



April 5, 2019

ENGROSSED HOUSE BILL No. 1588

DIGEST OF HB 1588 (Updated April 3, 2019 3:53 pm - DI 97)

Citations Affected: IC 27-1; IC 27-6; IC 27-7; IC 27-8; IC 34-13; IC 34-30.

Synopsis: Insurance matters. Provides for cessation of the political subdivision risk management commission, the political subdivision risk management fund, and the political subdivision catastrophic liability fund. Repeals the law providing for availability of high risk property coverage under the federal Urban Property Protection and Reinsurance Act of 1968. Exempts flood insurance policies from the kinds of policies under which mine subsidence coverage must be made available. Repeals the law concerning the small employer voluntary reinsurance program. Makes conforming amendments.

Effective: July 1, 2019.

Carbaugh

(SENATE SPONSOR — BASSLER)

January 22, 2019, read first time and referred to Committee on Insurance.
January 31, 2019, amended, reported — Do Pass.
February 4, 2019, read second time, ordered engrossed.
February 5, 2019, engrossed.
February 7, 2019, read third time, passed. Yeas 96, nays 0.

SENATE ACTION

March 4, 2019, read first time and referred to Committee on Insurance and Financial Institutions.
April 4, 2019, amended, reported favorably — Do Pass.

EH 1588—LS 7275/DI 97



April 5, 2019

First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1588

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

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

1 SECTION 1. IC 27-1-29-11 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 11. **(a) Before January**
3 **1, 2020**, all political subdivisions are eligible for membership in the
4 fund. Each member of the fund:

5 (1) shall contribute to the fund in the amount of the assessment
6 charged the member under this chapter;
7 (2) shall pay the annual surcharge levied against the member
8 under this chapter; and
9 (3) is entitled to payment of its liabilities from the fund under this
10 chapter.

11 **(b) After December 31, 2019, membership in the fund is closed**
12 **to new members.**

13 SECTION 2. IC 27-1-29-15 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 15. (a) A political
15 subdivision may become a member of the fund by filing a written
16 notice of its intent to become a member with the commission by the
17 date exactly six (6) months before the expiration date of the liability

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1 insurance policy covering the political subdivision on December 31,
2 1986. **This subsection expires January 1, 2020.**

3 (b) Each political subdivision that files a notice of intent to become
4 a member of the fund by the date set forth in subsection (a) shall be
5 granted membership in the fund. A political subdivision that files a
6 notice of intent to become a member after the date set forth in
7 subsection (a) may be admitted to or rejected for membership in the
8 fund at the discretion of the commission. **This subsection expires**
9 **January 1, 2020.**

10 (c) A rule adopted by the commission to establish the procedures
11 described in section 7(b)(4) of this chapter may not provide that a
12 political subdivision continues to be a member of the fund more than
13 twelve (12) months after the political subdivision gives notice to the
14 commissioner of its intention to relinquish its membership.

15 (d) After relinquishing its membership in the fund, a political
16 subdivision remains liable for its pro rata share of assessments to pay
17 for liabilities of fund members that arose out of claims based upon acts
18 or omissions that took place while the political subdivision was a
19 member of the fund. If a political subdivision fails to pay an assessment
20 to which it is subject under this chapter, the commission may give
21 notice to any department or agency of the state (including the treasurer
22 of state or the auditor of state) that is the custodian of money payable
23 to the delinquent political subdivision after the date of the notice, that
24 the political subdivision is in default on the payment of an assessment
25 under this chapter. After receiving this notice, the department or
26 agency shall withhold the delinquent amount from money payable to
27 the political subdivision and pay over the money to the commission to
28 be applied against the delinquent assessment.

29 SECTION 3. IC 27-1-29-28 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 28. (a) As used in this
31 section, "fund" means the political subdivision risk management fund
32 established by section 10 of this chapter.

