



Reprinted
February 28, 2020

ENGROSSED HOUSE BILL No. 1372

DIGEST OF HB 1372 (Updated February 27, 2020 5:47 pm - DI 55)

Citations Affected: IC 5-10; IC 27-1; IC 27-2; IC 27-6; IC 27-7; IC 27-8; IC 27-13; noncode.

Synopsis: Various insurance matters. 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 conditions. Adopts the insurance data security model law, which requires certain holders of an insurance license, authority, or registration to maintain an information security program and meet other requirements. Establishes an affirmative defense to a tort civil action in for a licensee that satisfies the
(Continued next page)

Effective: Upon passage; July 1, 2020.

Carbaugh, Lehman, Austin

(SENATE SPONSORS — BASSLER, ZAY)

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

January 23, 2020, amended, reported — Do Pass.

January 27, 2020, read second time, ordered engrossed.

January 28, 2020, engrossed. Read third time, passed. Yeas 98, nays 0.

SENATE ACTION

February 10, 2020, read first time and referred to Committee on Insurance and Financial Institutions.

February 20, 2020, amended, reported favorably — Do Pass.

February 27, 2020, read second time, amended, ordered engrossed.

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Digest Continued

requirements of the insurance data security model law. 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. Requires a state employee health plan, a policy of accident and sickness insurance, and a health maintenance organization contract to provide coverage for pediatric autoimmune neuropsychiatric disorders associated with streptococcal infections (PANDAS) and pediatric acute-onset neuropsychiatric syndrome (PANS), including treatment with intravenous immunoglobulin therapy. Provides that medical payment coverage is supplemental to the benefits under a health plan that are the same as or similar to benefits available under the medical payment coverage. Provides that a health plan may not require the exhaustion of medical payment coverage as a condition of payment of benefits under the health plan. Urges the legislative council to assign to the interim study committee on financial institutions and insurance the task of studying the cost to consumers of ambulance transportation services.

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Reprinted
February 28, 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.

ENGROSSED 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 5-10-8-24 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2020]: **Sec. 24. (a) As used in this section, "state employee health
4 plan" means the following:**
5 (1) A self-insurance program established under section 7(b) of
6 this chapter.
7 (2) A contract for prepaid health services entered into under
8 section 7(c) of this chapter.
9 (b) A state employee health plan must provide coverage for
10 treatment of:
11 (1) pediatric autoimmune neuropsychiatric disorders
12 associated with streptococcal infections (PANDAS); and
13 (2) pediatric acute-onset neuropsychiatric syndrome (PANS);
14 including treatment with intravenous immunoglobulin therapy.
15 (c) The coverage required by this section may not be subject to
16 annual or lifetime limitation, deductible, copayment, or
17 coinsurance provisions that are more restrictive than the annual or

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1 **lifetime limitation, deductible, copayment, or coinsurance**
2 **provisions that apply generally under the state employee health**
3 **plan.**

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

8 (1) "Acceptable collateral" means, as to securities lending
9 transactions:

10 (A) cash;

11 (B) cash equivalents;

12 (C) letters of credit; and

13 (D) direct obligations of, or securities that are fully guaranteed
14 as to principal and interest by, the government of the United
15 States or any agency of the United States, including the
16 Federal National Mortgage Association and the Federal Home
17 Loan Mortgage Corporation.

18 (2) "Acceptable collateral" means, as to lending foreign securities,
19 sovereign debt that is rated:

20 (A) A- or higher by Standard & Poor's Corporation;

21 (B) A3 or higher by Moody's Investors Service, Inc.;

22 (C) A- or higher by Duff and Phelps, Inc.; or

23 (D) 1 by the Securities Valuation Office.

24 (3) "Acceptable collateral" means, as to repurchase transactions:

25 (A) cash;

26 (B) cash equivalents; and

27 (C) direct obligations of, or securities that are fully guaranteed
28 as to principal and interest by, the government of the United
29 States or any agency of the United States, including the
30 Federal National Mortgage Association and the Federal Home
31 Loan Mortgage Corporation.

32 (4) "Acceptable collateral" means, as to reverse repurchase
33 transactions:

34 (A) cash; and

35 (B) cash equivalents.

36 (5) "Admitted assets" means assets permitted to be reported as
37 admitted assets on the statutory financial statement of the life
38 insurance company most recently required to be filed with the
39 commissioner.

40 (6) "Business entity" means:

41 (A) a sole proprietorship;

42 (B) a corporation;



- 1 (C) a limited liability company;
 2 (D) an association;
 3 (E) a partnership;
 4 (F) a joint stock company;
 5 (G) a joint venture;
 6 (H) a mutual fund;
 7 (I) a trust;
 8 (J) a joint tenancy; or
 9 (K) other, similar form of business organization;
 10 whether organized for-profit or not-for-profit.
 11 (7) "Cash" means any of the following:
 12 (A) United States denominated paper currency and coins.
 13 (B) Negotiable money orders and checks.
 14 (C) Funds held in any time or demand deposit in any
 15 depository institution, the deposits of which are insured by the
 16 Federal Deposit Insurance Corporation.
 17 (8) "Cash equivalent" means any of the following:
 18 (A) A certificate of deposit issued by a depository institution,
 19 the deposits of which are insured by the Federal Deposit
 20 Insurance Corporation.
 21 (B) A banker's acceptance issued by a depository institution,
 22 the deposits of which are insured by the Federal Deposit
 23 Insurance Corporation.
 24 (C) A government money market mutual fund.
 25 (D) A class one money market mutual fund.
 26 (9) "Class one money market mutual fund" means a money
 27 market mutual fund that at all times qualifies for investment
 28 pursuant to the Purposes and Procedures Manual of the NAIC
 29 Investment Analysis Office either using the bond class one
 30 reserve factor or because it is exempt from asset valuation reserve
 31 requirements.
 32 (10) "Dollar roll transaction" means two (2) simultaneous
 33 transactions that have settlement dates not more than ninety-six
 34 (96) days apart and that meet the following description:
 35 (A) In one (1) transaction, a life insurance company sells to a
 36 business entity one (1) or both of the following:
 37 (i) Asset-backed securities that are issued, assumed, or
 38 guaranteed by the Government National Mortgage
 39 Association, the Federal National Mortgage Association, or
 40 the Federal Home Loan Mortgage Corporation.
 41 (ii) Other asset-backed securities referred to in Section 106
 42 of Title I of the Secondary Mortgage Market Enhancement



- 1 Act of 1984 (15 U.S.C. 77r-1).
 2 (B) In the other transaction, the life insurance company is
 3 obligated to purchase from the same business entity securities
 4 that are substantially similar to the securities sold under clause
 5 (A).
 6 (11) "Domestic jurisdiction" means:
 7 (A) the United States;
 8 (B) any state, territory, or possession of the United States;
 9 (C) the District of Columbia;
 10 (D) Canada; or
 11 (E) any province of Canada.
 12 (12) "Earnings available for fixed charges" means income, after
 13 deducting:
 14 (A) operating and maintenance expenses other than expenses
 15 that are fixed charges;
 16 (B) taxes other than federal and state income taxes;
 17 (C) depreciation; and
 18 (D) depletion;
 19 but excluding extraordinary nonrecurring items of income or
 20 expense appearing in the regular financial statements of a
 21 business entity.
 22 (13) "Fixed charges" includes:
 23 (A) interest on funded and unfunded debt;
 24 (B) amortization of debt discount; and
 25 (C) rentals for leased property.
 26 (14) "Foreign currency" means a currency of a foreign
 27 jurisdiction.
 28 (15) "Foreign jurisdiction" means a jurisdiction other than a
 29 domestic jurisdiction.
 30 (16) "Government money market mutual fund" means a money
 31 market mutual fund that at all times:
 32 (A) invests only in:
 33 (i) obligations that are issued, guaranteed, or insured by the
 34 United States; or
 35 (ii) collateralized repurchase agreements composed of
 36 obligations that are issued, guaranteed, or insured by the
 37 United States; and
 38 (B) qualifies for investment without a reserve pursuant to the
 39 Purposes and Procedures Manual of the NAIC Investment
 40 Analysis Office.
 41 (17) "Guaranteed or insured," when used in reference to an
 42 obligation acquired under this section, means that the guarantor



- 1 or insurer has agreed to:
- 2 (A) perform or insure the obligation of the obligor or purchase
- 3 the obligation; or
- 4 (B) be unconditionally obligated, until the obligation is repaid,
- 5 to maintain in the obligor a minimum net worth, fixed charge
- 6 coverage, stockholders' equity, or sufficient liquidity to enable
- 7 the obligor to pay the obligation in full.
- 8 (18) "Investment company" means:
- 9 (A) an investment company as defined in Section 3(a) of the
- 10 Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.); or
- 11 (B) a person described in Section 3(c) of the Investment
- 12 Company Act of 1940 (15 U.S.C. 80a-1 et seq.).
- 13 (19) "Investment company series" means an investment portfolio
- 14 of an investment company that is organized as a series company
- 15 to which assets of the investment company have been specifically
- 16 allocated.
- 17 (20) "Letter of credit" means a clean, irrevocable, and
- 18 unconditional letter of credit that is:
- 19 (A) issued or confirmed by; and
- 20 (B) payable and presentable at;
- 21 a financial institution on the list of financial institutions meeting
- 22 the standards for issuing letters of credit under the Purposes and
- 23 Procedures Manual of the NAIC Investment Analysis Office. To
- 24 constitute acceptable collateral for the purposes of paragraph 29
- 25 of subsection (b), a letter of credit must have an expiration date
- 26 beyond the term of the subject transaction.
- 27 (21) "Market value" means the following:
- 28 (A) As to cash, the amount of the cash.
- 29 (B) As to cash equivalents, the amount of the cash equivalents.
- 30 (C) As to letters of credit, the amount of the letters of credit.
- 31 (D) As to a security as of any date:
- 32 (i) the price for the security on that date obtained from a
- 33 generally recognized source, or the most recent quotation
- 34 from such a source; or
- 35 (ii) if no generally recognized source exists, the price for the
- 36 security as determined in good faith by the parties to a
- 37 transaction;
- 38 plus accrued but unpaid income on the security to the extent
- 39 not included in the price as of that date.
- 40 (22) "Money market mutual fund" means a mutual fund that
- 41 meets the conditions of 17 CFR 270.2a-7, under the Investment
- 42 Company Act of 1940 (15 U.S.C. 80a-1 et seq.).



- 1 (23) "Multilateral development bank" means an international
2 development organization of which the United States is a
3 member.
- 4 (24) "Mutual fund" means:
5 (A) an investment company; or
6 (B) in the case of an investment company that is organized as
7 a series company, an investment company series;
8 that is registered with the United States Securities and Exchange
9 Commission under the Investment Company Act of 1940 (15
10 U.S.C. 80a-1 et seq.).
- 11 (25) "Obligation" means any of the following:
12 (A) A bond.
13 (B) A note.
14 (C) A debenture.
15 (D) Any other form of evidence of debt.
- 16 (26) "Person" means:
17 (A) an individual;
18 (B) a business entity;
19 (C) a multilateral development bank; or
20 (D) a government or quasi-governmental body, such as a
21 political subdivision or a government sponsored enterprise.
- 22 (27) "Repurchase transaction" means a transaction in which a life
23 insurance company purchases securities from a business entity
24 that is obligated to repurchase the purchased securities or
25 equivalent securities from the life insurance company at a
26 specified price, either within a specified period of time or upon
27 demand.
- 28 (28) "Reverse repurchase transaction" means a transaction in
29 which a life insurance company sells securities to a business
30 entity and is obligated to repurchase the sold securities or
31 equivalent securities from the business entity at a specified price,
32 either within a specified period of time or upon demand.
- 33 (29) "Securities lending transaction" means a transaction in which
34 securities are loaned by a life insurance company to a business
35 entity that is obligated to return the loaned securities or equivalent
36 securities to the life insurance company, either within a specified
37 period of time or upon demand.
- 38 (30) "Securities Valuation Office" refers to the Securities
39 Valuation Office of the NAIC.
- 40 (31) "Series company" means an investment company that is
41 organized as a series company (as defined in Rule 18f-2(a)
42 adopted under the Investment Company Act of 1940 (15 U.S.C.



1 80a-1 et seq.)).

2 (32) "Supported", when used in reference to an obligation, by
3 whomever issued or made, means that:

4 (A) repayment of the obligation by:

5 (i) a domestic jurisdiction or by an administration, agency,
6 authority, or instrumentality of a domestic jurisdiction; or

7 (ii) a business entity;

8 as the case may be, is secured by real or personal property of
9 value at least equal to the principal amount of the obligation
10 by means of mortgage, assignment of vendor's interest in one
11 (1) or more conditional sales contracts, other title retention
12 device, or by means of other security interest in such property
13 for the benefit of the holder of the obligation; and

14 (B) the:

15 (i) domestic jurisdiction or administration, agency, authority,
16 or instrumentality of the domestic jurisdiction; or

17 (ii) business entity;

18 as the case may be, has entered into a firm agreement to rent
19 or use the property pursuant to which it is obligated to pay
20 money as rental or for the use of such property in amounts and
21 at times which shall be sufficient, after provision for taxes
22 upon and other expenses of use of the property, to repay in full
23 the obligation with interest and when such agreement and the
24 money obligated to be paid thereunder are assigned, pledged,
25 or secured for the benefit of the holder of the obligation.
26 However, where the security for the repayment of the
27 obligation consists of a first mortgage lien or deed of trust on
28 a fee interest in real property, the obligation may provide for
29 the amortization, during the initial, fixed period of the lease or
30 contract, of less than one hundred percent (100%) of the
31 obligation if there is pledged or assigned, as additional
32 security for the obligation, sufficient rentals payable under the
33 lease, or of contract payments, to secure the amortized
34 obligation payments required during the initial, fixed period of
35 the lease or contract, including but not limited to payments of
36 principal, interest, and taxes other than the income taxes of the
37 borrower, and if there is to be left unamortized at the end of
38 such period an amount not greater than the original appraised
39 value of the land only, exclusive of all improvements, as
40 prescribed by law.

41 (b) Investments of domestic life insurance companies at the time
42 they are made shall conform to the following categories, conditions,

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- 1 limitations, and standards:
- 2 1. Obligations of a domestic jurisdiction or of any administration,
3 agency, authority, or instrumentality of a domestic jurisdiction.
- 4 2. Obligations guaranteed, supported, or insured as to principal and
5 interest by a domestic jurisdiction or by an administration, agency,
6 authority, or instrumentality of a domestic jurisdiction.
- 7 3. Obligations issued under or pursuant to the Farm Credit Act of
8 1971 (12 U.S.C. 2001 through 2279aa-14) as in effect on December 31,
9 1990, or the Federal Home Loan Bank Act (12 U.S.C. 1421 through
10 1449) as in effect on December 31, 1990, interest bearing obligations
11 of the FSLIC Resolution Fund or shares of any institution whose
12 deposits are insured by the Federal Deposit Insurance Corporation to
13 the extent that such shares are insured, obligations issued or guaranteed
14 by a multilateral development bank, and obligations issued or
15 guaranteed by the African Development Bank.
- 16 4. Obligations issued, guaranteed, or insured as to principal and
17 interest by a city, county, drainage district, road district, school district,
18 tax district, town, township, village, or other civil administration,
19 agency, authority, instrumentality, or subdivision of a domestic
20 jurisdiction, providing such obligations are authorized by law and are:
- 21 (a) direct and general obligations of the issuing, guaranteeing or
22 insuring governmental unit, administration, agency, authority,
23 district, subdivision, or instrumentality;
- 24 (b) payable from designated revenues pledged to the payment of
25 the principal and interest thereof; or
- 26 (c) improvement bonds or other obligations constituting a first
27 lien, except for tax liens, against all of the real estate within the
28 improvement district or on that part of such real estate not
29 discharged from such lien through payment of the assessment.
30 The area to which such improvement bonds or other obligations
31 relate shall be situated within the limits of a town or city and at
32 least fifty percent (50%) of the properties within such area shall
33 be improved with business buildings or residences.
- 34 5. Loans evidenced by obligations secured by first mortgage liens
35 on otherwise unencumbered real estate or otherwise unencumbered
36 leaseholds having at least fifty (50) years of unexpired term, such real
37 estate, or leaseholds to be located in a domestic jurisdiction. Such loans
38 shall not exceed eighty percent (80%) of the fair value of the security
39 determined in a manner satisfactory to the department, except that the
40 percentage stated may be exceeded if and to the extent such excess is
41 guaranteed or insured by:
- 42 (a) a domestic jurisdiction or by an administration, agency,



1 authority, or instrumentality of any domestic jurisdiction; or
 2 (b) a private mortgage insurance corporation approved by the
 3 department.

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

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

- 11 (1) liens inferior to the lien securing the loan made by the life
 12 insurance company;
- 13 (2) taxes or assessment liens not delinquent;
- 14 (3) instruments creating or reserving mineral, oil, water or timber
 15 rights, rights-of-way, common or joint driveways, sewers, walls,
 16 or utility connections;
- 17 (4) building restrictions or other restrictive covenants; or
- 18 (5) an unassigned lease reserving rents or profits to the owner.

