) The insurance commissioner shall create and publish a list
 39 of qualified jurisdictions, under which an assuming insurer
 40 licensed and domiciled in such jurisdiction is eligible to be
 41 considered for certification by the insurance commissioner as
 42 a certified reinsurer.
 43 (a) In order to determine whether the domiciliary
 44 jurisdiction of a non-U.S. assuming insurer is eligible to be
 45 recognized as a qualified jurisdiction, the insurance



- 1 commissioner shall evaluate the appropriateness and
2 effectiveness of the reinsurance supervisory system of the
3 jurisdiction, both initially and on an ongoing basis, and
4 consider the rights, benefits and the extent of reciprocal
5 recognition afforded by the non-U.S. jurisdiction to
6 reinsurers licensed and domiciled in the U.S. A qualified
7 jurisdiction must agree to share information and cooperate
8 with the insurance commissioner with respect to all
9 certified reinsurers domiciled within that jurisdiction. A
10 jurisdiction may not be recognized as a qualified
11 jurisdiction if the insurance commissioner has determined
12 that the jurisdiction does not adequately and promptly
13 enforce final U.S. judgments and arbitration awards.
14 Additional factors may be considered in the discretion of
15 the insurance commissioner.
- 16 (b) A list of qualified jurisdictions shall be published
17 through the NAIC Committee Process. The insurance
18 commissioner shall consider this list in determining
19 qualified jurisdictions. If the insurance commissioner
20 approves a jurisdiction as qualified that does not appear
21 on the list of qualified jurisdictions, the commissioner shall
22 provide thoroughly documented justification in accordance
23 with criteria to be developed under regulations.
- 24 (c) U.S. jurisdictions that meet the requirement for
25 accreditation under the NAIC financial standards and
26 accreditation program shall be recognized as qualified
27 jurisdictions.
- 28 (d) If a certified reinsurer's domiciliary jurisdiction ceases
29 to be a qualified jurisdiction, the insurance commissioner
30 has the discretion to suspend the reinsurer's certification
31 indefinitely, in lieu of revocation.
- 32 (4) The insurance commissioner shall assign a rating to each
33 certified reinsurer, giving due consideration to the financial
34 strength ratings that have been assigned by rating agencies
35 deemed acceptable to the insurance commissioner pursuant
36 to regulation. The insurance commissioner shall publish a list
37 of all certified reinsurers and their ratings.
- 38 (5) A certified reinsurer shall secure obligations assumed
39 from U.S. ceding insurers under this subsection at a level
40 consistent with its rating, as specified in regulations
41 promulgated by the insurance commissioner.
- 42 (a) In order for a domestic ceding insurer to qualify for full
43 financial statement credit for reinsurance ceded to a
44 certified reinsurer, the certified reinsurer shall maintain
45 security in a form acceptable to the insurance



- 1 commissioner and consistent with the provisions of Section
2 3 of this chapter, or in a multibeneficiary trust in
3 accordance with Subsection D, except as otherwise
4 provided in this subsection.
- 5 (b) If a certified reinsurer maintains a trust to fully secure
6 its obligations subject to Subsection D, and chooses to
7 secure its obligations incurred as a certified reinsurer in
8 the form of a multibeneficiary trust, the certified reinsurer
9 shall maintain separate trust accounts for its obligations
10 incurred under reinsurance agreements issued or renewed
11 as a certified reinsurer with reduced security as permitted
12 by this subsection or comparable laws of other U.S.
13 jurisdictions and for its obligations subject to Subsection
14 D. It shall be a condition to the grant of certification under
15 this subsection that the certified reinsurer shall have
16 bound itself, by the language of the trust and agreement
17 with the insurance commissioner with principal regulatory
18 oversight of each such trust account, to fund, upon
19 termination of any such trust account, out of the remaining
20 surplus of such trust any deficiency of any other such trust
21 account.
- 22 (c) The minimum trustee surplus requirements provided
23 in Subsection D are not applicable with respect to a
24 multibeneficiary trust maintained by a certified reinsurer
25 for the purpose of securing obligations incurred under this
26 subsection, except that such trust shall maintain a
27 minimum trustee surplus of ten million dollars
28 (\$10,000,000).
- 29 (d) With respect to obligations incurred by a certified
30 reinsurer under this subsection, if the security is
31 insufficient, the insurance commissioner shall reduce the
32 allowable credit by an amount proportionate to the
33 deficiency, and has the discretion to impose further
34 reductions in allowable credit upon finding that there is a
35 material risk that the certified reinsurer's obligations will
36 not be paid in full when due.
- 37 (e) For purposes of this subsection, a certified reinsurer
38 whose certification has been terminated for any reason
39 shall be treated as a certified reinsurer required to secure
40 one hundred percent (100%) of its obligations.
- 41 (i) As used in this subsection, the term "terminated"
42 refers to revocation, suspension, voluntary surrender,
43 and inactive status.
- 44 (ii) If the insurance commissioner continues to assign a
45 higher rating as permitted by other provisions of this



1 section, this requirement does not apply to a certified
 2 reinsurer in inactive status or to a reinsurer whose
 3 certification has been suspended.

