



Reprinted  
February 17, 1999

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## HOUSE BILL No. 1432

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DIGEST OF HB 1432 (Updated February 16, 1999 4:54 pm - DI 100)

**Citations Affected:** IC 27-1; IC 27-15.

**Synopsis:** Demutualization of insurance companies. Replaces the current statutory mechanism under which a mutual insurance company may demutualize and become a stock insurance company. Specifies the contents of: (1) a plan of conversion that must be approved by the commissioner of insurance after a public hearing and a vote of members of the mutual insurance company; and (2) a simple plan of conversion that must be submitted to the commissioner and voted on by members of the mutual insurance company. Requires that the commissioner approve a simple plan of conversion. Protects the confidentiality of financial information and trade secrets that may be submitted to the commissioner under certain circumstances. Establishes procedures to be followed for allocating and distributing consideration to eligible members. Permits the use of a closed block to preserve dividends for policyholders. Unless otherwise provided by the  
(Continued next page)

**Effective:** Upon passage.

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**Fry, Smith M, Denbo, Ripley**

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January 12, 1999, read first time and referred to Committee on Insurance, Corporations and Small Business.  
February 1, 1999, amended, reported — Do Pass.  
February 16, 1999, read second time, amended, ordered engrossed.

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HB 1432—LS 7618/DI 47+



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Digest Continued

plan of conversion, establishes limits on the initial ownership and sale of the stock of the new company.

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HB 1432—LS 7618/DI 47+



Reprinted  
February 17, 1999

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

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## HOUSE BILL No. 1432

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

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

1 SECTION 1. IC 27-1-7-3 IS AMENDED TO READ AS  
2 FOLLOWS: Sec. 3. Each corporation shall maintain an office or place  
3 of business in this state, to be known as the "Principal Office." The  
4 post-office address of the principal office shall be stated in the original  
5 articles of incorporation at the time of incorporating. Thereafter, the  
6 location of the principal office, may be changed at any time or from  
7 time to time when authorized by the board of directors by:

8 (1) ~~Filing filing~~ with the department and secretary of state, on or  
9 before the day any change is to take effect, a certificate signed by the  
10 president or a vice-president and the secretary or an assistant secretary  
11 of the corporation, and verified under oath, stating the change to be  
12 made and reciting that such change is made pursuant to authorization  
13 by the board of directors; **and**

14 (2) **Notifying each policyholder of the address and telephone**  
15 **number of the new location.**

HB 1432—LS 7618/DI 47+



1 SECTION 2. IC 27-1-23-2 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) No person  
 3 other than the issuer shall commence a tender offer for or a request or  
 4 invitation for tenders of, or enter into any agreement to purchase or  
 5 exchange securities for, or otherwise seek to acquire, or acquire, in the  
 6 open market or otherwise, or solicit proxies relating to, any voting  
 7 security of a domestic insurer or of any corporation controlling a  
 8 domestic insurer if, after the consummation thereof, such person  
 9 would, directly or indirectly (or by conversion or by exercise of any  
 10 right to acquire), be in control of such insurer, and no person shall enter  
 11 into an agreement to acquire control of a domestic insurer or of any  
 12 corporation controlling a domestic insurer unless, at the time any such  
 13 offer, request, or invitation is commenced or any such agreement is  
 14 entered into, or any such solicitation is begun, or prior to the  
 15 acquisition of such securities if no offer or agreement is involved:

16 (1) each acquiring party has filed with the commissioner and has  
 17 sent to such insurer and any such controlling corporation a  
 18 statement containing the information required by this section;  
 19 (2) the offer, request, invitation, agreement, solicitation, or  
 20 acquisition has been approved by the commissioner; and  
 21 (3) two (2) business days have elapsed following the  
 22 commissioner's determination approving the offer, request,  
 23 invitation, agreement, solicitation, or acquisition;  
 24 all in the manner prescribed in this section.

25 (b) A statement to be filed with the commissioner under this section  
 26 shall be made under oath or affirmation and shall contain the following  
 27 information:

- 28 (1) The name and address of the acquiring party.  
 29 (2) If the acquiring party is an individual, his principal occupation  
 30 and all offices and positions held during the past five (5) years,  
 31 and any conviction of crimes other than minor traffic violations  
 32 during the past ten (10) years.  
 33 (3) If the acquiring party is not an individual, a report of the  
 34 nature of its business operations during the past five (5) years or  
 35 for such lesser period as the acquiring party and any predecessors  
 36 thereof shall have been in existence, including, but not limited to:  
 37 (A) information relating to the acquisition or disposition of  
 38 control by the acquiring party of any other person and any  
 39 subsequent material change in the financial condition,  
 40 management, organization, or operations of such other person;  
 41 (B) an informative description of the business intended to be  
 42 done by the acquiring party and its affiliates;



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- 1 (C) any plans or proposals for the conduct of the business or  
2 employment of the assets and surplus of the domestic insurer  
3 and any corporation controlling such insurer;  
4 (D) an informative description of any transaction in which the  
5 acquiring party received, employed, or used any affiliate's  
6 assets;  
7 (E) an informative description of any transaction or presently  
8 proposed transaction between the acquiring party and any of  
9 its affiliates in which either such acquiring party or such  
10 affiliate has a direct or indirect material interest; however, no  
11 information need be given as to any such transaction where the  
12 amount involved in the transaction or series of similar  
13 transactions, including all periodic payments or installments  
14 in the case of any lease or agreement providing for periodic  
15 payments or installments, does not or would not exceed one  
16 hundred thousand dollars (\$100,000); and  
17 (F) a list of all individuals who are or who have been selected  
18 to become directors or officers of the acquiring party, or who  
19 perform or will perform functions appropriate to such  
20 positions, such list to include for each such individual the  
21 information required by clause (2) of this subsection.
- 22 (4) The source, nature, and amount of the consideration to be used  
23 in effecting the acquisition of control, a description of any  
24 transaction wherein funds were or are to be obtained for any such  
25 purpose (including any pledge of the insurer's stock, or the stock  
26 of any of the insurer's subsidiaries or controlling affiliates), all  
27 documents evidencing, supporting, referring to, or relating to any  
28 such transaction and the identity of persons who are furnishing or  
29 who will furnish such consideration.
- 30 (5) Fully audited financial information as to the earnings and  
31 financial condition of the acquiring party for its preceding five (5)  
32 fiscal years (or for such lesser period as such acquiring party and  
33 any predecessors thereof shall have been in existence), and  
34 similar unaudited information as of a date not earlier than ninety  
35 (90) days prior to the filing of the statement.
- 36 (6) Any plans or proposals which the acquiring party may have to  
37 liquidate such domestic insurer or such controlling corporation,  
38 to sell its assets or merge or consolidate it with any person, or to  
39 make any other material change in its investment policy, business,  
40 corporate structure, or management.
- 41 (7) The number of shares of any security referred to in subsection  
42 (a) which the acquiring party proposes to acquire, the terms of the

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- 1 proposed offer, request, invitation, agreement, or acquisition  
2 referred to in subsection (a), and a statement as to the method by  
3 which the terms of the proposal were arrived at.
- 4 (8) The amount of each class of any security referred to in  
5 subsection (a) which is beneficially owned or concerning which  
6 there is a right to acquire beneficial ownership by the acquiring  
7 party.
- 8 (9) A full description of any contracts, arrangements, or  
9 understandings with respect to any security referred to in  
10 subsection (a) in which the acquiring party proposes to be or is  
11 involved, including but not limited to transfer of any of the  
12 securities, joint ventures, loan or option arrangements, puts or  
13 calls, guarantees of loans, guarantees against loss or guarantees  
14 of profits, division of losses or profits, or the giving or  
15 withholding of proxies. Such description shall identify the persons  
16 with whom such contracts, arrangements, or understandings have  
17 been or will be entered into.
- 18 (10) A description of the purchase of any security referred to in  
19 subsection (a) during the twelve (12) calendar months preceding  
20 the filing of the statement by the acquiring party, including the  
21 dates of purchase, names of the purchasers, and consideration  
22 paid or agreed to be paid therefor.
- 23 (11) A description of any recommendations to purchase any  
24 security referred to in subsection (a) made during the twelve (12)  
25 calendar months preceding the filing of the statement by the  
26 acquiring party, or by anyone, based upon interviews or at the  
27 suggestion of such acquiring party.
- 28 (12) Copies of the proposed forms of all tender offers for, requests  
29 or invitations for tenders of, exchange offers for, and agreements  
30 to acquire or exchange any securities referred to in subsection (a),  
31 and of the proposed form of additional soliciting material relating  
32 thereto.
- 33 (13) The terms of any agreement, contract, or understanding made  
34 or proposed to be made with any broker-dealer as to solicitation  
35 of securities referred to in subsection (a) for tender, and the  
36 amount of any fees, commissions, or other compensation paid or  
37 to be paid to broker-dealers with regard thereto.
- 38 (14) A full description of any existing or proposed contracts,  
39 arrangements, or understandings between the acquiring party and  
40 any present or former director, officer, or employee of the  
41 domestic insurer or of any corporation controlling such insurer.  
42 Such description shall identify the persons with whom such

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1 contracts, arrangements, or understandings have been or will be  
2 entered into.

3 (15) Copies of all studies, analyses, and reports which were  
4 prepared by or for the acquiring party or any affiliate of the  
5 acquiring party for the purpose of evaluating or analyzing the  
6 proposed acquisition of control with respect to market shares,  
7 competition, competitors, markets, and potential for growth or  
8 expansion into product or geographic markets.

9 (16) If the acquiring party or any affiliate of the acquiring party is  
10 an insurer:

11 (A) the amount of any premiums, deposits, or annuity  
12 considerations received by the insurer during each of the last  
13 five (5) fiscal years (calculated on an accrual basis) for each  
14 line of insurance business conducted in any section of this  
15 state, and copies of annual statements for each of the last five  
16 (5) fiscal years filed by any such insurer with the insurance  
17 regulatory authority of its domiciliary jurisdiction;

18 (B) a full and complete description of any direct or indirect  
19 reinsurance relationship between the acquiring party or any  
20 affiliate of the acquiring party and the domestic insurer or any  
21 affiliate of the domestic insurer, together with copies of any  
22 treaties or contracts relating to that relationship; and

23 (C) such additional information as the commissioner may by  
24 rule or order prescribe as necessary or appropriate to enable  
25 him to make the determination required by subsection (e)(2).

26 (17) Such additional information as the commissioner may by rule  
27 or order prescribe as necessary or appropriate for the protection  
28 of policyholders or in the public interest.

29 If any material change occurs in the facts set forth in a statement filed  
30 with the commissioner and sent to the insurer and any controlling  
31 corporation under this section, an amendment made under oath or  
32 affirmation setting forth the change, together with copies of all  
33 documents and other material relevant to the change, shall be filed with  
34 the commissioner and sent to the insurer and any controlling  
35 corporation within two (2) business days after any acquiring party  
36 learns of this change.