33 (b) Notwithstanding any other provision of this chapter, the
34 commission:

- 35 (1) with the approval of the insurance commissioner; and
- 36 (2) upon a determination by the commission that:
 - 37 (A) membership in the fund is declining; and
 - 38 (B) financial conditions warrant the action;

39 is authorized to take action under subsection (c).

40 (c) Under the circumstances set forth in subsection (b), the
41 commission may do the following with respect to the fund:

- 42 (1) Prevent any political subdivision that is not already a member



- 1 of the fund from becoming a member.
- 2 (2) Decline to renew the membership of the political subdivisions
- 3 that are members of the fund.
- 4 (3) When the membership of the last member has expired, cease
- 5 the operation of the fund, except for:
- 6 (A) the payment of liabilities of former members of the fund;
- 7 and
- 8 (B) the collection of assessments from former members of the
- 9 fund, if any are due;
- 10 in accordance with this chapter and rules adopted by the
- 11 commission.
- 12 (4) Allow or cause a ~~partial reduction or~~ complete depletion of the
- 13 balance of the fund through
- 14 ~~(A) the payment of liabilities of former members of the fund~~
- 15 ~~and~~
- 16 ~~(B) at the discretion of the commission, and with the approval~~
- 17 ~~of the commissioner, the pro rata return to former members of~~
- 18 ~~assessments paid by former members of the fund;~~
- 19 in accordance with this chapter and rules adopted by the
- 20 commission.
- 21 (d) After any or all of the actions authorized by subsection (c);
- 22 **completion of the payment of liabilities of former members of the**
- 23 **fund and of the political subdivision catastrophic liability fund**
- 24 **established by IC 27-1-29.1-7, the commission, with the approval of**
- 25 **the insurance commissioner, may resume using the fund to pay the**
- 26 **liabilities of members of the fund under this chapter. shall do the**
- 27 **following:**
- 28 (1) **Cease operations of the commission, the fund, and the**
- 29 **political subdivision catastrophic liability fund established by**
- 30 **IC 27-1-29.1-7.**
- 31 (2) **Determine each former member's pro rata share of any**
- 32 **remaining balance in the:**
- 33 (A) **fund; and**
- 34 (B) **political subdivision catastrophic liability fund**
- 35 **established by IC 27-1-29.1-7.**
- 36 (3) **Notify the auditor of state of the cessation of operations**
- 37 **and request that the auditor of state transfer to each former**
- 38 **member the pro rata share determined for that former**
- 39 **member under subdivision (2).**
- 40 (4) **Send to the commissioner and the governor a final**
- 41 **accounting of assets and cessation of liability of the**
- 42 **commission and former members of the:**



- 1 (A) fund; and
 2 (B) political subdivision catastrophic liability fund
 3 established by IC 27-1-29.1-7.
 4 **(5) Notify the legislative council in an electronic format under**
 5 **IC 5-14-6 of the actions taken under this section and**
 6 **recommendations for any resulting legislation.**
 7 SECTION 4. IC 27-1-29-29 IS ADDED TO THE INDIANA CODE
 8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 9 1, 2019]: **Sec. 29. This chapter expires on the earlier of:**
 10 **(1) July 1, 2025; or**
 11 **(2) the date on which the actions specified in section 28 of this**
 12 **chapter are completed.**
 13 SECTION 5. IC 27-1-29.1-9 IS AMENDED TO READ AS
 14 FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 9. (a) Before January**
 15 **1, 2020**, all political subdivisions that satisfy the criteria for
 16 membership under the rules of the commission are eligible for
 17 membership in the fund. A political subdivision is not required to be a
 18 member of the political subdivision risk management fund under
 19 IC 27-1-29 to be eligible for membership in the fund established by this
 20 chapter. Each member of the fund:
 21 (1) shall contribute to the fund in the amount of the assessment
 22 charged the member under this chapter; and
 23 (2) is entitled to the partial payment of certain liabilities from the
 24 fund under this chapter.
 25 **(b) After December 31, 2019, membership in the fund is closed**
 26 **to new members.**
 27 SECTION 6. IC 27-1-29.1-19 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 19. (a)** A political
 29 subdivision may become a member of the fund by filing a written
 30 notice of its intent to become a member with the commission by the
 31 latter of the following dates:
 32 (1) December 31, 1987.
 33 (2) The date exactly six (6) months before the expiration date of
 34 the liability insurance policy covering the political subdivision on
 35 December 31, 1987.
 36 (b) Each political subdivision that files a notice of intent to become
 37 a member by the latter of the two (2) dates set forth in subsection (a)
 38 shall be granted membership in the fund. A political subdivision that
 39 files a notice of intent to become a member after the latter of the two
 40 (2) dates set forth in subsection (a) may be admitted to or rejected for
 41 membership in the fund at the discretion of the commission.
 42 **(c) This section expires January 1, 2020.**



