

February 17, 1998

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# ENGROSSED SENATE BILL No. 345

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DIGEST OF SB 345 (Updated February 17, 1998 10:03 am - DI 97)

**Citations Affected:** IC 6-3; IC 22-3; IC 27-1; IC 27-7; IC 27-14; noncode.

**Synopsis:** Mutual insurance holding company, business of insurance. Prohibits a company from doing the business of insurance under IC 22 or IC 27 or holding itself out as a company in the business of insurance unless it has been issued a certificate of authority. Makes changes to the worker's compensation bureau member participation. Makes changes to the independent contractor provisions of the worker's compensation law. Authorizes a mutual insurance company (MIC) to reorganize as a mutual insurance holding company (MHC) with one or more subsidiaries. Establishes principles for the protection of the surplus of a MHC for the exclusive benefit of its members. Authorizes the formation of stock insurance company subsidiaries and intermediate stock holding companies as subsidiaries of a MHC.

(Continued next page)

**Effective:** Upon passage; April 1, 1998.

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**Clark, Lewis, Worman, O'Day,  
Craycraft, Gery**

(HOUSE SPONSORS — FRY, KEELER, PORTER, SCHOLER)

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January 8, 1998, read first time and referred to Committee on Insurance and Interstate Cooperation.

January 15, 1998, reported favorably — Do Pass.

January 20, 1998, read second time, ordered engrossed.

January 21, 1998, engrossed.

January 22, 1998, read third time, passed. Yeas 47, nays 0.

HOUSE ACTION

January 29, 1998, read first time and referred to Committee on Insurance, Corporations and Small Business.

February 17, 1998, amended, reported — Do Pass.

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ES 345—LS 7147/DI 47+



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Digest Continued

Establishes requirements that any plan of reorganization or plan to issue stock must meet, including requirements for public hearings and favorable votes by members of a MIC after notice. Establishes certain requirements applying to mutual insurance holding companies, including the requirement to file annual reports with the insurance commissioner. Prohibits a MHC and its subsidiaries and affiliates from taking certain actions, including the payment of special compensation to an officer or director for participating in a stock offering.

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February 17, 1998

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

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# ENGROSSED SENATE BILL No. 345



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 22-3-5-6 IS AMENDED TO READ AS FOLLOWS  
2 [EFFECTIVE APRIL 1, 1998]: Sec. 6. (a) The worker's compensation  
3 supplemental administrative fund is established for the purpose of  
4 carrying out the administrative purposes and functions of the worker's  
5 compensation board. The fund consists of fees collected from  
6 employers under sections 1 through 2 of this chapter. ~~and from fees~~  
7 ~~collected under IC 22-3-2-14.5 and IC 22-3-7-34.5.~~ The fund shall be  
8 administered by the worker's compensation board. ~~Money in the fund~~  
9 ~~is annually appropriated to the worker's compensation board for its use~~  
10 ~~in carrying out the administrative purposes and functions of the~~  
11 ~~worker's compensation board.~~  
12           (b) The money in the fund is not to be used to replace funds  
13 otherwise appropriated to the board. Money in the fund at the end of  
14 the state fiscal year does not revert to the state general fund.  
15           SECTION 2. IC 22-3-6-1, AS AMENDED BY P.L.258-1997(ss),

ES 345—LS 7147/DI 47+



1 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
2 APRIL 1, 1998]: Sec. 1. In IC 22-3-2 through IC 22-3-6, unless the  
3 context otherwise requires:

4 (a) "Employer" includes the state and any political subdivision, any  
5 municipal corporation within the state, any individual or the legal  
6 representative of a deceased individual, firm, association, limited  
7 liability company, or corporation or the receiver or trustee of the same,  
8 using the services of another for pay. If the employer is insured, the  
9 term includes the employer's insurer so far as applicable. However, the  
10 inclusion of an employer's insurer within this definition does not allow  
11 an employer's insurer to avoid payment for services rendered to an  
12 employee with the approval of the employer.

13 (b) "Employee" means every person, including a minor, in the  
14 service of another, under any contract of hire or apprenticeship, written  
15 or implied, except one whose employment is both casual and not in the  
16 usual course of the trade, business, occupation, or profession of the  
17 employer.

18 (1) An executive officer elected or appointed and empowered in  
19 accordance with the charter and bylaws of a corporation, other  
20 than a municipal corporation or governmental subdivision or a  
21 charitable, religious, educational, or other nonprofit corporation,  
22 is an employee of the corporation under IC 22-3-2 through  
23 IC 22-3-6.

24 (2) An executive officer of a municipal corporation or other  
25 governmental subdivision or of a charitable, religious,  
26 educational, or other nonprofit corporation may, notwithstanding  
27 any other provision of IC 22-3-2 through IC 22-3-6, be brought  
28 within the coverage of its insurance contract by the corporation by  
29 specifically including the executive officer in the contract of  
30 insurance. The election to bring the executive officer within the  
31 coverage shall continue for the period the contract of insurance is  
32 in effect, and during this period, the executive officers thus  
33 brought within the coverage of the insurance contract are  
34 employees of the corporation under IC 22-3-2 through IC 22-3-6.

35 (3) Any reference to an employee who has been injured, when the  
36 employee is dead, also includes the employee's legal  
37 representatives, dependents, and other persons to whom  
38 compensation may be payable.

39 (4) An owner of a sole proprietorship may elect to include the  
40 owner as an employee under IC 22-3-2 through IC 22-3-6 if the  
41 owner is actually engaged in the proprietorship business. If the  
42 owner makes this election, the owner must serve upon the owner's



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1 insurance carrier and upon the board written notice of the  
 2 election. No owner of a sole proprietorship may be considered an  
 3 employee under IC 22-3-2 through IC 22-3-6 until the notice has  
 4 been received. ~~If the owner of a sole proprietorship is an~~  
 5 ~~independent contractor in the construction trades and does not~~  
 6 ~~make the election provided under this subdivision, the owner~~  
 7 ~~must obtain an affidavit of exemption under IC 22-3-2-14.5.~~

8 (5) A partner in a partnership may elect to include the partner as  
 9 an employee under IC 22-3-2 through IC 22-3-6 if the partner is  
 10 actually engaged in the partnership business. If a partner makes  
 11 this election, the partner must serve upon the partner's insurance  
 12 carrier and upon the board written notice of the election. No  
 13 partner may be considered an employee under IC 22-3-2 through  
 14 IC 22-3-6 until the notice has been received. ~~If a partner in a~~  
 15 ~~partnership is an independent contractor in the construction trades~~  
 16 ~~and does not make the election provided under this subdivision,~~  
 17 ~~the partner must obtain an affidavit of exemption under~~  
 18 ~~IC 22-3-2-14.5.~~

19 (6) Real estate professionals are not employees under IC 22-3-2  
 20 through IC 22-3-6 if:

- 21 (A) they are licensed real estate agents;
- 22 (B) substantially all their remuneration is directly related to
- 23 sales volume and not the number of hours worked; and
- 24 (C) they have written agreements with real estate brokers
- 25 stating that they are not to be treated as employees for tax
- 26 purposes.

27 ~~(7) A person is an independent contractor in the construction~~  
 28 ~~trades and not an employee under IC 22-3-2 through IC 22-3-6 if~~  
 29 ~~the person is an independent contractor under the guidelines of~~  
 30 ~~the United States Internal Revenue Service.~~

31 ~~(8) (7)~~ (7) An owner-operator that provides a motor vehicle and the  
 32 services of a driver under a written contract that is subject to  
 33 IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 1057, to a motor  
 34 carrier is not an employee of the motor carrier for purposes of  
 35 IC 22-3-2 through IC 22-3-6. The owner-operator may elect to be  
 36 covered and have the owner-operator's drivers covered under a  
 37 worker's compensation insurance policy or authorized  
 38 self-insurance that insures the motor carrier if the owner-operator  
 39 pays the premiums as requested by the motor carrier. An election  
 40 by an owner-operator under this subdivision does not terminate  
 41 the independent contractor status of the owner-operator for any  
 42 purpose other than the purpose of this subdivision.



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1           ~~(9)~~ **(8)** A member or manager in a limited liability company may  
 2           elect to include the member or manager as an employee under  
 3           IC 22-3-2 through IC 22-3-6 if the member or manager is actually  
 4           engaged in the limited liability company business. If a member or  
 5           manager makes this election, the member or manager must serve  
 6           upon the member's or manager's insurance carrier and upon the  
 7           board written notice of the election. A member or manager may  
 8           not be considered an employee under IC 22-3-2 through IC 22-3-6  
 9           until the notice has been received.

10          (c) "Minor" means an individual who has not reached seventeen  
 11          (17) years of age.

12          (1) Unless otherwise provided in this subsection, a minor  
 13          employee shall be considered as being of full age for all purposes  
 14          of IC 22-3-2 through IC 22-3-6.

15          (2) If the employee is a minor who, at the time of the accident, is  
 16          employed, required, suffered, or permitted to work in violation of  
 17          IC 20-8.1-4-25, the amount of compensation and death benefits,  
 18          as provided in IC 22-3-2 through IC 22-3-6, shall be double the  
 19          amount which would otherwise be recoverable. The insurance  
 20          carrier shall be liable on its policy for one-half (1/2) of the  
 21          compensation or benefits that may be payable on account of the  
 22          injury or death of the minor, and the employer shall be liable for  
 23          the other one-half (1/2) of the compensation or benefits. If the  
 24          employee is a minor who is not less than sixteen (16) years of age  
 25          and who has not reached seventeen (17) years of age and who at  
 26          the time of the accident is employed, suffered, or permitted to  
 27          work at any occupation which is not prohibited by law, this  
 28          subdivision does not apply.

29          (3) A minor employee who, at the time of the accident, is a  
 30          student performing services for an employer as part of an  
 31          approved program under IC 20-10.1-6-7 shall be considered a  
 32          full-time employee for the purpose of computing compensation  
 33          for permanent impairment under IC 22-3-3-10. The average  
 34          weekly wages for such a student shall be calculated as provided  
 35          in subsection (d)(4).

36          (4) The rights and remedies granted in this subsection to a minor  
 37          under IC 22-3-2 through IC 22-3-6 on account of personal injury  
 38          or death by accident shall exclude all rights and remedies of the  
 39          minor, the minor's parents, or the minor's personal  
 40          representatives, dependents, or next of kin at common law,  
 41          statutory or otherwise, on account of the injury or death. This  
 42          subsubsection does not apply to minors who have reached seventeen

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- 1 (17) years of age.
- 2 (d) "Average weekly wages" means the earnings of the injured  
3 employee in the employment in which the employee was working at the  
4 time of the injury during the period of fifty-two (52) weeks  
5 immediately preceding the date of injury, divided by fifty-two (52),  
6 except as follows:
- 7 (1) If the injured employee lost seven (7) or more calendar days  
8 during this period, although not in the same week, then the  
9 earnings for the remainder of the fifty-two (52) weeks shall be  
10 divided by the number of weeks and parts thereof remaining after  
11 the time lost has been deducted.
- 12 (2) Where the employment prior to the injury extended over a  
13 period of less than fifty-two (52) weeks, the method of dividing  
14 the earnings during that period by the number of weeks and parts  
15 thereof during which the employee earned wages shall be  
16 followed, if results just and fair to both parties will be obtained.  
17 Where by reason of the shortness of the time during which the  
18 employee has been in the employment of the employee's employer  
19 or of the casual nature or terms of the employment it is  
20 impracticable to compute the average weekly wages, as defined  
21 in this subsection, regard shall be had to the average weekly  
22 amount which during the fifty-two (52) weeks previous to the  
23 injury was being earned by a person in the same grade employed  
24 at the same work by the same employer or, if there is no person so  
25 employed, by a person in the same grade employed in the same  
26 class of employment in the same district.
- 27 (3) Wherever allowances of any character made to an employee  
28 in lieu of wages are a specified part of the wage contract, they  
29 shall be deemed a part of his earnings.
- 30 (4) In computing the average weekly wages to be used in  
31 calculating an award for permanent impairment under  
32 IC 22-3-3-10 for a student employee in an approved training  
33 program under IC 20-10.1-6-7, the following formula shall be  
34 used. Calculate the product of:
- 35 (A) the student employee's hourly wage rate; multiplied by  
36 (B) forty (40) hours.
- 37 The result obtained is the amount of the average weekly wages for  
38 the student employee.
- 39 (e) "Injury" and "personal injury" mean only injury by accident  
40 arising out of and in the course of the employment and do not include  
41 a disease in any form except as it results from the injury.
- 42 (f) "Billing review service" refers to a person or an entity that

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1 reviews a medical service provider's bills or statements for the purpose  
 2 of determining pecuniary liability. The term includes an employer's  
 3 worker's compensation insurance carrier if the insurance carrier  
 4 performs such a review.

5 (g) "Billing review standard" means the data used by a billing  
 6 review service to determine pecuniary liability.

7 (h) "Community" means a geographic service area based on zip  
 8 code districts defined by the United States Postal Service according to  
 9 the following groupings:

10 (1) The geographic service area served by zip codes with the first  
 11 three (3) digits 463 and 464.

12 (2) The geographic service area served by zip codes with the first  
 13 three (3) digits 465 and 466.

14 (3) The geographic service area served by zip codes with the first  
 15 three (3) digits 467 and 468.

16 (4) The geographic service area served by zip codes with the first  
 17 three (3) digits 469 and 479.

18 (5) The geographic service area served by zip codes with the first  
 19 three (3) digits 460, 461 (except 46107), and 473.

20 (6) The geographic service area served by the 46107 zip code and  
 21 zip codes with the first three (3) digits 462.

22 (7) The geographic service area served by zip codes with the first  
 23 three (3) digits 470, 471, 472, 474, and 478.

24 (8) The geographic service area served by zip codes with the first  
 25 three (3) digits 475, 476, and 477.

26 (i) "Medical service provider" refers to a person or an entity that  
 27 provides medical services, treatment, or supplies to an employee under  
 28 IC 22-3-2 through IC 22-3-6.

29 (j) "Pecuniary liability" means the responsibility of an employer or  
 30 the employer's insurance carrier for the payment of the charges for each  
 31 specific service or product for human medical treatment provided  
 32 under IC 22-3-2 through IC 22-3-6 in a defined community, equal to or  
 33 less than the charges made by medical service providers at the eightieth  
 34 percentile in the same community for like services or products.

35 SECTION 3. IC 22-3-7-9, AS AMENDED BY P.L.258-1997(ss),  
 36 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 37 APRIL 1, 1998]: Sec. 9. (a) As used in this chapter, "employer"  
 38 includes the state and any political subdivision, any municipal  
 39 corporation within the state, any individual or the legal representative  
 40 of a deceased individual, firm, association, limited liability company,  
 41 or corporation or the receiver or trustee of the same, using the services  
 42 of another for pay. If the employer is insured, the term includes his

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1 insurer so far as applicable. However, the inclusion of an employer's  
 2 insurer within this definition does not allow an employer's insurer to  
 3 avoid payment for services rendered to an employee with the approval  
 4 of the employer.

5 (b) As used in this chapter, "employee" means every person,  
 6 including a minor, in the service of another, under any contract of hire  
 7 or apprenticeship written or implied, except one whose employment is  
 8 both casual and not in the usual course of the trade, business,  
 9 occupation, or profession of the employer. For purposes of this chapter  
 10 the following apply:

11 (1) Any reference to an employee who has suffered disablement,  
 12 when the employee is dead, also includes his legal representative,  
 13 dependents, and other persons to whom compensation may be  
 14 payable.

15 (2) An owner of a sole proprietorship may elect to include himself  
 16 as an employee under this chapter if he is actually engaged in the  
 17 proprietorship business. If the owner makes this election, he must  
 18 serve upon his insurance carrier and upon the board written notice  
 19 of the election. No owner of a sole proprietorship may be  
 20 considered an employee under this chapter unless the notice has  
 21 been received. ~~If the owner of a sole proprietorship is an~~  
 22 ~~independent contractor in the construction trades and does not~~  
 23 ~~make the election provided under this subdivision, the owner~~  
 24 ~~must obtain an affidavit of exemption under IC 22-3-7-34.5.~~

25 (3) A partner in a partnership may elect to include himself as an  
 26 employee under this chapter if he is actually engaged in the  
 27 partnership business. If a partner makes this election, he must  
 28 serve upon his insurance carrier and upon the board written notice  
 29 of the election. No partner may be considered an employee under  
 30 this chapter until the notice has been received. ~~If a partner in a~~  
 31 ~~partnership is an independent contractor in the construction trades~~  
 32 ~~and does not make the election provided under this subdivision,~~  
 33 ~~the partner must obtain an affidavit of exemption under~~  
 34 ~~IC 22-3-7-34.5.~~

35 (4) Real estate professionals are not employees under this chapter  
 36 if:

37 (A) they are licensed real estate agents;

38 (B) substantially all their remuneration is directly related to  
 39 sales volume and not the number of hours worked; and

40 (C) they have written agreements with real estate brokers  
 41 stating that they are not to be treated as employees for tax  
 42 purposes.

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1           ~~(5)~~ A person is an independent contractor in the construction  
 2 trades and not an employee under this chapter if the person is an  
 3 independent contractor under the guidelines of the United States  
 4 Internal Revenue Service.

5           ~~(6)~~ (5) An owner-operator that provides a motor vehicle and the  
 6 services of a driver under a written contract that is subject to  
 7 IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 1057, to a motor  
 8 carrier is not an employee of the motor carrier for purposes of this  
 9 chapter. The owner-operator may elect to be covered and have the  
 10 owner-operator's drivers covered under a worker's compensation  
 11 insurance policy or authorized self-insurance that insures the  
 12 motor carrier if the owner-operator pays the premiums as  
 13 requested by the motor carrier. An election by an owner-operator  
 14 under this subdivision does not terminate the independent  
 15 contractor status of the owner-operator for any purpose other than  
 16 the purpose of this subdivision.

17           (c) As used in this chapter, "minor" means an individual who has  
 18 not reached seventeen (17) years of age. A minor employee shall be  
 19 considered as being of full age for all purposes of this chapter.  
 20 However, if the employee is a minor who, at the time of the last  
 21 exposure, is employed, required, suffered, or permitted to work in  
 22 violation of the child labor laws of this state, the amount of  
 23 compensation and death benefits, as provided in this chapter, shall be  
 24 double the amount which would otherwise be recoverable. The  
 25 insurance carrier shall be liable on its policy for one-half (1/2) of the  
 26 compensation or benefits that may be payable on account of the  
 27 disability or death of the minor, and the employer shall be wholly liable  
 28 for the other one-half (1/2) of the compensation or benefits. If the  
 29 employee is a minor who is not less than sixteen (16) years of age and  
 30 who has not reached seventeen (17) years of age, and who at the time  
 31 of the last exposure is employed, suffered, or permitted to work at any  
 32 occupation which is not prohibited by law, the provisions of this  
 33 subsection prescribing double the amount otherwise recoverable do not  
 34 apply. The rights and remedies granted to a minor under this chapter on  
 35 account of disease shall exclude all rights and remedies of the minor,  
 36 his parents, his personal representatives, dependents, or next of kin at  
 37 common law, statutory or otherwise, on account of any disease.