37 (c) If any acquiring party is a partnership, limited partnership,  
38 syndicate, or other group, the commissioner may require that the  
39 information called for by subdivisions (1) through (17) of subsection  
40 (b) shall be given with respect to each partner of such partnership or  
41 limited partnership, each member of such syndicate or group, and each  
42 person who controls such partner or member. If any such partner,

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1 member, person, or acquiring party is a corporation, the commissioner  
2 may require that the information called for by subdivisions (1) through  
3 (17) shall be given with respect to all individuals who are or have been  
4 selected to become directors or officers of any such corporation or who  
5 perform or will perform functions appropriate to these positions.

6 (d) If the proposed acquisition of control referred to in subsection  
7 (a) requires the filing of a registration statement under the federal  
8 Securities Act of 1933 (15 U.S.C. 77a-15 U.S.C. 77aa) or requires the  
9 disclosure of similar information under the federal Securities Exchange  
10 Act of 1934 (15 U.S.C. 78a-15 U.S.C. 78kk) or under a state law  
11 requiring similar registration or disclosure, an acquiring party may  
12 utilize such documents in furnishing the information called for by the  
13 statement.

14 (e) The commissioner shall hold a public hearing on the proposed  
15 acquisition of control referred to in subsection (a) and shall thereafter  
16 approve such acquisition of control only if he finds, by a preponderance  
17 of the evidence, that:

18 (1) the acquisition of control would not tend to affect adversely  
19 the contractual obligations of the domestic insurer or its ability  
20 and tendency to render service in the future to its policyholders  
21 and the public;

22 (2) the effect of the acquisition of control would not be  
23 substantially to lessen competition in any line of insurance  
24 business in any section of this state or tend to create a monopoly  
25 therein;

26 (3) the financial condition of any acquiring party is not such as  
27 might jeopardize the financial stability of the domestic insurer or  
28 of any corporation controlling such insurer, or prejudice the  
29 interest of its policyholders;

30 (4) the plans or proposals which any acquiring party has to  
31 liquidate the domestic insurer or any such controlling corporation,  
32 sell its assets or consolidate or merge it with any person, or to  
33 make any other material change in its investment policy, business,  
34 corporate structure, or management are fair and reasonable to  
35 policyholders of the domestic insurer and in the public interest;  
36 and

37 (5) the competence, experience, and integrity of those persons  
38 who would control the operation of the domestic insurer are such  
39 that the acquisition of control would not tend to affect adversely  
40 the general capacity or intention of the domestic insurer to  
41 transact the business of insurance in a safe and prudent manner.

42 (f) For the purposes of the commissioner's application of the

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1 competitive standard set forth in subsection (e)(2) to a proposed  
2 acquisition:

3 (1) the acquiring person must file a pre-acquisition notification  
4 that meets the requirements set forth in section 2.5(e) of this  
5 chapter;

6 (2) the commissioner shall apply the provisions of section 2.5(h)  
7 of this chapter; and

8 (3) the commissioner may not disapprove the acquisition based  
9 upon the application of subsection(e)(2) if the commissioner finds  
10 that either of the conditions set forth in section 2.5(i) of this  
11 chapter applies to the proposed acquisition.

12 (g) The public hearing referred to in subsection (e) shall be held  
13 within sixty (60) days after all statements required by subsection (a) are  
14 filed, or within such longer period after the statements are filed as the  
15 commissioner determines upon a showing of good cause therefor, in  
16 the city of Indianapolis at such place, date, and time as the  
17 commissioner shall specify. At least thirty (30) days written notice of  
18 the hearing shall be given by the commissioner to each acquiring party,  
19 the domestic insurer, any corporation controlling such insurer, and to  
20 other persons as the commissioner may designate. In the event that an  
21 amendment to any such statement is filed, the hearing shall be  
22 postponed for a further period not to exceed sixty (60) days after the  
23 filing of such amendment, or for such longer period after the  
24 amendment is filed as the commissioner determines upon a showing of  
25 good cause therefor.

26 (h) The commissioner shall give notice of the hearing by publication  
27 in a newspaper of general circulation in the city of Indianapolis, and in  
28 the city wherein is located the principal office of the domestic insurer,  
29 and in such other city or cities as he may deem appropriate. Any  
30 policyholder of the domestic insurer who makes a written request to the  
31 commissioner is entitled to a copy of all statements, amendments, or  
32 other material filed with the commissioner by any acquiring party.

33 (i) The commissioner may retain at the acquiring party's expense  
34 any attorneys, actuaries, accountants, and other experts not otherwise  
35 a part of the commissioner's staff as may be reasonably necessary to  
36 assist the commissioner in reviewing the proposed acquisition of  
37 control. All hearing expenses, including transcript costs, expenses of  
38 publication and of preparing and mailing material to policyholders,  
39 shall be borne equally by each acquiring party. As security for the  
40 payment of such expenses, each acquiring party shall file with the  
41 commissioner an acceptable bond or other deposit in an amount to be  
42 determined by the commissioner.



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1 (j) At such hearing, each acquiring party, the domestic insurer, any  
 2 corporation controlling such insurer, policyholders of the domestic  
 3 insurer, and any other person whose interests may be affected by the  
 4 proposed acquisition of control shall have the right to appear and  
 5 become party to the proceeding. Each such person shall have the right  
 6 to present evidence, examine and cross-examine witnesses, and offer  
 7 oral and written arguments and in connection therewith shall be  
 8 entitled to conduct discovery proceedings in the same manner as  
 9 provided in the Indiana Rules of Trial Procedure. The commissioner  
 10 may employ any sanction or power granted courts in the Indiana Rules  
 11 of Trial Procedure, excluding the power of contempt, to enforce his  
 12 discovery rulings or orders. The commissioner shall make a  
 13 determination within thirty (30) days after the conclusion of such  
 14 hearing and shall immediately upon making that determination notify  
 15 all persons who appeared and became parties to the proceeding of that  
 16 determination. To permit an aggrieved party to perfect an appeal under  
 17 IC 27-1-23-12, no offer, request, invitation, agreement, or acquisition  
 18 referred to in subsection (a) may be commenced, entered into, or  
 19 consummated until two (2) business days have elapsed following the  
 20 commissioner's determination approving an acquisition of control.

21 (k) Except as otherwise provided in this section, the hearing and the  
 22 determination made therein shall be subject to IC 4-21.5-3.

23 (l) The provisions of this section shall not apply to the following:

24 (1) Any merger, consolidation, or plan of exchange to be  
 25 consummated with the approval of the commissioner ~~pursuant to~~  
 26 **under** the laws of this state.

27 (2) Any transaction to be undertaken ~~pursuant to~~ **under** a  
 28 statutory procedure for the purchase of dissenting shareholder's  
 29 stock.

30 (3) Any transaction to be undertaken ~~pursuant to~~ **under** a  
 31 judicially approved reorganization.

32 (4) Any offer, request, invitation, agreement, solicitation, or  
 33 acquisition respecting any security of a domestic insurer or of any  
 34 corporation controlling such insurer if any acquiring party,  
 35 immediately prior to such offer, request, invitation, agreement,  
 36 solicitation, or acquisition being commenced, entered into, begun,  
 37 or consummated, beneficially owns more than fifty percent (50%)  
 38 of all the outstanding voting securities of such domestic insurer  
 39 or corporation controlling such insurer.

40 (5) Any solicitation of proxies respecting any security of a  
 41 domestic insurer or of any corporation controlling a domestic  
 42 insurer that is undertaken by the management or the board of

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1 directors of the issuer of the security for purposes other than  
 2 effecting, directly or indirectly, a transaction that would otherwise  
 3 be subject to the requirements of this section.

4 (6) Any offer, request, invitation, agreement, solicitation, or  
 5 acquisition respecting a security of a non-insurance corporation  
 6 controlling one (1) or more domestic insurers if all of the  
 7 following conditions are met:

8 (A) the offer, request, invitation, agreement, solicitation, or  
 9 acquisition has been approved by the insurance regulatory  
 10 authority of any state or territory of the United States of  
 11 America other than Indiana, and the insurance regulatory  
 12 authority of the state or territory has been accredited by the  
 13 National Association of Insurance Commissioners;

14 (B) the domestic insurer or insurers meet all of the following  
 15 conditions, determined in accordance with generally accepted  
 16 accounting principles:

17 (i) the investments in and advances to the domestic insurer  
 18 or insurers by the controlling non-insurance corporation and  
 19 its other subsidiaries equal less than ten percent (10%) of  
 20 the total assets of the controlling non-insurance corporation  
 21 and all of its subsidiaries consolidated as of the end of the  
 22 most recently completed fiscal year;

23 (ii) the proportionate share of the controlling non-insurance  
 24 corporation and its other subsidiaries in the total assets (after  
 25 intercompany eliminations) of the domestic insurer or  
 26 insurers equals less than ten percent (10%) of the total assets  
 27 of the controlling non-insurance corporation and all of its  
 28 subsidiaries consolidated as of the end of the most recently  
 29 completed fiscal year; and

30 (iii) the equity of the controlling non-insurance corporation  
 31 and its other subsidiaries in the income from continuing  
 32 operations before income taxes, extraordinary items, and the  
 33 cumulative effect of a change in accounting principle of the  
 34 domestic insurer or insurers is less than ten percent (10%)  
 35 of the income of that corporation and all of its subsidiaries  
 36 consolidated for the end of the most recently completed  
 37 fiscal year; and

38 (C) the commissioner has not determined that the application  
 39 of this section to the offer, request, invitation, agreement,  
 40 solicitation, or acquisition is necessary or appropriate for the  
 41 protection of policyholders of the domestic insurer or insurers.

42 **(7) Any acquisition of stock of a former mutual by a parent**



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1           **company, as those terms are defined in IC 27-15-1, that**  
 2           **occurs in connection with the conversion of a mutual**  
 3           **insurance company to a stock insurance company under**  
 4           **IC 27-15, provided that no person acquires control of the**  
 5           **parent company.**

6           (m) The courts of this state are hereby vested with jurisdiction over  
 7 every acquiring party not resident, domiciled, or authorized to do  
 8 business in this state, and over all actions involving each such  
 9 acquiring party arising out of violations of this section, and each such  
 10 acquiring party shall be deemed to have performed acts equivalent to  
 11 and constituting an appointment by the acquiring party of the  
 12 commissioner to be his true and lawful attorney upon whom may be  
 13 served all lawful process in any action, suit, or proceeding arising out  
 14 of violations of this section. Copies of all such lawful process shall be  
 15 served on the commissioner and transmitted by registered or certified  
 16 mail by the commissioner to such acquiring party at his last known  
 17 address.