4 (6) If an applicant for certification has been certified as a
 5 reinsurer in an NAIC accredited jurisdiction, the insurance
 6 commissioner has the discretion to defer to that jurisdiction's
 7 certification, and has the discretion to defer to the rating
 8 assigned by that jurisdiction, and such assuming insurer shall
 9 be considered to be a certified reinsurer in Indiana.

10 (7) A certified reinsurer that ceases to assume new business in
 11 Indiana may request to maintain its certification in inactive
 12 status in order to continue to qualify for a reduction in
 13 security for its in force business. An inactive certified
 14 reinsurer shall continue to comply with all applicable
 15 requirements of this subsection, and the insurance
 16 commissioner shall assign a rating that takes into account, if
 17 relevant, the reasons why the reinsurer is not assuming new
 18 business.

19 F. (1) Credit shall be allowed when the reinsurance is ceded to
 20 an assuming insurer meeting each of the conditions set forth
 21 below.

22 (a) The assuming insurer must have its head office or be
 23 domiciled in, as applicable, and be licensed in a Reciprocal
 24 Jurisdiction. A "Reciprocal Jurisdiction" is a jurisdiction
 25 that meets one (1) of the following:

26 (i) A non-U.S. jurisdiction that is subject to an in force
 27 covered agreement with the United States, each within
 28 its legal authority, or, in the case of a covered agreement
 29 between the United States and European Union, is a
 30 member state of the European Union. For purposes of
 31 this subsection, a "covered agreement" is an agreement
 32 entered into pursuant to Dodd-Frank Wall Street
 33 Reform and Consumer Protection Act, 31 U.S.C. 313 and
 34 31 U.S.C 314, that is currently in effect or in a period of
 35 provisional application and addresses the elimination,
 36 under specified conditions, of collateral requirements as
 37 a condition for entering into any reinsurance agreement
 38 with a ceding insurer domiciled in Indiana or for
 39 allowing the ceding insurer to recognize credit for
 40 reinsurance.

41 (ii) A U.S. jurisdiction that meets the requirements for
 42 accreditation under the NAIC financial standards and
 43 accreditation program.

44 (iii) A qualified jurisdiction, as determined by the
 45 insurance commissioner pursuant to Subsection E(3),



1 which is not otherwise described in Subparagraphs (a)(i)
2 or (a)(ii) and which meets certain additional
3 requirements, consistent with the terms and conditions
4 of in force covered agreements, as specified by the
5 insurance commissioner in regulation.

6 (b) The assuming insurer must have and maintain, on an
7 ongoing basis, minimum capital and surplus, or its
8 equivalent, calculated according to the methodology of its
9 domiciliary jurisdiction, in an amount to be set forth in
10 regulation. If the assuming insurer is an association,
11 including incorporated and individual unincorporated
12 underwriters, it must have and maintain, on an ongoing
13 basis, minimum capital and surplus equivalents (net of
14 liabilities), calculated according to the methodology
15 applicable in its domiciliary jurisdiction, and a central
16 fund containing a balance in amounts to be set forth in
17 regulation.

18 (c) The assuming insurer must have and maintain, on an
19 ongoing basis, a minimum solvency or capital ratio, as
20 applicable, which will be set forth in regulation. If the
21 assuming insurer is an association, including incorporated
22 and individual unincorporated underwriters, it must have
23 and maintain, on an ongoing basis, a minimum solvency or
24 capital ratio in the Reciprocal Jurisdiction where the
25 assuming insurer has its head office or is domiciled, as
26 applicable, and is also licensed.

27 (d) The assuming insurer must agree and provide adequate
28 assurance to the insurance commissioner, in a form
29 specified by the insurance commissioner pursuant to
30 regulation, as follows:

31 (i) The assuming insurer must provide prompt written
32 notice and explanation to the insurance commissioner if
33 it falls below the minimum requirements set forth in
34 Subparagraph (b) or (c) of this section, or if any
35 regulatory action is taken against it for serious
36 noncompliance with applicable law.

37 (ii) The assuming insurer must consent in writing to the
38 jurisdiction of the courts of Indiana and to the
39 appointment of the insurance commissioner as agent for
40 service of process. The insurance commissioner may
41 require that consent for service of process be provided to
42 the insurance commissioner and included in each
43 reinsurance agreement. Nothing in this provision shall
44 limit, or in any way alter, the capacity of parties to a
45 reinsurance agreement to agree to alternative dispute



1 resolution mechanisms, except to the extent such
2 agreements are unenforceable under applicable
3 insolvency or delinquency laws.

4 (iii) The assuming insurer must consent in writing to pay
5 all final judgments, wherever enforcement is sought,
6 obtained by a ceding insurer or its legal successor, that
7 have been declared enforceable in the jurisdiction where
8 the judgment was obtained.