19 A loan that is authorized by this paragraph remains qualified under this
 20 paragraph notwithstanding any refinancing, modification, or extension
 21 of the loan. Investments authorized by this paragraph shall not in the
 22 aggregate exceed forty-five percent (45%) of the life insurance
 23 company's admitted assets.

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

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

- 38 (a) eighty percent (80%) of the contract price of the real estate;
- 39 (b) eighty percent (80%) of the fair value of the real estate at the
 40 time the contract is purchased, such value to be determined in a
 41 manner satisfactory to the department; or
- 42 (c) the amount due under the contract.



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

12 8. Improved or unimproved real property, whether encumbered or
13 unencumbered, or any interest therein, held directly or evidenced by
14 joint venture interests, general or limited partnership interests, trust
15 certificates, or any other instruments, and acquired by the life insurance
16 company as an investment, which real property, if unimproved, is
17 developed within five (5) years. Real property acquired for investment
18 under this paragraph, whether leased or intended to be developed for
19 commercial or residential purposes or otherwise lawfully held, is
20 subject to the following conditions and limitations:

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

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

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

29 (d) The value for statement and deposit purposes of an investment
30 under this paragraph shall be reduced annually by amortization of
31 the costs of improvement and development, less land costs, over
32 the expected life of the property, which value and amortization
33 shall for statement and deposit purposes be determined in a
34 manner satisfactory to the commissioner. In determining such
35 value with respect to the calendar years in which an investment
36 begins or ends with respect to a point in time other than the
37 beginning or end of a calendar year, the amortization provided
38 above shall be made on a proportional basis.

39 (e) Fire insurance shall be maintained in an amount at least equal
40 to the insurable value of the improvements or the difference
41 between the value of the land and the value at which such real
42 estate is carried for statement and deposit purposes, whichever



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amount is smaller.

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

(g) Neither the cost of each parcel of improved real property nor the aggregate cost of all unimproved real property acquired under the authority of this paragraph may exceed two percent (2%) of the life insurance company's admitted assets. For purposes of this paragraph, "unimproved real property" means land containing no structures intended for commercial, industrial, or residential occupancy, and "improved real property" consists of all land containing any such structure. When applying the limitations of subparagraph (d) of this paragraph, unimproved real property becomes improved real property as soon as construction of any commercial, industrial, or residential structure is so completed as to be capable of producing income. In the event the real property is mortgaged with recourse to the life insurance company or the life insurance company commences a plan of construction upon real property at its own expense or guarantees payment of borrowed funds to be used for such construction, the total project cost of the real property will be used in applying the two percent (2%) test. Further, no more than ten percent (10%) of the life insurance company's admitted assets may be invested in all property, measured by the property value for statement and deposit purposes as defined in this paragraph, held under this paragraph at the same time.

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

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



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

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

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

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

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

11 Investments may also be made under this paragraph in obligations
12 that have not received a rating if the earnings available for fixed
13 charges of the business entity for the period of its five (5) fiscal years
14 next preceding the date of purchase shall have averaged per year not
15 less than one and one-half (1 1/2) times its average annual fixed
16 charges applicable to such period and if during either of the last two (2)
17 years of such period such earnings available for fixed charges shall
18 have been not less than one and one-half (1 1/2) times its fixed charges
19 for such year. However, if the business entity is a finance company or
20 other lending institution at least eighty percent (80%) of the assets of
21 which are cash and receivables representing loans or discounts made
22 or purchased by it, the multiple shall be one and one-quarter (1 1/4)
23 instead of one and one-half (1 1/2).

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

31 12. Preferred stock of, or common or preferred stock guaranteed as
32 to dividends by, any corporation organized under the laws of a
33 domestic jurisdiction, which over the period of the seven (7) fiscal
34 years immediately preceding the date of purchase earned an average
35 amount per annum at least equal to five percent (5%) of the par value
36 of its common and preferred stock (or, in the case of stocks having no
37 par value, of its issued or stated value) outstanding at date of purchase,
38 or which over such period earned an average amount per annum at least
39 equal to two (2) times the total of its annual interest charges, preferred
40 dividends and dividends guaranteed by it, determined with reference
41 to the date of purchase. No investment shall be made under this
42 paragraph in a stock upon which any dividend is in arrears or has been



1 in arrears for ninety (90) days within the immediately preceding five
2 (5) year period.

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

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

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

17 (b) is a class one money market mutual fund or a class one bond
18 mutual fund.

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

29 The aggregate amount of investments under this paragraph may be
30 limited by the commissioner if the commissioner finds that investments
31 under this paragraph may render the operation of the life insurance
32 company hazardous to the company's policyholders or creditors or to
33 the general public.

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

39 15. Real estate acquired or otherwise lawfully held under the
40 provisions of IC 27-1, except under paragraph 7 or 8 of this subsection,
41 which real estate as an investment shall also include the value of
42 improvements or betterments made thereon subsequent to its



1 acquisition. The value of such real estate for deposit and statement
2 purposes is to be determined in a manner satisfactory to the
3 department.

4 15.(A) Tangible personal property, equipment trust obligations, or
5 other instruments evidencing an ownership interest or other interest in
6 tangible personal property when the life insurance company purchasing
7 such property has admitted assets in excess of twenty-five million
8 dollars (\$25,000,000), and where there is a right to receive determined
9 portions of rental, purchase, or other fixed obligatory payments for the
10 use of such personal property from a corporation whose obligations
11 would be eligible for investment under the provisions of paragraph 11
12 of this subsection, provided that the aggregate of such payments
13 together with the estimated salvage value of such property at the end
14 of its minimum useful life, to be determined in a manner acceptable to
15 the insurance commissioner, and the estimated tax benefits to the
16 insurer resulting from ownership of such property, is adequate to return
17 the cost of the investment in such property, and provided further, that
18 each net investment in tangible personal property for which any single
19 private corporation is obligated to pay rental, purchase, or other
20 obligatory payments thereon does not exceed one-half of one percent
21 (1/2%) of the life insurance company's admitted assets, and the
22 aggregate net investments made under the provisions of this paragraph
23 do not exceed five percent (5%) of the life insurance company's
24 admitted assets.

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

28 17. A life insurance company doing business in a foreign
29 jurisdiction may, if permitted or required by the laws of such
30 jurisdiction, invest funds equal to its obligations in such jurisdiction in
31 investments legal for life insurance companies domiciled in such
32 jurisdiction or doing business therein as alien companies.

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

- 38 (a) BBB- or higher by Standard & Poor's Corporation (or A-2 or
39 higher in the case of commercial paper);
40 (b) Baa 3 or higher by Moody's Investors Service, Inc. (or P-2 or
41 higher in the case of commercial paper);
42 (c) BBB- or higher by Duff and Phelps, Inc. (or D-2 or higher in



1 the case of commercial paper); or

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

3 If the obligations issued by a business entity organized under the laws
4 of a foreign jurisdiction have not received a rating, investments may
5 nevertheless be made under this paragraph in such obligations and in
6 the preferred and common stock of the business entity if the earnings
7 available for fixed charges of the business entity for a period of five (5)
8 fiscal years preceding the date of purchase have averaged at least three
9 (3) times its average fixed charges applicable to such period, and if
10 during either of the last two (2) years of such period, the earnings
11 available for fixed charges were at least three (3) times its fixed
12 charges for such year. Investments authorized by this paragraph in a
13 single foreign jurisdiction shall not exceed ten percent (10%) of the life
14 insurance company's admitted assets. Subject to section 2.2(g) of this
15 chapter, investments authorized by this paragraph denominated in
16 foreign currencies shall not in the aggregate exceed ten percent (10%)
17 of a life insurance company's admitted assets, and investments in any
18 one (1) foreign currency shall not exceed five percent (5%) of the life
19 insurance company's admitted assets. Investments authorized by this
20 paragraph and paragraph 17(B) shall not in the aggregate exceed
21 twenty percent (20%) of the life insurance company's admitted assets.
22 This paragraph in no way limits or restricts investments which are
23 otherwise specifically eligible for deposit under this section.

24 17.(B) Investments in:

25 (a) obligations issued, guaranteed, or assumed by a foreign
26 jurisdiction or by a business entity organized under the laws of a
27 foreign jurisdiction; and

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

30 which investments are not eligible for investment under paragraph
31 17.(A).

32 Investments authorized by this paragraph 17(B) shall not in the
33 aggregate exceed five percent (5%) of the life insurance company's
34 admitted assets. Subject to section 2.2(g) of this chapter, if investments
35 authorized by this paragraph 17(B) are denominated in a foreign
36 currency, the investments shall not, as to such currency, exceed two
37 percent (2%) of the life insurance company's admitted assets.
38 Investments authorized by this paragraph 17(B) in any one (1) foreign
39 jurisdiction shall not exceed two percent (2%) of the life insurance
40 company's admitted assets.

41 Investments authorized by paragraph 17(A) of this subsection and
42 this paragraph 17(B) shall not in the aggregate exceed twenty percent



1 (20%) of the life insurance company's admitted assets.

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

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

9 20. A life insurance company may make investments although not
10 conforming to the categories, conditions, limitations, and standards
11 contained in paragraphs 1 through 11, 12 through 19, and 29 through
12 31 of this subsection, but limited in aggregate amount to the ~~lesser~~
13 **greater** of:

14 (a) ten percent (10%) of the company's admitted assets; or

15 (b) ~~the aggregate of the company's capital;~~ **seventy-five percent**
16 **(75%) of the company's capital and** surplus ~~and contingency~~
17 ~~reserves~~ reported on the statutory financial statement of the
18 insurer most recently required to be filed with the commissioner.

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

21 20.(A) Investments under paragraphs 1 through 20 and paragraphs
22 29 through 31 of this subsection are subject to the general conditions,
23 limitations, and standards contained in paragraphs 21 through 28 of
24 this subsection.

25 21. Investments in obligations (other than real estate mortgage
26 indebtedness) and capital stock of, and in real estate and tangible
27 personal property leased to, a single corporation, shall not exceed ~~two~~
28 ~~percent (2%)~~ **three percent (3%)** of the life insurance company's
29 admitted assets, taking into account the provisions of section 2.2(h) of
30 this chapter. The conditions and limitations of this paragraph shall not
31 apply to investments under paragraph 13(A) of this subsection or the
32 special area of investment to which paragraph 23 of this subsection
33 pertains.

34 22. Investments in:

35 (a) preferred stock; and

36 (b) common stock;

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



- 1 class 1(c) of IC 27-1-5-1.
- 2 23. Investments in subsidiary companies must be made in
3 accordance with IC 27-1-23-2.6.
- 4 24. No investment, other than commercial bank deposits and loans
5 on life insurance policies, shall be made unless authorized by the life
6 insurance company's board of directors or a committee designated by
7 the board of directors and charged with the duty of supervising loans
8 or investments.
- 9 25. No life insurance company shall subscribe to or participate in
10 any syndicate or similar underwriting of the purchase or sale of
11 securities or property or enter into any transaction for such purchase or
12 sale on account of said company, jointly with any other corporation,
13 firm, or person, or enter into any agreement to withhold from sale any
14 of its securities or property, but the disposition of its assets shall at all
15 times be within its control. Nothing contained in this paragraph shall
16 be construed to invalidate or prohibit an agreement by two (2) or more
17 companies to join and share in the purchase of investments for bona
18 fide investment purposes.
- 19 26. No life insurance company may invest in the stocks or
20 obligations, except investments under paragraphs 9 and 10 of this
21 subsection, of any corporation in which an officer of such life insurance
22 company is either an officer or director. However, this limitation shall
23 not apply with respect to such investments in:
- 24 (a) a corporation which is a subsidiary or affiliate of such life
25 insurance company; or
- 26 (b) a trade association, provided such investment meets the
27 requirements of paragraph 5 of this subsection.
- 28 27. Except for the purpose of mutualization provided for in section
29 23 of this chapter, or for the purpose of retirement of outstanding
30 shares of capital stock pursuant to amendment of its articles of
31 incorporation, or in connection with a plan approved by the
32 commissioner for purchase of such shares by the life insurance
33 company's officers, employees, or agents, no life insurance company
34 shall invest in its own stock.
- 35 28. In applying the conditions, limitations, and standards prescribed
36 in paragraphs 11, 12, and 13 of this subsection to the stocks or
37 obligations of a corporation which in the seven (7) year period
38 preceding purchase of such stocks or obligations acquired its property
39 or a substantial part thereof through consolidation, merger, or purchase,
40 the earnings of the several predecessors or constituent corporations
41 shall be consolidated.
- 42 29. A. Before a life insurance company may engage in securities



1 lending transactions, repurchase transactions, reverse repurchase
 2 transactions, or dollar roll transactions, the life insurance company's
 3 board of directors must adopt a written plan that includes guidelines
 4 and objectives to be followed, including the following:

5 (1) A description of how cash received will be invested or used
 6 for general corporate purposes of the company.

7 (2) Operational procedures for managing interest rate risk,
 8 counterparty default risk, and the use of acceptable collateral in
 9 a manner that reflects the liquidity needs of the transaction.

10 (3) A statement of the extent to which the company may engage
 11 in securities lending transactions, repurchase transactions, reverse
 12 repurchase transactions, and dollar roll transactions.

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

16 (1) must require the termination of each transaction not more than
 17 one (1) year after its inception or upon the earlier demand of the
 18 company; and

19 (2) must be with the counterparty business entity, except that, for
 20 securities lending transactions, the agreement may be with an
 21 agent acting on behalf of the life insurance company if:

22 (A) the agent is:

23 (i) a business entity, the obligations of which are rated BBB-
 24 or higher by Standard & Poor's Corporation (or A-2 or
 25 higher in the case of commercial paper), Baa3 or higher by
 26 Moody's Investors Service, Inc. (or P-2 or higher in the case
 27 of commercial paper), BBB- or higher by Duff and Phelps,
 28 Inc. (or D-2 or higher in the case of commercial paper), or
 29 1 or 2 by the Securities Valuation Office;

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

33 (iii) any other business entity approved by the
 34 commissioner; and

35 (B) the agreement requires the agent to enter into with each
 36 counterparty separate agreements that are consistent with the
 37 requirements of this paragraph.

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

39 (1) invested:

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

41 (B) in a manner that recognizes the liquidity needs of the
 42 transaction; or



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

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

- 9 (1) possession of the acceptable collateral;
10 (2) a perfected security interest in the acceptable collateral; or
11 (3) in the case of a jurisdiction outside the United States:
12 (A) title to; or
13 (B) rights of a secured creditor to;
14 the acceptable collateral.

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

- 20 (1) resell securities, in the case of a repurchase transaction; or
21 (2) repurchase securities, in the case of a reverse repurchase
22 transaction.

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

- 26 (1) the aggregate amount of securities then loaned, sold to, or
27 purchased from any one (1) business entity under this paragraph
28 would exceed five percent (5%) of the company's admitted assets
29 (but in calculating the amount sold to or purchased from a
30 business entity under repurchase or reverse repurchase
31 transactions, effect may be given to netting provisions under a
32 master written agreement); or
33 (2) the aggregate amount of all securities then loaned, sold to, or
34 purchased from all business entities under this paragraph would
35 exceed forty percent (40%) of the admitted assets of the company
36 (provided, however, that this limitation does not apply to a reverse
37 repurchase transaction if the borrowing is used to meet
38 operational liquidity requirements resulting from an officially
39 declared catastrophe and is subject to a plan approved by the
40 commissioner).

41 G. The following collateral requirements apply to all transactions
42 under this paragraph:



- 1 (1) In a securities lending transaction, the life insurance company
2 must receive acceptable collateral having a market value as of the
3 transaction date at least equal to one hundred two percent (102%)
4 of the market value of the securities loaned by the company in the
5 transaction as of that date. If at any time the market value of the
6 acceptable collateral received from a particular business entity is
7 less than the market value of all securities loaned by the company
8 to that business entity, the business entity shall be obligated to
9 deliver additional acceptable collateral to the company, the
10 market value of which, together with the market value of all
11 acceptable collateral then held in connection with all securities
12 lending transactions with that business entity, equals at least one
13 hundred two percent (102%) of the market value of the loaned
14 securities.
- 15 (2) In a reverse repurchase transaction, other than a dollar roll
16 transaction, the life insurance company must receive acceptable
17 collateral having a market value as of the transaction date equal
18 to at least ninety-five percent (95%) of the market value of the
19 securities transferred by the company in the transaction as of that
20 date. If at any time the market value of the acceptable collateral
21 received from a particular business entity is less than ninety-five
22 percent (95%) of the market value of all securities transferred by
23 the company to that business entity, the business entity shall be
24 obligated to deliver additional acceptable collateral to the
25 company, the market value of which, together with the market
26 value of all acceptable collateral then held in connection with all
27 reverse repurchase transactions with that business entity, equals
28 at least ninety-five percent (95%) of the market value of the
29 transferred securities.
- 30 (3) In a dollar roll transaction, the life insurance company must
31 receive cash in an amount at least equal to the market value of the
32 securities transferred by the company in the transaction as of the
33 transaction date.
- 34 (4) In a repurchase transaction, the life insurance company must
35 receive acceptable collateral having a market value equal to at
36 least one hundred two percent (102%) of the purchase price paid
37 by the company for the securities. If at any time the market value
38 of the acceptable collateral received from a particular business
39 entity is less than one hundred percent (100%) of the purchase
40 price paid by the life insurance company in all repurchase
41 transactions with that business entity, the business entity shall be
42 obligated to provide additional acceptable collateral to the



1 company, the market value of which, together with the market
 2 value of all acceptable collateral then held in connection with all
 3 repurchase transactions with that business entity, equals at least
 4 one hundred two percent (102%) of the purchase price. Securities
 5 acquired by a life insurance company in a repurchase transaction
 6 shall not be:

- 7 (A) sold in a reverse repurchase transaction;
 8 (B) loaned in a securities lending transaction; or
 9 (C) otherwise pledged.