18           SECTION 3. IC 27-15 IS ADDED TO THE INDIANA CODE AS  
 19 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON  
 20 PASSAGE]:

21           **ARTICLE 15. DEMUTUALIZATION OF MUTUAL**  
 22           **INSURANCE COMPANIES**

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

24           **Sec. 1. This article may be referred to as the Indiana**  
 25           **demutualization law.**

26           **Sec. 2. (a) Any domestic mutual insurance company that:**

27                   **(1) maintains its executive offices in Indiana; and**

28                   **(2) employs at least five hundred (500) persons or a**  
 29                   **substantial percentage of its workforce in Indiana;**

30           **may, by amendment to its articles of incorporation, convert to a**  
 31           **stock insurance company by means of a plan of conversion**  
 32           **described in IC 27-15-2-2 or a simple plan of conversion described**  
 33           **in IC 27-15-2-3 under this article and IC 27-1-8.**

34           **(b) The commissioner shall determine whether a mutual**  
 35           **insurance company meets the requirements of subsection (a)(2).**

36           **Sec. 3. The definitions set forth in this chapter and IC 27-1-2-3**  
 37           **apply throughout this article.**

38           **Sec. 4. "Closed block" means an allocation of assets for a**  
 39           **defined group of in force policies which, together with the**  
 40           **premiums of those policies and related investment earnings, are**  
 41           **expected to be sufficient to maintain the payments of guaranteed**  
 42           **benefits, certain expenses, and continuation of the current dividend**



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1 scale on the closed block, if experience does not change.

2 Sec. 5. "Company action level RBC" has the meaning set forth  
3 in IC 27-1-36-6.

4 Sec. 6. "Converting mutual" means a domestic mutual  
5 insurance company that has adopted a plan of conversion and an  
6 amendment to its articles of incorporation under this article that  
7 will, upon consummation, result in the domestic mutual insurance  
8 company converting into a domestic stock insurance company.

9 Sec. 7. "Eligible member" means a person who:

10 (1) is a member of the converting mutual on the date the  
11 converting mutual's board of directors adopts a resolution  
12 proposing a plan of conversion and an amendment to the  
13 articles of incorporation; and

14 (2) continues to be a member of the converting mutual on the  
15 effective date of the conversion.

16 Sec. 8. "Former mutual" means the domestic stock insurance  
17 company resulting from the conversion of a converting mutual to  
18 a stock insurance company under a plan of conversion and an  
19 amendment to its articles of incorporation under this article.

20 Sec. 9. "Member" means a person that, according to the:

21 (1) records;

22 (2) articles of incorporation; and

23 (3) bylaws;

24 of a converting mutual, is a member of the converting mutual.

25 Sec. 10. "Membership interests" means:

26 (1) the voting rights of members of a domestic mutual  
27 insurance company as provided by law and by the company's  
28 articles of incorporation and bylaws; and

29 (2) the rights of members of a domestic mutual insurance  
30 company to receive cash, stock, or other consideration in the  
31 event of a conversion to a stock insurance company under this  
32 article or a dissolution under IC 27-1-10, as provided by those  
33 laws and by the company's articles of incorporation and  
34 bylaws.

35 Sec. 11. "Parent company" means a corporation that, upon the  
36 effective date of a conversion, owns all of the stock of the former  
37 mutual.

38 Sec. 12. "Plan of conversion" means the plan of conversion  
39 described in either IC 27-15-2-2 or IC 27-15-2-3.

40 Sec. 13. "RBC level" has the meaning set forth in IC 27-1-36-18.

41 Sec. 14. "Simple plan of conversion" means the plan of  
42 conversion described in IC 27-15-2-3.



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**Chapter 2. Plan of Conversion**

**Sec. 1. The board of directors of the converting mutual shall commence the demutualization process by adopting a resolution that proposes:**

- (1) the amendment of its articles of incorporation under IC 27-1-8-2; and**
- (2) a plan of conversion.**

**Sec. 2. The plan of conversion, other than a simple plan of conversion, must do the following in accordance with this article:**

- (1) Describe the manner in which the proposed conversion will occur and the insurance and any other companies that will result from or be directly affected by the conversion, including the former mutual and any parent company.**
- (2) Provide that the membership interests in the converting mutual will be extinguished as of the effective date of the conversion.**
- (3) Require the distribution to the eligible members, upon the extinguishing of their membership interests, of aggregate consideration equal to the fair value of the converting mutual.**
- (4) Describe the manner in which the fair value of the converting mutual has been or will be determined.**
- (5) Describe the form or forms and amount, if known, of consideration to be distributed to the eligible members.**
- (6) Specify relevant classes, categories, or groups of eligible members, and describe and explain any differences in the form or forms and amount of consideration to be distributed to or among the eligible members.**
- (7) Require and describe the method or formula for the fair and equitable allocation of the consideration among the eligible members.**
- (8) Provide for the determination and preservation of the reasonable dividend expectations of eligible members and other policyholders with policies that provide for the distribution of policy dividends, through establishment of a closed block or other method acceptable to the commissioner.**
- (9) Provide that each member and other policyholder of the converting mutual will receive notification of the address and telephone number of the converting mutual and the former mutual, if different, along with the notice of hearing outlined in chapter 4, section 4 of this article.**
- (10) Include other provisions as the converting mutual determines to be necessary.**

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1           **Sec. 3 (a) The board of directors of the converting mutual may**  
 2 **adopt a simple plan of conversion under this section. The simple**  
 3 **plan of conversion must include the following:**

4           **(1) The distribution to the eligible members, upon the**  
 5 **extinguishing of their membership interests, of all of the**  
 6 **initial issue of the voting common stock of the former mutual**  
 7 **or any parent company. The initial issue of the voting**  
 8 **common stock may include only one (1) class of stock, and**  
 9 **may not include more than one (1) series of stock.**

10           **(2) Describe the manner in which the proposed conversion**  
 11 **will occur and the insurance and any other companies that**  
 12 **will result from or be directly affected by the conversion,**  
 13 **including the former mutual and any parent company.**

14           **(3) Provide that the membership interests in the converting**  
 15 **mutual will be extinguished as of the effective date of the**  
 16 **conversion.**

17           **(4) Provide for the registration of that distribution of stock**  
 18 **under section 5 of the federal Securities Act of 1933, as**  
 19 **amended.**

20           **(5) Specify each separate class, category, or group of eligible**  
 21 **members, and describe and explain any differences in the**  
 22 **amount of stock to be distributed to or among the eligible**  
 23 **members of each separate class, category, or group of eligible**  
 24 **members.**

25           **(6) Require and describe the method or formula for the fair**  
 26 **and equitable allocation of the stock among the eligible**  
 27 **members.**

28           **(7) Provide for the determination and preservation of the**  
 29 **reasonable dividend expectations of eligible members and**  
 30 **other policyholders with policies that provide for the**  
 31 **distribution of policy dividends, through the establishment of**  
 32 **a closed block or other method acceptable to the**  
 33 **commissioner.**

34           **(b) The plan may include other provisions:**

35           **(1) that the converting mutual determines to be necessary;**  
 36 **and**

37           **(2) consistent with this title.**

38           **Chapter 3. Application for Conversion**

39           **Sec. 1. After the adoption by the board of directors of the**  
 40 **resolution proposing the plan of conversion under IC 27-15-2 and**  
 41 **the amendment to its articles of incorporation, the converting**  
 42 **mutual shall file with the commissioner an application for approval**



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**of the plan and amendment.**

**Sec. 2. The application must contain the following information, together with such additional information as the commissioner may require:**

- (1) The plan of conversion and a certificate of the secretary of the converting mutual certifying the adoption of the plan by the board of directors.**
- (2) A statement of the reasons for the proposed conversion and why the conversion is in the best interests of the converting mutual, the eligible members, and the other policyholders. The statement must include an analysis of the risks and benefits to the converting mutual and its members of the proposed conversion and a comparison of the risks and benefits of the conversion with the risks and benefits of reasonable alternatives to a conversion.**
- (3) A five (5) year business plan and at least two (2) years of financial projections of the former mutual and any parent company.**
- (4) Any plans that the former mutual or any parent company may have to:**
  - (A) raise additional capital through the issuance of stock or otherwise;**
  - (B) sell or issue stock to any person, including any compensation or benefit plan for directors, officers, or employees under which stock may be issued;**
  - (C) liquidate or dissolve any company or sell any material assets;**
  - (D) merge or consolidate or pursue any other form of reorganization with any person; or**
  - (E) make any other material change in investment policy, business, corporate structure, or management.**
- (5) Any plans for a delayed distribution of consideration to eligible members or restrictions on sale or transfer of stock or other securities.**
- (6) A copy of the form of trust agreement, if a distribution of consideration is to be delayed by more than six (6) months after the effective date of the conversion.**
- (7) A plan of operation for a closed block, if a closed block is used for the preservation of the reasonable dividend expectations of eligible members and other policyholders with policies that provide for the distribution of policy dividends.**
- (8) Copies of the amendment to the articles of incorporation**

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proposed by the board of directors and the proposed bylaws of the former mutual and copies of the existing and any proposed articles of incorporation and bylaws of any parent company.

(9) A list of all individuals who are or have been selected to become directors or officers of the former mutual and any parent company, or the individuals who perform or will perform duties customarily performed by a director or officer, and the following information concerning each individual on the list unless the information is already on file with the commissioner:

- (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 or other entity of which the individual was an officer or director during the previous seven (7) years.
- (F) Information concerning allegations of state or federal securities law violations made against the individual that within the previous ten (10) years resulted in:
  - (i) a determination that the individual violated state or federal securities law;
  - (ii) a plea of nolo contendere; or
  - (iii) a consent decree.
- (G) Information concerning the suspension, revocation, or other disciplinary action during the previous ten (10) years of any state or federal license issued to the individual.
- (H) Information as to whether the individual was refused a bond during the previous ten (10) years.

(10) A fairness opinion addressed to the board of directors of the converting mutual from a qualified, independent financial advisor, asserting:

- (A) that the provision of stock, cash, policy benefits, or other forms of consideration upon the extinguishing of the converting mutual's membership interests under the plan of conversion and the amendment to the articles of

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incorporation is fair to the eligible members, as a group, from a financial point of view; and  
(B) whether the total consideration under clause (A) is equal to or greater than the surplus of the converting mutual.

**(11) An actuarial opinion as to the following:**

- (A) The reasonableness and appropriateness of the methodology or formulas used to allocate consideration among eligible members, consistent with this article.
- (B) The reasonableness of the plan of operation and the sufficiency of the assets allocated to the closed block, if a closed block is used for the preservation of the reasonable dividend expectations of eligible members and other policyholders with policies that provide for the distribution of policy dividends.

**(12) If any of the consideration to be distributed to eligible members consists of stock or other securities, a description of the plans made by the former mutual or its parent company to assure that an active public trading market for the stock or other securities will develop within a reasonable amount of time after the effective date of the plan of conversion and that eligible members who receive stock or other securities will be able to sell their stock or other securities, subject to any delayed distribution or transfer restrictions under this article, at reasonable cost and effort. The plans may consist of the following:**

- (A) Appointing a registrar and transfer agent for the stock or other securities.
- (B) Making filings, applications, or registrations for the stock or other securities with the federal Securities and Exchange Commission and state securities commissioners.
- (C) Listing the stock or other securities on a national or other securities exchange.
- (D) Facilitating coverage of the stock or other securities by research analysts and securing the commitment of at least one (1) market maker to make a market in the stock or other securities.
- (E) Conducting an underwritten public offering of the same class of stock or other securities, promptly following the effectiveness of the plan of conversion, in order to facilitate the development of a public market.
- (F) Making available a procedure for eligible members

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holding small numbers or amounts of stock or other securities to sell their stock or other securities to the former mutual or a parent company at market value without the payment of brokerage commissions or similar fees, or to sell their stock or other securities in the market through a broker with discounted brokerage commissions or fees.