9 (iv) Each reinsurance agreement must include a
10 provision requiring the assuming insurer to provide
11 security in an amount equal to one hundred percent
12 (100%) of the assuming insurer's liabilities attributable
13 to reinsurance ceded pursuant to that agreement if the
14 assuming insurer resists enforcement of a final judgment
15 that is enforceable under the law of the jurisdiction in
16 which it was obtained or a properly enforceable
17 arbitration award, whether obtained by the ceding
18 insurer or by its legal successor on behalf of its
19 resolution estate.

20 (v) The assuming insurer must confirm that it is not
21 presently participating in any solvent scheme of
22 arrangement which involves Indiana's ceding insurers,
23 and agree to notify the ceding insurer and the insurance
24 commissioner and to provide security in an amount
25 equal to one hundred percent (100%) of the assuming
26 insurer's liabilities to the ceding insurer, should the
27 assuming insurer enter into such a solvent scheme of
28 arrangement. Such security shall be in a form consistent
29 with the provisions of Subsection E and Section 3 of this
30 chapter and as specified by the insurance commissioner
31 in regulation.

32 (e) The assuming insurer or its legal successor must
33 provide, if requested by the insurance commissioner, on
34 behalf of itself and any legal predecessors, certain
35 documentation to the insurance commissioner, as specified
36 by the insurance commissioner in regulation.

37 (f) The assuming insurer must maintain a practice of
38 prompt payment of claims under reinsurance agreements,
39 pursuant to criteria set forth in regulation.

40 (g) The assuming insurer's supervisory authority must
41 confirm to the insurance commissioner on an annual basis,
42 as of the preceding December 31 or at the annual date
43 otherwise statutorily reported to the Reciprocal
44 Jurisdiction, that the assuming insurer complies with the
45 requirements set forth in Subparagraphs (b) and (c) of this



- 1 section.
2 (h) Nothing in this provision precludes an assuming
3 insurer from providing the insurance commissioner with
4 information on a voluntary basis.
- 5 (2) The insurance commissioner shall timely create and
6 publish a list of Reciprocal Jurisdictions.
- 7 (a) A list of Reciprocal Jurisdictions is published through
8 the NAIC Committee Process. The insurance
9 commissioner's list shall include any Reciprocal
10 Jurisdiction as defined under Subsection F(1)(a)(i) and
11 F(1)(a)(ii), and shall consider any other Reciprocal
12 Jurisdiction included on the NAIC list. The insurance
13 commissioner may approve a jurisdiction that does not
14 appear on the NAIC list of Reciprocal Jurisdictions in
15 accordance with criteria to be developed under regulations
16 issued by the insurance commissioner.
- 17 (b) The insurance commissioner may remove a jurisdiction
18 from the list of Reciprocal Jurisdictions upon a
19 determination that the jurisdiction no longer meets the
20 requirements of a Reciprocal Jurisdiction, in accordance
21 with a process set forth in regulations issued by the
22 insurance commissioner, except that the insurance
23 commissioner shall not remove from the list a Reciprocal
24 Jurisdiction as defined under Subsection F(1)(a)(i) and
25 F(1)(a)(ii). Upon removal of a Reciprocal Jurisdiction from
26 this list credit for reinsurance ceded to an assuming
27 insurer which has its home office or is domiciled in that
28 jurisdiction shall be allowed, if otherwise allowed pursuant
29 to Indiana law.
- 30 (3) The insurance commissioner shall timely create and
31 publish a list of assuming insurers that have satisfied the
32 conditions set forth in this subsection and to which cessions
33 shall be granted credit in accordance with this subsection. The
34 insurance commissioner may add an assuming insurer to such
35 list if an NAIC accredited jurisdiction has added such
36 assuming insurer to a list of such assuming insurers or if,
37 upon initial eligibility, the assuming insurer submits the
38 information to the insurance commissioner as required under
39 Paragraph (1)(d) of this subsection and complies with any
40 additional requirements that the insurance commissioner may
41 impose by regulation, except to the extent that they conflict
42 with an applicable covered agreement.
- 43 (4) If the insurance commissioner determines that an
44 assuming insurer no longer meets one (1) or more of the
45 requirements under this subsection, the insurance



1 commissioner may revoke or suspend the eligibility of the
 2 assuming insurer for recognition under this subsection in
 3 accordance with procedures set forth in regulation.

4 (a) While an assuming insurer's eligibility is suspended, no
 5 reinsurance agreement issued, amended, or renewed after
 6 the effective date of the suspension qualifies for credit
 7 except to the extent that the assuming insurer's obligations
 8 under the contract are secured in accordance with Section
 9 3 of this chapter.

10 (b) If an assuming insurer's eligibility is revoked, no credit
 11 for reinsurance may be granted after the effective date of
 12 the revocation with respect to any reinsurance agreements
 13 entered into by the assuming insurer, including
 14 reinsurance agreements entered into prior to the date of
 15 revocation, except to the extent that the assuming insurer's
 16 obligations under the contract are secured in a form
 17 acceptable to the insurance commissioner and consistent
 18 with the provisions of Section 3 of this chapter.