38           (d) This chapter does not apply to casual laborers as defined in  
 39 subsection (b), nor to farm or agricultural employees, nor to household  
 40 employees, nor to railroad employees engaged in train service as  
 41 engineers, firemen, conductors, brakemen, flagmen, baggagemen, or  
 42 foremen in charge of yard engines and helpers assigned thereto, nor to



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1 their employers with respect to these employees. Also, this chapter  
2 does not apply to employees or their employers with respect to  
3 employments in which the laws of the United States provide for  
4 compensation or liability for injury to the health, disability, or death by  
5 reason of diseases suffered by these employees.

6 (e) As used in this chapter, "disablement" means the event of  
7 becoming disabled from earning full wages at the work in which the  
8 employee was engaged when last exposed to the hazards of the  
9 occupational disease by the employer from whom he claims  
10 compensation or equal wages in other suitable employment, and  
11 "disability" means the state of being so incapacitated.

12 (f) For the purposes of this chapter, no compensation shall be  
13 payable for or on account of any occupational diseases unless  
14 disablement, as defined in subsection (e), occurs within two (2) years  
15 after the last day of the last exposure to the hazards of the disease  
16 except for the following:

17 (1) In all cases of occupational diseases caused by the inhalation  
18 of silica dust or coal dust, no compensation shall be payable  
19 unless disablement, as defined in subsection (e), occurs within  
20 three (3) years after the last day of the last exposure to the hazards  
21 of the disease.

22 (2) In all cases of occupational disease caused by the exposure to  
23 radiation, no compensation shall be payable unless disablement,  
24 as defined in subsection (e), occurs within two (2) years from the  
25 date on which the employee had knowledge of the nature of his  
26 occupational disease or, by exercise of reasonable diligence,  
27 should have known of the existence of such disease and its causal  
28 relationship to his employment.

29 (3) In all cases of occupational diseases caused by the inhalation  
30 of asbestos dust, no compensation shall be payable unless  
31 disablement, as defined in subsection (e), occurs within three (3)  
32 years after the last day of the last exposure to the hazards of the  
33 disease if the last day of the last exposure was before July 1, 1985.

34 (4) In all cases of occupational disease caused by the inhalation  
35 of asbestos dust in which the last date of the last exposure occurs  
36 on or after July 1, 1985, and before July 1, 1988, no compensation  
37 shall be payable unless disablement, as defined in subsection (e),  
38 occurs within twenty (20) years after the last day of the last  
39 exposure.

40 (5) In all cases of occupational disease caused by the inhalation  
41 of asbestos dust in which the last date of the last exposure occurs  
42 on or after July 1, 1988, no compensation shall be payable unless



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1           disablement (as defined in subsection (e)) occurs within  
2           thirty-five (35) years after the last day of the last exposure.

3           (g) For the purposes of this chapter, no compensation shall be  
4           payable for or on account of death resulting from any occupational  
5           disease unless death occurs within two (2) years after the date of  
6           disablement. However, this subsection does not bar compensation for  
7           death:

8           (1) where death occurs during the pendency of a claim filed by an  
9           employee within two (2) years after the date of disablement and  
10          which claim has not resulted in a decision or has resulted in a  
11          decision which is in process of review or appeal; or

12          (2) where, by agreement filed or decision rendered, a  
13          compensable period of disability has been fixed and death occurs  
14          within two (2) years after the end of such fixed period, but in no  
15          event later than three hundred (300) weeks after the date of  
16          disablement.

17          (h) As used in this chapter, "billing review service" refers to a  
18          person or an entity that reviews a medical service provider's bills or  
19          statements for the purpose of determining pecuniary liability. The term  
20          includes an employer's worker's compensation insurance carrier if the  
21          insurance carrier performs such a review.

22          (i) As used in this chapter, "billing review standard" means the data  
23          used by a billing review service to determine pecuniary liability.

24          (j) As used in this chapter, "community" means a geographic service  
25          area based on zip code districts defined by the United States Postal  
26          Service according to the following groupings:

27          (1) The geographic service area served by zip codes with the first  
28          three (3) digits 463 and 464.

29          (2) The geographic service area served by zip codes with the first  
30          three (3) digits 465 and 466.

31          (3) The geographic service area served by zip codes with the first  
32          three (3) digits 467 and 468.

33          (4) The geographic service area served by zip codes with the first  
34          three (3) digits 469 and 479.

35          (5) The geographic service area served by zip codes with the first  
36          three (3) digits 460, 461 (except 46107), and 473.

37          (6) The geographic service area served by the 46107 zip code and  
38          zip codes with the first three (3) digits 462.

39          (7) The geographic service area served by zip codes with the first  
40          three (3) digits 470, 471, 472, 474, and 478.

41          (8) The geographic service area served by zip codes with the first  
42          three (3) digits 475, 476, and 477.



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1 (k) As used in this chapter, "medical service provider" refers to a  
 2 person or an entity that provides medical services, treatment, or  
 3 supplies to an employee under this chapter.

4 (l) As used in this chapter, "pecuniary liability" means the  
 5 responsibility of an employer or the employer's insurance carrier for the  
 6 payment of the charges for each specific service or product for human  
 7 medical treatment provided under this chapter in a defined community,  
 8 equal to or less than the charges made by medical service providers at  
 9 the eightieth percentile in the same community for like services or  
 10 products.

11 SECTION 4. IC 27-1-3-20 IS AMENDED TO READ AS  
 12 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 20. (a) The  
 13 commissioner may issue a certificate of authority to any company when  
 14 it shall have complied with the requirements of the laws of this state so  
 15 as to entitle it to do business herein. The certificate shall be issued  
 16 under the seal of the department authorizing and empowering the  
 17 company to make the kind or kinds of insurance specified in the  
 18 certificate. No certificate of authority shall be issued until the  
 19 commissioner has found that:

- 20 ~~(a)~~ (1) the company has submitted a sound plan of operation; and  
 21 ~~(b)~~ (2) the general character and experience of the incorporators,  
 22 directors, and proposed officers is such as to assure reasonable  
 23 promise of a successful operation, based on the fact that such  
 24 persons are of known good character and that there is no good  
 25 reason to believe that they are affiliated, directly or indirectly,  
 26 through ownership, control, management, reinsurance  
 27 transactions, or other insurance or business relations with any  
 28 person or persons known to have been involved in the improper  
 29 manipulation of assets, accounts, or reinsurance.

30 No certificate of authority shall be denied, however, under subdivision  
 31 ~~(a)~~ (1) or ~~(b)~~ (2) until notice, hearing, and right of appeal has been  
 32 given as provided in IC 4-21.5.

33 (b) Every company possessing a certificate of authority shall notify  
 34 the commissioner of the election or appointment of every new director  
 35 or principal officer, within thirty (30) days thereafter. If in the  
 36 commissioner's opinion such a new principal officer or director does  
 37 not meet the standards set forth in this section, he shall request that the  
 38 company effect the removal of such persons from office. If such  
 39 removal is not accomplished as promptly as under the circumstances  
 40 and in the opinion of the commissioner is possible, then upon notice to  
 41 both the company and such principal officer or director and after  
 42 notice, hearing, and right of appeal pursuant to IC 4-21.5, and after a



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1 finding that such person is incompetent or untrustworthy or of known  
 2 bad character, the commissioner may order the removal of such person  
 3 from office and may, unless such removal is promptly accomplished,  
 4 suspend the company's certificate of authority until there is compliance  
 5 with such order.

6 (c) No company shall transact any business of insurance **under**  
 7 **IC 22 or IC 27, or hold itself out as a company in the business of**  
 8 **insurance in this state Indiana** until it shall have received a certificate  
 9 of authority as prescribed in this section. ~~and~~.

10 (d) No company shall make, **issue, deliver, sell, or advertise** any  
 11 kind or kinds of insurance not specified in ~~such~~ **the company's**  
 12 certificate of authority.

13 SECTION 5. IC 27-7-2-7 IS AMENDED TO READ AS FOLLOWS  
 14 [EFFECTIVE JULY 1, 1998]: Sec. 7. Stock companies and nonstock  
 15 companies shall be represented in the bureau management and on all  
 16 committees. **Participation in the bureau management and its**  
 17 **committees is restricted to those companies maintaining at least**  
 18 **five million dollars (\$5,000,000) in worker's compensation writings**  
 19 **in Indiana.** In case of a tie vote in any committee or governing body of  
 20 said bureau, the insurance commissioner shall decide the matter.

21 SECTION 6. IC 27-7-2-8 IS AMENDED TO READ AS FOLLOWS  
 22 [EFFECTIVE JULY 1, 1998]: Sec. 8. The bureau shall admit to  
 23 membership every company **holding a certificate of authority and**  
 24 lawfully engaged in whole or in part in writing worker's compensation  
 25 insurance in Indiana.

26 SECTION 7. IC 27-14 IS ADDED TO THE INDIANA CODE AS  
 27 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE APRIL  
 28 1, 1998]:

29 **ARTICLE 14. MUTUAL INSURANCE HOLDING COMPANY**  
 30 **LAW**

31 **Chapter 1. General Provisions and Definitions**

32 **Sec. 1. This article may be referred to as the Indiana mutual**  
 33 **insurance holding company law.**

34 **Sec. 2. (a) The requirements of this section constitute the**  
 35 **"members' surplus protection principle" for purposes of this**  
 36 **article.**

37 **(b) For purposes of this article:**

38 **(1) a mutual insurance company (MIC) is owned by the**  
 39 **policyholders of the mutual insurance company; and**

40 **(2) a mutual insurance holding company (MHC) organized**  
 41 **under this article is owned by the members of the mutual**  
 42 **insurance holding company.**



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1 (c) The members' surplus must be maintained for the exclusive  
2 benefit of the members of the MHC.

3 (d) Except as provided by subsection (e), after the effective date  
4 of a reorganization under this article:

5 (1) a dividend authorized for or paid to the shareholders of  
6 any subsidiary of the MHC;

7 (2) an employee benefit plan provision; and

8 (3) other actions of a MHC or its subsidiaries;  
9 may not be made, granted, enforced, or taken if the dividend,  
10 benefit, payment, or other action reduces the members' surplus.

11 (e) Only the following may decrease the members' surplus:

12 (1) Dividends paid to eligible persons who were members of  
13 the MIC on the effective date of the reorganization.

14 (2) Supervision of a subsidiary of the MHC under IC 27-9.

15 (3) A reduction in the market value of a security or other asset  
16 of the members' surplus.

17 (f) The commissioner may not take or permit an action under  
18 this title that conflicts with the members' surplus protection  
19 principle of this section.

20 Sec. 3. The definitions set forth in this chapter apply throughout  
21 this article.

22 Sec. 4. (a) Subject to subsections (b) and (c), "acting in concert"  
23 means:

24 (1) a knowing participation in a joint activity whether or not  
25 under an express agreement;

26 (2) interdependent conscious parallel action toward a common  
27 goal under an express agreement or otherwise; or

28 (3) a combination or pooling of voting interests or other  
29 interests in the securities of a company for a common purpose  
30 under any contract, understanding, relationship, agreement,  
31 or other arrangement, written or otherwise.

32 (b) An employee benefit plan is acting in concert with:

33 (1) its trustee; or

34 (2) a person who serves in a capacity similar to a trustee;  
35 solely for the purpose of determining whether capital stock held by  
36 the trustee or the person in a similar capacity and capital stock  
37 held by the plan will be aggregated.

38 Sec. 5. "Adoption date" means with respect to a plan, the date  
39 on which the board of directors approves a plan of an applicant  
40 under this article.

41 Sec. 6. "Affiliate" means a person who, directly or indirectly:

42 (1) controls;

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(2) is controlled by; or  
(3) is under common control with;  
another person.

**Sec. 7. "Applicant" means with respect to a plan, a MIC that has submitted the plan to the commissioner under this article.**

**Sec. 8. (a) Subject to subsection (b), "associate" means any of the following:**

(1) With respect to a particular person, a corporation, a business entity, or other organization (other than the applicant or a subsidiary or an affiliate of the applicant) for which the person is:

- (A) an officer;
- (B) a partner; or
- (C) directly or indirectly the beneficial owner of at least ten percent (10%) of any class of equity securities.

(2) With respect to an individual who is a director or an officer of the applicant or of any of the applicant's subsidiaries or affiliates, a:

- (A) relative;
  - (B) spouse; or
  - (C) relative of the spouse;
- of the individual who shares the domicile of the individual.

(3) With respect to a particular person, any trust or other estate in which the person has a substantial beneficial interest or for which the person serves as trustee or in a similar fiduciary capacity.

(b) The term does not apply to a person that:

- (1) has a beneficial interest in; or
- (2) serves as a trustee or in a similar fiduciary capacity for;

an employee benefit plan.

**Sec. 9. "Board" means:**

- (1) the board of directors of a MHC, a MIC, an intermediate stock holding company, or a stock insurance company subsidiary; or
- (2) another board or committee that is responsible, under the articles or bylaws of the company, for decisions involving the structure or management of a MHC, MIC, intermediate stock holding company, or stock insurance company subsidiary.

**Sec. 10. "Commissioner" refers to the insurance commissioner appointed under IC 27-1-1-2.**

**Sec. 11. "Company" means an entity:**

- (1) formed and legally existing under this title; or

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- 1           (2) that:
- 2           (A) is owned, entirely or in part, directly or indirectly, by
- 3           a MHC; and
- 4           (B) owns directly or indirectly all or part of the stock of a
- 5           stock insurance company subsidiary.
- 6           Sec. 12. "Effective date" means, with respect to a plan, the date
- 7           on which the plan becomes effective under this article.
- 8           Sec. 13. "Eligible member" means, with respect to a plan, a
- 9           person who is a member of a MIC on the adoption date of a plan.
- 10          Sec. 14. "Employee benefit plan" means an employee benefit
- 11          plan established by a MHC, or by one (1) or more of the
- 12          subsidiaries of a MHC, for the benefit of its:
- 13           (1) employees; or
- 14           (2) sales agents.
- 15          Sec. 15. "Intermediate stock holding company" means a
- 16          company other than a stock insurance company subsidiary and its
- 17          subsidiaries that:
- 18           (1) is owned entirely or in part, directly or indirectly, by a
- 19           MHC; and
- 20           (2) directly or indirectly owns all or part of the capital stock
- 21           of a stock insurance company subsidiary.
- 22          Sec. 16. "Internal Revenue Code" refers to the Internal Revenue
- 23          Code of 1986, as amended.
- 24          Sec. 17. "Member" means a person that, according to the:
- 25           (1) records; and
- 26           (2) articles of incorporation and bylaws;
- 27          of a mutual company, is a member of the mutual company.
- 28          Sec. 18. "Members' surplus" means the surplus and any built-in
- 29          gains of a mutual insurance company that exist on the effective
- 30          date of a reorganization under this article.
- 31          Sec. 19. "Mutual insurance company" or "MIC" means a
- 32          domestic mutual insurer that is:
- 33           (1) submitting; or
- 34           (2) subject to;
- 35          a plan of reorganization under this article.
- 36          Sec. 20. "Mutual insurance holding company" or "MHC"
- 37          means a mutual insurance holding company established under
- 38          IC 27-14-2.
- 39          Sec. 21. "Outside director" means an individual who:
- 40           (1) is a member of a board of:
- 41           (A) a MHC;
- 42           (B) an intermediate stock holding company; or

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- (C) a stock insurance company subsidiary;
- (2) is not a member, officer, employee, or consultant of:
  - (A) the MHC, intermediate stock holding company, or stock insurance company subsidiary on whose board the individual serves; or
  - (B) a parent company or subsidiary of the MHC, intermediate stock holding company, or stock insurance company subsidiary on whose board the individual serves;
- (3) does not directly or indirectly own, control, or hold any of the voting capital stock or other dividend-paying instrument of:
  - (A) the MHC, intermediate stock holding company, or stock insurance company subsidiary on whose board the individual serves; or
  - (B) a parent company or subsidiary of the MHC, intermediate stock holding company, or stock insurance company subsidiary on whose board the individual serves;
- (4) is not an officer, member of the board of directors, employee, or member of the immediate family of a person who directly or indirectly owns, controls, or holds any of the voting capital stock or other dividend-paying instrument of:
  - (A) the MHC, intermediate stock holding company, or stock insurance company subsidiary on whose board the individual serves; or
  - (B) a parent company or subsidiary of the MHC, intermediate stock holding company, or stock insurance company subsidiary on whose board the individual serves;
- and
- (5) does not own a policy issued by the MIC or stock insurance company subsidiary of the MHC.

Sec. 22. "Parent company" means either of the following:

- (1) As to an intermediate stock holding company, the mutual holding company of which the intermediate stock holding company is a subsidiary.
- (2) As to a stock insurance company subsidiary, the mutual holding company or intermediate stock holding company of which the stock insurance company subsidiary is a subsidiary.

Sec. 23. "Participating policy" means an insurance policy providing for the distribution of dividends.

Sec. 24. "Person" means any of the following:

- (1) An individual.
- (2) An aggregation of individuals acting in concert.

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- (3) A trust.
- (4) An association.
- (5) A partnership.
- (6) A limited liability company.
- (7) A corporation.

Sec. 25. "Plan" means a plan:

- (1) of reorganization; or
- (2) to issue stock.

Sec. 26. "Plan of reorganization" means a plan adopted under IC 27-14-2.

Sec. 27. "Plan to issue stock" means a plan to issue shares of voting capital stock adopted under IC 27-14-4.

Sec. 28. "Policy" means a contract providing one (1) or more of the kinds of insurance described in IC 27-1-5-1.

Sec. 29. "Stock insurance company subsidiary" means a stock insurance company that is owned entirely or in part by a MHC or an intermediate stock holding company.

Sec. 30. "Subsidiary" means, with respect to a particular person, an affiliate of the person that is controlled by the person, either:

- (1) directly; or
- (2) indirectly, through one (1) or more intermediaries.

Sec. 31. "Voting capital stock" means capital stock whose holder has the right to vote in the election of directors.

**Chapter 2. Mutual Insurance Company Reorganization**

Sec. 1. (a) A mutual insurance company (MIC) may reorganize under this chapter as a mutual insurance holding company (MHC) with one (1) or more subsidiaries after the following have occurred:

- (1) The favorable vote of its board of directors to reorganize.
- (2) The filing of an application with the commissioner.
- (3) A notice of a public hearing is made to its members and the public.
- (4) At least one (1) public hearing conducted by the commissioner.
- (5) The approval of the commissioner of the plan.
- (6) A favorable vote of the membership of the MIC.
- (7) The issuance of an order of completion by the commissioner.