(13) Any additional information, documents, or materials that the converting mutual determines to be necessary.

(14) Any other additional information, documents, or materials that the commissioner requests in writing.

**Sec. 3.** Notwithstanding section 2 of this chapter, the opinion described in section 2(10) of this chapter is not required under this chapter if the converting mutual utilizes a simple plan of conversion.

**Sec. 4.** The actuarial opinion required by this chapter shall be:

- (1) provided and signed by a qualified and independent actuary who is a member of the American Academy of Actuaries;
- (2) given in accordance with professional standards and practices generally accepted by the actuarial profession and those other factors as the actuary believes are reasonable and appropriate in the exercise of professional judgment at the time the opinion is given;
- (3) supported by a memorandum of the actuary, describing the calculations made in support of the opinion and the assumptions used in the calculations; and
- (4) submitted to the commissioner.

**Chapter 4. Public Hearing and Commissioner's Determination**

**Sec. 1.** (a) The commissioner shall determine, within forty-five (45) days after the later of:

- (1) the submission of an application for approval of a plan of conversion; or
- (2) the submission of any amendment to the application;

whether the application is complete.

(b) Upon determining that the application is complete, the commissioner shall designate a date for a public hearing on the plan of conversion and the amendment to the articles of incorporation.

(c) No public hearing by the commissioner under this chapter is required for a simple plan of conversion.

**Sec. 2.** The commissioner shall hold a public hearing upon the

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1 plan of conversion and the amendment to the articles of  
 2 incorporation. The purpose of the public hearing shall be to receive  
 3 comments and information to aid the commissioner in considering  
 4 and approving or disapproving the application for approval of the  
 5 plan of conversion and the amendment to the articles of  
 6 incorporation. Persons wishing to make comments and submit  
 7 information may submit written statements before or at the public  
 8 hearing and may also appear and be heard at the public hearing.

9 Sec. 3. The public hearing shall commence within sixty (60) days  
 10 after the date on which the commissioner determines the  
 11 application is complete, unless the converting mutual requests, and  
 12 the commissioner agrees to, a longer period. In the event that an  
 13 amendment to the plan of conversion or the application for  
 14 approval is filed with the commissioner after the commissioner has  
 15 determined the application is complete, the hearing may be  
 16 postponed for a period not to exceed sixty (60) days after the filing  
 17 of the amendment.

18 Sec. 4. (a) The converting mutual shall provide at least thirty  
 19 (30) days prior written notice of the hearing to its members and  
 20 other policyholders as of the date its board of directors adopted the  
 21 resolution proposing the plan of conversion.

22 (b) The notice must include the following:

- 23 (1) A brief statement of the subject of the hearing, the date,  
 24 time, and location of the hearing.
- 25 (2) A description of members eligible to vote on the plan of  
 26 conversion and the amendment to the articles of  
 27 incorporation.
- 28 (3) A statement that the members and policyholders may  
 29 examine, at the department, the public record portion of the  
 30 application submitted to the commissioner.
- 31 (4) The address and telephone number of the converting  
 32 mutual and, if different, the former mutual.

33 (c) The converting mutual shall provide the commissioner with  
 34 the proposed form and content of the notice not less than fifteen  
 35 (15) days before notice is to be provided to the members and  
 36 policyholders, and the commissioner shall approve or disapprove  
 37 the form and content of the notice within ten (10) days after its  
 38 submission to the commissioner. The notice to members and other  
 39 policyholders shall, after approval by the commissioner, be  
 40 provided by mail or other means approved by the commissioner.

41 Sec. 5. (a) The converting mutual shall cause notice of the public  
 42 hearing to be published in a newspaper of general circulation in the

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1 city where the principal office of the converting mutual is located,  
 2 in Indianapolis, and in any other city specified by the commissioner  
 3 at the time the commissioner determines that the application is  
 4 complete.

5 (b) The notice shall be published at least two (2) times at  
 6 intervals of not less than two (2) weeks, the first publication to be  
 7 not more than forty-five (45) days and the last publication not less  
 8 than fifteen (15) days before the public hearing. The notice of the  
 9 public hearing shall state the purpose of the hearing and the date,  
 10 time, and place where the hearing will occur.

11 (c) The converting mutual shall provide the commissioner with  
 12 the proposed form and content of the notice not less than fifteen  
 13 (15) days before it is to be first published, and the commissioner  
 14 shall approve or disapprove the form and content of the notice  
 15 within ten (10) days after its submission to the commissioner.

16 Sec. 6. The hearing shall be conducted by the commissioner or  
 17 by the commissioner's designee, consistent with the procedures  
 18 described in IC 4-22-2-26.

19 Sec. 7. (a) The commissioner shall fully consider any comments  
 20 received at a required hearing consistent with IC 4-22-2-27 before  
 21 issuing an order approving or disapproving the application, plan  
 22 of conversion, and amendment to the articles of incorporation.

23 (b) The commissioner's order or determination shall:

- 24 (1) be issued within thirty (30) days after the last day of the  
 25 public hearing or, for a simple plan of conversion, within  
 26 ninety (90) days after the filing of an application for approval  
 27 of the plan;  
 28 (2) be in writing; and  
 29 (3) detail the reasons why the converting mutual's application  
 30 is approved or disapproved.

31 Sec. 8. The commissioner shall approve the application and  
 32 permit the conversion under the plan of conversion and the  
 33 amendment to the articles of incorporation if the commissioner  
 34 finds, following the public hearing, if required:

- 35 (1) that the amount and form of consideration is fair in the  
 36 aggregate and to each member class;  
 37 (2) that the plan of conversion and the amendment to the  
 38 articles of incorporation:  
 39 (A) comply with this article and other applicable laws;  
 40 (B) are fair, reasonable, and equitable to the eligible  
 41 members; and  
 42 (C) will not prejudice the interests of the other



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policyholders of the converting mutual; and  
(3) except for a simple plan of conversion, that the total consideration provided to eligible members upon the extinguishing of the converting mutual's membership interests is equal to or greater than the surplus of the converting mutual.

Sec. 9. The commissioner may waive the requirement of section 8(3) of this chapter upon a showing of good cause.

**Chapter 5. Voting on the Plan by Members**

Sec. 1. The proposed plan of conversion and amendment to the articles of incorporation of the converting mutual shall be submitted to a vote of the members of the converting mutual, as provided in IC 27-1-8-3 and in this chapter.

Sec. 2. The meeting of members shall be held not later than ninety (90) days after the later of:

- (1) the issuance of the commissioner's order approving the conversion; or
- (2) the final resolution of an appeal of that decision under this article.

Sec. 3. (a) The members of the converting mutual entitled to vote on the plan of conversion and the amendment to the articles of incorporation shall be given written notice of their opportunity to vote. The notice shall be accompanied by explanatory information concerning the conversion and may be accompanied by proxy solicitation materials.

(b) The form and content of the notice, explanatory information, and any proxy solicitation materials must be provided to the commissioner not less than twenty (20) business days before they are mailed to the members, and the commissioner shall approve or disapprove the form and content of the notice, explanatory materials, and any proxy solicitation materials within fifteen (15) business days after their submission to the commissioner.

(c) The notice and explanatory materials must include the following:

- (1) Reference to the applicable statutory provisions.
- (2) The date, time, and location of the meeting.
- (3) A brief statement of the subject of the meeting.
- (4) A copy of the plan of conversion and a summary of the plan.
- (5) A copy of the amendment to the articles of incorporation and a summary of the amendment.
- (6) A description of the member's right to attend and

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1 participate in the meeting.

2 (7) The definition of the term "eligible member".

3 (8) A statement that no member will receive consideration as  
4 a result of the conversion unless the member continues to be  
5 a member of the converting mutual on the effective date of the  
6 conversion.

7 (9) For each form of consideration, a description of the nature  
8 and amount of consideration that will be provided to the  
9 eligible members upon completion of the conversion and, if  
10 reasonably ascertainable by the converting mutual, a  
11 description of the nature and amount or approximate amount  
12 of consideration to be provided to the particular member to  
13 whom the notice is addressed.

14 **Sec. 4. The notice described in section 3 of this chapter:**

15 (1) must achieve a minimum score of forty (40) on the Flesch  
16 reading ease test or an equivalent score on a comparable test  
17 approved by the commissioner;

18 (2) shall be mailed, or provided by some other method or  
19 methods as may be approved by the commissioner, not less  
20 than thirty (30) days before the date of the meeting of  
21 members to vote on the plan of conversion and amendment to  
22 the articles of incorporation; and

23 (3) may be combined with any other notices, materials, or  
24 information.

25 **Sec. 5. (a) Only members of the converting mutual as of both:**

26 (1) the date the converting mutual's board of directors  
27 adopted the resolution proposing the plan of conversion and  
28 the amendment to the articles of incorporation; and

29 (2) the record date for the members' meeting established by  
30 the board of directors;

31 are entitled to vote on the proposed plan of conversion and the  
32 amendment to the articles of incorporation of the converting  
33 mutual.

34 (b) Each member is entitled to cast only one (1) vote,  
35 irrespective of the number or value of policies held, unless the  
36 converting mutual's articles of incorporation provide otherwise.

37 **Sec. 6. Notwithstanding IC 27-1-7-9, a member may vote by  
38 proxy only if:**

39 (1) the proxy was solicited and obtained from the member for  
40 the express purpose of voting on the plan of conversion and  
41 the amendment to the articles of incorporation; and

42 (2) the proxy solicitation materials were provided to and

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approved by the commissioner before they were mailed or provided to the member.

**Sec. 7.** The proposed plan of conversion and amendment to the converting mutual's articles of incorporation shall be approved by the members upon receiving the affirmative votes of:

- (1) at least two-thirds (2/3) of the members voting at the meeting; and
- (2) if the plan provides for different classes, categories, or groups of eligible members to receive different forms of consideration, other than as permitted by IC 27-15-8-4(b)(2) or IC 27-15-12, at least two-thirds (2/3) of the members voting at the meeting who would receive each different form of consideration, voting as a class.

**Chapter 6. Implementation of Approved Plan of Conversion**

**Sec. 1.** After the proposed plan of conversion and amendment to the converting mutual's articles of incorporation are approved by the commissioner and approved by the members under this article, the converting mutual may proceed to consummate the plan and comply with IC 27-1-8.

**Sec. 2.** The plan of conversion and the amendment to the articles of incorporation of the converting mutual become effective upon the date and time of approval of the articles of amendment by the secretary of state as provided in IC 27-1-8-8, unless a later date and time is specified in the articles of amendment, in which event the plan of conversion and amendment become effective and take place at the later date and time.

