



January 24, 2020

HOUSE BILL No. 1372

DIGEST OF HB 1372 (Updated January 22, 2020 5:08 pm - DI 55)

Citations Affected: IC 5-10; IC 16-31; IC 27-1; IC 27-2; IC 27-6; IC 27-7; IC 27-13.

Synopsis: Various insurance matters. Authorizes a local unit to establish and maintain: (1) an individual self-insurance program to provide health care benefits to its employees; and (2) a health savings account program under which employees may set aside funds tax-free to pay for medical expenses. Provides that a provider of ambulance service that transports a covered individual to an in network facility or from an in network facility to another facility shall not charge more than the amount allowed under the network plan applying to the covered individual's coverage. Makes changes in the law concerning the permissible investments of life insurance companies and casualty, fire, and marine insurance companies. Provides that an insurance administrator may pay claims via electronic payment. Exempts an individual from the prelicensing course, state license examination, and continuing education requirements for licensed independent adjusters if the individual holds a current claims certification issued by a national or state claims association whose certification program meets certain
(Continued next page)

Effective: July 1, 2020.

Carbaugh

January 13, 2020, read first time and referred to Committee on Insurance.
January 23, 2020, amended, reported — Do Pass.

HB 1372—LS 7213/DI 55



Digest Continued

conditions. Adopts the insurance data security model law, which requires the holder of an insurance license, authority, or registration to maintain an information security program and meet other requirements. Provides that an individual who is covered by an insurance policy or health maintenance organization contract and who receives emergency services provided by an out of network provider shall not be required to pay more for the emergency services than the amount of compensation that would be allowed under the network plan for emergency services of the same type provided in network by the same type of provider, minus any copayment, deductible, or coinsurance amounts that apply. Adopts a new model law on credit for reinsurance. Provides that a rejection of uninsured motorist coverage or underinsured motorist coverage in an underlying personal policy is also a rejection of uninsured motorist coverage or underinsured motorist coverage in a personal umbrella or excess liability policy.

HB 1372—LS 7213/DI 55



January 24, 2020

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 5-10-8-2.8 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2020]: **Sec. 2.8. (a) This section:**
4 (1) **applies to local unit public employers and their employees;**
5 **and**
6 (2) **does not apply to public safety employees, surviving**
7 **spouses, and dependents covered by section 2.2 of this**
8 **chapter.**
9 (b) **A local unit public employer may do the following:**
10 (1) **Establish and maintain an individual self-insurance**
11 **program to provide authorized health care benefits,**
12 **including:**
13 (A) **health care;**
14 (B) **prescription drugs;**
15 (C) **dental care; and**
16 (D) **vision care;**
17 **for employees and officers of the local unit.**

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1 **(2) Establish and maintain a health savings account program**
 2 **under which employees and officers of the local unit may**
 3 **establish and maintain health savings accounts in accordance**
 4 **with Section 223 of the Internal Revenue Code.**

5 **A health savings account program established under subdivision**
 6 **(2) may be a part of a self-insurance program established under**
 7 **subdivision (1).**

8 **(c) A local unit may use public funds (as defined in IC 5-22-2-23)**
 9 **to:**

10 **(1) pay for or fund federally qualified high deductible health**
 11 **plans that are linked to health savings accounts established**
 12 **under subsection (b)(2); or**

13 **(2) make contributions to health savings accounts established**
 14 **under subsection (b)(2).**

15 **(d) Two (2) or more local units that have established individual**
 16 **self-insurance programs under subsection (b) may agree for their**
 17 **individual self-insurance programs to be administered jointly in a**
 18 **manner specified in the agreement between the local units.**

19 **(e) Two (2) or more local units may, under a written agreement**
 20 **between the local units, establish and maintain a joint**
 21 **self-insurance program.**

22 **(f) Two (2) or more local units, under a written agreement**
 23 **between the local units, may do the following:**

24 **(1) Purchase or contract for the services of providers of**
 25 **medical or health services for employees and officers of the**
 26 **local units.**

27 **(2) Purchase policies, enter into contracts, and establish plans**
 28 **of insurance to provide health care benefits for employees and**
 29 **officers of the local units, which may include a health savings**
 30 **account program described in subsection (b)(2).**

31 **(g) A local unit public employer may use any of the programs,**
 32 **contracts, policies, or plans authorized under subsections (b)**
 33 **through (f) in any combination.**

34 **(h) Any agreement entered into by local units under subsection**
 35 **(d), (e), (f), or (g) must:**

36 **(1) be in writing;**

37 **(2) comply with the requirements of section 2.9 of this**
 38 **chapter; and**

39 **(3) incorporate best practices established in consultation with**
 40 **and approved by the department of administration.**

41 **The best practices to be incorporated under subdivision (3) may be**
 42 **reviewed and amended by the local units in consultation with the**



1 department of administration. A local unit that enters into an
 2 agreement under subsection (d), (e), (f), or (g) shall provide
 3 detailed information about the best practices incorporated under
 4 subdivision (3) to any employee of the local unit upon the
 5 employee's request.

6 SECTION 2. IC 5-10-8-2.9 IS ADDED TO THE INDIANA CODE
 7 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 8 1, 2020]: **Sec. 2.9. (a) This section:**

9 (1) applies to local unit public employers and their employees;
 10 and

11 (2) does not apply to public safety employees, surviving
 12 spouses, and dependents covered by section 2.2 of this
 13 chapter.

14 (b) The following apply to a self-insurance program established
 15 under section 2.8 of this chapter, whether established by a single
 16 local unit or by two (2) or more local units acting jointly under
 17 section 2.8(e) of this chapter:

18 (1) The local unit or local units shall reserve for purposes of
 19 the individual self-insurance program an amount of public
 20 funds (as defined in IC 5-22-2-23) necessary, in the exercise of
 21 sound and prudent actuarial judgment, to cover the potential
 22 cost of health care benefits for the officers and employees of
 23 the local unit who are provided benefits under the individual
 24 self-insurance program.

25 (2) A local unit shall keep the public funds reserved under
 26 subdivision (1) in a special fund established by the local unit
 27 or its administrator.

28 (3) Within ninety (90) days after the last day of each fiscal
 29 year of a local unit, the local unit shall issue a financial
 30 statement and report concerning the individual self-insurance
 31 program that sets forth:

32 (A) the aggregate amounts reserved under subdivision (1);

33 (B) the aggregate disbursements made from the funds
 34 reserved under subdivision (1);

35 (C) a written report of a member of the American
 36 Academy of Actuaries certifying whether the amounts
 37 reserved under subdivision (1):

38 (i) conform to the requirements of subdivision (1);

39 (ii) are computed in accordance with accepted loss
 40 reserving standards; and

41 (iii) are fairly stated in accordance with sound loss
 42 reserving principles; and



- 1 **(D) the aggregate of disbursements made for the**
 2 **administration of the individual self-insurance program,**
 3 **including:**
 4 **(i) claims paid;**
 5 **(ii) the costs of the legal representation of the local unit**
 6 **or local units; and**
 7 **(iii) fees paid to consultants.**
 8 **(4) A financial statement and report issued under subdivision**
 9 **(3) must be:**
 10 **(A) made available for inspection and copying under**
 11 **IC 5-14-3; and**
 12 **(B) provided to the auditor of state.**
 13 **(c) A local unit may allocate the costs of:**
 14 **(1) an individual self-insurance program established under**
 15 **section 2.8 of this chapter;**
 16 **(2) insurance purchased under section 2.6 or 2.8 of this**
 17 **chapter; or**
 18 **(3) both an individual self-insurance program and insurance;**
 19 **among the funds or accounts established under this section on the**
 20 **basis of relative exposure and loss experience.**
 21 **(d) A local unit may, without competitive bidding, award a**
 22 **contract to any person for purposes of the administration of an**
 23 **individual self-insurance program established under section 2.8 of**
 24 **this chapter by a single local unit or by two (2) or more local units**
 25 **acting jointly. Before a contract is entered into under this**
 26 **subsection, there must be full, prior, public disclosure of all terms**
 27 **and conditions of the contract, including:**
 28 **(1) a statement listing all representations made in connection**
 29 **with any possible:**
 30 **(A) savings; and**
 31 **(B) losses;**
 32 **resulting from the contract; and**
 33 **(2) the potential liability of any local unit or employee of a**
 34 **local unit under the contract;**
 35 **at a meeting of the executive (as defined in IC 36-1-2-5) of the local**
 36 **unit held not less than one (1) week before the meeting at which the**
 37 **executive of the local unit authorizes the contract.**
 38 **(e) A local unit that establishes an individual self-insurance**
 39 **program under section 2.8 of this chapter or two (2) or more local**
 40 **units that jointly establish an individual self-insurance program**
 41 **under section 2.8(e) of this chapter shall enter into a contract with**
 42 **a certified public accountant and a member of the American**



1 Academy of Actuaries for the preparation of the written report
2 required by subsection (b)(3)(C).

3 (f) A local unit that establishes an individual self-insurance
4 program under section 2.8 of this chapter may allocate the costs of
5 funding the program among the funds or accounts established
6 under this section.

7 (g) Two (2) or more local units that jointly establish a
8 self-insurance program under section 2.8(e) of this chapter may
9 allocate the costs of funding the program among the funds or
10 accounts that are established by the local units under this section
11 on the basis of the relative exposure and loss experience of the local
12 units.

13 (h) Two (2) or more local units may authorize the establishment
14 and maintenance of a joint health care cost containment program
15 that includes the employment of:

- 16 (1) risk managers or an administrator;
- 17 (2) health care cost containment specialists; and
- 18 (3) consultants;

19 for the purpose of preventing and reducing health care costs
20 covered under section 2.6 or 2.8 of this chapter or this section by
21 insurance, an individual self-insurance program, or a joint
22 self-insurance program.

23 (i) A local unit that, with one (1) or more other local units,
24 jointly establishes a self-insurance program under section 2.8(e) of
25 this chapter is not liable in connection with the joint self-insurance
26 program for any amount exceeding the amounts payable under the
27 written agreement under which the joint self-insurance program
28 was established. A local unit that enters into a written agreement
29 establishing a joint self-insurance program under section 2.8(e) of
30 this chapter may, to the extent permitted under the written
31 agreement, assume the risks of any other local unit. A joint
32 self-insurance program established under section 2.8(e) of this
33 chapter:

- 34 (1) is deemed a separate legal entity for the public purpose of
35 enabling the local units to obtain insurance or to provide for
36 a formalized, jointly administered self-insurance fund
37 providing coverage for the officers and employees of the local
38 units of the joint self-insurance program; and
- 39 (2) is exempt from all state and local taxes.

40 (j) A local unit:

- 41 (1) may issue:
- 42 (A) general obligation bonds; or



1 **(B) special obligation bonds that are not payable from real**
 2 **or personal property taxes; and**
 3 **(2) may also issue notes in anticipation of bonds issued under**
 4 **subdivision (1);**
 5 **pursuant to an ordinance or resolution of the legislative body (as**
 6 **defined in IC 36-1-2-9) of the local unit for the purpose of**
 7 **providing funds to pay expenses associated with the settlement of**
 8 **claims, whether by way of a reserve or otherwise, and to pay the**
 9 **local unit's portion of the cost of establishing and maintaining an**
 10 **individual self-insurance program or joint self-insurance program**
 11 **or to provide for the reserve in the special fund authorized by**
 12 **subsection (b)(2).**
 13 **(k) A joint self-insurance program established under section**
 14 **2.8(e) of this chapter is not an insurance company. The operation**
 15 **of a joint self-insurance program established under section 2.8(e)**
 16 **of this chapter does not constitute engaging in an insurance**
 17 **business and is not subject to IC 27 or the rules adopted under**
 18 **IC 27.**
 19 **(l) If:**
 20 **(1) a local unit terminates its participation in a joint**
 21 **self-insurance program established under section 2.8(e) of this**
 22 **chapter; and**
 23 **(2) the local unit has accumulated funds in the reserves of the**
 24 **joint self-insurance program for incurred but not reported**
 25 **claims;**
 26 **the joint self-insurance program shall pay the run-off expenses of**
 27 **the local unit terminating its participation in the joint**
 28 **self-insurance program. The run-off payment, at minimum, shall**
 29 **be limited to an actuarially determined cap or sixty (60) days,**
 30 **whichever is reached first. However, this subsection does not apply**
 31 **during the term of a specific, separate agreement under which the**
 32 **local unit is entitled to maintain its participation in the joint**
 33 **self-insurance program for a specified period, which may not**
 34 **exceed three (3) years.**
 35 **(m) A local unit may, under section 2.6 of this chapter, procure**
 36 **group life insurance for its officers and employees in conjunction**
 37 **with providing coverage under an individual self-insurance**
 38 **program or joint self-insurance program under section 2.8 of this**
 39 **chapter and this section. However, a local unit may not provide**
 40 **group life insurance on a self-insured basis under this subsection.**
 41 **SECTION 3. IC 16-31-1-4 IS ADDED TO THE INDIANA CODE**
 42 **AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY**



1 1, 2020]: **Sec. 4. (a) As used in this section, "covered individual"**
 2 **means an individual who is entitled to be provided health care**
 3 **services at a cost established according to a network plan.**

4 **(b) As used in this section, "facility" means an institution in**
 5 **which health care services are provided to individuals. The term**
 6 **includes:**

7 **(1) hospitals and other licensed ambulatory surgical centers;**
 8 **and**

9 **(2) ambulatory outpatient surgical centers.**

10 **(c) As used in this section, "in network facility" means a facility**
 11 **that is required under a network plan to provide health care**
 12 **services to covered individuals at not more than a preestablished**
 13 **rate or amount of compensation.**

14 **(d) As used in this section, "network plan" means a plan under**
 15 **which providers of health care services are required by contract to**
 16 **provide health care services to covered individuals at not more**
 17 **than a preestablished rate or amount of compensation.**

18 **(e) A provider of ambulance service that transports a covered**
 19 **individual in an ambulance:**

20 **(1) to an in network facility; or**

21 **(2) from an in network facility to a facility that is not an in**
 22 **network facility;**

23 **shall not charge more for the transportation of the covered**
 24 **individual than the amount allowed by the maximum rate or**
 25 **amount established for ambulance transportation by the network**
 26 **plan applying to the covered individual's coverage, regardless of**
 27 **whether the provider of ambulance service to the covered**
 28 **individual is a party to the network plan.**

29 SECTION 4. IC 27-1-12-2, AS AMENDED BY P.L.124-2018,
 30 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2020]: Sec. 2. (a) The following definitions apply to this
 32 section:

33 (1) "Acceptable collateral" means, as to securities lending
 34 transactions:

35 (A) cash;

36 (B) cash equivalents;

37 (C) letters of credit; and

38 (D) direct obligations of, or securities that are fully guaranteed
 39 as to principal and interest by, the government of the United
 40 States or any agency of the United States, including the
 41 Federal National Mortgage Association and the Federal Home
 42 Loan Mortgage Corporation.



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



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



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



- 1 unconditional letter of credit that is:
 2 (A) issued or confirmed by; and
 3 (B) payable and presentable at;
 4 a financial institution on the list of financial institutions meeting
 5 the standards for issuing letters of credit under the Purposes and
 6 Procedures Manual of the NAIC Investment Analysis Office. To
 7 constitute acceptable collateral for the purposes of paragraph 29
 8 of subsection (b), a letter of credit must have an expiration date
 9 beyond the term of the subject transaction.
- 10 (21) "Market value" means the following:
 11 (A) As to cash, the amount of the cash.
 12 (B) As to cash equivalents, the amount of the cash equivalents.
 13 (C) As to letters of credit, the amount of the letters of credit.
 14 (D) As to a security as of any date:
 15 (i) the price for the security on that date obtained from a
 16 generally recognized source, or the most recent quotation
 17 from such a source; or
 18 (ii) if no generally recognized source exists, the price for the
 19 security as determined in good faith by the parties to a
 20 transaction;
 21 plus accrued but unpaid income on the security to the extent
 22 not included in the price as of that date.
- 23 (22) "Money market mutual fund" means a mutual fund that
 24 meets the conditions of 17 CFR 270.2a-7, under the Investment
 25 Company Act of 1940 (15 U.S.C. 80a-1 et seq.).
- 26 (23) "Multilateral development bank" means an international
 27 development organization of which the United States is a
 28 member.
- 29 (24) "Mutual fund" means:
 30 (A) an investment company; or
 31 (B) in the case of an investment company that is organized as
 32 a series company, an investment company series;
 33 that is registered with the United States Securities and Exchange
 34 Commission under the Investment Company Act of 1940 (15
 35 U.S.C. 80a-1 et seq.).
- 36 (25) "Obligation" means any of the following:
 37 (A) A bond.
 38 (B) A note.
 39 (C) A debenture.
 40 (D) Any other form of evidence of debt.
- 41 (26) "Person" means:
 42 (A) an individual;



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



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

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

27 1. Obligations of a domestic jurisdiction or of any administration,
 28 agency, authority, or instrumentality of a domestic jurisdiction.

29 2. Obligations guaranteed, supported, or insured as to principal and
 30 interest by a domestic jurisdiction or by an administration, agency,
 31 authority, or instrumentality of a domestic jurisdiction.

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

41 4. Obligations issued, guaranteed, or insured as to principal and
 42 interest by a city, county, drainage district, road district, school district,



1 tax district, town, township, village, or other civil administration,
 2 agency, authority, instrumentality, or subdivision of a domestic
 3 jurisdiction, providing such obligations are authorized by law and are:

4 (a) direct and general obligations of the issuing, guaranteeing or
 5 insuring governmental unit, administration, agency, authority,
 6 district, subdivision, or instrumentality;

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

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

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

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

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

27 (b) a private mortgage insurance corporation approved by the
 28 department.