(b) The subsidiaries of a MIC that reorganizes as a MHC under this chapter:

- (1) must include at least one (1) stock insurance company

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subsidiary; and

(2) may include one (1) or more intermediate stock holding companies.

**Sec. 2. The reorganization of a MIC as a MHC under this chapter may be accomplished by the following means as approved by the commissioner:**

- (1) The establishment of at least one (1) company.
- (2) The amendment or restatement of the articles and bylaws of any company.
- (3) The transfer or acquisition of any or all of the assets and liabilities of any company.
- (4) The merger of two (2) or more mutual insurance companies.
- (5) The merger of two (2) or more intermediate stock holding companies as part of the merger of two (2) or more MHCs.
- (6) The merger of two (2) or more stock insurance companies.

**Sec. 3. (a) A plan of reorganization under this chapter must be adopted by:**

- (1) the board of directors of the MIC; or
- (2) in the case of the formation of any intermediate stock insurance holding company that is not concurrent with the formation of the MHC, the board of directors of the MHC.

**(b) For a plan of reorganization to be adopted by the board of directors of a MIC, at least seventy-five percent (75%) of the members of the board of directors must vote in favor of the adoption.**

**Sec. 4. Within ninety (90) days after the adoption of a plan of reorganization and before a vote on the plan by the members, the company adopting the plan must file with the commissioner an application containing the following:**

- (1) A plan of reorganization.
- (2) The form of the notices to be sent to members under this chapter, including a notice of the public hearing and a notice informing members of their right to vote on the plan.
- (3) A copy of the:
  - (A) proposed articles of incorporation; and
  - (B) bylaws;
 of each company to be formed under the plan in compliance with the requirements of IC 27-1-6.
- (4) If it is necessary to amend the current articles of incorporation or bylaws of any company that is affected by the plan, a copy of:

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(A) the proposed articles of amendment; and  
(B) amended bylaws;  
of the company that must comply with the requirements of  
IC 27-1-8.

(5) A list of the officers and directors of each company that is  
created or affected by the plan of reorganization.

**Sec. 5. A plan of reorganization filed with the commissioner  
under this chapter must meet the following requirements:**

(1) It must describe all significant terms of the proposed  
reorganization.

(2) It must describe in narrative form any plan to issue stock  
that may be proposed in connection with the plan of  
reorganization.

(3) It must describe the:

(A) reasons for and purposes of the proposed  
reorganization; and

(B) manner in which the reorganization is expected to  
benefit and serve the best interests of the members.

The plan must include an analysis of the risks and benefits of  
the proposed reorganization, and a comparison of those risks  
and benefits with the risks and benefits of alternatives  
(including demutualization of the MIC) to the reorganization.

(4) It must provide that, after the effective date, the MHC  
must at all times have the direct or indirect power to cast at  
least sixty percent (60%) of the votes for the election of  
directors of:

(A) all stock insurance subsidiaries; and

(B) an intermediate stock holding company;  
of the MHC.

(5) It must provide that:

(A) the:

(i) membership interests of the members of the MIC  
remain membership interests in the MHC; and

(ii) members' surplus protection principle will govern  
the actions of the MHC and its subsidiaries;

under the articles of incorporation and bylaws of the  
MHC;

(B) the membership interest of a member of the MHC may  
not be transferred, assigned, pledged, or alienated in any  
manner except in connection with a transfer, assignment,  
pledge, or alienation of the policy from which the  
membership interest is derived; and

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- 1 (C) the membership interest of a member of the MHC will  
2 automatically terminate upon the lapse or other  
3 termination of the policy from which the membership  
4 interest is derived.
- 5 (6) It must describe how the plan of reorganization is to be  
6 carried out, including a description of a contemplated  
7 transfer, acquisition, or assumption of assets, rights,  
8 franchises, interests, debts, liabilities, or other obligations of  
9 the applicant and any other company affected by the plan of  
10 reorganization.
- 11 (7) It must describe the:
- 12 (A) establishment of companies;  
13 (B) amendment or restatement of the articles and bylaws  
14 of a company; and  
15 (C) merger of companies;  
16 that will take place under the plan of reorganization.
- 17 (8) It must provide a list of:
- 18 (A) all individuals who are or have been selected to become  
19 directors or officers of the MHC and its subsidiaries; and  
20 (B) other individuals who perform or will perform  
21 functions appropriate to the position of director or officer.
- 22 (9) The list prepared under subdivision (8) must include, for  
23 each individual on the list:
- 24 (A) the individual's principal occupation;  
25 (B) all offices and positions the individual has held in the  
26 preceding five (5) years;  
27 (C) any crime of which the individual has been convicted  
28 (other than traffic violations) in the preceding ten (10)  
29 years;  
30 (D) information concerning any personal bankruptcy of  
31 the individual or the individual's spouse during the  
32 previous seven (7) years;  
33 (E) information concerning the bankruptcy of any  
34 corporation of which the individual was an officer or  
35 director during the previous seven (7) years;  
36 (F) information concerning any state or federal securities  
37 law allegations and violations against the individual;  
38 (G) information concerning the revocation of any state or  
39 federal license issued to the individual; and  
40 (H) information as to whether the individual has ever been  
41 refused a performance or other bond.
- 42 (10) With respect to a policy that goes into force after the

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1 effective date of the reorganization, the policy must provide  
2 that:

3 (A) the owner of the policy; or

4 (B) another person or persons specified in:

5 (i) the policy; or

6 (ii) the MHC's articles of incorporation or bylaws;

7 becomes a member of the MHC.

8 (11) It must provide that, with regard to a policy in force on  
9 the effective date of the plan of reorganization:

10 (A) the policy continues to remain in force under the  
11 policy's terms;

12 (B) the policyholder continues to have the right to receive  
13 dividends as provided for in the policy;

14 (C) the policyholder's right to benefits, values, guarantees,  
15 and other policy obligations of the MIC continues after the  
16 effective date of the plan of reorganization; and

17 (D) the dividends paid on the policy after the effective date  
18 of the plan of reorganization increase in proportion to:

19 (i) increases in earned surplus available for the payment  
20 of dividends; and

21 (ii) any increase in dividends paid on policies issued after  
22 the effective date of the plan of reorganization.

23 (12) It must describe the nature and content of the annual  
24 report and financial statement to be sent to each member  
25 following the reorganization.

26 (13) It must demonstrate that, in the event of proceedings  
27 under IC 27-9 involving a stock insurance company  
28 subsidiary of the MHC that resulted from the reorganization  
29 of a domestic MIC, the assets of the MHC are available to  
30 satisfy the policyholder obligations of the stock insurance  
31 company subsidiary.

32 (14) It must provide any additional information that the  
33 commissioner may request.

34 **Sec. 6. (a) A plan of reorganization that is adopted by the board  
35 of directors of the applicant may be:**

36 (1) amended by the board of directors of the applicant:

37 (A) in response to the comments or recommendations of  
38 the commissioner, or any other state or federal agency or  
39 entity, before any solicitation of proxies from the members  
40 to vote on the plan of reorganization; and

41 (B) otherwise, with the consent of the commissioner; or

42 (2) terminated by the board of directors of the applicant:

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- 1 (A) before notice is sent to the members under section 8 of  
 2 this chapter; and  
 3 (B) otherwise, with the consent of the commissioner.

- 4 (b) For a plan of reorganization to be:  
 5 (1) amended; or  
 6 (2) terminated;

7 by the board of directors of a MIC, at least seventy-five percent  
 8 (75%) of the members of the board of directors must vote in favor  
 9 of the amendment or termination.

10 Sec. 7. (a) The commissioner shall, as soon as practicable after  
 11 receiving a plan, conduct a public hearing in Indianapolis at a  
 12 place, date, and time specified by the commissioner to afford  
 13 interested persons an opportunity to present information, views,  
 14 arguments, or comments about the plan.

15 (b) At least thirty (30) days before a hearing held under this  
 16 section, the commissioner shall publish notice of the hearing in a  
 17 newspaper of general circulation in:

- 18 (1) the city of Indianapolis;  
 19 (2) the city in which the principal office of the applicant is  
 20 located; and  
 21 (3) other cities or towns that the commissioner considers  
 22 appropriate.

23 The commissioner may provide written notice of the hearing by  
 24 other means and to other persons that the commissioner considers  
 25 appropriate.

26 (c) The notice provided under this section must:

- 27 (1) refer to the applicable statutory provisions;  
 28 (2) state the date, time, and location of the hearing; and  
 29 (3) include a brief statement of the subject of the hearing.

30 (d) At a public hearing under this section, an interested person  
 31 may appear and:

- 32 (1) file a written statement;  
 33 (2) make an oral presentation;  
 34 (3) pose questions to the officers and directors of the MIC;  
 35 and  
 36 (4) examine the evidence.

37 (e) At the discretion of the commissioner or the commissioner's  
 38 appointee, testimony may be taken under oath or by affirmation at  
 39 a public hearing under this article.

40 Sec. 8. The applicant shall, at least thirty (30) days before the  
 41 public hearing required under this chapter, notify each member of  
 42 the MIC of the public hearing. The notice must achieve a minimum

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1 score of forty (40) on the Flesch reading ease test or an equivalent  
 2 score on a comparable test approved by the commissioner. The  
 3 notice must include the following:

- 4 (1) Reference to the applicable statutory provisions.
- 5 (2) A statement of the date, time, and location of the hearing.
- 6 (3) A brief statement of the subject of the hearing, including  
 7 specific notice to the member that the member has an  
 8 ownership interest in the MIC that may be affected by the  
 9 reorganization.

10 Sec. 9. (a) The commissioner shall not approve a plan of  
 11 reorganization submitted under this article unless the applicant has  
 12 shown, by a preponderance of the evidence, that the plan of  
 13 reorganization:

- 14 (1) complies with the law;
- 15 (2) includes the disclosures and notices required under this  
 16 article;
- 17 (3) is fair to the members of the MIC; and
- 18 (4) complies with the members' surplus protection principle.

19 Sec. 10. Not more than one hundred eighty (180) days after the  
 20 commissioner accepts the application relating to the plan, the  
 21 commissioner shall approve or disapprove a plan of  
 22 reorganization. The commissioner's approval of the plan must be  
 23 conditioned upon:

- 24 (1) the approval of the plan by the members under this  
 25 chapter; and
- 26 (2) the completion order requirements of this chapter.

27 Sec. 11. The commissioner shall immediately notify the  
 28 applicant upon reaching a decision on a plan of reorganization.

29 Sec. 12. (a) A plan of reorganization of a MIC must be  
 30 submitted for approval by the members of the MIC after approval  
 31 of the application by the commissioner under section 10 of this  
 32 chapter. A vote by the members to approve the plan must be made  
 33 at a special or annual meeting held under IC 27-1-7-7 and this  
 34 chapter.

35 (b) A member must be sent notice of the meeting at which a plan  
 36 of reorganization will be submitted for approval by members. The  
 37 notice must:

- 38 (1) be mailed at least thirty (30) days before the meeting;
- 39 (2) refer to the applicable statutory provisions;
- 40 (3) state the date, time, and location of the meeting;
- 41 (4) include a brief statement of the subject of the meeting; and
- 42 (5) describe the member's right to appear and participate in



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1 the meeting.

2 (c) The notice sent under this section must achieve a minimum  
3 score of forty (40) on the Flesch reading ease test or an equivalent  
4 score on a comparable test approved by the commissioner.

5 Sec. 13. Before the special or annual meeting at which the  
6 members of a MIC vote on a plan of reorganization, the MIC shall  
7 provide the members with information about the plan sufficient for  
8 the members, in the reasonable determination of the commissioner,  
9 to make an informed decision about the plan of reorganization.

10 Sec. 14. Notwithstanding IC 27-1-7-9, with respect to a vote  
11 under section 12 of this chapter, a member:

- 12 (1) may vote in person or by proxy if the proxy:
- 13 (A) includes reference to the applicable statutory  
14 provisions;
- 15 (B) states the date, time, and location of the meeting;
- 16 (C) contains a brief statement of the subject of the meeting,  
17 including specific notice to the member that the member  
18 has an ownership interest in the MIC that may be affected  
19 by the reorganization; and
- 20 (D) was solicited and obtained from the member after the  
21 MIC has submitted the plan of reorganization to the  
22 commissioner under this article; and
- 23 (2) is entitled to cast only one (1) vote on the proposed plan of  
24 reorganization, regardless of the number of policies or the  
25 amount of insurance that the member has with the applicant  
26 or any affiliate of the applicant.

27 Sec. 15. For a plan of reorganization to be approved by  
28 members of a MIC, at least sixty-seven percent (67%) of the  
29 members must vote in favor of the plan.

30 Sec. 16. Within thirty (30) days after members have approved  
31 a plan of reorganization at a special or annual meeting of members  
32 under this chapter, an applicant must file with the commissioner  
33 the minutes of the meeting at which the plan of reorganization was  
34 approved.

35 Sec. 17. (a) Before the commissioner issues a permit for  
36 completion of organization under subsection (b):

- 37 (1) the commissioner must have issued notice to the applicant  
38 that the commissioner has approved the plan of  
39 reorganization of the applicant under section 10 of this  
40 chapter;
- 41 (2) a public hearing must have been conducted under this  
42 chapter;



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- 1           **(3) the commissioner must have received the minutes of the**
- 2           **meeting of the members at which the plan was approved**
- 3           **reflecting that the plan of reorganization was on the agenda**
- 4           **and the plan was approved, if the members voted to approve**
- 5           **the plan at a special or annual meeting;**
- 6           **(4) the articles of incorporation of the applicant must have**
- 7           **been certified by the secretary of state and transmitted to the**
- 8           **commissioner; and**
- 9           **(5) the applicant must have posted a surety bond.**

10           **(b) After the events referred to in subsection (a), the**  
 11           **commissioner shall issue:**

- 12           **(1) a permit for completion of organization as provided in**
- 13           **IC 27-1-6-11, in the case of a newly organized company; or**
- 14           **(2) an amended certificate of authority as provided in**
- 15           **IC 27-1-8-9, in the case of amended articles of incorporation.**

16           **Sec. 18. A plan of reorganization is effective when each company**  
 17           **affected by the plan has filed:**

- 18           **(1) its articles of incorporation or, if appropriate, its articles**
- 19           **of amendment; and**
- 20           **(2) the certificate of authority issued to the company by the**
- 21           **commissioner under this chapter;**

22           **in the office of the county recorder of the county in which the**  
 23           **principal office of the company is located.**

24           **Sec. 19. The organization of any company under a plan of**  
 25           **reorganization under this article must be conducted under**  
 26           **IC 27-1-6 concerning the formation of domestic insurance**  
 27           **companies, except as provided in section 17 of this chapter.**

28           **Sec. 20. The amendment of the articles of incorporation of a**  
 29           **company under a plan of reorganization under this article must be**  
 30           **conducted in compliance with IC 27-1-8, except as provided in**  
 31           **section 17 of this chapter.**

32           **Chapter 3. Mutual Insurance Holding Companies**

33           **Sec. 1. A MHC organized under this article:**

- 34           **(1) must be licensed; and**
- 35           **(2) is subject to rules that the commissioner may adopt under**
- 36           **IC 4-22-2.**

37           **Sec. 2. The articles of incorporation of a MHC must contain the**  
 38           **following, or provisions at least substantially equivalent to the**  
 39           **following:**

- 40           **(1) The name of the MHC, which must include the term**
- 41           **"mutual" or the abbreviation "MHC".**
- 42           **(2) A provision that no actions will be taken by the MHC that**

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- 1           contravene the members' surplus protection principle  
2           established in this article.
- 3           **(3) A provision specifying that the MHC must, at all times,**  
4           **have the direct or indirect power to cast at least sixty percent**  
5           **(60%) of the votes for the election of directors of each stock**  
6           **insurance company subsidiary and any intermediate stock**  
7           **holding company.**
- 8           **(4) A provision specifying that the MHC does not have the**  
9           **power to engage in the business of issuing insurance policies**  
10           **or contracts, except through a stock insurance company**  
11           **subsidiary.**
- 12           **(5) A provision specifying that the MHC is not authorized to**  
13           **issue voting stock.**
- 14           **(6) A provision setting forth the rights of members of the**  
15           **MHC in the equity of the MHC upon liquidation, including**  
16           **the rights of the members to the assets of the MHC.**
- 17           **(7) A provision specifying that:**
- 18                   **(A) a member of the MHC is not, as a member, personally**  
19                   **liable for the acts, debts, liabilities, or obligations of the**  
20                   **MHC; and**
- 21                   **(B) no assessment may be imposed upon the members of**  
22                   **the MHC by any person, including:**
- 23                           **(i) the board of directors, members, or creditors of the**  
24                           **MHC; and**
- 25                           **(ii) any governmental office or official, including the**  
26                           **commissioner;**
- 27                           **because of any liability of any company or because of any**  
28                           **act, debt, or liability of the MHC.**
- 29           **Sec. 3. Members of a MHC have rights and obligations specified**  
30           **in:**
- 31                   **(1) this article; and**
- 32                   **(2) the articles of incorporation and bylaws of the MHC.**
- 33           **Sec. 4. On the effective date of the reorganization of a MIC as**  
34           **a MHC under this chapter, the MHC must have the direct or**  
35           **indirect power to cast one hundred percent (100%) of the votes for**  
36           **the election of directors of:**
- 37                   **(1) all stock insurance subsidiaries; and**
- 38                   **(2) an intermediate stock holding company;**
- 39           **of the MIC.**
- 40                   **(b) After the effective date of the reorganization of a MIC as a**  
41           **MHC under this chapter, the MHC must at all times have the**  
42           **direct or indirect power to cast at least sixty percent (60%) of the**

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1 votes for the election of directors of:

- 2 (1) all stock insurance subsidiaries; and  
 3 (2) an intermediate stock holding company;

4 of the MIC.

5 **Sec. 5. Major transactions between:**

- 6 (1) a MHC and its subsidiaries; or  
 7 (2) subsidiaries of a MHC;

8 must be conducted in fairness to the members of the MHC, comply  
 9 with the members' surplus protection principle, and be approved  
 10 by the commissioner.

11 **Sec. 6. At least seventy-five percent (75%) of the following must**  
 12 **be made up of outside directors:**

- 13 (1) The board of directors of a MHC.  
 14 (2) The board of directors of an intermediate stock holding  
 15 company.  
 16 (3) The board of directors of a stock insurance company  
 17 subsidiary.  
 18 (4) Each committee of the board of directors of:  
 19 (A) a MHC;  
 20 (B) an intermediate stock holding company; or  
 21 (C) a stock insurance company subsidiary.