**Sec. 3.** When the plan of conversion and the amendment to the articles of incorporation of the converting mutual become effective:

- (1) the converting mutual shall:
  - (A) be converted from a domestic mutual insurance company to a domestic stock insurance company; and
  - (B) have all the rights, privileges, immunities, and powers and be subject to all the duties and liabilities of a stock insurance company existing under this title;
- (2) the membership interests of every member and policyholder of the converting mutual are extinguished and cease; and
- (3) the rights of every member and policyholder of the converting mutual under any contract of insurance continue in force under the terms of the contract, including rights, if any, to policyholder dividends.

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1           **Sec. 4. The former mutual shall be a continuation of the original**  
 2 **converting mutual in all of the following respects:**

3           (1) **The former mutual shall be recognized as an insurance**  
 4 **company formed under the laws of this state as of the date of**  
 5 **the company's original organization.**

6           (2) **The conversion does not in any way annul, modify, or**  
 7 **change any of the original converting mutual's existing suits,**  
 8 **claims, demands, rights, contracts, or other assets, or absolute**  
 9 **or contingent liabilities.**

10          (3) **The former mutual shall be vested in all of the rights,**  
 11 **franchises, and interests of the converting mutual in and to**  
 12 **every species of property without any deed or transfer.**

13          (4) **The former mutual shall succeed to all the obligations and**  
 14 **liabilities of the converting mutual and retain all rights and**  
 15 **contracts existing before the effectiveness of the conversion.**

16          **Sec. 5. The former mutual shall comply with the minimum**  
 17 **capital and surplus requirements applicable to domestic stock**  
 18 **insurance companies as though the former mutual was organized**  
 19 **as a stock insurance company on its original date of organization.**

20          **Chapter 7. Confidential Records**

21          **Sec. 1. Except as otherwise specifically provided in this chapter,**  
 22 **IC 5-14 applies to all filings made under this article.**

23          **Sec. 2. Filings, information, and documents made with or**  
 24 **provided to the commissioner under this article may include**  
 25 **information that might be damaging to a converting mutual or its**  
 26 **affiliates if made available to competitors. Subject to section 3 of**  
 27 **this chapter, all documents containing trade secrets of a converting**  
 28 **mutual or its affiliates and marked "confidential" by the**  
 29 **converting mutual:**

30           (1) **are declared confidential for purposes of IC 5-14-3-4;**

31           (2) **are not subject to inspection and copying by the public**  
 32 **under IC 5-14-3-3;**

33           (3) **may be disclosed by the commissioner to the department**  
 34 **of insurance of another state if that department of insurance**  
 35 **agrees to keep the information confidential; and**

36           (4) **may not be disclosed by the commissioner to any person**  
 37 **other than a department of insurance under subdivision (3)**  
 38 **without the written consent of the converting mutual.**

39          **Sec. 3. (a) Subject to subsection (c), the commissioner may**  
 40 **disclose to any person all or part of any document marked**  
 41 **"confidential" in the commissioner's possession as the result of**  
 42 **being filed under this article if the following conditions are met:**

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- 1           **(1) The commissioner must give written notice of the proposed**
- 2           **disclosure to the converting mutual and any other person**
- 3           **requesting disclosure.**
- 4           **(2) The converting mutual must be given an opportunity in**
- 5           **private to respond to the proposed disclosure.**
- 6           **(3) The commissioner must give consideration to any**
- 7           **legitimate interest in preserving trade secrets.**
- 8           **(4) The commissioner must determine that the eligible**
- 9           **members or other policyholders have a compelling interest**
- 10           **which would be served by disclosure.**
- 11           **(5) At least five (5) business days have elapsed from the**
- 12           **converting mutual's receipt of written notice.**

13           **(b) The commissioner may disclose information under**  
 14           **subsection (a) in a manner and subject to limitations as the**  
 15           **commissioner considers appropriate.**

- 16           **(c) If:**
- 17           **(1) not more than six (6) business days have elapsed since the**
  - 18           **converting mutual received notice of a proposed disclosure;**
  - 19           **and**
  - 20           **(2) the converting mutual has notified the commissioner that**
  - 21           **it or another interested party has filed an action seeking a**
  - 22           **protective order from a circuit or superior court to prevent or**
  - 23           **to limit disclosure;**

24           **the commissioner may not disclose the documents or copies of**  
 25           **documents during the pendency of the action and any appeal or**  
 26           **after any final court decision prohibiting disclosure.**

27           **Chapter 8. Distribution of Consideration to Members**

28           **Sec. 1. The consideration to be distributed to the eligible**  
 29           **members shall be:**

- 30           **(1) cash;**
- 31           **(2) stock or other securities of the former mutual or of the**
- 32           **parent company;**
- 33           **(3) additional paid up insurance or annuity benefits;**
- 34           **(4) any combination of the forms of consideration listed in this**
- 35           **section; or**
- 36           **(5) other forms of consideration described in the plan of**
- 37           **conversion and approved by the commissioner.**

38           **Sec. 2. The amount and the form or forms of consideration to be**  
 39           **distributed to a class, category, or group of eligible members may**  
 40           **differ from the amount and form or forms of consideration to be**  
 41           **distributed to another class, category, or group of eligible**  
 42           **members. The choice of the amount and form or forms of**

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1 consideration to be distributed to a class or category of eligible  
 2 members may take into account such factors as the type of policies  
 3 with respect to which the consideration is being distributed, the  
 4 country or state of residence or tax status of the eligible members,  
 5 the length of time the eligible members have been members of the  
 6 converting mutual, or other appropriate factors or circumstances  
 7 described in the plan of conversion.

8 **Sec. 3. Distribution of all or part of the consideration to some or**  
 9 **all of the eligible members may be delayed, or restrictions on sale**  
 10 **or transfer of any stock or other securities to be distributed to**  
 11 **eligible members may be required, for a reasonable period of time**  
 12 **following the effective date of the conversion. However, the period**  
 13 **of time may not exceed six (6) months except as permitted under**  
 14 **IC 27-15-12.**

15 **Sec. 4. (a) A converting mutual using IC 27-15-2-2 or a**  
 16 **converting mutual using a simple plan of conversion under**  
 17 **IC 27-15-2-3 may satisfy the requirement to distribute the fair**  
 18 **value of the converting company to the eligible members by**  
 19 **providing for the distribution to the eligible members of all of the**  
 20 **initial stock without the payment by or to the eligible members of**  
 21 **any additional consideration.**

22 **(b) For purposes of this section, all of the initial issue of the only**  
 23 **class of voting common stock of the former mutual or a parent**  
 24 **company shall be considered distributed to the eligible members**  
 25 **even if the plan of conversion or the application for approval**  
 26 **provides for:**

27 **(1) the offer or sale, promptly following the effective date of**  
 28 **the plan of conversion, to the public or to other persons of**  
 29 **additional shares of the same class of voting common stock of**  
 30 **the former mutual or a parent company at a price not less**  
 31 **than the fair market value of that stock, with the proposed**  
 32 **terms of the transaction disclosed to the commissioner in the**  
 33 **application for approval;**

34 **(2) the distribution to or for the benefit of certain classes,**  
 35 **categories, or groups of eligible members of cash, additional**  
 36 **paid up insurance or annuity benefits, or other consideration**  
 37 **in lieu of initial stock of the former mutual or a parent**  
 38 **company, if:**

39 **(A) other consideration is required or appropriate as a**  
 40 **result of tax considerations, the country or state of**  
 41 **residence of the eligible members, the nominal value of the**  
 42 **stock that those eligible members otherwise would be**



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- 1 entitled to receive, or other factors or circumstances
- 2 approved by the commissioner;
- 3 (B) the value of the other consideration to be distributed to
- 4 those eligible members is substantially equal, as of the
- 5 effective date of the conversion, to the value of the stock
- 6 those eligible members otherwise would be entitled to
- 7 receive;
- 8 (C) the eligible members who receive any consideration
- 9 other than stock constitute not more than ten percent
- 10 (10%) of the total number of eligible members; and
- 11 (D) the classes, categories, or groups of those eligible
- 12 members, and the consideration they are to receive in lieu
- 13 of stock, are described in the plan of conversion, with all
- 14 additional material terms and conditions disclosed in the
- 15 application for approval; or
- 16 (3) a delayed distribution of consideration that is approved
- 17 under section 3 of this chapter or IC 27-15-12.

18 **Chapter 9. Formula for Allocation of Consideration Among**  
 19 **Members**

20 **Sec. 1. The method or formula for allocating consideration**  
 21 **among the eligible members shall provide for each eligible member**  
 22 **to receive:**

- 23 (1) a fixed value, amount, or proportion of consideration;
- 24 (2) a variable value, amount, or proportion of consideration;
- 25 or
- 26 (3) a combination of fixed and variable values, amounts, or
- 27 proportions of consideration.

28 **Sec. 2. Any method used or formula developed for the fair and**  
 29 **equitable allocation of stock among eligible members under this**  
 30 **article must utilize generally accepted actuarial principles.**

31 **Chapter 10. Dividend Preservation**

32 **Sec. 1. (a) The sole purpose of any dividend preservation**  
 33 **provision shall be to provide for reasonable policyholder dividend**  
 34 **expectations on policies that provide for the distribution of policy**  
 35 **dividends.**

36 **(b) No dividend preservation provision in a plan under this**  
 37 **article shall be permitted:**

- 38 (1) to be a substitute for the distribution of consideration to
- 39 eligible members upon extinguishing their membership
- 40 interests as required by this article; or
- 41 (2) to diminish any contractual rights to a dividend that a
- 42 member or policyholder may have.

