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

HOUSE ENROLLED ACT No. 1372

AN ACT to amend the Indiana Code concerning insurance.

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

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 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.

SECTION 2. IC 27-1-12-2, AS AMENDED BY P.L.124-2018, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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

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

(A) cash;

(B) cash equivalents;

(C) letters of credit; and

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

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

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

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

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

(D) 1 by the Securities Valuation Office.

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

(A) cash;

(B) cash equivalents; and

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

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

(A) cash; and

(B) cash equivalents.

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

(6) "Business entity" means:

(A) a sole proprietorship;

(B) a corporation;

(C) a limited liability company;

(D) an association;

(E) a partnership;

(F) a joint stock company;

(G) a joint venture;

(H) a mutual fund;

(I) a trust;

(J) a joint tenancy; or

(K) other, similar form of business organization;

whether organized for-profit or not-for-profit.

(7) "Cash" means any of the following:

(A) United States denominated paper currency and coins.

(B) Negotiable money orders and checks.

(C) Funds held in any time or demand deposit in any depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation.

(8) "Cash equivalent" means any of the following:

(A) A certificate of deposit issued by a depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation.

(B) A banker's acceptance issued by a depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation.

(C) A government money market mutual fund.

(D) A class one money market mutual fund.

(9) "Class one money market mutual fund" means a money market mutual fund that at all times qualifies for investment pursuant to the Purposes and Procedures Manual of the NAIC Investment Analysis Office either using the bond class one reserve factor or because it is exempt from asset valuation reserve requirements.

(10) "Dollar roll transaction" means two (2) simultaneous transactions that have settlement dates not more than ninety-six (96) days apart and that meet the following description:

(A) In one (1) transaction, a life insurance company sells to a business entity one (1) or both of the following:

(i) Asset-backed securities that are issued, assumed, or guaranteed by the Government National Mortgage Association, the Federal National Mortgage Association, or the Federal Home Loan Mortgage Corporation.

(ii) Other asset-backed securities referred to in Section 106 of Title I of the Secondary Mortgage Market Enhancement Act of 1984 (15 U.S.C. 77r-1).

(B) In the other transaction, the life insurance company is obligated to purchase from the same business entity securities that are substantially similar to the securities sold under clause (A).

(11) "Domestic jurisdiction" means:
(A) the United States;
(B) any state, territory, or possession of the United States;
(C) the District of Columbia;
(D) Canada; or
(E) any province of Canada.
(12) "Earnings available for fixed charges" means income, after deducting:
(A) operating and maintenance expenses other than expenses that are fixed charges;
(B) taxes other than federal and state income taxes;
(C) depreciation; and
(D) depletion;
but excluding extraordinary nonrecurring items of income or expense appearing in the regular financial statements of a business entity.
(13) "Fixed charges" includes:
(A) interest on funded and unfunded debt;
(B) amortization of debt discount; and
(C) rentals for leased property.
(14) "Foreign currency" means a currency of a foreign jurisdiction.
(15) "Foreign jurisdiction" means a jurisdiction other than a domestic jurisdiction.
(16) "Government money market mutual fund" means a money market mutual fund that at all times:
(A) invests only in:
(i) obligations that are issued, guaranteed, or insured by the United States; or
(ii) collateralized repurchase agreements composed of obligations that are issued, guaranteed, or insured by the United States; and
(B) qualifies for investment without a reserve pursuant to the Purposes and Procedures Manual of the NAIC Investment Analysis Office.
(17) "Guaranteed or insured," when used in reference to an obligation acquired under this section, means that the guarantor or insurer has agreed to:
(A) perform or insure the obligation of the obligor or purchase the obligation; or
(B) be unconditionally obligated, until the obligation is repaid, to maintain in the obligor a minimum net worth, fixed charge

coverage, stockholders' equity, or sufficient liquidity to enable the obligor to pay the obligation in full.

(18) "Investment company" means:

(A) an investment company as defined in Section 3(a) of the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.); or

(B) a person described in Section 3(c) of the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.).

(19) "Investment company series" means an investment portfolio of an investment company that is organized as a series company to which assets of the investment company have been specifically allocated.

(20) "Letter of credit" means a clean, irrevocable, and unconditional letter of credit that is:

(A) issued or confirmed by; and

(B) payable and presentable at;

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

(21) "Market value" means the following:

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

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

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

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

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

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

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

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

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

(24) "Mutual fund" means:

(A) an investment company; or

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

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

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

(A) A bond.

(B) A note.

(C) A debenture.

(D) Any other form of evidence of debt.

(26) "Person" means:

(A) an individual;

(B) a business entity;

(C) a multilateral development bank; or

(D) a government or quasi-governmental body, such as a political subdivision or a government sponsored enterprise.

(27) "Repurchase transaction" means a transaction in which a life insurance company purchases securities from a business entity that is obligated to repurchase the purchased securities or equivalent securities from the life insurance company at a specified price, either within a specified period of time or upon demand.

(28) "Reverse repurchase transaction" means a transaction in which a life insurance company sells securities to a business entity and is obligated to repurchase the sold securities or equivalent securities from the business entity at a specified price, either within a specified period of time or upon demand.

(29) "Securities lending transaction" means a transaction in which securities are loaned by a life insurance company to a business entity that is obligated to return the loaned securities or equivalent securities to the life insurance company, either within a specified period of time or upon demand.

(30) "Securities Valuation Office" refers to the Securities Valuation Office of the NAIC.

(31) "Series company" means an investment company that is organized as a series company (as defined in Rule 18f-2(a) adopted under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.)).

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

(A) repayment of the obligation by:

(i) a domestic jurisdiction or by an administration, agency,

authority, or instrumentality of a domestic jurisdiction; or

(ii) a business entity;

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

(B) the:

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

(ii) business entity;

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

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

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

2. Obligations guaranteed, supported, or insured as to principal and interest by a domestic jurisdiction or by an administration, agency,

authority, or instrumentality of a domestic jurisdiction.

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

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

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

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

(c) improvement bonds or other obligations constituting a first lien, except for tax liens, against all of the real estate within the improvement district or on that part of such real estate not discharged from such lien through payment of the assessment. The area to which such improvement bonds or other obligations relate shall be situated within the limits of a town or city and at least fifty percent (50%) of the properties within such area shall be improved with business buildings or residences.