19 (5) If subject to a legal process of rehabilitation, liquidation,
 20 or conservation, as applicable, the ceding insurer, or its
 21 representative, may seek and, if determined appropriate by
 22 the court in which the proceedings are pending, may obtain an
 23 order requiring that the assuming insurer post security for all
 24 outstanding ceded liabilities.

25 (6) Nothing in this subsection shall limit or in any way alter
 26 the capacity of parties to a reinsurance agreement to agree on
 27 requirements for security or other terms in that reinsurance
 28 agreement, except as expressly prohibited by this chapter or
 29 other applicable law or regulation.

30 (7) Credit may be taken under this subsection only for
 31 reinsurance agreements entered into, amended, or renewed on
 32 or after the effective date of the statute adding this subsection,
 33 and only with respect to losses incurred and reserves reported
 34 on or after the later of: (i) the date on which the assuming
 35 insurer has met all eligibility requirements pursuant to
 36 Subsection F(1) herein; and (ii) the effective date of the new
 37 reinsurance agreement, amendment, or renewal.

38 (a) This paragraph does not alter or impair a ceding
 39 insurer's right to take credit for reinsurance, to the extent
 40 that credit is not available under this subsection, as long as
 41 the reinsurance qualifies for credit under any other
 42 applicable provision of his chapter.

43 (b) Nothing in this subsection shall authorize an assuming
 44 insurer to withdraw or reduce the security provided under
 45 any reinsurance agreement except as permitted by the



- 1 terms of the agreement.
 2 (c) Nothing in this subsection shall limit, or in any way
 3 alter, the capacity of parties to any reinsurance agreement
 4 to renegotiate the agreement.
 5 **G. Credit shall be allowed when the reinsurance is ceded to an**
 6 **assuming insurer not meeting the requirements of Subsection**
 7 **A, B, C, D, E, or F, but only as to the insurance of risks**
 8 **located in jurisdictions where the reinsurance is required by**
 9 **applicable law or regulation of that jurisdiction.**
 10 **H. If the assuming insurer is not licensed, accredited or**
 11 **certified to transact insurance or reinsurance in Indiana, the**
 12 **credit permitted by Subsections C and D shall not be allowed**
 13 **unless the assuming insurer agrees in the reinsurance**
 14 **agreements:**
 15 **(1) (a) That in the event of the failure of the assuming insurer**
 16 **to perform its obligations under the terms of the reinsurance**
 17 **agreement, the assuming insurer, at the request of the ceding**
 18 **insurer, shall submit to the jurisdiction of any court of**
 19 **competent jurisdiction in any state of the United States, will**
 20 **comply with all requirements necessary to give the court**
 21 **jurisdiction, and will abide by the final decision of the court**
 22 **or of any appellate court in the event of an appeal; and**
 23 **(b) To designate the insurance commissioner or a**
 24 **designated attorney as its true and lawful attorney upon**
 25 **whom may be served any lawful process in any action, suit,**
 26 **or proceeding instituted by or on behalf of the ceding**
 27 **insurer.**
 28 **(2) This subsection is not intended to conflict with or override**
 29 **the obligation of the parties to a reinsurance agreement to**
 30 **arbitrate their disputes, if this obligation is created in the**
 31 **agreement.**
 32 **I. If the assuming insurer does not meet the requirements of**
 33 **Subsection A, B, C, or F, the credit permitted by Subsection**
 34 **D or E shall not be allowed unless the assuming insurer agrees**
 35 **in the trust agreements to all of the following conditions:**
 36 **(1) Notwithstanding any other provisions in the trust**
 37 **instrument, if the trust fund is inadequate because it contains**
 38 **an amount less than the amount required by Subsection D(3),**
 39 **or if the grantor of the trust has been declared insolvent or**
 40 **placed into receivership, rehabilitation, liquidation, or similar**
 41 **proceedings under the laws of its state or country of domicile,**
 42 **the trustee shall comply with an order of the insurance**
 43 **commissioner with regulatory oversight over the trust or with**
 44 **an order of a court of competent jurisdiction directing the**
 45 **trustee to transfer to the insurance commissioner with**



1 regulatory oversight all of the assets of the trust fund.

2 (2) The assets shall be distributed by and claims shall be filed
3 with and valued by the insurance commissioner with
4 regulatory oversight in accordance with the laws of the state
5 in which the trust is domiciled that are applicable to the
6 liquidation of domestic insurance companies.

7 (3) If the insurance commissioner with regulatory oversight
8 determines that the assets of the trust fund or any part thereof
9 are not necessary to satisfy the claims of the U.S. ceding
10 insurers of the grantor of the trust, the assets or part thereof
11 shall be returned by the insurance commissioner with
12 regulatory oversight to the trustee for distribution in
13 accordance with the trust agreement.

14 (4) The grantor shall waive any right otherwise available to it
15 under U.S. law that is inconsistent with this provision.