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1           **Sec. 2. Any dividend preservation provision may be limited to**  
 2 **participating individual life insurance policies and participating**  
 3 **individual annuity contracts in force or considered to be in force**  
 4 **by the plan of conversion on the effective date of the plan of**  
 5 **conversion for which the mutual insurer has an experience based**  
 6 **dividend scale due, paid, or accrued by action of the board of**  
 7 **directors of the converting mutual in the year in which the plan of**  
 8 **reorganization is adopted. However:**

9           **(1) policies that would be included but for the fact that their**  
 10 **recent issuance results in no dividends for an initial period**  
 11 **may be included;**

12           **(2) policies that are in force as extended term insurance may**  
 13 **be included; and**

14           **(3) other categories of policies and benefits not described in**  
 15 **this subsection may be included or excluded, subject to the**  
 16 **approval of the commissioner.**

17           **Chapter 11. Use of a Closed Block**

18           **Sec. 1. This chapter applies if a closed block is used for the**  
 19 **preservation of the reasonable dividend expectations of eligible**  
 20 **members and other policyholders.**

21           **Sec. 2. The converting mutual shall prepare a written plan of**  
 22 **operation for the closed block, consistent with the requirements of**  
 23 **this article.**

24           **Sec. 3. The closed block shall be operated for the exclusive**  
 25 **benefit of policies and contracts included in it. No costs or expenses**  
 26 **incurred in connection with the conversion shall be charged to the**  
 27 **closed block. Subject to termination of the closed block under**  
 28 **section 7 of this chapter, none of the assets allocated to the closed**  
 29 **block or the revenue derived from those assets may revert to the**  
 30 **benefit of the stockholders of the former mutual or any parent**  
 31 **company.**

32           **Sec. 4. The assets allocated to the closed block, together with the**  
 33 **revenue from the closed block, must be reasonably sufficient to:**

34           **(1) support the business in the closed block until the time the**  
 35 **last policy in the closed block has terminated, including**  
 36 **payment of claims and those expenses and taxes as are**  
 37 **specified in the plan of conversion; and**

38           **(2) provide for:**

39           **(A) continuation of dividend scales in effect on the date the**  
 40 **board of directors adopted the resolution proposing the**  
 41 **plan of conversion, if the experience underlying those**  
 42 **scales continues; and**

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1           **(B) appropriate adjustments in the scales if the experience**  
 2           **changes.**

3           **Sec. 5. The assets assigned to a closed block shall be specified in**  
 4           **the plan of operation and must consist of:**

5           **(1) a list of designated assets of the converting mutual's**  
 6           **general account or specified segments of the converting**  
 7           **mutual's general account, which list shall change periodically**  
 8           **to reflect the acquisition and disposition of assets;**

9           **(2) a designated portion of each and every asset of the**  
 10           **converting mutual's general account or specified segments of**  
 11           **the converting mutual's general account, which portion shall**  
 12           **change periodically to reflect the cash flows of the closed**  
 13           **block; or**

14           **(3) assets designated by a combination of the methods**  
 15           **described in this section.**

16           **Sec. 6. The plan of operation must specify the following:**

17           **(1) The method of assignment of closed block assets referred**  
 18           **to in section 5 of this chapter that is being used.**

19           **(2) The methods by which the designations of assets or**  
 20           **portions of assets are changed during the course of closed**  
 21           **block operations.**

22           **Sec. 7. The plan of operation must provide for the conditions**  
 23           **under which the former mutual, with the approval of the**  
 24           **commissioner, may cease to maintain the closed block.**

25           **Sec. 8. The former mutual shall:**

26           **(1) submit to the commissioner annual reports, in a form**  
 27           **acceptable to the commissioner, that account for and describe**  
 28           **the operations of the closed block; and**

29           **(2) as specified in the plan of operation, provide at least every**  
 30           **three (3) years for reviews of, and reports and opinions on, the**  
 31           **closed block by an independent actuary, unless otherwise**  
 32           **directed by the commissioner.**

33           **Chapter 12. Effect of Pending Claims on the Distribution of**  
 34           **Consideration to Members**

35           **Sec. 1. All or part of the consideration to be distributed to some**  
 36           **or all of the eligible members may be delayed by more than six (6)**  
 37           **months following the effective date of the plan of conversion if:**

38           **(1) the plan of conversion includes a provision for the**  
 39           **establishment of a trust for that purpose; and**

40           **(2) one (1) or more of the following claims have been asserted**  
 41           **against a converting mutual and remain unresolved at the**  
 42           **effective date of the plan of conversion:**

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- 1 (A) A claim seeking the imposition of a constructive or  
 2 charitable trust on assets of the converting mutual for the  
 3 benefit of policyholders, members, or other identified or  
 4 unidentified persons.  
 5 (B) A claim seeking distribution or return of assets, or  
 6 other form of compensation, from the converting mutual  
 7 to policyholders, members, or other identified or  
 8 unidentified persons.  
 9 (C) A claim that arises out of or relates to the ownership  
 10 interest of members of the converting mutual, or to the  
 11 value of their ownership interests, including any claim that  
 12 challenges a statutory transaction engaged in by the  
 13 converting mutual before the effective date of the plan of  
 14 conversion.

15 **Sec. 2. (a) At the effective date of the plan of conversion, assets**  
 16 **adequate to satisfy a claim described in section 1 of this chapter,**  
 17 **consisting of the consideration that otherwise would be distributed**  
 18 **directly to eligible members, must be placed in trust under a trust**  
 19 **agreement in a form approved by the commissioner. The trustee or**  
 20 **trustees of the trust shall:**

- 21 (1) be appointed by the board of directors of the converting  
 22 mutual, subject to disapproval of any trustee by the  
 23 commissioner; and  
 24 (2) consist of one (1) or more institutions authorized by  
 25 Indiana law to act as corporate trustees.

26 (b) The beneficiaries of the trust:

- 27 (1) are the eligible members who, in the absence of the claims,  
 28 would have been entitled to the consideration placed in the  
 29 trust; and  
 30 (2) may consist of all of the eligible members or specified  
 31 classes or groups of eligible members.

32 (c) Assets of the trust shall be made available to pay or  
 33 otherwise satisfy the claims for which the trust has been  
 34 established, the expenses of the trust in contesting or resolving  
 35 those claims, and any other reasonable expenses of the trust. Upon  
 36 final resolution of the claims, by judgment, settlement or otherwise,  
 37 or at such other times as may be provided for in the trust  
 38 agreement, the remaining assets of the trust shall be distributed to  
 39 the beneficiaries in accordance with their respective interests in the  
 40 trust.

41 (d) Until the trust has been terminated, the trustee or trustees  
 42 shall prepare reports not less frequently than annually, upon

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1 termination of the trust, and at such other times as may be  
 2 requested by the commissioner or the former mutual. The reports  
 3 must contain information regarding the financial condition of the  
 4 trust and the status of any resolved and pending claims. The  
 5 reports shall be provided to the commissioner and the former  
 6 mutual and the reports or summary reports shall be mailed at least  
 7 annually to the beneficiaries of the trust at the expense of the trust.

8 (e) An interest in a trust established under this section does not  
 9 constitute a security under Indiana law.

10 (f) The establishment of a trust or pendency of any claim  
 11 described in this chapter shall not delay or affect the effectiveness  
 12 of a plan of conversion or an amendment to the articles of  
 13 incorporation.

14 **Chapter 13. Initial Limits on Ownership of Shares**

15 **Sec. 1. (a)** Except as specifically provided in a plan of  
 16 conversion, for ten (10) years following the effective date of the  
 17 conversion no person or persons acting in concert (other than the  
 18 former mutual, any parent company, or any employee benefit  
 19 plans or trusts sponsored by the former mutual or a parent  
 20 company) shall directly or indirectly acquire, or agree or offer to  
 21 acquire, in any manner the beneficial ownership of five percent  
 22 (5%) or more of the outstanding shares of any class of a voting  
 23 security of the former mutual or any parent company without the  
 24 prior approval by the commissioner of a statement filed by that  
 25 person with the commissioner.

26 (b) The statement described in subsection (a) must contain the  
 27 information required by IC 27-1-23-2(b) and any other  
 28 information required by the commissioner.

29 **Sec. 2. (a)** The commissioner may not approve an acquisition  
 30 under section 1(a) of this chapter unless the commissioner finds  
 31 that:

- 32 (1) the requirements of IC 27-1-23-2(e) will be satisfied;  
 33 (2) the acquisition will not frustrate the plan of conversion or  
 34 the amendment to the articles of incorporation as approved  
 35 by the members and the commissioner;  
 36 (3) the boards of directors of the former mutual and any  
 37 parent company have approved the acquisition; and  
 38 (4) the acquisition would be in the best interest of the present  
 39 and future policyholders of the former mutual without regard  
 40 to any interest of policyholders as shareholders of the former  
 41 mutual or any parent company.

42 (b) The commissioner shall adopt rules under IC 4-22-2 to

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1 establish a procedure under which an institutional investor that is  
 2 not affiliated with the former mutual or a parent company may be  
 3 considered to have been approved by the commissioner under this  
 4 section to acquire beneficial ownership of at least five percent (5%)  
 5 or less than ten percent (10%) of the outstanding shares of any  
 6 class of a voting security of the former mutual or any parent  
 7 company upon the filing with the commissioner of:

8 (1) a certificate executed by appropriate officers of the former  
 9 mutual and any parent company certifying that:

10 (A) the acquisition has been approved by the boards of  
 11 directors of the former mutual and any parent company;  
 12 and

13 (B) the institutional investor is not an affiliate of the  
 14 former mutual or any parent company; and

15 (2) a certificate executed by appropriate officers of the  
 16 institutional investor:

17 (A) certifying that the institutional investor will acquire  
 18 the shares in the ordinary course of its business and not  
 19 with the purpose nor with the effect of changing or  
 20 influencing the control, management, or policies of the  
 21 former mutual or the parent company;

22 (B) certifying that the institutional investor is not an  
 23 affiliate of the former mutual or any parent company; and

24 (C) undertaking to notify the commissioner and the former  
 25 mutual and any parent company in writing not less than  
 26 twenty (20) business days before any change in the matters  
 27 certified.

28 The commissioner may require the filing of any other information  
 29 the commissioner considers necessary and may provide in the rules  
 30 for remedies or consequences upon receipt of a notice under  
 31 subdivision (2)(C), including divestiture and denial of voting rights.

32 **Sec. 3. A security that is:**

33 (1) the subject of any agreement or arrangement regarding  
 34 acquisition; or

35 (2) held, acquired, or is to be acquired;

36 in contravention of this chapter or of an order of the commissioner,  
 37 may not be voted at any shareholders' meeting. Any action of  
 38 shareholders requiring the affirmative vote of a percentage of  
 39 shares may be taken as though the securities were not issued and  
 40 outstanding. However, no action taken at a meeting shall be  
 41 invalidated by the voting of those securities unless the action would  
 42 materially affect control of the former mutual or a person that



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owns or controls a majority or all of the voting securities of the former mutual or unless the courts of this state have so ordered.

Sec. 4. The requirements of this chapter are in addition to any other filings or approvals required by IC 27-1-23 or otherwise by law.

**Chapter 14. Modified Conversion Requirements for Companies in Hazardous Financial Condition**

Sec. 1. (a) If a domestic mutual insurance company:

(1) is insolvent, as defined in IC 27-9-1-2(l);

(2) does not meet the minimum surplus requirements of IC 27-1-6-15; or

(3) in the judgment of the commissioner, is in a hazardous financial condition;

its board of directors may adopt, and the commissioner may approve, any plan of conversion and amendment to the articles of incorporation that, on the effective date of the conversion, would provide for the former mutual to have paid-in capital stock and surplus in an amount not less than the minimum requirements of IC 27-1-6-14(c) and IC 27-1-6-14(e) and an RBC level greater than its company action RBC level.

(b) The commissioner may allow waivers or material modifications of the requirement to give any notices to members and policyholders, to obtain member approval of the proposed plan of conversion or amendment to the articles of incorporation of the converting mutual, or to distribute consideration to members if the value of a converting mutual described in subsection (a) does not in the judgment of the commissioner warrant any such notices, approvals, or distribution under the circumstances, including the expenses involved in a distribution of consideration.

Sec. 2. The application for approval of a plan of conversion and an amendment to the articles of incorporation described in section 1 of this chapter must include a description of how the converting mutual will meet the statutory surplus and capital requirements on the date the plan of conversion is completed, which may involve the issuance and sale directly to one (1) or more purchasers of the capital stock of the former mutual or of a parent company.