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

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

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

38 (2) taxes or assessment liens not delinquent;

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

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



1 (5) an unassigned lease reserving rents or profits to the owner.
 2 A loan that is authorized by this paragraph remains qualified under this
 3 paragraph notwithstanding any refinancing, modification, or extension
 4 of the loan. Investments authorized by this paragraph shall not in the
 5 aggregate exceed forty-five percent (45%) of the life insurance
 6 company's admitted assets.

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

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

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

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

37 8. Improved or unimproved real property, whether encumbered or
 38 unencumbered, or any interest therein, held directly or evidenced by
 39 joint venture interests, general or limited partnership interests, trust
 40 certificates, or any other instruments, and acquired by the life insurance
 41 company as an investment, which real property, if unimproved, is
 42 developed within five (5) years. Real property acquired for investment



1 under this paragraph, whether leased or intended to be developed for
2 commercial or residential purposes or otherwise lawfully held, is
3 subject to the following conditions and limitations:

4 (a) The real estate shall be located in a domestic jurisdiction.

5 (b) The admitted assets of the life insurance company must
6 exceed twenty-five million dollars (\$25,000,000).

7 (c) The life insurance company shall have the right to expend
8 from time to time whatever amount or amounts may be necessary
9 to conform the real estate to the needs and purposes of the lessee
10 and the amount so expended shall be added to and become a part
11 of the investment in such real estate.

12 (d) The value for statement and deposit purposes of an investment
13 under this paragraph shall be reduced annually by amortization of
14 the costs of improvement and development, less land costs, over
15 the expected life of the property, which value and amortization
16 shall for statement and deposit purposes be determined in a
17 manner satisfactory to the commissioner. In determining such
18 value with respect to the calendar years in which an investment
19 begins or ends with respect to a point in time other than the
20 beginning or end of a calendar year, the amortization provided
21 above shall be made on a proportional basis.

22 (e) Fire insurance shall be maintained in an amount at least equal
23 to the insurable value of the improvements or the difference
24 between the value of the land and the value at which such real
25 estate is carried for statement and deposit purposes, whichever
26 amount is smaller.

27 (f) Real estate acquired in any of the manners described and
28 sanctioned under section 3 of this chapter, or otherwise lawfully
29 held, except paragraph 5 of that section which specifically relates
30 to the acquisition of real estate under this paragraph, shall not be
31 affected in any respect by this paragraph unless such real estate
32 at or subsequent to its acquisition fulfills the conditions and
33 limitations of this paragraph, and is declared by the life insurance
34 company in a writing filed with the department to be an
35 investment under this paragraph. The value of real estate acquired
36 under section 3 of this chapter, or otherwise lawfully held, and
37 invested under this paragraph shall be initially that at which it was
38 carried for statement and deposit purposes under that section.

39 (g) Neither the cost of each parcel of improved real property nor
40 the aggregate cost of all unimproved real property acquired under
41 the authority of this paragraph may exceed two percent (2%) of
42 the life insurance company's admitted assets. For purposes of this



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

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

23 10. Bank and bankers' acceptances and other bills of exchange of
 24 kinds and maturities eligible for purchase or rediscount by federal
 25 reserve banks.

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

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

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

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

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

36 Investments may also be made under this paragraph in obligations
 37 that have not received a rating if the earnings available for fixed
 38 charges of the business entity for the period of its five (5) fiscal years
 39 next preceding the date of purchase shall have averaged per year not
 40 less than one and one-half (1 1/2) times its average annual fixed
 41 charges applicable to such period and if during either of the last two (2)
 42 years of such period such earnings available for fixed charges shall



1 have been not less than one and one-half (1 1/2) times its fixed charges
 2 for such year. However, if the business entity is a finance company or
 3 other lending institution at least eighty percent (80%) of the assets of
 4 which are cash and receivables representing loans or discounts made
 5 or purchased by it, the multiple shall be one and one-quarter (1 1/4)
 6 instead of one and one-half (1 1/2).

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

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

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

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

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

42 (b) is a class one money market mutual fund or a class one bond



1 mutual fund.
2 Investments authorized by this paragraph 13(A) in mutual funds having
3 the same or affiliated investment advisers shall not at any one (1) time
4 exceed in the aggregate ten percent (10%) of the life insurance
5 company's admitted assets. The limitations contained in paragraph 22
6 of this subsection apply to investments in the types of mutual funds
7 described in subparagraph (a). For the purposes of this paragraph,
8 "class one bond mutual fund" means a mutual fund that at all times
9 qualifies for investment using the bond class one reserve factor under
10 the Purposes and Procedures Manual of the NAIC Investment Analysis
11 Office.

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

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

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

29 15.(A) Tangible personal property, equipment trust obligations, or
30 other instruments evidencing an ownership interest or other interest in
31 tangible personal property when the life insurance company purchasing
32 such property has admitted assets in excess of twenty-five million
33 dollars (\$25,000,000), and where there is a right to receive determined
34 portions of rental, purchase, or other fixed obligatory payments for the
35 use of such personal property from a corporation whose obligations
36 would be eligible for investment under the provisions of paragraph 11
37 of this subsection, provided that the aggregate of such payments
38 together with the estimated salvage value of such property at the end
39 of its minimum useful life, to be determined in a manner acceptable to
40 the insurance commissioner, and the estimated tax benefits to the
41 insurer resulting from ownership of such property, is adequate to return
42 the cost of the investment in such property, and provided further, that



1 each net investment in tangible personal property for which any single
 2 private corporation is obligated to pay rental, purchase, or other
 3 obligatory payments thereon does not exceed one-half of one percent
 4 (1/2%) of the life insurance company's admitted assets, and the
 5 aggregate net investments made under the provisions of this paragraph
 6 do not exceed five percent (5%) of the life insurance company's
 7 admitted assets.

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

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

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

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

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

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

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

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



1 one (1) foreign currency shall not exceed five percent (5%) of the life
 2 insurance company's admitted assets. Investments authorized by this
 3 paragraph and paragraph 17(B) shall not in the aggregate exceed
 4 twenty percent (20%) of the life insurance company's admitted assets.
 5 This paragraph in no way limits or restricts investments which are
 6 otherwise specifically eligible for deposit under this section.

7 17.(B) Investments in:

8 (a) obligations issued, guaranteed, or assumed by a foreign
 9 jurisdiction or by a business entity organized under the laws of a
 10 foreign jurisdiction; and

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

13 which investments are not eligible for investment under paragraph
 14 17.(A).

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

24 Investments authorized by paragraph 17(A) of this subsection and
 25 this paragraph 17(B) shall not in the aggregate exceed twenty percent
 26 (20%) of the life insurance company's admitted assets.

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

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

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



1 to be filed with the commissioner.

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

4 20.(A) Investments under paragraphs 1 through 20 and paragraphs
5 29 through 31 of this subsection are subject to the general conditions,
6 limitations, and standards contained in paragraphs 21 through 28 of
7 this subsection.

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

17 22. Investments in:

- 18 (a) preferred stock; and
19 (b) common stock;

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

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

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

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



- 1 fide investment purposes.
- 2 26. No life insurance company may invest in the stocks or
3 obligations, except investments under paragraphs 9 and 10 of this
4 subsection, of any corporation in which an officer of such life insurance
5 company is either an officer or director. However, this limitation shall
6 not apply with respect to such investments in:
- 7 (a) a corporation which is a subsidiary or affiliate of such life
8 insurance company; or
- 9 (b) a trade association, provided such investment meets the
10 requirements of paragraph 5 of this subsection.
- 11 27. Except for the purpose of mutualization provided for in section
12 23 of this chapter, or for the purpose of retirement of outstanding
13 shares of capital stock pursuant to amendment of its articles of
14 incorporation, or in connection with a plan approved by the
15 commissioner for purchase of such shares by the life insurance
16 company's officers, employees, or agents, no life insurance company
17 shall invest in its own stock.
- 18 28. In applying the conditions, limitations, and standards prescribed
19 in paragraphs 11, 12, and 13 of this subsection to the stocks or
20 obligations of a corporation which in the seven (7) year period
21 preceding purchase of such stocks or obligations acquired its property
22 or a substantial part thereof through consolidation, merger, or purchase,
23 the earnings of the several predecessors or constituent corporations
24 shall be consolidated.
- 25 29. A. Before a life insurance company may engage in securities
26 lending transactions, repurchase transactions, reverse repurchase
27 transactions, or dollar roll transactions, the life insurance company's
28 board of directors must adopt a written plan that includes guidelines
29 and objectives to be followed, including the following:
- 30 (1) A description of how cash received will be invested or used
31 for general corporate purposes of the company.
- 32 (2) Operational procedures for managing interest rate risk,
33 counterparty default risk, and the use of acceptable collateral in
34 a manner that reflects the liquidity needs of the transaction.
- 35 (3) A statement of the extent to which the company may engage
36 in securities lending transactions, repurchase transactions, reverse
37 repurchase transactions, and dollar roll transactions.
- 38 B. A life insurance company must enter into a written agreement for
39 all transactions authorized by this paragraph, other than dollar roll
40 transactions. The written agreement:
- 41 (1) must require the termination of each transaction not more than
42 one (1) year after its inception or upon the earlier demand of the



- 1 company; and
 2 (2) must be with the counterparty business entity, except that, for
 3 securities lending transactions, the agreement may be with an
 4 agent acting on behalf of the life insurance company if:
 5 (A) the agent is:
 6 (i) a business entity, the obligations of which are rated BBB-
 7 or higher by Standard & Poor's Corporation (or A-2 or
 8 higher in the case of commercial paper), Baa3 or higher by
 9 Moody's Investors Service, Inc. (or P-2 or higher in the case
 10 of commercial paper), BBB- or higher by Duff and Phelps,
 11 Inc. (or D-2 or higher in the case of commercial paper), or
 12 1 or 2 by the Securities Valuation Office;
 13 (ii) a business entity that is a primary dealer in United States
 14 government securities, recognized by the Federal Reserve
 15 Bank of New York; or
 16 (iii) any other business entity approved by the
 17 commissioner; and
 18 (B) the agreement requires the agent to enter into with each
 19 counterparty separate agreements that are consistent with the
 20 requirements of this paragraph.
 21 C. Cash received in a transaction under this paragraph shall be:
 22 (1) invested:
 23 (A) in accordance with this section 2; and
 24 (B) in a manner that recognizes the liquidity needs of the
 25 transaction; or
 26 (2) used by the life insurance company for its general corporate
 27 purposes.
 28 D. For as long as a transaction under this paragraph remains
 29 outstanding, the life insurance company or its agent or custodian shall
 30 maintain, as to acceptable collateral received in the transaction, either
 31 physically or through book entry systems of the Federal Reserve, the
 32 Depository Trust Company, the Participants Trust Company, or another
 33 securities depository approved by the commissioner:
 34 (1) possession of the acceptable collateral;
 35 (2) a perfected security interest in the acceptable collateral; or
 36 (3) in the case of a jurisdiction outside the United States:
 37 (A) title to; or
 38 (B) rights of a secured creditor to;
 39 the acceptable collateral.
 40 E. The limitations set forth in paragraphs 17 and 21 of this
 41 subsection do not apply to transactions under this paragraph 29. For
 42 purposes of calculations made to determine compliance with this



1 paragraph, no effect may be given to the future obligation of the life
2 insurance company to:

- 3 (1) resell securities, in the case of a repurchase transaction; or
4 (2) repurchase securities, in the case of a reverse repurchase
5 transaction.

6 F. A life insurance company shall not enter into a transaction under
7 this paragraph if, as a result of the transaction, and after giving effect
8 to the transaction:

- 9 (1) the aggregate amount of securities then loaned, sold to, or
10 purchased from any one (1) business entity under this paragraph
11 would exceed five percent (5%) of the company's admitted assets
12 (but in calculating the amount sold to or purchased from a
13 business entity under repurchase or reverse repurchase
14 transactions, effect may be given to netting provisions under a
15 master written agreement); or
16 (2) the aggregate amount of all securities then loaned, sold to, or
17 purchased from all business entities under this paragraph would
18 exceed forty percent (40%) of the admitted assets of the company
19 (provided, however, that this limitation does not apply to a reverse
20 repurchase transaction if the borrowing is used to meet
21 operational liquidity requirements resulting from an officially
22 declared catastrophe and is subject to a plan approved by the
23 commissioner).

24 G. The following collateral requirements apply to all transactions
25 under this paragraph:

- 26 (1) In a securities lending transaction, the life insurance company
27 must receive acceptable collateral having a market value as of the
28 transaction date at least equal to one hundred two percent (102%)
29 of the market value of the securities loaned by the company in the
30 transaction as of that date. If at any time the market value of the
31 acceptable collateral received from a particular business entity is
32 less than the market value of all securities loaned by the company
33 to that business entity, the business entity shall be obligated to
34 deliver additional acceptable collateral to the company, the
35 market value of which, together with the market value of all
36 acceptable collateral then held in connection with all securities
37 lending transactions with that business entity, equals at least one
38 hundred two percent (102%) of the market value of the loaned
39 securities.
40 (2) In a reverse repurchase transaction, other than a dollar roll
41 transaction, the life insurance company must receive acceptable
42 collateral having a market value as of the transaction date equal



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

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

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

- 32 (A) sold in a reverse repurchase transaction;
- 33 (B) loaned in a securities lending transaction; or
- 34 (C) otherwise pledged.

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

41 For the purposes of this paragraph 30, collateral may be substituted for
 42 other collateral if it is in the same amount with the same or greater



1 interest rate and qualifies as collateral under subparagraph (a) or (b) of
2 this paragraph.

3 31. A life insurance company may invest in obligations or interests
4 in trusts or partnerships, regardless of the issuer, secured by any form
5 of collateral other than that described in subparagraphs (a) and (b) of
6 paragraph 30 of this subsection, which obligations or interests in trusts
7 or partnerships are rated:

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

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

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

12 Investments authorized by this paragraph may not exceed ~~ten percent~~
13 ~~(+10%)~~ **twenty-five percent (25%)** of the life insurance company's
14 admitted assets.

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

17 B. The following definitions apply throughout this paragraph:

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

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

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

42 C. A life insurer may participate in investment pools qualified under



1 this paragraph that invest only in:

2 (1) obligations that are rated BBB- or higher by Standard & Poor's
3 Corporation (or A-2 or higher in the case of commercial paper),
4 Baa 3 or higher by Moody's Investors Service, Inc. (or P-2 or
5 higher in the case of commercial paper), BBB- or higher by Duff
6 and Phelps, Inc. (or D-2 or higher in the case of commercial
7 paper), or 1 or 2 by the Securities Valuation Office, and have:

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

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

21 (2) government money market mutual funds or class one money
22 market mutual funds; or

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

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

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

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

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

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



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



- 1 other person.
- 2 (3) In proportion to the aggregate amount of each pool
- 3 participant's interest in the investment pool:
- 4 (A) each participant owns an undivided interest in the
- 5 underlying assets of the investment pool; and
- 6 (B) the underlying assets of the investment pool are held solely
- 7 for the benefit of each participant.
- 8 (4) A participant or (in the event of the participant's insolvency,
- 9 bankruptcy, or receivership) its trustee, receiver, or other
- 10 successor-in-interest may withdraw all or any portion of its
- 11 participation from the investment pool under the terms of the
- 12 pooling agreement.
- 13 (5) Withdrawals may be made on demand without penalty or
- 14 other assessment on any business day, but settlement of funds
- 15 shall occur within a reasonable and customary period thereafter.
- 16 Payments upon withdrawals under this paragraph shall be
- 17 calculated in each case net of all then applicable fees and
- 18 expenses of the investment pool. The pooling agreement shall
- 19 provide for such payments to be made to the participants in one
- 20 (1) of the following forms, at the discretion of the pool manager:
- 21 (A) in cash, the then fair market value of the participant's pro
- 22 rata share of each underlying asset of the investment pool;
- 23 (B) in kind, a pro rata share of each underlying asset; or
- 24 (C) in a combination of cash and in kind distributions, a pro
- 25 rata share in each underlying asset.
- 26 (6) The records of the investment pool shall be made available for
- 27 inspection by the commissioner.
- 28 SECTION 5. IC 27-1-12.1-9, AS ADDED BY P.L.115-2011,
- 29 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 30 JULY 1, 2020]: Sec. 9. A limited purpose subsidiary that is granted a
- 31 certificate of authority by the commissioner under this chapter:
- 32 (1) is authorized to engage in the business of reinsurance for
- 33 purposes of ~~IC 27-6-10~~ IC 27-6-10.1 only for the lines of
- 34 insurance for which the:
- 35 (A) organizing domestic life insurance company; and
- 36 (B) affiliates of the organizing domestic life insurance
- 37 company;
- 38 are authorized;
- 39 (2) may reinsure only risks of:
- 40 (A) the organizing domestic life insurance company; and
- 41 (B) affiliates of the organizing domestic life insurance
- 42 company; and



- 1 (3) may access alternative forms of financing.
 2 SECTION 6. IC 27-1-13-3, AS AMENDED BY P.L.124-2018,
 3 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 4 JULY 1, 2020]: Sec. 3. (a) The following definitions apply throughout
 5 this section:
 6 (1) "Acceptable collateral" means the following:
 7 (A) As to securities lending transactions and for the purpose
 8 of calculating counterparty exposure:
 9 (i) cash;
 10 (ii) cash equivalents;
 11 (iii) letters of credit; and
 12 (iv) direct obligations of, or securities that are fully
 13 guaranteed as to principal and interest by, the government of
 14 the United States or any agency of the United States,
 15 including the Federal National Mortgage Association and
 16 the Federal Home Loan Mortgage Corporation.
 17 (B) As to lending foreign securities, sovereign debt rated 1 by
 18 the Securities Valuation Office.
 19 (C) As to repurchase transactions:
 20 (i) cash;
 21 (ii) cash equivalents; and
 22 (iii) direct obligations of, or securities that are fully
 23 guaranteed as to principal and interest by, the government of
 24 the United States or any agency of the United States,
 25 including the Federal National Mortgage Association and
 26 the Federal Home Loan Mortgage Corporation.
 27 (D) As to reverse repurchase transactions:
 28 (i) cash; and
 29 (ii) cash equivalents.
 30 (2) "Admitted assets" means assets permitted to be reported as
 31 admitted assets on the statutory financial statement of the insurer
 32 most recently required to be filed with the commissioner.
 33 (3) "Business entity" means any of the following:
 34 (A) A sole proprietorship.
 35 (B) A corporation.
 36 (C) A limited liability company.
 37 (D) An association.
 38 (E) A general partnership.
 39 (F) A limited partnership.
 40 (G) A limited liability partnership.
 41 (H) A joint stock company.
 42 (I) A joint venture.