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

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

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

If improvements constitute a part of the value of the real estate or leaseholds, such improvements shall be insured against fire for the

benefit of the mortgagee in an amount not less than the difference between the value of the land and the unpaid balance of the loan.
For the purpose of this section, real estate or a leasehold shall not be deemed to be encumbered by reason of the existence in relation thereto of:

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

(2) taxes or assessment liens not delinquent;

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

(4) building restrictions or other restrictive covenants; or

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

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

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

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

(a) eighty percent (80%) of the contract price of the real estate;

(b) eighty percent (80%) of the fair value of the real estate at the time the contract is purchased, such value to be determined in a manner satisfactory to the department; or

(c) the amount due under the contract.

For the purpose of this paragraph, real estate shall not be deemed encumbered by reason of the existence in relation thereto of: (1) taxes or assessment liens not delinquent; (2) instruments creating or reserving mineral, oil, water or timber rights, rights-of-way, common or joint driveways, sewers, walls or utility connections; (3) building

restrictions or other restrictive covenants; or (4) an unassigned lease reserving rents or profits to the owner. Fire insurance upon improvements constituting a part of the real estate described in the contract shall be maintained in an amount at least equal to the unpaid balance due under the contract or the fair value of improvements, whichever is the lesser.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

13. Common stock of any solvent corporation organized under the laws of a domestic jurisdiction which over the seven (7) fiscal years immediately preceding purchase earned an average amount per annum

at least equal to six percent (6%) of the par value of its capital stock (or, in the case of stock having no par value, of the issued or stated value of such stock) outstanding at date of purchase, but the conditions and limitations of this paragraph shall not apply to the special area of investment to which paragraph 23 of this section pertains.

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

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

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

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

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

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

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

15.(A) Tangible personal property, equipment trust obligations, or other instruments evidencing an ownership interest or other interest in

tangible personal property when the life insurance company purchasing such property has admitted assets in excess of twenty-five million dollars ($25,000,000), and where there is a right to receive determined portions of rental, purchase, or other fixed obligatory payments for the use of such personal property from a corporation whose obligations would be eligible for investment under the provisions of paragraph 11 of this subsection, provided that the aggregate of such payments together with the estimated salvage value of such property at the end of its minimum useful life, to be determined in a manner acceptable to the insurance commissioner, and the estimated tax benefits to the insurer resulting from ownership of such property, is adequate to return the cost of the investment in such property, and provided further, that each net investment in tangible personal property for which any single private corporation is obligated to pay rental, purchase, or other obligatory payments thereon does not exceed one-half of one percent (1/2%) of the life insurance company's admitted assets, and the aggregate net investments made under the provisions of this paragraph do not exceed five percent (5%) of the life insurance company's admitted assets.

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

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

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

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

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

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

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

If the obligations issued by a business entity organized under the laws of a foreign jurisdiction have not received a rating, investments may nevertheless be made under this paragraph in such obligations and in

the preferred and common stock of the business entity if the earnings available for fixed charges of the business entity for a period of five (5) fiscal years preceding the date of purchase have averaged at least three (3) times its average fixed charges applicable to such period, and if during either of the last two (2) years of such period, the earnings available for fixed charges were at least three (3) times its fixed charges for such year. Investments authorized by this paragraph in a single foreign jurisdiction shall not exceed ten percent (10%) of the life insurance company's admitted assets. Subject to section 2.2(g) of this chapter, investments authorized by this paragraph denominated in foreign currencies shall not in the aggregate exceed ten percent (10%) of a life insurance company's admitted assets, and investments in any one (1) foreign currency shall not exceed five percent (5%) of the life insurance company's admitted assets. Investments authorized by this paragraph and paragraph 17(B) shall not in the aggregate exceed twenty percent (20%) of the life insurance company's admitted assets. This paragraph in no way limits or restricts investments which are otherwise specifically eligible for deposit under this section.

17.(B) Investments in:

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

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

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

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

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

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

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

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

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

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

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

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

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

22. Investments in:

(a) preferred stock; and

(b) common stock;

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

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

24. No investment, other than commercial bank deposits and loans on life insurance policies, shall be made unless authorized by the life

insurance company's board of directors or a committee designated by the board of directors and charged with the duty of supervising loans or investments.

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

26. No life insurance company may invest in the stocks or obligations, except investments under paragraphs 9 and 10 of this subsection, of any corporation in which an officer of such life insurance company is either an officer or director. However, this limitation shall not apply with respect to such investments in:

(a) a corporation which is a subsidiary or affiliate of such life insurance company; or

(b) a trade association, provided such investment meets the requirements of paragraph 5 of this subsection.

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

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

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

(1) A description of how cash received will be invested or used

for general corporate purposes of the company.

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

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

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

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

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

(A) the agent is:

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

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

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

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

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

(1) invested:

(A) in accordance with this section 2; and

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

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

D. For as long as a transaction under this paragraph remains outstanding, the life insurance company or its agent or custodian shall maintain, as to acceptable collateral received in the transaction, either

physically or through book entry systems of the Federal Reserve, the Depository Trust Company, the Participants Trust Company, or another securities depository approved by the commissioner:

(1) possession of the acceptable collateral;

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

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

(A) title to; or

(B) rights of a secured creditor to;

the acceptable collateral.

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

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

(2) repurchase securities, in the case of a reverse repurchase transaction.

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

(1) the aggregate amount of securities then loaned, sold to, or purchased from any one (1) business entity under this paragraph would exceed five percent (5%) of the company's admitted assets (but in calculating the amount sold to or purchased from a business entity under repurchase or reverse repurchase transactions, effect may be given to netting provisions under a master written agreement); or

(2) the aggregate amount of all securities then loaned, sold to, or purchased from all business entities under this paragraph would exceed forty percent (40%) of the admitted assets of the company (provided, however, that this limitation does not apply to a reverse repurchase transaction if the borrowing is used to meet operational liquidity requirements resulting from an officially declared catastrophe and is subject to a plan approved by the commissioner).

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

(1) In a securities lending transaction, the life insurance company must receive acceptable collateral having a market value as of the transaction date at least equal to one hundred two percent (102%) of the market value of the securities loaned by the company in the transaction as of that date. If at any time the market value of the

acceptable collateral received from a particular business entity is less than the market value of all securities loaned by the company to that business entity, the business entity shall be obligated to deliver additional acceptable collateral to the company, the market value of which, together with the market value of all acceptable collateral then held in connection with all securities lending transactions with that business entity, equals at least one hundred two percent (102%) of the market value of the loaned securities.