Sec. 3. The commissioner shall approve the application and permit the conversion under a plan of conversion and an amendment to the articles of incorporation described in this chapter if the commissioner finds, following a public hearing, that the plan of conversion and the amendment to the articles of incorporation are in the best interests of the members and



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1 policyholders of the converting mutual, without regard to their  
2 membership interests.

3 Sec. 4. The requirements of this chapter are in addition to, and  
4 may be combined with, any other filings, approvals, or hearings  
5 required by IC 27-1-23 or otherwise by law.

6 **Chapter 15. Judicial Review**

7 Sec. 1. A person who is aggrieved by an agency action of the  
8 commissioner under this article may petition for judicial review of  
9 the action under IC 4-21.5-5.

10 Sec. 2. All petitions for judicial review of, and any action  
11 challenging the validity of or arising out of:

12 (1) the approval or disapproval of; or

13 (2) any action proposed to be taken under;

14 any order or determination of the commissioner in connection with  
15 a plan of conversion under this article must be filed not later than  
16 thirty (30) days after the order or determination is issued by the  
17 commissioner.

18 Sec. 3. A person who is aggrieved by a failure of the  
19 commissioner to act or make a determination required by this  
20 article may bring an action for mandate in the circuit court of  
21 Marion County to compel the commissioner to act or make the  
22 determination.

23 **Chapter 16. Miscellaneous Provisions**

24 Sec. 1. A parent company under this article:

25 (1) shall locate its executive offices in Indiana;

26 (2) shall employ at least five hundred (500) persons or a  
27 substantial percentage of its workforce in Indiana;

28 (3) shall be organized under the laws of Indiana; and

29 (4) may be:

30 (A) a corporation organized for the purpose of serving as  
31 a holding company for the former mutual or a corporation  
32 that, before the conversion, was a subsidiary of the  
33 converting mutual; or

34 (B) any other existing or newly created corporation.

35 Sec. 2. The commissioner may adopt rules under IC 4-22-2  
36 necessary for the administration of this article.

37 Sec. 3. (a) The commissioner may, at the expense of a converting  
38 mutual that has:

39 (1) filed an application under this article;

40 (2) notified the commissioner of its intention to file an  
41 application under this article; or

42 (3) adopted a resolution proposing a simple plan of conversion



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1           **under this article;**  
2           **hire accountants, actuaries, attorneys, financial advisors,**  
3           **investment bankers, and other experts that are necessary to assist**  
4           **the commissioner in reviewing all matters under this article.**  
5           **(b) The commissioner may at any time require the converting**  
6           **mutual to deposit an amount of money with the department in**  
7           **anticipation of expenses to be incurred by the commissioner under**  
8           **this section.**  
9           **Sec. 4. If a converting mutual complies substantially and in good**  
10          **faith with this article with respect to any required notice to**  
11          **members and policyholders, its failure in any case to give the notice**  
12          **to any person entitled to notice does not:**  
13               **(1) impair the validity of actions taken under this article; or**  
14               **(2) entitle the person to any injunctive or other relief.**  
15          **Sec. 5. At any time before the effective date of the plan of**  
16          **conversion, the plan may be abandoned under provisions included**  
17          **in the plan of conversion filed under this article.**  
18          **Sec. 6. After conversion, the name of the former mutual may not**  
19          **include the term "mutual".**  
20          SECTION 4. IC 27-1-8-13 IS REPEALED [EFFECTIVE UPON  
21          PASSAGE].  
22          SECTION 5. An emergency is declared for this act.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Insurance, Corporations and Small Business, to which was referred House Bill 1432, 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 10, delete lines 11 through 13, begin a new paragraph and insert:

**"Sec. 2. (a) Any domestic mutual insurance company that:**

**(1) maintains its executive offices in Indiana; and**

**(2) employs a substantial percentage of its workforce in Indiana;**

**may, by amendment to its articles of incorporation, convert to a stock insurance company by means of a plan of conversion described in IC 27-15-2-2 or a simple plan of conversion described in IC 27-15-2-3 under this article and IC 27-1-8.**

**(b) The commissioner shall determine whether a mutual insurance company meets the requirements of subsection (a)(2)."**

Page 10, between lines 15 and 16, begin a new paragraph and insert:

**"Sec. 4. "Closed block" means an allocation of assets for a defined group of in force policies which, together with the premiums of those policies and related investment earnings, are expected to be sufficient to maintain the payments of guaranteed benefits, certain expenses, and continuation of the current dividend scale on the closed block, if experience does not change."**

Page 10, line 16, delete "4" and insert "5".

Page 10, line 18, delete "5" and insert "6".

Page 10, line 19, delete "or intends to adopt".

Page 10, line 24, delete "6" and insert "7".

Page 10, line 31, delete "7" and insert "8".

Page 10, line 35, delete "8" and insert "9".

Page 10, line 40, delete "9" and insert "10".

Page 11, line 8, delete "10" and insert "11".

Page 11, line 11, delete "11" and insert "12".

Page 11, line 12, delete "IC 27-15-2." and insert **"either IC 27-15-2-2 or IC 27-15-2-3."**

Page 11, line 13, delete "12" and insert "13".

Page 11, between lines 13 and 14, begin a new paragraph and insert:

**"Sec. 14. "Simple plan of conversion" means the plan of conversion described in IC 27-15-2-3."**

Page 11, line 16, delete "first adopt" and insert **"commence the demutualization process by adopting"**.

Page 11, line 20, after "conversion" insert **", other than a simple**

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**plan of conversion,".**

Page 11, line 34, after "forms" insert "**and amount, if known,**".

Page 11, line 38, after "forms" insert "**and amount**".

Page 12, delete lines 8 through 16, begin a new paragraph and insert:

**"Sec. 3 (a) The board of directors of the converting mutual may adopt a simple plan of conversion under this section. The simple plan of conversion must include the following:**

**(1) The distribution to the eligible members, upon the extinguishing of their membership interests, of all of the initial issue of the voting common stock of the former mutual or any parent company. The initial issue of the voting common stock may include only one (1) class of stock, and may not include more than one (1) series of stock.**

**(2) Describe the manner in which the proposed conversion will occur and the insurance and any other companies that will result from or be directly affected by the conversion, including the former mutual and any parent company.**

**(3) Provide that the membership interests in the converting mutual will be extinguished as of the effective date of the conversion.**

**(4) Provide for the registration of that distribution of stock under section 5 of the federal Securities Act of 1933, as amended.**

**(5) Specify each separate class, category, or group of eligible members, and describe and explain any differences in the amount of stock to be distributed to or among the eligible members of each separate class, category, or group of eligible members.**

**(6) Require and describe the method or formula for the fair and equitable allocation of the stock among the eligible members.**

**(7) Provide for the determination and preservation of the reasonable dividend expectations of eligible members and other policyholders with policies that provide for the distribution of policy dividends, through the establishment of a closed block or other method acceptable to the commissioner.**

**(b) The plan may include other provisions:**

**(1) that the converting mutual determines to be necessary; and**

**(2) consistent with this title."**

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Page 12, line 19, after "conversion" insert "**under IC 27-15-2-2**".

Page 12, line 20, delete "under IC 27-15-2," and insert ",".

Page 12, line 23, delete "consist of" and insert "**contain**".

Page 12, line 23, delete "following:" and insert "**following information, together with such additional information as the commissioner may require:**".

Page 13, line 5, after "consolidate" insert "**or pursue any other form of reorganization**".

Page 14, line 7, before "revocation" insert "**suspension,**".

Page 14, line 7, after "revocation" insert "**, or other disciplinary action**".

Page 14, delete lines 12 through 19, begin a new line block indented and insert:

**"(10) A fairness opinion addressed to the board of directors of the converting mutual from a qualified, independent financial advisor, asserting:**

**(A) that the provision of stock, cash, policy benefits, or other forms of consideration upon the extinguishing of the converting mutual's membership interests under the plan of conversion and the amendment to the articles of incorporation is fair to the eligible members, as a group, from a financial point of view; and**

**(B) whether the total amount of consideration under clause (A) is equal to or greater than the surplus of the converting mutual."**

Page 14, line 32, delete "or to be made".

Page 15, line 17, after "parent" insert "**company**".

Page 15, delete lines 25 through 29, begin a new paragraph and insert:

**"Sec. 3. After adoption by the board of directors of the resolution proposing the simple plan of conversion under IC 27-15-2-3 and the amendment to its articles of incorporation, the converting mutual shall immediately file with the commissioner a notice of conversion. The notice of conversion must consist of the information and documents listed in section 2 of this chapter. A simple plan of conversion that complies with this article is not subject to any approval by the commissioner.**

**Sec. 4. Notwithstanding section 3 of this chapter, a fairness opinion is not required under this chapter if the converting mutual utilizes a simple plan of conversion."**

Page 15, line 30, delete "4" and insert "5".

Page 16, line 2, delete "sixty (60)" and insert "**forty-five (45)**".



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Page 16, between lines 11 and 12, begin a new paragraph and insert:  
**"(c) No public hearing or approval by the commissioner under this chapter is required for a simple plan of conversion."**

Page 17, line 2, after "form" insert "**and content**".

Page 17, line 3, delete "." and insert "**, and the commissioner shall approve or disapprove the form and content of the notice within ten (10) days after its submission to the commissioner."**

Page 17, line 4, after "shall" insert "**, after approval by the commissioner,"**

Page 17, line 19, after "form" insert "**and content**".

Page 17, line 20, delete "." and insert "**, and the commissioner shall approve or disapprove the form and content of the notice within ten (10) days after its submission to the commissioner."**

Page 17, line 37, delete "hearing," and insert "**hearing:**".

Page 17, line 37, before "that" begin a new line block indented and insert:

**"(1) that the amount and form of consideration is fair in the aggregate and to each member class;**

**(2)".**

Page 17, line 39, delete "(1)", double block indent and insert "**(A)**".

Page 17, line 40, delete "(2)", double block indent and insert "**(B)**".

Page 17, line 42, delete "(3)", double block indent and insert "**(C)**".

Page 18, line 1, delete "." and insert "**; and**".

Page 18, between lines 1 and 2, begin a new line block indented and insert:

**"(3) that the total amount of consideration provided to eligible members upon the extinguishing of the converting mutual's membership interests is equal to or greater than the surplus of the converting mutual.**

**Sec. 9. The commissioner may waive the requirement of section 8(3) of this chapter upon a showing of good cause."**

Page 18, line 10, delete "or".

Page 18, line 12, delete "." and insert "**; or**".

Page 18, between lines 12 and 13, begin a new line block indented and insert:

**"(3) for a simple plan of conversion, the filing with the commissioner of the notice of the conversion."**

Page 18, line 19, after "form" insert "**and content**".

Page 18, line 21, delete "fifteen (15)" and insert "**twenty (20) business**".