1 SECTION 7. IC 27-1-29.1-23 IS ADDED TO THE INDIANA
 2 CODE AS A NEW SECTION TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 2019]: **Sec. 23. This chapter expires on the**
 4 **earlier of:**

5 (1) **July 1, 2025; or**

6 (2) **the date on which the actions specified in IC 27-1-29-28**
 7 **are completed.**

8 SECTION 8. IC 27-6-5 IS REPEALED [EFFECTIVE JULY 1,
 9 2019]. (Federal Reinsurance).

10 SECTION 9. IC 27-7-9-5.4 IS ADDED TO THE INDIANA CODE
 11 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 12 1, 2019]: **Sec. 5.4. As used in this chapter, "type of insurance**
 13 **described in Class 3(a) of IC 27-1-5-1" does not include flood**
 14 **insurance.**

15 SECTION 10. IC 27-7-9-8.4 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 8.4. If coverage for
 17 damage due to mine subsidence is added under this chapter as an
 18 additional form of coverage to a policy providing the **coverage type of**
 19 **insurance** described in Class 3(a) of IC 27-1-5-1, the mine subsidence
 20 coverage of the policy must apply to structures in the same manner as
 21 coverage for other perils under the policy.

22 SECTION 11. IC 27-8-8-2, AS AMENDED BY P.L.208-2018,
 23 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2019]: Sec. 2. (a) The definitions in this section apply
 25 throughout this chapter.

26 (b) "Account" means one (1) of the two (2) accounts created under
 27 section 3 of this chapter.

28 (c) "Annuity contract", except as provided in section 2.3(e) of this
 29 chapter, includes:

30 (1) a guaranteed investment contract;

31 (2) a deposit administration contract;

32 (3) a structured settlement annuity;

33 (4) an annuity issued to or in connection with a government
 34 lottery; and

35 (5) an immediate or a deferred annuity contract.

36 (d) "Assessment base year" means, for an impaired insurer or
 37 insolvent insurer, the most recent calendar year for which required
 38 premium information is available preceding the calendar year during
 39 which the impaired insurer's or insolvent insurer's coverage date
 40 occurs.

41 (e) "Association", except when the context otherwise requires,
 42 means the Indiana life and health insurance guaranty association