22 **Sec. 7. (a) With the written approval of the commissioner, and**  
 23 **subject to any conditions imposed by the commissioner, a MHC**  
 24 **may do any of the following:**

- 25 (1) Merge or consolidate with, or acquire the assets of a:  
 26 (A) MHC licensed under this article; or  
 27 (B) similar entity organized under the laws of any other  
 28 state.  
 29 (2) Acquire the stock of a stock insurance company as a  
 30 subsidiary of the MHC or an intermediate stock insurance  
 31 company of the MHC.  
 32 (3) Organize an intermediate stock insurance company as a  
 33 wholly owned subsidiary.  
 34 (4) Organize a stock insurance company as a subsidiary.  
 35 (5) Acquire the stock or assets of any non-insurance related  
 36 corporation.

37 (b) Whenever a MHC acquires or plans to acquire more than  
 38 fifty percent (50%) of the voting capital stock of a stock insurance  
 39 company, the MHC must submit to the commissioner a description  
 40 of any membership interests of policyholders of the stock insurance  
 41 company.

42 **Sec. 8. (a) Except as provided in subsection (b), a MHC:**

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- 1           (1) has and may exercise all the rights and privileges of
- 2           insurance companies formed under this title; and
- 3           (2) is subject to all the requirements and regulations imposed
- 4           upon insurance companies formed under this title.
- 5       (b) The exceptions referred to in subsection (a) are as follows:
- 6           (1) A MHC does not have the right or privilege to write
- 7           insurance (except through a stock insurance company
- 8           subsidiary) and is not subject to any requirement or rule
- 9           adopted under IC 4-22-2 relating to the writing of insurance.
- 10          (2) A MHC is not subject to the surplus requirements in
- 11          IC 27-1-6-15.
- 12          (3) A MHC is not subject to any requirement or rule adopted
- 13          under IC 4-22-2 that is imposed upon insurance companies
- 14          formed under this title to the extent that the requirement or
- 15          rule is in conflict with this article.
- 16       Sec. 9. Not later than April 1, a MHC shall file with the
- 17       commissioner an annual statement containing the following
- 18       information:
- 19           (1) Audited financial statements, including:
- 20               (A) an income statement;
- 21               (B) a balance sheet;
- 22               (C) a statement of cash flows; and
- 23               (D) footnotes.
- 24           (2) Complete information on the status of any condition
- 25           imposed in connection with the approval of a plan of
- 26           reorganization.
- 27           (3) An investment plan covering all assets of the MHC.
- 28           (4) A statement that the MHC and its affiliates have complied
- 29           with section 13 of this chapter.
- 30           (5) A statement that describes any changes in the members'
- 31           surplus and the reason for any such change in the members'
- 32           surplus.
- 33       Sec. 10. (a) A MHC and the intermediate stock holding
- 34       companies and stock insurance company subsidiaries that are
- 35       owned entirely or in part, directly or indirectly, by the MHC
- 36       constitute an insurance holding company system (as defined in
- 37       IC 27-1-23-1).
- 38       (b) Notwithstanding subsection (a), a separate filing or approval
- 39       is not required under IC 27-1-23 for a reorganization that:
- 40           (1) is included in a plan approved under this article; and
- 41           (2) does not involve the acquisition of control of an insurance
- 42           company that is not affiliated with the applicant before the

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1 reorganization.

2 **Sec. 11. A membership interest in a MHC does not constitute a**  
3 **security under Indiana law.**

4 **Sec. 12. (a) After the effective date of a plan of reorganization,**  
5 **the officers and directors of the MHC and its subsidiaries:**

6 (1) owe the same fiduciary responsibilities to the members of  
7 the former MIC as the officers and directors of the MHC  
8 owed to the members before the effective date of the plan of  
9 reorganization;

10 (2) are subject to potential liability to the members of the  
11 former MIC to the same extent as the officers and directors of  
12 the MHC were to the members before the effective date of the  
13 plan of reorganization; and

14 (3) owe a fiduciary duty to the members of the MHC to follow  
15 the members' surplus protection principle.

16 (b) An action may not be brought to recover for the violation of  
17 fiduciary responsibilities under this article more than ten (10)  
18 years after the alleged violation of the fiduciary responsibility.

19 **Sec. 13. (a) The following transactions involving a MHC or an**  
20 **affiliate of a MHC and any person may not be entered into unless**  
21 **the MHC has notified the commissioner in writing of its intention**  
22 **to enter into such transaction at least thirty (30) days before**  
23 **entering into the transaction, or such shorter period as the**  
24 **commissioner may permit, and the commissioner has not**  
25 **disapproved it within that period:**

26 (1) Sales, purchases, exchanges, loans or extensions of credit,  
27 guarantees, or investments, provided those transactions are  
28 equal to or exceed three percent (3%) of the MHC's assets as  
29 of December 31 of the previous year.

30 (2) Loans or extensions of credit to any person who is not an  
31 affiliate of the MHC, where the MHC makes those loans or  
32 extensions of credit with the agreement or understanding that  
33 the proceeds of such transactions, in whole or in substantial  
34 part, are to be used to make loans or extensions of credit to,  
35 to purchase assets of, or to make investments in, any affiliate  
36 of the MHC making such loans or extensions of credit,  
37 provided those transactions are equal to or exceed three  
38 percent (3%) of the MHC's assets as of December 31 of the  
39 previous year.

40 (3) Reinsurance agreements or modifications to the  
41 agreements in which the amount of cash or invested assets  
42 transferred by the MHC equals or exceeds five percent (5%)



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1 of the MHC's surplus as regards policyholders, as of  
 2 December 31 of the previous year, including those agreements  
 3 that may require as consideration the transfer of assets from  
 4 a MHC to a nonaffiliate, if an agreement or understanding  
 5 exists between the MHC and nonaffiliate that any portion of  
 6 the assets will be transferred to one (1) or more affiliates of  
 7 the MHC.

8 (4) Management agreements, service contracts, and  
 9 cost-sharing arrangements.

10 (5) Material transactions, specified by rule, that the  
 11 commissioner determines may adversely affect the interests  
 12 of the policyholders of affiliates of the MHC or that do not  
 13 comply with the members' surplus protection principle.

14 **This subsection does not authorize or permit any transactions  
 15 other than those authorized under this article.**

16 (b) A MHC and its affiliates may not enter into transactions that  
 17 are part of a plan or series of like transactions if the purpose of  
 18 those separate transactions is to avoid the statutory threshold  
 19 amount and avoid the review required under this section.

20 **Chapter 4. Issuance of Capital Stock**

21 **Sec. 1. A subsidiary organized under this title may issue shares  
 22 of any class or type of capital stock permitted under this title, and  
 23 an intermediate stock holding company may issue any type of stock  
 24 permitted by the law under which it is organized. However, a stock  
 25 insurance company subsidiary and an intermediate stock holding  
 26 company may issue shares of voting capital stock to a person or  
 27 entity other than:**

- 28 (1) the MHC of which it is a subsidiary; or  
 29 (2) an intermediate stock holding company that is a subsidiary  
 30 of the MHC referred to in subdivision (1);

31 **only in compliance with this article.**

32 **Sec. 2. A plan to issue voting capital stock under this chapter  
 33 must be adopted:**

- 34 (1) by the board of directors of the MHC; or  
 35 (2) in the case of a plan to issue shares of voting capital stock  
 36 that is not concurrent with the formation of the MHC, by the  
 37 board of directors of the stock insurance company subsidiary  
 38 or intermediate stock holding company proposing to issue the  
 39 stock.

40 **Sec. 3. A board of directors that adopts a plan to issue voting  
 41 capital stock under this chapter may amend or withdraw that plan  
 42 at any time before the effective date. However, after the**



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1 commissioner has approved a plan to issue voting capital stock, the  
 2 plan may not be amended unless the commissioner approves the  
 3 amendment.

4 **Sec. 4. Within ninety (90) days after the adoption of a plan to**  
 5 **issue voting capital stock, the stock insurance company subsidiary**  
 6 **or intermediate stock holding company adopting the plan must file**  
 7 **with the commissioner an application that contains the following:**

- 8 (1) A proposed plan to issue voting capital stock.  
 9 (2) The form of notice to be sent to members, informing  
 10 members of their right to vote on the plan.  
 11 (3) The form of the proxy statement to be used to solicit the  
 12 votes of members. The form must describe the plan, and must  
 13 achieve a minimum score of forty (40) on the Flesch reading  
 14 ease test or an equivalent score on a comparable test  
 15 approved by the commissioner.  
 16 (4) The form of proxy to be solicited from members.  
 17 (5) A copy of the proposed articles of incorporation and  
 18 bylaws of each company to be formed under the plan in  
 19 compliance with the requirements of IC 27-1-6.  
 20 (6) If it is necessary to amend the current articles of  
 21 incorporation or bylaws of a company that is affected by the  
 22 plan, a copy of the proposed articles of amendment and  
 23 amended bylaws of the company that must comply with the  
 24 requirements of IC 27-1-8.  
 25 (7) A list of the officers and directors of a company that is  
 26 affected by the plan.  
 27 (8) A description of:  
 28 (A) the voting capital stock intended to be offered by the  
 29 applicant;  
 30 (B) all shareholder rights applicable to the voting capital  
 31 stock intended to be offered by the applicant;  
 32 (C) the total number of shares authorized to be issued;  
 33 (D) the estimated number of shares the applicant intends  
 34 to offer; and  
 35 (E) the intended date or range of dates for the offering.  
 36 (9) A list of:  
 37 (A) the name or names of any underwriter, syndicate  
 38 member, or placement agent involved;  
 39 (B) if known by the applicant, the name or names of each  
 40 person or group of persons who will control five percent  
 41 (5%) or more of the total outstanding shares of the class of  
 42 voting capital stock to be offered; and



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(C) if any of the persons listed under clause (A) or (B) is a corporation or other business organization, the name of each member of its board of directors or equivalent management body.

(10) Copies of any filings with the United States Securities and Exchange Commission disclosing intended acquisitions of voting capital stock of the applicant.

(11) A description of all expenses expected to be incurred in connection with the offering.

(12) Any other information requested by the commissioner.

**Sec. 5. A plan to issue voting capital stock that is filed with the commissioner under this chapter must do the following:**

(1) Describe the reasons for and the purposes of the proposed issuance of shares of voting capital stock, and the manner in which the issuance is expected to benefit and serve the best interests of the members.

(2) Require that, after the effective date, the MHC must at all times have the direct or indirect power to cast at least sixty percent (60%) of the votes for the election of directors of each stock insurance company subsidiary and any intermediate stock holding company.

(3) Provide that the aggregate number of shares of voting capital stock owned by all of the directors and officers of the MHC and its subsidiaries and associates may not exceed:

(A) within five (5) years after the initial issuance of voting capital stock, five percent (5%) of the total number of shares of voting capital stock to be issued; and

(B) more than five years after the initial issuance of voting capital stock, ten percent (10%) of the total number of shares of voting capital stock to be issued;

including any shares acquired by the officers and directors and their associates through discounted subscriptions, employee benefit plans, or stock options.

(4) Provide that the aggregate number of shares of voting capital stock purchased by:

(A) a single director or officer of the MHC or the subsidiaries of the MHC;

(B) associates of the person referred to in clause (A); and

(C) persons acting in concert with the person referred to in clause (A) or (B);

may not exceed five percent (5%) of the total number of shares to be issued under the plan, including any shares

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- 1 attributed to the officers and directors and their associates  
 2 but held by one (1) or more tax-qualified employee benefit  
 3 plans.  
 4 (5) Provide that the aggregate number of shares of all  
 5 nonvoting equities and other nonvoting dividend paying  
 6 instruments owned by all of the directors and officers of the  
 7 MHC and its subsidiaries and associates may not exceed:  
 8 (A) within five (5) years after the initial issuance of voting  
 9 capital stock, five percent (5%) of the total number of  
 10 shares of nonvoting equities or other nonvoting dividend  
 11 paying instruments to be issued; and  
 12 (B) more than five years after the initial issuance of voting  
 13 capital stock, ten percent (10%) of the total number of  
 14 shares of nonvoting equities or other dividend paying  
 15 instruments to be issued.  
 16 (6) Provide that the aggregate number of shares of nonvoting  
 17 equities or other nonvoting dividend paying instruments  
 18 purchased by:  
 19 (A) a single director or officer of the MHC or the  
 20 subsidiaries of the MHC;  
 21 (B) associates of the person referred to in clause (A); and  
 22 (C) persons acting in concert with the person referred to in  
 23 clause (A) or (B);  
 24 may not exceed five percent (5%) of the total number of  
 25 shares of nonvoting equities and other nonvoting dividend  
 26 paying instruments to be issued under the plan, including any  
 27 nonvoting equities or instruments attributed to the officers  
 28 and directors and their associates but held by one (1) or more  
 29 tax-qualified employee benefit plans.  
 30 (7) Provide that a director, officer, agent, or employee of the  
 31 MHC or its subsidiaries, or an associate of a director, officer,  
 32 agent, or employee, may not receive a fee, commission, or  
 33 other valuable consideration for aiding, promoting, or  
 34 assisting in the issuance of voting capital stock under this  
 35 section, except for:  
 36 (A) compensation as provided for in the plan and approved  
 37 by the commissioner;  
 38 (B) the person's usual, regular salary or compensation;  
 39 and  
 40 (C) reasonable fees and compensation paid to an individual  
 41 who is an attorney, accountant, or actuary for services  
 42 performed in the individual's independent practice, even



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- 1           if the individual is also a director, officer, agent, or  
2           employee of the MHC or its subsidiaries.
- 3           **(8) Provide that the aggregate number of shares of voting**  
4           **capital stock that may be purchased by an employee benefit**  
5           **plan may not exceed ten percent (10%) of the total number of**  
6           **shares to be issued under the plan.**
- 7           **(9) Describe:**
- 8               **(A) how the offering price of the voting capital stock to be**  
9               **sold is established; or**
- 10              **(B) the method by which the offering price will be**  
11              **determined.**
- 12           **Sec. 6. (a) A plan to issue voting capital stock in a public offering**  
13           **(other than an offering solely in connection with a consolidation,**  
14           **merger, share exchange, or other business combination or an**  
15           **offering of stock under a stock option plan) must do the following:**
- 16               **(1) Provide for each eligible member to receive, without**  
17               **payment, nontransferable subscription rights to purchase a**  
18               **portion of the voting capital stock of the applicant.**
- 19               **(2) Specify how subscription rights are to be allocated in**  
20               **whole shares of voting capital stock among the eligible**  
21               **members.**
- 22               **(3) Provide a fair and equitable means for allocating shares of**  
23               **voting capital stock in the event of an oversubscription to the**  
24               **shares by eligible members exercising subscription rights**  
25               **received under this chapter.**
- 26               **(4) Provide that any shares of voting capital stock not**  
27               **subscribed to by eligible members exercising subscription**  
28               **rights received under this chapter, or not subscribed to by an**  
29               **employee benefit plan or by directors, officers, and employees**  
30               **exercising subscription rights, will be sold:**
- 31                   **(A) in a public offering through an underwriter;**  
32                   **(B) through private placement; or**  
33                   **(C) by any other method approved by the commissioner**  
34                   **that is fair and equitable to members.**
- 35               **(5) Require a person that exercises subscription rights to:**
- 36                   **(A) purchase at least the minimum number of shares of**  
37                   **voting capital stock; or**  
38                   **(B) if the person purchases less than the minimum number**  
39                   **of shares, make a purchase of shares of voting capital stock**  
40                   **in at least the minimum amount.**
- 41               **(6) Require that at least seventy-five percent (75%) of the**  
42               **members of the board of directors of the MHC must be**



1 persons who are not officers or employees of the MHC or any  
2 of its subsidiaries.

3 (7) Require that at least three (3) members of the board of  
4 directors of each:

5 (A) intermediate stock holding company; and

6 (B) stock insurance company subsidiary;

7 of the MHC must be persons who are not officers or  
8 employees of the MHC or any of its subsidiaries.

9 (8) Provide that the MHC will adopt articles of incorporation  
10 or articles of amendment that include a provision prohibiting  
11 the MHC from waiving any dividends from its subsidiaries  
12 except:

13 (A) under conditions specified in the articles of  
14 incorporation; and

15 (B) after approval of the waiver by the board of directors  
16 of the MHC and by the commissioner.

17 (9) Establish a pricing committee within the board of  
18 directors of the entity making the offering of voting capital  
19 stock, consisting exclusively of directors who are not officers  
20 or employees of the MHC or any of its subsidiaries, with the  
21 responsibility of evaluating and approving the price of voting  
22 capital stock sold in the offering.

23 (b) The minimum number of shares of voting capital stock  
24 established under subsection (a)(5)(A) may not be more than one  
25 hundred (100) shares.

26 (c) The minimum amount of a purchase of shares of voting  
27 capital stock established under subsection (a)(5)(B) may not be  
28 more than two thousand dollars (\$2,000).

29 **Sec. 7. A plan to issue voting capital stock may do the following:**

30 (1) Provide an allocation without payment of nontransferable  
31 subscription rights to purchase not more than ten percent  
32 (10%) of the total amount of voting capital stock issued under  
33 the plan to one (1) or more employee benefit plans that satisfy  
34 the requirements of Section 401(a), 403(b), 404(c), 408, 423, or  
35 501(c)(9) of the Internal Revenue Code, limited to the extent  
36 that unsubscribed shares of voting capital stock remain after  
37 the members have exercised their subscription rights.

38 (2) Subject to the limitations of section 5 of this chapter,  
39 provide for:

40 (A) the establishment of; and

41 (B) the allocation of not more than four percent (4%) of  
42 the total amount of voting capital stock issued under the

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1 stock issuance plan to;  
 2 an employee benefit plan that provides benefits that are  
 3 subject to taxation under Section 83 of the Internal Revenue  
 4 Code or that complies with the requirements of Section 422 of  
 5 the Internal Revenue Code, for the purpose of granting stock  
 6 or stock options.

7 (3) Provide that the articles of incorporation of a subsidiary  
 8 of the MHC may, subject to specified exceptions, prohibit a:

9 (A) person; or

10 (B) group of persons acting in concert;  
 11 acting directly or through associates, from acquiring more  
 12 than a specified percentage of any class of the issued and  
 13 outstanding shares of capital stock of the issuing subsidiary.

14 (4) Provide that the aggregate number of shares of voting  
 15 capital stock purchased by an eligible member that exercises  
 16 subscription rights may not exceed:

17 (A) a specified number of shares equal to at least one  
 18 percent (1%) of the total number of shares to be issued  
 19 under the plan; or

20 (B) a specified percentage of not less than one percent  
 21 (1%) of the total number of shares to be issued under the  
 22 plan.