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



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



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

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

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

24 (2) In direct obligations of the United States or obligations
 25 secured or guaranteed as to principal and interest by the United
 26 States.

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

34 (A) direct and general obligations of the issuing, guaranteeing,
 35 or insuring governmental unit, administration, agency,
 36 authority, district, subdivision, or instrumentality;

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

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



1 The area to which the improvement bonds or other obligations
2 under clause (C) relate must be situated within the limits of a
3 town or city and at least fifty percent (50%) of the properties
4 within that area must be improved with business buildings or
5 residences.

6 (4) In:

7 (A) direct obligations; or

8 (B) obligations secured by the full faith and credit;

9 of any state of the United States, the District of Columbia, or
10 Canada or any province thereof.

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



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



1 commissioner if the commissioner finds that investments under
 2 this subdivision may render the operation of the company
 3 hazardous to the company's policyholders, to the company's
 4 creditors, or to the general public. This subdivision in no way
 5 limits or restricts investments that are otherwise specifically
 6 permitted under this section.

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

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

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

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

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

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

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

42 (12) In the shares, other than those specified in subdivision (7), of



1 any solvent business entity existing under the laws of any state of
2 the United States, the District of Columbia, Canada, or any
3 province of Canada, and in the shares of any institution wherever
4 located which has the insurance protection provided by the
5 Federal Deposit Insurance Corporation. Except for the purpose of
6 mutualization or for the purpose of retirement of outstanding
7 shares of capital stock pursuant to amendment of its articles of
8 incorporation, or in connection with a plan approved by the
9 commissioner for purchase of such shares by the insurance
10 company's officers, employees, or agents, or for the elimination
11 of fractional shares, no company subject to the provisions of this
12 section may invest in its own stock.

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

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

19 (15) In securities lending, repurchase, and reverse repurchase
20 transactions with business entities, subject to the following
21 requirements:

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

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

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

31 (iii) the extent to which the company may engage in these
32 transactions.

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

42 (i) requires the agent to enter into separate agreements with



- 1 each counterparty that are consistent with the requirements
2 of this section; and
3 (ii) prohibits securities lending transactions under the
4 agreement with the agent or its affiliates.
- 5 (C) Cash received in a transaction under this section shall be
6 invested in accordance with this section and in a manner that
7 recognizes the liquidity needs of the transaction or used by the
8 company for its general corporate purposes. For as long as the
9 transaction remains outstanding, the company or its agent or
10 custodian shall maintain, as to acceptable collateral received
11 in a transaction under this section, either physically or through
12 book entry systems of the Federal Reserve, Depository Trust
13 Company, Participants Trust Company, or other securities
14 depositories approved by the commissioner:
- 15 (i) possession of the acceptable collateral;
16 (ii) a perfected security interest in the acceptable collateral;
17 or
18 (iii) in the case of a jurisdiction outside the United States,
19 title to, or rights of a secured creditor to, the acceptable
20 collateral.
- 21 (D) For purposes of calculations made to determine
22 compliance with this subdivision, no effect may be given to
23 the company's future obligation to resell securities in the case
24 of a repurchase transaction, or to repurchase securities in the
25 case of a reverse repurchase transaction. A company shall not
26 enter into a transaction under this subdivision if, as a result of
27 and after giving effect to the transaction:
- 28 (i) the aggregate amount of securities then loaned, sold to,
29 or purchased from any one (1) business entity pursuant to
30 this subdivision would exceed five percent (5%) of its
31 admitted assets (but, in calculating the amount sold to or
32 purchased from a business entity pursuant to repurchase or
33 reverse repurchase transactions, effect may be given to
34 netting provisions under a master written agreement); or
35 (ii) the aggregate amount of all securities then loaned, sold
36 to, or purchased from all business entities under this
37 subdivision would exceed forty percent (40%) of its
38 admitted assets.
- 39 (E) In a securities lending transaction, the company shall
40 receive acceptable collateral having a market value as of the
41 transaction date at least equal to one hundred two percent
42 (102%) of the market value of the securities loaned by the



1 company in the transaction as of that date. If at any time the
2 market value of the acceptable collateral is less than the
3 market value of the loaned securities, the business entity shall
4 be obligated to deliver additional acceptable collateral, the
5 market value of which, together with the market value of all
6 acceptable collateral then held in connection with the
7 transaction, at least equals one hundred two percent (102%) of
8 the market value of the loaned securities.

9 (F) In a reverse repurchase transaction, the company shall
10 receive acceptable collateral having a market value as of the
11 transaction date at least equal to ninety-five percent (95%) of
12 the market value of the securities transferred by the company
13 in the transaction as of that date. If at any time the market
14 value of the acceptable collateral is less than ninety-five
15 percent (95%) of the market value of the securities so
16 transferred, the business entity shall be obligated to deliver
17 additional acceptable collateral, the market value of which,
18 together with the market value of all acceptable collateral then
19 held in connection with the transaction, equals at least
20 ninety-five percent (95%) of the market value of the
21 transferred securities.

22 (G) In a repurchase transaction, the company shall receive as
23 acceptable collateral transferred securities having a market
24 value equal to at least one hundred two percent (102%) of the
25 purchase price paid by the company for the securities. If at any
26 time the market value of the acceptable collateral is less than
27 one hundred percent (100%) of the purchase price paid by the
28 company, the business entity shall be obligated to provide
29 additional acceptable collateral, the market value of which,
30 together with the market value of all acceptable collateral then
31 held in connection with the transaction, equals at least one
32 hundred two percent (102%) of the purchase price. Securities
33 acquired by a company in a repurchase transaction shall not be
34 sold in a reverse repurchase transaction, loaned in a securities
35 lending transaction, or otherwise pledged.

36 (16) In mortgage backed securities, including collateralized
37 mortgage obligations, mortgage pass through securities, mortgage
38 backed bonds, and real estate mortgage investment conduits,
39 adequately secured by a pool of mortgages, which mortgages are
40 fully guaranteed or insured by the government of the United
41 States or any agency of the United States, including the Federal
42 National Mortgage Association or the Federal Home Loan



- 1 Mortgage Corporation.
- 2 (17) In mortgage backed securities, including collateralized
- 3 mortgage obligations, mortgage pass through securities, mortgage
- 4 backed bonds, and real estate mortgage investment conduits,
- 5 adequately secured by a pool of mortgages, if the securities carry
- 6 a rating of at least:
- 7 (A) ~~A3~~ **Baa3** conferred by Moody's Investor Services, Inc.; or
- 8 (B) ~~A-~~ **BBB-** conferred by Standard & Poor's Corporation.
- 9 The amount invested in any one (1) obligation or pool of
- 10 obligations described in this subdivision shall not exceed five
- 11 percent (5%) of admitted assets. The aggregate amount of all
- 12 investments under this subdivision shall not exceed ten percent
- 13 (10%) of admitted assets.
- 14 (18) Any other investment acquired in good faith as payment on
- 15 account of existing indebtedness or in connection with the
- 16 refinancing, restructuring, or workout of existing indebtedness, if
- 17 taken to protect the interests of the company in that investment.
- 18 (19) In obligations or interests in trusts or partnerships in which
- 19 a life insurance company may invest as described in paragraph 31
- 20 of IC 27-1-12-2(b). Investments authorized by this paragraph may
- 21 not exceed ~~ten percent (10%)~~ **twenty-five percent (25%)** of the
- 22 company's admitted assets.
- 23 (20) In any other investment. The total of all investments under
- 24 this subdivision, except for investments in subsidiary companies
- 25 under IC 27-1-23-2.6, may not exceed ~~an aggregate amount of ten~~
- 26 ~~percent (10%)~~ **seventy-five percent (75%)** of the amount by
- 27 **which** the insurer's ~~admitted assets.~~ **surplus to policyholders**
- 28 **exceeds its minimum capital and surplus.** Investments are not
- 29 permitted under this subdivision:
- 30 (A) if expressly prohibited by statute; or
- 31 (B) in an insolvent organization or an organization in default
- 32 with respect to the payment of principal or interest on its
- 33 obligations.
- 34 (d) Any company subject to the provisions of this section shall have
- 35 power to acquire, hold, or convey real estate, or an interest therein, as
- 36 described below, and no other:
- 37 (1) Leaseholds, provided the mortgage term shall not exceed
- 38 four-fifths (4/5) of the unexpired lease term, including
- 39 enforceable renewable options, remaining at the time of the loan,
- 40 such real estate or leaseholds to be located in the United States,
- 41 any territory or possession of the United States, or Canada, the
- 42 value of such leasehold for statement purposes shall be



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



1 (B) permissible transactions and the relationship of those
 2 transactions to the insurer's operations;
 3 (C) internal control procedures;
 4 (D) a system for determining whether a derivative instrument
 5 used for hedging has been effective;
 6 (E) a credit risk management system for over-the-counter
 7 derivatives transactions that measures credit risk exposure
 8 using the counterparty exposure amount; and
 9 (F) a mechanism for reviewing and auditing compliance with
 10 the guidelines, systems, and objectives specified in the written
 11 plan.

12 (2) Before engaging in derivatives transactions, make a
 13 determination that the insurer's investment managers have
 14 adequate professional personnel, technical expertise, and systems
 15 to implement the insurer's intended investment practices
 16 involving derivative instruments.

17 (3) Review whether derivatives transactions have been made in
 18 accordance with the approved guidelines and are consistent with
 19 stated objectives.

20 (4) Take action to correct any deficiencies in internal controls
 21 relating to derivatives transactions.

22 SECTION 7. IC 27-1-25-7 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 7. All claims paid by
 24 an administrator from funds collected on behalf of an insurer shall ~~only~~
 25 be paid: ~~on~~

26 (1) ~~by drafts draft or checks check; or~~

27 (2) ~~via electronic payment;~~

28 as authorized by the insurer.

29 SECTION 8. IC 27-1-28-15, AS ADDED BY P.L.11-2011,
 30 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2020]: Sec. 15. (a) Except as provided in section 16 of this
 32 chapter **and in subsection (e)**, an individual who applies for an
 33 independent adjuster license under this chapter must pass a written
 34 examination that is:

35 (1) developed and conducted according to rules adopted by the
 36 commissioner under IC 4-22-2; and

37 (2) intended to test the knowledge of the individual concerning:

38 (A) the lines of authority in which the individual has applied
 39 for licensing under this chapter;

40 (B) the duties and responsibilities of an independent adjuster;
 41 and

42 (C) Indiana insurance law.



1 (b) The commissioner may contract with a nongovernmental entity
2 to administer the written examination required by this section.

3 (c) An individual described in subsection (a) shall remit, with the
4 application to take the written examination required by this section, a
5 nonrefundable examination fee in an amount set by the commissioner
6 or the organization administering the examination.

7 (d) If an individual:

8 (1) fails to appear for or to pass an examination; and

9 (2) desires to reschedule the examination;

10 the individual shall reapply for the written examination and remit all
11 fees and forms before scheduling an examination date.

12 **(e) An individual who holds a current claims certification issued**
13 **by a national or state claims association whose certification**
14 **program includes:**

15 **(1) a precertification course for new adjusters that is**
16 **approved by the department;**

17 **(2) an examination for new adjusters that is approved by the**
18 **department; and**

19 **(3) a continuing education program that is approved by the**
20 **department;**

21 **is not required to complete a prelicensing course described in**
22 **section 12(b)(5) of this chapter or pass a written examination**
23 **described in subsection (a) to be issued an independent adjuster**
24 **license under this chapter.**

25 SECTION 9. IC 27-1-28-16, AS ADDED BY P.L.11-2011,
26 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
27 JULY 1, 2020]: Sec. 16. (a) An individual who applies for an
28 independent adjuster license under this chapter and who:

29 (1) possesses an independent adjuster license for the same line of
30 authority in which the individual has applied for licensing under
31 this chapter in a state in which a prelicensing independent
32 adjuster licensure examination is required;

33 (2) possessed an independent adjuster license that:

34 (A) was for the same line of authority in which the individual
35 has applied for licensing under this chapter in a state in which
36 a prelicensing independent adjuster licensure examination is
37 required; and

38 (B) expired less than ninety (90) days before the date the
39 commissioner receives the application; or

40 (3) provides proof from contracting insurers that the individual
41 has participated in claims adjudication in the same line of
42 authority during the five (5) years immediately preceding the date



- 1 of application;
 2 is not required to complete a prelicensing course as described in
 3 section 12(b)(5) of this chapter or pass a written examination under
 4 section 15 of this chapter before being licensed under this chapter.
- 5 (b) An applicant who meets the criteria set forth in subsection (a)(1)
 6 or (a)(2) must provide certification from the other state that the
 7 applicant's independent adjuster license:
 8 (1) is currently in good standing; or
 9 (2) was in good standing at the time of expiration.
- 10 (c) A person:
 11 (1) ~~that~~ **who**:
 12 (†) (A) is licensed as an independent adjuster in another state
 13 where a prelicensing independent adjuster licensure
 14 examination is required;
 15 (‡) (B) establishes legal residency in Indiana; and
 16 (⊕) (C) applies for a resident independent adjuster license
 17 under this chapter less than ninety (90) days after the person
 18 establishes legal residency in Indiana; **or**
 19 (2) **who holds a current claims certification issued by a**
 20 **national or state claims association whose certification**
 21 **program includes:**
 22 (A) **a precertification course for new adjusters that is**
 23 **approved by the department;**
 24 (B) **an examination for new adjusters that is approved by**
 25 **the department; and**
 26 (C) **a continuing education program that is approved by**
 27 **the department;**
- 28 is not required to complete a prelicensing course as described in
 29 section 12(b)(5) of this chapter or pass a written examination under
 30 section 15 of this chapter before being licensed under this chapter.
- 31 SECTION 10. IC 27-1-28-19, AS ADDED BY P.L.11-2011,
 32 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2020]: Sec. 19. (a) Except as provided in subsection (b), an
 34 individual who holds a license under this chapter shall, every two (2)
 35 years, satisfactorily complete a minimum of twenty-four (24) hours of
 36 continuing education courses and report the completion of the courses
 37 to the commissioner.
- 38 (b) This section does not apply to the following:
 39 (1) An individual who is licensed for less than twelve (12) months
 40 before the end of the applicable continuing education biennium.
 41 (2) A licensed nonresident independent adjuster who has met the
 42 continuing education requirements of the licensed nonresident



1 independent adjuster's designated home state.