- 1 created by section 3 of this chapter.
- 2 (f) "Benefit plan" means a specific plan, fund, or program that is
3 established or maintained by an employer or an employee organization,
4 or both, that:
- 5 (1) provides retirement income to employees; or
6 (2) results in a deferral of income by employees for a period
7 extending to or beyond the termination of employment.
- 8 (g) "Board" refers to the board of directors of the association
9 selected under IC 27-8-8-4.
- 10 (h) "Called", when used in the context of assessments, means that
11 notice has been issued by the association to member insurers requiring
12 the member insurers to pay, within a time frame set forth in the notice,
13 an assessment that has been authorized by the board.
- 14 (i) "Commissioner" refers to the insurance commissioner appointed
15 under IC 27-1-1-2.
- 16 (j) "Contractual obligation" means an enforceable obligation under
17 a covered policy for which and to the extent that coverage is provided
18 under section 2.3 of this chapter.
- 19 (k) "Coverage date" means, with respect to a member insurer, the
20 date on which the earlier of the following occurs:
- 21 (1) The member insurer becomes an insolvent insurer.
22 (2) The association determines that the association will provide
23 coverage under section 5(a) of this chapter with respect to the
24 member insurer.
- 25 (l) "Covered policy" means a:
26 (1) nongroup policy or contract;
27 (2) certificate under a group policy or contract; or
28 (3) part of a policy, contract, or certificate described in
29 subdivisions (1) and (2);
30 for which coverage is provided under section 2.3 of this chapter.
- 31 (m) "Extracontractual claims" includes claims that relate to bad faith
32 in the payment of claims, punitive or exemplary damages, or attorney's
33 fees and costs.
- 34 (n) "Funding agreement" has the meaning set forth in
35 IC 27-1-12.7-1.
- 36 (o) "Health benefit plan" means a hospital or medical expense
37 policy or certificate, a health maintenance organization subscriber
38 contract or certificate, or another similar health contract. The term does
39 not include the following:
- 40 (1) Accident only, credit, dental only, vision only, Medicare
41 supplement, or disability income insurance.
42 (2) Coverage for:



- 1 (A) long term care;
 2 (B) home health care;
 3 (C) community based care; or
 4 (D) a combination of coverage specified in clauses (A)
 5 through (C).
 6 (3) Coverage for onsite medical clinics.
 7 (4) Specified disease, hospital confinement indemnity, or limited
 8 benefit health insurance if the types of coverage do not provide
 9 coordination of benefits and are provided under separate policies,
 10 contracts, or certificates.
 11 (p) "Health care provider" means a health care provider that renders
 12 health care services covered under a health insurance policy or contract
 13 for which coverage is provided under section 2.3 of this chapter.
 14 (q) "Impaired insurer" means a member insurer that is:
 15 (1) not an insolvent insurer; and
 16 (2) placed under an order of rehabilitation or conservation by a
 17 court with jurisdiction.
 18 (r) "Insolvent insurer" means a member insurer that is placed under
 19 an order of liquidation with a finding of insolvency by a court with
 20 jurisdiction.
 21 (s) "Member insurer" means any person that holds a certificate of
 22 authority to transact in Indiana any kind of insurance or health
 23 maintenance organization business for which coverage is provided
 24 under section 2.3 of this chapter. The term includes an insurer whose
 25 certificate of authority to transact such insurance in Indiana may have
 26 been suspended, revoked, not renewed, or voluntarily withdrawn but
 27 does not include the following:
 28 (1) A for-profit or nonprofit hospital or medical service
 29 organization.
 30 (2) A fraternal benefit society under IC 27-11.
 31 (3) The Indiana Comprehensive Health Insurance Association or
 32 any other mandatory state pooling plan or arrangement.
 33 (4) An assessment company or another person that operates on an
 34 assessment plan (as defined in IC 27-1-2-3(y)).
 35 (5) An interinsurance or reciprocal exchange authorized by
 36 IC 27-6-6.
 37 (6) A farm mutual insurance company under IC 27-5.1.
 38 (7) A person operating as a Lloyds under IC 27-7-1.
 39 (8) The political subdivision risk management fund established by
 40 IC 27-1-29-10 and the political subdivision catastrophic liability
 41 fund established by IC 27-1-29.1-7.
 42 (9) The small employer health reinsurance board established by