(2) In a reverse repurchase transaction, other than a dollar roll transaction, the life insurance company must receive acceptable collateral having a market value as of the transaction date equal to at least ninety-five percent (95%) of the market value of the securities transferred by the company in the transaction as of that date. If at any time the market value of the acceptable collateral received from a particular business entity is less than ninety-five percent (95%) of the market value of all securities transferred by the company to that business entity, the business entity shall be obligated to deliver additional acceptable collateral to the company, the market value of which, together with the market value of all acceptable collateral then held in connection with all reverse repurchase transactions with that business entity, equals at least ninety-five percent (95%) of the market value of the transferred securities.

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

(4) In a repurchase transaction, the life insurance company must receive acceptable collateral having a market value equal to at least one hundred two percent (102%) of the purchase price paid by the company for the securities. If at any time the market value of the acceptable collateral received from a particular business entity is less than one hundred percent (100%) of the purchase price paid by the life insurance company in all repurchase transactions with that business entity, the business entity shall be obligated to provide additional acceptable collateral to the company, the market value of which, together with the market value of all acceptable collateral then held in connection with all repurchase transactions with that business entity, equals at least one hundred two percent (102%) of the purchase price. Securities acquired by a life insurance company in a repurchase transaction

shall not be:

(A) sold in a reverse repurchase transaction;

(B) loaned in a securities lending transaction; or

(C) otherwise pledged.

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

(a) investments authorized by paragraphs 1, 2, 3, 4, or 11 of this subsection; or

(b) collateral with the characteristics and limitations prescribed for loans under paragraph 5 of this subsection.

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

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

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

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

(c) 1 **or 2** by the Securities Valuation Office.

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

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

B. The following definitions apply throughout this paragraph:

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

(2) "Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract (other than a commercial contract for goods or non-management services), or otherwise, unless the power is the result of an official position with or corporate office held by the person. Control shall be presumed to exist if a person, directly or indirectly, owns, controls, holds with the power to vote or holds proxies representing ten percent (10%) or more of the voting

securities of another person. This presumption may be rebutted by a showing that control does not exist in fact. The commissioner may determine, after furnishing all interested persons notice and an opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

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

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

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

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

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

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

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

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

D. For an investment pool to be qualified under this paragraph, the

investment pool shall not:

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

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

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

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

(1) the manager of the investment pool must:

(A) be organized under the laws of the United States, a state or territory of the United States, or the District of Columbia, and designated as the pool manager in a pooling agreement; and

(B) be the life insurance company, an affiliated company, a business entity affiliated with the company, or a qualified bank or a business entity registered under the Investment Advisors Act of 1940 (15 U.S.C. 80a-1 et seq.);

(2) the pool manager or an entity designated by the pool manager of the type set forth in subdivision (1) of this subparagraph F shall compile and maintain detailed accounting records setting forth:

(A) the cash receipts and disbursements reflecting each participant's proportionate participation in the investment pool;

(B) a complete description of all underlying assets of the investment pool (including amount, interest rate, maturity date (if any) and other appropriate designations); and

(C) other records which, on a daily basis, allow third parties to verify each participant's interest in the investment pool; and

(3) the assets of the investment pool shall be held in one (1) or more accounts, in the name of or on behalf of the investment pool, under a custody agreement or trust agreement with a qualified bank, which must:

(A) state and recognize the claims and rights of each participant;

(B) acknowledge that the underlying assets of the investment pool are held solely for the benefit of each participant in proportion to the aggregate amount of its participation in the investment pool; and

(C) contain an agreement that the underlying assets of the investment pool shall not be commingled with the general assets of the qualified bank or any other person.

G. The pooling agreement for an investment pool qualified under this paragraph must be in writing and must include the following provisions:

(1) Insurers, subsidiaries, or affiliates of insurers holding interests in the pool, or any pension or profit sharing plan of such insurers or their subsidiaries or affiliates, shall, at all times, hold one hundred percent (100%) of the interests in the investment pool.

(2) The underlying assets of the investment pool shall not be commingled with the general assets of the pool manager or any other person.

(3) In proportion to the aggregate amount of each pool participant's interest in the investment pool:

(A) each participant owns an undivided interest in the underlying assets of the investment pool; and

(B) the underlying assets of the investment pool are held solely for the benefit of each participant.

(4) A participant or (in the event of the participant's insolvency, bankruptcy, or receivership) its trustee, receiver, or other successor-in-interest may withdraw all or any portion of its participation from the investment pool under the terms of the pooling agreement.

(5) Withdrawals may be made on demand without penalty or other assessment on any business day, but settlement of funds shall occur within a reasonable and customary period thereafter. Payments upon withdrawals under this paragraph shall be calculated in each case net of all then applicable fees and expenses of the investment pool. The pooling agreement shall provide for such payments to be made to the participants in one (1) of the following forms, at the discretion of the pool manager:

(A) in cash, the then fair market value of the participant's pro rata share of each underlying asset of the investment pool;

(B) in kind, a pro rata share of each underlying asset; or

(C) in a combination of cash and in kind distributions, a pro rata share in each underlying asset.

(6) The records of the investment pool shall be made available for inspection by the commissioner.

SECTION 3. IC 27-1-12.1-9, AS ADDED BY P.L.115-2011, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 9. A limited purpose subsidiary that is granted a

certificate of authority by the commissioner under this chapter:

(1) is authorized to engage in the business of reinsurance for purposes of ~~IC 27-6-10~~ **IC 27-6-10.1** only for the lines of insurance for which the:

(A) organizing domestic life insurance company; and

(B) affiliates of the organizing domestic life insurance company;

are authorized;

(2) may reinsure only risks of:

(A) the organizing domestic life insurance company; and

(B) affiliates of the organizing domestic life insurance company; and

(3) may access alternative forms of financing.

SECTION 4. IC 27-1-13-3, AS AMENDED BY P.L.124-2018, SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 3. (a) The following definitions apply throughout this section:

(1) "Acceptable collateral" means the following:

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

(i) cash;

(ii) cash equivalents;

(iii) letters of credit; and

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

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

(C) As to repurchase transactions:

(i) cash;

(ii) cash equivalents; and

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

(D) As to reverse repurchase transactions:

(i) cash; and

(ii) cash equivalents.