16 J. If an accredited or certified reinsurer ceases to meet the
17 requirements for accreditation or certification, the insurance
18 commissioner may suspend or revoke the reinsurer's
19 accreditation or certification.

20 (1) The insurance commissioner must give the reinsurer
21 notice and opportunity for hearing. The suspension or
22 revocation may not take effect until after the insurance
23 commissioner's order on hearing, unless:

24 (a) the reinsurer waives its right to hearing;

25 (b) the insurance commissioner's order is based on
26 regulatory action by the reinsurer's domiciliary
27 jurisdiction or the voluntary surrender or termination of
28 the reinsurer's eligibility to transact insurance or
29 reinsurance business in its domiciliary jurisdiction or in
30 the primary certifying state of the reinsurer under
31 Subsection E(6); or

32 (c) the insurance commissioner finds that an emergency
33 requires immediate action and a court of competent
34 jurisdiction has not stayed the insurance commissioner's
35 action.

36 (2) While a reinsurer's accreditation or certification is
37 suspended, no reinsurance contract issued or renewed after
38 the effective date of the suspension qualifies for credit except
39 to the extent that the reinsurer's obligations under the
40 contract are secured in accordance with Section 3 of this
41 chapter. If a reinsurer's accreditation or certification is
42 revoked, no credit for reinsurance may be granted after the
43 effective date of the revocation except to the extent that the
44 reinsurer's obligations under the contract are secured in
45 accordance with Subsection E(5) or Section 3 of this chapter.



1 **K. Concentration Risk.**

2 (1) A ceding insurer shall take steps to manage its reinsurance
3 recoverables proportionate to its own book of business. A
4 domestic ceding insurer shall notify the insurance
5 commissioner within thirty (30) days after reinsurance
6 recoverables from any single assuming insurer, or group of
7 affiliated assuming insurers, exceeds fifty percent (50%) of
8 the domestic ceding insurer's last reported surplus to
9 policyholders, or after it is determined that reinsurance
10 recoverables from any single assuming insurer, or group of
11 affiliated assuming insurers, is likely to exceed this limit. The
12 notification shall demonstrate that the exposure is safely
13 managed by the domestic ceding insurer.

14 (2) A ceding insurer shall take steps to diversify its
15 reinsurance program. A domestic ceding insurer shall notify
16 the insurance commissioner within thirty (30) days after
17 ceding to any single assuming insurer, or group of affiliated
18 assuming insurers, more than twenty percent (20%) of the
19 ceding insurer's gross written premium in the prior calendar
20 year, or after it has determined that the reinsurance ceded to
21 any single assuming insurer, or group of affiliated assuming
22 insurers, is likely to exceed this limit. The notification shall
23 demonstrate that the exposure is safely managed by the
24 domestic ceding insurer.

25 **Sec. 3. Asset or Reduction from Liability for Reinsurance Ceded**
26 **by a Domestic Insurer to an Assuming Insurer not Meeting the**
27 **Requirements of Section 2 of this chapter. An asset or a reduction**
28 **from liability for the reinsurance ceded by a domestic insurer to an**
29 **assuming insurer not meeting the requirements of Section 2 of this**
30 **chapter shall be allowed in an amount not exceeding the liabilities**
31 **carried by the ceding insurer; provided further, that the insurance**
32 **commissioner may adopt by regulation pursuant to Section 5B of**
33 **this chapter specific additional requirements relating to or setting**
34 **forth: (1) the valuation of assets or reserve credits; (2) the amount**
35 **and forms of security supporting reinsurance arrangements**
36 **described in Section 5B of this chapter; and/or (3) the**
37 **circumstances pursuant to which credit will be reduced or**
38 **eliminated. The reduction shall be in the amount of funds held by**
39 **or on behalf of the ceding insurer, including funds held in trust for**
40 **the ceding insurer, under a reinsurance contract with the assuming**
41 **insurer as security for the payment of obligations thereunder, if the**
42 **security is held in the United States subject to withdrawal solely by,**
43 **and under the exclusive control of, the ceding insurer; or, in the**
44 **case of a trust, held in a qualified U.S. financial institution, as**
45 **defined in Section 4B of this chapter. This security may be in the**



1 form of:

2 A. cash;

3 B. securities listed by the Securities Valuation Office of the
4 NAIC, including those deemed exempt from filing as defined
5 by the Purposes and Procedures Manual of the Securities
6 Valuation Office, and qualifying as admitted assets;

7 C. (1) clean, irrevocable, unconditional letters of credit, issued
8 or confirmed by a qualified U.S. financial institution, as
9 defined in Section 4A of this chapter, effective no later than
10 December 31 of the year for which the filing is being made,
11 and in the possession of, or in trust for, the ceding insurer on
12 or before the filing date of its annual statement;

13 (2) letters of credit meeting applicable standards of issuer
14 acceptability as of the dates of their issuance (or
15 confirmation) shall, notwithstanding the issuing (or
16 confirming) institution's subsequent failure to meet applicable
17 standards of issuer acceptability, continue to be acceptable as
18 security until their expiration, extension, renewal,
19 modification, or amendment, whichever first occurs; or