- 1 ~~IC 27-8-15.5-5.~~
- 2 ~~(10)~~ **(9)** A person similar to any person described in subdivisions
- 3 (1) through ~~(9)~~: **(8)**.
- 4 (t) "Moody's Corporate Bond Yield Average" means:
- 5 (1) the monthly average of the composite yield on seasoned
- 6 corporate bonds as published by Moody's Investors Service, Inc.;
- 7 or
- 8 (2) if the monthly average described in subdivision (1) is no
- 9 longer published, an alternative publication of interest rates or
- 10 yields determined appropriate by the association.
- 11 (u) "Multiple employer welfare arrangement" has the meaning set
- 12 forth in IC 27-1-34-1.
- 13 (v) "Owner" means the person:
- 14 (1) identified as the legal owner of a policy or contract according
- 15 to the terms of the policy or contract; or
- 16 (2) otherwise vested with legal title to a policy or contract through
- 17 a valid assignment completed in accordance with the terms of the
- 18 policy or contract and properly recorded as the owner on the
- 19 books of the insurer.
- 20 The term does not include a person with a mere beneficial interest in
- 21 a policy or contract.
- 22 (w) "Person" means an individual, a corporation, a limited liability
- 23 company, a partnership, an association, a governmental entity, a
- 24 voluntary organization, a trust, a trustee, or another business entity or
- 25 organization.
- 26 (x) "Plan sponsor" refers to only one (1) of the following with
- 27 respect to a benefit plan:
- 28 (1) The employer, in the case of a benefit plan established or
- 29 maintained by a single employer.
- 30 (2) The holding company or controlling affiliate, in the case of a
- 31 benefit plan established or maintained by affiliated companies
- 32 comprising a consolidated corporation.
- 33 (3) The employee organization, in the case of a benefit plan
- 34 established or maintained by an employee organization.
- 35 (4) In a case of a benefit plan established or maintained:
- 36 (A) by two (2) or more employers;
- 37 (B) by two (2) or more employee organizations; or
- 38 (C) jointly by one (1) or more employers and one (1) or more
- 39 employee organizations;
- 40 and that is not of a type described in subdivision (2), the
- 41 association, committee, joint board of trustees, or other similar
- 42 group of representatives of the parties that establish or maintain



1 the benefit plan.

2 (y) "Premiums" means amounts, deposits, and considerations
3 received on covered policies, less returned premiums, returned
4 deposits, returned considerations, dividends, and experience credits.

5 The term does not include the following:

6 (1) Amounts, deposits, and considerations received for policies or
7 contracts or parts of policies or contracts for which coverage is
8 not provided under section 2.3(d) of this chapter, as qualified by
9 section 2.3(e) of this chapter, except that an assessable premium
10 must not be reduced on account of the limitations set forth in
11 section 2.3(e)(3), 2.3(e)(15), or 2.3(f)(2) of this chapter.

12 (2) Premiums in excess of five million dollars (\$5,000,000) on a
13 unallocated annuity contract not issued or not connected with a
14 governmental benefit plan established under Section 401, 403(b),
15 or 457 of the United States Internal Revenue Code.

16 (z) "Principal place of business" refers to the single state in which
17 individuals who establish policy for the direction, control, and
18 coordination of the operations of an entity as a whole primarily exercise
19 the direction, control, and coordination, as determined by the
20 association in the association's reasonable judgment by considering the
21 following factors:

22 (1) The state in which the primary executive and administrative
23 headquarters of the entity is located.

24 (2) The state in which the principal office of the chief executive
25 officer of the entity is located.

26 (3) The state in which the board of directors or similar governing
27 person of the entity conducts the majority of the board of
28 directors' or governing person's meetings.

29 (4) The state in which the executive or management committee of
30 the board of directors or similar governing person of the entity
31 conducts the majority of the committee's meetings.

32 (5) The state from which the management of the overall
33 operations of the entity is directed.

34 However, in the case of a plan sponsor, if more than fifty percent (50%)
35 of the participants in the plan sponsor's benefit plan are employed in a
36 single state, that state is considered to be the principal place of business
37 of the plan sponsor. The principal place of business of a plan sponsor
38 of a benefit plan described in subsection (x)(4), if more than fifty
39 percent (50%) of the participants in the plan sponsor's benefit plan are
40 not employed in a single state, is considered to be the principal place
41 of business of the association, committee, joint board of trustees, or
42 other similar group of representatives of the parties that establish or



1 maintain the benefit plan and, in the absence of a specific or clear
 2 designation of a principal place of business, is considered to be the
 3 principal place of business of the employer or employee organization
 4 that has the largest investment in the benefit plan in question on the
 5 coverage date.