10 30. A life insurance company may invest in obligations or interests
 11 in trusts or partnerships regardless of the issuer, which are secured by:

- 12 (a) investments authorized by paragraphs 1, 2, 3, 4, or 11 of this
 13 subsection; or
 14 (b) collateral with the characteristics and limitations prescribed
 15 for loans under paragraph 5 of this subsection.

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

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

- 25 (a) ~~A=~~ **BBB-** or higher by Standard & Poor's Corporation or Duff
 26 and Phelps, Inc.;
 27 (b) ~~A 3~~ **Baa3** or higher by Moody's Investor Service, Inc.; or
 28 (c) **1 or 2** by the Securities Valuation Office.

29 Investments authorized by this paragraph may not exceed ~~ten percent~~
 30 ~~(10%)~~ **twenty percent (20%)** of the life insurance company's admitted
 31 assets.

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

34 B. The following definitions apply throughout this paragraph:

- 35 (1) "Affiliate" means, as to any person, another person that,
 36 directly or indirectly through one (1) or more intermediaries,
 37 controls, is controlled by, or is under common control with the
 38 person.
 39 (2) "Control" means the possession, directly or indirectly, of the
 40 power to direct or cause the direction of the management and
 41 policies of a person, whether through the ownership of voting
 42 securities, by contract (other than a commercial contract for goods



1 or non-management services), or otherwise, unless the power is
 2 the result of an official position with or corporate office held by
 3 the person. Control shall be presumed to exist if a person, directly
 4 or indirectly, owns, controls, holds with the power to vote or holds
 5 proxies representing ten percent (10%) or more of the voting
 6 securities of another person. This presumption may be rebutted by
 7 a showing that control does not exist in fact. The commissioner
 8 may determine, after furnishing all interested persons notice and
 9 an opportunity to be heard and making specific findings of fact to
 10 support the determination, that control exists in fact,
 11 notwithstanding the absence of a presumption to that effect.

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

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

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

25 (A) a remaining maturity of three hundred ninety-seven (397)
 26 days or less or a put that entitles the holder to receive the
 27 principal amount of the obligation which put may be exercised
 28 through maturity at specified intervals not exceeding three
 29 hundred ninety-seven (397) days; or

30 (B) a remaining maturity of three (3) years or less and a
 31 floating interest rate that resets not less frequently than
 32 quarterly on the basis of a current short-term index (for
 33 example, federal funds, prime rate, treasury bills, London
 34 InterBank Offered Rate (LIBOR) or commercial paper) and is
 35 not subject to a maximum limit, if the obligations do not have
 36 an interest rate that varies inversely to market interest rate
 37 changes;

38 (2) government money market mutual funds or class one money
 39 market mutual funds; or

40 (3) securities lending, repurchase, and reverse repurchase and
 41 dollar roll transactions that meet the requirements of paragraph 29
 42 of this subsection and any applicable regulations of the



1 department;
 2 provided that the investment pool shall not acquire investments in any
 3 one (1) business entity that exceed ten percent (10%) of the total assets
 4 of the investment pool.

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

7 (1) acquire securities issued, assumed, guaranteed, or insured by
 8 the life insurance company or an affiliate of the company; or
 9 (2) borrow or incur any indebtedness for borrowed money, except
 10 for securities lending, reverse repurchase, and dollar roll
 11 transactions that meet the requirements of paragraph 29 of this
 12 subsection.

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

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

20 (1) the manager of the investment pool must:
 21 (A) be organized under the laws of the United States, a state or
 22 territory of the United States, or the District of Columbia, and
 23 designated as the pool manager in a pooling agreement; and
 24 (B) be the life insurance company, an affiliated company, a
 25 business entity affiliated with the company, or a qualified bank
 26 or a business entity registered under the Investment Advisors
 27 Act of 1940 (15 U.S.C. 80a-1 et seq.);
 28 (2) the pool manager or an entity designated by the pool manager
 29 of the type set forth in subdivision (1) of this subparagraph F shall
 30 compile and maintain detailed accounting records setting forth:
 31 (A) the cash receipts and disbursements reflecting each
 32 participant's proportionate participation in the investment pool;
 33 (B) a complete description of all underlying assets of the
 34 investment pool (including amount, interest rate, maturity date
 35 (if any) and other appropriate designations); and
 36 (C) other records which, on a daily basis, allow third parties to
 37 verify each participant's interest in the investment pool; and
 38 (3) the assets of the investment pool shall be held in one (1) or
 39 more accounts, in the name of or on behalf of the investment pool,
 40 under a custody agreement or trust agreement with a qualified
 41 bank, which must:
 42 (A) state and recognize the claims and rights of each



- 1 participant;
- 2 (B) acknowledge that the underlying assets of the investment
- 3 pool are held solely for the benefit of each participant in
- 4 proportion to the aggregate amount of its participation in the
- 5 investment pool; and
- 6 (C) contain an agreement that the underlying assets of the
- 7 investment pool shall not be commingled with the general
- 8 assets of the qualified bank or any other person.
- 9 G. The pooling agreement for an investment pool qualified under
- 10 this paragraph must be in writing and must include the following
- 11 provisions:
- 12 (1) Insurers, subsidiaries, or affiliates of insurers holding interests
- 13 in the pool, or any pension or profit sharing plan of such insurers
- 14 or their subsidiaries or affiliates, shall, at all times, hold one
- 15 hundred percent (100%) of the interests in the investment pool.
- 16 (2) The underlying assets of the investment pool shall not be
- 17 commingled with the general assets of the pool manager or any
- 18 other person.
- 19 (3) In proportion to the aggregate amount of each pool
- 20 participant's interest in the investment pool:
- 21 (A) each participant owns an undivided interest in the
- 22 underlying assets of the investment pool; and
- 23 (B) the underlying assets of the investment pool are held solely
- 24 for the benefit of each participant.
- 25 (4) A participant or (in the event of the participant's insolvency,
- 26 bankruptcy, or receivership) its trustee, receiver, or other
- 27 successor-in-interest may withdraw all or any portion of its
- 28 participation from the investment pool under the terms of the
- 29 pooling agreement.
- 30 (5) Withdrawals may be made on demand without penalty or
- 31 other assessment on any business day, but settlement of funds
- 32 shall occur within a reasonable and customary period thereafter.
- 33 Payments upon withdrawals under this paragraph shall be
- 34 calculated in each case net of all then applicable fees and
- 35 expenses of the investment pool. The pooling agreement shall
- 36 provide for such payments to be made to the participants in one
- 37 (1) of the following forms, at the discretion of the pool manager:
- 38 (A) in cash, the then fair market value of the participant's pro
- 39 rata share of each underlying asset of the investment pool;
- 40 (B) in kind, a pro rata share of each underlying asset; or
- 41 (C) in a combination of cash and in kind distributions, a pro
- 42 rata share in each underlying asset.



- 1 (6) The records of the investment pool shall be made available for
 2 inspection by the commissioner.
 3 SECTION 3. IC 27-1-12.1-9, AS ADDED BY P.L.115-2011,
 4 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2020]: Sec. 9. A limited purpose subsidiary that is granted a
 6 certificate of authority by the commissioner under this chapter:
 7 (1) is authorized to engage in the business of reinsurance for
 8 purposes of ~~IC 27-6-10~~ **IC 27-6-10.1** only for the lines of
 9 insurance for which the:
 10 (A) organizing domestic life insurance company; and
 11 (B) affiliates of the organizing domestic life insurance
 12 company;
 13 are authorized;
 14 (2) may reinsure only risks of:
 15 (A) the organizing domestic life insurance company; and
 16 (B) affiliates of the organizing domestic life insurance
 17 company; and
 18 (3) may access alternative forms of financing.
 19 SECTION 4. IC 27-1-13-3, AS AMENDED BY P.L.124-2018,
 20 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2020]: Sec. 3. (a) The following definitions apply throughout
 22 this section:
 23 (1) "Acceptable collateral" means the following:
 24 (A) As to securities lending transactions and for the purpose
 25 of calculating counterparty exposure:
 26 (i) cash;
 27 (ii) cash equivalents;
 28 (iii) letters of credit; and
 29 (iv) direct obligations of, or securities that are fully
 30 guaranteed as to principal and interest by, the government of
 31 the United States or any agency of the United States,
 32 including the Federal National Mortgage Association and
 33 the Federal Home Loan Mortgage Corporation.
 34 (B) As to lending foreign securities, sovereign debt rated 1 by
 35 the Securities Valuation Office.
 36 (C) As to repurchase transactions:
 37 (i) cash;
 38 (ii) cash equivalents; and
 39 (iii) direct obligations of, or securities that are fully
 40 guaranteed as to principal and interest by, the government of
 41 the United States or any agency of the United States,
 42 including the Federal National Mortgage Association and



- 1 the Federal Home Loan Mortgage Corporation.
- 2 (D) As to reverse repurchase transactions:
- 3 (i) cash; and
- 4 (ii) cash equivalents.
- 5 (2) "Admitted assets" means assets permitted to be reported as
- 6 admitted assets on the statutory financial statement of the insurer
- 7 most recently required to be filed with the commissioner.
- 8 (3) "Business entity" means any of the following:
- 9 (A) A sole proprietorship.
- 10 (B) A corporation.
- 11 (C) A limited liability company.
- 12 (D) An association.
- 13 (E) A general partnership.
- 14 (F) A limited partnership.
- 15 (G) A limited liability partnership.
- 16 (H) A joint stock company.
- 17 (I) A joint venture.
- 18 (J) A trust.
- 19 (K) A joint tenancy.
- 20 (L) Any other similar form of business organization, whether
- 21 for profit or nonprofit.
- 22 (4) "Cash" means any of the following:
- 23 (A) United States denominated paper currency and coins.
- 24 (B) Negotiable money orders and checks.
- 25 (C) Funds held in any time or demand deposit in any
- 26 depository institution, the deposits of which are insured by the
- 27 Federal Deposit Insurance Corporation.
- 28 (5) "Cash equivalent" means any of the following:
- 29 (A) A certificate of deposit issued by a depository institution,
- 30 the deposits of which are insured by the Federal Deposit
- 31 Insurance Corporation.
- 32 (B) A banker's acceptance issued by a depository institution,
- 33 the deposits of which are insured by the Federal Deposit
- 34 Insurance Corporation.
- 35 (C) A government money market mutual fund.
- 36 (D) A class one (1) money market mutual fund.
- 37 (6) "Class one (1) money market mutual fund" means a money
- 38 market mutual fund that at all times qualifies for investment using
- 39 the bond class one (1) reserve factor pursuant to the Purposes and
- 40 Procedures Manual of the NAIC Investment Analysis Office.
- 41 (7) "Derivative transaction" has the meaning set forth in
- 42 IC 27-1-12-2.2(a)(14).



- 1 (8) "Government money market mutual fund" means a money
 2 market mutual fund that at all times:
 3 (A) invests only in obligations issued, guaranteed, or insured
 4 by the United States or collateralized repurchase agreements
 5 composed of these obligations; and
 6 (B) qualifies for investment without a reserve pursuant to the
 7 Purposes and Procedures Manual of the NAIC Investment
 8 Analysis Office.
- 9 (9) "Money market mutual fund" means a mutual fund that meets
 10 the conditions of 17 CFR 270.2a-7, under the Investment
 11 Company Act of 1940 (15 U.S.C. 80a-1 et seq.).
- 12 (10) "Mutual fund" means:
 13 (A) an investment company; or
 14 (B) in the case of an investment company that is organized as
 15 a series company, an investment company series;
 16 that is registered with the United States Securities and Exchange
 17 Commission under the Investment Company Act of 1940 (15
 18 U.S.C. 80a-1 et seq.).
- 19 (11) "Obligation" means any of the following:
 20 (A) A bond.
 21 (B) A note.
 22 (C) A debenture.
 23 (D) Any other form of evidence of debt.
- 24 (12) "Qualified business entity" means a business entity that is:
 25 (A) an issuer of obligations or preferred stock that is rated one
 26 (1) or two (2) or is rated the equivalent of one (1) or two (2) by
 27 the Securities Valuation Office or by a nationally recognized
 28 statistical rating organization recognized by the Securities
 29 Valuation Office; or
 30 (B) a primary dealer in United States government securities,
 31 recognized by the Federal Reserve Bank of New York.
- 32 (13) "Securities Valuation Office" refers to the Securities
 33 Valuation Office of the NAIC.
- 34 (b) Any company, other than one organized as a life insurance
 35 company, organized under the provisions of IC 27-1 or any other law
 36 of this state and authorized to make any or all kinds of insurance
 37 described in class 2 or class 3 of IC 27-1-5-1 shall invest its capital or
 38 guaranty fund as follows and not otherwise:
 39 (1) In cash.
 40 (2) In:
 41 (A) direct obligations of the United States; or
 42 (B) obligations secured or guaranteed as to principal and



- 1 interest by the United States.
- 2 (3) In:
- 3 (A) direct obligations; or
- 4 (B) obligations secured by the full faith and credit;
- 5 of any state of the United States or the District of Columbia.
- 6 (4) In obligations of any county, township, city, town, village,
- 7 school district, or other municipal district within the United States
- 8 which are a direct obligation of the county, township, city, town,
- 9 village, or district issuing the same.
- 10 (5) In obligations secured by mortgages or deeds of trust or
- 11 unencumbered real estate or perpetual leases thereon in the
- 12 United States not exceeding eighty percent (80%) of the fair value
- 13 of the security determined in a manner satisfactory to the
- 14 department, except that the percentage stated may be exceeded if
- 15 and to the extent such excess is guaranteed or insured by the
- 16 United States, any state, territory, or possession of the United
- 17 States, the District of Columbia, Canada, any province of Canada,
- 18 or by an administration, agency, authority, or instrumentality of
- 19 any such governmental units. Where improvements on the land
- 20 constitute a part of the value on which the loan is made, the
- 21 improvements shall be insured against fire and tornado for the
- 22 benefit of the mortgagee. For the purposes of this section, real
- 23 estate may not be deemed to be encumbered by reason of the
- 24 existence of taxes or assessments that are not delinquent,
- 25 instruments creating or reserving mineral, oil, or timber rights,
- 26 rights-of-way, joint driveways, sewer rights, rights-in-walls, nor
- 27 by reason of building restrictions, or other restrictive covenants,
- 28 nor when such real estate is subject to lease in whole or in part
- 29 whereby rents or profits are reserved to the owner. The
- 30 restrictions contained in this subdivision do not apply to loans or
- 31 investments made under section 5 of this chapter.
- 32 (c) Any company organized under the provisions of this article or
- 33 any other law of this state and authorized to make any or all of the
- 34 kinds of insurance described in class 2 or class 3 of IC 27-1-5-1 shall
- 35 invest its funds over and above its required capital stock or required
- 36 guaranty fund as follows, and not otherwise:
- 37 (1) In cash or cash equivalents. However, not more than ten
- 38 percent (10%) of admitted assets may be invested in any single
- 39 government money market mutual fund or class one (1) money
- 40 market mutual fund.
- 41 (2) In direct obligations of the United States or obligations
- 42 secured or guaranteed as to principal and interest by the United



- 1 States.
- 2 (3) In obligations issued, guaranteed, or insured as to principal
- 3 and interest by a city, county, drainage district, road district,
- 4 school district, tax district, town, township, village or other civil
- 5 administration, agency, authority, instrumentality or subdivision
- 6 of a state, territory, or possession of the United States, the District
- 7 of Columbia, Canada, or any province of Canada, providing such
- 8 obligations are authorized by law and are either:
- 9 (A) direct and general obligations of the issuing, guaranteeing,
- 10 or insuring governmental unit, administration, agency,
- 11 authority, district, subdivision, or instrumentality;
- 12 (B) payable from designated revenues pledged to the payment
- 13 of the principal and interest of the obligations; or
- 14 (C) improvement bonds or other obligations constituting a first
- 15 lien, except for tax liens, against all of the real estate within
- 16 the improvement district or on that part of such real estate not
- 17 discharged from such lien through payment of the assessment.
- 18 The area to which the improvement bonds or other obligations
- 19 under clause (C) relate must be situated within the limits of a
- 20 town or city and at least fifty percent (50%) of the properties
- 21 within that area must be improved with business buildings or
- 22 residences.
- 23 (4) In:
- 24 (A) direct obligations; or
- 25 (B) obligations secured by the full faith and credit;
- 26 of any state of the United States, the District of Columbia, or
- 27 Canada or any province thereof.
- 28 (5) In obligations guaranteed, supported, or insured as to principal
- 29 and interest by the United States, any state, territory, or
- 30 possession of the United States, the District of Columbia, Canada,
- 31 any province of Canada, or by an administration, agency,
- 32 authority, or instrumentality of any of the political units listed in
- 33 this subdivision. An obligation is "supported" for the purposes of
- 34 this subdivision when repayment of the obligation is secured by
- 35 real or personal property of value at least equal to the principal
- 36 amount of the indebtedness by means of mortgage, assignment of
- 37 vendor's interest in one (1) or more conditional sales contracts,
- 38 other title retention device, or by means of other security interest
- 39 in the property for the benefit of the holder of the obligation, and
- 40 one (1) of the political units listed in this subdivision, or an
- 41 administration, agency, authority, or instrumentality listed in this
- 42 subdivision, has entered into a firm agreement to rent or use the



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

22 (6) In obligations secured by mortgages or deeds of trust or
23 unencumbered real estate or perpetual leases thereon, in any state
24 in the United States, the District of Columbia, Canada, or any
25 province of Canada, not exceeding eighty percent (80%) of the
26 fair value of the security determined in a manner satisfactory to
27 the department, except that the percentage stated may be
28 exceeded if and to the extent that the excess is guaranteed or
29 insured by the United States, any state, territory, or possession of
30 the United States, the District of Columbia, Canada, any province
31 of Canada, or by an administration, agency, authority, or
32 instrumentality of any of such governmental units. The value of
33 the real estate must be determined by a method and in a manner
34 satisfactory to the department. The restrictions contained in this
35 subdivision do not apply to loans or investments made under
36 section 5 of this chapter.