2 **(3) An individual holding a current claims certification if:**

3 **(A) the claims certification is issued by a national or state**
 4 **claims association whose certification program is approved**
 5 **by the department for purposes of this section;**

6 **(B) the number of hours of study required to complete the**
 7 **certification program described in clause (A) is not less**
 8 **than the number of hours of continuing education that an**
 9 **individual is required to complete every two (2) years**
 10 **under subsection (a);**

11 **(C) the content of the certification program described in**
 12 **clause (A):**

13 **(i) includes the content of the prelicensing course of**
 14 **study required by section 12(b)(5) of this chapter for the**
 15 **line of authority in which the individual has applied for**
 16 **or obtained licensing under this chapter; and**

17 **(ii) is made available for review and audit by the**
 18 **commissioner through an electronic portal maintained**
 19 **by the association;**

20 **(D) the claims association referred to in clause (A) is**
 21 **approved as a continuing education provider in Indiana;**

22 **(E) the claims association referred to in clause (A) reports**
 23 **the individual's completion of the certification program**
 24 **described in clause (A) to the commissioner through an**
 25 **electronic portal maintained by the commissioner; and**

26 **(F) the association, through an electronic portal**
 27 **maintained by the association, provides the commissioner**
 28 **access to the individual's transcript showing the**
 29 **individual's completion of the certification program**
 30 **described in clause (A).**

31 SECTION 11. IC 27-1-46 IS ADDED TO THE INDIANA CODE
 32 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2020]:

34 **Chapter 46. Coverage of Emergency Services**

35 **Sec. 1. As used in this chapter, "covered individual" means an**
 36 **individual entitled to coverage under a health insurance plan.**

37 **Sec. 2. As used in this chapter, "emergency services" has the**
 38 **meaning set forth in 45 CFR 147.138(b)(4)(ii) as in effect on**
 39 **January 1, 2020.**

40 **Sec. 3. As used in this chapter, "facility" means an institution in**
 41 **which health care services are provided to individuals. The term**
 42 **includes:**



- 1 (1) hospitals and other licensed ambulatory surgical centers;
2 and
3 (2) ambulatory outpatient surgical centers.
- 4 Sec. 4. As used in this chapter, "health insurance plan" means
5 any:
6 (1) policy of accident and sickness insurance (as described in
7 IC 27-8-5-1), whether written on an individual basis, a group
8 basis, a franchise basis, or a blanket basis or under a
9 preferred provider plan (as defined in IC 27-8-11-1); or
10 (2) group contract (as defined in IC 27-13-1-16) or individual
11 contract (as defined in IC 27-13-1-21) through which a health
12 maintenance organization furnishes health care services.
- 13 Sec. 5. As used in this chapter, "in network provider" means a
14 provider that is required under a network plan to provide health
15 care services to covered individuals at not more than a
16 preestablished rate or amount of compensation.
- 17 Sec. 6. As used in this chapter, "network plan" means a plan
18 under which providers are required by contract to provide health
19 care services to covered individuals at not more than a
20 preestablished rate or amount of compensation.
- 21 Sec. 7. For the purposes of this chapter, emergency services are
22 "provided out of network" if the provider that provides the
23 emergency services is not an in network provider with respect to
24 the network plan applying to the health insurance plan under
25 which the covered individual receiving the emergency services is
26 covered.
- 27 Sec. 8. As used in this chapter, "practitioner" means the
28 following:
29 (1) An individual licensed under IC 25 who provides
30 professional health care services to individuals in a facility.
31 (2) An organization:
32 (A) that consists of practitioners described in subdivision
33 (1); and
34 (B) through which practitioners described in subdivision
35 (1) provide health care services.
36 (3) An entity that:
37 (A) is not a facility; and
38 (B) employs practitioners described in subdivision (1) to
39 provide health care services.
- 40 Sec. 9. As used in this chapter, "provider" means:
41 (1) a facility; or
42 (2) a practitioner.



1 **Sec. 10. If a health insurance plan provides coverage of**
 2 **emergency services, the coverage must be consistent with the**
 3 **following:**

4 **(1) The coverage must not require any prior authorization**
 5 **determination, even if the emergency services are provided**
 6 **out of network.**

7 **(2) The coverage must be provided without regard to whether**
 8 **the provider furnishing the emergency services is an in**
 9 **network provider.**

10 **(3) If the emergency services are provided out of network, the**
 11 **coverage must not impose any administrative requirement or**
 12 **limitation on coverage that is more restrictive than the**
 13 **requirements or limitations that apply under the health**
 14 **insurance plan to emergency services received from in**
 15 **network providers.**

16 **(4) A covered individual who receives emergency services**
 17 **provided out of network shall not be required to pay more for**
 18 **the emergency services than:**

19 **(A) the amount of compensation that would be allowed**
 20 **according to the preestablished rate or amount of**
 21 **compensation established by the network plan for**
 22 **emergency services that are:**

- 23 **(i) of the type provided to the covered individual; and**
- 24 **(ii) provided by an in network provider of the same type**
 25 **as the provider that provided the emergency services to**
 26 **the covered individual; minus**

27 **(B) any copayment, deductible, or coinsurance amounts**
 28 **applicable to the emergency services under the coverage**
 29 **provided to the covered individual by the health insurance**
 30 **plan.**

31 **SECTION 12. IC 27-2-27 IS ADDED TO THE INDIANA CODE**
 32 **AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE**
 33 **JULY 1, 2020]:**

34 **Chapter 27. Insurance Data Security**

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

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

- 38 **(1) known to and screened by a licensee; and**
- 39 **(2) determined to be necessary and appropriate to have access**
 40 **to the nonpublic information held by the licensee and its**
 41 **information systems.**

42 **Sec. 3. As used in this chapter, "commissioner" refers to the**



1 insurance commissioner appointed under IC 27-1-1-2.

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

5 Sec. 5. As used in this chapter, "cybersecurity event" means an
6 event resulting in unauthorized access to or a disruption or misuse
7 of an information system or nonpublic information stored on the
8 information system. However, the term does not include the
9 following:

10 (1) The unauthorized acquisition of encrypted nonpublic
11 information if the encryption, process, or key is not also
12 acquired, released, or used without authorization.

13 (2) An event in which a licensee has determined that the
14 nonpublic information accessed by an unauthorized person
15 has not been used or released and has been returned or
16 destroyed.

17 Sec. 6. As used in this chapter, "department" means the
18 department of insurance created by IC 27-1-1-1.

19 Sec. 7. As used in this chapter, "encrypted" means the
20 transformation of data into a form that results in a low probability
21 of assigning meaning without the use of a protective process or key.

22 Sec. 8. As used in this chapter, "information security program"
23 means the administrative, technical, and physical safeguards that
24 a licensee uses to access, collect, distribute, process, protect, store,
25 use, transmit, dispose of, or otherwise handle nonpublic
26 information.

27 Sec. 9. As used in this chapter, "information system" means
28 either of the following:

29 (1) A discrete set of electronic information resources
30 organized for the collection, processing, maintenance, use,
31 sharing, dissemination, or disposition of nonpublic
32 information.

33 (2) Any specialized system, such as industrial or process
34 control systems, telephone switching systems, private
35 exchange systems, and environmental control systems.

36 Sec. 10. (a) As used in this chapter, "licensee" means a person
37 that is:

38 (1) licensed, authorized to operate, or registered; or

39 (2) required to be licensed, authorized to operate, or
40 registered;

41 under this title and the rules adopted under this title.

42 (b) The term does not include any of the following:



1 (1) A purchasing group or risk retention group that is
2 chartered and licensed in another state.

3 (2) A person that is:

4 (A) acting as an assuming insurer; and

5 (B) domiciled in a state or jurisdiction other than Indiana.

6 (3) An insurance agency that has less than twenty-five (25)
7 employees.

8 Sec. 11. As used in this chapter, "multi-factor authentication"
9 means authentication through verification of at least two (2) of the
10 following types of authentication factors:

11 (1) Knowledge factors, such as a password.

12 (2) Possession factors, such as a token or text message on a
13 mobile phone.

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

15 Sec. 12. As used in this chapter, "nonpublic information" means
16 electronic information that is not publicly available information
17 and is described in either of the following subdivisions:

18 (1) Any information concerning a consumer, which because of
19 name, number, personal mark, or other identifier can be used,
20 in combination with any one (1) or more of the following data
21 elements, to identify the consumer:

22 (A) Social Security number.

23 (B) Driver's license number or nondriver identification
24 card number.

25 (C) Financial account number, credit card number, or
26 debit card number.

27 (D) Any security code, access code, or password that would
28 permit access to a consumer's financial account.

29 (E) Biometric records.

30 (2) Any information or data, except age or gender, in any
31 form or medium created by or derived from a health care
32 provider or a consumer that can be used to identify a
33 consumer and relates to:

34 (A) the past, present, or future physical, mental, or
35 behavioral health or condition of the consumer or a
36 member of the consumer's family;

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

38 (C) payment for the provision of health care provided to
39 the consumer.

40 Sec. 13. As used in this chapter, "publicly available
41 information" means any information that a licensee has a
42 reasonable basis to believe is lawfully made available to the general



- 1 public from:
- 2 (1) federal, state, or local government records;
- 3 (2) widely distributed media; or
- 4 (3) disclosures to the general public that are required to be
- 5 made by federal, state, or local law.
- 6 Sec. 14. As used in this chapter, "risk assessment" means the
- 7 assessment a licensee is required to conduct under section 17 of this
- 8 chapter.
- 9 Sec. 15. As used in this chapter, "third party service provider"
- 10 means a person that contracts with a licensee to maintain, process,
- 11 store, or otherwise is permitted access to nonpublic information
- 12 through its provision of services to the licensee.
- 13 Sec. 16. (a) A licensee shall develop, implement, and maintain a
- 14 comprehensive, written information security program that:
- 15 (1) is based on the risk assessment required under section 17
- 16 of this chapter; and
- 17 (2) contains administrative, technical, and physical safeguards
- 18 for the protection of nonpublic information and the licensee's
- 19 information systems.
- 20 (b) An information security program must accomplish the
- 21 following:
- 22 (1) Protect the security and confidentiality of nonpublic
- 23 information and information systems.
- 24 (2) Protect against any threats or hazards to the security or
- 25 integrity of nonpublic information and information systems.
- 26 (3) Protect against unauthorized access to or use of nonpublic
- 27 information and minimize the likelihood of harm to a
- 28 consumer.
- 29 (4) Define and periodically reevaluate a schedule for retention
- 30 of nonpublic information and a procedure for its destruction
- 31 when no longer needed.
- 32 Sec. 17. A licensee shall conduct a risk assessment of its
- 33 information systems and treatment of nonpublic information by
- 34 doing the following:
- 35 (1) Designating one (1) or more employees, an affiliate, or an
- 36 outside vendor designated to act on behalf of the licensee
- 37 information security program.
- 38 (2) Identifying reasonably foreseeable internal or external
- 39 threats that could result in a cybersecurity event, including
- 40 threats to information systems and nonpublic information
- 41 held or accessed by third party service providers.
- 42 (3) Assessing the likelihood and potential damage of the



1 threats identified in subdivision (2), taking into consideration
2 the sensitivity of the nonpublic information.

3 (4) Assessing the sufficiency of the policies, procedures,
4 information systems, and other safeguards currently in place
5 to manage the threats identified in subdivision (2), including
6 an assessment of threats in each relevant area of the licensee's
7 operations, including the following:

8 (A) Employee training and management.

9 (B) Information systems, including network and software
10 design, and information classification, governance,
11 processing, storage, transmission, and disposal.

12 (C) Procedures for detecting, preventing, and responding
13 to cybersecurity events or other systems failures.

14 (5) Implementing information safeguards to manage the
15 threats identified under subdivision (2), and assessing the
16 effectiveness of the safeguards' key controls, systems, and
17 procedures at least one (1) time each year.

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

20 (1) Design its information security program to mitigate the
21 identified risks, commensurate with:

22 (A) the licensee's size and complexity;

23 (B) the nature and scope of the licensee's activities; and

24 (C) the sensitivity of the nonpublic information in the
25 licensee's control.

26 (2) Determine and implement appropriate security measures,
27 which may include the following:

28 (A) Placing access controls on information systems,
29 including controls to authenticate and permit only
30 authorized individuals to have access to nonpublic
31 information.

32 (B) Identifying and managing the data, personnel, devices,
33 systems, and facilities that enable the licensee to achieve
34 business purposes in accordance with their relative
35 importance to business objectives and risk strategy.

36 (C) Restricting physical access to nonpublic information to
37 authorized individuals only.

38 (D) Protecting by encryption or other appropriate means
39 all nonpublic information while being transmitted over an
40 external network and all nonpublic information stored on
41 a laptop computer or other portable computing or storage
42 device or media.



- 1 (E) Adopting secure development practices for in-house
 2 developed applications used by the licensee.
 3 (F) Modifying information systems in accordance with the
 4 licensee's information security program.
 5 (G) Using effective controls, which may include
 6 multi-factor authentication procedures for any employees
 7 accessing nonpublic information.
 8 (H) Regularly testing and monitoring systems and
 9 procedures to detect actual and attempted attacks on, or
 10 intrusions into, information systems.
 11 (I) Including audit trails within the information security
 12 program designed to detect and respond to a cybersecurity
 13 event and designed to reconstruct material financial
 14 transactions sufficient to support normal operations and
 15 obligations of the licensee.
 16 (J) Implementing measures to protect against destruction,
 17 loss, or damage of nonpublic information due to
 18 environmental hazards, such as fire and water damage or
 19 other catastrophes or technological failures.
 20 (K) Developing, implementing, and maintaining
 21 procedures for the secure disposal of nonpublic
 22 information in any format.
 23 (3) Include cybersecurity risks in the licensee's enterprise risk
 24 management process.
 25 (4) Stay informed regarding emerging threats or
 26 vulnerabilities.
 27 (5) Use reasonable security measures when sharing
 28 information, relative to the character of the sharing and the
 29 type of information shared.
 30 (6) Provide personnel with cybersecurity awareness training
 31 that is updated as necessary to reflect risks identified in the
 32 risk assessment.
 33 Sec. 19. (a) If the licensee has a board of directors, the board of
 34 directors shall require the licensee's executive management or its
 35 delegates to develop, implement, and maintain the licensee's
 36 information security program.
 37 (b) If the licensee's executive management delegates any of its
 38 responsibilities under this section, it shall:
 39 (1) oversee the development, implementation, and
 40 maintenance of the licensee's information security program
 41 prepared by the delegate; and
 42 (2) receive a report from the delegate concerning:



- 1 **(A) the overall status of the information security program;**
 2 **(B) the licensee's compliance with this chapter; and**
 3 **(C) material matters related to the information security**
 4 **program addressing such issues as:**
 5 **(i) risk assessment;**
 6 **(ii) risk management and control decisions;**
 7 **(iii) third party service provider arrangements;**
 8 **(iv) results of testing;**
 9 **(v) cybersecurity events and management's responses to**
 10 **cybersecurity events; and**
 11 **(vi) recommendations for changes in the information**
 12 **security program.**

13 **Sec. 20. (a) As part of its information security program, a**
 14 **licensee shall establish a written incident response plan designed to**
 15 **promptly respond to, and recover from, any cybersecurity event.**

16 **(b) An incident response plan must include the following:**

- 17 **(1) The internal process for responding to a cybersecurity**
 18 **event.**
 19 **(2) The goals of the incident response plan.**
 20 **(3) The definition of clear roles, responsibilities, and levels of**
 21 **decision making authority.**
 22 **(4) External and internal communications and information**
 23 **sharing.**
 24 **(5) Identification of requirements for the remediation of any**
 25 **identified weaknesses in information systems and associated**
 26 **controls.**
 27 **(6) Documentation and reporting regarding cybersecurity**
 28 **events and related incident response activities.**
 29 **(7) The evaluation and revision, as necessary, of the incident**
 30 **response plan.**

31 **(c) Annually, not later than April 15, each insurer domiciled in**
 32 **Indiana shall submit to the commissioner a written statement**
 33 **certifying that the insurer is in compliance with the requirements**
 34 **set forth in sections 16 through 19 of this chapter and this section.**
 35 **Each insurer shall maintain for examination by the department all**
 36 **records, schedules, and data supporting this certificate for a period**
 37 **of five (5) years. To the extent an insurer has identified areas,**
 38 **systems, or processes that require material improvement,**
 39 **updating, or redesign, the insurer shall document the identification**
 40 **of the areas, systems, or processes and the remedial efforts planned**
 41 **and underway to address the areas, systems, or processes. The**
 42 **documentation must be available for inspection by the**



1 commissioner.

2 **Sec. 21. (a) If a licensee learns that a cybersecurity event has or**
 3 **may have occurred, the licensee, or an outside vendor or service**
 4 **provider designated to act on the licensee's behalf, shall conduct a**
 5 **prompt investigation. During the investigation, the licensee or**
 6 **outside vendor or service provider designated to act on the**
 7 **licensee's behalf shall:**

8 (1) **determine:**

9 (A) **whether a cybersecurity event has occurred;**

10 (B) **if so, the nature and scope of the cybersecurity event;**

11 **and**

12 (C) **whether any nonpublic information may have been**
 13 **involved in the cybersecurity event; and**

14 (2) **perform or oversee reasonable measures to restore the**
 15 **security of the information systems compromised in the**
 16 **cybersecurity event in order to prevent further unauthorized**
 17 **acquisition, release, or use of nonpublic information in the**
 18 **licensee's possession, custody, or control.**

19 (b) **A licensee shall maintain records concerning all**
 20 **cybersecurity events for at least five (5) years after the date of the**
 21 **cybersecurity event. A licensee shall produce these records upon**
 22 **demand of the commissioner.**

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

28 (1) **Indiana is the licensee's state of domicile, if the licensee is**
 29 **an insurer, or the licensee's home state, if the licensee is a**
 30 **producer, and the cybersecurity event has a reasonable**
 31 **likelihood of materially harming a consumer residing in**
 32 **Indiana or materially harming any material part of the**
 33 **normal operations of the licensee.**

34 (2) **The licensee reasonably believes that the nonpublic**
 35 **information of at least two hundred fifty (250) consumers**
 36 **residing in Indiana was affected by the cybersecurity event**
 37 **and that the cybersecurity event is either of the following:**

38 (A) **A cybersecurity event impacting the licensee of which**
 39 **notice is required to be provided by any other state,**
 40 **federal, or local law.**

41 (B) **A cybersecurity event that has a reasonable likelihood**
 42 **of materially harming:**



- 1 (i) a consumer residing in Indiana; or
 2 (ii) any material part of the normal operations of the
 3 licensee.