(2) "Admitted assets" means assets permitted to be reported as

admitted assets on the statutory financial statement of the insurer most recently required to be filed with the commissioner.

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

(A) A sole proprietorship.

(B) A corporation.

(C) A limited liability company.

(D) An association.

(E) A general partnership.

(F) A limited partnership.

(G) A limited liability partnership.

(H) A joint stock company.

(I) A joint venture.

(J) A trust.

(K) A joint tenancy.

(L) Any other similar form of business organization, whether for profit or nonprofit.

(4) "Cash" means any of the following:

(A) United States denominated paper currency and coins.

(B) Negotiable money orders and checks.

(C) Funds held in any time or demand deposit in any depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation.

(5) "Cash equivalent" means any of the following:

(A) A certificate of deposit issued by a depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation.

(B) A banker's acceptance issued by a depository institution, the deposits of which are insured by the Federal Deposit Insurance Corporation.

(C) A government money market mutual fund.

(D) A class one (1) money market mutual fund.

(6) "Class one (1) money market mutual fund" means a money market mutual fund that at all times qualifies for investment using the bond class one (1) reserve factor pursuant to the Purposes and Procedures Manual of the NAIC Investment Analysis Office.

(7) "Derivative transaction" has the meaning set forth in IC 27-1-12-2.2(a)(14).

(8) "Government money market mutual fund" means a money market mutual fund that at all times:

(A) invests only in obligations issued, guaranteed, or insured by the United States or collateralized repurchase agreements composed of these obligations; and

(B) qualifies for investment without a reserve pursuant to the Purposes and Procedures Manual of the NAIC Investment Analysis Office.

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

(10) "Mutual fund" means:

(A) an investment company; or

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

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

(11) "Obligation" means any of the following:

(A) A bond.

(B) A note.

(C) A debenture.

(D) Any other form of evidence of debt.

(12) "Qualified business entity" means a business entity that is:

(A) an issuer of obligations or preferred stock that is rated one (1) or two (2) or is rated the equivalent of one (1) or two (2) by the Securities Valuation Office or by a nationally recognized statistical rating organization recognized by the Securities Valuation Office; or

(B) a primary dealer in United States government securities, recognized by the Federal Reserve Bank of New York.

(13) "Securities Valuation Office" refers to the Securities Valuation Office of the NAIC.

(b) Any company, other than one organized as a life insurance company, organized under the provisions of IC 27-1 or any other law of this state and authorized to make any or all kinds of insurance described in class 2 or class 3 of IC 27-1-5-1 shall invest its capital or guaranty fund as follows and not otherwise:

(1) In cash.

(2) In:

(A) direct obligations of the United States; or

(B) obligations secured or guaranteed as to principal and interest by the United States.

(3) In:

(A) direct obligations; or

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

of any state of the United States or the District of Columbia.

(4) In obligations of any county, township, city, town, village, school district, or other municipal district within the United States which are a direct obligation of the county, township, city, town, village, or district issuing the same.

(5) In obligations secured by mortgages or deeds of trust or unencumbered real estate or perpetual leases thereon in the United States not exceeding eighty percent (80%) of the fair value of the security determined in a manner satisfactory to the department, except that the percentage stated may be exceeded if and to the extent such excess is guaranteed or insured by the United States, any state, territory, or possession of the United States, the District of Columbia, Canada, any province of Canada, or by an administration, agency, authority, or instrumentality of any such governmental units. Where improvements on the land constitute a part of the value on which the loan is made, the improvements shall be insured against fire and tornado for the benefit of the mortgagee. For the purposes of this section, real estate may not be deemed to be encumbered by reason of the existence of taxes or assessments that are not delinquent, instruments creating or reserving mineral, oil, or timber rights, rights-of-way, joint driveways, sewer rights, rights-in-walls, nor by reason of building restrictions, or other restrictive covenants, nor when such real estate is subject to lease in whole or in part whereby rents or profits are reserved to the owner. The restrictions contained in this subdivision do not apply to loans or investments made under section 5 of this chapter.

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

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

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

(3) In obligations issued, guaranteed, or insured as to principal and interest by a city, county, drainage district, road district, school district, tax district, town, township, village or other civil administration, agency, authority, instrumentality or subdivision

of a state, territory, or possession of the United States, the District of Columbia, Canada, or any province of Canada, providing such obligations are authorized by law and are either:

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

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

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

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

(4) In:

(A) direct obligations; or

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

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

(5) In obligations guaranteed, supported, or insured as to principal and interest by the United States, any state, territory, or possession of the United States, the District of Columbia, Canada, any province of Canada, or by an administration, agency, authority, or instrumentality of any of the political units listed in this subdivision. An obligation is "supported" for the purposes of this subdivision when repayment of the obligation is secured by real or personal property of value at least equal to the principal amount of the indebtedness by means of mortgage, assignment of vendor's interest in one (1) or more conditional sales contracts, other title retention device, or by means of other security interest in the property for the benefit of the holder of the obligation, and one (1) of the political units listed in this subdivision, or an administration, agency, authority, or instrumentality listed in this subdivision, has entered into a firm agreement to rent or use the property pursuant to which entity is obligated to pay money as rental or for the use of the property in amounts and at times that are sufficient, after provision for taxes upon and for other expenses of the use of the property, to repay in full the indebtedness, both principal and interest, and when the firm

agreement and the money obligated to be paid under the agreement are assigned, pledged, or secured for the benefit of the holder of the obligation. However, where the security consists of a first mortgage lien or deed of trust on a fee interest in real property, the obligation may provide for the amortization, during the initial fixed period of the lease or contract of less than one hundred percent (100%) of the indebtedness if there is pledged or assigned, as additional security for the obligation, sufficient rentals payable under the lease, or of contract payments, to secure the amortized obligation payments required during the initial, fixed period of the lease or contract, including but not limited to payments of principal, interest, and taxes other than the income taxes of the borrower, and if there is to be left unamortized at the end of the period an amount not greater than the original appraised value of the land only, exclusive of all improvements, as prescribed by law.