37 (7) In obligations issued under or pursuant to the Farm Credit Act
38 of 1971 (12 U.S.C. 2001 through 2279aa-14) as in effect on
39 December 31, 1990, or the Federal Home Loan Bank Act (12
40 U.S.C. 1421 through 1449) as in effect on December 31, 1990,
41 interest bearing obligations of the FSLIC Resolution Fund and
42 shares of any institution that is insured by the Federal Deposit



1 Insurance Corporation to the extent that the shares are insured,
 2 obligations issued or guaranteed by the International Bank for
 3 Reconstruction and Development, obligations issued or
 4 guaranteed by the Inter-American Development Bank, and
 5 obligations issued or guaranteed by the African Development
 6 Bank.

7 (8) In any mutual fund that:

8 (A) has been registered with the Securities and Exchange
 9 Commission for a period of at least five (5) years immediately
 10 preceding the date of purchase;

11 (B) has net assets of at least twenty-five million dollars
 12 (\$25,000,000) on the date of purchase; and

13 (C) invests substantially all of its assets in investments
 14 permitted under this subsection.

15 The amount invested in any single mutual fund shall not exceed
 16 ten percent (10%) of admitted assets. The aggregate amount of
 17 investments under this subdivision may be limited by the
 18 commissioner if the commissioner finds that investments under
 19 this subdivision may render the operation of the company
 20 hazardous to the company's policyholders, to the company's
 21 creditors, or to the general public. This subdivision in no way
 22 limits or restricts investments that are otherwise specifically
 23 permitted under this section.

24 (9) In obligations payable in United States dollars and issued,
 25 guaranteed, assumed, insured, or accepted by a foreign
 26 government or by a solvent business entity existing under the laws
 27 of a foreign government, if the obligations of the foreign
 28 government or business entity meet at least one (1) of the
 29 following criteria:

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

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

34 (C) The earnings available for fixed charges of the business
 35 entity for a period of five (5) fiscal years preceding the date of
 36 purchase have averaged at least three (3) times the average
 37 fixed charges of the business entity applicable to the period,
 38 and if during either of the last two (2) years of the period, the
 39 earnings available for fixed charges were at least three (3)
 40 times the fixed charges of the business entity for the year. As
 41 used in this subdivision, the terms "earnings available for fixed
 42 charges" and "fixed charges" have the meanings set forth in



- 1 IC 27-1-12-2(a).
2 Foreign investments authorized by this subdivision shall not
3 exceed twenty percent (20%) of the company's admitted assets.
4 This subdivision in no way limits or restricts investments that are
5 otherwise specifically permitted under this section. Canada is not
6 a foreign government for purposes of this subdivision.
- 7 (10) In the obligations of any solvent business entity existing
8 under the laws of the United States, any state of the United States,
9 the District of Columbia, Canada, or any province of Canada,
10 provided that interest on the obligations is not in default.
- 11 (11) In the preferred or guaranteed shares of any solvent business
12 entity, so long as the business entity is not and has not been for
13 the preceding five (5) years in default in the payment of interest
14 due and payable on its outstanding debt or in arrears in the
15 payment of dividends on any issue of its outstanding preferred or
16 guaranteed stock.
- 17 (12) In the shares, other than those specified in subdivision (7), of
18 any solvent business entity existing under the laws of any state of
19 the United States, the District of Columbia, Canada, or any
20 province of Canada, and in the shares of any institution wherever
21 located which has the insurance protection provided by the
22 Federal Deposit Insurance Corporation. Except for the purpose of
23 mutualization or for the purpose of retirement of outstanding
24 shares of capital stock pursuant to amendment of its articles of
25 incorporation, or in connection with a plan approved by the
26 commissioner for purchase of such shares by the insurance
27 company's officers, employees, or agents, or for the elimination
28 of fractional shares, no company subject to the provisions of this
29 section may invest in its own stock.
- 30 (13) In loans upon the pledge of any mortgage, stocks, bonds, or
31 other evidences of indebtedness, acceptable as investments under
32 the terms of this chapter, if the current value of the mortgage,
33 stock, bond, or other evidences of indebtedness is at least
34 twenty-five percent (25%) more than the amount loaned on it.
- 35 (14) In real estate, subject to subsections (d) and (e).
- 36 (15) In securities lending, repurchase, and reverse repurchase
37 transactions with business entities, subject to the following
38 requirements:
- 39 (A) The company's board of directors shall adopt a written
40 plan that specifies guidelines and objectives to be followed,
41 such as:
- 42 (i) a description of how cash received will be invested or



1 used for general corporate purposes of the company;
2 (ii) operational procedures to manage interest rate risk,
3 counterparty default risk, and the use of acceptable collateral
4 in a manner that reflects the liquidity needs of the
5 transaction; and
6 (iii) the extent to which the company may engage in these
7 transactions.

8 (B) The company shall enter into a written agreement for all
9 transactions authorized in this subdivision. The written
10 agreement shall require the termination of each transaction not
11 more than one (1) year from its inception or upon the earlier
12 demand of the company. The agreement shall be with the
13 counterparty business entity but, for securities lending
14 transactions, the agreement may be with an agent acting on
15 behalf of the company if the agent is a qualified business entity
16 and if the agreement:

17 (i) requires the agent to enter into separate agreements with
18 each counterparty that are consistent with the requirements
19 of this section; and

20 (ii) prohibits securities lending transactions under the
21 agreement with the agent or its affiliates.

22 (C) Cash received in a transaction under this section shall be
23 invested in accordance with this section and in a manner that
24 recognizes the liquidity needs of the transaction or used by the
25 company for its general corporate purposes. For as long as the
26 transaction remains outstanding, the company or its agent or
27 custodian shall maintain, as to acceptable collateral received
28 in a transaction under this section, either physically or through
29 book entry systems of the Federal Reserve, Depository Trust
30 Company, Participants Trust Company, or other securities
31 depositories approved by the commissioner:

32 (i) possession of the acceptable collateral;

33 (ii) a perfected security interest in the acceptable collateral;
34 or

35 (iii) in the case of a jurisdiction outside the United States,
36 title to, or rights of a secured creditor to, the acceptable
37 collateral.

38 (D) For purposes of calculations made to determine
39 compliance with this subdivision, no effect may be given to
40 the company's future obligation to resell securities in the case
41 of a repurchase transaction, or to repurchase securities in the
42 case of a reverse repurchase transaction. A company shall not



1 enter into a transaction under this subdivision if, as a result of
2 and after giving effect to the transaction:

3 (i) the aggregate amount of securities then loaned, sold to,
4 or purchased from any one (1) business entity pursuant to
5 this subdivision would exceed five percent (5%) of its
6 admitted assets (but, in calculating the amount sold to or
7 purchased from a business entity pursuant to repurchase or
8 reverse repurchase transactions, effect may be given to
9 netting provisions under a master written agreement); or

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

14 (E) In a securities lending transaction, the company shall
15 receive acceptable collateral having a market value as of the
16 transaction date at least equal to one hundred two percent
17 (102%) of the market value of the securities loaned by the
18 company in the transaction as of that date. If at any time the
19 market value of the acceptable collateral is less than the
20 market value of the loaned securities, the business entity shall
21 be obligated to deliver additional acceptable collateral, the
22 market value of which, together with the market value of all
23 acceptable collateral then held in connection with the
24 transaction, at least equals one hundred two percent (102%) of
25 the market value of the loaned securities.

26 (F) In a reverse repurchase transaction, the company shall
27 receive acceptable collateral having a market value as of the
28 transaction date at least equal to ninety-five percent (95%) of
29 the market value of the securities transferred by the company
30 in the transaction as of that date. If at any time the market
31 value of the acceptable collateral is less than ninety-five
32 percent (95%) of the market value of the securities so
33 transferred, the business entity shall be obligated to deliver
34 additional acceptable collateral, the market value of which,
35 together with the market value of all acceptable collateral then
36 held in connection with the transaction, equals at least
37 ninety-five percent (95%) of the market value of the
38 transferred securities.

39 (G) In a repurchase transaction, the company shall receive as
40 acceptable collateral transferred securities having a market
41 value equal to at least one hundred two percent (102%) of the
42 purchase price paid by the company for the securities. If at any



- 1 time the market value of the acceptable collateral is less than
 2 one hundred percent (100%) of the purchase price paid by the
 3 company, the business entity shall be obligated to provide
 4 additional acceptable collateral, the market value of which,
 5 together with the market value of all acceptable collateral then
 6 held in connection with the transaction, equals at least one
 7 hundred two percent (102%) of the purchase price. Securities
 8 acquired by a company in a repurchase transaction shall not be
 9 sold in a reverse repurchase transaction, loaned in a securities
 10 lending transaction, or otherwise pledged.
- 11 (16) In mortgage backed securities, including collateralized
 12 mortgage obligations, mortgage pass through securities, mortgage
 13 backed bonds, and real estate mortgage investment conduits,
 14 adequately secured by a pool of mortgages, which mortgages are
 15 fully guaranteed or insured by the government of the United
 16 States or any agency of the United States, including the Federal
 17 National Mortgage Association or the Federal Home Loan
 18 Mortgage Corporation.
- 19 (17) In mortgage backed securities, including collateralized
 20 mortgage obligations, mortgage pass through securities, mortgage
 21 backed bonds, and real estate mortgage investment conduits,
 22 adequately secured by a pool of mortgages, if the securities carry
 23 a rating of at least:
- 24 (A) ~~A3~~ **Baa3** conferred by Moody's Investor Services, Inc.; or
 25 (B) ~~A-~~ **BBB-** conferred by Standard & Poor's Corporation.
- 26 The amount invested in any one (1) obligation or pool of
 27 obligations described in this subdivision shall not exceed five
 28 percent (5%) of admitted assets. The aggregate amount of all
 29 investments under this subdivision shall not exceed ten percent
 30 (10%) of admitted assets.
- 31 (18) Any other investment acquired in good faith as payment on
 32 account of existing indebtedness or in connection with the
 33 refinancing, restructuring, or workout of existing indebtedness, if
 34 taken to protect the interests of the company in that investment.
- 35 (19) In obligations or interests in trusts or partnerships in which
 36 a life insurance company may invest as described in paragraph 31
 37 of IC 27-1-12-2(b). Investments authorized by this paragraph may
 38 not exceed ~~ten percent (10%)~~ **twenty percent (20%)** of the
 39 company's admitted assets.
- 40 (20) In any other investment. The total of all investments under
 41 this subdivision, except for investments in subsidiary companies
 42 under IC 27-1-23-2.6, may not exceed ~~an aggregate amount the~~



1 **greater** of ten percent (10%) of the insurer's admitted assets or
 2 **fifty percent (50%) of the insurer's capital and surplus.**

3 Investments are not permitted under this subdivision:

- 4 (A) if expressly prohibited by statute; or
 5 (B) in an insolvent organization or an organization in default
 6 with respect to the payment of principal or interest on its
 7 obligations.

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

11 (1) Leaseholds, provided the mortgage term shall not exceed
 12 four-fifths (4/5) of the unexpired lease term, including
 13 enforceable renewable options, remaining at the time of the loan,
 14 such real estate or leaseholds to be located in the United States,
 15 any territory or possession of the United States, or Canada, the
 16 value of such leasehold for statement purposes shall be
 17 determined in a manner and form satisfactory to the department.
 18 At the time the leasehold is acquired and approved by the
 19 department, a schedule of annual depreciation shall be set up by
 20 the department in which the value of said leasehold is to be
 21 depreciated, and said depreciation is to be averaged out over not
 22 exceeding a period of fifty (50) years.

23 (2) The building in which it has its principal office and the land
 24 on which it stands.

25 (3) Such as shall be necessary for the convenient transaction of its
 26 business.

27 (4) Such as shall have been acquired for the accommodation of its
 28 business.

29 (5) Such as shall have been mortgaged to it in good faith by way
 30 of security for loans previously contracted or for money due.

31 (6) Such as shall have been conveyed to it in connection with its
 32 investments in real estate contracts or its investments in real
 33 estate under lease or for the purpose of leasing or such as shall
 34 have been acquired for the purpose of investment under any law,
 35 order, or regulation authorizing such investment, for statement
 36 purposes, the value of such real estate shall be determined in a
 37 manner satisfactory to the department.

38 (7) Such as shall have been conveyed to it in satisfaction of debts
 39 previously contracted in the course of its dealings, or in exchange
 40 for real estate so conveyed to it.

41 (8) Such as it shall have purchased at sales on judgments, decrees,
 42 or mortgages obtained or made for such debts.



1 (e) All real estate described in subsection (d)(4) through (d)(8)
 2 which is not necessary for the convenient transaction of its business
 3 shall be sold by said company and disposed of within ten (10) years
 4 after it acquired title to the same, or within five (5) years after the same
 5 has ceased to be necessary for the accommodation of its business,
 6 unless the company procures the certificate of the commissioner that
 7 its interests will suffer materially by a forced sale of the real estate, in
 8 which event the time for the sale may be extended to such time as the
 9 commissioner directs in the certificate.

10 (f) The board of directors of a company, other than a company
 11 organized as a life insurance company, shall do all the following:

12 (1) Before engaging in derivatives transactions, approve a written
 13 plan that specifies guidelines, systems, and objectives to be
 14 followed, such as:

15 (A) investment of or, if applicable, underwriting objectives
 16 and risk constraints, such as credit risk limits;

17 (B) permissible transactions and the relationship of those
 18 transactions to the insurer's operations;

19 (C) internal control procedures;

20 (D) a system for determining whether a derivative instrument
 21 used for hedging has been effective;

22 (E) a credit risk management system for over-the-counter
 23 derivatives transactions that measures credit risk exposure
 24 using the counterparty exposure amount; and

25 (F) a mechanism for reviewing and auditing compliance with
 26 the guidelines, systems, and objectives specified in the written
 27 plan.

28 (2) Before engaging in derivatives transactions, make a
 29 determination that the insurer's investment managers have
 30 adequate professional personnel, technical expertise, and systems
 31 to implement the insurer's intended investment practices
 32 involving derivative instruments.

33 (3) Review whether derivatives transactions have been made in
 34 accordance with the approved guidelines and are consistent with
 35 stated objectives.