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

- 8 (1) The date of the cybersecurity event.
 9 (2) A description of how the information was exposed, lost,
 10 stolen, or breached, including the specific roles and
 11 responsibilities of any third party service providers.
 12 (3) How the cybersecurity event was discovered.
 13 (4) Whether any lost, stolen, or breached information has
 14 been recovered and, if so, how this was done.
 15 (5) The identity of the source of the cybersecurity event.
 16 (6) Whether the licensee has filed a police report or has
 17 notified any regulatory, government, or law enforcement
 18 agencies and, if so, when the notification was provided.
 19 (7) A description of the specific types of information acquired
 20 without authorization. Specific types of information means
 21 particular data elements including, for example, types of
 22 medical information, types of financial information, or types
 23 of information allowing identification of the consumer.
 24 (8) The period during which the information system was
 25 compromised by the cybersecurity event.
 26 (9) The total number of consumers in Indiana affected by the
 27 cybersecurity event. The licensee shall provide the best
 28 estimate in the initial report to the commissioner and update
 29 this estimate with each subsequent report to the commissioner
 30 under this section.
 31 (10) The results of any internal review:
 32 (A) identifying a lapse in either automated controls or
 33 internal procedures; or
 34 (B) confirming that all automated controls or internal
 35 procedures were followed.
 36 (11) A description of efforts being undertaken to remediate
 37 the situation that permitted the cybersecurity event to occur.
 38 (12) A copy of the licensee's privacy policy and a statement
 39 outlining the steps the licensee will take to investigate and
 40 notify consumers affected by the cybersecurity event.
 41 (13) The name of a contact person who is both familiar with
 42 the cybersecurity event and authorized to act for the licensee.



1 (e) The licensee has a continuing obligation to update and
 2 supplement initial and subsequent notifications to the
 3 commissioner regarding material changes to previously provided
 4 information relating to the cybersecurity event.

5 (f) A licensee shall comply with IC 24-4.9, as applicable, and
 6 provide a copy of the notice sent to consumers under IC 24-4.9 to
 7 the commissioner if the licensee is required to notify the
 8 commissioner under subsection (c).

9 (g) Nothing in this chapter abrogates or prevents an agreement
 10 between a licensee and:

- 11 (1) another licensee;
- 12 (2) a third party service provider; or
- 13 (3) any other party;

14 to fulfill any investigation requirements imposed under subsection
 15 (a) or notice requirements imposed under subsections (c) through
 16 (f).

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

- 19 (1) is used by a licensee acting as an assuming insurer; or
- 20 (2) is in the possession, custody, or control of a licensee that:
 - 21 (A) is acting as an assuming insurer; and
 - 22 (B) does not have a direct contractual relationship with the
 - 23 affected consumers;

24 the assuming insurer shall notify its affected ceding insurers and
 25 the commissioner of its state of domicile within three (3) business
 26 days after making the determination that a cybersecurity event has
 27 occurred and the ceding insurers that have a direct contractual
 28 relationship with affected consumers shall fulfill the consumer
 29 notification requirements imposed under IC 24-4.9 and any other
 30 notification requirements relating to a cybersecurity event imposed
 31 under section 21(c) through 21(f) of this chapter.

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

- 35 (1) the assuming insurer shall notify its affected ceding
 36 insurers and the commissioner of its state of domicile within
 37 three (3) business days after receiving notice from its third
 38 party service provider that a cybersecurity event has
 39 occurred; and
- 40 (2) the ceding insurers that have a direct contractual
 41 relationship with affected consumers shall fulfill the consumer
 42 notification requirements imposed under IC 24-4.9 and any



1 other notification requirements relating to a cybersecurity
 2 event imposed under section 21(c) through 21(f) of this
 3 chapter.

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

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

9 (1) that involves nonpublic information:

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

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

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

16 the insurer shall notify the producers of record of all affected
 17 consumers of the cybersecurity event not later than the time at
 18 which notice is provided to the affected consumers.

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

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

24 (2) in those instances in which the insurer does not have the
 25 current producer of record information for an individual
 26 consumer.

27 **Sec. 24. (a) The commissioner may examine and investigate into**
 28 **the affairs of any licensee to determine whether the licensee has**
 29 **been or is engaged in any conduct in violation of this chapter. This**
 30 **power is in addition to the other powers the commissioner has**
 31 **under this title. Any investigation or examination of a licensee**
 32 **under this section shall be conducted pursuant to IC 27-1.**

33 (b) Whenever the commissioner has reason to believe that a
 34 licensee has been or is engaged in conduct in Indiana that violates
 35 this chapter, the commissioner may take action that is necessary or
 36 appropriate to enforce this chapter.

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

39 (1) furnished by a licensee or an employee or agent acting on
 40 behalf of a licensee under section 20(c), 21(d)(2) through
 41 21(d)(5), 21(d)(8), or 21(d)(10) through 21(d)(11) of this
 42 chapter; or



1 (2) obtained by the commissioner in an investigation or
2 examination under section 24 of this chapter;
3 are confidential by law and privileged, are not subject to IC 5-14-3,
4 are not subject to subpoena, and are not subject to discovery or
5 admissible in evidence in any private civil action. However, the
6 commissioner is authorized to use the documents, materials, or
7 other information in the furtherance of any regulatory or legal
8 action brought as a part of the commissioner's duties. The
9 commissioner shall not otherwise make the documents, materials,
10 or other information public without the prior written consent of
11 the licensee.

12 (b) Neither the commissioner nor any person who received
13 documents, materials, or other information while acting under the
14 authority of the commissioner shall be permitted or required to
15 testify in any private civil action concerning any confidential
16 documents, materials, or information subject to subsection (a).

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

19 (1) may share documents, materials, or other information,
20 including the confidential and privileged documents,
21 materials, or information subject to subsection (a), with other
22 state, federal, and international regulatory agencies, with the
23 NAIC and its affiliates or subsidiaries, and with state, federal,
24 and international law enforcement authorities, provided that
25 the recipient agrees in writing to maintain the confidentiality
26 and privileged status of the document, material, or other
27 information;

28 (2) may receive documents, materials, or information,
29 including otherwise confidential and privileged documents,
30 materials, or information, from the NAIC and its affiliates or
31 subsidiaries and from regulatory and law enforcement
32 officials of other foreign or domestic jurisdictions, and shall
33 maintain as confidential or privileged any document,
34 material, or information received with notice or the
35 understanding that it is confidential or privileged under the
36 laws of the jurisdiction that is the source of the document,
37 material, or information;

38 (3) may share documents, materials, or other information
39 subject to subsection (a), with a third party consultant or
40 vendor provided the consultant or vendor agrees in writing to
41 maintain the confidentiality and privileged status of the
42 document, material, or other information; and



- 1 **(4) may enter into agreements governing sharing and use of**
 2 **information consistent with this subsection.**
- 3 **(d) No waiver of any applicable privilege or claim of**
 4 **confidentiality in the documents, materials, or information shall**
 5 **occur as a result of disclosure to the commissioner under this**
 6 **section or as a result of sharing as authorized in subsection (c).**
- 7 **(e) Nothing in this chapter prohibits the commissioner from**
 8 **releasing final, adjudicated actions that are open to public**
 9 **inspection under IC 5-14-3 to a data base or other clearinghouse**
 10 **service maintained by the NAIC, its affiliates, or subsidiaries.**
- 11 **(f) Documents, materials, or other information in the possession**
 12 **or control of the NAIC or a third party consultant or vendor under**
 13 **this chapter shall be confidential by law and privileged, shall not**
 14 **be subject to IC 5-14-3, shall not be subject to subpoena, and shall**
 15 **not be subject to discovery or admissible in evidence in any private**
 16 **civil action.**
- 17 **Sec. 26. (a) A licensee is exempt from sections 16 through 20 of**
 18 **this chapter if the licensee has:**
- 19 **(1) fewer than ten (10) employees, including any independent**
 20 **contractors;**
- 21 **(2) less than five million dollars (\$5,000,000) in gross annual**
 22 **revenue, or**
- 23 **(3) less than ten million dollars (\$10,000,000) in year-end total**
 24 **assets.**
- 25 **(b) A licensee that:**
- 26 **(1) is subject to the federal Health Insurance Portability and**
 27 **Accountability Act (Pub.L. 104–191, 110 Stat. 1936, enacted**
 28 **August 21, 1996); and**
- 29 **(2) has established and maintains an information security**
 30 **program pursuant to that federal act and the regulations,**
 31 **procedures, or guidelines established under that act;**
- 32 **will be considered as meeting the requirements of sections 16**
 33 **through 20 of this chapter if the licensee is compliant with, and**
 34 **submits a written statement certifying its compliance with, that act.**
- 35 **(c) An individual who:**
- 36 **(1) is an employee, agent, representative, or designee of a**
 37 **licensee; and**
- 38 **(2) is also a licensee;**
- 39 **is exempt from sections 16 through 20 of this chapter and need not**
 40 **develop the individual's own information security program to the**
 41 **extent that the individual is covered by the information security**
 42 **program of the licensee of which the individual is an employee,**



1 agent, representative, or designee.

2 (d) A licensee shall be considered to have complied with sections
3 16 through 20 of this chapter if:

4 (1) the licensee is affiliated with a depository institution that
5 maintains an information security program in compliance
6 with the Interagency Guidelines Establishing Standards for
7 Safeguarding Customer Information adopted under Sections
8 501 and 505(b) of the Gramm-Leach-Bliley Act (15 U.S.C.
9 6801 and 6805(b)); and

10 (2) upon request, the licensee produces documentation
11 satisfactory to the commissioner that independently validates
12 the depository institution's adoption of an information
13 security program that satisfies the Guidelines referred to in
14 subdivision (1).

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

20 Sec. 27. If a licensee violates this chapter, the insurance
21 commissioner may, after notice and hearing under IC 4-21.5,
22 suspend or revoke the license, certificate of authority, or
23 registration of the licensee.

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

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

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

31 (1) data security;

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

33 (3) notification to the insurance commissioner concerning a
34 cybersecurity event.

35 SECTION 13. IC 27-6-10 IS REPEALED [EFFECTIVE JULY 1,
36 2020]. (Credit for Reinsurance).

37 SECTION 14. IC 27-6-10.1 IS ADDED TO THE INDIANA CODE
38 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
39 JULY 1, 2020]:

40 **Chapter 10.1. Credit for Reinsurance**

41 Sec. 1. (a) The purpose of this chapter is to protect the interest
42 of insureds, claimants, ceding insurers, assuming insurers, and the



1 public generally.

2 (b) The general assembly declares that its intent is to ensure
3 adequate regulation of insurers and reinsurers and adequate
4 protection for those to whom they owe obligations. In furtherance
5 of that state interest, the general assembly provides a mandate that
6 upon the insolvency of a non-U.S. insurer or reinsurer that
7 provides security to fund its U.S. obligations in accordance with
8 this chapter, the assets representing the security shall be
9 maintained in the United States and claims shall be filed with and
10 valued by the state insurance commissioner with regulatory
11 oversight, and the assets shall be distributed, in accordance with
12 the insurance laws of the state in which the trust is domiciled that
13 are applicable to the liquidation of domestic U.S. insurance
14 companies.

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

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

37 A. Credit shall be allowed when the reinsurance is ceded to an
38 assuming insurer that is licensed to transact insurance or
39 reinsurance in Indiana.

40 B. Credit shall be allowed when the reinsurance is ceded to an
41 assuming insurer that is accredited by the insurance
42 commissioner as a reinsurer in Indiana. In order to be eligible



- 1 for accreditation, a reinsurer must:
- 2 (1) file with the insurance commissioner evidence of its
- 3 submission to Indiana's jurisdiction;
- 4 (2) submit to Indiana's authority to examine its books and
- 5 records;
- 6 (3) be licensed to transact insurance or reinsurance in at least
- 7 one (1) state, or in the case of a U.S. branch of an alien
- 8 assuming insurer, be entered through and licensed to transact
- 9 insurance or reinsurance in at least one (1) state;
- 10 (4) file annually with the insurance commissioner a copy of its
- 11 annual statement filed with the insurance department of its
- 12 state of domicile and a copy of its most recent audited
- 13 financial statement; and
- 14 (5) demonstrate to the satisfaction of the insurance
- 15 commissioner that it has adequate financial capacity to meet
- 16 its reinsurance obligations and is otherwise qualified to
- 17 assume reinsurance from domestic insurers. An assuming
- 18 insurer is deemed to meet this requirement as of the time of
- 19 its application if it maintains a surplus as regards
- 20 policyholders in an amount not less than twenty million
- 21 dollars (\$20,000,000) and its accreditation has not been denied
- 22 by the insurance commissioner within ninety (90) days after
- 23 submission of its application.
- 24 C. (1) Credit shall be allowed when the reinsurance is ceded
- 25 to an assuming insurer that is domiciled in, or in the case of a
- 26 U.S. branch of an alien assuming insurer is entered through,
- 27 a state that employs standards regarding credit for
- 28 reinsurance substantially similar to those applicable under
- 29 this statute and the assuming insurer or U.S. branch of an
- 30 alien assuming insurer:
- 31 (a) maintains a surplus as regards policyholders in an
- 32 amount not less than twenty million dollars (\$20,000,000);
- 33 and
- 34 (b) submits to the authority of Indiana to examine its books
- 35 and records.
- 36 (2) The requirement of Paragraph (1)(a) of this subsection
- 37 does not apply to reinsurance ceded and assumed pursuant to
- 38 pooling arrangements among insurers in the same holding
- 39 company system.
- 40 D. (1) Credit shall be allowed when the reinsurance is ceded
- 41 to an assuming insurer that maintains a trust fund in a
- 42 qualified U.S. financial institution, as defined in Section 4B of



1 this chapter, for the payment of the valid claims of its U.S.
 2 ceding insurers, their assigns, and successors in interest. To
 3 enable the insurance commissioner to determine the
 4 sufficiency of the trust fund, the assuming insurer shall report
 5 annually to the insurance commissioner information
 6 substantially the same as that required to be reported on the
 7 NAIC Annual Statement form by licensed insurers. The
 8 assuming insurer shall submit to examination of its books and
 9 records by the insurance commissioner and bear the expense
 10 of examination.

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

14 (i) the insurance commissioner of the state where the
 15 trust is domiciled; or

16 (ii) the insurance commissioner of another state who,
 17 pursuant to the terms of the trust instrument, has
 18 accepted principal regulatory oversight of the trust.

19 (b) The form of the trust and any trust amendments also
 20 shall be filed with the insurance commissioner of every
 21 state in which the ceding insurer beneficiaries of the trust
 22 are domiciled. The trust instrument shall provide that
 23 contested claims shall be valid and enforceable upon the
 24 final order of any court of competent jurisdiction in the
 25 United States. The trust shall vest legal title to its assets in
 26 its trustees for the benefit of the assuming insurer's U.S.
 27 ceding insurers, their assigns, and successors in interest.
 28 The trust and the assuming insurer shall be subject to
 29 examination as determined by the insurance commissioner.

30 (c) The trust shall remain in effect for as long as the
 31 assuming insurer has outstanding obligations due under
 32 the reinsurance agreements subject to the trust. No later
 33 than February 28 of each year the trustee of the trust shall
 34 report to the insurance commissioner in writing the
 35 balance of the trust, provide a listing of the trust's
 36 investments at the preceding year end, and certify the date
 37 of termination of the trust, if so planned, or certify that the
 38 trust will not expire prior to the following December 31.

39 (3) The following requirements apply to the following
 40 categories of assuming insurer:

41 (a) The trust fund for a single assuming insurer shall
 42 consist of funds in trust in an amount not less than the



1 assuming insurer's liabilities attributable to reinsurance
2 ceded by U.S. ceding insurers, and, in addition, the
3 assuming insurer shall maintain a trusteed surplus of not
4 less than twenty million dollars (\$20,000,000), except as
5 provided in Paragraph 3(b) of this subsection.

6 (b) At any time after the assuming insurer has
7 permanently discontinued underwriting new business
8 secured by the trust for at least three (3) full years, the
9 insurance commissioner with principal regulatory
10 oversight of the trust may authorize a reduction in the
11 required trusteed surplus, but only after a finding, based
12 on an assessment of the risk, that the new required surplus
13 level is adequate for the protection of U.S. ceding insurers,
14 policyholders, and claimants in light of reasonably
15 foreseeable adverse loss development. The risk assessment
16 may involve an actuarial review, including an independent
17 analysis of reserves and cash flows, and shall consider all
18 material risk factors, including when applicable the lines
19 of business involved, the stability of the incurred loss
20 estimates and the effect of the surplus requirements on the
21 assuming insurer's liquidity or solvency. The minimum
22 required trusteed surplus may not be reduced to an
23 amount less than thirty percent (30%) of the assuming
24 insurer's liabilities attributable to reinsurance ceded by
25 U.S. ceding insurers covered by the trust.

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

28 (I) for reinsurance ceded under reinsurance agreements
29 with an inception, amendment, or renewal date on or
30 after January 1, 1993, the trust shall consist of a trusteed
31 account in an amount not less than the respective
32 underwriters' several liabilities attributable to business
33 ceded by U.S. domiciled ceding insurers to any
34 underwriter of the group;

35 (II) for reinsurance ceded under reinsurance agreements
36 with an inception date on or before December 31, 1992,
37 and not amended or renewed after that date,
38 notwithstanding the other provisions of this chapter, the
39 trust shall consist of a trusteed account in an amount not
40 less than the respective underwriters' several insurance
41 and reinsurance liabilities attributable to business
42 written in the United States; and



1 (III) in addition to these trusts, the group shall maintain
2 in trust a trusted surplus of which one hundred million
3 dollars (\$100,000,000) shall be held jointly for the benefit
4 of the U.S. domiciled ceding insurers of any member of
5 the group for all years of account; and

6 (ii) the incorporated members of the group shall not be
7 engaged in any business other than underwriting as a
8 member of the group and shall be subject to the same
9 level of regulation and solvency control by the group's
10 domiciliary regulator as are the unincorporated
11 members; and

12 (iii) within ninety (90) days after its financial statements
13 are due to be filed with the group's domiciliary
14 regulator, the group shall provide to the insurance
15 commissioner an annual certification by the group's
16 domiciliary regulator of the solvency of each
17 underwriter member; or if a certification is unavailable,
18 financial statements, prepared by independent public
19 accountants, of each underwriter member of the group.