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

(7) In obligations issued under or pursuant to the Farm Credit Act of 1971 (12 U.S.C. 2001 through 2279aa-14) as in effect on December 31, 1990, or the Federal Home Loan Bank Act (12 U.S.C. 1421 through 1449) as in effect on December 31, 1990, interest bearing obligations of the FSLIC Resolution Fund and shares of any institution that is insured by the Federal Deposit Insurance Corporation to the extent that the shares are insured, obligations issued or guaranteed by the International Bank for Reconstruction and Development, obligations issued or guaranteed by the Inter-American Development Bank, and obligations issued or guaranteed by the African Development

Bank.

(8) In any mutual fund that:

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

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

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

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

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

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

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

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

Foreign investments authorized by this subdivision shall not exceed twenty percent (20%) of the company's admitted assets. This subdivision in no way limits or restricts investments that are otherwise specifically permitted under this section. Canada is not

a foreign government for purposes of this subdivision.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) possession of the acceptable collateral;

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

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

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

(i) the aggregate amount of securities then loaned, sold to, or purchased from any one (1) business entity pursuant to this subdivision would exceed five percent (5%) of its

admitted assets (but, in calculating the amount sold to or purchased from a business entity pursuant to repurchase or reverse repurchase transactions, effect may be given to netting provisions under a master written agreement); or

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

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

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

(G) In a repurchase transaction, the company shall receive as acceptable collateral transferred securities having a market value equal to at least one hundred two percent (102%) of the purchase price paid by the company for the securities. If at any time the market value of the acceptable collateral is less than one hundred percent (100%) of the purchase price paid by the company, the business entity shall be obligated to provide additional acceptable collateral, the market value of which, together with the market value of all acceptable collateral then

held in connection with the transaction, equals at least one hundred two percent (102%) of the purchase price. Securities acquired by a company in a repurchase transaction shall not be sold in a reverse repurchase transaction, loaned in a securities lending transaction, or otherwise pledged.

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

(17) In mortgage backed securities, including collateralized mortgage obligations, mortgage pass through securities, mortgage backed bonds, and real estate mortgage investment conduits, adequately secured by a pool of mortgages, if the securities carry a rating of at least:

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

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

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

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

(19) In obligations or interests in trusts or partnerships in which a life insurance company may invest as described in paragraph 31 of IC 27-1-12-2(b). Investments authorized by this paragraph may not exceed ~~ten percent (10%)~~ **twenty percent (20%)** of the company's admitted assets.

(20) In any other investment. The total of all investments under this subdivision, except for investments in subsidiary companies under IC 27-1-23-2.6, may not exceed ~~an aggregate amount~~ **the greater** of ten percent (10%) of the insurer's admitted assets **or fifty percent (50%) of the insurer's capital and surplus.** Investments are not permitted under this subdivision:

(A) if expressly prohibited by statute; or

(B) in an insolvent organization or an organization in default

with respect to the payment of principal or interest on its obligations.

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

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

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

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

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

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

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

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

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

(e) All real estate described in subsection (d)(4) through (d)(8) which is not necessary for the convenient transaction of its business shall be sold by said company and disposed of within ten (10) years after it acquired title to the same, or within five (5) years after the same has ceased to be necessary for the accommodation of its business,

unless the company procures the certificate of the commissioner that its interests will suffer materially by a forced sale of the real estate, in which event the time for the sale may be extended to such time as the commissioner directs in the certificate.

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

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

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

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

(C) internal control procedures;

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

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

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

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

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

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

SECTION 5. 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 6. 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 7. 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 8. 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 9. 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.**

SECTION 10. IC 27-2-27 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]:

Chapter 27. Insurance Data Security

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

Sec. 2. As used in this chapter, "authorized individual" means an individual authorized by the licensee to have access to the nonpublic information held by the licensee and its information systems.

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

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

Sec. 5. As used in this chapter, "cybersecurity event" means an event resulting in unauthorized access to or a disruption or misuse of an information system or nonpublic information stored on the information system that has a reasonable likelihood of materially harming a consumer or any material part of the normal operations of the licensee. However, the term does not include the following:

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

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

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

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

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

Sec. 9. As used in this chapter, "information system" means

either of the following:

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

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

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

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

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

under this title and the rules adopted under this title.

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

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

(2) A person that is:

(A) acting as an assuming insurer; and

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

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

(1) Knowledge factors, such as a password.

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

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

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

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

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

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

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

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

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

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

(2) widely distributed media; or

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

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

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

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

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

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

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

(1) Protect the security and confidentiality of nonpublic information and information systems.

(2) Protect against any threats or hazards to the security or integrity of nonpublic information and information systems.

(3) Protect against unauthorized access to or use of nonpublic information and minimize the likelihood of harm to a consumer.

(4) Define and periodically reevaluate a schedule for retention

of nonpublic information and a procedure for its destruction when no longer needed.

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

(1) Designating one (1) or more employees, an affiliate, or an outside vendor designated to act on behalf of the licensee information security program.

(2) Identifying reasonably foreseeable internal or external threats that could result in a cybersecurity event, including threats to information systems and nonpublic information held or accessed by third party service providers.

(3) Assessing the likelihood and potential damage of the threats identified in subdivision (2), taking into consideration the sensitivity of the nonpublic information.

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

(A) Employee training and management.

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

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

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

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

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

(A) the licensee's size and complexity;

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

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

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

(A) Placing access controls on information systems, including controls to authenticate and permit only

authorized individuals to have access to nonpublic information.

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

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

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

(E) Adopting secure development practices for in-house developed applications used by the licensee.

(F) Modifying information systems in accordance with the licensee's information security program.

(G) Using effective controls, which may include multi-factor authentication procedures for any employees accessing nonpublic information.

(H) Regularly testing and monitoring systems and procedures to detect actual and attempted attacks on, or intrusions into, information systems.

(I) Including audit trails within the information security program designed to detect and respond to a cybersecurity event and designed to reconstruct material financial transactions sufficient to support normal operations and obligations of the licensee.

(J) Implementing measures to protect against destruction, loss, or damage of nonpublic information due to environmental hazards, such as fire and water damage or other catastrophes or technological failures.

(K) Developing, implementing, and maintaining procedures for the secure disposal of nonpublic information in any format.

(3) Include cybersecurity risks in the licensee's enterprise risk management process.

(4) Stay informed regarding emerging threats or vulnerabilities.