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

38 SECTION 5. IC 27-1-25-7 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 7. All claims paid by
 40 an administrator from funds collected on behalf of an insurer shall ~~only~~
 41 be paid: ~~on~~

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



- 1 **(2) via electronic payment;**
 2 as authorized by the insurer.
- 3 SECTION 6. IC 27-1-28-15, AS ADDED BY P.L.11-2011,
 4 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2020]: Sec. 15. (a) Except as provided in section 16 of this
 6 chapter **and in subsection (e)**, an individual who applies for an
 7 independent adjuster license under this chapter must pass a written
 8 examination that is:
- 9 (1) developed and conducted according to rules adopted by the
 10 commissioner under IC 4-22-2; and
- 11 (2) intended to test the knowledge of the individual concerning:
- 12 (A) the lines of authority in which the individual has applied
 13 for licensing under this chapter;
- 14 (B) the duties and responsibilities of an independent adjuster;
 15 and
- 16 (C) Indiana insurance law.
- 17 (b) The commissioner may contract with a nongovernmental entity
 18 to administer the written examination required by this section.
- 19 (c) An individual described in subsection (a) shall remit, with the
 20 application to take the written examination required by this section, a
 21 nonrefundable examination fee in an amount set by the commissioner
 22 or the organization administering the examination.
- 23 (d) If an individual:
- 24 (1) fails to appear for or to pass an examination; and
 25 (2) desires to reschedule the examination;
 26 the individual shall reapply for the written examination and remit all
 27 fees and forms before scheduling an examination date.
- 28 **(e) An individual who holds a current claims certification issued**
 29 **by a national or state claims association whose certification**
 30 **program includes:**
- 31 **(1) a precertification course for new adjusters that is**
 32 **approved by the department;**
- 33 **(2) an examination for new adjusters that is approved by the**
 34 **department; and**
- 35 **(3) a continuing education program that is approved by the**
 36 **department;**
- 37 **is not required to complete a precertification course described in**
 38 **section 12(b)(5) of this chapter or pass a written examination**
 39 **described in subsection (a) to be issued an independent adjuster**
 40 **license under this chapter.**
- 41 SECTION 7. IC 27-1-28-16, AS ADDED BY P.L.11-2011,
 42 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2020]: Sec. 16. (a) An individual who applies for an
 2 independent adjuster license under this chapter and who:

3 (1) possesses an independent adjuster license for the same line of
 4 authority in which the individual has applied for licensing under
 5 this chapter in a state in which a prelicensing independent
 6 adjuster licensure examination is required;

7 (2) possessed an independent adjuster license that:

8 (A) was for the same line of authority in which the individual
 9 has applied for licensing under this chapter in a state in which
 10 a prelicensing independent adjuster licensure examination is
 11 required; and

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

14 (3) provides proof from contracting insurers that the individual
 15 has participated in claims adjudication in the same line of
 16 authority during the five (5) years immediately preceding the date
 17 of application;

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

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

24 (1) is currently in good standing; or

25 (2) was in good standing at the time of expiration.

26 (c) A person:

27 **(1) ~~that:~~ who:**

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

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

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

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

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

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

42 **(C) a continuing education program that is approved by**



- 1 **the department;**
 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 SECTION 8. IC 27-1-28-19, AS ADDED BY P.L.11-2011,
 6 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2020]: Sec. 19. (a) Except as provided in subsection (b), an
 8 individual who holds a license under this chapter shall, every two (2)
 9 years, satisfactorily complete a minimum of twenty-four (24) hours of
 10 continuing education courses and report the completion of the courses
 11 to the commissioner.
 12 (b) This section does not apply to the following:
 13 (1) An individual who is licensed for less than twelve (12) months
 14 before the end of the applicable continuing education biennium.
 15 (2) A licensed nonresident independent adjuster who has met the
 16 continuing education requirements of the licensed nonresident
 17 independent adjuster's designated home state.
 18 **(3) An individual holding a current claims certification if:**
 19 **(A) the claims certification is issued by a national or state**
 20 **claims association whose certification program is approved**
 21 **by the department for purposes of this section;**
 22 **(B) the number of hours of study required to complete the**
 23 **certification program described in clause (A) is not less**
 24 **than the number of hours of continuing education that an**
 25 **individual is required to complete every two (2) years**
 26 **under subsection (a);**
 27 **(C) the content of the certification program described in**
 28 **clause (A):**
 29 **(i) includes the content of the prelicensing course of**
 30 **study required by section 12(b)(5) of this chapter for the**
 31 **line of authority in which the individual has applied for**
 32 **or obtained licensing under this chapter; and**
 33 **(ii) is made available for review and audit by the**
 34 **commissioner through an electronic portal maintained**
 35 **by the association;**
 36 **(D) the claims association referred to in clause (A) is**
 37 **approved as a continuing education provider in Indiana;**
 38 **(E) the claims association referred to in clause (A) reports**
 39 **the individual's completion of the certification program**
 40 **described in clause (A) to the commissioner through an**
 41 **electronic portal maintained by the commissioner; and**
 42 **(F) the association, through an electronic portal**



- 1 **maintained by the association, provides the commissioner**
 2 **access to the individual's transcript showing the**
 3 **individual's completion of the certification program**
 4 **described in clause (A).**
- 5 SECTION 9. IC 27-1-34-1.5 IS ADDED TO THE INDIANA CODE
 6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 7 1, 2020]: **Sec. 1.5. A multiple employer welfare arrangement may**
 8 **be established through an interlocal cooperation agreement under**
 9 **IC 36-1-7.**
- 10 SECTION 10. IC 27-2-27 IS ADDED TO THE INDIANA CODE
 11 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2020]:
- 13 **Chapter 27. Insurance Data Security**
- 14 **Sec. 1. This chapter applies after June 30, 2021.**
- 15 **Sec. 2. As used in this chapter, "authorized individual" means**
 16 **an individual authorized by the licensee to have access to the**
 17 **nonpublic information held by the licensee and its information**
 18 **systems.**
- 19 **Sec. 3. As used in this chapter, "commissioner" refers to the**
 20 **insurance commissioner appointed under IC 27-1-1-2.**
- 21 **Sec. 4. As used in this chapter, "consumer" means a resident of**
 22 **Indiana whose nonpublic information is in a licensee's possession,**
 23 **custody, or control.**
- 24 **Sec. 5. As used in this chapter, "cybersecurity event" means an**
 25 **event resulting in unauthorized access to or a disruption or misuse**
 26 **of an information system or nonpublic information stored on the**
 27 **information system that has a reasonable likelihood of materially**
 28 **harming a consumer or any material part of the normal operations**
 29 **of the licensee. However, the term does not include the following:**
- 30 **(1) The unauthorized acquisition of encrypted nonpublic**
 31 **information if the encryption, process, or key is not also**
 32 **acquired, released, or used without authorization.**
- 33 **(2) An event in which a licensee has determined that the**
 34 **nonpublic information accessed by an unauthorized person**
 35 **has not been used or released and has been returned or**
 36 **destroyed.**
- 37 **Sec. 6. As used in this chapter, "department" means the**
 38 **department of insurance created by IC 27-1-1-1.**
- 39 **Sec. 7. As used in this chapter, "encrypted" means the**
 40 **transformation of data into a form that results in a low probability**
 41 **of assigning meaning without the use of a protective process or key.**
- 42 **Sec. 8. As used in this chapter, "information security program"**



1 means the administrative, technical, and physical safeguards that
 2 a licensee uses to access, collect, distribute, process, protect, store,
 3 use, transmit, dispose of, or otherwise handle nonpublic
 4 information.

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

7 (1) A discrete set of electronic information resources
 8 organized for the collection, processing, maintenance, use,
 9 sharing, dissemination, or disposition of nonpublic
 10 information.

11 (2) Any specialized system, such as industrial or process
 12 control systems, telephone switching systems, private
 13 exchange systems, and environmental control systems.

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

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

17 (2) required to be licensed, authorized to operate, or
 18 registered;

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

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

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

23 (2) A person that is:

24 (A) acting as an assuming insurer; and

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

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

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

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

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

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

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

40 (A) Social Security number.

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



- 1 (C) Financial account number, credit card number, or
2 debit card number.
- 3 (D) Any security code, access code, or password that would
4 permit access to a consumer's financial account.
- 5 (E) Biometric records.
- 6 (2) Any information or data, except age or gender, in any
7 form or medium created by or derived from a health care
8 provider or a consumer that can be used to identify a
9 consumer and relates to:
- 10 (A) the past, present, or future physical, mental, or
11 behavioral health or condition of the consumer or a
12 member of the consumer's family;
- 13 (B) the provision of health care to the consumer; or
- 14 (C) payment for the provision of health care provided to
15 the consumer.
- 16 Sec. 13. As used in this chapter, "publicly available
17 information" means any information that a licensee has a
18 reasonable basis to believe is lawfully made available to the general
19 public from:
- 20 (1) federal, state, or local government records;
- 21 (2) widely distributed media; or
- 22 (3) disclosures to the general public that are required to be
23 made by federal, state, or local law.
- 24 Sec. 14. As used in this chapter, "risk assessment" means the
25 assessment a licensee is required to conduct under section 17 of this
26 chapter.
- 27 Sec. 15. As used in this chapter, "third party service provider"
28 means a person that contracts with a licensee to maintain, process,
29 store, or otherwise is permitted access to nonpublic information
30 through its provision of services to the licensee.
- 31 Sec. 16. (a) A licensee shall develop, implement, and maintain a
32 comprehensive, written information security program that:
- 33 (1) is based on the risk assessment required under section 17
34 of this chapter; and
- 35 (2) contains administrative, technical, and physical safeguards
36 for the protection of nonpublic information and the licensee's
37 information systems.
- 38 (b) An information security program must accomplish the
39 following:
- 40 (1) Protect the security and confidentiality of nonpublic
41 information and information systems.
- 42 (2) Protect against any threats or hazards to the security or



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

8 **Sec. 17. A licensee shall conduct a risk assessment of its**
 9 **information systems and treatment of nonpublic information by**
 10 **doing the following:**

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

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

- 38 (1) Design its information security program to mitigate the
- 39 identified risks, commensurate with:
- 40 (A) the licensee's size and complexity;
- 41 (B) the nature and scope of the licensee's activities; and
- 42 (C) the sensitivity of the nonpublic information in the



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



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



1 identified weaknesses in information systems and associated
2 controls.

3 (6) Documentation and reporting regarding cybersecurity
4 events and related incident response activities.

5 (7) The evaluation and revision, as necessary, of the incident
6 response plan.

7 (c) Annually, not later than April 15, each insurer domiciled in
8 Indiana shall submit to the commissioner a written statement
9 certifying that the insurer is in compliance with the requirements
10 set forth in sections 16 through 19 of this chapter and this section.
11 Each insurer shall maintain for examination by the department all
12 records, schedules, and data supporting this certificate for a period
13 of five (5) years. To the extent an insurer has identified areas,
14 systems, or processes that require material improvement,
15 updating, or redesign, the insurer shall document the identification
16 of the areas, systems, or processes and the remedial efforts planned
17 and underway to address the areas, systems, or processes. The
18 documentation must be available for inspection by the
19 commissioner.

20 Sec. 21. (a) If a licensee learns that a cybersecurity event has or
21 may have occurred, the licensee, or an outside vendor or service
22 provider designated to act on the licensee's behalf, shall conduct a
23 prompt investigation. During the investigation, the licensee or
24 outside vendor or service provider designated to act on the
25 licensee's behalf shall:

26 (1) determine:

27 (A) whether a cybersecurity event has occurred;

28 (B) if so, the nature and scope of the cybersecurity event;
29 and

30 (C) whether any nonpublic information may have been
31 involved in the cybersecurity event; and

32 (2) perform or oversee reasonable measures to restore the
33 security of the information systems compromised in the
34 cybersecurity event in order to prevent further unauthorized
35 acquisition, release, or use of nonpublic information in the
36 licensee's possession, custody, or control.

37 (b) A licensee shall maintain records concerning all
38 cybersecurity events for at least five (5) years after the date of the
39 cybersecurity event. A licensee shall produce these records upon
40 demand of the commissioner.

41 (c) A licensee shall notify the commissioner as promptly as
42 possible but not later than three (3) business days after a



1 determination that a cybersecurity event involving nonpublic
 2 information that is in the possession of the licensee has occurred if
 3 either of the following applies:

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

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

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

17 (B) A cybersecurity event that has a reasonable likelihood
 18 of materially harming:

19 (i) a consumer residing in Indiana; or

20 (ii) any material part of the normal operations of the
 21 licensee.

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

26 (1) The date of the cybersecurity event.

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

30 (3) How the cybersecurity event was discovered.

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

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

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

37 (7) A description of the specific types of information acquired
 38 without authorization. Specific types of information means
 39 particular data elements including, for example, types of
 40 medical information, types of financial information, or types
 41 of information allowing identification of the consumer.

42 (8) The period during which the information system was



1 **compromised by the cybersecurity event.**

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

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

8 **(A) identifying a lapse in either automated controls or**
 9 **internal procedures; or**

10 **(B) confirming that all automated controls or internal**
 11 **procedures were followed.**

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

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

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

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

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

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

29 **(1) another licensee;**

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

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

32 **to fulfill any investigation requirements imposed under subsection**
 33 **(a) or notice requirements imposed under subsections (c) through**
 34 **(f).**

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

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

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

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

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

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



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

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

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

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

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

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

27 (1) that involves nonpublic information:

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

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

33 (2) for which consumer notice is required by IC 24-4.9;
 34 the insurer shall notify the producers of record of all affected
 35 consumers of the cybersecurity event not later than the time at
 36 which notice is provided to the affected consumers.

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

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

42 (2) in those instances in which the insurer does not have the



1 current producer of record information for an individual
2 consumer.

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

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

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

15 **(1)** furnished by a licensee or an employee or agent acting on
16 behalf of a licensee under section 20(c), 21(d)(2) through
17 21(d)(5), 21(d)(8), or 21(d)(10) through 21(d)(11) of this
18 chapter; or

19 **(2)** obtained by the commissioner in an investigation or
20 examination under section 24 of this chapter;

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

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

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

37 **(1)** may share documents, materials, or other information,
38 including the confidential and privileged documents,
39 materials, or information subject to subsection (a), with other
40 state, federal, and international regulatory agencies, with the
41 NAIC and its affiliates or subsidiaries, and with state, federal,
42 and international law enforcement authorities, provided that



- 1 the recipient agrees in writing to maintain the confidentiality
2 and privileged status of the document, material, or other
3 information;
- 4 (2) may receive documents, materials, or information,
5 including otherwise confidential and privileged documents,
6 materials, or information, from the NAIC and its affiliates or
7 subsidiaries and from regulatory and law enforcement
8 officials of other foreign or domestic jurisdictions, and shall
9 maintain as confidential or privileged any document,
10 material, or information received with notice or the
11 understanding that it is confidential or privileged under the
12 laws of the jurisdiction that is the source of the document,
13 material, or information;
- 14 (3) may share documents, materials, or other information
15 subject to subsection (a), with a third party consultant or
16 vendor provided the consultant or vendor agrees in writing to
17 maintain the confidentiality and privileged status of the
18 document, material, or other information; and
- 19 (4) may enter into agreements governing sharing and use of
20 information consistent with this subsection.
- 21 (d) No waiver of any applicable privilege or claim of
22 confidentiality in the documents, materials, or information shall
23 occur as a result of disclosure to the commissioner under this
24 section or as a result of sharing as authorized in subsection (c).
- 25 (e) Nothing in this chapter prohibits the commissioner from
26 releasing final, adjudicated actions that are open to public
27 inspection under IC 5-14-3 to a data base or other clearinghouse
28 service maintained by the NAIC, its affiliates, or subsidiaries.
- 29 (f) Documents, materials, or other information in the possession
30 or control of the NAIC or a third party consultant or vendor under
31 this chapter shall be confidential by law and privileged, shall not
32 be subject to IC 5-14-3, shall not be subject to subpoena, and shall
33 not be subject to discovery or admissible in evidence in any private
34 civil action.
- 35 Sec. 26. (a) A licensee is exempt from sections 16 through 20 of
36 this chapter if the licensee has:
- 37 (1) fewer than fifty (50) employees;
- 38 (2) less than five million dollars (\$5,000,000) in gross annual
39 revenue, or
- 40 (3) less than ten million dollars (\$10,000,000) in year-end total
41 assets.
- 42 (b) A licensee that:



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

4 (2) has established and maintains an information security
 5 program pursuant to that federal act and the regulations,
 6 procedures, or guidelines established under that act;
 7 will be considered as meeting the requirements of this chapter,
 8 except for the notice requirements described in section 21 of this
 9 chapter.

10 (c) An individual who:

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

13 (2) is also a licensee;

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

19 (d) A licensee shall be considered to have complied with sections
 20 16 through 20 of this chapter if the licensee is affiliated with a
 21 financial institution (as defined in 15 U.S.C. 6809) that maintains
 22 an information security program in compliance with the
 23 Interagency Guidelines Establishing Standards for Safeguarding
 24 Consumer Information adopted under Sections 501 and 505(b) of
 25 the Gramm-Leach-Bliley Act (15 U.S.C. 6801 and 6805(b)).

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

31 Sec. 27. If a licensee violates this chapter, the insurance
 32 commissioner may, after notice and hearing under IC 4-21.5,
 33 suspend or revoke the license, certificate of authority, or
 34 registration of the licensee.

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

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

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

42 (1) data security;



- 1 (2) the investigation of a cybersecurity event; and
 2 (3) notification to the insurance commissioner concerning a
 3 cybersecurity event.

4 **Sec. 31. The requirements of this chapter do not apply to a**
 5 **financial institution (as defined in 15 U.S.C. 6809), except to the**
 6 **extent the financial institution transacts insurance business.**

7 **Sec. 32. (a) A licensee that satisfies the requirements of this**
 8 **chapter is entitled to an affirmative defense to any cause of action**
 9 **sounding in tort that:**

- 10 (1) is brought under the laws or in the courts of this state; and
 11 (2) alleges that the failure to implement reasonable
 12 information security controls resulted in a data breach
 13 concerning nonpublic information.