Page 18, line 22, delete "." and insert "**, and the commissioner shall approve or disapprove the form and content of the notice,**



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**explanatory materials, and any proxy solicitation materials within fifteen (15) business days after their submission to the commissioner."**

Page 18, line 28, delete "or a" and insert "**and a**".

Page 18, line 30, delete "or a" and insert "**and a**".

Page 18, line 38, delete "A" and insert "**For each form of consideration, a**".

Page 19, line 22, delete "Under IC 27-1-7-9, each" and insert "**Each**".

Page 19, line 31, after "to" insert "**and approved by**".

Page 19, line 32, delete "fifteen (15)" and insert "**twenty (20) business**".

Page 19, line 33, delete ";" and insert ".".

Page 19, delete lines 34 through 37.

Page 19, line 40, delete "of at least" and insert "**of**".

Page 19, between lines 40 and 41, begin a new line block indented and insert:

**"(1) at least two-thirds (2/3) of the members voting at the meeting; and**

**(2) if the plan provides for different classes, categories, or groups of eligible members to receive different forms of consideration, other than as permitted by IC 27-15-8-4(b)(2) or IC 27-15-12, at least two-thirds (2/3) of the members voting at the meeting who would receive each different form of consideration, voting as a class."**

Page 19, delete line 41.

Page 20, line 3, after "commissioner" insert ", **if approval is required under this article,**".

Page 20, line 3, after "and" insert "**approved by**".

Page 20, line 35, after "suits," insert "**claims, demands,**".

Page 20, line 36, delete "liabilities." and insert "**other assets, or absolute or contingent liabilities.**".

Page 21, line 12, delete "information,".

Page 21, line 12, delete ", and copies of documents".

Page 21, line 25, after "disclose" insert "**to any person**".

Page 21, line 25, delete "confidential".

Page 21, line 25, after "document" insert "**marked "confidential"**".

Page 21, line 26, delete "an application" and insert "**being**".

Page 21, line 28, after "give" insert "**written**".

Page 21, line 36, delete "or" and insert ",".

Page 21, line 36, after "policyholders" insert ", **or requesting parties**".



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- Page 22, line 22, delete "acceptable to" and insert "**approved by**".
- Page 22, line 23, after "The" insert "**amount and the**".
- Page 22, line 25, before "form" insert "**amount and**".
- Page 22, line 26, before "form" insert "**amount and**".
- Page 23, line 2, delete "of the former mutual, or all of the initial" and insert "**in accordance with IC 27-15-2-3(a)(1)**".
- Page 23, delete line 3.
- Page 23, line 6, after "initial" insert "**issue of the only class of voting common**".
- Page 23, line 12, before "stock" insert "**the same class of voting common**".
- Page 23, line 32, delete "other" and insert "**any**".
- Page 23, line 33, delete "in lieu of" and insert "**other than**".
- Page 24, delete lines 10 through 42, begin a new paragraph and insert:  
**"Sec. 2. Any method used or formula developed for the fair and equitable allocation of stock among eligible members under this article must utilize generally accepted actuarial principles."**
- Page 25, delete lines 1 through 10.
- Page 25, line 17, after "permitted" insert ":".
- Page 25, line 17, before "to" begin a new line block indented and insert:  
**"(1)"**.
- Page 25, line 19, delete "." and insert "**; or**  
**(2) to diminish any contractual rights to a dividend that a member or policyholder may have."**
- Page 28, line 30, delete "may" and insert "**shall**".
- Page 28, line 35, delete "five (5)" and insert "**ten (10)**".
- Page 28, line 39, delete "offer to".
- Page 28, line 39, delete "or acquire" and insert "**, or agree or offer to acquire,**".
- Page 29, line 11, after "and" insert "**as approved by**".
- Page 29, line 11, delete ";" and insert "**, if approval is required by this article;**".
- Page 29, line 21, after "be acquired" insert ";".
- Page 29, line 21, beginning with "in", begin a new line blocked left.
- Page 29, line 22, delete ";" and insert ",".
- Page 29, run in lines 22 through 23.
- Page 29, delete lines 34 through 42.
- Page 30, delete lines 1 through 8.
- Page 30, line 9, delete "15" and insert "**14**".
- Page 31, line 9, delete "16" and insert "**15**".

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Page 31, line 18, delete "an application for" and insert "**a plan of**".

Page 31, between lines 25 and 26, begin a new paragraph and insert:

**"Sec. 4. Notwithstanding IC 34-11, all petitions for judicial review of, or any action challenging the validity of or arising out of the adoption or implementation of a conversion under this article, must be filed not later than thirty (30) days after the vote by the members under IC 27-15-5."**

Page 31, line 26, delete "17" and insert "**16**".

Page 31, line 28, delete "any state;" and insert "**Indiana**";.

Page 31, line 38, after "has" insert ":".

Page 31, line 38, before "filed", begin a new line block indented and insert:

**"(1)**".

Page 31, line 38, delete "," and insert ";".

Page 31, line 38, before "hire", begin a new line block indented and insert:

**"(2) notified the commissioner of its intention to file an application under this article; or**

**(3) adopted a resolution proposing a simple plan of conversion under this article;**".

Page 31, line 38, beginning with "hire", begin a new line blocked left.

Page 32, line 14, delete ", except as approved by the" and insert ".".

Page 32, delete lines 15 through 16.

and when so amended that said bill do pass.

(Reference is to HB 1432 as introduced.)

FRY, Chair

Committee Vote: yeas 14, nays 0.

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## HOUSE MOTION

Mr. Speaker: I move that House Bill 1432 be amended to read as follows:

Page 8, line 11, delete "under" and insert "**under**".

Page 10, line 13, after "employs" insert "**at least five hundred (500) persons or**".

Page 13, line 20, delete "27-15-2-2" and insert "**27-15-2**".

Page 15, line 12, delete ",".

Page 15, line 26, delete "amount of".

Page 16, delete lines 35 through 42.

Page 17, line 1, delete "4." and insert "**3.**".

Page 17, line 1, delete "3" and insert "**2**".

Page 17, line 1, delete "a fairness" and insert "**the**".

Page 17, line 2, after "opinion" insert "**described in section 2(10) of this chapter**".

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

Page 17, line 28, delete "or approval".

Page 19, line 6, delete "the" and insert "**a required**".

Page 19, line 11, after "hearing" insert "**or, for a simple plan of conversion, within ninety (90) days after the filing of an application for approval of the plan**".

Page 19, line 18, after "hearing" insert ", **if required**".

Page 19, line 28, after "(3)" insert "**except for a simple plan of conversion,**".

Page 19, line 28, delete "amount of".

Page 19, line 42, after ";" insert "**or**".

Page 20, line 2, delete "; or" and insert ".".

Page 20, delete lines 3 through 4.

Page 21, line 28, delete "not less than twenty (20)".

Page 21, line 29, delete "business days".

Page 22, line 3, delete ", if approval is required under this article,".

Page 23, line 37, after "members" delete "," and insert "**or**".

Page 23, line 37, after "policyholders" delete ", or requesting parties".

Page 24, line 10, delete "information,".

Page 24, line 10, after "documents" delete ",".

Page 24, line 42, delete "chapter 12 of this article." and insert "**IC 27-15-12.**".

Page 25, line 1, after "mutual" insert "**using IC 27-15-2-2 or a converting mutual using a simple plan of conversion under IC 27-15-2-3**".

Page 25, line 4, delete "in accordance with IC 27-15-2-3(a)(1)".

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Page 25, line 24, delete "that".

Page 26, line 32, delete "experience-based" and insert "**experience based**".

Page 30, line 14, after "2." insert "(a)".

Page 30, line 19, delete "as approved by".

Page 30, line 19, after "commissioner" delete ", if" and insert ";".

Page 30, delete line 20.

Page 30, between lines 26 and 27, begin a new paragraph and insert:

**"(b) The commissioner shall adopt rules under IC 4-22-2 to establish a procedure under which an institutional investor that is not affiliated with the former mutual or a parent company may be considered to have been approved by the commissioner under this section to acquire beneficial ownership of at least five percent (5%) or less than ten percent (10%) of the outstanding shares of any class of a voting security of the former mutual or any parent company upon the filing with the commissioner of:**

**(1) a certificate executed by appropriate officers of the former mutual and any parent company certifying that:**

**(A) the acquisition has been approved by the boards of directors of the former mutual and any parent company; and**

**(B) the institutional investor is not an affiliate of the former mutual or any parent company; and**

**(2) a certificate executed by appropriate officers of the institutional investor:**

**(A) certifying that the institutional investor will acquire the shares in the ordinary course of its business and not with the purpose nor with the effect of changing or influencing the control, management, or policies of the former mutual or the parent company;**

**(B) certifying that the institutional investor is not an affiliate of the former mutual or any parent company; and**

**(C) undertaking to notify the commissioner and the former mutual and any parent company in writing not less than twenty (20) business days before any change in the matters certified.**

**The commissioner may require the filing of any other information the commissioner considers necessary and may provide in the rules for remedies or consequences upon receipt of a notice under subdivision (2)(C), including divestiture and denial of voting rights."**

Page 30, line 30, after "(2)" insert "**held,**".



Page 30, line 30, before "or" insert ",".

Page 31, line 14, delete "(e)" and insert "IC 27-1-6-14(e)".

Page 32, delete lines 18 through 22.

Page 32, between lines 24 and 25, begin a new line block indented and insert:

**"(1) shall locate its executive offices in Indiana;**

**(2) shall employ at least five hundred (500) persons or a substantial percentage of its workforce in Indiana;"**

Page 32, line 25, delete "(1)" and insert "(3)".

Page 32, line 26, delete "(2)" and insert "(4)".

(Reference is to HB 1432 as printed February 2, 1999.)

FRY

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1432 be amended to read as follows:

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

"SECTION 1. IC 27-1-7-3 IS AMENDED TO READ AS FOLLOWS: Sec. 3. Each corporation shall maintain an office or place of business in this state, to be known as the "Principal Office." The post-office address of the principal office shall be stated in the original articles of incorporation at the time of incorporating. Thereafter, the location of the principal office, may be changed at any time or from time to time when authorized by the board of directors by:

**(1) Filing filing** with the department and secretary of state, on or before the day any change is to take effect, a certificate signed by the president or a vice-president and the secretary or an assistant secretary of the corporation, and verified under oath, stating the change to be made and reciting that such change is made pursuant to authorization by the board of directors; **and**

**(2) Notifying each policyholder of the address and telephone number of the new location."**

Re-number all SECTIONS consecutively.

Page 12, between lines 20 and 21, begin a new line block indented and insert:

**"(9) Provide that each member and other policyholder of the converting mutual will receive notification of the address and telephone number of the converting mutual and the former**



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**mutual, if different, along with the notice of hearing outlined in chapter 4, section 4 of this article."**

Page 12, line 21, delete "(9)" and insert "(10)".

Page 18, between lines 18 and 19, begin a new line block indented and insert:

**"(4) The address and telephone number of the converting mutual and, if different, the former mutual."**

(Reference is to HB 1432 as printed February 2, 1999.)

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