23 (5) Provide that subscription rights need not be granted to an  
 24 eligible member who resides in a foreign country or other  
 25 jurisdiction for which the commissioner determines that all of  
 26 the following apply:

27 (A) A small number of eligible members reside in the  
 28 jurisdiction.

29 (B) The granting of subscription rights or the offer or sale  
 30 of voting capital stock to eligible members in the  
 31 jurisdiction would require the issuer or its officers or  
 32 directors to:

33 (i) register, under the securities laws of the jurisdiction,  
 34 as a broker, dealer, salesman, or agent; or

35 (ii) register, or otherwise qualify, the voting capital stock  
 36 for sale in the jurisdiction.

37 (C) The registration, qualification, or filing in the  
 38 judgment of the commissioner would be impracticable or  
 39 unduly burdensome for reasons of cost or otherwise.

40 **Sec. 8.** Notwithstanding any provision of this article, a MHC or  
 41 an affiliate of a MHC may not use any form of a stock option or  
 42 other preference with respect to the sale or purchase of any voting



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1 capital stock or other equity instrument of the MHC or an affiliate  
 2 of the MHC to compensate an officer or director of the MHC or an  
 3 affiliate of the MHC.

4 **Chapter 5. Public Hearing, Commissioner Approval, and**  
 5 **Effective Date of Plan to Issue Stock**

6 **Sec. 1. Not more than:**

7 (1) sixty (60) days after the acceptance of an application filed  
 8 with respect to a plan to issue stock under this article; or

9 (2) a longer period after the application is filed, as determined  
 10 by the commissioner upon a showing of good cause;

11 the commissioner may conduct a public hearing in Indianapolis at  
 12 a place, date, and time specified by the commissioner to afford  
 13 interested persons an opportunity to present information, views,  
 14 arguments, or comments in regard to the plan.

15 **Sec. 2. (a) At least thirty (30) days before a hearing held under**  
 16 **this section, the commissioner shall publish notice of the hearing in**  
 17 **a newspaper of general circulation in:**

18 (1) the city of Indianapolis;

19 (2) the city in which the principal office of the applicant is  
 20 located; and

21 (3) another city or cities that the commissioner considers  
 22 appropriate;

23 and may provide written notice of the hearing by other means and  
 24 to other persons that the commissioner considers appropriate.

25 (b) The notice provided under this section must:

26 (1) refer to the applicable statutory provisions;

27 (2) state the date, time, and location of the hearing; and

28 (3) include a brief statement of the subject of the hearing.

29 **Sec. 3. At a public hearing on a plan to issue stock held under**  
 30 **this chapter:**

31 (1) a member or any other interested person may appear and:

32 (A) file a written statement; or

33 (B) make an oral presentation; and

34 (2) at the discretion of the commissioner or the  
 35 commissioner's appointee, testimony may be taken under oath  
 36 or by affirmation.

37 **Sec. 4. In compliance with the later of:**

38 (1) sixty (60) days after a public hearing held under this  
 39 chapter; or

40 (2) one hundred twenty (120) days after the commissioner  
 41 accepts the application relating to the plan;

42 the commissioner shall approve or disapprove the plan to issue

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stock.

**Sec. 5.** The commissioner shall approve a plan to issue stock submitted under this article unless the commissioner makes at least one (1) of the following findings with respect to the plan:

- (1) Disapproval of the plan is necessary to prevent practices that will cause financial impairment to the applicant or its subsidiaries.
- (2) The financial or management resources of the applicant or its subsidiaries or affiliates warrant disapproval.
- (3) The plan does not comply with the provisions of this article.
- (4) The proposed plan is unfair to members.
- (5) The plan does not comply with the members' surplus protection principles of this article.

**Sec. 6.** (a) The commissioner shall immediately notify the applicant upon reaching a decision on a plan submitted under this chapter.

(b) If the commissioner disapproves a plan, the commissioner shall provide the applicant with a written statement detailing the reasons for the disapproval.

(c) A decision of the commissioner approving a plan to issue stock must specify the valuation of the stock approved by the commissioner.

**Sec. 7.** The approval by the commissioner of a plan to issue stock expires one hundred eighty (180) days after the date of approval, except as otherwise provided by an order of the commissioner.

**Sec. 8.** The organization of a company under a plan under this article must be conducted in compliance with the provisions of IC 27-1-6 concerning the formation of domestic insurance companies, except as provided in this chapter.

**Sec. 9.** The amendment of the articles of incorporation of a company under a plan under this article must be conducted in compliance with IC 27-1-8, except as provided in this chapter.

**Chapter 6. Miscellaneous Provisions**

**Sec. 1.** (a) This article, while independent of any other law, is supplemental to IC 27-1-2 through IC 27-1-20.

(b) All provisions of IC 27-1-2 through IC 27-1-20 are fully and completely applicable to this article in the same manner as if the provisions of this article had been an original part of IC 27-1-2 through IC 27-1-20. If any conflict exists between this article and IC 27-1-2 through IC 27-1-20, this article is controlling.

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**Sec. 2. A civil action:**

- (1) challenging the validity of; or
- (2) arising out of;

action that is taken or proposed to be taken under this article must commence not later than ninety (90) days after the approval by the commissioner of the plan under which or in respect of which the action is taken or proposed to be taken.

**Sec. 3.** The provisions of this article are severable in the manner provided in IC 1-1-1-8(b).

**Sec. 4. (a)** A person who is aggrieved by an agency action of the commissioner under this article may petition for judicial review of the action under IC 4-21.5-5.

**(b)** A person who is aggrieved by a failure of the commissioner to act or make a determination required by this article may bring an action for mandate in the circuit court of St. Joseph County to compel the commissioner to act or make the determination.

**Sec. 5.** A MHC and its subsidiaries and affiliates may not do any of the following:

- (1) Lend funds to any person to finance the purchase of stock in a stock offering by a MHC or any of its subsidiaries.
- (2) Pay commissions, special fees, or other special or extraordinary compensation to officers, directors, interested persons, or affiliates for arranging, promoting, aiding, assisting, or participating in the structure or placement of a stock offering by the MHC or any of its subsidiaries, except to the extent permitted under IC 27-14-4.
- (3) Enter into an understanding or agreement transferring legal or beneficial ownership of stock to another person in avoidance of this article.

**Sec. 6.** A stock insurance subsidiary to which insurance policies, contracts, and other assets and obligations are transferred in connection with a plan of reorganization under this article has, with respect to the insurance policies, contracts, and other assets and obligations, all rights, liabilities, and authority of the MIC that is the subject of the plan of reorganization.

**Sec. 7.** If a proceeding is pending against a MIC that is the subject of a plan of reorganization under this article:

- (1) the proceeding may be continued after the effective date, as if the reorganization had not occurred; or
- (2) the stock insurance company subsidiary that succeeds to the MIC's business may be substituted in the proceeding for the MIC.

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1           **Sec. 8. A MHC may convert to a stock insurance holding**  
2           **company under IC 27-1-8-13 as though the MHC were a MIC.**  
3           **Sec. 9. The commissioner shall, at the applicant's expense, hire**  
4           **attorneys, actuaries, accountants, investment bankers, and other**  
5           **experts as may be necessary to assist the commissioner in**  
6           **reviewing all matters under this article that are associated with a**  
7           **plan of reorganization or a plan to issue stock.**  
8           **SECTION 8. [EFFECTIVE JULY 1, 1998] (a) IC 27-14, as added**  
9           **by this act, is intended to enable mutual insurance companies to**  
10           **seek additional capital more effectively to:**  
11                 **(1) enhance their financial strength and flexibility; and**  
12                 **(2) support long term growth through creative internal**  
13                 **strategies, mergers, and acquisitions.**  
14           **(b) IC 27-14, as added by this act, provides an alternative**  
15           **organizational structure to help strengthen the Indiana mutual**  
16           **insurance industry by permitting mutual insurance companies to:**  
17                 **(1) reorganize into a mutual insurance holding company**  
18                 **structure; and**  
19                 **(2) raise capital through the sale of capital stock.**  
20           **SECTION 9. THE FOLLOWING ARE REPEALED [EFFECTIVE**  
21           **APRIL 1, 1998]: IC 6-3-7-5; IC 22-3-2-14.5; IC 22-3-7-34.5.**  
22           **SECTION 10. An emergency is declared for this act.**

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SENATE MOTION

Mr. President: I move that Senator Craycraft be added as coauthor of Senate Bill 345.

CLARK

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COMMITTEE REPORT

Mr. President: The Senate Committee on Insurance and Interstate Cooperation, to which was referred Senate Bill 345, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 345 as introduced.)

WORMAN, Chairperson

Committee Vote: Yeas 7, Nays 0.

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SENATE MOTION

Mr. President: I move that Senator Gery be added as coauthor of Senate Bill 345.

CLARK

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, Corporations and Small Business, to which was referred Senate Bill 345, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

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

"SECTION 1. IC 22-3-5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 1998]: Sec. 6. (a) The worker's compensation supplemental administrative fund is established for the purpose of carrying out the administrative purposes and functions of the worker's compensation board. The fund consists of fees collected from employers under sections 1 through 2 of this chapter. ~~and from fees collected under IC 22-3-2-14.5 and IC 22-3-7-34.5.~~ The fund shall be administered by the worker's compensation board. ~~Money in the fund is annually appropriated to the worker's compensation board for its use in carrying out the administrative purposes and functions of the worker's compensation board.~~

(b) The money in the fund is not to be used to replace funds otherwise appropriated to the board. Money in the fund at the end of the state fiscal year does not revert to the state general fund.

SECTION 2. IC 22-3-6-1, AS AMENDED BY P.L.258-1997(ss), SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 1998]: Sec. 1. In IC 22-3-2 through IC 22-3-6, unless the context otherwise requires:

(a) "Employer" includes the state and any political subdivision, any municipal corporation within the state, any individual or the legal representative of a deceased individual, firm, association, limited liability company, or corporation or the receiver or trustee of the same, using the services of another for pay. If the employer is insured, the term includes the employer's insurer so far as applicable. However, the inclusion of an employer's insurer within this definition does not allow an employer's insurer to avoid payment for services rendered to an employee with the approval of the employer.

(b) "Employee" means every person, including a minor, in the service of another, under any contract of hire or apprenticeship, written or implied, except one whose employment is both casual and not in the usual course of the trade, business, occupation, or profession of the employer.

(1) An executive officer elected or appointed and empowered in accordance with the charter and bylaws of a corporation, other than a municipal corporation or governmental subdivision or a

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charitable, religious, educational, or other nonprofit corporation, is an employee of the corporation under IC 22-3-2 through IC 22-3-6.

(2) An executive officer of a municipal corporation or other governmental subdivision or of a charitable, religious, educational, or other nonprofit corporation may, notwithstanding any other provision of IC 22-3-2 through IC 22-3-6, be brought within the coverage of its insurance contract by the corporation by specifically including the executive officer in the contract of insurance. The election to bring the executive officer within the coverage shall continue for the period the contract of insurance is in effect, and during this period, the executive officers thus brought within the coverage of the insurance contract are employees of the corporation under IC 22-3-2 through IC 22-3-6.

(3) Any reference to an employee who has been injured, when the employee is dead, also includes the employee's legal representatives, dependents, and other persons to whom compensation may be payable.

(4) An owner of a sole proprietorship may elect to include the owner as an employee under IC 22-3-2 through IC 22-3-6 if the owner is actually engaged in the proprietorship business. If the owner makes this election, the owner must serve upon the owner's insurance carrier and upon the board written notice of the election. No owner of a sole proprietorship may be considered an employee under IC 22-3-2 through IC 22-3-6 until the notice has been received. ~~If the owner of a sole proprietorship is an independent contractor in the construction trades and does not make the election provided under this subdivision, the owner must obtain an affidavit of exemption under IC 22-3-2-14.5.~~

(5) A partner in a partnership may elect to include the partner as an employee under IC 22-3-2 through IC 22-3-6 if the partner is actually engaged in the partnership business. If a partner makes this election, the partner must serve upon the partner's insurance carrier and upon the board written notice of the election. No partner may be considered an employee under IC 22-3-2 through IC 22-3-6 until the notice has been received. ~~If a partner in a partnership is an independent contractor in the construction trades and does not make the election provided under this subdivision, the partner must obtain an affidavit of exemption under IC 22-3-2-14.5.~~

(6) Real estate professionals are not employees under IC 22-3-2 through IC 22-3-6 if:

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- (A) they are licensed real estate agents;
- (B) substantially all their remuneration is directly related to sales volume and not the number of hours worked; and
- (C) they have written agreements with real estate brokers stating that they are not to be treated as employees for tax purposes.

~~(7) A person is an independent contractor in the construction trades and not an employee under IC 22-3-2 through IC 22-3-6 if the person is an independent contractor under the guidelines of the United States Internal Revenue Service.~~

~~(8) (7)~~ An owner-operator that provides a motor vehicle and the services of a driver under a written contract that is subject to IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 1057, to a motor carrier is not an employee of the motor carrier for purposes of IC 22-3-2 through IC 22-3-6. The owner-operator may elect to be covered and have the owner-operator's drivers covered under a worker's compensation insurance policy or authorized self-insurance that insures the motor carrier if the owner-operator pays the premiums as requested by the motor carrier. An election by an owner-operator under this subdivision does not terminate the independent contractor status of the owner-operator for any purpose other than the purpose of this subdivision.

~~(9) (8)~~ A member or manager in a limited liability company may elect to include the member or manager as an employee under IC 22-3-2 through IC 22-3-6 if the member or manager is actually engaged in the limited liability company business. If a member or manager makes this election, the member or manager must serve upon the member's or manager's insurance carrier and upon the board written notice of the election. A member or manager may not be considered an employee under IC 22-3-2 through IC 22-3-6 until the notice has been received.

(c) "Minor" means an individual who has not reached seventeen (17) years of age.

(1) Unless otherwise provided in this subsection, a minor employee shall be considered as being of full age for all purposes of IC 22-3-2 through IC 22-3-6.

(2) If the employee is a minor who, at the time of the accident, is employed, required, suffered, or permitted to work in violation of IC 20-8.1-4-25, the amount of compensation and death benefits, as provided in IC 22-3-2 through IC 22-3-6, shall be double the amount which would otherwise be recoverable. The insurance carrier shall be liable on its policy for one-half (1/2) of the



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compensation or benefits that may be payable on account of the injury or death of the minor, and the employer shall be liable for the other one-half (1/2) of the compensation or benefits. If the employee is a minor who is not less than sixteen (16) years of age and who has not reached seventeen (17) years of age and who at the time of the accident is employed, suffered, or permitted to work at any occupation which is not prohibited by law, this subdivision does not apply.

(3) A minor employee who, at the time of the accident, is a student performing services for an employer as part of an approved program under IC 20-10.1-6-7 shall be considered a full-time employee for the purpose of computing compensation for permanent impairment under IC 22-3-3-10. The average weekly wages for such a student shall be calculated as provided in subsection (d)(4).

(4) The rights and remedies granted in this subsection to a minor under IC 22-3-2 through IC 22-3-6 on account of personal injury or death by accident shall exclude all rights and remedies of the minor, the minor's parents, or the minor's personal representatives, dependents, or next of kin at common law, statutory or otherwise, on account of the injury or death. This subsection does not apply to minors who have reached seventeen (17) years of age.

(d) "Average weekly wages" means the earnings of the injured employee in the employment in which the employee was working at the time of the injury during the period of fifty-two (52) weeks immediately preceding the date of injury, divided by fifty-two (52), except as follows:

(1) If the injured employee lost seven (7) or more calendar days during this period, although not in the same week, then the earnings for the remainder of the fifty-two (52) weeks shall be divided by the number of weeks and parts thereof remaining after the time lost has been deducted.

(2) Where the employment prior to the injury extended over a period of less than fifty-two (52) weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed, if results just and fair to both parties will be obtained. Where by reason of the shortness of the time during which the employee has been in the employment of the employer or of the casual nature or terms of the employment it is impracticable to compute the average weekly wages, as defined

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in this subsection, regard shall be had to the average weekly amount which during the fifty-two (52) weeks previous to the injury was being earned by a person in the same grade employed at the same work by the same employer or, if there is no person so employed, by a person in the same grade employed in the same class of employment in the same district.

(3) Wherever allowances of any character made to an employee in lieu of wages are a specified part of the wage contract, they shall be deemed a part of his earnings.

(4) In computing the average weekly wages to be used in calculating an award for permanent impairment under IC 22-3-3-10 for a student employee in an approved training program under IC 20-10.1-6-7, the following formula shall be used. Calculate the product of:

- (A) the student employee's hourly wage rate; multiplied by
- (B) forty (40) hours.

The result obtained is the amount of the average weekly wages for the student employee.

(e) "Injury" and "personal injury" mean only injury by accident arising out of and in the course of the employment and do not include a disease in any form except as it results from the injury.

(f) "Billing review service" refers to a person or an entity that reviews a medical service provider's bills or statements for the purpose of determining pecuniary liability. The term includes an employer's worker's compensation insurance carrier if the insurance carrier performs such a review.

(g) "Billing review standard" means the data used by a billing review service to determine pecuniary liability.

(h) "Community" means a geographic service area based on zip code districts defined by the United States Postal Service according to the following groupings:

- (1) The geographic service area served by zip codes with the first three (3) digits 463 and 464.
- (2) The geographic service area served by zip codes with the first three (3) digits 465 and 466.
- (3) The geographic service area served by zip codes with the first three (3) digits 467 and 468.
- (4) The geographic service area served by zip codes with the first three (3) digits 469 and 479.
- (5) The geographic service area served by zip codes with the first three (3) digits 460, 461 (except 46107), and 473.
- (6) The geographic service area served by the 46107 zip code and



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zip codes with the first three (3) digits 462.

(7) The geographic service area served by zip codes with the first three (3) digits 470, 471, 472, 474, and 478.

(8) The geographic service area served by zip codes with the first three (3) digits 475, 476, and 477.

(i) "Medical service provider" refers to a person or an entity that provides medical services, treatment, or supplies to an employee under IC 22-3-2 through IC 22-3-6.

(j) "Pecuniary liability" means the responsibility of an employer or the employer's insurance carrier for the payment of the charges for each specific service or product for human medical treatment provided under IC 22-3-2 through IC 22-3-6 in a defined community, equal to or less than the charges made by medical service providers at the eightieth percentile in the same community for like services or products.

SECTION 3. IC 22-3-7-9, AS AMENDED BY P.L.258-1997(ss), SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE APRIL 1, 1998]: Sec. 9. (a) As used in this chapter, "employer" includes the state and any political subdivision, any municipal corporation within the state, any individual or the legal representative of a deceased individual, firm, association, limited liability company, or corporation or the receiver or trustee of the same, using the services of another for pay. If the employer is insured, the term includes his insurer so far as applicable. However, the inclusion of an employer's insurer within this definition does not allow an employer's insurer to avoid payment for services rendered to an employee with the approval of the employer.