14 **(b) The affirmative defense available under this section does not**
 15 **limit any other affirmative defenses available to a licensee.**

16 SECTION 11. IC 27-6-10 IS REPEALED [EFFECTIVE JULY 1,
 17 2020]. (Credit for Reinsurance).

18 SECTION 12. IC 27-6-10.1 IS ADDED TO THE INDIANA CODE
 19 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2020]:

21 **Chapter 10.1. Credit for Reinsurance**

22 **Sec. 1. (a) The purpose of this chapter is to protect the interest**
 23 **of insureds, claimants, ceding insurers, assuming insurers, and the**
 24 **public generally.**

25 **(b) The general assembly declares that its intent is to ensure**
 26 **adequate regulation of insurers and reinsurers and adequate**
 27 **protection for those to whom they owe obligations. In furtherance**
 28 **of that state interest, the general assembly provides a mandate that**
 29 **upon the insolvency of a non-U.S. insurer or reinsurer that**
 30 **provides security to fund its U.S. obligations in accordance with**
 31 **this chapter, the assets representing the security shall be**
 32 **maintained in the United States and claims shall be filed with and**
 33 **valued by the state insurance commissioner with regulatory**
 34 **oversight, and the assets shall be distributed, in accordance with**
 35 **the insurance laws of the state in which the trust is domiciled that**
 36 **are applicable to the liquidation of domestic U.S. insurance**
 37 **companies.**

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

41 **Sec. 2. Credit Allowed a Domestic Ceding Insurer. Credit for**
 42 **reinsurance shall be allowed a domestic ceding insurer as either an**



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

18 A. Credit shall be allowed when the reinsurance is ceded to an
19 assuming insurer that is licensed to transact insurance or
20 reinsurance in Indiana.

21 B. Credit shall be allowed when the reinsurance is ceded to an
22 assuming insurer that is accredited by the insurance
23 commissioner as a reinsurer in Indiana. In order to be eligible
24 for accreditation, a reinsurer must:

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

27 (2) submit to Indiana's authority to examine its books and
28 records;

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

33 (4) file annually with the insurance commissioner a copy of its
34 annual statement filed with the insurance department of its
35 state of domicile and a copy of its most recent audited
36 financial statement; and

37 (5) demonstrate to the satisfaction of the insurance
38 commissioner that it has adequate financial capacity to meet
39 its reinsurance obligations and is otherwise qualified to
40 assume reinsurance from domestic insurers. An assuming
41 insurer is deemed to meet this requirement as of the time of
42 its application if it maintains a surplus as regards



1 policyholders in an amount not less than twenty million
 2 dollars (\$20,000,000) and its accreditation has not been denied
 3 by the insurance commissioner within ninety (90) days after
 4 submission of its application.

5 C. (1) Credit shall be allowed when the reinsurance is ceded
 6 to an assuming insurer that is domiciled in, or in the case of a
 7 U.S. branch of an alien assuming insurer is entered through,
 8 a state that employs standards regarding credit for
 9 reinsurance substantially similar to those applicable under
 10 this statute and the assuming insurer or U.S. branch of an
 11 alien assuming insurer:

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

15 (b) submits to the authority of Indiana to examine its books
 16 and records.

17 (2) The requirement of Paragraph (1)(a) of this subsection
 18 does not apply to reinsurance ceded and assumed pursuant to
 19 pooling arrangements among insurers in the same holding
 20 company system.

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

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

37 (i) the insurance commissioner of the state where the
 38 trust is domiciled; or

39 (ii) the insurance commissioner of another state who,
 40 pursuant to the terms of the trust instrument, has
 41 accepted principal regulatory oversight of the trust.

42 (b) The form of the trust and any trust amendments also



1 shall be filed with the insurance commissioner of every
2 state in which the ceding insurer beneficiaries of the trust
3 are domiciled. The trust instrument shall provide that
4 contested claims shall be valid and enforceable upon the
5 final order of any court of competent jurisdiction in the
6 United States. The trust shall vest legal title to its assets in
7 its trustees for the benefit of the assuming insurer's U.S.
8 ceding insurers, their assigns, and successors in interest.
9 The trust and the assuming insurer shall be subject to
10 examination as determined by the insurance commissioner.
11 (c) The trust shall remain in effect for as long as the
12 assuming insurer has outstanding obligations due under
13 the reinsurance agreements subject to the trust. No later
14 than February 28 of each year the trustee of the trust shall
15 report to the insurance commissioner in writing the
16 balance of the trust, provide a listing of the trust's
17 investments at the preceding year end, and certify the date
18 of termination of the trust, if so planned, or certify that the
19 trust will not expire prior to the following December 31.
20 (3) The following requirements apply to the following
21 categories of assuming insurer:
22 (a) The trust fund for a single assuming insurer shall
23 consist of funds in trust in an amount not less than the
24 assuming insurer's liabilities attributable to reinsurance
25 ceded by U.S. ceding insurers, and, in addition, the
26 assuming insurer shall maintain a trustee surplus of not
27 less than twenty million dollars (\$20,000,000), except as
28 provided in Paragraph 3(b) of this subsection.
29 (b) At any time after the assuming insurer has
30 permanently discontinued underwriting new business
31 secured by the trust for at least three (3) full years, the
32 insurance commissioner with principal regulatory
33 oversight of the trust may authorize a reduction in the
34 required trustee surplus, but only after a finding, based
35 on an assessment of the risk, that the new required surplus
36 level is adequate for the protection of U.S. ceding insurers,
37 policyholders, and claimants in light of reasonably
38 foreseeable adverse loss development. The risk assessment
39 may involve an actuarial review, including an independent
40 analysis of reserves and cash flows, and shall consider all
41 material risk factors, including when applicable the lines
42 of business involved, the stability of the incurred loss



1 estimates and the effect of the surplus requirements on the
2 assuming insurer's liquidity or solvency. The minimum
3 required trusteed surplus may not be reduced to an
4 amount less than thirty percent (30%) of the assuming
5 insurer's liabilities attributable to reinsurance ceded by
6 U.S. ceding insurers covered by the trust.

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

41 (c) The assuming insurer must maintain financial strength
42 ratings from two (2) or more rating agencies deemed



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



1 of qualified jurisdictions, under which an assuming insurer
2 licensed and domiciled in such jurisdiction is eligible to be
3 considered for certification by the insurance commissioner as
4 a certified reinsurer.

5 (a) In order to determine whether the domiciliary
6 jurisdiction of a non-U.S. assuming insurer is eligible to be
7 recognized as a qualified jurisdiction, the insurance
8 commissioner shall evaluate the appropriateness and
9 effectiveness of the reinsurance supervisory system of the
10 jurisdiction, both initially and on an ongoing basis, and
11 consider the rights, benefits and the extent of reciprocal
12 recognition afforded by the non-U.S. jurisdiction to
13 reinsurers licensed and domiciled in the U.S. A qualified
14 jurisdiction must agree to share information and cooperate
15 with the insurance commissioner with respect to all
16 certified reinsurers domiciled within that jurisdiction. A
17 jurisdiction may not be recognized as a qualified
18 jurisdiction if the insurance commissioner has determined
19 that the jurisdiction does not adequately and promptly
20 enforce final U.S. judgments and arbitration awards.
21 Additional factors may be considered in the discretion of
22 the insurance commissioner.

23 (b) A list of qualified jurisdictions shall be published
24 through the NAIC Committee Process. The insurance
25 commissioner shall consider this list in determining
26 qualified jurisdictions. If the insurance commissioner
27 approves a jurisdiction as qualified that does not appear
28 on the list of qualified jurisdictions, the commissioner shall
29 provide thoroughly documented justification in accordance
30 with criteria to be developed under regulations.

31 (c) U.S. jurisdictions that meet the requirement for
32 accreditation under the NAIC financial standards and
33 accreditation program shall be recognized as qualified
34 jurisdictions.

35 (d) If a certified reinsurer's domiciliary jurisdiction ceases
36 to be a qualified jurisdiction, the insurance commissioner
37 has the discretion to suspend the reinsurer's certification
38 indefinitely, in lieu of revocation.

39 (4) The insurance commissioner shall assign a rating to each
40 certified reinsurer, giving due consideration to the financial
41 strength ratings that have been assigned by rating agencies
42 deemed acceptable to the insurance commissioner pursuant



1 to regulation. The insurance commissioner shall publish a list
2 of all certified reinsurers and their ratings.

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

7 **(a) In order for a domestic ceding insurer to qualify for full**
8 **financial statement credit for reinsurance ceded to a**
9 **certified reinsurer, the certified reinsurer shall maintain**
10 **security in a form acceptable to the insurance**
11 **commissioner and consistent with the provisions of Section**
12 **3 of this chapter, or in a multibeneficiary trust in**
13 **accordance with Subsection D, except as otherwise**
14 **provided in this subsection.**

15 **(b) If a certified reinsurer maintains a trust to fully secure**
16 **its obligations subject to Subsection D, and chooses to**
17 **secure its obligations incurred as a certified reinsurer in**
18 **the form of a multibeneficiary trust, the certified reinsurer**
19 **shall maintain separate trust accounts for its obligations**
20 **incurred under reinsurance agreements issued or renewed**
21 **as a certified reinsurer with reduced security as permitted**
22 **by this subsection or comparable laws of other U.S.**
23 **jurisdictions and for its obligations subject to Subsection**
24 **D. It shall be a condition to the grant of certification under**
25 **this subsection that the certified reinsurer shall have**
26 **bound itself, by the language of the trust and agreement**
27 **with the insurance commissioner with principal regulatory**
28 **oversight of each such trust account, to fund, upon**
29 **termination of any such trust account, out of the remaining**
30 **surplus of such trust any deficiency of any other such trust**
31 **account.**

32 **(c) The minimum trustee surplus requirements provided**
33 **in Subsection D are not applicable with respect to a**
34 **multibeneficiary trust maintained by a certified reinsurer**
35 **for the purpose of securing obligations incurred under this**
36 **subsection, except that such trust shall maintain a**
37 **minimum trustee surplus of ten million dollars**
38 **(\$10,000,000).**

39 **(d) With respect to obligations incurred by a certified**
40 **reinsurer under this subsection, if the security is**
41 **insufficient, the insurance commissioner shall reduce the**
42 **allowable credit by an amount proportionate to the**



1 deficiency, and has the discretion to impose further
 2 reductions in allowable credit upon finding that there is a
 3 material risk that the certified reinsurer's obligations will
 4 not be paid in full when due.

5 (e) For purposes of this subsection, a certified reinsurer
 6 whose certification has been terminated for any reason
 7 shall be treated as a certified reinsurer required to secure
 8 one hundred percent (100%) of its obligations.

9 (i) As used in this subsection, the term "terminated"
 10 refers to revocation, suspension, voluntary surrender,
 11 and inactive status.

12 (ii) If the insurance commissioner continues to assign a
 13 higher rating as permitted by other provisions of this
 14 section, this requirement does not apply to a certified
 15 reinsurer in inactive status or to a reinsurer whose
 16 certification has been suspended.

17 (6) If an applicant for certification has been certified as a
 18 reinsurer in an NAIC accredited jurisdiction, the insurance
 19 commissioner has the discretion to defer to that jurisdiction's
 20 certification, and has the discretion to defer to the rating
 21 assigned by that jurisdiction, and such assuming insurer shall
 22 be considered to be a certified reinsurer in Indiana.

23 (7) A certified reinsurer that ceases to assume new business in
 24 Indiana may request to maintain its certification in inactive
 25 status in order to continue to qualify for a reduction in
 26 security for its in force business. An inactive certified
 27 reinsurer shall continue to comply with all applicable
 28 requirements of this subsection, and the insurance
 29 commissioner shall assign a rating that takes into account, if
 30 relevant, the reasons why the reinsurer is not assuming new
 31 business.

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

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

39 (i) A non-U.S. jurisdiction that is subject to an in force
 40 covered agreement with the United States, each within
 41 its legal authority, or, in the case of a covered agreement
 42 between the United States and European Union, is a



1 member state of the European Union. For purposes of
2 this subsection, a "covered agreement" is an agreement
3 entered into pursuant to Dodd-Frank Wall Street
4 Reform and Consumer Protection Act, 31 U.S.C. 313 and
5 31 U.S.C 314, that is currently in effect or in a period of
6 provisional application and addresses the elimination,
7 under specified conditions, of collateral requirements as
8 a condition for entering into any reinsurance agreement
9 with a ceding insurer domiciled in Indiana or for
10 allowing the ceding insurer to recognize credit for
11 reinsurance.

12 (ii) A U.S. jurisdiction that meets the requirements for
13 accreditation under the NAIC financial standards and
14 accreditation program.

15 (iii) A qualified jurisdiction, as determined by the
16 insurance commissioner pursuant to Subsection E(3),
17 which is not otherwise described in Subparagraphs (a)(i)
18 or (a)(ii) and which meets certain additional
19 requirements, consistent with the terms and conditions
20 of in force covered agreements, as specified by the
21 insurance commissioner in regulation.

22 (b) The assuming insurer must have and maintain, on an
23 ongoing basis, minimum capital and surplus, or its
24 equivalent, calculated according to the methodology of its
25 domiciliary jurisdiction, in an amount to be set forth in
26 regulation. If the assuming insurer is an association,
27 including incorporated and individual unincorporated
28 underwriters, it must have and maintain, on an ongoing
29 basis, minimum capital and surplus equivalents (net of
30 liabilities), calculated according to the methodology
31 applicable in its domiciliary jurisdiction, and a central
32 fund containing a balance in amounts to be set forth in
33 regulation.

34 (c) The assuming insurer must have and maintain, on an
35 ongoing basis, a minimum solvency or capital ratio, as
36 applicable, which will be set forth in regulation. If the
37 assuming insurer is an association, including incorporated
38 and individual unincorporated underwriters, it must have
39 and maintain, on an ongoing basis, a minimum solvency or
40 capital ratio in the Reciprocal Jurisdiction where the
41 assuming insurer has its head office or is domiciled, as
42 applicable, and is also licensed.



1 **(d) The assuming insurer must agree and provide adequate**
2 **assurance to the insurance commissioner, in a form**
3 **specified by the insurance commissioner pursuant to**
4 **regulation, as follows:**

5 **(i) The assuming insurer must provide prompt written**
6 **notice and explanation to the insurance commissioner if**
7 **it falls below the minimum requirements set forth in**
8 **Subparagraph (b) or (c) of this section, or if any**
9 **regulatory action is taken against it for serious**
10 **noncompliance with applicable law.**

11 **(ii) The assuming insurer must consent in writing to the**
12 **jurisdiction of the courts of Indiana and to the**
13 **appointment of the insurance commissioner as agent for**
14 **service of process. The insurance commissioner may**
15 **require that consent for service of process be provided to**
16 **the insurance commissioner and included in each**
17 **reinsurance agreement. Nothing in this provision shall**
18 **limit, or in any way alter, the capacity of parties to a**
19 **reinsurance agreement to agree to alternative dispute**
20 **resolution mechanisms, except to the extent such**
21 **agreements are unenforceable under applicable**
22 **insolvency or delinquency laws.**

23 **(iii) The assuming insurer must consent in writing to pay**
24 **all final judgments, wherever enforcement is sought,**
25 **obtained by a ceding insurer or its legal successor, that**
26 **have been declared enforceable in the jurisdiction where**
27 **the judgment was obtained.**

28 **(iv) Each reinsurance agreement must include a**
29 **provision requiring the assuming insurer to provide**
30 **security in an amount equal to one hundred percent**
31 **(100%) of the assuming insurer's liabilities attributable**
32 **to reinsurance ceded pursuant to that agreement if the**
33 **assuming insurer resists enforcement of a final judgment**
34 **that is enforceable under the law of the jurisdiction in**
35 **which it was obtained or a properly enforceable**
36 **arbitration award, whether obtained by the ceding**
37 **insurer or by its legal successor on behalf of its**
38 **resolution estate.**

39 **(v) The assuming insurer must confirm that it is not**
40 **presently participating in any solvent scheme of**
41 **arrangement which involves Indiana's ceding insurers,**
42 **and agree to notify the ceding insurer and the insurance**



1 commissioner and to provide security in an amount
 2 equal to one hundred percent (100%) of the assuming
 3 insurer's liabilities to the ceding insurer, should the
 4 assuming insurer enter into such a solvent scheme of
 5 arrangement. Such security shall be in a form consistent
 6 with the provisions of Subsection E and Section 3 of this
 7 chapter and as specified by the insurance commissioner
 8 in regulation.

9 (e) The assuming insurer or its legal successor must
 10 provide, if requested by the insurance commissioner, on
 11 behalf of itself and any legal predecessors, certain
 12 documentation to the insurance commissioner, as specified
 13 by the insurance commissioner in regulation.