6 (aa) "Receivership court" refers to the court in an insolvent insurer's
 7 or impaired insurer's state that has jurisdiction over the conservation,
 8 rehabilitation, or liquidation of the insolvent insurer or impaired
 9 insurer.

10 (bb) "Resident" means the following:

11 (1) An individual who resides in Indiana on the applicable
 12 coverage date.

13 (2) A person that is not an individual and has the person's
 14 principal place of business in Indiana on the applicable coverage
 15 date.

16 (cc) "State" includes a state, the District of Columbia, Puerto Rico,
 17 and a United States possession, territory, or protectorate.

18 (dd) "Structured settlement annuity" means an annuity purchased to
 19 fund periodic payments for a plaintiff or other claimant in payment for
 20 or with respect to personal injury suffered by the plaintiff or other
 21 claimant.

22 (ee) "Supplemental contract" means a written agreement entered
 23 into for the distribution of proceeds under a life, health, or annuity
 24 policy or contract.

25 (ff) "Unallocated annuity contract" means an annuity contract or
 26 group annuity certificate:

27 (1) the owner of which is not a natural person; and

28 (2) that does not identify at least one (1) specific natural person
 29 as an annuitant;

30 except to the extent of any annuity benefits guaranteed to a natural
 31 person by an insurer under the contract or certificate. For purposes of
 32 this chapter, an unallocated annuity contract shall not be considered a
 33 group policy or group contract.

34 SECTION 12. IC 27-8-15.5 IS REPEALED [EFFECTIVE JULY 1,
 35 2019]. (Small Employer Insurer Voluntary Reinsurance Program).

36 SECTION 13. IC 34-13-3-8 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 8. ~~(a)~~ Except as
 38 provided in section 9 of this chapter, a claim against a political
 39 subdivision is barred unless notice is filed with

40 ~~(1) the governing body of that political subdivision and~~

41 ~~(2) the Indiana political subdivision risk management commission~~
 42 ~~created under IC 27-1-29;~~



1 within one hundred eighty (180) days after the loss occurs.

2 (b) A claim against a political subdivision is not barred for failure
3 to file notice with the Indiana political subdivision risk management
4 commission created under IC 27-1-29-5 if the political subdivision was
5 not a member of the political subdivision risk management fund
6 established under IC 27-1-29-10 at the time the act or omission took
7 place.

8 SECTION 14. IC 34-30-2-116, AS AMENDED BY P.L.86-2018,
9 SECTION 297, IS AMENDED TO READ AS FOLLOWS
10 [EFFECTIVE JULY 1, 2019]: Sec. 116. (a) IC 27-8-10-8 (Concerning
11 persons for participation in the Indiana comprehensive health insurance
12 association).

13 (b) ~~IC 27-8-15.5-29~~ (Concerning persons for participation in the
14 Indiana small employer health reinsurance program).



COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, to which was referred House Bill 1588, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 27-1-29-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 11. **(a) Before January 1, 2020**, all political subdivisions are eligible for membership in the fund. Each member of the fund:

- (1) shall contribute to the fund in the amount of the assessment charged the member under this chapter;
- (2) shall pay the annual surcharge levied against the member under this chapter; and
- (3) is entitled to payment of its liabilities from the fund under this chapter.

(b) After December 31, 2019, membership in the fund is closed to new members.