(b) As used in this chapter, "employee" means every person, including a minor, in the service of another, under any contract of hire or apprenticeship written or implied, except one whose employment is both casual and not in the usual course of the trade, business, occupation, or profession of the employer. For purposes of this chapter the following apply:

(1) Any reference to an employee who has suffered disablement, when the employee is dead, also includes his legal representative, dependents, and other persons to whom compensation may be payable.

(2) An owner of a sole proprietorship may elect to include himself as an employee under this chapter if he is actually engaged in the proprietorship business. If the owner makes this election, he must serve upon his insurance carrier and upon the board written notice of the election. No owner of a sole proprietorship may be considered an employee under this chapter unless the notice has

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been received. ~~If the owner of a sole proprietorship is an independent contractor in the construction trades and does not make the election provided under this subdivision, the owner must obtain an affidavit of exemption under IC 22-3-7-34.5.~~

(3) A partner in a partnership may elect to include himself as an employee under this chapter if he is actually engaged in the partnership business. If a partner makes this election, he must serve upon his insurance carrier and upon the board written notice of the election. No partner may be considered an employee under this chapter until the notice has been received. ~~If a partner in a partnership is an independent contractor in the construction trades and does not make the election provided under this subdivision, the partner must obtain an affidavit of exemption under IC 22-3-7-34.5.~~

(4) Real estate professionals are not employees under this chapter if:

- (A) they are licensed real estate agents;
- (B) substantially all their remuneration is directly related to sales volume and not the number of hours worked; and
- (C) they have written agreements with real estate brokers stating that they are not to be treated as employees for tax purposes.

~~(5) A person is an independent contractor in the construction trades and not an employee under this chapter if the person is an independent contractor under the guidelines of the United States Internal Revenue Service.~~

~~(6)~~ (5) An owner-operator that provides a motor vehicle and the services of a driver under a written contract that is subject to IC 8-2.1-24-23, 45 IAC 16-1-13, or 49 CFR 1057, to a motor carrier is not an employee of the motor carrier for purposes of this chapter. The owner-operator may elect to be covered and have the owner-operator's drivers covered under a worker's compensation insurance policy or authorized self-insurance that insures the motor carrier if the owner-operator pays the premiums as requested by the motor carrier. An election by an owner-operator under this subdivision does not terminate the independent contractor status of the owner-operator for any purpose other than the purpose of this subdivision.

(c) As used in this chapter, "minor" means an individual who has not reached seventeen (17) years of age. A minor employee shall be considered as being of full age for all purposes of this chapter. However, if the employee is a minor who, at the time of the last



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exposure, is employed, required, suffered, or permitted to work in violation of the child labor laws of this state, the amount of compensation and death benefits, as provided in this chapter, shall be double the amount which would otherwise be recoverable. The insurance carrier shall be liable on its policy for one-half (1/2) of the compensation or benefits that may be payable on account of the disability or death of the minor, and the employer shall be wholly liable for the other one-half (1/2) of the compensation or benefits. If the employee is a minor who is not less than sixteen (16) years of age and who has not reached seventeen (17) years of age, and who at the time of the last exposure is employed, suffered, or permitted to work at any occupation which is not prohibited by law, the provisions of this subsection prescribing double the amount otherwise recoverable do not apply. The rights and remedies granted to a minor under this chapter on account of disease shall exclude all rights and remedies of the minor, his parents, his personal representatives, dependents, or next of kin at common law, statutory or otherwise, on account of any disease.

(d) This chapter does not apply to casual laborers as defined in subsection (b), nor to farm or agricultural employees, nor to household employees, nor to railroad employees engaged in train service as engineers, firemen, conductors, brakemen, flagmen, baggagemen, or foremen in charge of yard engines and helpers assigned thereto, nor to their employers with respect to these employees. Also, this chapter does not apply to employees or their employers with respect to employments in which the laws of the United States provide for compensation or liability for injury to the health, disability, or death by reason of diseases suffered by these employees.

(e) As used in this chapter, "disablement" means the event of becoming disabled from earning full wages at the work in which the employee was engaged when last exposed to the hazards of the occupational disease by the employer from whom he claims compensation or equal wages in other suitable employment, and "disability" means the state of being so incapacitated.

(f) For the purposes of this chapter, no compensation shall be payable for or on account of any occupational diseases unless disablement, as defined in subsection (e), occurs within two (2) years after the last day of the last exposure to the hazards of the disease except for the following:

- (1) In all cases of occupational diseases caused by the inhalation of silica dust or coal dust, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within three (3) years after the last day of the last exposure to the hazards

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of the disease.

(2) In all cases of occupational disease caused by the exposure to radiation, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within two (2) years from the date on which the employee had knowledge of the nature of his occupational disease or, by exercise of reasonable diligence, should have known of the existence of such disease and its causal relationship to his employment.

(3) In all cases of occupational diseases caused by the inhalation of asbestos dust, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within three (3) years after the last day of the last exposure to the hazards of the disease if the last day of the last exposure was before July 1, 1985.

(4) In all cases of occupational disease caused by the inhalation of asbestos dust in which the last date of the last exposure occurs on or after July 1, 1985, and before July 1, 1988, no compensation shall be payable unless disablement, as defined in subsection (e), occurs within twenty (20) years after the last day of the last exposure.

(5) In all cases of occupational disease caused by the inhalation of asbestos dust in which the last date of the last exposure occurs on or after July 1, 1988, no compensation shall be payable unless disablement (as defined in subsection (e)) occurs within thirty-five (35) years after the last day of the last exposure.

(g) For the purposes of this chapter, no compensation shall be payable for or on account of death resulting from any occupational disease unless death occurs within two (2) years after the date of disablement. However, this subsection does not bar compensation for death:

(1) where death occurs during the pendency of a claim filed by an employee within two (2) years after the date of disablement and which claim has not resulted in a decision or has resulted in a decision which is in process of review or appeal; or

(2) where, by agreement filed or decision rendered, a compensable period of disability has been fixed and death occurs within two (2) years after the end of such fixed period, but in no event later than three hundred (300) weeks after the date of disablement.

(h) As used in this chapter, "billing review service" refers to a person or an entity that reviews a medical service provider's bills or statements for the purpose of determining pecuniary liability. The term includes an employer's worker's compensation insurance carrier if the

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insurance carrier performs such a review.

(i) As used in this chapter, "billing review standard" means the data used by a billing review service to determine pecuniary liability.

(j) As used in this chapter, "community" means a geographic service area based on zip code districts defined by the United States Postal Service according to the following groupings:

(1) The geographic service area served by zip codes with the first three (3) digits 463 and 464.

(2) The geographic service area served by zip codes with the first three (3) digits 465 and 466.

(3) The geographic service area served by zip codes with the first three (3) digits 467 and 468.

(4) The geographic service area served by zip codes with the first three (3) digits 469 and 479.

(5) The geographic service area served by zip codes with the first three (3) digits 460, 461 (except 46107), and 473.

(6) The geographic service area served by the 46107 zip code and zip codes with the first three (3) digits 462.

(7) The geographic service area served by zip codes with the first three (3) digits 470, 471, 472, 474, and 478.

(8) The geographic service area served by zip codes with the first three (3) digits 475, 476, and 477.

(k) As used in this chapter, "medical service provider" refers to a person or an entity that provides medical services, treatment, or supplies to an employee under this chapter.

(l) As used in this chapter, "pecuniary liability" means the responsibility of an employer or the employer's insurance carrier for the payment of the charges for each specific service or product for human medical treatment provided under this chapter in a defined community, equal to or less than the charges made by medical service providers at the eightieth percentile in the same community for like services or products.

SECTION 4. IC 27-1-3-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 20. (a) The commissioner may issue a certificate of authority to any company when it shall have complied with the requirements of the laws of this state so as to entitle it to do business herein. The certificate shall be issued under the seal of the department authorizing and empowering the company to make the kind or kinds of insurance specified in the certificate. No certificate of authority shall be issued until the commissioner has found that:

(~~a~~) (1) the company has submitted a sound plan of operation; and

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(b) (2) the general character and experience of the incorporators, directors, and proposed officers is such as to assure reasonable promise of a successful operation, based on the fact that such persons are of known good character and that there is no good reason to believe that they are affiliated, directly or indirectly, through ownership, control, management, reinsurance transactions, or other insurance or business relations with any person or persons known to have been involved in the improper manipulation of assets, accounts, or reinsurance.

No certificate of authority shall be denied, however, under subdivision (a) (1) or (b) (2) until notice, hearing, and right of appeal has been given as provided in IC 4-21.5.

(b) Every company possessing a certificate of authority shall notify the commissioner of the election or appointment of every new director or principal officer, within thirty (30) days thereafter. If in the commissioner's opinion such a new principal officer or director does not meet the standards set forth in this section, he shall request that the company effect the removal of such persons from office. If such removal is not accomplished as promptly as under the circumstances and in the opinion of the commissioner is possible, then upon notice to both the company and such principal officer or director and after notice, hearing, and right of appeal pursuant to IC 4-21.5, and after a finding that such person is incompetent or untrustworthy or of known bad character, the commissioner may order the removal of such person from office and may, unless such removal is promptly accomplished, suspend the company's certificate of authority until there is compliance with such order.

(c) No company shall transact any business of insurance **under IC 22 or IC 27, or hold itself out as a company in the business of insurance in this state Indiana** until it shall have received a certificate of authority as prescribed in this section. ~~and~~

(d) No company shall make, **issue, deliver, sell, or advertise** any kind or kinds of insurance not specified in ~~such~~ **the company's** certificate of authority.

SECTION 5. IC 27-7-2-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 7. Stock companies and nonstock companies shall be represented in the bureau management and on all committees. **Participation in the bureau management and its committees is restricted to those companies maintaining at least five million dollars (\$5,000,000) in worker's compensation writings in Indiana.** In case of a tie vote in any committee or governing body of said bureau, the insurance commissioner shall decide the matter.

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SECTION 6. IC 27-7-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 8. The bureau shall admit to membership every company **holding a certificate of authority and lawfully engaged in whole or in part in writing worker's compensation insurance in Indiana.**"

Page 1, between lines 8 and 9 begin a new paragraph and insert:

**"Sec. 2. (a) The requirements of this section constitute the "members' surplus protection principle" for purposes of this article.**

**(b) For purposes of this article:**

- (1) a mutual insurance company (MIC) is owned by the policyholders of the mutual insurance company; and**
- (2) a mutual insurance holding company (MHC) organized under this article is owned by the members of the mutual insurance holding company.**

**(c) The members' surplus must be maintained for the exclusive benefit of the members of the MHC.**

**(d) Except as provided by subsection (e), after the effective date of a reorganization under this article:**

- (1) a dividend authorized for or paid to the shareholders of any subsidiary of the MHC;**
  - (2) an employee benefit plan provision; and**
  - (3) other actions of a MHC or its subsidiaries;**
- may not be made, granted, enforced, or taken if the dividend, benefit, payment, or other action reduces the members' surplus.**

**(e) Only the following may decrease the members' surplus:**

- (1) Dividends paid to eligible persons who were members of the MIC on the effective date of the reorganization.**
- (2) Supervision of a subsidiary of the MHC under IC 27-9.**
- (3) A reduction in the market value of a security or other asset of the members' surplus.**

**(f) The commissioner may not take or permit an action under this title that conflicts with the members' surplus protection principle of this section."**

Page 1, line 9, delete "2" and insert "3".

Page 1, line 11, delete "3" and insert "4".

Page 2, line 6, delete "A stock" and insert "An employee".

Page 2, delete lines 12 through 16.

Page 2, line 17, delete "4" and insert "5".

Page 2, line 17, after "means" insert "with respect to a plan,".

Page 2, line 18, delete "of an applicant".

Page 2, line 18, after "plan" insert "of an applicant".



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- Page 2, line 19, delete "5" and insert "6".
- Page 2, line 24, delete "6" and insert "7".
- Page 2, line 24, after "means" insert **"with respect to a plan,"**.
- Page 2, line 24, delete "company" and insert **"MIC"**.
- Page 2, line 26, delete "7" and insert **"8"**.
- Page 2, line 29, before "business" insert **"a"**.
- Page 3, line 8, delete "a stock" and insert **"an employee"**.
- Page 3, line 9, delete "8" and insert **"9"**.
- Page 3, line 9, delete "refers to the board of directors of a mutual" and insert **"means:**
- (1) **the board of directors of a MHC, a MIC, an intermediate stock holding company, or a stock insurance company subsidiary; or**
  - (2) **another board or committee that is responsible, under the articles or bylaws of the company, for decisions involving the structure or management of a MHC, MIC, intermediate stock holding company, or stock insurance company subsidiary."**
- Page 3, delete lines 10 through 11.
- Page 3, line 12, delete "9" and insert **"10"**.
- Page 3, line 14, delete "10" and insert **"11"**.
- Page 3, line 18, delete "mutual insurance holding company" and insert **"MHC"**.
- Page 3, delete lines 21 through 42, begin a new paragraph and insert:
- "Sec. 12. "Effective date" means, with respect to a plan, the date on which the plan becomes effective under this article.**
- Sec. 13. "Eligible member" means, with respect to a plan, a person who is a member of a MIC on the adoption date of a plan.**
- Sec. 14. "Employee benefit plan" means an employee benefit plan established by a MHC, or by one (1) or more of the subsidiaries of a MHC, for the benefit of its:**
- (1) **employees; or**
  - (2) **sales agents.**
- Sec. 15. "Intermediate stock holding company" means a company other than a stock insurance company subsidiary and its subsidiaries that:**
- (1) **is owned entirely or in part, directly or indirectly, by a MHC; and**
  - (2) **directly or indirectly owns all or part of the capital stock of a stock insurance company subsidiary.**
- Sec. 16. "Internal Revenue Code" refers to the Internal Revenue Code of 1986, as amended.**



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**Sec. 17. "Member"** means a person that, according to the:

- (1) records; and
- (2) articles of incorporation and bylaws;

of a mutual company, is a member of the mutual company.

**Sec. 18. "Members' surplus"** means the surplus and any built-in gains of a mutual insurance company that exist on the effective date of a reorganization under this article.

**Sec. 19. "Mutual insurance company" or "MIC"** means a domestic mutual insurer that is:

- (1) submitting; or
- (2) subject to;

a plan of reorganization under this article.

**Sec. 20. "Mutual insurance holding company" or "MHC"** means a mutual insurance holding company established under IC 27-14-2.

**Sec. 21. "Outside director"** means an individual who:

- (1) is a member of a board of:
  - (A) a MHC;
  - (B) an intermediate stock holding company; or
  - (C) a stock insurance company subsidiary;
- (2) is not a member, officer, employee, or consultant of:
  - (A) the MHC, intermediate stock holding company, or stock insurance company subsidiary on whose board the individual serves; or
  - (B) a parent company or subsidiary of the MHC, intermediate stock holding company, or stock insurance company subsidiary on whose board the individual serves;
- (3) does not directly or indirectly own, control, or hold any of the voting capital stock or other dividend-paying instrument of:
  - (A) the MHC, intermediate stock holding company, or stock insurance company subsidiary on whose board the individual serves; or
  - (B) a parent company or subsidiary of the MHC, intermediate stock holding company, or stock insurance company subsidiary on whose board the individual serves;
- (4) is not an officer, member of the board of directors, employee, or member of the immediate family of a person who directly or indirectly owns, controls, or holds any of the voting capital stock or other dividend-paying instrument of:
  - (A) the MHC, intermediate stock holding company, or stock insurance company subsidiary on whose board the



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individual serves; or

(B) a parent company or subsidiary of the MHC, intermediate stock holding company, or stock insurance company subsidiary on whose board the individual serves; and

(5) does not own a policy issued by the MIC or stock insurance company subsidiary of the MHC.

**Sec. 22. "Parent company"** means either of the following:

(1) As to an intermediate stock holding company, the mutual holding company of which the intermediate stock holding company is a subsidiary.

(2) As to a stock insurance company subsidiary, the mutual holding company or intermediate stock holding company of which the stock insurance company subsidiary is a subsidiary.

**Sec. 23. "Participating policy"** means an insurance policy providing for the distribution of dividends.

**Sec. 24. "Person"** means any of the following:

- (1) An individual.
- (2) An aggregation of individuals acting in concert.
- (3) A trust.
- (4) An association.
- (5) A partnership.
- (6) A limited liability company.
- (7) A corporation.

**Sec. 25. "Plan"** means a plan:

- (1) of reorganization; or
- (2) to issue stock.

**Sec. 26. "Plan of reorganization"** means a plan adopted under IC 27-14-2.

**Sec. 27. "Plan to issue stock"** means a plan to issue shares of voting capital stock adopted under IC 27-14-4.

**Sec. 28. "Policy"** means a contract providing one (1) or more of the kinds of insurance described in IC 27-1-5-1.

**Sec. 29. "Stock insurance company subsidiary"** means a stock insurance company that is owned entirely or in part by a MHC or an intermediate stock holding company.

**Sec. 30. "Subsidiary"** means, with respect to a particular person, an affiliate of the person that is controlled by the person, either:

- (1) directly; or
- (2) indirectly, through one (1) or more intermediaries.

**Sec. 31. "Voting capital stock"** means capital stock whose holder

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has the right to vote in the election of directors.

**Chapter 2. Mutual Insurance Company Reorganization**

**Sec. 1. (a)** A mutual insurance company (MIC) may reorganize under this chapter as a mutual insurance holding company (MHC) with one (1) or more subsidiaries after the following have occurred:

- (1) The favorable vote of its board of directors to reorganize.
- (2) The filing of an application with the commissioner.
- (3) A notice of a public hearing is made to its members and the public.
- (4) At least one (1) public hearing conducted by the commissioner.
- (5) The approval of the commissioner of the plan.
- (6) A favorable vote of the membership of the MIC.
- (7) The issuance of an order of completion by the commissioner.

**(b)** The subsidiaries of a MIC that reorganizes as a MHC under this chapter:

- (1) must include at least one (1) stock insurance company subsidiary; and
- (2) may include one (1) or more intermediate stock holding companies.

**Sec. 2.** The reorganization of a MIC as a MHC under this chapter may be accomplished by the following means as approved by the commissioner:

- (1) The establishment of at least one (1) company.
- (2) The amendment or restatement of the articles and bylaws of any company.
- (3) The transfer or acquisition of any or all of the assets and liabilities of any company.
- (4) The merger of two (2) or more mutual insurance companies.
- (5) The merger of two (2) or more intermediate stock holding companies as part of the merger of two (2) or more MHCs.
- (6) The merger of two (2) or more stock insurance companies.