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

17 (g) The assuming insurer's supervisory authority must
 18 confirm to the insurance commissioner on an annual basis,
 19 as of the preceding December 31 or at the annual date
 20 otherwise statutorily reported to the Reciprocal
 21 Jurisdiction, that the assuming insurer complies with the
 22 requirements set forth in Subparagraphs (b) and (c) of this
 23 section.

24 (h) Nothing in this provision precludes an assuming
 25 insurer from providing the insurance commissioner with
 26 information on a voluntary basis.

27 (2) The insurance commissioner shall timely create and
 28 publish a list of Reciprocal Jurisdictions.

29 (a) A list of Reciprocal Jurisdictions is published through
 30 the NAIC Committee Process. The insurance
 31 commissioner's list shall include any Reciprocal
 32 Jurisdiction as defined under Subsection F(1)(a)(i) and
 33 F(1)(a)(ii), and shall consider any other Reciprocal
 34 Jurisdiction included on the NAIC list. The insurance
 35 commissioner may approve a jurisdiction that does not
 36 appear on the NAIC list of Reciprocal Jurisdictions in
 37 accordance with criteria to be developed under regulations
 38 issued by the insurance commissioner.

39 (b) The insurance commissioner may remove a jurisdiction
 40 from the list of Reciprocal Jurisdictions upon a
 41 determination that the jurisdiction no longer meets the
 42 requirements of a Reciprocal Jurisdiction, in accordance



1 with a process set forth in regulations issued by the
2 insurance commissioner, except that the insurance
3 commissioner shall not remove from the list a Reciprocal
4 Jurisdiction as defined under Subsection F(1)(a)(i) and
5 F(1)(a)(ii). Upon removal of a Reciprocal Jurisdiction from
6 this list credit for reinsurance ceded to an assuming
7 insurer which has its home office or is domiciled in that
8 jurisdiction shall be allowed, if otherwise allowed pursuant
9 to Indiana law.

10 (3) The insurance commissioner shall timely create and
11 publish a list of assuming insurers that have satisfied the
12 conditions set forth in this subsection and to which cessions
13 shall be granted credit in accordance with this subsection. The
14 insurance commissioner may add an assuming insurer to such
15 list if an NAIC accredited jurisdiction has added such
16 assuming insurer to a list of such assuming insurers or if,
17 upon initial eligibility, the assuming insurer submits the
18 information to the insurance commissioner as required under
19 Paragraph (1)(d) of this subsection and complies with any
20 additional requirements that the insurance commissioner may
21 impose by regulation, except to the extent that they conflict
22 with an applicable covered agreement.

23 (4) If the insurance commissioner determines that an
24 assuming insurer no longer meets one (1) or more of the
25 requirements under this subsection, the insurance
26 commissioner may revoke or suspend the eligibility of the
27 assuming insurer for recognition under this subsection in
28 accordance with procedures set forth in regulation.

29 (a) While an assuming insurer's eligibility is suspended, no
30 reinsurance agreement issued, amended, or renewed after
31 the effective date of the suspension qualifies for credit
32 except to the extent that the assuming insurer's obligations
33 under the contract are secured in accordance with Section
34 3 of this chapter.

35 (b) If an assuming insurer's eligibility is revoked, no credit
36 for reinsurance may be granted after the effective date of
37 the revocation with respect to any reinsurance agreements
38 entered into by the assuming insurer, including
39 reinsurance agreements entered into prior to the date of
40 revocation, except to the extent that the assuming insurer's
41 obligations under the contract are secured in a form
42 acceptable to the insurance commissioner and consistent



- 1 with the provisions of Section 3 of this chapter.
 2 **(5) If subject to a legal process of rehabilitation, liquidation,**
 3 **or conservation, as applicable, the ceding insurer, or its**
 4 **representative, may seek and, if determined appropriate by**
 5 **the court in which the proceedings are pending, may obtain an**
 6 **order requiring that the assuming insurer post security for all**
 7 **outstanding ceded liabilities.**
 8 **(6) Nothing in this subsection shall limit or in any way alter**
 9 **the capacity of parties to a reinsurance agreement to agree on**
 10 **requirements for security or other terms in that reinsurance**
 11 **agreement, except as expressly prohibited by this chapter or**
 12 **other applicable law or regulation.**
 13 **(7) Credit may be taken under this subsection only for**
 14 **reinsurance agreements entered into, amended, or renewed on**
 15 **or after the effective date of the statute adding this subsection,**
 16 **and only with respect to losses incurred and reserves reported**
 17 **on or after the later of: (i) the date on which the assuming**
 18 **insurer has met all eligibility requirements pursuant to**
 19 **Subsection F(1) herein; and (ii) the effective date of the new**
 20 **reinsurance agreement, amendment, or renewal.**
 21 **(a) This paragraph does not alter or impair a ceding**
 22 **insurer's right to take credit for reinsurance, to the extent**
 23 **that credit is not available under this subsection, as long as**
 24 **the reinsurance qualifies for credit under any other**
 25 **applicable provision of his chapter.**
 26 **(b) Nothing in this subsection shall authorize an assuming**
 27 **insurer to withdraw or reduce the security provided under**
 28 **any reinsurance agreement except as permitted by the**
 29 **terms of the agreement.**
 30 **(c) Nothing in this subsection shall limit, or in any way**
 31 **alter, the capacity of parties to any reinsurance agreement**
 32 **to renegotiate the agreement.**
 33 **G. Credit shall be allowed when the reinsurance is ceded to an**
 34 **assuming insurer not meeting the requirements of Subsection**
 35 **A, B, C, D, E, or F, but only as to the insurance of risks**
 36 **located in jurisdictions where the reinsurance is required by**
 37 **applicable law or regulation of that jurisdiction.**
 38 **H. If the assuming insurer is not licensed, accredited or**
 39 **certified to transact insurance or reinsurance in Indiana, the**
 40 **credit permitted by Subsections C and D shall not be allowed**
 41 **unless the assuming insurer agrees in the reinsurance**
 42 **agreements:**



1 (1) (a) That in the event of the failure of the assuming insurer
2 to perform its obligations under the terms of the reinsurance
3 agreement, the assuming insurer, at the request of the ceding
4 insurer, shall submit to the jurisdiction of any court of
5 competent jurisdiction in any state of the United States, will
6 comply with all requirements necessary to give the court
7 jurisdiction, and will abide by the final decision of the court
8 or of any appellate court in the event of an appeal; and

9 (b) To designate the insurance commissioner or a
10 designated attorney as its true and lawful attorney upon
11 whom may be served any lawful process in any action, suit,
12 or proceeding instituted by or on behalf of the ceding
13 insurer.

14 (2) This subsection is not intended to conflict with or override
15 the obligation of the parties to a reinsurance agreement to
16 arbitrate their disputes, if this obligation is created in the
17 agreement.

18 I. If the assuming insurer does not meet the requirements of
19 Subsection A, B, C, or F, the credit permitted by Subsection
20 D or E shall not be allowed unless the assuming insurer agrees
21 in the trust agreements to all of the following conditions:

22 (1) Notwithstanding any other provisions in the trust
23 instrument, if the trust fund is inadequate because it contains
24 an amount less than the amount required by Subsection D(3),
25 or if the grantor of the trust has been declared insolvent or
26 placed into receivership, rehabilitation, liquidation, or similar
27 proceedings under the laws of its state or country of domicile,
28 the trustee shall comply with an order of the insurance
29 commissioner with regulatory oversight over the trust or with
30 an order of a court of competent jurisdiction directing the
31 trustee to transfer to the insurance commissioner with
32 regulatory oversight all of the assets of the trust fund.

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

38 (3) If the insurance commissioner with regulatory oversight
39 determines that the assets of the trust fund or any part thereof
40 are not necessary to satisfy the claims of the U.S. ceding
41 insurers of the grantor of the trust, the assets or part thereof
42 shall be returned by the insurance commissioner with



1 regulatory oversight to the trustee for distribution in
2 accordance with the trust agreement.

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

5 J. If an accredited or certified reinsurer ceases to meet the
6 requirements for accreditation or certification, the insurance
7 commissioner may suspend or revoke the reinsurer's
8 accreditation or certification.

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

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

14 (b) the insurance commissioner's order is based on
15 regulatory action by the reinsurer's domiciliary
16 jurisdiction or the voluntary surrender or termination of
17 the reinsurer's eligibility to transact insurance or
18 reinsurance business in its domiciliary jurisdiction or in
19 the primary certifying state of the reinsurer under
20 Subsection E(6); or

21 (c) the insurance commissioner finds that an emergency
22 requires immediate action and a court of competent
23 jurisdiction has not stayed the insurance commissioner's
24 action.

25 (2) While a reinsurer's accreditation or certification is
26 suspended, no reinsurance contract issued or renewed after
27 the effective date of the suspension qualifies for credit except
28 to the extent that the reinsurer's obligations under the
29 contract are secured in accordance with Section 3 of this
30 chapter. If a reinsurer's accreditation or certification is
31 revoked, no credit for reinsurance may be granted after the
32 effective date of the revocation except to the extent that the
33 reinsurer's obligations under the contract are secured in
34 accordance with Subsection E(5) or Section 3 of this chapter.

35 K. Concentration Risk.

36 (1) A ceding insurer shall take steps to manage its reinsurance
37 recoverables proportionate to its own book of business. A
38 domestic ceding insurer shall notify the insurance
39 commissioner within thirty (30) days after reinsurance
40 recoverables from any single assuming insurer, or group of
41 affiliated assuming insurers, exceeds fifty percent (50%) of
42 the domestic ceding insurer's last reported surplus to



1 policyholders, or after it is determined that reinsurance
 2 recoverables from any single assuming insurer, or group of
 3 affiliated assuming insurers, is likely to exceed this limit. The
 4 notification shall demonstrate that the exposure is safely
 5 managed by the domestic ceding insurer.

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

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

39 A. cash;

40 B. securities listed by the Securities Valuation Office of the
 41 NAIC, including those deemed exempt from filing as defined
 42 by the Purposes and Procedures Manual of the Securities



1 Valuation Office, and qualifying as admitted assets;
 2 C. (1) clean, irrevocable, unconditional letters of credit, issued
 3 or confirmed by a qualified U.S. financial institution, as
 4 defined in Section 4A of this chapter, effective no later than
 5 December 31 of the year for which the filing is being made,
 6 and in the possession of, or in trust for, the ceding insurer on
 7 or before the filing date of its annual statement;
 8 (2) letters of credit meeting applicable standards of issuer
 9 acceptability as of the dates of their issuance (or
 10 confirmation) shall, notwithstanding the issuing (or
 11 confirming) institution's subsequent failure to meet applicable
 12 standards of issuer acceptability, continue to be acceptable as
 13 security until their expiration, extension, renewal,
 14 modification, or amendment, whichever first occurs; or
 15 D. Any other form of security acceptable to the insurance
 16 commissioner.

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

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

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

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

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

32 B. A "qualified U.S. financial institution" means, for purposes
 33 of those provisions of this chapter specifying those institutions
 34 that are eligible to act as a fiduciary of a trust, an institution
 35 that:

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

40 (2) is regulated, supervised and examined by federal or state
 41 authorities having regulatory authority over banks and trust
 42 companies.



1 **Sec. 5. Rules and Regulations.**

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

5 **B. The insurance commissioner is further authorized to adopt**
 6 **rules and regulations under IC 4-22-2 applicable to**
 7 **reinsurance arrangements described in Paragraph (1) of this**
 8 **subsection.**

9 **(1) A regulation adopted pursuant to this subsection may**
 10 **apply only to reinsurance relating to:**

11 **(a) life insurance policies with guaranteed nonlevel gross**
 12 **premiums or guaranteed nonlevel benefits;**

13 **(b) universal life insurance policies with provisions**
 14 **resulting in the ability of a policyholder to keep a policy in**
 15 **force over a secondary guarantee period;**

16 **(c) variable annuities with guaranteed death or living**
 17 **benefits;**

18 **(d) long term care insurance policies; or**

19 **(e) such other life and health insurance and annuity**
 20 **products as to which the NAIC adopts model regulatory**
 21 **requirements with respect to credit for reinsurance.**

22 **(2) A regulation adopted pursuant to Paragraph 1(a) or 1(b)**
 23 **of this subsection may apply to any treaty containing: (i)**
 24 **policies issued on or after January 1, 2015; and/or (ii) policies**
 25 **issued prior to January 1, 2015, if risk pertaining to such**
 26 **pre-2015 policies is ceded in connection with the treaty, in**
 27 **whole or in part, on or after January 1, 2015.**

28 **(3) A regulation adopted pursuant to this subsection may**
 29 **require the ceding insurer, in calculating the amounts or**
 30 **forms of security required to be held under regulations**
 31 **promulgated under this authority, to use the Valuation**
 32 **Manual adopted by the NAIC under Section 11B(1) of the**
 33 **NAIC Standard Valuation Law, including all amendments**
 34 **adopted by the NAIC and in effect on the date as of which the**
 35 **calculation is made, to the extent applicable.**

36 **(4) A regulation adopted pursuant to this subsection shall not**
 37 **apply to cessions to an assuming insurer that:**

38 **(a) meets the conditions set forth in Section 2F of this**
 39 **chapter in Indiana;**

40 **(b) is certified in Indiana; or**

41 **(c) maintains at least two hundred fifty million dollars**
 42 **(\$250,000,000) in capital and surplus when determined in**



1 **accordance with the NAIC Accounting Practices and**
 2 **Procedures Manual, including all amendments thereto**
 3 **adopted by the NAIC, excluding the impact of any**
 4 **permitted or prescribed practices; and is:**

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

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

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

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

16 SECTION 13. IC 27-7-5-2, AS AMENDED BY P.L.208-2018,
 17 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2020]: Sec. 2. (a) Except as provided in subsections (d), (f),
 19 and (h), the insurer shall make available, in each automobile liability
 20 or motor vehicle liability policy of insurance which is delivered or
 21 issued for delivery in this state with respect to any motor vehicle
 22 registered or principally garaged in this state, insuring against loss
 23 resulting from liability imposed by law for bodily injury or death
 24 suffered by any person and for injury to or destruction of property to
 25 others arising from the ownership, maintenance, or use of a motor
 26 vehicle, or in a supplement to such a policy, the following types of
 27 coverage:

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

39 (2) in limits for bodily injury or death not less than those set forth
 40 in IC 9-25-4-5 under policy provisions approved by the
 41 commissioner of insurance, for the protection of persons insured
 42 under the policy provisions who are legally entitled to recover



1 damages from owners or operators of uninsured or underinsured
2 motor vehicles because of bodily injury, sickness or disease,
3 including death resulting therefrom.

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

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

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

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



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



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



1 **personal umbrella or excess liability policy.**

2 SECTION 14. IC 27-7-17 IS ADDED TO THE INDIANA CODE
3 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2020]:

5 **Chapter 17. Medical Payment Coverage**

6 **Sec. 1. As used in this chapter, "covered individual" means an**
7 **individual who is entitled to coverage under a health plan.**

8 **Sec. 2. As used in this chapter, "health care services" has the**
9 **meaning set forth in IC 27-8-11-1.**

10 **Sec. 3. (a) As used in this chapter, "health plan" means a plan**
11 **through which coverage is provided for health care services**
12 **through insurance, prepayment, reimbursement, or otherwise. The**
13 **term includes the following:**

14 (1) A policy of accident and sickness insurance (as defined in
15 IC 27-8-5-1).

16 (2) An individual contract (as defined in IC 27-13-1-21) or a
17 group contract (as defined in IC 27-13-1-16).

18 (3) A state employee health plan offered under IC 5-10-8.

19 (4) An employee welfare benefit plan (as defined in 29 U.S.C.
20 1002 et seq.) to the extent allowable under federal law.

21 (5) Accident only insurance.

22 (6) Medicare supplement insurance.

23 **(b) The term does not include the following:**

24 (1) Credit, long term care, or disability income insurance.

25 (2) Liability insurance coverage.

26 (3) Worker's compensation or similar insurance.

27 (4) Medical payment coverage.

28 (5) A specified disease policy issued as an individual policy.

29 (6) A policy that provides a stipulated daily, weekly, or
30 monthly payment to an insured during hospital confinement,
31 without regard to the actual expense of the confinement.