SECTION 2. IC 27-1-29-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 15. (a) A political subdivision may become a member of the fund by filing a written notice of its intent to become a member with the commission by the date exactly six (6) months before the expiration date of the liability insurance policy covering the political subdivision on December 31, 1986. **This subsection expires January 1, 2020.**

(b) Each political subdivision that files a notice of intent to become a member of the fund by the date set forth in subsection (a) shall be granted membership in the fund. A political subdivision that files a notice of intent to become a member after the date set forth in subsection (a) may be admitted to or rejected for membership in the fund at the discretion of the commission. **This subsection expires January 1, 2020.**

(c) A rule adopted by the commission to establish the procedures described in section 7(b)(4) of this chapter may not provide that a political subdivision continues to be a member of the fund more than twelve (12) months after the political subdivision gives notice to the commissioner of its intention to relinquish its membership.

(d) After relinquishing its membership in the fund, a political subdivision remains liable for its pro rata share of assessments to pay for liabilities of fund members that arose out of claims based upon acts or omissions that took place while the political subdivision was a



member of the fund. If a political subdivision fails to pay an assessment to which it is subject under this chapter, the commission may give notice to any department or agency of the state (including the treasurer of state or the auditor of state) that is the custodian of money payable to the delinquent political subdivision after the date of the notice, that the political subdivision is in default on the payment of an assessment under this chapter. After receiving this notice, the department or agency shall withhold the delinquent amount from money payable to the political subdivision and pay over the money to the commission to be applied against the delinquent assessment.

SECTION 3. IC 27-1-29-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 28. (a) As used in this section, "fund" means the political subdivision risk management fund established by section 10 of this chapter.

(b) Notwithstanding any other provision of this chapter, the commission:

- (1) with the approval of the insurance commissioner; and
- (2) upon a determination by the commission that:
 - (A) membership in the fund is declining; and
 - (B) financial conditions warrant the action;

is authorized to take action under subsection (c).

(c) Under the circumstances set forth in subsection (b), the commission may do the following with respect to the fund:

- (1) Prevent any political subdivision that is not already a member of the fund from becoming a member.
- (2) Decline to renew the membership of the political subdivisions that are members of the fund.
- (3) When the membership of the last member has expired, cease the operation of the fund, except for:

(A) the payment of liabilities of former members of the fund; and

(B) the collection of assessments from former members of the fund, if any are due;

in accordance with this chapter and rules adopted by the commission.

(4) Allow or cause a ~~partial reduction~~ or complete depletion of the balance of the fund through

~~(A) the payment of liabilities of former members of the fund and~~

~~(B) at the discretion of the commission, and with the approval of the commissioner, the pro rata return to former members of assessments paid by former members of the fund;~~



in accordance with this chapter and rules adopted by the commission.

(d) After any or all of the actions authorized by subsection (c); **completion of the payment of liabilities of former members of the fund and of the political subdivision catastrophic liability fund established by IC 27-1-29.1-7**, the commission, with the approval of the insurance commissioner, ~~may resume using the fund to pay the liabilities of members of the fund under this chapter.~~ **shall do the following:**

(1) **Cease operations of the commission, the fund, and the political subdivision catastrophic liability fund established by IC 27-1-29.1-7.**

(2) **Notify the auditor of state of the cessation of operations and request that the auditor of state transfer to the state general fund any remaining balance in the:**

(A) fund; and

(B) **political subdivision catastrophic liability fund established by IC 27-1-29.1-7.**

(3) **Send to the commissioner and the governor a final accounting of assets and cessation of liability of the commission and former members of the:**

(A) fund; and

(B) **political subdivision catastrophic liability fund established by IC 27-1-29.1-7.**

(4) **Notify the legislative council in an electronic format under IC 5-14-6 of the actions taken under this section and recommendations for any resulting legislation.**

SECTION 4. IC 27-1-29-29 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 29. This chapter expires on the earlier of:**

(1) **July 1, 2025; or**

(2) **the date on which the actions specified in section 28 of this chapter are completed.**

SECTION 5. IC 27-1-29.1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 9. (a) Before January 1, 2020**, all political subdivisions that satisfy the criteria for membership under the rules of the commission are eligible for membership in the fund. A political subdivision is not required to be a member of the political subdivision risk management fund under IC 27-1-29 to be eligible for membership in the fund established by this chapter. Each member of the fund:

(1) shall contribute to the fund in the amount of the assessment



charged the member under this chapter; and
 (2) is entitled to the partial payment of certain liabilities from the fund under this chapter.