20 (d) In the case of a group of incorporated underwriters
21 under common administration, the group shall:

22 (i) have continuously transacted an insurance business
23 outside the United States for at least three (3) years
24 immediately prior to making application for
25 accreditation;

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

28 (iii) maintain a trust fund in an amount not less than the
29 group's several liabilities attributable to business ceded
30 by U.S. domiciled ceding insurers to any member of the
31 group pursuant to reinsurance contracts issued in the
32 name of the group;

33 (iv) in addition, maintain a joint trusted surplus of
34 which one hundred million dollars (\$100,000,000) shall
35 be held jointly for the benefit of U.S. domiciled ceding
36 insurers of any member of the group as additional
37 security for these liabilities; and

38 (v) within ninety (90) days after its financial statements
39 are due to be filed with the group's domiciliary
40 regulator, make available to the insurance commissioner
41 an annual certification of each underwriter member's
42 solvency by the member's domiciliary regulator and



- 1 financial statements of each underwriter member of the
 2 group prepared by its independent public accountant.
- 3 **E. Credit shall be allowed when the reinsurance is ceded to an**
 4 **assuming insurer that has been certified by the insurance**
 5 **commissioner as a reinsurer in Indiana and secures its**
 6 **obligations in accordance with the requirements of this**
 7 **subsection.**
- 8 **(1) In order to be eligible for certification, the assuming**
 9 **insurer shall meet all of the following requirements:**
- 10 **(a) The assuming insurer must be domiciled and licensed**
 11 **to transact insurance or reinsurance in a qualified**
 12 **jurisdiction, as determined by the insurance commissioner**
 13 **pursuant to Paragraph (3) of this subsection.**
- 14 **(b) The assuming insurer must maintain minimum capital**
 15 **and surplus, or its equivalent, in an amount to be**
 16 **determined by the insurance commissioner pursuant to**
 17 **regulation.**
- 18 **(c) The assuming insurer must maintain financial strength**
 19 **ratings from two (2) or more rating agencies deemed**
 20 **acceptable by the insurance commissioner pursuant to**
 21 **regulation.**
- 22 **(d) The assuming insurer must agree to submit to the**
 23 **jurisdiction of Indiana, appoint the insurance**
 24 **commissioner as its agent for service of process in Indiana,**
 25 **and agree to provide security for one hundred percent**
 26 **(100%) of the assuming insurer's liabilities attributable to**
 27 **reinsurance ceded by U.S. ceding insurers if it resists**
 28 **enforcement of a final U.S. judgment.**
- 29 **(e) The assuming insurer must agree to meet applicable**
 30 **information filing requirements as determined by the**
 31 **insurance commissioner, both with respect to an initial**
 32 **application for certification and on an ongoing basis.**
- 33 **(f) The assuming insurer must satisfy any other**
 34 **requirements for certification deemed relevant by the**
 35 **insurance commissioner.**
- 36 **(2) An association including incorporated and individual**
 37 **unincorporated underwriters may be a certified reinsurer. In**
 38 **order to be eligible for certification, in addition to satisfying**
 39 **requirements of Paragraph (1) of this subsection:**
- 40 **(a) the association shall satisfy its minimum capital and**
 41 **surplus requirements through the capital and surplus**
 42 **equivalents (net of liabilities) of the association and its**



- 1 members, which shall include a joint central fund that may
 2 be applied to any unsatisfied obligation of the association
 3 or any of its members, in an amount determined by the
 4 insurance commissioner to provide adequate protection;
 5 (b) the incorporated members of the association shall not
 6 be engaged in any business other than underwriting as a
 7 member of the association and shall be subject to the same
 8 level of regulation and solvency control by the association's
 9 domiciliary regulator as are the unincorporated members;
 10 and
 11 (c) within ninety (90) days after its financial statements are
 12 due to be filed with the association's domiciliary regulator,
 13 the association shall provide to the insurance commissioner
 14 an annual certification by the association's domiciliary
 15 regulator of the solvency of each underwriter member; or
 16 if a certification is unavailable, financial statements,
 17 prepared by independent public accountants, of each
 18 underwriter member of the association.
- 19 (3) The insurance commissioner shall create and publish a list
 20 of qualified jurisdictions, under which an assuming insurer
 21 licensed and domiciled in such jurisdiction is eligible to be
 22 considered for certification by the insurance commissioner as
 23 a certified reinsurer.
- 24 (a) In order to determine whether the domiciliary
 25 jurisdiction of a non-U.S. assuming insurer is eligible to be
 26 recognized as a qualified jurisdiction, the insurance
 27 commissioner shall evaluate the appropriateness and
 28 effectiveness of the reinsurance supervisory system of the
 29 jurisdiction, both initially and on an ongoing basis, and
 30 consider the rights, benefits and the extent of reciprocal
 31 recognition afforded by the non-U.S. jurisdiction to
 32 reinsurers licensed and domiciled in the U.S. A qualified
 33 jurisdiction must agree to share information and cooperate
 34 with the insurance commissioner with respect to all
 35 certified reinsurers domiciled within that jurisdiction. A
 36 jurisdiction may not be recognized as a qualified
 37 jurisdiction if the insurance commissioner has determined
 38 that the jurisdiction does not adequately and promptly
 39 enforce final U.S. judgments and arbitration awards.
 40 Additional factors may be considered in the discretion of
 41 the insurance commissioner.
 42 (b) A list of qualified jurisdictions shall be published



1 through the NAIC Committee Process. The insurance
2 commissioner shall consider this list in determining
3 qualified jurisdictions. If the insurance commissioner
4 approves a jurisdiction as qualified that does not appear
5 on the list of qualified jurisdictions, the commissioner shall
6 provide thoroughly documented justification in accordance
7 with criteria to be developed under regulations.

8 (c) U.S. jurisdictions that meet the requirement for
9 accreditation under the NAIC financial standards and
10 accreditation program shall be recognized as qualified
11 jurisdictions.

12 (d) If a certified reinsurer's domiciliary jurisdiction ceases
13 to be a qualified jurisdiction, the insurance commissioner
14 has the discretion to suspend the reinsurer's certification
15 indefinitely, in lieu of revocation.

16 (4) The insurance commissioner shall assign a rating to each
17 certified reinsurer, giving due consideration to the financial
18 strength ratings that have been assigned by rating agencies
19 deemed acceptable to the insurance commissioner pursuant
20 to regulation. The insurance commissioner shall publish a list
21 of all certified reinsurers and their ratings.

22 (5) A certified reinsurer shall secure obligations assumed
23 from U.S. ceding insurers under this subsection at a level
24 consistent with its rating, as specified in regulations
25 promulgated by the insurance commissioner.

26 (a) In order for a domestic ceding insurer to qualify for full
27 financial statement credit for reinsurance ceded to a
28 certified reinsurer, the certified reinsurer shall maintain
29 security in a form acceptable to the insurance
30 commissioner and consistent with the provisions of Section
31 3 of this chapter, or in a multibeneficiary trust in
32 accordance with Subsection D, except as otherwise
33 provided in this subsection.

34 (b) If a certified reinsurer maintains a trust to fully secure
35 its obligations subject to Subsection D, and chooses to
36 secure its obligations incurred as a certified reinsurer in
37 the form of a multibeneficiary trust, the certified reinsurer
38 shall maintain separate trust accounts for its obligations
39 incurred under reinsurance agreements issued or renewed
40 as a certified reinsurer with reduced security as permitted
41 by this subsection or comparable laws of other U.S.
42 jurisdictions and for its obligations subject to Subsection



- 1 **D. It shall be a condition to the grant of certification under**
2 **this subsection that the certified reinsurer shall have**
3 **bound itself, by the language of the trust and agreement**
4 **with the insurance commissioner with principal regulatory**
5 **oversight of each such trust account, to fund, upon**
6 **termination of any such trust account, out of the remaining**
7 **surplus of such trust any deficiency of any other such trust**
8 **account.**
- 9 **(c) The minimum trustee surplus requirements provided**
10 **in Subsection D are not applicable with respect to a**
11 **multibeneficiary trust maintained by a certified reinsurer**
12 **for the purpose of securing obligations incurred under this**
13 **subsection, except that such trust shall maintain a**
14 **minimum trustee surplus of ten million dollars**
15 **(\$10,000,000).**
- 16 **(d) With respect to obligations incurred by a certified**
17 **reinsurer under this subsection, if the security is**
18 **insufficient, the insurance commissioner shall reduce the**
19 **allowable credit by an amount proportionate to the**
20 **deficiency, and has the discretion to impose further**
21 **reductions in allowable credit upon finding that there is a**
22 **material risk that the certified reinsurer's obligations will**
23 **not be paid in full when due.**
- 24 **(e) For purposes of this subsection, a certified reinsurer**
25 **whose certification has been terminated for any reason**
26 **shall be treated as a certified reinsurer required to secure**
27 **one hundred percent (100%) of its obligations.**
- 28 **(i) As used in this subsection, the term "terminated"**
29 **refers to revocation, suspension, voluntary surrender,**
30 **and inactive status.**
- 31 **(ii) If the insurance commissioner continues to assign a**
32 **higher rating as permitted by other provisions of this**
33 **section, this requirement does not apply to a certified**
34 **reinsurer in inactive status or to a reinsurer whose**
35 **certification has been suspended.**
- 36 **(6) If an applicant for certification has been certified as a**
37 **reinsurer in an NAIC accredited jurisdiction, the insurance**
38 **commissioner has the discretion to defer to that jurisdiction's**
39 **certification, and has the discretion to defer to the rating**
40 **assigned by that jurisdiction, and such assuming insurer shall**
41 **be considered to be a certified reinsurer in Indiana.**
- 42 **(7) A certified reinsurer that ceases to assume new business in**



1 **Indiana may request to maintain its certification in inactive**
 2 **status in order to continue to qualify for a reduction in**
 3 **security for its in force business. An inactive certified**
 4 **reinsurer shall continue to comply with all applicable**
 5 **requirements of this subsection, and the insurance**
 6 **commissioner shall assign a rating that takes into account, if**
 7 **relevant, the reasons why the reinsurer is not assuming new**
 8 **business.**

9 **F. (1) Credit shall be allowed when the reinsurance is ceded to**
 10 **an assuming insurer meeting each of the conditions set forth**
 11 **below.**

12 **(a) The assuming insurer must have its head office or be**
 13 **domiciled in, as applicable, and be licensed in a Reciprocal**
 14 **Jurisdiction. A "Reciprocal Jurisdiction" is a jurisdiction**
 15 **that meets one (1) of the following:**

16 **(i) A non-U.S. jurisdiction that is subject to an in force**
 17 **covered agreement with the United States, each within**
 18 **its legal authority, or, in the case of a covered agreement**
 19 **between the United States and European Union, is a**
 20 **member state of the European Union. For purposes of**
 21 **this subsection, a "covered agreement" is an agreement**
 22 **entered into pursuant to Dodd-Frank Wall Street**
 23 **Reform and Consumer Protection Act, 31 U.S.C. 313 and**
 24 **31 U.S.C 314, that is currently in effect or in a period of**
 25 **provisional application and addresses the elimination,**
 26 **under specified conditions, of collateral requirements as**
 27 **a condition for entering into any reinsurance agreement**
 28 **with a ceding insurer domiciled in Indiana or for**
 29 **allowing the ceding insurer to recognize credit for**
 30 **reinsurance.**

31 **(ii) A U.S. jurisdiction that meets the requirements for**
 32 **accreditation under the NAIC financial standards and**
 33 **accreditation program.**

34 **(iii) A qualified jurisdiction, as determined by the**
 35 **insurance commissioner pursuant to Subsection E(3),**
 36 **which is not otherwise described in Subparagraphs (a)(i)**
 37 **or (a)(ii) and which meets certain additional**
 38 **requirements, consistent with the terms and conditions**
 39 **of in force covered agreements, as specified by the**
 40 **insurance commissioner in regulation.**

41 **(b) The assuming insurer must have and maintain, on an**
 42 **ongoing basis, minimum capital and surplus, or its**



1 equivalent, calculated according to the methodology of its
2 domiciliary jurisdiction, in an amount to be set forth in
3 regulation. If the assuming insurer is an association,
4 including incorporated and individual unincorporated
5 underwriters, it must have and maintain, on an ongoing
6 basis, minimum capital and surplus equivalents (net of
7 liabilities), calculated according to the methodology
8 applicable in its domiciliary jurisdiction, and a central
9 fund containing a balance in amounts to be set forth in
10 regulation.

11 (c) The assuming insurer must have and maintain, on an
12 ongoing basis, a minimum solvency or capital ratio, as
13 applicable, which will be set forth in regulation. If the
14 assuming insurer is an association, including incorporated
15 and individual unincorporated underwriters, it must have
16 and maintain, on an ongoing basis, a minimum solvency or
17 capital ratio in the Reciprocal Jurisdiction where the
18 assuming insurer has its head office or is domiciled, as
19 applicable, and is also licensed.

20 (d) The assuming insurer must agree and provide adequate
21 assurance to the insurance commissioner, in a form
22 specified by the insurance commissioner pursuant to
23 regulation, as follows:

24 (i) The assuming insurer must provide prompt written
25 notice and explanation to the insurance commissioner if
26 it falls below the minimum requirements set forth in
27 Subparagraph (b) or (c) of this section, or if any
28 regulatory action is taken against it for serious
29 noncompliance with applicable law.

30 (ii) The assuming insurer must consent in writing to the
31 jurisdiction of the courts of Indiana and to the
32 appointment of the insurance commissioner as agent for
33 service of process. The insurance commissioner may
34 require that consent for service of process be provided to
35 the insurance commissioner and included in each
36 reinsurance agreement. Nothing in this provision shall
37 limit, or in any way alter, the capacity of parties to a
38 reinsurance agreement to agree to alternative dispute
39 resolution mechanisms, except to the extent such
40 agreements are unenforceable under applicable
41 insolvency or delinquency laws.

42 (iii) The assuming insurer must consent in writing to pay



1 all final judgments, wherever enforcement is sought,
2 obtained by a ceding insurer or its legal successor, that
3 have been declared enforceable in the jurisdiction where
4 the judgment was obtained.

5 (iv) Each reinsurance agreement must include a
6 provision requiring the assuming insurer to provide
7 security in an amount equal to one hundred percent
8 (100%) of the assuming insurer's liabilities attributable
9 to reinsurance ceded pursuant to that agreement if the
10 assuming insurer resists enforcement of a final judgment
11 that is enforceable under the law of the jurisdiction in
12 which it was obtained or a properly enforceable
13 arbitration award, whether obtained by the ceding
14 insurer or by its legal successor on behalf of its
15 resolution estate.

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

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

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

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



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



1 assuming insurer no longer meets one (1) or more of the
 2 requirements under this subsection, the insurance
 3 commissioner may revoke or suspend the eligibility of the
 4 assuming insurer for recognition under this subsection in
 5 accordance with procedures set forth in regulation.

6 (a) While an assuming insurer's eligibility is suspended, no
 7 reinsurance agreement issued, amended, or renewed after
 8 the effective date of the suspension qualifies for credit
 9 except to the extent that the assuming insurer's obligations
 10 under the contract are secured in accordance with Section
 11 3 of this chapter.

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

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

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

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

40 (a) This paragraph does not alter or impair a ceding
 41 insurer's right to take credit for reinsurance, to the extent
 42 that credit is not available under this subsection, as long as



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



1 an amount less than the amount required by Subsection D(3),
2 or if the grantor of the trust has been declared insolvent or
3 placed into receivership, rehabilitation, liquidation, or similar
4 proceedings under the laws of its state or country of domicile,
5 the trustee shall comply with an order of the insurance
6 commissioner with regulatory oversight over the trust or with
7 an order of a court of competent jurisdiction directing the
8 trustee to transfer to the insurance commissioner with
9 regulatory oversight all of the assets of the trust fund.

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

15 (3) If the insurance commissioner with regulatory oversight
16 determines that the assets of the trust fund or any part thereof
17 are not necessary to satisfy the claims of the U.S. ceding
18 insurers of the grantor of the trust, the assets or part thereof
19 shall be returned by the insurance commissioner with
20 regulatory oversight to the trustee for distribution in
21 accordance with the trust agreement.

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

24 J. If an accredited or certified reinsurer ceases to meet the
25 requirements for accreditation or certification, the insurance
26 commissioner may suspend or revoke the reinsurer's
27 accreditation or certification.