32 **Sec. 4. (a) As used in this chapter, "medical payment coverage"**
33 **means an insurance policy benefit that provides payment for**
34 **expenses incurred by an individual as a result of injury, illness, or**
35 **death arising from the:**

36 (1) operation of a motor vehicle; or

37 (2) individual's presence on a premises;

38 **that is covered by the insurance policy.**

39 **(b) The term includes coverage for emergency medical**
40 **transportation, health care services, and funeral and burial**
41 **expenses.**

42 **(c) The term does not include benefits provided by the**



- 1 following:
- 2 (1) Liability insurance coverage.
- 3 (2) A health plan.
- 4 Sec. 5. (a) Medical payment coverage is supplemental to the
- 5 benefits:
- 6 (1) to which a covered individual is entitled under a health
- 7 plan; and
- 8 (2) that are the same as or similar to benefits available to the
- 9 covered individual under the medical payment coverage.
- 10 (b) A health plan may not require the use or exhaustion of
- 11 medical payment coverage as a condition of payment of benefits:
- 12 (1) under the health plan; and
- 13 (2) for health care services rendered to a covered individual.
- 14 Sec. 6. In the absence of health plan benefits that are the same
- 15 as or similar to benefits available to an individual under medical
- 16 payment coverage, the medical payment coverage is primary
- 17 coverage.
- 18 Sec. 7. Nothing in this chapter imposes on any health plan an
- 19 obligation to provide greater benefits to a covered individual with
- 20 medical payment coverage than would be provided to a covered
- 21 individual without medical payment coverage.
- 22 Sec. 8. This chapter does not affect any right of subrogation
- 23 provided under a health plan.
- 24 Sec. 9. Nothing in this chapter affects the ability of a covered
- 25 individual to prohibit a health care provider from billing the
- 26 covered individual's medical payment coverage insurer directly.
- 27 Sec. 10. A contractual provision that is:
- 28 (1) contained in a contract entered into, amended, or renewed
- 29 after June 30, 2020; and
- 30 (2) contrary to this chapter;
- 31 is void.
- 32 SECTION 15. IC 27-8-37 IS ADDED TO THE INDIANA CODE
- 33 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 34 JULY 1, 2020]:
- 35 Chapter 37. Coverage for Pediatric Neuropsychiatric Disorders
- 36 Sec. 1. As used in this chapter, "policy of accident and sickness
- 37 insurance" has the meaning set forth in IC 27-8-5-1, offered on an
- 38 individual or group basis.
- 39 Sec. 2. A policy of accident and sickness insurance must provide
- 40 coverage for treatment of:
- 41 (1) pediatric autoimmune neuropsychiatric disorders
- 42 associated with streptococcal infections (PANDAS); and



1 **(2) pediatric acute-onset neuropsychiatric syndrome (PANS);**
 2 **including treatment with intravenous immunoglobulin therapy.**

3 **Sec. 3. The coverage required by this chapter may not be subject**
 4 **to annual or lifetime limitation, deductible, copayment, or**
 5 **coinsurance provisions that are more restrictive than the annual or**
 6 **lifetime limitation, deductible, copayment, or coinsurance**
 7 **provisions that apply generally under the policy of accident and**
 8 **sickness insurance.**

9 SECTION 16. IC 27-13-4-1 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 1. (a) Subject to section
 11 3 of this chapter, the powers of a health maintenance organization
 12 include the following:

13 (1) The purchase, lease, construction, renovation, operation, or
 14 maintenance of:

15 (A) hospitals and medical facilities;

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

17 (C) other property reasonably required for the principal office
 18 of the health maintenance organization or for purposes
 19 necessary in the transaction of the business of the organization.

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

22 (A) between affiliates; or

23 (B) between the health maintenance organization and the
 24 parent organization of the health maintenance organization.

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

26 (A) providers;

27 (B) provider associations; and

28 (C) agents for providers;

29 who are under contract with or are employed by the health
 30 maintenance organization. The contracts with providers, provider
 31 associations, or agents of providers may include fee for service,
 32 cost plus, capitation, or other payment or risk-sharing
 33 arrangements.

34 (4) Contracting with any person for the performance on behalf of
 35 the health maintenance organization of certain functions,
 36 including:

37 (A) marketing;

38 (B) enrollment; and

39 (C) administration.

40 (5) Contracting with:

41 (A) an insurance company licensed in Indiana;

42 (B) an authorized reinsurer; or



1 (C) a hospital authorized to conduct business in Indiana;
 2 for the provision of insurance, indemnity, or reimbursement
 3 against the cost of health care services provided by the health
 4 maintenance organization.

5 (6) The offering of point-of-service products.

6 (7) The joint marketing of products with:

7 (A) an insurance company that is licensed in Indiana; or

8 (B) a hospital that is authorized to conduct business in Indiana;
 9 if the company that is offering each product is clearly identified.

10 (8) Administration of the provision of health care services at the
 11 expense of a self-funded plan.

12 (b) A health maintenance organization may offer any of the
 13 following:

14 (1) Plans that include only basic health care services.

15 (2) Plans that include basic health care services and other health
 16 care services.

17 (3) Plans that include health care services other than basic health
 18 care services so long as at least one (1) of the plans offered by the
 19 health maintenance organization includes basic health care
 20 services.

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

24 SECTION 17. IC 27-13-7-26 IS ADDED TO THE INDIANA
 25 CODE AS A NEW SECTION TO READ AS FOLLOWS
 26 [EFFECTIVE JULY 1, 2020]: **Sec. 26. (a) An individual contract and
 27 a group contract must provide coverage for treatment of:**

28 (1) **pediatric autoimmune neuropsychiatric disorders
 29 associated with streptococcal infections (PANDAS); and**

30 (2) **pediatric acute-onset neuropsychiatric syndrome (PANS);
 31 including treatment with intravenous immunoglobulin therapy.**

32 (b) **The coverage required by this section may not be subject to
 33 annual or lifetime limitation, deductible, copayment, or
 34 coinsurance provisions that are more restrictive than the annual or
 35 lifetime limitation, deductible, copayment, or coinsurance
 36 provisions that apply generally under the individual contract or
 37 group contract.**

38 SECTION 18. [EFFECTIVE JULY 1, 2020] (a) **IC 5-10-8-24, as
 39 added by this act, applies to a state employee health plan that is
 40 established, entered into, amended, or renewed after June 30, 2020.**

41 (b) **IC 27-8-37, as added by this act, applies to a policy of
 42 accident and sickness insurance that is issued, delivered, amended,**



1 or renewed after June 30, 2020.
2 (c) IC 27-13-7-26, as added by this act, applies to an individual
3 contract or a group contract that is entered into, delivered,
4 amended, or renewed after June 30, 2020.
5 (d) This SECTION expires July 1, 2023.
6 SECTION 19. [EFFECTIVE UPON PASSAGE] (a) The legislative
7 council is urged to assign to the interim study committee on
8 financial institutions and insurance the task of studying the cost to
9 consumers for ambulance transportation services.
10 (b) This SECTION expires January 1, 2021.
11 SECTION 20. An emergency is declared for this act.



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.

COMMITTEE REPORT

Madam President: The Senate Committee on Insurance and Financial Institutions, to which was referred House Bill No. 1372, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 17.

Delete pages 2 through 6.

Page 7, delete lines 1 through 28.

Page 21, line 37, reset in roman "the".

Page 21, line 37, after "lesser" insert "**greater**".

Page 21, line 37, reset in roman "of:".

Page 21, line 38, reset in roman "(a) ten percent (10%) of the company's admitted assets; or (b)".

Page 21, line 38, beginning with "(a)" begin a new line block indented.

Page 21, line 38, beginning with "(b)" begin a new line block indented.

Page 21, line 40, delete "amount by which the insurer's surplus to

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policyholders exceeds its".

Page 21, line 41, delete "minimum" and insert "**company's**".

Page 22, line 11, delete "four and five-tenths percent (4.5%)" and insert "**three percent (3%)**".

Page 27, line 11, reset in roman "1".

Page 27, line 11, after "1" insert "**or**".

Page 27, line 13, delete "twenty-five percent (25%)" and insert "**twenty percent (20%)**".

Page 41, line 21, delete "twenty-five percent (25%)" and insert "**twenty percent (20%)**".

Page 41, line 25, after "amount" insert "**the greater**".

Page 41, line 25, reset in roman "of ten".

Page 41, line 26, reset in roman "percent (10%)".

Page 41, line 26, delete "seventy-five percent (75%)".

Page 41, line 26, delete "the amount by".

Page 41, line 27, delete "which".

Page 41, line 27, reset in roman "admitted".

Page 41, line 27, delete "assets." and insert "assets".

Page 41, line 27, delete "surplus to policyholders".

Page 41, line 28, delete "exceeds its minimum" and insert "**or fifty percent (50%) of the insurer's**".

Page 46, between lines 30 and 31, begin a new paragraph and insert:
 "SECTION 8. IC 27-1-34-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 1.5. A multiple employer welfare arrangement may be established through an interlocal cooperation agreement under IC 36-1-7.**"

Page 48, line 37, delete ":" and insert "**authorized by the licensee to have access to the nonpublic information held by the licensee and its information systems.**".

Page 48, delete lines 38 through 41.

Page 49, line 8, after "information system" insert "**that has a reasonable likelihood of materially harming a consumer or any material part of the normal operations of the licensee**".

Page 50, delete lines 6 through 7.

Page 60, delete lines 19 through 20, begin a new line block indented and insert:

"(1) fewer than fifty (50) employees;".

Page 60, line 32, delete "sections 16" and insert "**this chapter, except for the notice requirements described in section 21 of this chapter.**".

Page 60, delete lines 33 through 34.



Page 61, delete lines 2 through 14, begin a new paragraph and insert:

"(d) A licensee shall be considered to have complied with sections 16 through 20 of this chapter if the licensee is affiliated with a financial institution (as defined in 15 U.S.C. 6809) that maintains an information security program in compliance with the Interagency Guidelines Establishing Standards for Safeguarding Consumer Information adopted under Sections 501 and 505(b) of the Gramm-Leach-Bliley Act (15 U.S.C. 6801 and 6805(b))."

Page 61, between lines 34 and 35, begin a new paragraph and insert:

"Sec. 31. The requirements of this chapter do not apply to a commercial bank or a credit union, except to the extent the commercial bank or credit union transacts insurance business."

Page 86, after line 35, begin a new paragraph and insert:

"SECTION 15. [EFFECTIVE UPON PASSAGE] (a) The legislative council is urged to assign to the interim study committee on financial institutions and insurance the task of studying the cost to consumers for ambulance transportation services.

(b) This SECTION expires January 1, 2021.

SECTION 16. An emergency is declared for this act."

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1372 as printed January 24, 2020.)

BASSLER, Chairperson

Committee Vote: Yeas 8, Nays 0.

SENATE MOTION

Madam President: I move that Engrossed House Bill 1372 be amended to read as follows:

Page 40, delete lines 32 through 42.

Delete page 41.

Page 42, delete lines 1 through 31.

Re-number all SECTIONS consecutively.

(Reference is to EHB 1372 as printed February 21, 2020.)

BASSLER

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SENATE MOTION

Madam President: I move that Engrossed House Bill 1372 be amended to read as follows:

Page 55, between lines 28 and 29, begin a new paragraph and insert:

"Sec. 32. (a) A licensee that satisfies the requirements of this chapter is entitled to an affirmative defense to any cause of action sounding in tort that:

- (1) is brought under the laws or in the courts of this state; and**
- (2) alleges that the failure to implement reasonable information security controls resulted in a data breach concerning nonpublic information.**

(b) The affirmative defense available under this section does not limit any other affirmative defenses available to a licensee."

(Reference is to EHB 1372 as printed February 21, 2020.)

BROWN L

 SENATE MOTION

Madam President: I move that Engrossed House Bill 1372 be amended to read as follows:

Page 79, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 14. IC 27-7-17 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]:

Chapter 17. Medical Payment Coverage

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

Sec. 2. As used in this chapter, "health care services" has the meaning set forth in IC 27-8-11-1.

Sec. 3. (a) As used in this chapter, "health plan" means a plan through which coverage is provided for health care services through insurance, prepayment, reimbursement, or otherwise. The term includes the following:

- (1) A policy of accident and sickness insurance (as defined in IC 27-8-5-1).**
- (2) An individual contract (as defined in IC 27-13-1-21) or a group contract (as defined in IC 27-13-1-16).**
- (3) A state employee health plan offered under IC 5-10-8.**
- (4) An employee welfare benefit plan (as defined in 29 U.S.C.**

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1002 et seq.) to the extent allowable under federal law.

(5) Accident only insurance.

(6) Medicare supplement insurance.

(b) The term does not include the following:

(1) Credit, long term care, or disability income insurance.

(2) Liability insurance coverage.

(3) Worker's compensation or similar insurance.

(4) Medical payment coverage.

(5) A specified disease policy issued as an individual policy.

(6) A policy that provides a stipulated daily, weekly, or monthly payment to an insured during hospital confinement, without regard to the actual expense of the confinement.

SEC. 4. (a) As used in this chapter, "medical payment coverage" means an insurance policy benefit that provides payment for expenses incurred by an individual as a result of injury, illness, or death arising from the:

(1) operation of a motor vehicle; or

(2) individual's presence on a premises;

that is covered by the insurance policy.

(b) The term includes coverage for emergency medical transportation, health care services, and funeral and burial expenses.

(c) The term does not include benefits provided by the following:

(1) Liability insurance coverage.

(2) A health plan.

Sec. 5. (a) Medical payment coverage is supplemental to the benefits:

(1) to which a covered individual is entitled under a health plan; and

(2) that are the same as or similar to benefits available to the covered individual under the medical payment coverage.

(b) A health plan may not require the use or exhaustion of medical payment coverage as a condition of payment of benefits:

(1) under the health plan; and

(2) for health care services rendered to a covered individual.

Sec. 6. In the absence of health plan benefits that are the same as or similar to benefits available to an individual under medical payment coverage, the medical payment coverage is primary coverage.

Sec. 7. Nothing in this chapter imposes on any health plan an obligation to provide greater benefits to a covered individual with



medical payment coverage than would be provided to a covered individual without medical payment coverage.

Sec. 8. This chapter does not affect any right of subrogation provided under a health plan.

Sec. 9. Nothing in this chapter affects the ability of a covered individual to prohibit a health care provider from billing the covered individual's medical payment coverage insurer directly.

Sec. 10. A contractual provision that is:

(1) contained in a contract entered into, amended, or renewed after June 30, 2020; and

(2) contrary to this chapter;

is void."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1372 as printed February 21, 2020.)

BOHACEK

SENATE MOTION

Madam President: I move that Engrossed House Bill 1372 be amended to read as follows:

Page 55, line 27, delete "commercial bank or a credit union," and insert "**financial institution (as defined in 15 U.S.C. 6809)**,"

Page 55, line 28, delete "commercial bank or credit union" and insert "**financial institution**".

(Reference is to EHB 1372 as printed February 21, 2020.)

BASSLER

SENATE MOTION

Madam President: I move that Engrossed House Bill 1372 be amended to read as follows:

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

"SECTION 1. IC 5-10-8-24 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 24. (a) As used in this section, "state employee health**

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plan" means the following:

(1) A self-insurance program established under section 7(b) of this chapter.

(2) A contract for prepaid health services entered into under section 7(c) of this chapter.

(b) A state employee health plan must provide coverage for treatment of:

(1) pediatric autoimmune neuropsychiatric disorders associated with streptococcal infections (PANDAS); and

(2) pediatric acute-onset neuropsychiatric syndrome (PANS); including treatment with intravenous immunoglobulin therapy.

(c) The coverage required by this section may not be subject to annual or lifetime limitation, deductible, copayment, or coinsurance provisions that are more restrictive than the annual or lifetime limitation, deductible, copayment, or coinsurance provisions that apply generally under the state employee health plan."

Page 79, between lines 14 and 15, begin a new paragraph and insert:
"SECTION 15. IC 27-8-37 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]:

Chapter 37. Coverage for Pediatric Neuropsychiatric Disorders

Sec. 1. As used in this chapter, "policy of accident and sickness insurance" has the meaning set forth in IC 27-8-5-1, offered on an individual or group basis.

Sec. 2. A policy of accident and sickness insurance must provide coverage for treatment of:

(1) pediatric autoimmune neuropsychiatric disorders associated with streptococcal infections (PANDAS); and

(2) pediatric acute-onset neuropsychiatric syndrome (PANS); including treatment with intravenous immunoglobulin therapy.

Sec. 3. The coverage required by this chapter may not be subject to annual or lifetime limitation, deductible, copayment, or coinsurance provisions that are more restrictive than the annual or lifetime limitation, deductible, copayment, or coinsurance provisions that apply generally under the policy of accident and sickness insurance."

Page 80, between lines 29 and 30, begin a new paragraph and insert:
"SECTION 17. IC 27-13-7-26 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 26. (a) An individual contract and a group contract must provide coverage for treatment of:**



- (1) pediatric autoimmune neuropsychiatric disorders associated with streptococcal infections (PANDAS); and**
- (2) pediatric acute-onset neuropsychiatric syndrome (PANS); including treatment with intravenous immunoglobulin therapy.**

(b) The coverage required by this section may not be subject to annual or lifetime limitation, deductible, copayment, or coinsurance provisions that are more restrictive than the annual or lifetime limitation, deductible, copayment, or coinsurance provisions that apply generally under the individual contract or group contract.

SECTION 18. [EFFECTIVE JULY 1, 2020] (a) IC 5-10-8-24, as added by this act, applies to a state employee health plan that is established, entered into, amended, or renewed after June 30, 2020.

(b) IC 27-8-37, as added by this act, applies to a policy of accident and sickness insurance that is issued, delivered, amended, or renewed after June 30, 2020.

(c) IC 27-13-7-26, as added by this act, applies to an individual contract or a group contract that is entered into, delivered, amended, or renewed after June 30, 2020.

(d) This SECTION expires July 1, 2023."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1372 as printed February 21, 2020.)

NIEZGODSKI