**Sec. 3. (a)** A plan of reorganization under this chapter must be adopted by:

- (1) the board of directors of the MIC; or
- (2) in the case of the formation of any intermediate stock insurance holding company that is not concurrent with the formation of the MHC, the board of directors of the MHC.

**(b)** For a plan of reorganization to be adopted by the board of



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directors of a MIC, at least seventy-five percent (75%) of the members of the board of directors must vote in favor of the adoption.

**Sec. 4.** Within ninety (90) days after the adoption of a plan of reorganization and before a vote on the plan by the members, the company adopting the plan must file with the commissioner an application containing the following:

- (1) A plan of reorganization.
- (2) The form of the notices to be sent to members under this chapter, including a notice of the public hearing and a notice informing members of their right to vote on the plan.
- (3) A copy of the:
  - (A) proposed articles of incorporation; and
  - (B) bylaws;

of each company to be formed under the plan in compliance with the requirements of IC 27-1-6.

- (4) If it is necessary to amend the current articles of incorporation or bylaws of any company that is affected by the plan, a copy of:

- (A) the proposed articles of amendment; and
- (B) amended bylaws;

of the company that must comply with the requirements of IC 27-1-8.

- (5) A list of the officers and directors of each company that is created or affected by the plan of reorganization.

**Sec. 5.** A plan of reorganization filed with the commissioner under this chapter must meet the following requirements:

- (1) It must describe all significant terms of the proposed reorganization.
- (2) It must describe in narrative form any plan to issue stock that may be proposed in connection with the plan of reorganization.
- (3) It must describe the:
  - (A) reasons for and purposes of the proposed reorganization; and
  - (B) manner in which the reorganization is expected to benefit and serve the best interests of the members.

The plan must include an analysis of the risks and benefits of the proposed reorganization, and a comparison of those risks and benefits with the risks and benefits of alternatives (including demutualization of the MIC) to the reorganization.

- (4) It must provide that, after the effective date, the MHC



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must at all times have the direct or indirect power to cast at least sixty percent (60%) of the votes for the election of directors of:

- (A) all stock insurance subsidiaries; and
  - (B) an intermediate stock holding company;
- of the MHC.

(5) It must provide that:

(A) the:

- (i) membership interests of the members of the MIC remain membership interests in the MHC; and
- (ii) members' surplus protection principle will govern the actions of the MHC and its subsidiaries;

under the articles of incorporation and bylaws of the MHC;

(B) the membership interest of a member of the MHC may not be transferred, assigned, pledged, or alienated in any manner except in connection with a transfer, assignment, pledge, or alienation of the policy from which the membership interest is derived; and

(C) the membership interest of a member of the MHC will automatically terminate upon the lapse or other termination of the policy from which the membership interest is derived.

(6) It must describe how the plan of reorganization is to be carried out, including a description of a contemplated transfer, acquisition, or assumption of assets, rights, franchises, interests, debts, liabilities, or other obligations of the applicant and any other company affected by the plan of reorganization.

(7) It must describe the:

- (A) establishment of companies;
- (B) amendment or restatement of the articles and bylaws of a company; and
- (C) merger of companies;

that will take place under the plan of reorganization.

(8) It must provide a list of:

- (A) all individuals who are or have been selected to become directors or officers of the MHC and its subsidiaries; and
- (B) other individuals who perform or will perform functions appropriate to the position of director or officer.

(9) The list prepared under subdivision (8) must include, for each individual on the list:

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- (A) the individual's principal occupation;
  - (B) all offices and positions the individual has held in the preceding five (5) years;
  - (C) any crime of which the individual has been convicted (other than traffic violations) in the preceding ten (10) years;
  - (D) information concerning any personal bankruptcy of the individual or the individual's spouse during the previous seven (7) years;
  - (E) information concerning the bankruptcy of any corporation of which the individual was an officer or director during the previous seven (7) years;
  - (F) information concerning any state or federal securities law allegations and violations against the individual;
  - (G) information concerning the revocation of any state or federal license issued to the individual; and
  - (H) information as to whether the individual has ever been refused a performance or other bond.
- (10) With respect to a policy that goes into force after the effective date of the reorganization, the policy must provide that:
- (A) the owner of the policy; or
  - (B) another person or persons specified in:
    - (i) the policy; or
    - (ii) the MHC's articles of incorporation or bylaws;
 becomes a member of the MHC.
- (11) It must provide that, with regard to a policy in force on the effective date of the plan of reorganization:
- (A) the policy continues to remain in force under the policy's terms;
  - (B) the policyholder continues to have the right to receive dividends as provided for in the policy;
  - (C) the policyholder's right to benefits, values, guarantees, and other policy obligations of the MIC continues after the effective date of the plan of reorganization; and
  - (D) the dividends paid on the policy after the effective date of the plan of reorganization increase in proportion to:
    - (i) increases in earned surplus available for the payment of dividends; and
    - (ii) any increase in dividends paid on policies issued after the effective date of the plan of reorganization.
- (12) It must describe the nature and content of the annual

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report and financial statement to be sent to each member following the reorganization.

(13) It must demonstrate that, in the event of proceedings under IC 27-9 involving a stock insurance company subsidiary of the MHC that resulted from the reorganization of a domestic MIC, the assets of the MHC are available to satisfy the policyholder obligations of the stock insurance company subsidiary.

(14) It must provide any additional information that the commissioner may request.

Sec. 6. (a) A plan of reorganization that is adopted by the board of directors of the applicant may be:

(1) amended by the board of directors of the applicant:

(A) in response to the comments or recommendations of the commissioner, or any other state or federal agency or entity, before any solicitation of proxies from the members to vote on the plan of reorganization; and

(B) otherwise, with the consent of the commissioner; or

(2) terminated by the board of directors of the applicant:

(A) before notice is sent to the members under section 8 of this chapter; and

(B) otherwise, with the consent of the commissioner.

(b) For a plan of reorganization to be:

(1) amended; or

(2) terminated;

by the board of directors of a MIC, at least seventy-five percent (75%) of the members of the board of directors must vote in favor of the amendment or termination.

Sec. 7. (a) The commissioner shall, as soon as practicable after receiving a plan, conduct a public hearing in Indianapolis at a place, date, and time specified by the commissioner to afford interested persons an opportunity to present information, views, arguments, or comments about the plan.

(b) At least thirty (30) days before a hearing held under this section, the commissioner shall publish notice of the hearing in a newspaper of general circulation in:

(1) the city of Indianapolis;

(2) the city in which the principal office of the applicant is located; and

(3) other cities or towns that the commissioner considers appropriate.

The commissioner may provide written notice of the hearing by

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other means and to other persons that the commissioner considers appropriate.

(c) The notice provided under this section must:

- (1) refer to the applicable statutory provisions;
- (2) state the date, time, and location of the hearing; and
- (3) include a brief statement of the subject of the hearing.

(d) At a public hearing under this section, an interested person may appear and:

- (1) file a written statement;
- (2) make an oral presentation;
- (3) pose questions to the officers and directors of the MIC; and
- (4) examine the evidence.

(e) At the discretion of the commissioner or the commissioner's appointee, testimony may be taken under oath or by affirmation at a public hearing under this article.

Sec. 8. The applicant shall, at least thirty (30) days before the public hearing required under this chapter, notify each member of the MIC of the public hearing. The notice must achieve a minimum score of forty (40) on the Flesch reading ease test or an equivalent score on a comparable test approved by the commissioner. The notice must include the following:

- (1) Reference to the applicable statutory provisions.
- (2) A statement of the date, time, and location of the hearing.
- (3) A brief statement of the subject of the hearing, including specific notice to the member that the member has an ownership interest in the MIC that may be affected by the reorganization.

Sec. 9. (a) The commissioner shall not approve a plan of reorganization submitted under this article unless the applicant has shown, by a preponderance of the evidence, that the plan of reorganization:

- (1) complies with the law;
- (2) includes the disclosures and notices required under this article;
- (3) is fair to the members of the MIC; and
- (4) complies with the members' surplus protection principle.

Sec. 10. Not more than one hundred eighty (180) days after the commissioner accepts the application relating to the plan, the commissioner shall approve or disapprove a plan of reorganization. The commissioner's approval of the plan must be conditioned upon:



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- (1) the approval of the plan by the members under this chapter; and
- (2) the completion order requirements of this chapter.

**Sec. 11.** The commissioner shall immediately notify the applicant upon reaching a decision on a plan of reorganization.

**Sec. 12. (a)** A plan of reorganization of a MIC must be submitted for approval by the members of the MIC after approval of the application by the commissioner under section 10 of this chapter. A vote by the members to approve the plan must be made at a special or annual meeting held under IC 27-1-7-7 and this chapter.

(b) A member must be sent notice of the meeting at which a plan of reorganization will be submitted for approval by members. The notice must:

- (1) be mailed at least thirty (30) days before the meeting;
- (2) refer to the applicable statutory provisions;
- (3) state the date, time, and location of the meeting;
- (4) include a brief statement of the subject of the meeting; and
- (5) describe the member's right to appear and participate in the meeting.

(c) The notice sent under this section must achieve a minimum score of forty (40) on the Flesch reading ease test or an equivalent score on a comparable test approved by the commissioner.

**Sec. 13.** Before the special or annual meeting at which the members of a MIC vote on a plan of reorganization, the MIC shall provide the members with information about the plan sufficient for the members, in the reasonable determination of the commissioner, to make an informed decision about the plan of reorganization.

**Sec. 14.** Notwithstanding IC 27-1-7-9, with respect to a vote under section 12 of this chapter, a member:

- (1) may vote in person or by proxy if the proxy:
  - (A) includes reference to the applicable statutory provisions;
  - (B) states the date, time, and location of the meeting;
  - (C) contains a brief statement of the subject of the meeting, including specific notice to the member that the member has an ownership interest in the MIC that may be affected by the reorganization; and
  - (D) was solicited and obtained from the member after the MIC has submitted the plan of reorganization to the commissioner under this article; and
- (2) is entitled to cast only one (1) vote on the proposed plan of



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reorganization, regardless of the number of policies or the amount of insurance that the member has with the applicant or any affiliate of the applicant.

**Sec. 15.** For a plan of reorganization to be approved by members of a MIC, at least sixty-seven percent (67%) of the members must vote in favor of the plan.

**Sec. 16.** Within thirty (30) days after members have approved a plan of reorganization at a special or annual meeting of members under this chapter, an applicant must file with the commissioner the minutes of the meeting at which the plan of reorganization was approved.

**Sec. 17. (a)** Before the commissioner issues a permit for completion of organization under subsection (b):

- (1) the commissioner must have issued notice to the applicant that the commissioner has approved the plan of reorganization of the applicant under section 10 of this chapter;
- (2) a public hearing must have been conducted under this chapter;
- (3) the commissioner must have received the minutes of the meeting of the members at which the plan was approved reflecting that the plan of reorganization was on the agenda and the plan was approved, if the members voted to approve the plan at a special or annual meeting;
- (4) the articles of incorporation of the applicant must have been certified by the secretary of state and transmitted to the commissioner; and
- (5) the applicant must have posted a surety bond.

**(b)** After the events referred to in subsection (a), the commissioner shall issue:

- (1) a permit for completion of organization as provided in IC 27-1-6-11, in the case of a newly organized company; or
- (2) an amended certificate of authority as provided in IC 27-1-8-9, in the case of amended articles of incorporation.

**Sec. 18.** A plan of reorganization is effective when each company affected by the plan has filed:

- (1) its articles of incorporation or, if appropriate, its articles of amendment; and
- (2) the certificate of authority issued to the company by the commissioner under this chapter;

in the office of the county recorder of the county in which the principal office of the company is located.



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**Sec. 19.** The organization of any company under a plan of reorganization under this article must be conducted under IC 27-1-6 concerning the formation of domestic insurance companies, except as provided in section 17 of this chapter.

**Sec. 20.** The amendment of the articles of incorporation of a company under a plan of reorganization under this article must be conducted in compliance with IC 27-1-8, except as provided in section 17 of this chapter.

### **Chapter 3. Mutual Insurance Holding Companies**

**Sec. 1.** A MHC organized under this article:

- (1) must be licensed; and
- (2) is subject to rules that the commissioner may adopt under IC 4-22-2.

**Sec. 2.** The articles of incorporation of a MHC must contain the following, or provisions at least substantially equivalent to the following:

- (1) The name of the MHC, which must include the term "mutual" or the abbreviation "MHC".
- (2) A provision that no actions will be taken by the MHC that contravene the members' surplus protection principle established in this article.
- (3) A provision specifying that the MHC must, at all times, have the direct or indirect power to cast at least sixty percent (60%) of the votes for the election of directors of each stock insurance company subsidiary and any intermediate stock holding company.
- (4) A provision specifying that the MHC does not have the power to engage in the business of issuing insurance policies or contracts, except through a stock insurance company subsidiary.
- (5) A provision specifying that the MHC is not authorized to issue voting stock.
- (6) A provision setting forth the rights of members of the MHC in the equity of the MHC upon liquidation, including the rights of the members to the assets of the MHC.
- (7) A provision specifying that:
  - (A) a member of the MHC is not, as a member, personally liable for the acts, debts, liabilities, or obligations of the MHC; and
  - (B) no assessment may be imposed upon the members of the MHC by any person, including:
    - (i) the board of directors, members, or creditors of the

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MHC; and

(ii) any governmental office or official, including the commissioner;

because of any liability of any company or because of any act, debt, or liability of the MHC.

**Sec. 3. Members of a MHC have rights and obligations specified in:**

(1) this article; and

(2) the articles of incorporation and bylaws of the MHC.

**Sec. 4. On the effective date of the reorganization of a MIC as a MHC under this chapter, the MHC must have the direct or indirect power to cast one hundred percent (100%) of the votes for the election of directors of:**

(1) all stock insurance subsidiaries; and

(2) an intermediate stock holding company;

of the MIC.

(b) After the effective date of the reorganization of a MIC as a MHC under this chapter, the MHC must at all times have the direct or indirect power to cast at least sixty percent (60%) of the votes for the election of directors of:

(1) all stock insurance subsidiaries; and

(2) an intermediate stock holding company;

of the MIC.

**Sec. 5. Major transactions between:**

(1) a MHC and its subsidiaries; or

(2) subsidiaries of a MHC;

must be conducted in fairness to the members of the MHC, comply with the members' surplus protection principle, and be approved by the commissioner.

**Sec. 6. At least seventy-five percent (75%) of the following must be made up of outside directors:**

(1) The board of directors of a MHC.

(2) The board of directors of an intermediate stock holding company.

(3) The board of directors of a stock insurance company subsidiary.

(4) Each committee of the board of directors of:

(A) a MHC;

(B) an intermediate stock holding company; or

(C) a stock insurance company subsidiary.

**Sec. 7. (a) With the written approval of the commissioner, and subject to any conditions imposed by the commissioner, a MHC**

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may do any of the following:

- (1) Merge or consolidate with, or acquire the assets of a:
  - (A) MHC licensed under this article; or
  - (B) similar entity organized under the laws of any other state.
- (2) Acquire the stock of a stock insurance company as a subsidiary of the MHC or an intermediate stock insurance company of the MHC.
- (3) Organize an intermediate stock insurance company as a wholly owned subsidiary.
- (4) Organize a stock insurance company as a subsidiary.
- (5) Acquire the stock or assets of any non-insurance related corporation.

(b) Whenever a MHC acquires or plans to acquire more than fifty percent (50%) of the voting capital stock of a stock insurance company, the MHC must submit to the commissioner a description of any membership interests of policyholders of the stock insurance company.

Sec. 8. (a) Except as provided in subsection (b), a MHC:

- (1) has and may exercise all the rights and privileges of insurance companies formed under this title; and
- (2) is subject to all the requirements and regulations imposed upon insurance companies formed under this title.

(b) The exceptions referred to in subsection (a) are as follows:

- (1) A MHC does not have the right or privilege to write insurance (except through a stock insurance company subsidiary) and is not subject to any requirement or rule adopted under IC 4-22-2 relating to the writing of insurance.
- (2) A MHC is not subject to the surplus requirements in IC 27-1-6-15.
- (3) A MHC is not subject to any requirement or rule adopted under IC 4-22-2 that is imposed upon insurance companies formed under this title to the extent that the requirement or rule is in conflict with this article.

Sec. 9. Not later than April 1, a MHC shall file with the commissioner an annual statement containing the following information:

- (1) Audited financial statements, including:
  - (A) an income statement;
  - (B) a balance sheet;
  - (C) a statement of cash flows; and
  - (D) footnotes.



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(2) Complete information on the status of any condition imposed in connection with the approval of a plan of reorganization.

(3) An investment plan covering all assets of the MHC.

(4) A statement that the MHC and its affiliates have complied with section 13 of this chapter.

(5) A statement that describes any changes in the members' surplus and the reason for any such change in the members' surplus.

**Sec. 10. (a)** A MHC and the intermediate stock holding companies and stock insurance company subsidiaries that are owned entirely or in part, directly or indirectly, by the MHC constitute an insurance holding company system (as defined in IC 27-1-23-1).

(b) Notwithstanding subsection (a), a separate filing or approval is not required under IC 27-1-23 for a reorganization that:

(1) is included in a plan approved under this article; and

(2) does not involve the acquisition of control of an insurance company that is not affiliated with the applicant before the reorganization.

**Sec. 11.** A membership interest in a MHC does not constitute a security under Indiana law.

**Sec. 12. (a)** After the effective date of a plan of reorganization, the officers and directors of the MHC and its subsidiaries:

(1) owe the same fiduciary responsibilities to the members of the former MIC as the officers and directors of the MHC owed to the members before the effective date of the plan of reorganization;

(2) are subject to potential liability to the members of the former MIC to the same extent as the officers and directors of the MHC were to the members before the effective date of the plan of reorganization; and

(3) owe a fiduciary duty to the members of the MHC to follow the members' surplus protection principle.

(b) An action may not be brought to recover for the violation of fiduciary responsibilities under this article more than ten (10) years after the alleged violation of the fiduciary responsibility.

**Sec. 13. (a)** The following transactions involving a MHC or an affiliate of a MHC and any person may not be entered into unless the MHC has notified the commissioner in writing of its intention to enter into such transaction at least thirty (30) days before entering into the transaction, or such shorter period as the

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commissioner may permit, and the commissioner has not disapproved it within that period:

(1) Sales, purchases, exchanges, loans or extensions of credit, guarantees, or investments, provided those transactions are equal to or exceed three percent (3%) of the MHC's assets as of December 31 of the previous year.

(2) Loans or extensions of credit to any person who is not an affiliate of the MHC, where the MHC makes those loans or extensions of credit with the agreement or understanding that the proceeds of such transactions, in whole or in substantial part, are to be used to make loans or extensions of credit to, to purchase assets of, or to make investments in, any affiliate of the MHC making such loans or extensions of credit, provided those transactions are equal to or exceed three percent (3%) of the MHC's assets as of December 31 of the previous year.