20 D. Any other form of security acceptable to the insurance
21 commissioner.

22 **Sec. 4. Qualified U.S. Financial Institutions**

23 A. For purposes of Section 3C of this chapter, a "qualified
24 U.S. financial institution" means an institution that:

25 (1) is organized or (in the case of a U.S. office of a foreign
26 banking organization) licensed, under the laws of the United
27 States or any state thereof;

28 (2) is regulated, supervised, and examined by U.S. federal or
29 state authorities having regulatory authority over banks and
30 trust companies; and

31 (3) has been determined by either the commissioner or the
32 Securities Valuation Office of the NAIC to meet such
33 standards of financial condition and standing as are
34 considered necessary and appropriate to regulate the quality
35 of financial institutions whose letters of credit will be
36 acceptable to the commissioner.

37 B. A "qualified U.S. financial institution" means, for purposes
38 of those provisions of this chapter specifying those institutions
39 that are eligible to act as a fiduciary of a trust, an institution
40 that:

41 (1) is organized, or, in the case of a U.S. branch or agency
42 office of a foreign banking organization, licensed, under the
43 laws of the United States or any state thereof and has been
44 granted authority to operate with fiduciary powers; and

45 (2) is regulated, supervised and examined by federal or state



- 1 **authorities having regulatory authority over banks and trust**
 2 **companies.**
- 3 **Sec. 5. Rules and Regulations.**
- 4 **A. The insurance commissioner may adopt rules and**
 5 **regulations under IC 4-22-2 implementing the provisions of**
 6 **this chapter.**
- 7 **B. The insurance commissioner is further authorized to adopt**
 8 **rules and regulations under IC 4-22-2 applicable to**
 9 **reinsurance arrangements described in Paragraph (1) of this**
 10 **subsection.**
- 11 **(1) A regulation adopted pursuant to this subsection may**
 12 **apply only to reinsurance relating to:**
- 13 **(a) life insurance policies with guaranteed nonlevel gross**
 14 **premiums or guaranteed nonlevel benefits;**
- 15 **(b) universal life insurance policies with provisions**
 16 **resulting in the ability of a policyholder to keep a policy in**
 17 **force over a secondary guarantee period;**
- 18 **(c) variable annuities with guaranteed death or living**
 19 **benefits;**
- 20 **(d) long term care insurance policies; or**
- 21 **(e) such other life and health insurance and annuity**
 22 **products as to which the NAIC adopts model regulatory**
 23 **requirements with respect to credit for reinsurance.**
- 24 **(2) A regulation adopted pursuant to Paragraph 1(a) or 1(b)**
 25 **of this subsection may apply to any treaty containing: (i)**
 26 **policies issued on or after January 1, 2015; and/or (ii) policies**
 27 **issued prior to January 1, 2015, if risk pertaining to such**
 28 **pre-2015 policies is ceded in connection with the treaty, in**
 29 **whole or in part, on or after January 1, 2015.**
- 30 **(3) A regulation adopted pursuant to this subsection may**
 31 **require the ceding insurer, in calculating the amounts or**
 32 **forms of security required to be held under regulations**
 33 **promulgated under this authority, to use the Valuation**
 34 **Manual adopted by the NAIC under Section 11B(1) of the**
 35 **NAIC Standard Valuation Law, including all amendments**
 36 **adopted by the NAIC and in effect on the date as of which the**
 37 **calculation is made, to the extent applicable.**
- 38 **(4) A regulation adopted pursuant to this subsection shall not**
 39 **apply to cessions to an assuming insurer that:**
- 40 **(a) meets the conditions set forth in Section 2F of this**
 41 **chapter in Indiana;**
- 42 **(b) is certified in Indiana; or**
- 43 **(c) maintains at least two hundred fifty million dollars**
 44 **(\$250,000,000) in capital and surplus when determined in**
 45 **accordance with the NAIC Accounting Practices and**



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Procedures Manual, including all amendments thereto adopted by the NAIC, excluding the impact of any permitted or prescribed practices; and is:

- (i) licensed in at least twenty-six (26) states; or**
- (ii) licensed in at least ten (10) states, and licensed or accredited in a total of at least thirty-five (35) states.**

(5) The authority to adopt regulations pursuant to this subsection does not limit the insurance commissioner's general authority to adopt regulations pursuant to Subsection A.

Sec. 6. Reinsurance Agreements Affected. This chapter shall apply to all cessions after June 30, 2020, under reinsurance agreements that have an inception, anniversary, or renewal date not less than six (6) months after July 1, 2020.