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

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

33 (b) the insurance commissioner's order is based on
34 regulatory action by the reinsurer's domiciliary
35 jurisdiction or the voluntary surrender or termination of
36 the reinsurer's eligibility to transact insurance or
37 reinsurance business in its domiciliary jurisdiction or in
38 the primary certifying state of the reinsurer under
39 Subsection E(6); or

40 (c) the insurance commissioner finds that an emergency
41 requires immediate action and a court of competent
42 jurisdiction has not stayed the insurance commissioner's



1 **action.**
2 **(2) While a reinsurer's accreditation or certification is**
3 **suspended, no reinsurance contract issued or renewed after**
4 **the effective date of the suspension qualifies for credit except**
5 **to the extent that the reinsurer's obligations under the**
6 **contract are secured in accordance with Section 3 of this**
7 **chapter. If a reinsurer's accreditation or certification is**
8 **revoked, no credit for reinsurance may be granted after the**
9 **effective date of the revocation except to the extent that the**
10 **reinsurer's obligations under the contract are secured in**
11 **accordance with Subsection E(5) or Section 3 of this chapter.**
12 **K. Concentration Risk.**
13 **(1) A ceding insurer shall take steps to manage its reinsurance**
14 **recoverables proportionate to its own book of business. A**
15 **domestic ceding insurer shall notify the insurance**
16 **commissioner within thirty (30) days after reinsurance**
17 **recoverables from any single assuming insurer, or group of**
18 **affiliated assuming insurers, exceeds fifty percent (50%) of**
19 **the domestic ceding insurer's last reported surplus to**
20 **policyholders, or after it is determined that reinsurance**
21 **recoverables from any single assuming insurer, or group of**
22 **affiliated assuming insurers, is likely to exceed this limit. The**
23 **notification shall demonstrate that the exposure is safely**
24 **managed by the domestic ceding insurer.**
25 **(2) A ceding insurer shall take steps to diversify its**
26 **reinsurance program. A domestic ceding insurer shall notify**
27 **the insurance commissioner within thirty (30) days after**
28 **ceding to any single assuming insurer, or group of affiliated**
29 **assuming insurers, more than twenty percent (20%) of the**
30 **ceding insurer's gross written premium in the prior calendar**
31 **year, or after it has determined that the reinsurance ceded to**
32 **any single assuming insurer, or group of affiliated assuming**
33 **insurers, is likely to exceed this limit. The notification shall**
34 **demonstrate that the exposure is safely managed by the**
35 **domestic ceding insurer.**
36 **Sec. 3. Asset or Reduction from Liability for Reinsurance Ceded**
37 **by a Domestic Insurer to an Assuming Insurer not Meeting the**
38 **Requirements of Section 2 of this chapter. An asset or a reduction**
39 **from liability for the reinsurance ceded by a domestic insurer to an**
40 **assuming insurer not meeting the requirements of Section 2 of this**
41 **chapter shall be allowed in an amount not exceeding the liabilities**
42 **carried by the ceding insurer; provided further, that the insurance**



1 commissioner may adopt by regulation pursuant to Section 5B of
 2 this chapter specific additional requirements relating to or setting
 3 forth: (1) the valuation of assets or reserve credits; (2) the amount
 4 and forms of security supporting reinsurance arrangements
 5 described in Section 5B of this chapter; and/or (3) the
 6 circumstances pursuant to which credit will be reduced or
 7 eliminated. The reduction shall be in the amount of funds held by
 8 or on behalf of the ceding insurer, including funds held in trust for
 9 the ceding insurer, under a reinsurance contract with the assuming
 10 insurer as security for the payment of obligations thereunder, if the
 11 security is held in the United States subject to withdrawal solely by,
 12 and under the exclusive control of, the ceding insurer; or, in the
 13 case of a trust, held in a qualified U.S. financial institution, as
 14 defined in Section 4B of this chapter. This security may be in the
 15 form of:

16 A. cash;

17 B. securities listed by the Securities Valuation Office of the
 18 NAIC, including those deemed exempt from filing as defined
 19 by the Purposes and Procedures Manual of the Securities
 20 Valuation Office, and qualifying as admitted assets;

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

27 (2) letters of credit meeting applicable standards of issuer
 28 acceptability as of the dates of their issuance (or
 29 confirmation) shall, notwithstanding the issuing (or
 30 confirming) institution's subsequent failure to meet applicable
 31 standards of issuer acceptability, continue to be acceptable as
 32 security until their expiration, extension, renewal,
 33 modification, or amendment, whichever first occurs; or

34 D. Any other form of security acceptable to the insurance
 35 commissioner.

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

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

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

42 (2) is regulated, supervised, and examined by U.S. federal or



1 state authorities having regulatory authority over banks and
2 trust companies; and

3 (3) has been determined by either the commissioner or the
4 Securities Valuation Office of the NAIC to meet such
5 standards of financial condition and standing as are
6 considered necessary and appropriate to regulate the quality
7 of financial institutions whose letters of credit will be
8 acceptable to the commissioner.

9 B. A "qualified U.S. financial institution" means, for purposes
10 of those provisions of this chapter specifying those institutions
11 that are eligible to act as a fiduciary of a trust, an institution
12 that:

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

17 (2) is regulated, supervised and examined by federal or state
18 authorities having regulatory authority over banks and trust
19 companies.

20 **Sec. 5. Rules and Regulations.**

21 A. The insurance commissioner may adopt rules and
22 regulations under IC 4-22-2 implementing the provisions of
23 this chapter.

24 B. The insurance commissioner is further authorized to adopt
25 rules and regulations under IC 4-22-2 applicable to
26 reinsurance arrangements described in Paragraph (1) of this
27 subsection.

28 (1) A regulation adopted pursuant to this subsection may
29 apply only to reinsurance relating to:

30 (a) life insurance policies with guaranteed nonlevel gross
31 premiums or guaranteed nonlevel benefits;

32 (b) universal life insurance policies with provisions
33 resulting in the ability of a policyholder to keep a policy in
34 force over a secondary guarantee period;

35 (c) variable annuities with guaranteed death or living
36 benefits;

37 (d) long term care insurance policies; or

38 (e) such other life and health insurance and annuity
39 products as to which the NAIC adopts model regulatory
40 requirements with respect to credit for reinsurance.

41 (2) A regulation adopted pursuant to Paragraph 1(a) or 1(b)
42 of this subsection may apply to any treaty containing: (i)



1 policies issued on or after January 1, 2015; and/or (ii) policies
 2 issued prior to January 1, 2015, if risk pertaining to such
 3 pre-2015 policies is ceded in connection with the treaty, in
 4 whole or in part, on or after January 1, 2015.

5 (3) A regulation adopted pursuant to this subsection may
 6 require the ceding insurer, in calculating the amounts or
 7 forms of security required to be held under regulations
 8 promulgated under this authority, to use the Valuation
 9 Manual adopted by the NAIC under Section 11B(1) of the
 10 NAIC Standard Valuation Law, including all amendments
 11 adopted by the NAIC and in effect on the date as of which the
 12 calculation is made, to the extent applicable.

13 (4) A regulation adopted pursuant to this subsection shall not
 14 apply to cessions to an assuming insurer that:

15 (a) meets the conditions set forth in Section 2F of this
 16 chapter in Indiana;

17 (b) is certified in Indiana; or

18 (c) maintains at least two hundred fifty million dollars
 19 (\$250,000,000) in capital and surplus when determined in
 20 accordance with the NAIC Accounting Practices and
 21 Procedures Manual, including all amendments thereto
 22 adopted by the NAIC, excluding the impact of any
 23 permitted or prescribed practices; and is:

24 (i) licensed in at least twenty-six (26) states; or

25 (ii) licensed in at least ten (10) states, and licensed or
 26 accredited in a total of at least thirty-five (35) states.

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

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

35 SECTION 15. IC 27-7-5-2, AS AMENDED BY P.L.208-2018,
 36 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2020]: Sec. 2. (a) Except as provided in subsections (d), (f),
 38 and (h), the insurer shall make available, in each automobile liability
 39 or motor vehicle liability policy of insurance which is delivered or
 40 issued for delivery in this state with respect to any motor vehicle
 41 registered or principally garaged in this state, insuring against loss
 42 resulting from liability imposed by law for bodily injury or death



1 suffered by any person and for injury to or destruction of property to
 2 others arising from the ownership, maintenance, or use of a motor
 3 vehicle, or in a supplement to such a policy, the following types of
 4 coverage:

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

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

23 The uninsured and underinsured motorist coverages must be provided
 24 by insurers for either a single premium or for separate premiums, in
 25 limits at least equal to the limits of liability specified in the bodily
 26 injury liability provisions of an insured's policy, unless such coverages
 27 have been rejected in writing by the insured. However, underinsured
 28 motorist coverage must be made available in limits of not less than fifty
 29 thousand dollars (\$50,000). At the insurer's option, the bodily injury
 30 liability provisions of the insured's policy may be required to be equal
 31 to the insured's underinsured motorist coverage. Insurers may not sell
 32 or provide underinsured motorist coverage in an amount less than fifty
 33 thousand dollars (\$50,000). Insurers must make underinsured motorist
 34 coverage available to all existing policyholders on the date of the first
 35 renewal of existing policies that occurs on or after January 1, 1995, and
 36 on any policies newly issued or delivered on or after January 1, 1995.
 37 Uninsured motorist coverage or underinsured motorist coverage may
 38 be offered by an insurer in an amount exceeding the limits of liability
 39 specified in the bodily injury and property damage liability provisions
 40 of the insured's policy.

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



- 1 (1) reject both the uninsured motorist coverage and the
 2 underinsured motorist coverage provided for in this section; or
 3 (2) reject either the uninsured motorist coverage alone or the
 4 underinsured motorist coverage alone, if the insurer provides the
 5 coverage not rejected separately from the coverage rejected.

6 A rejection of coverage under this subsection by a named insured is a
 7 rejection on behalf of all other named insureds, all other insureds, and
 8 all other persons entitled to coverage under the policy. No insured may
 9 have uninsured motorist property damage liability insurance coverage
 10 under this section unless the insured also has uninsured motorist bodily
 11 injury liability insurance coverage under this section. Following
 12 rejection of either or both uninsured motorist coverage or underinsured
 13 motorist coverage, unless later requested in writing, the insurer need
 14 not offer uninsured motorist coverage or underinsured motorist
 15 coverage in or supplemental to a renewal or replacement policy issued
 16 to the same insured by the same insurer or a subsidiary or an affiliate
 17 of the originally issuing insurer. Renewals of policies issued or
 18 delivered in this state which have undergone interim policy
 19 endorsement or amendment do not constitute newly issued or delivered
 20 policies for which the insurer is required to provide the coverages
 21 described in this section.

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

- 23 (1) that the named insured is rejecting:
 24 (A) the uninsured motorist coverage;
 25 (B) the underinsured motorist coverage; or
 26 (C) both the uninsured motorist coverage and the underinsured
 27 motorist coverage;
 28 that would otherwise be provided under the policy; and
 29 (2) the date on which the rejection is effective.

30 (d) The following apply to the coverage described in subsection (a)
 31 in connection with a commercial umbrella or excess liability policy,
 32 including a commercial umbrella or excess liability policy that is issued
 33 or delivered to a motor carrier (as defined in IC 8-2.1-17-10) that is in
 34 compliance with the minimum levels of financial responsibility set
 35 forth in 49 CFR Part 387:

- 36 (1) An insurer is not required to make available in a commercial
 37 umbrella or excess liability policy the coverage described in
 38 subsection (a).
 39 (2) An insurer that, through a rider or an endorsement, reduces or
 40 removes from a commercial umbrella or excess liability policy the
 41 coverage described in subsection (a) shall:
 42 (A) through the United States mail; or



- 1 (B) by electronic means;
 2 provide to the named insured written notice of the reduction or
 3 removal.
 4 (3) An insurer that makes available in a commercial umbrella or
 5 excess liability policy the coverage described in subsection (a):
 6 (A) may make available the coverage in limits determined by
 7 the insurer; and
 8 (B) is not required to make available the coverage in limits
 9 equal to the limits specified in the commercial umbrella or
 10 excess liability policy.
 11 (e) A rejection under subsection (b) of uninsured motorist coverage
 12 or underinsured motorist coverage in an underlying commercial policy
 13 of insurance is also a rejection of uninsured motorist coverage or
 14 underinsured motorist coverage in a commercial umbrella or excess
 15 liability policy.
 16 (f) An insurer is not required to make available the coverage
 17 described in subsection (a) in connection with coverage that:
 18 (1) is related to or included in a commercial policy of property
 19 and casualty insurance described in Class 2 or Class 3 of
 20 IC 27-1-5-1; and
 21 (2) covers a loss related to a motor vehicle:
 22 (A) of which the insured is not the owner; and
 23 (B) that is used:
 24 (i) by the insured or an agent of the insured; and
 25 (ii) for purposes authorized by the insured.
 26 (g) For purposes of subsection (f), "owner" means:
 27 (1) a person who holds the legal title to a motor vehicle;
 28 (2) a person who rents or leases a motor vehicle and has exclusive
 29 use of the motor vehicle for more than thirty (30) days;
 30 (3) the conditional vendee or lessee under an agreement for the
 31 conditional sale or lease of a motor vehicle; or
 32 (4) the mortgagor under an agreement for the conditional sale or
 33 lease of a motor vehicle under which the mortgagor has:
 34 (A) the right to purchase; and
 35 (B) an immediate right of possession of;
 36 the motor vehicle upon the performance of the conditions stated
 37 in the agreement.
 38 (h) The following apply to the coverage described in subsection (a)
 39 in relation to a personal umbrella or excess liability policy:
 40 (1) An insurer is not required to make available the coverage
 41 described in subsection (a) under a personal umbrella or excess
 42 liability policy.



1 (2) An insurer that reduces or removes, through a rider or an
 2 endorsement, coverage described in subsection (a) under a
 3 personal umbrella or excess liability policy shall:

4 (A) through the United States mail; or

5 (B) by electronic means;

6 provide to the named insured written notice of the reduction or
 7 removal.

8 (3) An insurer that makes available the coverage described in
 9 subsection (a) under a personal umbrella or excess liability
 10 policy:

11 (A) may make available the coverage in limits determined by
 12 the insurer; and

13 (B) is not required to make available the coverage in limits
 14 equal to the limits specified in the personal umbrella or excess
 15 liability policy.

16 **(4) A rejection under subsection (b) of uninsured motorist**
 17 **coverage or underinsured motorist coverage in an underlying**
 18 **personal policy of insurance is also a rejection of uninsured**
 19 **motorist coverage or underinsured motorist coverage in a**
 20 **personal umbrella or excess liability policy.**

21 SECTION 16. IC 27-13-4-1 IS AMENDED TO READ AS
 22 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 1. (a) Subject to section
 23 3 of this chapter, the powers of a health maintenance organization
 24 include the following:

25 (1) The purchase, lease, construction, renovation, operation, or
 26 maintenance of:

27 (A) hospitals and medical facilities;

28 (B) equipment for hospitals and medical facilities; and

29 (C) other property reasonably required for the principal office
 30 of the health maintenance organization or for purposes
 31 necessary in the transaction of the business of the organization.

32 (2) Engaging in transactions between affiliated entities, including
 33 loans and the transfer of responsibility under any or all contracts:

34 (A) between affiliates; or

35 (B) between the health maintenance organization and the
 36 parent organization of the health maintenance organization.

37 (3) The furnishing of health care services through:

38 (A) providers;

39 (B) provider associations; and

40 (C) agents for providers;

41 who are under contract with or are employed by the health
 42 maintenance organization. The contracts with providers, provider



- 1 associations, or agents of providers may include fee for service,
 2 cost plus, capitation, or other payment or risk-sharing
 3 arrangements.
- 4 (4) Contracting with any person for the performance on behalf of
 5 the health maintenance organization of certain functions,
 6 including:
- 7 (A) marketing;
 8 (B) enrollment; and
 9 (C) administration.
- 10 (5) Contracting with:
- 11 (A) an insurance company licensed in Indiana;
 12 (B) an authorized reinsurer; or
 13 (C) a hospital authorized to conduct business in Indiana;
 14 for the provision of insurance, indemnity, or reimbursement
 15 against the cost of health care services provided by the health
 16 maintenance organization.
- 17 (6) The offering of point-of-service products.
- 18 (7) The joint marketing of products with:
- 19 (A) an insurance company that is licensed in Indiana; or
 20 (B) a hospital that is authorized to conduct business in Indiana;
 21 if the company that is offering each product is clearly identified.
- 22 (8) Administration of the provision of health care services at the
 23 expense of a self-funded plan.
- 24 (b) A health maintenance organization may offer any of the
 25 following:
- 26 (1) Plans that include only basic health care services.
 27 (2) Plans that include basic health care services and other health
 28 care services.
 29 (3) Plans that include health care services other than basic health
 30 care services so long as at least one (1) of the plans offered by the
 31 health maintenance organization includes basic health care
 32 services.
- 33 (c) Notwithstanding subsection (a)(5), a health maintenance
 34 organization may not take credit for reinsurance unless the risk is ceded
 35 to a reinsurer qualified under ~~IC 27-6-10~~: **IC 27-6-10.1**.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred House Bill 1372, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-10-8-2.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 2.8. (a) This section:**

(1) applies to local unit public employers and their employees; and

(2) does not apply to public safety employees, surviving spouses, and dependents covered by section 2.2 of this chapter.

(b) A local unit public employer may do the following:

(1) Establish and maintain an individual self-insurance program to provide authorized health care benefits, including:

(A) health care;

(B) prescription drugs;

(C) dental care; and

(D) vision care;

for employees and officers of the local unit.

(2) Establish and maintain a health savings account program under which employees and officers of the local unit may establish and maintain health savings accounts in accordance with Section 223 of the Internal Revenue Code.

A health savings account program established under subdivision (2) may be a part of a self-insurance program established under subdivision (1).

(c) A local unit may use public funds (as defined in IC 5-22-2-23) to:

(1) pay for or fund federally qualified high deductible health plans that are linked to health savings accounts established under subsection (b)(2); or

(2) make contributions to health savings accounts established under subsection (b)(2).

(d) Two (2) or more local units that have established individual self-insurance programs under subsection (b) may agree for their individual self-insurance programs to be administered jointly in a manner specified in the agreement between the local units.

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(e) Two (2) or more local units may, under a written agreement between the local units, establish and maintain a joint self-insurance program.

(f) Two (2) or more local units, under a written agreement between the local units, may do the following:

(1) Purchase or contract for the services of providers of medical or health services for employees and officers of the local units.