(5) Use reasonable security measures when sharing information, relative to the character of the sharing and the type of information shared.

(6) Provide personnel with cybersecurity awareness training that is updated as necessary to reflect risks identified in the risk assessment.

Sec. 19. (a) If the licensee has a board of directors, the board of directors shall require the licensee's executive management or its delegates to develop, implement, and maintain the licensee's information security program.

(b) If the licensee's executive management delegates any of its responsibilities under this section, it shall:

(1) oversee the development, implementation, and maintenance of the licensee's information security program prepared by the delegate; and

(2) receive a report from the delegate concerning:

(A) the overall status of the information security program;

(B) the licensee's compliance with this chapter; and

(C) material matters related to the information security program addressing such issues as:

(i) risk assessment;

(ii) risk management and control decisions;

(iii) third party service provider arrangements;

(iv) results of testing;

(v) cybersecurity events and management's responses to cybersecurity events; and

(vi) recommendations for changes in the information security program.

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

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

(1) The internal process for responding to a cybersecurity event.

(2) The goals of the incident response plan.

(3) The definition of clear roles, responsibilities, and levels of decision making authority.

(4) External and internal communications and information sharing.

(5) Identification of requirements for the remediation of any identified weaknesses in information systems and associated controls.

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

(7) The evaluation and revision, as necessary, of the incident

response plan.

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

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

(1) determine:

(A) whether a cybersecurity event has occurred;

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

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

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

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

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

(1) Indiana is the licensee's state of domicile, if the licensee is an insurer, or the licensee's home state, if the licensee is a

producer, and the cybersecurity event has a reasonable likelihood of materially harming a consumer residing in Indiana or materially harming any material part of the normal operations of the licensee.

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

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

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

(i) a consumer residing in Indiana; or

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

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

(1) The date of the cybersecurity event.

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

(3) How the cybersecurity event was discovered.

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

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

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

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

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

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

under this section.

(10) The results of any internal review:

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

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

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

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

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

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

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

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

(1) another licensee;

(2) a third party service provider; or

(3) any other party;

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

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

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

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

(A) is acting as an assuming insurer; and

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

the assuming insurer shall notify its affected ceding insurers and the commissioner of its state of domicile within three (3) business days after making the determination that a cybersecurity event has occurred and the ceding insurers that have a direct contractual relationship with affected consumers shall fulfill the consumer notification requirements imposed under IC 24-4.9 and any other

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

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

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

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

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

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

(1) that involves nonpublic information:

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

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

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

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

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

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

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

Sec. 24. (a) The commissioner may examine and investigate into the affairs of any licensee to determine whether the licensee has been or is engaged in any conduct in violation of this chapter. This

power is in addition to the other powers the commissioner has under this title. Any investigation or examination of a licensee under this section shall be conducted pursuant to IC 27-1.

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

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

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

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

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

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

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

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

(2) may receive documents, materials, or information, including otherwise confidential and privileged documents,

materials, or information, from the NAIC and its affiliates or subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information;

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

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

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

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

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

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

(1) fewer than fifty (50) employees;

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

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

(b) A licensee that:

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

(2) has established and maintains an information security program pursuant to that federal act and the regulations,

procedures, or guidelines established under that act;

will be considered as meeting the requirements of this chapter, except for the notice requirements described in section 21 of this chapter.

(c) An individual who:

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

(2) is also a licensee;

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

(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)).

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

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

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

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

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

(1) data security;

(2) the investigation of a cybersecurity event; and

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

Sec. 31. The requirements of this chapter do not apply to a financial institution (as defined in 15 U.S.C. 6809), except to the

extent the financial institution transacts insurance business.

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.

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

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

Chapter 10.1. Credit for Reinsurance

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

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

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

Sec. 2. Credit Allowed a Domestic Ceding Insurer. Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a reduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of Subsection A, B, C, D, E, F, or G; provided further, that the insurance commissioner may adopt by regulation pursuant to Section 5B of this chapter specific additional requirements relating to or setting

forth: (1) the valuation of assets or reserve credits; (2) the amount and forms of security supporting reinsurance arrangements described in Section 5B of this chapter; and/or (3) the circumstances pursuant to which credit will be reduced or eliminated. Credit shall be allowed under Subsection A, B, or C only as respects cessions of those kinds or classes of business which the assuming insurer is licensed or otherwise permitted to write or assume in its state of domicile or, in the case of a U.S. branch of an alien assuming insurer, in the state through which it is entered and licensed to transact insurance or reinsurance. Credit shall be allowed under Subsection C or D only if the applicable requirements of Subsection H have been satisfied.

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

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

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

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

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

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

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

C. (1) Credit shall be allowed when the reinsurance is ceded

to an assuming insurer that is domiciled in, or in the case of a U.S. branch of an alien assuming insurer is entered through, a state that employs standards regarding credit for reinsurance substantially similar to those applicable under this statute and the assuming insurer or U.S. branch of an alien assuming insurer:

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

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

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

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

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

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

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

(b) The form of the trust and any trust amendments also shall be filed with the insurance commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the

United States. The trust shall vest legal title to its assets in its trustees for the benefit of the assuming insurer's U.S. ceding insurers, their assigns, and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the insurance commissioner.

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

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

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

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

U.S. ceding insurers covered by the trust.

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

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

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

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

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

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

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

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

accreditation;

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

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

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

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

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

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

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

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

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

(d) The assuming insurer must agree to submit to the jurisdiction of Indiana, appoint the insurance commissioner as its agent for service of process in Indiana,

and agree to provide security for one hundred percent (100%) of the assuming insurer's liabilities attributable to reinsurance ceded by U.S. ceding insurers if it resists enforcement of a final U.S. judgment.

(e) The assuming insurer must agree to meet applicable information filing requirements as determined by the insurance commissioner, both with respect to an initial application for certification and on an ongoing basis.

(f) The assuming insurer must satisfy any other requirements for certification deemed relevant by the insurance commissioner.