(b) After December 31, 2019, membership in the fund is closed to new members.

SECTION 6. IC 27-1-29.1-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 19. (a) A political subdivision may become a member of the fund by filing a written notice of its intent to become a member with the commission by the latter of the following dates:

- (1) December 31, 1987.
- (2) The date exactly six (6) months before the expiration date of the liability insurance policy covering the political subdivision on December 31, 1987.

(b) Each political subdivision that files a notice of intent to become a member by the latter of the two (2) dates set forth in subsection (a) shall be granted membership in the fund. A political subdivision that files a notice of intent to become a member after the latter of the two (2) dates set forth in subsection (a) may be admitted to or rejected for membership in the fund at the discretion of the commission.

(c) This section expires January 1, 2020.

SECTION 7. IC 27-1-29.1-23 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 23. This chapter expires on the earlier of:**

- (1) July 1, 2025; or**
- (2) the date on which the actions specified in IC 27-1-29-28 are completed.**

SECTION 8. IC 27-6-5 IS REPEALED [EFFECTIVE JULY 1, 2019]. (Federal Reinsurance).

SECTION 9. IC 27-7-9-5.4 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: **Sec. 5.4. As used in this chapter, "type of insurance described in Class 3(a) of IC 27-1-5-1" does not include flood insurance.**

SECTION 10. IC 27-7-9-8.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 8.4. If coverage for damage due to mine subsidence is added under this chapter as an additional form of coverage to a policy providing the **coverage type of insurance** described in Class 3(a) of IC 27-1-5-1, the mine subsidence coverage of the policy must apply to structures in the same manner as coverage for other perils under the policy."



Delete page 2.

Page 3, delete lines 1 through 25.

Page 8, between lines 39 and 40, begin a new paragraph and insert:

"SECTION 13. IC 34-13-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 8. (a) Except as provided in section 9 of this chapter, a claim against a political subdivision is barred unless notice is filed with

(1) the governing body of that political subdivision and

(2) the Indiana political subdivision risk management commission created under IC 27-1-29;

within one hundred eighty (180) days after the loss occurs.

(b) A claim against a political subdivision is not barred for failure to file notice with the Indiana political subdivision risk management commission created under IC 27-1-29-5 if the political subdivision was not a member of the political subdivision risk management fund established under IC 27-1-29-10 at the time the act or omission took place."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1588 as introduced.)

CARBAUGH

Committee Vote: yeas 12, nays 0.

COMMITTEE REPORT

Madam President: The Senate Committee on Insurance and Financial Institutions, to which was referred House Bill No. 1588, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Replace the effective dates in SECTIONS 1 through 7 with "[EFFECTIVE JULY 1, 2019]".

Replace the effective date in SECTION 13 with "[EFFECTIVE JULY 1, 2019]".

Page 3, between lines 30 and 31, begin a new line block indented and insert:

"(2) Determine each former member's pro rata share of any remaining balance in the:

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(A) fund; and

(B) political subdivision catastrophic liability fund established by IC 27-1-29.1-7."

Page 3, line 31, delete "(2)" and insert "(3)".

Page 3, line 32, delete "the state" and insert "**each former member the pro rata share determined for that former member under subdivision (2).**".

Page 3, delete lines 33 through 36.

Page 3, line 37, delete "(3)" and insert "(4)".

Page 4, line 1, delete "(4)" and insert "(5)".

Page 7, line 42, strike "(9)." and insert "(8)".

Page 11, delete lines 12 through 34.

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1588 as printed February 1, 2019.)

BASSLER, Chairperson

Committee Vote: Yeas 8, Nays 0.