(2) Purchase policies, enter into contracts, and establish plans of insurance to provide health care benefits for employees and officers of the local units, which may include a health savings account program described in subsection (b)(2).

(g) A local unit public employer may use any of the programs, contracts, policies, or plans authorized under subsections (b) through (f) in any combination.

(h) Any agreement entered into by local units under subsection (d), (e), (f), or (g) must:

(1) be in writing;

(2) comply with the requirements of section 2.9 of this chapter; and

(3) incorporate best practices established in consultation with and approved by the department of administration.

The best practices to be incorporated under subdivision (3) may be reviewed and amended by the local units in consultation with the department of administration. A local unit that enters into an agreement under subsection (d), (e), (f), or (g) shall provide detailed information about the best practices incorporated under subdivision (3) to any employee of the local unit upon the employee's request.

SECTION 2. IC 5-10-8-2.9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 2.9. (a) This section:

(1) applies to local unit public employers and their employees; and

(2) does not apply to public safety employees, surviving spouses, and dependents covered by section 2.2 of this chapter.

(b) The following apply to a self-insurance program established under section 2.8 of this chapter, whether established by a single local unit or by two (2) or more local units acting jointly under section 2.8(e) of this chapter:

(1) The local unit or local units shall reserve for purposes of



the individual self-insurance program an amount of public funds (as defined in IC 5-22-2-23) necessary, in the exercise of sound and prudent actuarial judgment, to cover the potential cost of health care benefits for the officers and employees of the local unit who are provided benefits under the individual self-insurance program.

(2) A local unit shall keep the public funds reserved under subdivision (1) in a special fund established by the local unit or its administrator.

(3) Within ninety (90) days after the last day of each fiscal year of a local unit, the local unit shall issue a financial statement and report concerning the individual self-insurance program that sets forth:

(A) the aggregate amounts reserved under subdivision (1);

(B) the aggregate disbursements made from the funds reserved under subdivision (1);

(C) a written report of a member of the American Academy of Actuaries certifying whether the amounts reserved under subdivision (1):

(i) conform to the requirements of subdivision (1);

(ii) are computed in accordance with accepted loss reserving standards; and

(iii) are fairly stated in accordance with sound loss reserving principles; and

(D) the aggregate of disbursements made for the administration of the individual self-insurance program, including:

(i) claims paid;

(ii) the costs of the legal representation of the local unit or local units; and

(iii) fees paid to consultants.

(4) A financial statement and report issued under subdivision (3) must be:

(A) made available for inspection and copying under IC 5-14-3; and

(B) provided to the auditor of state.

(c) A local unit may allocate the costs of:

(1) an individual self-insurance program established under section 2.8 of this chapter;

(2) insurance purchased under section 2.6 or 2.8 of this chapter; or

(3) both an individual self-insurance program and insurance;



among the funds or accounts established under this section on the basis of relative exposure and loss experience.

(d) A local unit may, without competitive bidding, award a contract to any person for purposes of the administration of an individual self-insurance program established under section 2.8 of this chapter by a single local unit or by two (2) or more local units acting jointly. Before a contract is entered into under this subsection, there must be full, prior, public disclosure of all terms and conditions of the contract, including:

(1) a statement listing all representations made in connection with any possible:

(A) savings; and

(B) losses;

resulting from the contract; and

(2) the potential liability of any local unit or employee of a local unit under the contract;

at a meeting of the executive (as defined in IC 36-1-2-5) of the local unit held not less than one (1) week before the meeting at which the executive of the local unit authorizes the contract.

(e) A local unit that establishes an individual self-insurance program under section 2.8 of this chapter or two (2) or more local units that jointly establish an individual self-insurance program under section 2.8(e) of this chapter shall enter into a contract with a certified public accountant and a member of the American Academy of Actuaries for the preparation of the written report required by subsection (b)(3)(C).

(f) A local unit that establishes an individual self-insurance program under section 2.8 of this chapter may allocate the costs of funding the program among the funds or accounts established under this section.

(g) Two (2) or more local units that jointly establish a self-insurance program under section 2.8(e) of this chapter may allocate the costs of funding the program among the funds or accounts that are established by the local units under this section on the basis of the relative exposure and loss experience of the local units.

(h) Two (2) or more local units may authorize the establishment and maintenance of a joint health care cost containment program that includes the employment of:

(1) risk managers or an administrator;

(2) health care cost containment specialists; and

(3) consultants;



for the purpose of preventing and reducing health care costs covered under section 2.6 or 2.8 of this chapter or this section by insurance, an individual self-insurance program, or a joint self-insurance program.

(i) A local unit that, with one (1) or more other local units, jointly establishes a self-insurance program under section 2.8(e) of this chapter is not liable in connection with the joint self-insurance program for any amount exceeding the amounts payable under the written agreement under which the joint self-insurance program was established. A local unit that enters into a written agreement establishing a joint self-insurance program under section 2.8(e) of this chapter may, to the extent permitted under the written agreement, assume the risks of any other local unit. A joint self-insurance program established under section 2.8(e) of this chapter:

(1) is deemed a separate legal entity for the public purpose of enabling the local units to obtain insurance or to provide for a formalized, jointly administered self-insurance fund providing coverage for the officers and employees of the local units of the joint self-insurance program; and

(2) is exempt from all state and local taxes.

(j) A local unit:

(1) may issue:

(A) general obligation bonds; or

(B) special obligation bonds that are not payable from real or personal property taxes; and

(2) may also issue notes in anticipation of bonds issued under subdivision (1);

pursuant to an ordinance or resolution of the legislative body (as defined in IC 36-1-2-9) of the local unit for the purpose of providing funds to pay expenses associated with the settlement of claims, whether by way of a reserve or otherwise, and to pay the local unit's portion of the cost of establishing and maintaining an individual self-insurance program or joint self-insurance program or to provide for the reserve in the special fund authorized by subsection (b)(2).

(k) A joint self-insurance program established under section 2.8(e) of this chapter is not an insurance company. The operation of a joint self-insurance program established under section 2.8(e) of this chapter does not constitute engaging in an insurance business and is not subject to IC 27 or the rules adopted under IC 27.



(l) If:

- (1) a local unit terminates its participation in a joint self-insurance program established under section 2.8(e) of this chapter; and**
- (2) the local unit has accumulated funds in the reserves of the joint self-insurance program for incurred but not reported claims;**

the joint self-insurance program shall pay the run-off expenses of the local unit terminating its participation in the joint self-insurance program. The run-off payment, at minimum, shall be limited to an actuarially determined cap or sixty (60) days, whichever is reached first. However, this subsection does not apply during the term of a specific, separate agreement under which the local unit is entitled to maintain its participation in the joint self-insurance program for a specified period, which may not exceed three (3) years.

(m) A local unit may, under section 2.6 of this chapter, procure group life insurance for its officers and employees in conjunction with providing coverage under an individual self-insurance program or joint self-insurance program under section 2.8 of this chapter and this section. However, a local unit may not provide group life insurance on a self-insured basis under this subsection.

SECTION 3. IC 16-31-1-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 4. (a) As used in this section, "covered individual" means an individual who is entitled to be provided health care services at a cost established according to a network plan.

(b) As used in this section, "facility" means an institution in which health care services are provided to individuals. The term includes:

- (1) hospitals and other licensed ambulatory surgical centers; and**
- (2) ambulatory outpatient surgical centers.**

(c) As used in this section, "in network facility" means a facility that is required under a network plan to provide health care services to covered individuals at not more than a preestablished rate or amount of compensation.

(d) As used in this section, "network plan" means a plan under which providers of health care services are required by contract to provide health care services to covered individuals at not more than a preestablished rate or amount of compensation.

(e) A provider of ambulance service that transports a covered



individual in an ambulance:

- (1) to an in network facility; or**
- (2) from an in network facility to a facility that is not an in network facility;**

shall not charge more for the transportation of the covered individual than the amount allowed by the maximum rate or amount established for ambulance transportation by the network plan applying to the covered individual's coverage, regardless of whether the provider of ambulance service to the covered individual is a party to the network plan."

Page 37, between lines 18 and 19, begin a new paragraph and insert:

"SECTION 7. IC 27-1-25-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 7. All claims paid by an administrator from funds collected on behalf of an insurer shall ~~only~~ be paid: ~~on~~

- (1) by ~~drafts draft~~ or ~~checks check~~; or**
- (2) via electronic payment;**

as authorized by the insurer.

SECTION 8. IC 27-1-28-15, AS ADDED BY P.L.11-2011, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 15. (a) Except as provided in section 16 of this chapter **and in subsection (e)**, an individual who applies for an independent adjuster license under this chapter must pass a written examination that is:

- (1) developed and conducted according to rules adopted by the commissioner under IC 4-22-2; and
- (2) intended to test the knowledge of the individual concerning:
 - (A) the lines of authority in which the individual has applied for licensing under this chapter;
 - (B) the duties and responsibilities of an independent adjuster; and
 - (C) Indiana insurance law.

(b) The commissioner may contract with a nongovernmental entity to administer the written examination required by this section.

(c) An individual described in subsection (a) shall remit, with the application to take the written examination required by this section, a nonrefundable examination fee in an amount set by the commissioner or the organization administering the examination.

(d) If an individual:

- (1) fails to appear for or to pass an examination; and
- (2) desires to reschedule the examination;

the individual shall reapply for the written examination and remit all



fees and forms before scheduling an examination date.

(e) An individual who holds a current claims certification issued by a national or state claims association whose certification program includes:

- (1) a precertification course for new adjusters that is approved by the department;**
- (2) an examination for new adjusters that is approved by the department; and**
- (3) a continuing education program that is approved by the department;**

is not required to complete a prelicensing course described in section 12(b)(5) of this chapter or pass a written examination described in subsection (a) to be issued an independent adjuster license under this chapter.

SECTION 9. IC 27-1-28-16, AS ADDED BY P.L.11-2011, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 16. (a) An individual who applies for an independent adjuster license under this chapter and who:

- (1) possesses an independent adjuster license for the same line of authority in which the individual has applied for licensing under this chapter in a state in which a prelicensing independent adjuster licensure examination is required;
- (2) possessed an independent adjuster license that:
 - (A) was for the same line of authority in which the individual has applied for licensing under this chapter in a state in which a prelicensing independent adjuster licensure examination is required; and
 - (B) expired less than ninety (90) days before the date the commissioner receives the application; or
- (3) provides proof from contracting insurers that the individual has participated in claims adjudication in the same line of authority during the five (5) years immediately preceding the date of application;

is not required to complete a prelicensing course as described in section 12(b)(5) of this chapter or pass a written examination under section 15 of this chapter before being licensed under this chapter.

(b) An applicant who meets the criteria set forth in subsection (a)(1) or (a)(2) must provide certification from the other state that the applicant's independent adjuster license:

- (1) is currently in good standing; or
- (2) was in good standing at the time of expiration.

(c) A person:



(1) ~~that~~ who:

~~(1)~~ **(A)** is licensed as an independent adjuster in another state where a prelicensing independent adjuster licensure examination is required;

~~(2)~~ **(B)** establishes legal residency in Indiana; and

~~(3)~~ **(C)** applies for a resident independent adjuster license under this chapter less than ninety (90) days after the person establishes legal residency in Indiana; **or**

(2) who holds a current claims certification issued by a national or state claims association whose certification program includes:

(A) a precertification course for new adjusters that is approved by the department;

(B) an examination for new adjusters that is approved by the department; and

(C) a continuing education program that is approved by the department;

is not required to complete a prelicensing course as described in section 12(b)(5) of this chapter or pass a written examination under section 15 of this chapter before being licensed under this chapter.

SECTION 10. IC 27-1-28-19, AS ADDED BY P.L.11-2011, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 19. (a) Except as provided in subsection (b), an individual who holds a license under this chapter shall, every two (2) years, satisfactorily complete a minimum of twenty-four (24) hours of continuing education courses and report the completion of the courses to the commissioner.

(b) This section does not apply to the following:

(1) An individual who is licensed for less than twelve (12) months before the end of the applicable continuing education biennium.

(2) A licensed nonresident independent adjuster who has met the continuing education requirements of the licensed nonresident independent adjuster's designated home state.

(3) An individual holding a current claims certification if:

(A) the claims certification is issued by a national or state claims association whose certification program is approved by the department for purposes of this section;

(B) the number of hours of study required to complete the certification program described in clause (A) is not less than the number of hours of continuing education that an individual is required to complete every two (2) years under subsection (a);



(C) the content of the certification program described in clause (A):

(i) includes the content of the prelicensing course of study required by section 12(b)(5) of this chapter for the line of authority in which the individual has applied for or obtained licensing under this chapter; and

(ii) is made available for review and audit by the commissioner through an electronic portal maintained by the association;

(D) the claims association referred to in clause (A) is approved as a continuing education provider in Indiana;

(E) the claims association referred to in clause (A) reports the individual's completion of the certification program described in clause (A) to the commissioner through an electronic portal maintained by the commissioner; and

(F) the association, through an electronic portal maintained by the association, provides the commissioner access to the individual's transcript showing the individual's completion of the certification program described in clause (A).

SECTION 11. IC 27-1-46 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]:

Chapter 46. Coverage of Emergency Services

Sec. 1. As used in this chapter, "covered individual" means an individual entitled to coverage under a health insurance plan.

Sec. 2. As used in this chapter, "emergency services" has the meaning set forth in 45 CFR 147.138(b)(4)(ii) as in effect on January 1, 2020.

Sec. 3. As used in this chapter, "facility" means an institution in which health care services are provided to individuals. The term includes:

(1) hospitals and other licensed ambulatory surgical centers; and

(2) ambulatory outpatient surgical centers.

Sec. 4. As used in this chapter, "health insurance plan" means any:

(1) policy of accident and sickness insurance (as described in IC 27-8-5-1), whether written on an individual basis, a group basis, a franchise basis, or a blanket basis or under a preferred provider plan (as defined in IC 27-8-11-1); or

(2) group contract (as defined in IC 27-13-1-16) or individual



contract (as defined in IC 27-13-1-21) through which a health maintenance organization furnishes health care services.

Sec. 5. As used in this chapter, "in network provider" means a provider that is required under a network plan to provide health care services to covered individuals at not more than a preestablished rate or amount of compensation.

Sec. 6. As used in this chapter, "network plan" means a plan under which providers are required by contract to provide health care services to covered individuals at not more than a preestablished rate or amount of compensation.

Sec. 7. For the purposes of this chapter, emergency services are "provided out of network" if the provider that provides the emergency services is not an in network provider with respect to the network plan applying to the health insurance plan under which the covered individual receiving the emergency services is covered.

Sec. 8. As used in this chapter, "practitioner" means the following:

- (1) An individual licensed under IC 25 who provides professional health care services to individuals in a facility.
- (2) An organization:
 - (A) that consists of practitioners described in subdivision (1); and
 - (B) through which practitioners described in subdivision (1) provide health care services.
- (3) An entity that:
 - (A) is not a facility; and
 - (B) employs practitioners described in subdivision (1) to provide health care services.

Sec. 9. As used in this chapter, "provider" means:

- (1) a facility; or
- (2) a practitioner.

Sec. 10. If a health insurance plan provides coverage of emergency services, the coverage must be consistent with the following:

- (1) The coverage must not require any prior authorization determination, even if the emergency services are provided out of network.
- (2) The coverage must be provided without regard to whether the provider furnishing the emergency services is an in network provider.
- (3) If the emergency services are provided out of network, the



coverage must not impose any administrative requirement or limitation on coverage that is more restrictive than the requirements or limitations that apply under the health insurance plan to emergency services received from in network providers.

(4) A covered individual who receives emergency services provided out of network shall not be required to pay more for the emergency services than:

(A) the amount of compensation that would be allowed according to the preestablished rate or amount of compensation established by the network plan for emergency services that are:

- (i) of the type provided to the covered individual; and
- (ii) provided by an in network provider of the same type as the provider that provided the emergency services to the covered individual; minus

(B) any copayment, deductible, or coinsurance amounts applicable to the emergency services under the coverage provided to the covered individual by the health insurance plan."

Page 39, line 5, delete "is:" and insert "**is described in either of the following subdivisions:**".

Page 39, line 6, delete "any" and insert "**Any**".

Page 39, line 7, delete "used" and insert "**used, in combination with any one (1) or more of the following data elements,**".

Page 39, line 8, delete "consumer; or" and insert "**consumer:**

(A) **Social Security number.**

(B) **Driver's license number or nondriver identification card number.**

(C) **Financial account number, credit card number, or debit card number.**

(D) **Any security code, access code, or password that would permit access to a consumer's financial account.**

(E) **Biometric records.**"

Page 39, line 9, after "(2)" delete "any" and insert "**Any**".

Page 41, line 27, delete "person" and insert "**employees**".

Page 43, line 10, delete "February" and insert "**April**".

Page 49, between lines 10 and 11, begin a new paragraph and insert:
"(d) A licensee shall be considered to have complied with sections 16 through 20 of this chapter if:

(1) the licensee is affiliated with a depository institution that maintains an information security program in compliance



with the Interagency Guidelines Establishing Standards for Safeguarding Customer Information adopted under Sections 501 and 505(b) of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 and 6805(b)); and

(2) upon request, the licensee produces documentation satisfactory to the commissioner that independently validates the depository institution's adoption of an information security program that satisfies the Guidelines referred to in subdivision (1)."

Page 49, line 11, delete "(d)" and insert "(e)".

Page 49, line 12, delete "or (c)," and insert "(c), or (d)".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1372 as introduced.)

CARBAUGH

Committee Vote: yeas 12, nays 0.