(2) An association including incorporated and individual unincorporated underwriters may be a certified reinsurer. In order to be eligible for certification, in addition to satisfying requirements of Paragraph (1) of this subsection:

(a) the association shall satisfy its minimum capital and surplus requirements through the capital and surplus equivalents (net of liabilities) of the association and its members, which shall include a joint central fund that may be applied to any unsatisfied obligation of the association or any of its members, in an amount determined by the insurance commissioner to provide adequate protection;

(b) the incorporated members of the association shall not be engaged in any business other than underwriting as a member of the association and shall be subject to the same level of regulation and solvency control by the association's domiciliary regulator as are the unincorporated members; and

(c) within ninety (90) days after its financial statements are due to be filed with the association's domiciliary regulator, the association shall provide to the insurance commissioner an annual certification by the association's domiciliary regulator of the solvency of each underwriter member; or if a certification is unavailable, financial statements, prepared by independent public accountants, of each underwriter member of the association.

(3) The insurance commissioner shall create and publish a list of qualified jurisdictions, under which an assuming insurer licensed and domiciled in such jurisdiction is eligible to be considered for certification by the insurance commissioner as a certified reinsurer.

(a) In order to determine whether the domiciliary

jurisdiction of a non-U.S. assuming insurer is eligible to be recognized as a qualified jurisdiction, the insurance commissioner shall evaluate the appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits and the extent of reciprocal recognition afforded by the non-U.S. jurisdiction to reinsurers licensed and domiciled in the U.S. A qualified jurisdiction must agree to share information and cooperate with the insurance commissioner with respect to all certified reinsurers domiciled within that jurisdiction. A jurisdiction may not be recognized as a qualified jurisdiction if the insurance commissioner has determined that the jurisdiction does not adequately and promptly enforce final U.S. judgments and arbitration awards. Additional factors may be considered in the discretion of the insurance commissioner.

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

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

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

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

(5) A certified reinsurer shall secure obligations assumed from U.S. ceding insurers under this subsection at a level consistent with its rating, as specified in regulations

promulgated by the insurance commissioner.

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

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

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

(d) With respect to obligations incurred by a certified reinsurer under this subsection, if the security is insufficient, the insurance commissioner shall reduce the allowable credit by an amount proportionate to the deficiency, and has the discretion to impose further reductions in allowable credit upon finding that there is a material risk that the certified reinsurer's obligations will not be paid in full when due.

(e) For purposes of this subsection, a certified reinsurer

whose certification has been terminated for any reason shall be treated as a certified reinsurer required to secure one hundred percent (100%) of its obligations.

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

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

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

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

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

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

(i) A non-U.S. jurisdiction that is subject to an in force covered agreement with the United States, each within its legal authority, or, in the case of a covered agreement between the United States and European Union, is a member state of the European Union. For purposes of this subsection, a "covered agreement" is an agreement entered into pursuant to Dodd-Frank Wall Street Reform and Consumer Protection Act, 31 U.S.C. 313 and 31 U.S.C 314, that is currently in effect or in a period of

provisional application and addresses the elimination, under specified conditions, of collateral requirements as a condition for entering into any reinsurance agreement with a ceding insurer domiciled in Indiana or for allowing the ceding insurer to recognize credit for reinsurance.

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

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

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

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

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

(i) The assuming insurer must provide prompt written

notice and explanation to the insurance commissioner if it falls below the minimum requirements set forth in Subparagraph (b) or (c) of this section, or if any regulatory action is taken against it for serious noncompliance with applicable law.

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

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

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

(v) The assuming insurer must confirm that it is not presently participating in any solvent scheme of arrangement which involves Indiana's ceding insurers, and agree to notify the ceding insurer and the insurance commissioner and to provide security in an amount equal to one hundred percent (100%) of the assuming insurer's liabilities to the ceding insurer, should the assuming insurer enter into such a solvent scheme of arrangement. Such security shall be in a form consistent

with the provisions of Subsection E and Section 3 of this chapter and as specified by the insurance commissioner in regulation.

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

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

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

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

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

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

(b) The insurance commissioner may remove a jurisdiction from the list of Reciprocal Jurisdictions upon a determination that the jurisdiction no longer meets the requirements of a Reciprocal Jurisdiction, in accordance with a process set forth in regulations issued by the insurance commissioner, except that the insurance commissioner shall not remove from the list a Reciprocal Jurisdiction as defined under Subsection F(1)(a)(i) and F(1)(a)(ii). Upon removal of a Reciprocal Jurisdiction from

this list credit for reinsurance ceded to an assuming insurer which has its home office or is domiciled in that jurisdiction shall be allowed, if otherwise allowed pursuant to Indiana law.

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

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

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

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

(5) If subject to a legal process of rehabilitation, liquidation, or conservation, as applicable, the ceding insurer, or its representative, may seek and, if determined appropriate by the court in which the proceedings are pending, may obtain an

order requiring that the assuming insurer post security for all outstanding ceded liabilities.

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

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

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

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

(c) Nothing in this subsection shall limit, or in any way alter, the capacity of parties to any reinsurance agreement to renegotiate the agreement.

G. Credit shall be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of Subsection A, B, C, D, E, or F, but only as to the insurance of risks located in jurisdictions where the reinsurance is required by applicable law or regulation of that jurisdiction.

H. If the assuming insurer is not licensed, accredited or certified to transact insurance or reinsurance in Indiana, the credit permitted by Subsections C and D shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

(1) (a) That in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will

comply with all requirements necessary to give the court jurisdiction, and will abide by the final decision of the court or of any appellate court in the event of an appeal; and

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

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

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

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

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

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

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

J. If an accredited or certified reinsurer ceases to meet the

requirements for accreditation or certification, the insurance commissioner may suspend or revoke the reinsurer's accreditation or certification.

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

(a) the reinsurer waives its right to hearing;

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

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

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

K. Concentration Risk.

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

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

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

A. cash;

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

C. (1) clean, irrevocable, unconditional letters of credit, issued or confirmed by a qualified U.S. financial institution, as defined in Section 4A of this chapter, effective no later than December 31 of the year for which the filing is being made,

and in the possession of, or in trust for, the ceding insurer on or before the filing date of its annual statement;

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

D. any other form of security acceptable to the insurance commissioner.

Sec. 4. Qualified U.S. Financial Institutions

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

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

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

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

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

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

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

Sec. 5. Rules and Regulations.

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

B. The insurance commissioner is further authorized to adopt

rules and regulations under IC 4-22-2 applicable to reinsurance arrangements described in Paragraph (1) of this subsection.