SECTION 7. IC 27-7-5-2, AS AMENDED BY P.L.208-2018, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 2. (a) Except as provided in subsections (d), (f), and (h), the insurer shall make available, in each automobile liability or motor vehicle liability policy of insurance which is delivered or issued for delivery in this state with respect to any motor vehicle registered or principally garaged in this state, insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any person and for injury to or destruction of property to others arising from the ownership, maintenance, or use of a motor vehicle, or in a supplement to such a policy, the following types of coverage:

- (1) in limits for bodily injury or death and for injury to or destruction of property not less than those set forth in IC 9-25-4-5 under policy provisions approved by the commissioner of insurance, for the protection of persons insured under the policy who are legally entitled to recover damages from owners or operators of uninsured or underinsured motor vehicles because of bodily injury, sickness or disease, including death, and for the protection of persons insured under the policy who are legally entitled to recover damages from owners or operators of uninsured motor vehicles for injury to or destruction of property resulting therefrom; or
- (2) in limits for bodily injury or death not less than those set forth in IC 9-25-4-5 under policy provisions approved by the commissioner of insurance, for the protection of persons insured under the policy provisions who are legally entitled to recover damages from owners or operators of uninsured or underinsured motor vehicles because of bodily injury, sickness or disease, including death resulting therefrom.



1 The uninsured and underinsured motorist coverages must be provided
2 by insurers for either a single premium or for separate premiums, in
3 limits at least equal to the limits of liability specified in the bodily
4 injury liability provisions of an insured's policy, unless such coverages
5 have been rejected in writing by the insured. However, underinsured
6 motorist coverage must be made available in limits of not less than fifty
7 thousand dollars (\$50,000). At the insurer's option, the bodily injury
8 liability provisions of the insured's policy may be required to be equal
9 to the insured's underinsured motorist coverage. Insurers may not sell
10 or provide underinsured motorist coverage in an amount less than fifty
11 thousand dollars (\$50,000). Insurers must make underinsured motorist
12 coverage available to all existing policyholders on the date of the first
13 renewal of existing policies that occurs on or after January 1, 1995, and
14 on any policies newly issued or delivered on or after January 1, 1995.
15 Uninsured motorist coverage or underinsured motorist coverage may
16 be offered by an insurer in an amount exceeding the limits of liability
17 specified in the bodily injury and property damage liability provisions
18 of the insured's policy.

19 (b) A named insured of an automobile or motor vehicle liability
20 policy has the right, in writing, to:

- 21 (1) reject both the uninsured motorist coverage and the
22 underinsured motorist coverage provided for in this section; or
23 (2) reject either the uninsured motorist coverage alone or the
24 underinsured motorist coverage alone, if the insurer provides the
25 coverage not rejected separately from the coverage rejected.

26 A rejection of coverage under this subsection by a named insured is a
27 rejection on behalf of all other named insureds, all other insureds, and
28 all other persons entitled to coverage under the policy. No insured may
29 have uninsured motorist property damage liability insurance coverage
30 under this section unless the insured also has uninsured motorist bodily
31 injury liability insurance coverage under this section. Following
32 rejection of either or both uninsured motorist coverage or underinsured
33 motorist coverage, unless later requested in writing, the insurer need
34 not offer uninsured motorist coverage or underinsured motorist
35 coverage in or supplemental to a renewal or replacement policy issued
36 to the same insured by the same insurer or a subsidiary or an affiliate
37 of the originally issuing insurer. Renewals of policies issued or
38 delivered in this state which have undergone interim policy
39 endorsement or amendment do not constitute newly issued or delivered
40 policies for which the insurer is required to provide the coverages
41 described in this section.

42 (c) A rejection under subsection (b) must specify:

- 43 (1) that the named insured is rejecting:
44 (A) the uninsured motorist coverage;



- 1 (B) the underinsured motorist coverage; or
 2 (C) both the uninsured motorist coverage and the underinsured
 3 motorist coverage;
 4 that would otherwise be provided under the policy; and
 5 (2) the date on which the rejection is effective.
 6 (d) The following apply to the coverage described in subsection (a)
 7 in connection with a commercial umbrella or excess liability policy,
 8 including a commercial umbrella or excess liability policy that is issued
 9 or delivered to a motor carrier (as defined in IC 8-2.1-17-10) that is in
 10 compliance with the minimum levels of financial responsibility set
 11 forth in 49 CFR Part 387:
 12 (1) An insurer is not required to make available in a commercial
 13 umbrella or excess liability policy the coverage described in
 14 subsection (a).
 15 (2) An insurer that, through a rider or an endorsement, reduces or
 16 removes from a commercial umbrella or excess liability policy the
 17 coverage described in subsection (a) shall:
 18 (A) through the United States mail; or
 19 (B) by electronic means;
 20 provide to the named insured written notice of the reduction or
 21 removal.
 22 (3) An insurer that makes available in a commercial umbrella or
 23 excess liability policy the coverage described in subsection (a):
 24 (A) may make available the coverage in limits determined by
 25 the insurer; and
 26 (B) is not required to make available the coverage in limits
 27 equal to the limits specified in the commercial umbrella or
 28 excess liability policy.
 29 (e) A rejection under subsection (b) of uninsured motorist coverage
 30 or underinsured motorist coverage in an underlying commercial policy
 31 of insurance is also a rejection of uninsured motorist coverage or
 32 underinsured motorist coverage in a commercial umbrella or excess
 33 liability policy.
 34 (f) An insurer is not required to make available the coverage
 35 described in subsection (a) in connection with coverage that:
 36 (1) is related to or included in a commercial policy of property
 37 and casualty insurance described in Class 2 or Class 3 of
 38 IC 27-1-5-1; and
 39 (2) covers a loss related to a motor vehicle:
 40 (A) of which the insured is not the owner; and
 41 (B) that is used:
 42 (i) by the insured or an agent of the insured; and
 43 (ii) for purposes authorized by the insured.
 44 (g) For purposes of subsection (f), "owner" means:



- 1 (1) a person who holds the legal title to a motor vehicle;
 2 (2) a person who rents or leases a motor vehicle and has exclusive
 3 use of the motor vehicle for more than thirty (30) days;
 4 (3) the conditional vendee or lessee under an agreement for the
 5 conditional sale or lease of a motor vehicle; or
 6 (4) the mortgagor under an agreement for the conditional sale or
 7 lease of a motor vehicle under which the mortgagor has:
 8 (A) the right to purchase; and
 9 (B) an immediate right of possession of;
 10 the motor vehicle upon the performance of the conditions stated
 11 in the agreement.
- 12 (h) The following apply to the coverage described in subsection (a)
 13 in relation to a personal umbrella or excess liability policy:
- 14 (1) An insurer is not required to make available the coverage
 15 described in subsection (a) under a personal umbrella or excess
 16 liability policy.
- 17 (2) An insurer that reduces or removes, through a rider or an
 18 endorsement, coverage described in subsection (a) under a
 19 personal umbrella or excess liability policy shall:
 20 (A) through the United States mail; or
 21 (B) by electronic means;
 22 provide to the named insured written notice of the reduction or
 23 removal.
- 24 (3) An insurer that makes available the coverage described in
 25 subsection (a) under a personal umbrella or excess liability
 26 policy:
 27 (A) may make available the coverage in limits determined by
 28 the insurer; and
 29 (B) is not required to make available the coverage in limits
 30 equal to the limits specified in the personal umbrella or excess
 31 liability policy.
- 32 **(4) A rejection under subsection (b) of uninsured motorist**
 33 **coverage or underinsured motorist coverage in an underlying**
 34 **personal policy of insurance is also a rejection of uninsured**
 35 **motorist coverage or underinsured motorist coverage in a**
 36 **personal umbrella or excess liability policy.**
- 37 SECTION 8. IC 27-13-4-1 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 1. (a) Subject to section
 39 3 of this chapter, the powers of a health maintenance organization
 40 include the following:
 41 (1) The purchase, lease, construction, renovation, operation, or
 42 maintenance of:
 43 (A) hospitals and medical facilities;
 44 (B) equipment for hospitals and medical facilities; and



- 1 (C) other property reasonably required for the principal office
 2 of the health maintenance organization or for purposes
 3 necessary in the transaction of the business of the organization.
 4 (2) Engaging in transactions between affiliated entities, including
 5 loans and the transfer of responsibility under any or all contracts:
 6 (A) between affiliates; or
 7 (B) between the health maintenance organization and the
 8 parent organization of the health maintenance organization.
 9 (3) The furnishing of health care services through:
 10 (A) providers;
 11 (B) provider associations; and
 12 (C) agents for providers;
 13 who are under contract with or are employed by the health
 14 maintenance organization. The contracts with providers, provider
 15 associations, or agents of providers may include fee for service,
 16 cost plus, capitation, or other payment or risk-sharing
 17 arrangements.
 18 (4) Contracting with any person for the performance on behalf of
 19 the health maintenance organization of certain functions,
 20 including:
 21 (A) marketing;
 22 (B) enrollment; and
 23 (C) administration.
 24 (5) Contracting with:
 25 (A) an insurance company licensed in Indiana;
 26 (B) an authorized reinsurer; or
 27 (C) a hospital authorized to conduct business in Indiana;
 28 for the provision of insurance, indemnity, or reimbursement
 29 against the cost of health care services provided by the health
 30 maintenance organization.
 31 (6) The offering of point-of-service products.
 32 (7) The joint marketing of products with:
 33 (A) an insurance company that is licensed in Indiana; or
 34 (B) a hospital that is authorized to conduct business in Indiana;
 35 if the company that is offering each product is clearly identified.
 36 (8) Administration of the provision of health care services at the
 37 expense of a self-funded plan.
 38 (b) A health maintenance organization may offer any of the
 39 following:
 40 (1) Plans that include only basic health care services.
 41 (2) Plans that include basic health care services and other health
 42 care services.
 43 (3) Plans that include health care services other than basic health
 44 care services so long as at least one (1) of the plans offered by the



1 health maintenance organization includes basic health care
2 services.

3 (c) Notwithstanding subsection (a)(5), a health maintenance
4 organization may not take credit for reinsurance unless the risk is ceded
5 to a reinsurer qualified under ~~IC 27-6-10~~ **IC 27-6-10.1**.