(3) Reinsurance agreements or modifications to the agreements in which the amount of cash or invested assets transferred by the MHC equals or exceeds five percent (5%) of the MHC's surplus as regards policyholders, as of December 31 of the previous year, including those agreements that may require as consideration the transfer of assets from a MHC to a nonaffiliate, if an agreement or understanding exists between the MHC and nonaffiliate that any portion of the assets will be transferred to one (1) or more affiliates of the MHC.

(4) Management agreements, service contracts, and cost-sharing arrangements.

(5) Material transactions, specified by rule, that the commissioner determines may adversely affect the interests of the policyholders of affiliates of the MHC or that do not comply with the members' surplus protection principle.

This subsection does not authorize or permit any transactions other than those authorized under this article.

(b) A MHC and its affiliates may not enter into transactions that are part of a plan or series of like transactions if the purpose of those separate transactions is to avoid the statutory threshold amount and avoid the review required under this section.

#### Chapter 4. Issuance of Capital Stock

Sec. 1. A subsidiary organized under this title may issue shares of any class or type of capital stock permitted under this title, and an intermediate stock holding company may issue any type of stock

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permitted by the law under which it is organized. However, a stock insurance company subsidiary and an intermediate stock holding company may issue shares of voting capital stock to a person or entity other than:

- (1) the MHC of which it is a subsidiary; or
- (2) an intermediate stock holding company that is a subsidiary of the MHC referred to in subdivision (1);

only in compliance with this article.

**Sec. 2.** A plan to issue voting capital stock under this chapter must be adopted:

- (1) by the board of directors of the MHC; or
- (2) in the case of a plan to issue shares of voting capital stock that is not concurrent with the formation of the MHC, by the board of directors of the stock insurance company subsidiary or intermediate stock holding company proposing to issue the stock.

**Sec. 3.** A board of directors that adopts a plan to issue voting capital stock under this chapter may amend or withdraw that plan at any time before the effective date. However, after the commissioner has approved a plan to issue voting capital stock, the plan may not be amended unless the commissioner approves the amendment.

**Sec. 4.** Within ninety (90) days after the adoption of a plan to issue voting capital stock, the stock insurance company subsidiary or intermediate stock holding company adopting the plan must file with the commissioner an application that contains the following:

- (1) A proposed plan to issue voting capital stock.
- (2) The form of notice to be sent to members, informing members of their right to vote on the plan.
- (3) The form of the proxy statement to be used to solicit the votes of members. The form must describe the plan, and must achieve a minimum score of forty (40) on the Flesch reading ease test or an equivalent score on a comparable test approved by the commissioner.
- (4) The form of proxy to be solicited from members.
- (5) A copy of the proposed articles of incorporation and bylaws of each company to be formed under the plan in compliance with the requirements of IC 27-1-6.
- (6) If it is necessary to amend the current articles of incorporation or bylaws of a company that is affected by the plan, a copy of the proposed articles of amendment and amended bylaws of the company that must comply with the



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requirements of IC 27-1-8.

(7) A list of the officers and directors of a company that is affected by the plan.

(8) A description of:

(A) the voting capital stock intended to be offered by the applicant;

(B) all shareholder rights applicable to the voting capital stock intended to be offered by the applicant;

(C) the total number of shares authorized to be issued;

(D) the estimated number of shares the applicant intends to offer; and

(E) the intended date or range of dates for the offering.

(9) A list of:

(A) the name or names of any underwriter, syndicate member, or placement agent involved;

(B) if known by the applicant, the name or names of each person or group of persons who will control five percent (5%) or more of the total outstanding shares of the class of voting capital stock to be offered; and

(C) if any of the persons listed under clause (A) or (B) is a corporation or other business organization, the name of each member of its board of directors or equivalent management body.

(10) Copies of any filings with the United States Securities and Exchange Commission disclosing intended acquisitions of voting capital stock of the applicant.

(11) A description of all expenses expected to be incurred in connection with the offering.

(12) Any other information requested by the commissioner.

**Sec. 5. A plan to issue voting capital stock that is filed with the commissioner under this chapter must do the following:**

(1) Describe the reasons for and the purposes of the proposed issuance of shares of voting capital stock, and the manner in which the issuance is expected to benefit and serve the best interests of the members.

(2) Require that, after the effective date, the MHC must at all times have the direct or indirect power to cast at least sixty percent (60%) of the votes for the election of directors of each stock insurance company subsidiary and any intermediate stock holding company.

(3) Provide that the aggregate number of shares of voting capital stock owned by all of the directors and officers of the

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**MHC and its subsidiaries and associates may not exceed:**

**(A) within five (5) years after the initial issuance of voting capital stock, five percent (5%) of the total number of shares of voting capital stock to be issued; and**

**(B) more than five years after the initial issuance of voting capital stock, ten percent (10%) of the total number of shares of voting capital stock to be issued;**

**including any shares acquired by the officers and directors and their associates through discounted subscriptions, employee benefit plans, or stock options.**

**(4) Provide that the aggregate number of shares of voting capital stock purchased by:**

**(A) a single director or officer of the MHC or the subsidiaries of the MHC;**

**(B) associates of the person referred to in clause (A); and**

**(C) persons acting in concert with the person referred to in clause (A) or (B);**

**may not exceed five percent (5%) of the total number of shares to be issued under the plan, including any shares attributed to the officers and directors and their associates but held by one (1) or more tax-qualified employee benefit plans.**

**(5) Provide that the aggregate number of shares of all nonvoting equities and other nonvoting dividend paying instruments owned by all of the directors and officers of the MHC and its subsidiaries and associates may not exceed:**

**(A) within five (5) years after the initial issuance of voting capital stock, five percent (5%) of the total number of shares of nonvoting equities or other nonvoting dividend paying instruments to be issued; and**

**(B) more than five years after the initial issuance of voting capital stock, ten percent (10%) of the total number of shares of nonvoting equities or other dividend paying instruments to be issued.**

**(6) Provide that the aggregate number of shares of nonvoting equities or other nonvoting dividend paying instruments purchased by:**

**(A) a single director or officer of the MHC or the subsidiaries of the MHC;**

**(B) associates of the person referred to in clause (A); and**

**(C) persons acting in concert with the person referred to in clause (A) or (B);**



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may not exceed five percent (5%) of the total number of shares of nonvoting equities and other nonvoting dividend paying instruments to be issued under the plan, including any nonvoting equities or instruments attributed to the officers and directors and their associates but held by one (1) or more tax-qualified employee benefit plans.

(7) Provide that a director, officer, agent, or employee of the MHC or its subsidiaries, or an associate of a director, officer, agent, or employee, may not receive a fee, commission, or other valuable consideration for aiding, promoting, or assisting in the issuance of voting capital stock under this section, except for:

(A) compensation as provided for in the plan and approved by the commissioner;

(B) the person's usual, regular salary or compensation; and

(C) reasonable fees and compensation paid to an individual who is an attorney, accountant, or actuary for services performed in the individual's independent practice, even if the individual is also a director, officer, agent, or employee of the MHC or its subsidiaries.

(8) Provide that the aggregate number of shares of voting capital stock that may be purchased by an employee benefit plan may not exceed ten percent (10%) of the total number of shares to be issued under the plan.

(9) Describe:

(A) how the offering price of the voting capital stock to be sold is established; or

(B) the method by which the offering price will be determined.

**Sec. 6. (a) A plan to issue voting capital stock in a public offering (other than an offering solely in connection with a consolidation, merger, share exchange, or other business combination or an offering of stock under a stock option plan) must do the following:**

(1) Provide for each eligible member to receive, without payment, nontransferable subscription rights to purchase a portion of the voting capital stock of the applicant.

(2) Specify how subscription rights are to be allocated in whole shares of voting capital stock among the eligible members.

(3) Provide a fair and equitable means for allocating shares of voting capital stock in the event of an oversubscription to the

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shares by eligible members exercising subscription rights received under this chapter.

(4) Provide that any shares of voting capital stock not subscribed to by eligible members exercising subscription rights received under this chapter, or not subscribed to by an employee benefit plan or by directors, officers, and employees exercising subscription rights, will be sold:

- (A) in a public offering through an underwriter;
- (B) through private placement; or
- (C) by any other method approved by the commissioner that is fair and equitable to members.

(5) Require a person that exercises subscription rights to:

- (A) purchase at least the minimum number of shares of voting capital stock; or
- (B) if the person purchases less than the minimum number of shares, make a purchase of shares of voting capital stock in at least the minimum amount.

(6) Require that at least seventy-five percent (75%) of the members of the board of directors of the MHC must be persons who are not officers or employees of the MHC or any of its subsidiaries.

(7) Require that at least three (3) members of the board of directors of each:

- (A) intermediate stock holding company; and
- (B) stock insurance company subsidiary;

of the MHC must be persons who are not officers or employees of the MHC or any of its subsidiaries.

(8) Provide that the MHC will adopt articles of incorporation or articles of amendment that include a provision prohibiting the MHC from waiving any dividends from its subsidiaries except:

- (A) under conditions specified in the articles of incorporation; and
- (B) after approval of the waiver by the board of directors of the MHC and by the commissioner.

(9) Establish a pricing committee within the board of directors of the entity making the offering of voting capital stock, consisting exclusively of directors who are not officers or employees of the MHC or any of its subsidiaries, with the responsibility of evaluating and approving the price of voting capital stock sold in the offering.

(b) The minimum number of shares of voting capital stock

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established under subsection (a)(5)(A) may not be more than one hundred (100) shares.

(c) The minimum amount of a purchase of shares of voting capital stock established under subsection (a)(5)(B) may not be more than two thousand dollars (\$2,000).

**Sec. 7. A plan to issue voting capital stock may do the following:**

(1) Provide an allocation without payment of nontransferable subscription rights to purchase not more than ten percent (10%) of the total amount of voting capital stock issued under the plan to one (1) or more employee benefit plans that satisfy the requirements of Section 401(a), 403(b), 404(c), 408, 423, or 501(c)(9) of the Internal Revenue Code, limited to the extent that unsubscribed shares of voting capital stock remain after the members have exercised their subscription rights.

(2) Subject to the limitations of section 5 of this chapter, provide for:

(A) the establishment of; and

(B) the allocation of not more than four percent (4%) of the total amount of voting capital stock issued under the stock issuance plan to;

an employee benefit plan that provides benefits that are subject to taxation under Section 83 of the Internal Revenue Code or that complies with the requirements of Section 422 of the Internal Revenue Code, for the purpose of granting stock or stock options.

(3) Provide that the articles of incorporation of a subsidiary of the MHC may, subject to specified exceptions, prohibit a:

(A) person; or

(B) group of persons acting in concert;

acting directly or through associates, from acquiring more than a specified percentage of any class of the issued and outstanding shares of capital stock of the issuing subsidiary.

(4) Provide that the aggregate number of shares of voting capital stock purchased by an eligible member that exercises subscription rights may not exceed:

(A) a specified number of shares equal to at least one percent (1%) of the total number of shares to be issued under the plan; or

(B) a specified percentage of not less than one percent (1%) of the total number of shares to be issued under the plan.

(5) Provide that subscription rights need not be granted to an

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eligible member who resides in a foreign country or other jurisdiction for which the commissioner determines that all of the following apply:

(A) A small number of eligible members reside in the jurisdiction.

(B) The granting of subscription rights or the offer or sale of voting capital stock to eligible members in the jurisdiction would require the issuer or its officers or directors to:

(i) register, under the securities laws of the jurisdiction, as a broker, dealer, salesman, or agent; or

(ii) register, or otherwise qualify, the voting capital stock for sale in the jurisdiction.

(C) The registration, qualification, or filing in the judgment of the commissioner would be impracticable or unduly burdensome for reasons of cost or otherwise.

**Sec. 8.** Notwithstanding any provision of this article, a MHC or an affiliate of a MHC may not use any form of a stock option or other preference with respect to the sale or purchase of any voting capital stock or other equity instrument of the MHC or an affiliate of the MHC to compensate an officer or director of the MHC or an affiliate of the MHC.

**Chapter 5. Public Hearing, Commissioner Approval, and Effective Date of Plan to Issue Stock**

**Sec. 1.** Not more than:

(1) sixty (60) days after the acceptance of an application filed with respect to a plan to issue stock under this article; or

(2) a longer period after the application is filed, as determined by the commissioner upon a showing of good cause;

the commissioner may conduct a public hearing in Indianapolis at a place, date, and time specified by the commissioner to afford interested persons an opportunity to present information, views, arguments, or comments in regard to the plan.

**Sec. 2.** (a) At least thirty (30) days before a hearing held under this section, the commissioner shall publish notice of the hearing in a newspaper of general circulation in:

(1) the city of Indianapolis;

(2) the city in which the principal office of the applicant is located; and

(3) another city or cities that the commissioner considers appropriate;

and may provide written notice of the hearing by other means and



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to other persons that the commissioner considers appropriate.

(b) The notice provided under this section must:

- (1) refer to the applicable statutory provisions;
- (2) state the date, time, and location of the hearing; and
- (3) include a brief statement of the subject of the hearing.

**Sec. 3. At a public hearing on a plan to issue stock held under this chapter:**

- (1) a member or any other interested person may appear and:
  - (A) file a written statement; or
  - (B) make an oral presentation; and
- (2) at the discretion of the commissioner or the commissioner's appointee, testimony may be taken under oath or by affirmation.

**Sec. 4. In compliance with the later of:**

- (1) sixty (60) days after a public hearing held under this chapter; or
- (2) one hundred twenty (120) days after the commissioner accepts the application relating to the plan;

the commissioner shall approve or disapprove the plan to issue stock.

**Sec. 5. The commissioner shall approve a plan to issue stock submitted under this article unless the commissioner makes at least one (1) of the following findings with respect to the plan:**

- (1) Disapproval of the plan is necessary to prevent practices that will cause financial impairment to the applicant or its subsidiaries.
- (2) The financial or management resources of the applicant or its subsidiaries or affiliates warrant disapproval.
- (3) The plan does not comply with the provisions of this article.
- (4) The proposed plan is unfair to members.
- (5) The plan does not comply with the members' surplus protection principles of this article.

**Sec. 6. (a) The commissioner shall immediately notify the applicant upon reaching a decision on a plan submitted under this chapter.**

(b) If the commissioner disapproves a plan, the commissioner shall provide the applicant with a written statement detailing the reasons for the disapproval.

(c) A decision of the commissioner approving a plan to issue stock must specify the valuation of the stock approved by the commissioner.



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**Sec. 7.** The approval by the commissioner of a plan to issue stock expires one hundred eighty (180) days after the date of approval, except as otherwise provided by an order of the commissioner.

**Sec. 8.** The organization of a company under a plan under this article must be conducted in compliance with the provisions of IC 27-1-6 concerning the formation of domestic insurance companies, except as provided in this chapter.

**Sec. 9.** The amendment of the articles of incorporation of a company under a plan under this article must be conducted in compliance with IC 27-1-8, except as provided in this chapter.

#### **Chapter 6. Miscellaneous Provisions**

**Sec. 1.** (a) This article, while independent of any other law, is supplemental to IC 27-1-2 through IC 27-1-20.

(b) All provisions of IC 27-1-2 through IC 27-1-20 are fully and completely applicable to this article in the same manner as if the provisions of this article had been an original part of IC 27-1-2 through IC 27-1-20. If any conflict exists between this article and IC 27-1-2 through IC 27-1-20, this article is controlling.

**Sec. 2.** A civil action:

- (1) challenging the validity of; or
- (2) arising out of;

action that is taken or proposed to be taken under this article must commence not later than ninety (90) days after the approval by the commissioner of the plan under which or in respect of which the action is taken or proposed to be taken.

**Sec. 3.** The provisions of this article are severable in the manner provided in IC 1-1-1-8(b).

**Sec. 4.** (a) A person who is aggrieved by an agency action of the commissioner under this article may petition for judicial review of the action under IC 4-21.5-5.

(b) A person who is aggrieved by a failure of the commissioner to act or make a determination required by this article may bring an action for mandate in the circuit court of St. Joseph County to compel the commissioner to act or make the determination.

**Sec. 5.** A MHC and its subsidiaries and affiliates may not do any of the following:

- (1) Lend funds to any person to finance the purchase of stock in a stock offering by a MHC or any of its subsidiaries.
- (2) Pay commissions, special fees, or other special or extraordinary compensation to officers, directors, interested persons, or affiliates for arranging, promoting, aiding,



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assisting, or participating in the structure or placement of a stock offering by the MHC or any of its subsidiaries, except to the extent permitted under IC 27-14-4.

(3) Enter into an understanding or agreement transferring legal or beneficial ownership of stock to another person in avoidance of this article.

**Sec. 6.** A stock insurance subsidiary to which insurance policies, contracts, and other assets and obligations are transferred in connection with a plan of reorganization under this article has, with respect to the insurance policies, contracts, and other assets and obligations, all rights, liabilities, and authority of the MIC that is the subject of the plan of reorganization.

**Sec. 7.** If a proceeding is pending against a MIC that is the subject of a plan of reorganization under this article:

- (1) the proceeding may be continued after the effective date, as if the reorganization had not occurred; or
- (2) the stock insurance company subsidiary that succeeds to the MIC's business may be substituted in the proceeding for the MIC.

**Sec. 8.** A MHC may convert to a stock insurance holding company under IC 27-1-8-13 as though the MHC were a MIC.

**Sec. 9.** The commissioner shall, at the applicant's expense, hire attorneys, actuaries, accountants, investment bankers, and other experts as may be necessary to assist the commissioner in reviewing all matters under this article that are associated with a plan of reorganization or a plan to issue stock.

**SECTION 7.** [EFFECTIVE JULY 1, 1998] (a) IC 27-14, as added by this act, is intended to enable mutual insurance companies to seek additional capital more effectively to:

- (1) enhance their financial strength and flexibility; and
- (2) support long term growth through creative internal strategies, mergers, and acquisitions.

(b) IC 27-14, as added by this act, provides an alternative organizational structure to help strengthen the Indiana mutual insurance industry by permitting mutual insurance companies to:

- (1) reorganize into a mutual insurance holding company structure; and
- (2) raise capital through the sale of capital stock.

**SECTION 8.** THE FOLLOWING ARE REPEALED [EFFECTIVE APRIL 1, 1998]: IC 6-3-7-5; IC 22-3-2-14.5; IC 22-3-7-34.5.

**SECTION 9.** An emergency is declared for this act."

Delete pages 4 through 27.



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Renumber all SECTIONS consecutively.  
and when so amended that said bill do pass.

(Reference is to Senate Bill 345 as printed January 16, 1998.)

FRY, Chair

Committee Vote: yeas 10, nays 1.

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