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

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

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

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

(d) long term care insurance policies; or

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

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

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

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

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

(b) is certified in Indiana; or

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

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

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

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

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

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

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

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

The uninsured and underinsured motorist coverages must be provided by insurers for either a single premium or for separate premiums, in

limits at least equal to the limits of liability specified in the bodily injury liability provisions of an insured's policy, unless such coverages have been rejected in writing by the insured. However, underinsured motorist coverage must be made available in limits of not less than fifty thousand dollars ($50,000). At the insurer's option, the bodily injury liability provisions of the insured's policy may be required to be equal to the insured's underinsured motorist coverage. Insurers may not sell or provide underinsured motorist coverage in an amount less than fifty thousand dollars ($50,000). Insurers must make underinsured motorist coverage available to all existing policyholders on the date of the first renewal of existing policies that occurs on or after January 1, 1995, and on any policies newly issued or delivered on or after January 1, 1995. Uninsured motorist coverage or underinsured motorist coverage may be offered by an insurer in an amount exceeding the limits of liability specified in the bodily injury and property damage liability provisions of the insured's policy.

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

(1) reject both the uninsured motorist coverage and the underinsured motorist coverage provided for in this section; or

(2) reject either the uninsured motorist coverage alone or the underinsured motorist coverage alone, if the insurer provides the coverage not rejected separately from the coverage rejected.

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

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

(1) that the named insured is rejecting:

(A) the uninsured motorist coverage;

(B) the underinsured motorist coverage; or

(C) both the uninsured motorist coverage and the underinsured motorist coverage;

that would otherwise be provided under the policy; and

(2) the date on which the rejection is effective.

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

(1) An insurer is not required to make available in a commercial umbrella or excess liability policy the coverage described in subsection (a).

(2) An insurer that, through a rider or an endorsement, reduces or removes from a commercial umbrella or excess liability policy the coverage described in subsection (a) shall:

(A) through the United States mail; or

(B) by electronic means;

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

(3) An insurer that makes available in a commercial umbrella or excess liability policy the coverage described in subsection (a):

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

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

(e) A rejection under subsection (b) of uninsured motorist coverage or underinsured motorist coverage in an underlying commercial policy of insurance is also a rejection of uninsured motorist coverage or underinsured motorist coverage in a commercial umbrella or excess liability policy.

(f) An insurer is not required to make available the coverage described in subsection (a) in connection with coverage that:

(1) is related to or included in a commercial policy of property and casualty insurance described in Class 2 or Class 3 of IC 27-1-5-1; and

(2) covers a loss related to a motor vehicle:

(A) of which the insured is not the owner; and

(B) that is used:

(i) by the insured or an agent of the insured; and

(ii) for purposes authorized by the insured.

(g) For purposes of subsection (f), "owner" means:

(1) a person who holds the legal title to a motor vehicle;

(2) a person who rents or leases a motor vehicle and has exclusive use of the motor vehicle for more than thirty (30) days;

(3) the conditional vendee or lessee under an agreement for the conditional sale or lease of a motor vehicle; or

(4) the mortgagor under an agreement for the conditional sale or lease of a motor vehicle under which the mortgagor has:

(A) the right to purchase; and

(B) an immediate right of possession of;

the motor vehicle upon the performance of the conditions stated in the agreement.

(h) The following apply to the coverage described in subsection (a) in relation to a personal umbrella or excess liability policy:

(1) An insurer is not required to make available the coverage described in subsection (a) under a personal umbrella or excess liability policy.

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

(A) through the United States mail; or

(B) by electronic means;

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

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

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

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

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

SECTION 14. 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.

SECTION 15. IC 27-13-4-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 1. (a) Subject to section 3 of this chapter, the powers of a health maintenance organization include the following:

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

(A) hospitals and medical facilities;

(B) equipment for hospitals and medical facilities; and

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

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

(A) between affiliates; or

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

(3) The furnishing of health care services through:

(A) providers;

(B) provider associations; and

(C) agents for providers;

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

(4) Contracting with any person for the performance on behalf of the health maintenance organization of certain functions,

including:

(A) marketing;

(B) enrollment; and

(C) administration.

(5) Contracting with:

(A) an insurance company licensed in Indiana;

(B) an authorized reinsurer; or

(C) a hospital authorized to conduct business in Indiana;

for the provision of insurance, indemnity, or reimbursement against the cost of health care services provided by the health maintenance organization.

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

(7) The joint marketing of products with:

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

(B) a hospital that is authorized to conduct business in Indiana;

if the company that is offering each product is clearly identified.

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

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

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

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

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

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

SECTION 16. 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 17. [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.

SECTION 18. [EFFECTIVE UPON PASSAGE] **(a) The following definitions apply throughout this SECTION:**

(1) "Covered individual" means an individual who is entitled to coverage under a health plan.

(2) "Health care services" has the meaning set forth in IC 27-8-11-1.

(3) "Health plan" means a plan through which coverage is provided for health care services through insurance, prepayment, reimbursement, or otherwise. The term:

(A) includes:

(i) a policy of accident and sickness insurance (as defined in IC 27-8-5-1);

(ii) an individual contract (as defined in IC 27-13-1-21) or a group contract (as defined in IC 27-13-1-16);

(iii) a state employee health plan offered under IC 5-10-8;

(iv) an employee welfare benefit plan (as defined in 29 U.S.C. 1002 et seq.) to the extent allowable under federal law;

(v) accident only insurance; and

(vi) medicare supplement insurance; but

(B) does not include:

(i) credit, long term care, or disability income insurance;

(ii) liability insurance coverage;

(iii) worker's compensation or similar insurance;

(iv) medical payment coverage;

(v) a specified disease policy issued as an individual policy; or

(vi) 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.

(4) "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:

(A) the operation of a motor vehicle; or

(B) the presence of an individual on a premises;

that is covered by the insurance policy.

(b) The legislative council is urged to assign to an appropriate interim study committee the task of studying medical payment coverage, including:

(1) whether medical payment coverage should be supplemental to the benefits:

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

(B) that are the same as or similar to benefits available to the covered individual under the medical payment coverage; and

(2) whether a health plan should be prohibited from requiring the use or exhaustion of medical payment coverage as a condition of payment of benefits under the health plan for health care services rendered to a covered individual.

(c) This SECTION expires January 1, 2021.

SECTION 19. **An emergency is declared for this act.**

Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____